

## Thematic Briefing: Freedom of Expression During COVID-19

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### Introduction

During the COVID-19 pandemic, many governments in Asia curtailed the right to freedom of expression to preserve “public order” and prevent “grave social unrest.”<sup>1</sup> To regulate the proliferation of information, including false and misleading information, about COVID-19 (i.e., the “infodemic”), several governments issued orders or adopted laws that restricted access to websites, silenced individuals and media outlets for allegedly spreading false information about COVID-19 or for criticizing their handling of COVID-19 cases, and increased surveillance of individuals’ posts online. This briefing examines these types of restrictions on expression in the region.

### BARRIERS TO REPORTING AND REVOCATIONS OF JOURNALIST LICENSES

Journalists across the region faced obstacles in accessing and reporting on pandemic-related information, from bureaucratic stonewalling to the revocation of their media licenses.

In 2021, Myanmar prevented reporters from covering a vaccine drive for internally displaced Rohingya persons, Myanmar’s minority Muslim population.<sup>2</sup> In Cambodia, the Information Ministry allowed only reporters who worked for the state media or under the Information Ministry to enter and report from the red zones (i.e., the areas with increased COVID-19 restrictions). The Information Ministry also warned that it would take legal action against journalists who ignored the notice.<sup>3</sup>

Similarly, in the Philippines, journalists of Luzon Island, the country’s largest and most populous island, were required to apply for a special pass from the Presidential Communications Operations Office to be exempted from the strict quarantine formally referred to as Enhanced Community Quarantine (ECQ).<sup>4</sup> In March 2020, all of Luzon was placed under ECQ, the strictest category of lockdown in the country, effectively

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<sup>1</sup> Human Rights Watch, “Covid-19 Triggers Wave of Free Speech Abuse Scores of Countries Target Media, Activists, Medics, Political Opponents” (February 11, 2021), available at <https://www.hrw.org/news/2021/02/11/covid-19-triggers-wave-free-speech-abuse>.

<sup>2</sup> International Federation of Journalists, “Myanmar: Reporters barred from covering refugee vaccine rollout in Rakhine State” (September 10, 2021), available at <https://www.ifj.org/media-centre/news/detail/category/press-freedom/article/myanmar-reporters-barred-from-covering-refugee-vaccine-rollout-in-rakhine-state>.

<sup>3</sup> Radio Free Asia, “Cambodia Threatens Journalists Over Pandemic Lockdown Coverage as Cases Surge” (May 4, 2021), available at <https://www.rfa.org/english/news/cambodia/lockdown-coverage-05042021195704.html#:~:text=Ministry%20spokesman%20Meas%20Sophon%20told, chased%20ambulances%20during%20live%20broadcasts>.

<sup>4</sup> International Federation of Journalists, “Philippines: Government media accreditation enforced for Luzon quarantine zone”, 19 March 2020, available at <https://www.ifj.org/media-centre/news/detail/category/asia-pacific/article/philippines-government-media-accreditation-enforced-for-luzon-quarantine>

resulting in a total lockdown.<sup>5</sup> Under the ECQ, the Philippines imposed strict home quarantine and prohibited non-essential gatherings and movement.<sup>6</sup> Journalists were exempted from home quarantines provided that they had a pass.<sup>7</sup> However, the Inter-Agency Task Force on Emerging Infectious Diseases (IATF), the Philippines' main COVID-19 task force, was reported to limit passes to half of a news outlet's permanent staff, contradicting earlier assurances that accreditation would be granted to any media workers who applied.<sup>8</sup>

#### **FAKE NEWS PROHIBITIONS TO PREVENT JOURNALISTS AND OTHER CITIZENS FROM SHARING INFORMATION ABOUT THE PANDEMIC**

In India, the Government used Section 54 of the Disaster Management Act and Section 505 of the Indian Penal Code to arrest individuals for spreading “fake news” related to the pandemic.<sup>9</sup> The Ministry of Electronics and Information Technology also requested social media platforms to remove several posts about the pandemic on the grounds that the posts spread old, out-of-context, sensitive, or misinformed information about pandemic protocols.<sup>10</sup> The External Affairs Minister also instructed Indian diplomats to counter global narratives about the failure of the Modi Government to handle the pandemic.<sup>11</sup>

The Malaysian government enacted the Emergency (Essential Powers) (No. 2) Ordinance 2021 using the powers conferred by an Emergency Proclamation from January 2021. The Ordinance named the promulgation of fake news and the failure to take down publications containing “fake news” as criminal offences.<sup>12</sup> Myanmar's Transport and Communications Ministry also ordered mobile phone operators to block 221 sites to stop the spread of “fake news.”<sup>13</sup>

<sup>5</sup> Maria Ela L. Atienza, “The Philippines a Year under Lockdown”, 26 April 2021, available at <https://verfas-sungsblog.de/the-philippines-a-year-under-lockdown/>.

<sup>6</sup> See COVID-19 Dashboard, Republic of the Philippines, “Types of Community Quarantine, available at <https://www.covid19.gov.ph/security/ecq>.

<sup>7</sup> Ruth Abbey Gita-Carlos, “Special pass for media workers available till March 26”, 21 March 2020, available at <https://www.pna.gov.ph/articles/1097344>.

<sup>8</sup> Jake Cruz, Metro News, 2020, “IATF spells out new requirements during quarantine,” available at <https://metronewscentral.net/in-and-around-the-metro/iatf-spells-out-new-requirements-during-quarantine>.

<sup>9</sup> Hindustan Times, “In Bengal, 32 arrested in 7 days for spreading fake news amid lockdown” (April 5, 2020), available at <https://www.hindustantimes.com/india-news/in-bengal-32-arrested-in-7-days-for-spreading-fake-news-amid-lockdown/story-kyKfmauGsoUJlqhAuhlixH.html>.

<sup>10</sup> The Indian Express, “IT ministry asks social media cos to remove more posts, alleges content ‘spreading misinformation’ about Covid-19” (April 25, 2021), available at <https://indianexpress.com/article/india/it-ministry-asks-social-media-cos-to-remove-more-posts-alleges-content-spreading-misinformation-about-covid-7288374/>.

<sup>11</sup> The Indian Express, “Counter ‘one-sided’ world media narrative on govt’s pandemic ‘failure’, Jaishankar tells Indian diplomats” (April 30, 2021), available at <https://indianexpress.com/article/india/counter-one-sided-world-media-narrative-on-govts-pandemic-failure-jaishankar-tells-indian-diplomats-7296036/>.

<sup>12</sup> Article 19, “Malaysia: Repeal ‘fake news’ emergency ordinance” (15 March 2021), available at <https://www.article19.org/resources/malaysia-fake-news-ordinance/>.

<sup>13</sup> Reporters Without Borders, “In mid-coronavirus crisis, Myanmar blocks 221 sites for ‘fake news’” (April 3, 2020), available at <https://rsf.org/en/mid-coronavirus-crisis-myanmar-blocks-221-sites-fake-news>.

In the Philippines, the Bayanihan Heal As One Act, the state's main emergency law during the pandemic, specifically punished the spread of false information. Section 6(f) of the act penalizes "individuals or groups creating, perpetuating, or spreading false information regarding the COVID-19 crisis on social media and other platforms," especially those that have "no valid or beneficial effect on the population, and are clearly geared to promote chaos, panic, anarchy, fear, or confusion." Those convicted faced prison terms of up to two months, fines ranging from 10,000 pesos (\$197) to 1 million pesos (\$19,650), or both.<sup>14</sup> These provisions granted authorities broad discretion to determine that journalists and ordinary citizens had published false information on the pandemic. For example, shortly after the adoption of the Bayanihan Heal As One Act, the Philippine National Police filed a criminal complaint against two journalists for allegedly violating Section 6 of the Act after they reported on social media posts regarding COVID-19 patients in a hospital in Cavite City.<sup>15</sup>

Likewise, Thai authorities invoked the Computer-related Crimes Act (CCA) to prosecute individuals for spreading false information online when they expressed criticism of the government's COVID-19 response.<sup>16</sup> Thailand also issued the Emergency Decree on Public Administration in Emergency Situation B.E. 2548, which authorized the Prime Minister to issue measures to prevent the spread of information that could cause fear amongst the public or spread inaccurate news. Thailand's Regulations No. 27 and 29 echoed these provisions, expanding authorities' ability to censor online expression and investigate and prosecute individuals responsible for communications that could incite fear.<sup>17</sup>

#### USE OF OTHER LAWS TO PROHIBIT INFORMATION-SHARING ABOUT THE PANDEMIC

Governments used other laws to restrict access to and sharing of pandemic-related information. For example, in Malaysia, as part of an investigation on sedition, defamation, and violation of the country's Communications and Multimedia Act, the government questioned Al Jazeera journalists about a documentary on the arrest of undocumented migrant workers during pandemic lockdown raids.<sup>18</sup>

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<sup>14</sup> See Republic Act No. 11469, Bayanihan Heal As One Act, available at <https://legacy.senate.gov.ph/Bayanihan-to-Heal-as-One-Act-RA-11469.pdf>

<sup>15</sup> Committee to Protect Journalists, "Two reporters charged for spreading "false information" about COVID-19 in the Philippines" (April 3, 2020), available at <https://cpj.org/2020/04/two-reporters-charged-for-spreading-false-information/>.

<sup>16</sup> Office of the High Commissioner of Human Rights, "COVID-19: States should not abuse emergency measures to suppress human rights – UN experts" (March 16, 2020), available at <https://www.ohchr.org/en/press-releases/2020/03/covid-19-states-should-not-abuse-emergency-measures-suppress-human-rights-un?LangID=E&NewsID=25722>.

<sup>17</sup> See the Emergency Decree, available at <https://www.nsc.go.th/wp-content/uploads/2018/08/translation-2.pdf>. See also Human Rights Watch, Thailand: Immediately Repeal Emergency Regulation that Threatens Online Freedoms, 3 August 2021, available at <https://www.hrw.org/news/2021/08/03/thailand-immediately-repeal-emergency-regulation-threatens-online-freedoms>.

<sup>18</sup> Al Jazeera, "Al Jazeera journalists questioned over Malaysia documentary" (July 10, 2020), available at <https://www.aljazeera.com/news/2020/7/10/al-jazeera-journalists-questioned-over-malaysia-documentary>.

In Bangladesh, authorities charged journalist Rozina Islam under the Official Secrets Act and Penal Code for allegedly illegally photographing government documents related to COVID-19 vaccine purchases to support her report on corruption related to the government's pandemic measures.<sup>19</sup> While the Bangladeshi police ultimately issued a report finding that Islam should be cleared of these charges, the Ministry of Health continued to demand the court reopen her investigation in 2023.<sup>20</sup>

In Cambodia, authorities charged several journalists under the Criminal Code for incitement to commit a felony after they reported on the pandemic between January and May 2020.<sup>21</sup> For example, a court convicted journalist Sovann-Rithy of incitement under the Criminal Code for quoting former Prime Minister Hun Sen's COVID-19 press remarks, which suggested that informal workers should sell their vehicles to buy rice because the government could not support them during the pandemic-related economic downturn.<sup>22</sup>

#### **ARBITRARY ARRESTS, PROLONGED PRE-TRIAL DETENTION, AND FORCED DISAPPEARANCE AND TORTURE OF JOURNALISTS**

Authorities across the Asia-Pacific used both pandemic and pre-pandemic laws to arrest and detain journalists who reported on the pandemic, often without due process. From 2020 to 2021, Asian countries were consistently amongst the top five jailers of journalists. Arbitrary arrests constituted 35% of the reported incidents directly linked to journalistic coverage of the pandemic in 2020.<sup>23</sup>

For example, in China, Zhang Zan was convicted for posting false information when she reported on the initial COVID-19 outbreak in Wuhan. Zan, who had posted more than 100 videos on her YouTube Channel, Twitter, and WeChat, was reported missing on 14 May 2020. The authorities announced her detention the next day.<sup>24</sup> Xu Zhiyong, a journalist and human rights lawyer, was sentenced to 14 years in prison for

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<sup>19</sup> Al Jazeera, "Bangladeshi journalist arrested for COVID reporting granted bail", 23 May 2021, available at <https://www.aljazeera.com/news/2021/5/23/bangladeshi-journalist-arrested-for-covid-reporting-granted-bail>.

<sup>20</sup> International Press Institute, "Bangladesh: IPI condemns continued government harassment of journalist Rozina Islam", 10 February 2023, available at <https://ipi.media/bangladesh-ipi-condemns-continued-government-harassment-of-journalist-rozina-islam/>.

<sup>21</sup> Licadho, "Release Imprisoned Journalists and End Media Crackdown", 18 May 2021, available at <https://www.licadho-cambodia.org/pressrelease.php?perm=452>.

<sup>22</sup> Sun Narin, "Online Journalist Convicted and Given Suspended Sentence for Quoting Hun Sen", 5 October 2020, available at <https://www.voacambodia.com/a/online-journalist-convicted-and-given-suspended-sentence-for-quoting-hun-sen-/5609194.html>.

<sup>23</sup> For more information, see Reporters Without Borders 2020 and 2021 Report, available at, respectively [https://rsf.org/sites/default/files/rsfs\\_2020\\_round-up\\_0.pdf](https://rsf.org/sites/default/files/rsfs_2020_round-up_0.pdf) and [https://rsf.org/sites/default/files/rsfroundup\\_2021.pdf](https://rsf.org/sites/default/files/rsfroundup_2021.pdf).

<sup>24</sup> Reporters Without Borders, "China: RSF increasingly concerned as journalist Zhang Zhan is threatened with re-arrest", 17 June 2024, available at <https://rsf.org/en/china-rsf-increasingly-concerned-journalist-zhang-zhan-threatened-re-arrest>.

subversion after he called for President Xi Jinping to step down over his management of the pandemic. Xu was sentenced after a closed-door trial.<sup>25</sup>

In Bangladesh, well-known journalist and blogger Mushtaq Ahmed died in detention after being arrested under the Digital Security Act for his social media comments allegedly criticizing the government's handling of the coronavirus pandemic. Police charged Ahmed with spreading rumors on social media, tarnishing the image of the country's founding father, and "hurting the spirit of the 1971 liberation war," denying Ahmed bail six times.<sup>26</sup> In India, an editor of the *Face of Nation* news website was arrested and held incommunicado for 72 hours before being charged for sedition.<sup>27</sup> He had published a report that highlighted an increase in COVID-19 cases in Gujarat and a speculation about a possible leadership change following the inadequate pandemic response.<sup>28</sup> In Myanmar, Zaw Ye Htet, the editor of online news agency Dae Pyaw, was summarily tried and sentenced to two years in prison after publishing a report that a person had died from COVID-19 in the Karen State. The editor had been arrested and detained for five weeks before trial.<sup>29</sup>

In Pakistan, the Anti-Terrorism Force (ATF) forcibly disappeared two reporters who covered a protest at a quarantine center on the Pakistan-Afghan border.<sup>30</sup> The journalists collectively had significant reach because they each belonged to news channels for different language speakers. Before their abduction, the journalists had received ominous WhatsApp messages warning them of the impending arrest. Both journalists disappeared for four days after being summoned to the Frontier Corps command center in Chaman. Upon reappearing, their bodies displayed clear signs of torture, allegedly carried out at the Machh prison by the ATF.

#### SURVEILLANCE OF CITIZENS

In Indonesia, the National Police Headquarters issued an order in April 2020 to the cyber patrol unit of the police to monitor social media posts to prevent the spread of COVID-19-related hoaxes, slander against the government or president for their

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<sup>25</sup> Helen Davidson, Amy Hawkins, Verna Yu and agencies, "Outcry over lengthy jail terms handed to China human rights lawyers", 12 April 2023, available at <https://www.theguardian.com/world/2020/mar/08/china-activist-who-called-xi-clueless-on-coronavirus-faces-years-in-jail-for-subversion>

<sup>26</sup> Al Jazeera, "Anger in Bangladesh over dissident writer's death in prison," 26 Feb 2021, available at <https://www.aljazeera.com/news/2021/2/26/anger-in-bangladesh-over-prominent-writers-death-in-prison>. See also Digital Security Act 2018, <https://www.cirt.gov.bd/wp-content/uploads/2020/02/Digital-Security-Act-2020.pdf>

<sup>27</sup> Reporters Without Borders, "Surge in harassment on Indian reporters over coronavirus coverage", 27 May 2020, available at <https://rsf.org/en/surge-harassment-indian-reporters-over-coronavirus-coverage>

<sup>28</sup> Express News Service, "Gujarat HC quashes sedition case against editor who reported CM may be replaced", 8 November 2020, available at <https://indianexpress.com/article/cities/ahmedabad/gujarat-high-court-journalist-dhaval-patel-sedition-case-vijay-rupani-7012269/>.

<sup>29</sup> Reporters Without Borders, "Myanmar journalist jailed for two years for reporting Covid-19 death", 22 May 2020, available at <https://rsf.org/en/myanmar-journalist-jailed-two-years-reporting-covid-19-death>.

<sup>30</sup> Kamran Chaudry, UCANews, "Pakistani reporters tortured for coronavirus coverage", July 2 2020, available at <https://www.ucanews.com/news/pakistani-reporters-tortured-for-coronavirus-coverage/88626>

handling of the pandemic, and fraud related to health equipment sales.<sup>31</sup> Indonesia established a virtual police squad in February 2021 to reinforce these monitoring powers. Amnesty International documented at least 57 people accused of spreading false news or insulting the President under the April 2020 order, and about 76 social media accounts who received warnings from the virtual police about their posts under the February 2021 measure.<sup>32</sup> The police also arrested four people who were suspected of spreading hoaxes pertaining to the coronavirus.<sup>33</sup>

Thailand also increased surveillance of its population during the pandemic: the government used its newly established Anti-Fake News Centre under the Department of Special Investigation (DSI) to monitor and counter pandemic-related “fake news,”<sup>34</sup> flagging posts that it determined to be “fake.”<sup>35</sup> The Anti-Fake News Centre also received complaints from the public that flagged potential fake news.<sup>36</sup> Based on its monitoring activities, the government arrested individuals for defamation after they criticized the government’s response to the pandemic; it also instigated lawsuits against whistleblowers and journalists who criticized the government’s handling of the pandemic.<sup>37</sup>

#### CRIMINAL SANCTIONS

Several countries applied criminal sanctions, such as arrests and imprisonment, for violations of laws prohibiting the spread of false information during the pandemic. For example, in Malaysia, the police questioned the editor-in-chief of a health news platform for a potential violation of the Penal Code and Communications and Multimedia Act after the platform published a story alleging the underreporting of COVID-19 cases and highlighting safety concerns at a mass vaccination site.<sup>38</sup> In Myanmar, authorities imprisoned at least 500 people, under the National Disaster Management Law, Prevention and Control of Communicable Diseases Law, and other penal code provisions for

<sup>31</sup> International Federation of Journalists, “Indonesia: Police intensify cyber monitoring during the Covid-19 outbreak” (April 9, 2020), available at <https://www.ifj.org/media-centre/news/detail/category/press-releases/article/indonesia-police-intensify-cyber-monitoring-during-the-covid-19-outbreak>.

<sup>32</sup> Amnesty International, *Silenced and Misinformed: Freedom of Expression in Danger During COVID-19* (October 2021), available at <https://www.amnesty.org/en/wp-content/uploads/2021/11/POL3047512021ENGLISH.pdf>.

<sup>33</sup> Tempo.Co, “Police Arrest 4 Suspected of Spreading Hoaxes of Coronavirus” (March 30, 2020), available at <https://en.tempo.co/read/1325795/police-arrest-4-suspected-of-spreading-hoaxes-of-coronavirus>.

<sup>34</sup> Bangkok Post, “DSI to probe ‘fake news’” (May 3, 2021), available at <https://www.bangkokpost.com/thailand/general/2109311/dsi-to-probe-fake-news>.

<sup>35</sup> Khaosod English, “Anti-Fake News Center’ Responds after rating Khaosod story as hoax” (February 25, 2020), available at <https://www.khaosodenglish.com/news/crimecourtscalamity/2020/02/25/govt-anti-fake-news-center-caught-spreading-fake-news/>.

<sup>36</sup> Bangkok Post, “Two held for sharing fake news on virus” (October 30, 2020), available at <https://www.bangkokpost.com/thailand/general/1847099/two-held-for-sharing-fake-news-on-virus>.

<sup>37</sup> See Human Rights Watch, “Thailand: COVID-19 Clampdown on Free Speech” (March 25, 2020), available at <https://www.hrw.org/news/2020/03/25/thailand-covid-19-clampdown-free-speech>.

<sup>38</sup> CodeBlue, “Khairy: Drop Police Probe Against CodeBlue Chief Editor” (July 28, 2021), available at <https://codeblue.galencentre.org/2021/07/28/khairy-drop-police-probe-against-codeblue-chief-editor>.



violating curfews, quarantines, or other orders controlling movement.<sup>39</sup> The risk of criminal sanctions likely made journalists and other individuals more fearful of accessing and sharing information during the pandemic.

#### POSITIVE EXERCISE OF FREEDOM OF EXPRESSION IN ASIA

Despite restrictions on the freedom of expression across Asia, civil society continued to raise their voices during the pandemic to hold governments accountable for responding to their interests and protecting their rights. In the Philippines, a fact-checking community on Facebook led by civil society countered government claims that it had handled the pandemic in a timely manner, pointing out that the President and his administration had downplayed the level of COVID-19 infections.<sup>40</sup>

In Malaysia, the media and civil society played a key role in holding the government accountable for its actions. Malaysian youth led campaigns for various causes, including climate change and refugee rights, sharing explanations of legislation and policies on social media platforms.<sup>41</sup> Online activism, such as the #lawan (“fight”) campaign against the government’s failures in responding to the pandemic, pressured the government to amend its policies and retract certain pandemic-related measures.<sup>42</sup>

In Indonesia, tens of thousands of people expressed opposition to the Omnibus Law through protest rallies and a call for a national strike, though police used brutal force to dispel the rallies.<sup>43</sup>

In Thailand, civil society engaged in online demonstrations to voice dissent against the government after it prohibited public assemblies in response to the pandemic. Activists used Twitter to rally people on politics and injustice issues: #MilkTeaAlliance highlighted pro-democracy interests across Asia, while the #MobFromHome criticized the Thai government’s administration. Thai activists also collectively criticized problematic posts by the government, using the strategy to mobilize against the government’s Information Operation, which monitors dissidents and government critics. When the Thai government increased surveillance of Twitter, activists quickly began using alternative safe platforms such as the Minds App to voice their opinions.<sup>44</sup>

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<sup>39</sup> Human Rights Watch, “Myanmar: Hundreds Jailed for Covid-19 Violations” (May 28, 2020), available at <https://www.hrw.org/news/2020/05/28/myanmar-hundreds-jailed-covid-19-violations>.

<sup>40</sup> Friedrich Naumann Foundation, “Stronger alliance of civil society and media in Asia called to fight infodemic” (April 16, 2020), available at <https://www.freiheit.org/southeast-and-east-asia/stronger-alliance-civil-society-and-media-asia-called-fight-infodemic>.

<sup>41</sup> Al Jazeera, “In Malaysia, young people find their voice amid a pandemic” (Sep 28, 2021), available at <https://www.aljazeera.com/news/2021/9/28/youths-are-on-the-frontlines-of-political-activism-in-malaysia#:~:text=Much%20of%20Malaysia%20turned%20to,more%20vulnerable%20to%20COVID%2D19>.

<sup>42</sup> Id.

<sup>43</sup> East Asia Forum, “Omnibus bill reveals Jokowi’s bedfellows” (October 28, 2020), available at <https://eastaforum.org/2020/10/28/omnibus-bill-reveals-jokowis-bedfellows/>.

<sup>44</sup> Association for Progressive Communications, “Thai student protesters in the time of COVID-19: New generation, new forms of resistance online” (June 2, 2020), available at <https://www.apc.org/en/news/thai-student-protesters-time-covid-19-new-generation-new-forms-resistance-online>.

## Conclusion

Governments across Asia restricted the right to freedom of expression during the pandemic. As a result, their people faced difficulties accessing and sharing information about the pandemic, mobilizing for their interests, and holding government actors accountable for the pandemic and other governance-related issues. Multiple governments also abused pandemic measures to silence government critics and reporting on sensitive issues, resulting in concerning restrictions on the freedom of expression.

Despite these limitations, activists across Asia continued to exercise their voices to hold their governments accountable to their obligations to respect and protect human rights. The COVID-19 pandemic highlighted the need to balance legitimate interests in countering disinformation with the obligation to protect and respect the freedom of expression. Civil society and governments must work together to build and strengthen institutions protecting civic freedoms so that responses to future public emergencies will better respect expression and other key rights.

*For more examples, please see this [companion briefer](#) on freedom of expression during the earlier phase of the pandemic.*