

WHO CONTROLS THE NARRATIVE?

LEGAL RESTRICTIONS ON FREEDOM OF
EXPRESSION IN THE COMMONWEALTH



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Front Cover: Photo credit: Jorm Sangsorn.

In memory of David Page

This report is dedicated to the memory of our friend and colleague, David Page, whose sudden passing in October 2024 has left a void in the hearts of those who knew him. A lifelong champion of press freedom and the right to freedom of expression, David's work was driven by an unwavering belief in the power of an independent and protected media to hold power to account and strengthen democracy. David was a committed advocate for the Commonwealth Principles on Freedom of Expression and played a pivotal role in the development of this report. He worked with us until the very end, offering his vast knowledge, insight, and deep commitment to ensuring that media freedom is recognised as being at the core of the Commonwealth's democratic values.

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Reliable information is essential for democratic society, yet media freedom is under threat in many Commonwealth countries, affecting how news reaches the public. Photo credit: Pramod Tiwari / Pexels.

FOREWORD

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Two things form the bedrock of any open society – freedom of expression and rule of law. If you don’t have those things, you don’t have a free country.

Salman Rushdie

Freedom of expression has been the subject of extensive comment and impassioned debate over the centuries. In modern times it has assumed the status of a legal right which occupies pride of place in constitutions and statutes; this right has been variously described as ‘inalienable’, ‘fundamental’ and ‘foundational’. For all its ubiquity, however, disputes have frequently arisen, even in liberal democracies, over its ambit. A particular challenge to legislators and policymakers has been to define the extent to which the right to freedom of expression can be restricted to protect and preserve other rights or, more generally, to promote the public interest. Such is the intractability of that problem that most states have chosen to eschew highly prescriptive solutions or inflexible standards for the application or enforcement of this right.

A similar flexibility can be seen in international instruments championing free speech values. These instruments invariably concede that freedom of expression cannot be absolute and that it needs to be enjoyed within certain boundaries. Consequently, formulations of this right contain limitations, conditions or qualifications, usually recognising other societal values such as law and order, national security, public health, morality, integrity of the administration of justice and the reputation of individuals. Calls are also frequently made to accommodate cultural sensitivities when it comes to the exercise of free speech rights – a subject which remains controversial.

The Commonwealth has had a mixed record in the protection of free speech values. At an institutional level, freedom of expression has been recognised as a cardinal virtue and a core priority: the Commonwealth Charter

underlines the importance of “peaceful, open dialogue and the free flow of information, including through a free and responsible media, and to enhancing democratic traditions and strengthening democratic processes”. However, as multiple reports on the state of human rights have shown over the years, tolerance of free speech has suffered serious setbacks in many Commonwealth Member States, with unjustified attacks on journalists, unacceptable levels of impunity from both state and non-state actors, and the promulgation of illiberal laws (coupled with diminishing judicial protections) which render formal affirmations of good intent illusory.

Against that backdrop, a group of public-spirited individuals and organisations, spearheaded by the Commonwealth Journalists Association (CJA), decided to put together a set of principles which has the potential to “strengthen and align the Commonwealth’s commitment to free speech and media freedoms with the standards in international human rights law” and which also aimed to remind Member States of the obligations enshrined in Article 5 of the Commonwealth Charter. Crucially, the principles were seen as an important and necessary step to “align the national laws of Commonwealth Members States that may be misused to restrict freedom of expression, and the implementation of such laws, with international standards and norms”. That project resulted in *The Commonwealth Principles on Freedom of Expression and the Role of the Media in Good Governance* (the ‘Media Principles’). The Media Principles were, after a process of review and discussion in a State-led process, adopted by Commonwealth Law Ministers in 2022 and officially adopted by Commonwealth Heads of State at their summit meeting in Samoa in October 2024.



Media laws across the Commonwealth often silence journalists and restrict debate. Photo credit: Arturo Lopez Llontop / Shutterstock.

As part of an effort to publicise the Media Principles and raise awareness on issues surrounding freedom of expression, the Commonwealth Human Rights Initiative (CHRI) has produced the present Report which, as well as undertaking a comprehensive review of national laws in Commonwealth member countries that may be misused to suppress freedom of expression, includes ‘Spotlights’ – or short narratives that delve into topical or emerging issues, providing real-world context and recent developments to illustrate broader themes and challenges. As a tool for advocacy, this report has few parallels.

It is worth remembering that, in addition to the traditional challenges facing the promotion of free speech values around the world (which remain formidable), newer threats are emerging which require higher levels of ingenuity on the part of legislators and policymakers, and stronger political will on the part of governments, to tackle. Two obvious examples are the dangers posed, respectively, by artificial intelligence and the ‘cancel culture’,

both of which have the potential to stifle free speech through unjustified censorship and both of which have already begun to make their mark in the media sphere and in public discourse. It is no longer enough, therefore, for those who value freedom of expression to focus their attention on old-style censorship and other conventional methods of repression.

I hope that this report will be read by everyone interested in free speech matters and that it will prove instrumental in making the lofty declarations contained in numerous Commonwealth documents a reality.

Dr Venkat Iyer
30 April 2025

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**MORE THAN
6 BILLION PEOPLE
ARE LIVING WITH
LESS FREEDOM OF
EXPRESSION THAN
THEY DID AT THE
START OF THE
21ST CENTURY.**

**GLOBAL DECLINE
IN FREEDOM OF
EXPRESSION**

**REPRESSION HAS
INCREASED FOR
80% OF THE GLOBAL
POPULATION:**

As of 2023, 6.3 billion people worldwide are experiencing less freedom of expression than they did a decade ago.

**ONLY 13% LIVE IN
'OPEN' COUNTRIES:**

A mere 13% of the global population resides in nations classified as 'open,' marking the lowest percentage this century.

**34% FACE
'CRISIS' LEVELS:**

Approximately 34% of people globally live in countries where freedom of expression is in 'crisis.'

Source: ARTICLE 19 (2023). 'Global Expression Report 2023', 05 July.

<https://www.article19.org/resources/the-global-expression-report-2023>

This report measures the freedom of everyone, regardless of the nature of their work or role in society, to express opinions and beliefs, to communicate, and to access information. Each of the 161 countries and territories in the metric has a score between 0 and 100, based on 25 indicators.

EXECUTIVE SUMMARY

Protecting freedom of expression and media freedom within the Commonwealth is essential to ensuring democratic governance, accountability, and the protection of human rights. Despite international human rights standards and public commitments made by Commonwealth States to protect and promote these rights, many Commonwealth countries still retain and enforce laws that unduly restrict freedom of expression, including media freedom. Many of these laws—such as those related to defamation, sedition and blasphemy—are legacies of British colonial rule. It is time for the Commonwealth to give its public support and encouragement to all the Member States to amend or repeal relevant domestic laws in accordance with the organisation's fundamental political principles as set out in the *Commonwealth Charter*, the *Commonwealth Latimer House Principles*, and the recently adopted *Commonwealth Principles on Freedom of Expression and the Role of the Media in Good Governance*.



Attacks against journalists, activists, and other dissenting voices remain frequent across the Commonwealth, and accountability for these crimes is rare. Photo credit: Iqro Rinaldi / Shutterstock.

Beyond legal threats and punitive laws, journalists in Commonwealth countries, as elsewhere, face acute and persistent dangers, including intimidation, threats of violence, murder, and other attacks aimed at silencing them or deterring them from reporting on matters of public interest. Women and members of marginalised groups are disproportionately targeted by abuse and threats on online platforms. According to UNESCO, 213 journalists were killed in Commonwealth countries between 2006 and 2023¹, and the impunity rate for those killings is 96% – considerably higher than the average 85 percent global rate of impunity.

The Commonwealth's credibility is increasingly at risk as Member States fail to demonstrate accountability for violence against journalists. For example, **Bangladesh, Barbados, Cameroon, and Sri Lanka** have not responded to a request made in 2024 by UNESCO seeking information on the judicial status of cases involving the killings of journalists. Meanwhile, **Guyana, India, the Maldives, Nigeria, and Pakistan** acknowledged receipt of the request but failed to provide any substantive information.²

This lack of accountability is mirrored by an escalating global trend of imprisonment and legal harassment of journalists. The Committee to Protect Journalists (CPJ) verified 361 cases of journalists imprisoned worldwide in connection with their work as of December 2024. Reporters Without Borders (RSF) recorded 566 journalists behind bars, concluding that legal harassment is increasingly used as a tool to stifle dissent and suppress investigative reporting.

This systematic weaponisation of the law to intimidate journalists has been documented in a 2023 global study by the Thomson Reuters Foundation and the Tow Center for Digital Journalism. Based on a survey of journalists

and media experts across 106 countries, 47.6% of the nearly 500 respondents reported facing legal threats directed at themselves or their media outlets. This widespread phenomenon, described as a 'war on journalism', highlights the dire consequences of unchecked legal intimidation:

“

The physical, emotional and financial consequences are enormous for journalists who are continually facing the risk of going to jail, being bankrupted, or repeatedly being dragged into court. Allowed to spread unchecked, the weaponization of the law will continue to curtail media freedom by hampering coverage of critical public interest matters, undermining accountability, and eroding trust in journalism – with catastrophic effects on democracies and freedoms globally.

Thomson Reuters Foundation and Tow Centre for Digital Journalism³

Reports of online threats of violence, abuse and harassment have also risen sharply, particularly against journalists, human rights defenders, media workers, and political opposition figures. Individuals from marginalised groups suffer disproportionately from such abuse. Women are often targeted with online gender-based violence, including rape threats, sexual harassment and misogynistic abuse. In a survey conducted by the International Center for Journalists (ICFJ) in 2020, 73% of women journalists who responded to the survey in 15 countries said they had experienced online violence.⁴

These figures underscore the dangerous climate faced by those who speak truth to power, and the widespread failure of many States to adequately protect journalists or ensure accountability for attacks on freedom of expression. Perpetrators of targeted violence and online abuse far too often benefit from impunity, as survivors and victims' families encounter significant legal

and procedural barriers to accessing justice – resulting in a chilling effect that forces many journalists and media workers to self-censor for fear of reprisal.

A MIXED RECORD ON PROTECTION OF FREEDOM OF EXPRESSION

The review of laws and practices across the 56 Commonwealth States, as set out in this report, identifies several positive steps taken by Member States since 2000 to align domestic legal frameworks with the right to freedom of expression, as protected under Article 19 of the International Covenant on Civil and Political Rights (ICCPR) and other international and regional instruments.

Of the 56 member countries, 46 are States parties to the ICCPR, while 10 – **Brunei, Kiribati, Malaysia, Nauru, Saint Kitts and Nevis, Saint Lucia, Singapore, Solomon Islands, Tonga and Tuvalu**—have yet to ratify the treaty. Although these countries remain bound by international human rights norms and obligations under the United Nations Charter, the Universal Declaration of Human Rights, and in other ways, the failure to ratify the ICCPR reflects a hesitation to formally align national legal systems with binding global human rights frameworks. While domestic legal traditions can and often do provide strong protections, ratification remains a critical step toward transparency, accountability, and engagement with international oversight mechanisms.

Furthermore, despite the fact that a vast majority of Commonwealth members are States parties to the ICCPR, there remains a critical gap between being formally bound by UN covenants and the routine disregard of those obligations. To help bridge this gap, the Commonwealth should leverage its informal, and informal structures to “nudge” backsliding member states toward better practice. Commonwealth experience already

¹ Observatory of Killed Journalists show

² UNESCO (2024). 85% of journalist killings remain unpunished worldwide. <https://www.unesco.org/en/articles/85-journalist-killings-remain-unpunished-worldwide-unesco-report> [Accessed: 28 April 2025].

³ 'Simon, J., Lauria, C., and Flores, O. (2023). 'Weaponising the Law: Attacks on Media Freedom', Thomson Reuters Foundation and Tow Center for Digital Journalism, 01 April. <https://www.trust.org/wp-content/uploads/legacy/weaponizing-law-attacks-media-freedom-report-2023.pdf> [Accessed: 28 April 2025]."

⁴ International Center for Journalists (2022). 'The Chilling: A Global Study on Online Violence Against Women Journalists', 02 November. https://www.icfj.org/sites/default/files/2023-02/ICFJ%20Unesco_TheChilling_OnlineViolence.pdf [Accessed: 28 April 2025].

demonstrates that this approach can yield results, with notable progress on the abolition of capital punishment, protections for LGBTI rights, the adoption of right-to-information frameworks, and the decriminalisation of defamation itself.

Fifteen Commonwealth States have repealed domestic laws criminalising defamation. They are:

- **Africa:** **Ghana** (2001), **Lesotho** (2018), **Sierra Leone** (2020), **Seychelles** (2021), **Tanzania** (2023), **South Africa** (2024)
- **Americas and the Caribbean:** **Grenada** (2012), **Jamaica** (2013), **Antigua and Barbuda** (2015), **Belize** (2022)
- **Asia:** **Sri Lanka** (2002), **The Maldives** (2018)
- **Europe:** **The United Kingdom** (2010), **Malta** (2018)
- **Pacific:** **New Zealand** (1993)

Additionally, courts in **Kenya** (2017), **The Gambia** (2018), and recently in **Malawi** (2025) have declared criminal defamation provisions to be unconstitutional.

Also to be welcomed is the repeal or amendment of vague and overbroad criminal laws, such as those related to blasphemy and sedition in some States. **New Zealand** repealed blasphemy provisions in 2019, and sedition provisions were repealed in **Sierra Leone** and **Uganda** in 2020 and 2023 respectively. Although both **Singapore** and **India** repealed their sedition laws, in practice, similar provisions remain in operation.

CONTINUED LEGAL RESTRICTIONS ON FREEDOM OF EXPRESSION

However, these encouraging developments are significantly overshadowed by the lack of progress in repealing or amending the vast majority of abusive laws. In the Commonwealth, **41 countries continue to criminalise defamation; 48 countries still retain laws related to sedition; and 37 still have blasphemy or blasphemy-like laws.** Most countries also maintain laws with overly

sweeping provisions related to national security, public order and public morality, which can be weaponised to arbitrarily and disproportionately restrict the exchange of information and ideas.

The existence of these laws with their potential for severe sanctions creates a chilling effect on freedom of expression, which is reinforced by the multitude of instances of misuse against journalists, media workers, human rights defenders, activists, and political opponents, as is recorded in this report. Emblematic examples from across the Commonwealth include the use of sedition laws to suppress political opposition and public discourse in **Cameroon, India, Rwanda, Seychelles, Nigeria, St Vincent and the Grenadines, Trinidad and Tobago**, and **Dominica**. In **Pakistan, Nigeria**, and **Bangladesh**, accusations of blasphemy have led to mob violence, extrajudicial killings, and lengthy prison sentences, often with harsh conditions, with dozens of people remaining on death row in **Pakistan** for blasphemy convictions. In **India** and **Malaysia**, States have weaponised defamation laws, including criminal provisions, to suppress criticism of government officials, which has resulted in the illegitimate criminalisation of government critics. In **Uganda**, the government has applied anti-terrorism laws to shut down independent media outlets and arrest journalists who are critical of state policies. Across the Commonwealth, many media workers, human rights defenders, and activists continue to languish in prison for their professional activities by the misuse of anti-state laws. Legitimate investigative journalism suffers from self-censorship, which impedes the publication of information that should be freely available in a functioning democracy.

Even in countries that have repealed criminal defamation provisions, civil defamation laws are liable to be abused in strategic lawsuits against public participation (SLAPPs) to silence and intimidate journalists, civil society organisations, and human rights defenders. This risk is exacerbated when civil defamation laws do not conform to international human rights standards, such as by failing to provide for truth or public interest defences. Legal protections against SLAPPs in most

Commonwealth jurisdictions remain absent or woefully inadequate. In Europe, **Malta** reportedly had the highest number of SLAPP cases per capita in the European Union, and the **United Kingdom** has acquired a reputation as the ‘world capital’ for SLAPPs.

The digital revolution and increasing ubiquity of social media have brought multiple new challenges as well as opportunities in terms of the exercise of the right to freedom of expression and access to information. This comment of an Indian journalist could equally apply to other Commonwealth countries:

“**Though the development of the internet and social media requires legislation to ensure the protection of privacy and to guard against misinformation, many laws framed to deal with these issues have put additional and often loosely defined powers in the hands of the government which seriously restrict freedom of expression.**

Senior Journalist, India⁵

In recent years, a wave of vague and overbroad digital laws – often justified in the name of cybersecurity, online safety, or combating disinformation, cybercrime, cyberterrorism and hate speech – has led to the imposition of excessive restrictions on online freedoms that are not aligned with international human rights standards. This report highlights examples from the legal frameworks of **Antigua and Barbuda, Australia, Bangladesh, Cyprus, Fiji, Guyana, Kenya, Malaysia, New Zealand, Nigeria, Pakistan, Seychelles, Singapore, Sri Lanka, St. Vincent and the Grenadines, Tanzania**, and the **United Kingdom**.

Other types of problematic laws include those that expand state powers to take down online content or surveil individuals without adequate judicial oversight or due process; and placing overly onerous administrative and licensing burdens on media outlets, civil society organisations and internet

intermediaries. **Twenty Commonwealth countries reported instances of internet shutdowns in the last 10 years**, often during elections or times of unrest. **India** was named by Access Now as the ‘world’s internet shutdown leader’ with at least 116 recorded shutdowns in 2024.

Other challenges that restrict the free flow of expression and information in the Commonwealth include systemic interferences in the independence of the media through improper political influence, excessive concentration of media ownership, and lack of protection for sources documented in this report. Right to information laws which should be a tool to empower public discourse through transparency, vary widely in scope and effectiveness across the Commonwealth significantly hindering freedom of expression where access remains restricted or poorly enforced.

These practices highlight the pressing need for stronger alignment between Commonwealth States’ domestic legal frameworks and their international obligations.

“**Two and a half billion people, almost a third of the world’s population, live in countries that were formerly colonised, mainly by the British Empire... But the remnants of colonial law and oppressive legal cultures remain, and many of them penalise journalists. Offences like sedition, criminal defamation, and libel remain on the statute books of these 56 independent nations, leaving whistleblowers and journalistic sources unprotected and media coverage chilled by the risk of massive damages... The Commonwealth cannot, like erstwhile colonial powers, stand silent and allow the persecution of journalists while democracy withers.**

Karuna Nundy, Human Rights Lawyer, India, Member of the High Level Panel of Legal Experts on Media Freedom⁶

⁵ CJA Journalist Questionnaire, India (July 2024).

⁶ Nundy, K. (2022). ‘Strengthening Press Freedom: New Media Principles for Commonwealth States.’ *Just Security*, 23 November. <https://www.justsecurity.org/84250/strengthening-press-freedom-new-media-principles-for-commonwealth-states/> [Accessed: 28 April 2025].



Samoa October 2024. The Commonwealth Media Principles, adopted at CHOGM 2024, strengthen Member States' commitments to protect free expression and align laws with international standards. Photo credit: Commonwealth Secretariat / Flickr.

THE WAY FORWARD

Amid escalating attacks on free speech and the erosion of civic space, there is an urgent imperative for Commonwealth Member States to act decisively to safeguard freedom of expression and media freedom.

At the October 2024 Commonwealth Heads of Government Meeting (CHOGM) in Samoa, leaders adopted the *Commonwealth Principles on Freedom of Expression and the Role of the Media in Good Governance* (the Media Principles). Rooted in the Commonwealth Charter and grounded in international law, these Media Principles reaffirm Member States' commitment to democracy, the rule of law, and human rights. Crucially, they provide a practical and actionable framework for aligning domestic legal systems with international standards on the protection of freedom of expression and the safety of journalists, including ending impunity for attacks against them.

The adoption of the Media Principles represents a pivotal opportunity to address the widespread use of outdated and repressive laws, including those on criminal defamation, sedition, and blasphemy, and to introduce strong protections for journalists,

civil society actors, and media workers. The Media Principles, initially championed by Commonwealth Accredited Organisations in 2018, are not just symbolic – they provide a comprehensive framework for the protection of free expression and media freedom as an essential foundation for the rule of law and democratic governance. They affirm the duty of Member States to create a safe and enabling environment for the exercise of free expression – both online and offline – and the role of civil society in holding governments accountable.

But adoption alone is not enough. The Commonwealth's credibility now depends on effective implementation.



At CHOGM 2024, Commonwealth Heads 'urged member states to take concrete and meaningful steps to implement [the Media Principles] within their domestic frameworks.'

Commonwealth Heads of Government, CHOGM 2024 Samoa.⁷

Commonwealth governments must take urgent action to reform laws that unduly restrict

expression, enact protections against violence and harassment, and strengthen oversight and judicial accountability mechanisms.

Articles 2, 7 and 8 of the Media Principles make this clear: laws that criminalise speech must be repealed or amended; State authorities must prevent, investigate and prosecute attacks on journalists; and effective redress mechanisms must be in place. The Media Principles recognise the importance of international cooperation – civil society, national human rights institutions, and regional and international bodies all have a role to play in supporting and monitoring these reforms.

Accountability mechanisms too are key. The Commonwealth Ministerial Action Group (CMAG),⁸ mandated to address serious violations of Commonwealth values, can be revitalised to fulfil its role more proactively, including by responding to systemic constraints on civil society and the media. Similarly, the Commonwealth Secretariat must be resourced and empowered to assist Member States in translating commitments into action, including through legal reform and institutional strengthening. These and other recommendations are outlined in the next section of this report.

The *Commonwealth Principles on Freedom of Expression and the Role of the Media in Good Governance* present a foundation on which to build a more accountable, inclusive, and democratic Commonwealth. Their implementation – backed by political will, legal reform, and effective enforcement – can restore trust in public institutions and ensure that freedom of expression remains a cornerstone of good governance across the Commonwealth.

The *Commonwealth Principles on Freedom of Expression and the Role of the Media in Good Governance* identify three areas where Member States should align domestic laws and practices with international standards:

Article 2: Member states should consider repealing or amending laws which unduly restrict the right to freedom of expression.

Article 7: Member states should put in place effective laws and measures to establish a safe and enabling environment for journalists and media workers to work without fear of violence, abuse, discrimination or interference, including online... Member states should ensure that state organs and agents, in particular law enforcement officers and military personnel, promote and respect international human rights and humanitarian law obligations relating to the safety of journalists and their protection as civilians in situations of conflict.

Article 8: Member states should act decisively to end impunity through impartial, prompt and effective investigations into all alleged cases of killings, attacks and ill-treatment of journalists and media workers, by prosecutions to bring the instigators and perpetrators of such crimes to justice and by the provision of effective redress for the victims.

⁷ Commonwealth Heads of Government Meeting (CHOGM) (2024). 'CHOGM 2024 Communiqué'. <https://production-new-commonwealth-files.s3.eu-west-2.amazonaws.com/s3fs-public/2024-10/leaders-statement-commonwealth-heads-of-government-meeting-2024.pdf> [Accessed: 28 April 2025], para. 17.

⁸ Commonwealth Secretariat (n.d.). *Commonwealth Ministerial Action Group (CMAG)*. <https://thecommonwealth.org/commonwealth-ministerial-action-group> [Accessed: 28 April 2025].

SUMMARY OF RECOMMENDATIONS:⁹

The Commonwealth, with its wide-ranging membership and shared history, has a unique opportunity to promote and protect freedom of expression and media freedom. We urge Commonwealth governments to:

1. STRENGTHEN LEGAL FRAMEWORKS AND THEIR IMPLEMENTATION

- Align national legal frameworks with international human rights standards – any restrictions on freedom of expression should comply with international human rights law.
- Ratify and implement international treaties, including the International Covenant on Civil and Political Rights (ICCPR)
- Enact robust right to information legislation
- Enact appropriate defences to defamation laws

2. PROMOTE JUDICIAL INDEPENDENCE, DUE PROCESS GUARANTEES, AND ACCESS TO JUSTICE FOR DEFENDANTS

- Strengthen judicial independence
- Combat impunity
- Ensure access to effective remedies, and due process and fair trial guarantees are clearly set out in law and respected in practice
- Adopt anti-SLAPP (Strategic Lawsuit Against Public Participation) measures

3. ENSURE MEDIA PLURALISM AND PROTECT DIGITAL RIGHTS

- Establish and maintain independent media regulatory and oversight bodies
- Promote media pluralism
- Refrain from imposing internet or communications shutdowns or

censorship of critical voices

- Support digital literacy
- Ensure online platforms abide with their human rights responsibilities

4. PROTECT JOURNALISTS AND FOSTER A VIBRANT CIVIL SOCIETY

- Protect journalists by strengthening national legal frameworks to address journalists' safety and access to justice
- Create an enabling environment for journalists and for civil society organisations
- Establish safeguards against surveillance and intimidation of journalists.
- Take special measures to protect disproportionately targeted groups, including women journalists
- Support global and regional civil society initiatives
- Protect freedom of association

6. ESTABLISH AND STRENGTHEN ACCOUNTABILITY MECHANISMS

- Strengthen the Commonwealth Ministerial Action Group (CMAG)
- Strengthen and adequately resource the Commonwealth Secretariat
- Establish a Commonwealth Special Envoy on Freedom of Expression
- Engage with international and regional human rights institutions and mechanisms
- Join and engage with the Media Freedom Coalition



Protecting press freedom requires legal reform, judicial independence, and strong accountability mechanisms. Photo credit: Pavel Danilyuk / Pexels.

⁹ Detailed Global Recommendations can be found later in this report on page 26.

INTRODUCTION: FACING THE REALITIES OF TODAY'S COMMONWEALTH

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To protect the truth we must protect the truth tellers

The High Level Panel of Legal Experts on Media Freedom¹⁰

The essence of freedom of expression lies in every individual's right to express opinions and share information and ideas without fear of censorship, undue interference or reprisals. That freedom enables people to make informed decisions about their lives and gives effect to a wide range of other fundamental rights. It encompasses the freedom to seek, receive, and impart information through all forms of media including the press, literature, art, and the internet. Essential to human dignity and autonomy, freedom of expression fosters an environment where diverse perspectives can coexist, and where social progress is driven by the free flow of information and ideas.

The right to freedom of expression and opinion is deeply entwined with media freedom. A free, uncensored and unhindered press or other media is essential not only to the exercise of the freedom of expression, but also to the enjoyment of other fundamental rights.¹¹ A free and independent media can hold governments and powerful actors to account and facilitates the dissemination of diverse viewpoints, including the voices and priorities of those who are marginalised or in vulnerable situations.

Freedom of expression is a cornerstone of democratic governance and is protected by international, regional and national laws and standards.

Yet in many Commonwealth States, both freedom of expression and media freedom

are seriously or acutely under threat. It is well documented that a number of States impose harsh penalties – including criminal sanctions – on dissenting voices, particularly those who speak out against corruption and abuses of power, in order to intimidate and silence them.¹²

As detailed in the regional chapters of this report, Commonwealth States continue to maintain and frequently invoke vague and overbroad criminal provisions – related to offences such as defamation, sedition, and blasphemy – and other problematic laws to arbitrarily restrict free expression by journalists, media workers, human rights defenders, civil society organisations, political opponents, and others. Many of these laws are rooted in colonial-era frameworks and remain largely unreformed. Compounding this, the rapid expansion of digital spaces has prompted the enactment of new legislation aimed at regulating online communication, but in many cases, such laws have instead created additional avenues for state control over expression.

Beyond legal threats and imprisonment, journalists face persistent and severe dangers – including death threats, harassment, and targeted killings – intended to silence or deter them from reporting on matters of public interest. **These realities underscore the urgent need for legal reform, as well as robust protections and accountability mechanisms** to ensure that journalists, human rights

advocates, and others can safely carry out their vital role of exposing abuses and holding power to account.

THE URGENCY OF REFORM: A CALL TO ACTION FOR THE COMMONWEALTH

On 16 December 2021 the UN General Assembly passed a resolution on the safety of journalists and the issue of impunity which called on States to “ensure that defamation and libel laws are not misused, in particular through excessive criminal sanctions, to illegitimately or arbitrarily censor journalists and interfere with their mission of informing the public and, where necessary, to revise and repeal such laws, in compliance with States’ obligations under international human rights law.”¹³

That resolution is one of more than a dozen adopted by the UN General Assembly and the UN Human Rights Council since 2012 on the subject of the safety of journalists. It reflects a global consensus that criminal law should restrict speech only in the most exceptional circumstances, such as incitement to violence, hatred or discrimination. Criminal defamation laws, largely a legacy of colonial rule, have no place in democratic societies and should be repealed.

Against this background, there is an urgent imperative for Commonwealth governments to enact practical and far-reaching legal reforms to uphold the right to freedom of expression.

With the recent adoption of the Commonwealth Principles on Freedom of Expression and the Role of the Media in Good Governance,¹⁴ Member States have a renewed mandate to establish and strengthen protections for free expression. Effective laws and measures must be adopted to ensure that journalists, media workers, and civil society actors can operate in a safe environment, free

from violence, intimidation, harassment, or undue interference.

The Media Principles reaffirm the Commonwealth’s responsibility to promote good governance and accountability by protecting freedom of expression and ensuring that journalists and media workers can carry out their essential roles. To realise these commitments, governments must now demonstrate political will and take concrete steps to build enabling legal and institutional environments, including within digital spaces. **This includes revising or repealing laws that criminalise speech or unduly restrict press freedom, strengthening independent oversight mechanisms, and ensuring meaningful access to justice for victims of violations.**

Accountability must go hand-in-hand with protection. When journalists face threats, violence, or legal harassment, governments must respond promptly and effectively, investigating abuses and bringing perpetrators to justice. These are not just obligations under international law – they are essential conditions for sustaining public trust, democratic resilience, and the rule of law across the Commonwealth.



Commitment to human rights across the Commonwealth must include the implementation of the recently adopted Media Principles. Photo credit: Justit

¹⁰ International Bar Association (n.d.). *High Level Panel of Legal Experts on Media Freedom*. <https://www.ibanet.org/IBAHRIsecretariat> [Accessed: 28 April 2025]

¹¹ UN Human Rights Committee, *General Comment No. 34: Article 19 – Freedoms of opinion and expression* (12 September 2011). UN Doc. CCPR/C/GC/34, para.13. <https://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf> [Accessed: 28 April 2025].

¹² Clooney, A., and Neuberger, D. (2024). ‘Freedom of Speech in International Law’, Oxford University Press, 09 January. <https://global.oup.com/academic/product/freedom-of-speech-in-international-law-9780198899372?cc=gb&lang=en&> [Accessed: 28 April 2025].

¹³ UN General Assembly (UNGA), *Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression* (10 December 2022). UN Doc. A/HRC/35/22. <https://digitallibrary.un.org/record/3954954?ln=en&v=pdf> [Accessed: 28 April 2025].

¹⁴ *The Principles on Freedom of Expression and the Role of the Media in Good Governance* were adopted by Commonwealth Heads at their summit meeting in Samoa in October 2024. See [Appendix B](#). Also: <https://production-new-commonwealth-files.s3.eu-west-2.amazonaws.com/s3fs-public/2022-11/Commonwealth%20Principles%20on%20Freedom%20of%20Expression%20and%20the%20Role%20of%20the%20Media%20in%20Good%20Governance.pdf?VersionId=sq5qmCa8bWpZoGZNpPeF00MxXWZ0YXZu> [Accessed: 28 April 2025].

ABOUT THIS REPORT

This report responds to the escalating misuse of criminal law provisions to restrict freedom of expression and media freedoms within the Commonwealth and around the world.

This report is the result of collaborative efforts with experts and partners, and aligns with the global campaign to defend freedom of expression. The report examines how criminal law provisions are misused in Commonwealth Member States to unduly restrict or suppress freedom of expression, often through punitive fines and imprisonment.

The report offers global recommendations to address these issues, as well as recommendations specific to the context of each Commonwealth region. These region-specific recommendations are presented at the end of each regional chapter.

This report is being published in the wake of the adoption of the *Commonwealth*

Principles on Freedom of Expression and the Role of the Media in Good Governance at the Commonwealth Heads of Government Meeting (CHOGM) in October 2024.

It is intended to support post-CHOGM efforts to raise awareness and promote the implementation of these Media Principles, strengthening Commonwealth commitments to free speech and media freedoms in line with international human rights law and standards.

Ensuring the effective implementation of these Principles requires coordinated action among Commonwealth States, multilateral organisations, and civil society. A targeted and robust strategy – encompassing advocacy, awareness-raising, capacity building, and legal reform – is essential to safeguarding freedom of expression across the Commonwealth.



When access to information is silenced, the press burns and with it the right to speak, question, and participate in public life. Photo credit: Amusan John / Pexels.

TERMINOLOGY

Freedom of expression is a fundamental human right recognised under international law, enshrined in instruments such as the Universal Declaration of Human Rights (UDHR) (Article 19) and the International Covenant on Civil and Political Rights (ICCPR) (Article 19). It encompasses the right to seek, receive, and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing, or through any other medium of choice. Freedom of expression is crucial for democratic participation, the pursuit of truth, and the protection of other rights, including freedom of association, freedom of assembly, and the right to vote.

Freedom of expression is not an absolute right. While freedom of expression is a cornerstone of democratic societies, international law recognises that certain restrictions may be necessary. However, these restrictions must be narrowly tailored and applied in a manner consistent with human rights principles, to avoid undermining the very freedoms they are meant to protect.

See [Appendix A](#) for detailed terminology and definitions for other concepts referred to in this report including **defamation**, **sedition** and **blasphemy**.

METHODOLOGY

The findings and recommendations in this report are based on a combination of research methods designed to provide a comprehensive understanding of the state of freedom of expression across the Commonwealth. The methodology adopted includes the following components:

1. Research Methods:

- **Surveys (Lawyers):** Targeted surveys were conducted with lawyers from law firms in Commonwealth States across all regions. These surveys were designed to capture perspectives on relevant legal frameworks, as well as legal and practical challenges affecting freedom of expression and media freedom in their respective jurisdictions.



Balancing freedom of expression with legal restrictions remains one of the most contested issues in human rights. Photo credit: Mart Production.

This report incorporates 31 survey responses from lawyers.

- **Surveys (Journalists):** Targeted surveys were conducted with journalists from Commonwealth States across all regions to gather first-hand testimonies from media practitioners. The report makes use of information from 33 survey responses from journalists.
- **Desk Research:** Secondary sources, including academic literature, media reports, NGO publications, and government documents, were analysed to supplement primary research and provide a foundational understanding of regional and national contexts.
- **Spotlight Stories:** The report incorporates 'Spotlight Stories' or case studies to highlight particular issues, emerging trends, or specific challenges to freedom of expression and their broader implications. Drafted and reviewed by experts, these studies illustrate systemic trends and provide real-world context to the analysis.



Surveillance technologies present new risks to free expression, urging international and regional standards on how States should balance online safety with the protection of speech. Photo credit: Brock Wegner.

2. Scope and Focus:

The report covers all Commonwealth Member States, and presents information by region – including notable developments or concerns regarding freedom of expression and media freedom.

3. Collaboration and Stakeholder Engagement:

- Surveys were conducted with invited journalists to ensure that the perspectives of those working at the forefront of freedom of expression issues were well reflected.

- Relevant sections of the report were reviewed by international and regional experts on freedom of expression for accuracy, context, and nuanced perspectives on conditions in different jurisdictions.

4. Analytical Framework:

- A comparative approach was used to analyse the differences and similarities in Member States' approaches to freedom of expression, grounded in international legal standards such as those set out in the ICCPR and elaborated by the UN Human Rights Committee.
- Emphasis was placed on identifying systemic trends and patterns as well as significant incidents and cases in order to present a holistic picture of the challenges faced across the Commonwealth.

LIMITATIONS

While this report provides valuable insights into the state of freedom of expression across the Commonwealth, certain limitations should be noted:

1. Expertise of Survey Respondents:

While surveys were conducted with lawyers from various regions, not all participants were subject matter experts. As a result, their responses may reflect general legal perspectives rather than specialised expertise on freedom of expression.

2. Limited Onboarding of Local Counsel:

Local counsel from 31 Commonwealth countries responded to our survey for legal experts. For other jurisdictions the study relied primarily on desk research and information gathered from the 33 journalist surveys received. While every effort has been made to verify the information and assessments contained in the surveys, the authors disclaim responsibility for any personal opinions or inaccuracies that may be reflected



Prolonged digital blackouts undermine democratic participation and restrict young people's access to information. Photo credit: Ron Lach / Pexels.

in the published report as a result of information contained in the surveys.

3. Indicative Nature of the Study:

The study does not claim to be a comprehensive or exhaustive overview of the current situation in every Commonwealth country. While every effort has been made to gather all relevant data, some of the information presented may be incomplete; and interpretations or personal opinions cited by persons or entities which are referenced in the text do not necessarily reflect those of the authors of the report.

4. Time Lag in Data Collection:

The data collection and analysis for this report occurred mostly over a period of six months up to September 2024, with

limited desk research up to July 2025 to capture subsequent major developments. Other recent developments may not be fully reflected in the report.

5. Diverse Drafting Styles:

The case studies and regional chapters of this report have been drafted by experts from different regions over an extended period. This may also result in variations in writing styles, structure, and emphasis across chapters.

COMMONWEALTH HIGHLIGHTS

JOURNALISTS' SAFETY

213 journalists killed in 19 Commonwealth countries between 2006 and 2023¹⁵

Bangladesh (20), Barbados (1), Cameroon (5), Ghana (1), Guyana (1), India (56), Kenya (4), Lesotho (1), Maldives (2), Malta (1), Mozambique (2), Nigeria (13), Pakistan (87), Rwanda (2), South Africa (1), Sri Lanka (9), Tanzania (2), Uganda (4), United Kingdom (1)

96% impunity rate – In 205 of 213 killings of journalists in Commonwealth countries between 2006 and 2023, the perpetrators have not yet been brought to justice.¹⁶

Only 8 of those cases have been resolved: Bangladesh (3), Nigeria (1), Pakistan (2), Rwanda (1), Tanzania (1)

JOURNALISTS IN PRISON

20 journalists were in prison in 5 Commonwealth countries on 1 December 2024 Bangladesh (4), Cameroon (5), India (3), Nigeria (3), Rwanda (5)¹⁷

KEY INTERNATIONAL COMMITMENTS

46 of 56 Commonwealth countries (82%) have ratified the **International Covenant of Civil and Political Rights (ICCPR)**, but enforcement is uneven.

8 countries (14%) have not yet signed the ICCPR – Brunei, Kiribati, Malaysia, St. Kitts and Nevis, Singapore, Solomon Islands, Tonga and Tuvalu.

2 countries (Nauru and Saint Lucia) have signed the ICCPR, but **have yet to ratify it**.

DEFAMATION PENALTIES

41 of 56 Commonwealth countries (73%) maintain criminal penalties for defamation:

- **15 of 21 countries (71%) in Africa**
- **9 of 13 countries (69%) in the Americas and the Caribbean**
- **6 of 8 countries (75%) in Asia**
- **1 of 3 countries (33%) in Europe**
- **10 of 11 countries (91%) in the Pacific**

SEDITION AND BLASPHEMY

49 (88%) of 56 Commonwealth countries (88%) have laws which criminalise 'sedition' or acts which are considered as 'sedition'.

40 (71%) out of 56 Commonwealth countries have laws which criminalise 'blasphemy' or hurting religious sentiments.

INTERNET SHUTDOWNS

20 countries (36%) have enforced internet shutdowns in the past decade – disrupting access to information and communication

5 countries lack transparent data on internet shutdowns: Seychelles, Namibia, Kiribati, Tuvalu and St. Vincent and the Grenadines

The **World Press Freedom Index** (legal indicator) measures the legislative and regulatory environment for journalists (including the level of censorship, the ability to protect sources and the level of impunity for violence against journalists).¹⁸

- Only **7 of the 43** Commonwealth countries included in the Index rank in the **top 50** of the **2024 World Press Freedom Index** – **Canada** ranks highest at **11th place**.
- **Eight Commonwealth countries are placed in the lowest 50** in the Index – Singapore, Bangladesh, Malaysia, India, Sri Lanka, Pakistan, Lesotho, Kingdom of eSwatini.

The **Global Expression Report** reviews the right to free expression and information worldwide based on 25 indicators and data released by the Varieties of Democracy Institute (V-Dem) – the most authoritative data resource for examining the health of democracies globally.¹⁹

- Of the 37 Commonwealth countries included in the report, **4 are classed as 'in crisis'** – India, Bangladesh, Rwanda, Kingdom of eSwatini
- In another **7 Commonwealth countries**, freedom of expression is **'highly restricted'** – Malaysia, Togo, Pakistan, Singapore, Cameroon, Uganda, Zimbabwe
- **Only 7 are classed as 'open'** – New Zealand, Canada, Vanuatu, Jamaica, UK, Australia, Malta

15 Source: UNESCO (n.d.). *Observatory of Killed Journalists*. <https://www.unesco.org/en/safety-journalists/observatory> [Accessed: 17 October 2024].

16 Source: UNESCO (2024). *85% of journalist killings remain unpunished worldwide*. <https://www.unesco.org/en/articles/85-journalist-killings-remain-unpunished-worldwide-unesco-report> [Accessed: 17 October 2024].

17 Source: Committee to Protect Journalists (2024). *Imprisoned Journalists 2024*. https://cpj.org/data/imprisoned/2024/?status=Imprisoned&start_year=2024&end_year=2024&group_by=location [Accessed: 17 October 2024].

18 (Reporters Without Borders, 2024) <https://rsf.org/en/index/score-leg?year=2024>

19 (Article 19, 2024) <https://www.globalexpressionreport.org>

GLOBAL RECOMMENDATIONS

The Commonwealth, with its wide-ranging membership and shared history, has a unique opportunity to promote and protect freedom of expression and media freedom. This can be achieved by urging and supporting Member States to establish robust legal frameworks that uphold judicial independence and safeguard due process guarantees. By empowering civil society, protecting journalists, and focusing on multilateral cooperation, the Commonwealth can play a decisive role in strengthening the protection of freedom of expression and promoting greater respect for media freedom across its Member States.

We urge Commonwealth governments to share good practices, and to collaborate, develop and implement action plans with respect to the following:

1. STRENGTHEN LEGAL FRAMEWORKS AND THEIR IMPLEMENTATION

Many Commonwealth nations retain outdated and unduly restrictive laws that limit freedom of expression, including vague and overbroad provisions on defamation, sedition, blasphemy, and security, which are often used to suppress dissent and curtail media freedom. Decisive action is required to prevent the misuse of legal frameworks to stifle independent media voices and to ensure that all laws comply with international human rights standards.

RECOMMENDATIONS:

- **Align national legal frameworks with international human rights standards:** Commonwealth Member States should ensure that any restrictions on freedom of expression comply with international human rights law and standards. Such restrictions should be clearly set out in law, be non-discriminatory, and serve a legitimate purpose as outlined in international and regional human rights treaties. Such restrictions must also meet the tests of necessity and

proportionality to protect legitimate interests. Commonwealth Member States should review, and where appropriate, repeal or substantially amend national legislation that criminalises or unduly restricts freedom of expression. This includes repealing sedition, blasphemy, and false news laws, and substantially amending those related to defamation, national security, as relevant, to ensure alignment with international human rights standards and best practices.

- **Ratify and implement international treaties:** States should ratify and implement international treaties that protect the right to freedom of expression, including the International Covenant on Civil and Political Rights (ICCPR), which sets out binding legal obligations to respect and ensure the right to freedom of expression under Article 19, and its First Optional Protocol, which sets out a system by which the UN Human Rights Committee can receive and consider complaints from individuals who allege that their human rights have been violated, including violations of freedom of expression.
- **Enact strong right to information legislation:** States should adopt and enforce robust access to information laws that guarantee journalists and the public timely access to government-held information and documents. Such laws must include strictly limited and clearly defined exceptions, user-friendly procedures for requests, and a truly independent and effective system of oversight.
- **Enact appropriate defences to defamation laws:** States should repeal criminal defamation provisions and reform defamation laws to ensure the availability of robust defences, enabling individuals and media outlets to exercise the right to free speech and public participation without undue interference.



New York, February 2023. At UN headquarters, speakers mark 30 years of World Press Freedom Day underlining international obligations to safeguard freedom of expression. Photo credit: Eskinder Debebe / UN Photo.

Defences related to public interest, truth and reasonableness should be clearly provided for in defamation law. The burden of proof must rest with the plaintiff, not the accused.

2. PROMOTE JUDICIAL INDEPENDENCE, DUE PROCESS GUARANTEES, AND ACCESS TO JUSTICE FOR DEFENDANTS

Journalists in several Commonwealth countries face harassment, intimidation, arbitrary arrest, or violence. The lack of independent judiciaries and effective accountability mechanisms exacerbates the risk of serious human rights violations, including failures to uphold due process and fair trial guarantees. When confronted with Strategic Lawsuits Against Public Participation (SLAPPs), the high legal costs and protracted court proceedings disproportionately burden small media outlets, individual journalists, and civil society activists, particularly those without access to legal counsel and support.

RECOMMENDATIONS:

- **Strengthen judicial independence:** States should ensure that courts are free from interference by other branches of government and are able to deliver impartial rulings in accordance with rule of law and human rights principles, particularly in cases involving media freedom. Strengthening judicial independence will help protect journalists and media organisations from arbitrary convictions and politically motivated prosecutions.
- **Combat impunity:** Commonwealth Member States should ensure impartial, prompt and effective investigations to bring the perpetrators of crimes against journalists, including cases of violence and killings, to justice. Prosecutors and judicial authorities should be guided by the *Guidelines for Prosecutors on Cases of Crimes against Journalists*.²⁰ Member States should cooperate fully with UNESCO requests to provide information on judicial follow-up to the killing of journalists.

20 Ouillet, S., UNESCO and International Association of Prosecutors (IAP) (2020). *Guidelines for Prosecutors on Cases of Crimes Against Journalists*. <https://unesdoc.unesco.org/ark:/48223/pf0000375138> [Accessed: 28 April 2025].



Reading the press remains central to an informed society, yet in many countries journalists and media outlets face pressure that limits open access to reliable information. Photo credit: Akshar Dave / Pexels.

- **Ensure access to effective remedies and due process protections:** States should ensure that due process and fair trial guarantees are clearly set out in law and respected in practice. This should include the provision of free or substantially subsidised legal support for defendants facing investigations or charges arising from the exercise of their right to freedom of expression. States must ensure that those whose rights to freedom of expression or media freedom are violated have access to effective remedies.

- **Adopt anti-SLAPP (Strategic Lawsuit Against Public Participation) measures:** States should introduce and implement laws and policies to prevent powerful actors from initiating abusive lawsuits or legal threats with the aim of silencing critics (SLAPPs). Courts should have the authority to dismiss such lawsuits at an early stage and award costs against plaintiffs who misuse the legal system. Courts should also consider other procedural remedies, such as 'abuse of process' provisions, to alleviate the harmful impact of SLAPPs. Judges and appropriate regulatory authorities should be empowered to screen out SLAPP cases promptly, especially where they take the form of criminal defamation.

3. ENSURE MEDIA PLURALISM AND PROTECT DIGITAL RIGHTS

State-owned or state-aligned media dominate the information landscape in many Commonwealth countries, while in others, governments exert undue control over the media. Governments are also increasingly seeking to control or restrict access to the internet and social media platforms.

RECOMMENDATIONS:

- **Establish and maintain independent media regulatory and oversight bodies:** Any regulation of the media should be undertaken exclusively by independent regulatory authorities free from political influence. These may include independent media freedom commissions mandated to investigate and address complaints about violations of media freedom, as well as complaints against the media.
- **Promote media pluralism:** States should establish and enforce robust regulatory frameworks that promote media diversity and pluralism, preventing media monopolies and supporting the growth of a wide range of independent media outlets, particularly those that represent minority and marginalised groups.

platforms to implement measures that do not conform to international human rights law and standards.

4. PROTECT JOURNALISTS AND FOSTER A VIBRANT CIVIL SOCIETY

The protection of journalists and the safeguarding of civil society space are essential pillars of a democratic and accountable Commonwealth. Journalists, media workers, and civil society organisations (CSOs) play a vital role in defending freedom of expression and exposing abuses of power. Yet in practice, these groups are frequently undermined by restrictive laws, harassment, funding constraints, and/or government interference. Commonwealth Member States must create enabling legal and policy environments that protect those who speak truth to power and ensure that independent voices can thrive.

RECOMMENDATIONS:

- **Protect journalists:** Commonwealth Member States should adopt or strengthen national frameworks – including national action plans and inter-agency committees – to address concerns regarding journalists' safety, intimidation, and access to justice. States should promote and support protective mechanisms in line with the recommendations of the UN Plan of Action on the Safety of Journalists.²¹
- **Take special measures to protect disproportionately targeted groups:** States should recognise the specific risks (including gender-based violence and online harassment) faced by certain groups—including women journalists, LGBTQ+ media workers, marginalised communities, and those covering corruption, human rights violations, environmental issues – and implement special measures to ensure their safety.

- **Refrain from imposing internet or communications shutdowns and censorship of critical voices:** Member States should prohibit and refrain from ordering internet or communications shutdowns, and from blocking or censoring online platforms and content, particularly where such actions suppress dissent, limit access to information, or disrupt public debate. These measures are often disproportionate, lack legal justification, and are incompatible with international human rights standards on freedom of expression and access to information. States should also enact clear, lawful, and narrowly defined restrictions – only where strictly necessary – and subject to independent oversight.
- **Support digital literacy:** States should adopt effective measures to promote media, digital and information literacy, including by creating an enabling environment for civil society initiatives. This should include support for reliable sources of information and encouragement for trustworthy fact-checking.
- **Ensure online platforms abide with their human rights responsibilities:** States should ensure that the operations of online platforms, including content moderation and curation, comply with international human rights standards. These measures must include safeguards for media freedom and freedom of expression, as well as requirements of transparency, accountability, due process, and human rights protection and due diligence. Special attention should be given to curbing anti-competitive practices by dominant digital platforms and ensuring that any regulatory reforms in the online information space prioritise the public interest without compromising privacy and personal data protection. States must refrain from compelling

²¹ United Nations, *UN Plan of Action on the Safety of Journalists and the Issue of Impunity* (12 April 2012). UNESCO Doc. CI-2022/WS/3, 202. <https://unesdoc.unesco.org/ark:/48223/pf0000384476> [Accessed: 28 April 2025].

- **Create an enabling environment:** States should create an enabling environment for journalists and for local and international civil society organisations, including ensuring access to legal assistance, and the establishment of strong and transparent safeguards against surveillance and the intimidation of journalists.
- **Support global and regional civil society initiatives:** The Commonwealth should strengthen cooperation with relevant international, regional, and national civil society organisations, including the Commonwealth Journalists Association, the Commonwealth Human Rights Initiative, and the Institute of Commonwealth Studies. This includes supporting advocacy initiatives, facilitating forums for dialogue between governments, media, and civil society, and providing resources for training and capacity building.
- **Protect freedom of association:** Commonwealth Member States should revise or repeal restrictive laws that limit the rights of civil society organisations to operate freely, including removing constraints on foreign funding and burdensome administrative requirements. Legal frameworks should actively support the establishment, functioning, and independence of civil society organisations.

5. ESTABLISH AND STRENGTHEN ACCOUNTABILITY MECHANISMS

Despite the Commonwealth's commitment to the Commonwealth Charter which affirms the responsibility of governments to uphold democracy, the rule of law, and human rights, Member States are not held accountable when they violate these fundamental principles. In addition, effective accountability mechanisms with the Commonwealth framework remain weak or underutilised.

RECOMMENDATIONS:

- **Strengthen the Commonwealth Ministerial Action Group (CMAG):** CMAG should proactively fulfil its mandate to address egregious human rights violations, the undermining of judicial independence, and systemic constraints on civil society and the media. CMAG should be empowered to request, receive and evaluate topical information about violations of freedom of expression and media freedom, and to accept and act on submissions and reports from independent experts and concerned civil society organisations. Countries found to be consistently violating the Commonwealth's fundamental political principles should face censure and meaningful diplomatic pressure, including sanctions or suspension, and be offered technical and administrative support.
- **Strengthen the Commonwealth Secretariat:** The Commonwealth Secretariat should be mandated and supported by the necessary resources to assist Member States in implementing the *Commonwealth Principles on Freedom of Expression and the Role of the Media in Good Governance*, including through legislative reform initiatives. The Human Rights and Rule of Law Units should receive adequate resources and a mandate to mainstream human rights across the Secretariat's activities, facilitating and providing practical support to Member States to uphold human rights principles and standards when they are challenged, and to enhance collaboration with civil society organisations.
- **Establish a Commonwealth Special Envoy on Freedom of Expression:** The Commonwealth Secretariat should establish a Special Envoy on Freedom of Expression and Media Freedom, reporting to the Commonwealth Ministerial Action Group (CMAG) and the Secretary-General, with a mandate to monitor and report on



A protest against censorship and restrictions on press freedom, where demonstrators showed opposition to silencing journalists. Photo credit: Bogdan Khmelnytskyi / Shutterstock.

alleged breaches by Member States of standards related to systemic constraints on civil society and the media. The Envoy should engage with, and accept submissions from, civil society groups and representative journalists' organisations to promote the observance of the Commonwealth Media Principles.

- **Engage with international and regional human rights institutions and mechanisms:** Member States should commit to and collaborate with mechanisms which review and seek to strengthen human rights compliance, such as the UN Universal Periodic Review (UPR), UN Treaty Bodies, the UN Special Rapporteurs, the Office of the High Commissioner for Human Rights, and relevant regional mechanisms. Member States should also engage and collaborate with UNESCO and independent expert bodies, such as the High Level Panel of Legal Experts on Media Freedom,²²

and non-governmental organisations. Member States should implement the recommendations made by these mechanisms to promote freedom of expression and media freedom.

- **Join and engage with the Media Freedom Coalition:** Commonwealth Member States are encouraged to join the global Media Freedom Coalition²³ and commit to its pledge – a shared commitment by partner countries to protect and promote media freedom both domestically and internationally. Coalition members pledge to work collaboratively to respond to serious threats as they arise and demonstrate solidarity with countries striving to strengthen media freedom. Twelve Commonwealth countries are currently members: Australia, Belize, Botswana, Canada, Cyprus, Ghana, Guyana, Maldives, New Zealand, Seychelles, Sierra Leone, and the United Kingdom.

²² An independent body of legal experts from around the world. States may request the assistance of the High Level Panel of Legal Experts on Media Freedom on drafting, reviewing, and amending legislation concerned with freedom of expression, media freedom and the safety of journalists. International Bar Association (n.d.). *High Level Panel of Legal Experts on Media Freedom*. <https://www.ibanet.org/HRI-Secretariat/Who-we-are> [Accessed: 28 April 2025].

²³ Media Freedom Coalition (n.d.). *About the MFC*. <https://mediafreedomcoalition.org> [Accessed: 28 April 2025].

TRACKING COMMONWEALTH ACTION ON FREEDOM OF EXPRESSION AND MEDIA FREEDOM

Freedom of expression and media freedom are enshrined in key Commonwealth instruments, such as the *Commonwealth Charter*, the *Latimer House Principles*, and the *Principles on Freedom of Expression and the Role of the Media in Good Governance*. These documents affirm Member States' collective commitment to democratic governance, the rule of law, and the protection of fundamental human rights.

Since the adoption of these principles, both Commonwealth Member States and Commonwealth Accredited Organisations and Associations have taken important steps to advance and defend freedom of expression and media freedom. This timeline highlights key actions by governments and civil society alike, reflecting ongoing efforts to uphold these principles and to respond to emerging threats and opportunities across the Commonwealth.



²⁴ Scotland, P. (2017). 'Peter Lyon Memorial Lecture', *Institute of Commonwealth Studies Conference: 'The Commonwealth and Challenges to Media Freedom'*, 04 April. <https://production-new-commonwealth-files.s3.eu-west-2.amazonaws.com/migrated/news-items/documents/TheCommonwealthandChallengesToMediaFreedom.pdf> [Accessed: 28 April 2025].

²⁵ Commonwealth Journalists Association (CJA), Institute of Commonwealth Studies (ICwS), Commonwealth Lawyers Association (CLA), Commonwealth Legal Education Association (CLEA), Commonwealth Human Rights Initiative (CHRI), and Commonwealth Parliamentary Association (CPA). (2018) 'Commonwealth Principles on Freedom of Expression and the Role of the Media in Good Governance'. <https://production-new-commonwealth-files.s3.eu-west-2.amazonaws.com/s3fs-public/2022-11/Commonwealth%20Principles%20on%20Freedom%20of%20Expression%20and%20the%20Role%20of%20the%20Media%20in%20Good%20Governance.pdf?VersionId=sq5qmCa8bWpZGZnNPeF00MxXWZ0YXZu> [Accessed: 28 April 2025].

Commonwealth Heads of Government **adopted the (revised) Principles on Freedom of Expression and the Role of the Media in Good Governance** at their CHOGM summit meeting in Samoa in October, and “urged Member States to take concrete and meaningful steps to implement them within their domestic frameworks.”²⁹

2024

2025

At the **Commonwealth Heads of Government Meeting (CHOGM) in Samoa** in October, CHRI, CJA, ICJ, CLA, ICwS, High-Level Panel of Legal Experts on Media Freedom, Samoa Ombuds Office/NHRI, Commonwealth Secretariat, and the Government of Canada held a side event on **Protecting Freedom of Speech and Expression in the Commonwealth**, which focused on safeguarding media freedom and addressing the misuse of laws to suppress free expression.

in the lead up to CHOGM 2024, the Commonwealth Foundation led a **consultation with 3,000 civil society activists** and experts on **What do the people of the Commonwealth need?** On freedom of expression, civil society called for effective legal frameworks to protect media independence and journalists, transparent laws that support free speech and access to information, while combatting disinformation, digital censorship and online threats to free speech.³⁰

At the **Commonwealth People's Forum at CHOGM 2024** civil society experts, including journalists from across the Commonwealth, stressed that individuals should **enjoy the maximum of freedom of expression, association, assembly**, and expression, while recognising that freedom of expression is seen as essential for global liberation.

Following the adoption of the Media Principles by Commonwealth Heads, civil society stands ready to work with Member States and the Commonwealth Secretariat to support their **effective implementation at national level**, including through the review and reform of laws restricting freedom of expression and media freedom. As part of this effort, CHRI, brought together the CJA and the CLA, and other experts, to research and publish this **report on legal restrictions on freedom of expression in the Commonwealth**.

- 26 *Commonwealth Principles on Freedom of Expression and the Role of the Media in Good Governance*. See Appendix B. Also: <https://production-new-commonwealth-files.s3.eu-west-2.amazonaws.com/s3fs-public/2022-11/Commonwealth%20Principles%20on%20Freedom%20of%20Expression%20and%20the%20Role%20of%20the%20Media%20in%20Good%20Governance.pdf?VersionId=sq5qmCa8bWpZoGZNnPeF0QMxXWZOYXZu> [Accessed: 28 April 2025].
- 27 Commonwealth Heads of Government Meeting (CHOGM) (2022). ‘CHOGM 2022 Communiqué’. <https://production-new-commonwealth-files.s3.eu-west-2.amazonaws.com/s3fs-public/2022-06/CHOGM%202022%20Communique.pdf> [Accessed: 28 April 2025], para.11.
- 28 Commonwealth Secretariat (2022). Commonwealth Secretary-General welcomes Law ministers’ unanimous agreement on Media Principles. <https://thecommonwealth.org/news/commonwealth-secretary-general-welcomes-law-ministers-unanimous-agreement-media> [Accessed: 28 April 2025].
- 29 Commonwealth Heads of Government Meeting (CHOGM) (2024). ‘CHOGM 2024 Communiqué’. <https://production-new-commonwealth-files.s3.eu-west-2.amazonaws.com/s3fs-public/2024-10/leaders-statement-commonwealth-heads-of-government-meeting-2024.pdf> [Accessed: 28 April 2025], para. 17; *Commonwealth Principles on Freedom of Expression and the Role of the Media in Good Governance*. See Appendix B. Also: <https://production-new-commonwealth-files.s3.eu-west-2.amazonaws.com/s3fs-public/2022-11/Commonwealth%20Principles%20on%20Freedom%20of%20Expression%20and%20the%20Role%20of%20the%20Media%20in%20Good%20Governance.pdf?VersionId=sq5qmCa8bWpZoGZNnPeF0QMxXWZOYXZu> [Accessed: 28 April 2025].
- 30 Commonwealth Foundation (2024). *What do the people of the Commonwealth need?*. <https://commonwealthfoundation.com/resource/what-do-the-people-of-the-commonwealth-need> [Accessed: 28 April 2025].

With the adoption of the Media Principles in October 2024 by Heads of Government, the Commonwealth must now take action to ensure their effective implementation at national level. Photo credit: Pressmaster / Shutterstock.



SPOTLIGHT

FROM PRINCIPLES TO PRACTICE: IMPLEMENTING COMMONWEALTH COMMITMENTS ON FREEDOM OF EXPRESSION³¹

The adoption of the *Principles on Freedom of Expression and the Role of the Media in Good Governance*³² by Commonwealth Heads of Government at their summit in Samoa in October 2024 represents a pivotal moment for freedom of expression advocates, media workers and activists. The Principles provide guidance on aligning domestic legal frameworks with international law, while aiming to address the widespread suppression of free speech and the continuing harassment of journalists across many Commonwealth jurisdictions.

The Principles acknowledge the essential role of accurate, reliable, and accessible information, particularly during elections, crises, and conflicts. They also recognise that journalism is evolving, with an increasing shift to digital platforms. As more media consumption takes place online, Commonwealth States must ensure that legal protections extend to digital spaces, safeguarding online expression against censorship, undue restrictions, and digital surveillance.

The Principles on Freedom of Expression, first championed by civil society in 2018,

offer a comprehensive framework to safeguard free expression and media freedom as cornerstones of the rule of law and democratic governance. To have real impact, Commonwealth governments must go beyond endorsement and take concrete steps toward implementation.

The Principles aim to achieve the following broad objectives:

- **Strengthened Legal Frameworks:** The Principles urge Commonwealth States to repeal or amend laws that unduly restrict the right to freedom of expression. This includes prioritising the repeal of criminal defamation laws, and the amendment of overly broad national security measures and cyber security provisions which are weaponised in many countries against journalists and activists. Restrictions related to the digital space must be lawful and content-specific, and require internet service providers and social media platforms to protect users from harm without undermining existing human rights safeguards for free expression and privacy. The Principles also reiterate that any restrictions on freedom of expression

must meet the international human rights law standards of legitimate purpose, legality, necessity, and proportionality.

- **Protection for Journalists:** The Principles affirm that Member States should adopt effective laws and measures to ensure a safe and enabling environment for journalists to work in without fear of violence, intimidation, or reprisal – both online and offline. Commonwealth countries are encouraged to adopt strong and enforceable protections for journalists and media workers facing violence or serious threats of violence, including in conflict situations. The Principles also call on Member States to promote and ensure the observance of the Principles, and to act decisively to end impunity by bringing those responsible for attacks on journalists to justice.
- **A Partnership Role for Civil Society:** The Principles affirm the crucial role of civil society in promoting and supporting Commonwealth values and principles. They provide a benchmark against which to measure government actions and existing legislation. Civil society organisations – whether media watchdogs, human rights groups, or journalists' associations – can use the Principles to identify and publicise violations and to advocate for legal and other reforms. Civil society organisations initiated the development of the Principles and welcome the opportunity to work in partnership with governments to publicise and promote their implementation.
- **Good Governance and Democracy:** A free and independent media is essential to good governance, transparency, and democratic accountability. The Principles affirm freedom of expression as the foundation of all other rights and emphasise the vital role of independent judiciaries, parliaments, legislatures, and electoral processes play in safeguarding

it. They underscore the media's critical function in holding governments to account, scrutinising public officials, and ensuring that the public is informed and engaged. Member States are urged to enact Access to Information legislation aligned with international standards and to promote the free flow of information and ideas, enabling citizens to participate meaningfully in democratic life.

- **Increased Accountability:** To ensure the observance of these Principles, Commonwealth governments are encouraged to establish and support independent, effective oversight bodies free from political or commercial interference, to monitor and address violations of media freedom. Many Member States already have national commissions overseeing elections, human rights, and telecommunications, though far fewer maintain independent regulators for broadcasting or the media. The Commonwealth Ministerial Action Group (CMAG) was mandated in 2011 to monitor freedom of expression and the state of the media in Member States, but it has yet to comment publicly on any serious concerns. With the adoption of the Principles, civil society calls on the Commonwealth to strengthen and operationalise existing mechanisms for monitoring violations of media freedom and to take a more active role in addressing egregious and systemic violations.

The adoption of the *Principles on Freedom of Expression and the Role of the Media in Good Governance* lays an important foundation for a more transparent, accountable, and democratic Commonwealth. By addressing legal and institutional barriers to freedom of expression and media freedom, the Principles provide a pathway to protect the 'truth tellers' and uphold freedom of expression as a pillar of good governance. But this foundation will remain fragile unless governments translate commitment into concrete action.

31 A version of this article was first published as Aurora, S. (2025) 'From principles to practice: implementing Commonwealth commitments on freedom of expression' in *The Round Table – The Commonwealth Journal of International Affairs and Policy Studies* Volume 113, 2024 – Issue 6, 09 January 2025, pp.638–639 <https://www.commonwealthroundtable.co.uk/general/media/opinion-from-principles-to-practice-implementing-commonwealth-commitments-on-freedom-of-expression> [Accessed: 28 January 2025].

32 See Appendix B. Also: The Commonwealth (2024). *Commonwealth Principle on Freedom of Expression and the Role of the Media in Good Governance*. <https://production-new-commonwealth-files.s3.eu-west-2.amazonaws.com/s3fs-public/2022-11/Commonwealth%20Principles%20on%20Freedom%20of%20Expression%20and%20the%20Role%20of%20the%20Media%20in%20Good%20Governance.pdf?VersionId=sq5qmCa8bWpZoGZNnPeFOOMxXWZOYXZu> [Accessed: 28 April 2025].

LEGAL FRAMEWORKS AND PRINCIPLES



International human rights law protects free opinion and expression under Article 19 of the UDHR and ICCPR. Photo credit: Sergei Tokmakov, Esq. / Pixabay.

INTERNATIONAL LEGAL FRAMEWORKS

The right to freedom of opinion and expression is protected by international human rights law and standards, including the **Universal Declaration of Human Rights**³³ and the **International Covenant on Civil and Political Rights**,³⁴ and is also recognised in the **Commonwealth Charter**.³⁵

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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.

Article 19, Universal Declaration of Human Rights (1948)

³³ United Nations General Assembly (UNGA) Res 217 A(III), Universal Declaration of Human Rights (10 December 1948). UN Doc A/RES/217(III) art.19. <https://www.un.org/en/about-us/universal-declaration-of-human-rights> [Accessed: 28 April 2025].

³⁴ International Covenant on Civil and Political Rights (ICCPR) (adopted 16 December 1966, entered into force 23 March 1976). 999 UNTS 171, Part I, art.19. <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights> [Accessed: 28 April 2025].

³⁵ The Commonwealth (2012). *Commonwealth Charter*. <https://thecommonwealth.org/charter> [Accessed: 28 April 2025].

³⁶ United Nations General Assembly (UNGA) Res 217 A(III), Universal Declaration of Human Rights (10 December 1948). UN Doc A/RES/217(III) art.19. <https://www.un.org/en/about-us/universal-declaration-of-human-rights> [Accessed: 28 April 2025].

INTERNATIONAL INSTRUMENTS AND STANDARDS

Article 19 of the **Universal Declaration of Human Rights (UDHR)** guarantees everyone the “right to freedom of opinion and expression,” which includes the right to seek, receive, and impart information and ideas of all kinds.³⁶

This foundational principle is further codified in the **International Covenant on Civil and Political Rights (ICCPR)**³⁷ which 46 Commonwealth countries have ratified,³⁸ and other international instruments.³⁹

Article 19 of the ICCPR obliges State Parties to respect, protect and fulfil freedom of expression, subject only to certain restrictions that meet strict criteria. Restrictions are permissible under Article 19(3) if they meet three specific criteria:⁴⁰

- 1. Legality:** Restrictions must be provided by law, ensuring clarity and precision in the application of such laws.
- 2. Legitimate Aim:** Any restriction must pursue a legitimate aim, such as the protection of national security, public order, public health, morals, or the rights and reputations of others.
- 3. Necessity and Proportionality:** Restrictions must be necessary and the least restrictive means available to achieve the legitimate aim, without overreaching.

Still, many States go beyond these parameters, placing broad restrictions on free speech, despite the fact that they are required to enact laws that protect this right, refrain from imposing unlawful restrictions on this right, and provide effective remedies when violations occur.

Additionally, the **First Optional Protocol to the**

ICCPR⁴¹ strengthens access to remedies and accountability at the international level by setting out a system by which the UN Human Rights Committee can receive and consider complaints from individuals who allege that their human rights – including freedom of expression – have been violated.

UNITED NATIONS (UN) MECHANISMS AND INSTITUTIONS

The UN has developed additional frameworks and mechanisms to safeguard freedom of expression.

The **UN Human Rights Committee**,⁴² a UN treaty body which has the responsibility of overseeing the implementation of the ICCPR, has underscored that States must respect and protect freedom of expression and opinion against violations by both State and private actors. This includes ensuring that legal frameworks comply with international standards and providing adequate means of redress when rights are infringed. The Human Rights Committee (HR Committee), particularly through their General Comments which elaborate the treaty provisions, makes clear that while freedom of expression is a fundamental right, it is not absolute. The HR Committee has elaborated through its General Comments the strict criteria for permissible restrictions to the freedom of expression under

³⁷ International Covenant on Civil and Political Rights (ICCPR) (adopted 16 December 1966, entered into force 23 March 1976). 999 UNTS 171, Part I, art.19. <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights> [Accessed: 28 April 2025].

³⁸ Only two Commonwealth countries have set out reservations to Article 19 of the ICCPR – India and Malta, such reservations seeking to restrict the core protections of Article 19. Centre for Civil and Political Rights (2017). *Reservations and declarations made by State parties of the International Covenant on Civil and Political Rights (ICCPR)*. https://ccprcentre.org/files/media/List_of_ICCPR_reservations.pdf [Accessed: 28 April 2025].

³⁹ The right is also codified in other international treaties, for example, the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), Article 5 which requires that “States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of” several rights including the (d)(viii) the right to freedom of opinion and expression. International Convention on the Elimination of All Forms of Racial Discrimination (adopted 21 December 1965, entered into force 04 March 1969). 660 UNTS 195. <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-convention-elimination-all-forms-racial> [Accessed: 28 April 2025].

⁴⁰ Elaborated also in: UN Human Rights Committee, *General comment No. 34 – Article 19: Freedoms of opinion and expression* (12 September 2011). UN Doc CCPR/C/GC/34, para. 22. <https://www.ohchr.org/sites/default/files/english/bodies/hrc/docs/gc34.pdf> [Accessed: 28 April 2025].

⁴¹ Optional Protocol to the International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976). 999 UNTS 302. <https://www.ohchr.org/en/instruments-mechanisms/instruments/optional-protocol-international-covenant-civil-and-political> [Accessed: 28 April 2025].

⁴² The UN Human Rights Committee is a body of independent experts tasked with interpreting and monitoring the implementation of the International Covenant on Civil and Political Rights (ICCPR). A creation of the ICCPR, the treaty body regularly reviews State compliance with the ICCPR, produces general comments on the interpretation of treaty provisions, and reviews individual cases (under its First Optional Protocol).

Article 19(3) (see above).⁴³ The HR Committee has further clarified that restrictions on freedom of expression cannot be imposed for purposes that are not recognised in the ICCPR, such as censorship or political repression of dissenting voices.⁴⁴ Additionally, restrictions must not jeopardise the essence of the right, meaning they should not undermine the core principles of freedom of expression.⁴⁵ The HR Committee has also stipulated that defamation laws must not serve to stifle freedom of expression and should include adequate safeguards to protect public debate, criticism of public officials, and matters of public interest.⁴⁶

Other UN human rights treaty bodies, including the **Committee on Economic, Social and Cultural Rights**, **Committee on the Elimination of Discrimination against Women**, and **Committee on the Elimination of Racial Discrimination** have also raised concerns and recommendations about the right to freedom of expression where relevant to their mandates.

Apart from the treaty bodies, UN institutions, such as the **General Assembly**,⁴⁷ the **UN Human Rights Council**, and **UNESCO**, have repeatedly urged States to develop and implement effective and transparent legal frameworks and measures for the protection of journalists and media workers and for combating impunity.⁴⁸

The **UN Human Rights Council (UNHRC)**⁴⁹ has been instrumental in addressing threats to freedom of expression, including by passing resolutions on the misuse of laws to intimidate or silence critical voices.⁵⁰

The UNHRC also oversees the **Universal Periodic Reviews (UPR)**, where Member States' human rights records are reviewed by other Member States. Recommendations from these reviews often urge States to abolish laws that are inconsistent with international standards relating to freedom of expression and media freedom.

Additionally, the **UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression**, an independent expert appointed by the UNHRC, plays a vital role in advancing freedom of opinion and expression, both offline and online, in line with international human rights law and standards.⁵¹ The mandate holder has consistently called on States to refrain from enacting laws that unduly restrict free speech and has urged governments to amend or repeal existing legislation that contravene international norms.⁵²

The **UN Office of the High Commissioner for Human Rights (OHCHR)** has also contributed to the interpretation of the ICCPR provisions to further protect the freedom of expression.

43 UN Human Rights Committee, *General comment No. 34 – Article 19: Freedoms of opinion and expression* (12 September 2011). UN Doc CCPR/C/GC/34, para. 22. <https://www.ohchr.org/sites/default/files/english/bodies/hrc/docs/gc34.pdf> [Accessed: 28 April 2025].

44 Ibid, para. 22–23.

45 Ibid, para. 21.

46 Ibid, para. 47.

47 The UN General Assembly (UNGA) is the main policy-making organ of the United Nations. Comprising all UN member states, it provides a forum for multilateral discussion of the full spectrum of international issues covered by the Charter of the United Nations. UN General Assembly (UNGA). *Working of the General Assembly of the United Nations*. <https://www.un.org/en/ga> [Accessed: 28 April 2025].

48 UN General Assembly (UNGA) Res 78/215, *The safety of journalists and the issue of impunity* (19 December 2023). UN Doc A/RES/78/215, para. 5. <https://documents.un.org/doc/undoc/gen/n23/422/04/pdf/n2342204.pdf> [Accessed: 28 April 2025].

49 The Human Rights Council is the primary intergovernmental body within the United Nations system responsible for strengthening the promotion and protection of human rights around the globe and for addressing and making recommendations on all human rights issues, and also specific situations of human rights violations. United Nations Human Rights Council (UNHRC) (n.d.). *About the Human Rights Council*. <https://www.ohchr.org/en/hr-bodies/hrc/about-council> [Accessed: 28 April 2025].

50 UN Human Rights Council, *Draft Resolution: The safety of journalists* (30 September 2022). UN Doc A/HRC/51/L.14. <https://documents.un.org/doc/undoc/ltid/g22/508/36/pdf/g2250836.pdf?OpenElement> pp.3, 6 [Accessed: 28 April 2025].

51 The UN Special Rapporteur on freedom of opinion and expression regularly reports on issues such as: the *criminalisation of journalism* (the use of criminal laws to prosecute journalists for defamation, sedition, or reporting on sensitive topics like corruption and human rights abuses; *surveillance and harassment of journalists* (the increasing use of surveillance technologies and intimidation tactics to silence independent voices); and *digital censorship* (the rise of internet shutdowns, online censorship, and the targeting of social media platforms to stifle dissent). UN Office of the High Commissioner for Human Rights (OHCHR) (n.d.). *Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression*. <https://www.ohchr.org/en/special-procedures/sr-freedom-of-opinion-and-expression>. And <https://www.ohchr.org/en/special-procedures/sr-freedom-of-opinion-and-expression/annual-thematic-reports>. [Accessed: 28 April 2025].

52 UN Human Rights Council, *Report of the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression: Disinformation and freedom of opinion and expression* (13 April 2021). UN Doc A/HRC/47/25, para. 52–44. <https://documents.un.org/doc/undoc/gen/g21/085/64/pdf/g2108564.pdf> [Accessed: 28 April 2025]; UN General Assembly (UNGA) Res 76/227, *Countering disinformation for the promotion and protection of human rights and fundamental freedoms* (10 January 2022). UN Doc A/RES/76/227. <https://documents.un.org/doc/undoc/gen/n21/416/87/pdf/n2141687.pdf> [Accessed: 28 April 2025].

For example, the **Rabat Plan of Action (2012)**⁵³ is a key UN framework that clarifies the limits of permissible restrictions on freedom of expression under international law. It outlines the conditions under which advocacy of national, racial, or religious hatred may be restricted, specifically where it amounts to incitement to discrimination, hostility, or violence, as set out in Article 20(2) of the ICCPR.⁵⁴ Drawing from a series of expert workshops organised by the OHCHR, the Plan emphasises a high threshold for such restrictions, requiring consideration of context, speaker intent, content, and the likelihood and imminence of harm.

The **UN Educational, Scientific and Cultural Organisation (UNESCO)** is the United Nations agency responsible for promoting freedom of expression (amongst other things), publishes a wide range of publications on media freedom, such as its biennial **Global Report on World Trends in Freedom of Expression and Media Development**⁵⁵ on threats to media independence and the rise in legal and extralegal measures that suppress critical voices.⁵⁶ The **International Programme for the Development of Communication (IPDC)** served as the forum where UNESCO developed the **2012 UN Plan of Action on the Safety of Journalists and the Issue of Impunity**. Through this Plan of Action, multiple UN bodies cooperate with governments, regional organisations, media houses, professional associations, NGOs and other stakeholders to address issues related to media freedom and the safety of journalists.⁵⁷ UNESCO raises awareness about threats to media freedom

through its **World Press Freedom Day**,⁵⁸ the **UNESCO/Guillermo Cano World Press Freedom Prize**,⁵⁹ and the **International Day to End Impunity for Crimes against Journalists**.⁶⁰

CUSTOMARY INTERNATIONAL LAW

The right to freedom of expression is widely regarded as having achieved customary international law status. This is evidenced by widespread state practice, *opinio juris*⁶¹ and the repeated affirmation of and reference to freedom of expression in international instruments such as the UDHR,⁶² as well as repeated statements by States around the world about the importance of this right. Most States also recognise and guarantee the right to free speech and expression in some form in their constitutional bills of rights and/or human rights laws.



Freedom of expression is enshrined in international treaties and widely recognised as a norm of customary international law, affirmed through consistent State practice. It is also protected in the constitutions of most countries around the world.. Photo credit: Pavel Danilyuk / Pexels.

53 UN Office of the High Commissioner for Human Rights (OHCHR), *Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence*. (5 October 2012). UN Doc A/HRC/22/17/Add.4. <https://docs.un.org/en/A/HRC/22/17/Add.4> [Accessed: 28 April 2025].

54 International Covenant on Civil and Political Rights (ICCPR) (adopted 16 December 1966, entered into force 23 March 1976). 999 UNTS 171, Part I, art.20. <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights> [Accessed: 28 April 2025].

55 UNESCO (n.d.). *World Media Trends*. <https://www.unesco.org/en/world-media-trends> [Accessed: 28 April 2025].

56 UNESCO (n.d.). *Safety of Journalists*. <https://www.unesco.org/en/safety-journalists> [Accessed: 28 April 2025].

57 United Nations, *UN Plan of Action on the Safety of Journalists and the Issue of Impunity* (12 April 2012). UN Doc CI-12/CONF.202/6. <https://unesdoc.unesco.org/ark:/48223/pf0000384476> [Accessed: 28 April 2025].

58 UNESCO (n.d.). *World Press Freedom Day*. <https://www.unesco.org/en/days/press-freedom> [Accessed: 28 April 2025].

59 UNESCO (n.d.). *UNESCO/Guillermo Cano World Press Freedom Prize*. <https://www.unesco.org/en/prizes/cano> [Accessed: 28 April 2025].

60 UNESCO (n.d.). *International Day to End Impunity for Crimes against Journalists*. <https://www.unesco.org/en/days/end-impunity> [Accessed: 28 April 2025].

61 *Opinio juris* refers to widespread evidence of a belief that a practice is obligatory on the part of States.

62 Professor John Humphrey, one of the principal drafters of the Universal Declaration of Human Rights, argues that Articles 2 to 21 of the UDHR had acquired the force of customary international law. This includes Article 19 on freedom of expression. Humphrey, J.P. (1979). 'The Universal Declaration of Human Rights: Its History, Impact and Juridical Character', *Human Rights: Thirty Years After the Universal Declaration*, 01 January https://doi.org/10.1163/9789004638075_005 [Accessed: 28 April 2025] pp. 21–37.

COMMONWEALTH LEGAL PRINCIPLES

Freedom of expression and the essential role of the media in the democratic process are central principles enshrined in key Commonwealth documents, including the **Commonwealth Charter**, the **Latimer House Principles**, and the **Commonwealth Principles on Freedom of Expression and the Role of the Media in Good Governance**. These documents commit Commonwealth States to uphold democratic governance, fundamental human rights, and the rule of law, and recognise the important role of civil society in promoting Commonwealth values.

The **Commonwealth Charter** recognises the organisation's commitment to the UDHR and other international human rights instruments. The Charter recognises the importance of freedom of expression to democratic processes, and affirms Member States' commitment to fostering an environment where people can freely express their opinions without fear of repression.⁶³

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We are committed to peaceful, open dialogue and the free flow of information, including through a free and responsible media, and to enhancing democratic traditions and strengthening democratic processes.

Article 5, The Commonwealth Charter (2013)

The **Commonwealth Latimer House Principles**⁶⁴ provide a framework for the separation of powers and good governance across the executive, legislature, and judiciary. These Principles promote judicial independence, parliamentary oversight, transparency, and accountability – each essential to safeguarding civil liberties. The

Principles support an environment where laws affecting expression are applied fairly, where parliaments uphold media freedom and access to information, and where government actions can be independently reviewed. By reinforcing adherence to international human rights standards, the Latimer House Principles underpin the legal and institutional conditions necessary for freedom of expression to thrive across Commonwealth states. They also attribute special importance to the role of the media, stating that “Government transparency and accountability is promoted by an independent and vibrant media which is responsible, objective and impartial and which is protected by law in its freedom to report and comment on public affairs.”⁶⁵

The **Commonwealth Principles on Freedom of Expression and the Role of the Media in Good Governance**,⁶⁶ adopted by Commonwealth Heads of Government in October 2024, reaffirm and strengthen the Commonwealth's commitment to protecting freedom of expression and media freedom as essential to democracy, rule of law, and human rights. The Media Principles aim to guide Member States in creating enabling legal, institutional, and policy environments for free expression and independent media. Key provisions call on States to repeal or amend laws that unduly restrict expression (Article 2), protect journalists and media workers from violence, harassment, and undue interference (Article 7), and end impunity by ensuring impartial, prompt, and effective investigations into attacks on journalists (Article 8). The Media Principles also recognise the importance of access to information, media pluralism, and digital rights. Importantly, they offer a framework for aligning national laws with international standards and provide a foundation for accountability, cooperation, and reform across the Commonwealth.

63 The Commonwealth (n.d.). *Commonwealth Charter*. <https://thecommonwealth.org/charter> [Accessed: 28 April 2025].

64 Commonwealth Lawyers' Association, Commonwealth Legal Education Association, Commonwealth Magistrates' and Judges' Association, and Commonwealth Parliamentary Association (2003). *Commonwealth (Latimer House) Principles on the Three Branches of Government*. <https://www.cpahq.org/media/dhfaikpg/commonwealth-latimer-principles-web-version.pdf> [Accessed: 28 April 2025] p.IX(b).

65 Ibid. p.2.6.

66 See Appendix B. Also: The Commonwealth (2024). *Commonwealth Principle on Freedom of Expression and the Role of the Media in Good Governance*. <https://production-new-commonwealth-files.s3.eu-west-2.amazonaws.com/s3fs-public/2022-11/Commonwealth%20Principles%20on%20Freedom%20of%20Expression%20and%20the%20Role%20of%20the%20Media%20in%20Good%20Governance.pdf?VersionId=sq5qmCa8bWpZoGZNnPeF00MxXWZ0YXZu> [Accessed: 28 April 2025].

REGIONAL LEGAL FRAMEWORKS AND JURISPRUDENCE

In addition to international frameworks, the three most developed **regional human rights systems** – in Africa, Europe, and Americas – provide specific protections for freedom of expression. Each is overseen by a judicial or quasi-judicial body with the authority to issue legally binding decisions or authoritative decisions, which significantly contribute to the development of regional standards and influence international human rights jurisprudence.

AFRICA

The **African Commission on Human and Peoples' Rights (ACmHPR)**⁶⁷ and **African Court on Human and Peoples' Rights (ACtHR)**⁶⁸ are the implementation mechanisms for the **African Charter on Human and Peoples' Rights** (also called the **Banjul Charter**).⁶⁹ Article 9 of the Banjul Charter guarantees the right to receive information and express opinions. Together these mechanisms provide a significant framework for protecting free speech across Africa, including some Commonwealth States.⁷⁰ The ACmHPR's **Special Rapporteur on Freedom of Expression and Access to Information** plays a critical role in monitoring state compliance and has been instrumental in calling out governments for using legal tools to suppress media freedom.⁷¹ The decisions of the

ACmHPR and ACtHR have strengthened the legal interpretation of the right to freedom of expression, emphasising that any restrictions must comply with principles of legality, necessity, and proportionality.

Additionally, the **Declaration of Principles on Freedom of Expression and Access to Information in Africa**, first adopted in 2002 and revised in 2019, provides further clarity and strong standards for freedom of expression across the continent, calling for the repeal of criminal defamation laws and excessive licensing requirements.⁷²

In **Media Rights Agenda v. Nigeria (2000)**, the ACmHPR ruled against Nigeria for violating the rights of journalists through repressive legislation.⁷³ In **MISA Zimbabwe v. Zimbabwe (2019)**, it ruled that the arrest and harassment of journalists and activists violated the African Charter's protections on freedom of expression, reinforcing the need for restrictions to meet strict requirements of legality and proportionality.⁷⁴ In **Konaté v. Burkina Faso (2014)**, the ACtHR dealt with the misuse of criminal defamation laws in Africa to curtail freedom of expression – the case is seen as emblematic of the misuse of criminal defamation laws to stifle freedom of the press.⁷⁵

EUROPE

In Europe, the **European Court of Human Rights (ECtHR)**⁷⁶ applies the **European**

67 African Union (n.d.). *African Commission on Human and Peoples' Rights*. <https://achpr.au.int/en> [Accessed: 28 April 2025].

68 African Union (n.d.). *African Court on Human and Peoples' Rights*. <https://www.african-court.org/wpa/c> [Accessed: 28 April 2025].

69 Organisation of African Unity (1981). *African Charter on Human and Peoples' Rights* (OAU Doc. CM/1149 (XXXVII)). https://au.int/sites/default/files/treaties/36390-treaty-0011_-_african_charter_on_human_and_peoples_rights_e.pdf [Accessed: 28 April 2025].

70 The African human rights framework does not apply uniformly across all African countries, as not all States have ratified or fully implemented its provisions. German Institute for Human Rights (n.d.). *The African Human Rights System*. https://www.institut-fuer-menschenrechte.de/fileadmin/user_upload/Publikationen/E-Info-Tool/e-info-tool_abc_of_hr_for_dev_coop_the_african_hr-system.pdf [Accessed: 28 April 2025].

71 African Union (n.d.). *Special Rapporteur on Freedom of Expression and Access to Information*. <https://achpr.au.int/en/mechanisms/special-rapporteur-freedom-expression-and-access-information> [Accessed: 28 April 2025].

72 African Commission on Human and Peoples' Rights (2019). *Declaration of Principles on Freedom of Expression and Access to Information in Africa*. https://www.chr.up.ac.za/images/researchunits/dgdr/documents/ati/Declaration_of_Principles_on_Freedom_of_Expression_ENG_2019.pdf [Accessed: 28 April 2025].

73 *Media Rights Agenda and Others v. Nigeria* (2000) AHR LR 200 (ACHPR 1998). <https://globalfreedomofexpression.columbia.edu/cases/media-rights-agenda-and-others-v-nigeria> [Accessed: 28 April 2025].

74 *MISA-Zimbabwe and Others v Minister of Justice and Others* (2019) Const. Application No CCZ 7/15, Constitutional Court of Zimbabwe. <https://globalfreedomofexpression.columbia.edu/cases/misa-zimbabwe-et-al-v-minister-justice-et-al> [Accessed: 28 April 2025].

75 *Lohé Issa Konaté v Burkina Faso* (2014) Appl No 004/2013 (AFCHPR). <https://www.african-court.org/cpmt/details-case/0042013> [Accessed: 28 April 2025].

76 Council of Europe (n.d.). *European Court of Human Rights*. <https://www.echr.coe.int> [Accessed: 28 April 2025].



The ability to speak and be heard without retaliation or reprisal is central to the right to freedom of expression. Photo credit: AndriiKoval / Shutterstock.

Convention on Human Rights (ECHR)⁷⁷, a robust regional mechanism for protecting freedom of expression. Article 10 of the ECHR guarantees the right to freedom of expression, and the ECtHR has developed a substantial body of case law that limits the scope of state interference with media freedom.

In landmark cases such as **Handyside v. United Kingdom (1976)**⁷⁸ and **Lingens v. Austria (1986)**,⁷⁹ the ECtHR established important principles about protecting political speech and the media's role in democracy. The Court emphasised that restrictions on media freedom must be narrowly applied and justified by compelling reasons. In **Magyar Jeti Zrt v. Hungary (2018)**, the Court ruled that holding a news website liable for hyperlinking to defamatory content violated freedom of expression, reinforcing protections for online journalism.⁸⁰ In **Big Brother Watch and Others v. the United Kingdom (2021)**,

the Court addressed mass surveillance, ruling that without proper safeguards, it disproportionately interferes with journalistic freedom, particularly investigative journalism.⁸¹

Other European regional mechanisms have also put in place concrete measures to protect the right to freedom of expression and the crucial role of the media. For example, in 2016 the **Council of Europe**⁸² declared the scale and severity of attacks against journalists to be 'unacceptable' and that these have 'a grave chilling effect on freedom of expression'.⁸³ In response, the Committee of Ministers – the highest decision-making body – recommended States to ensure protection by law-enforcement, prevention through legal frameworks creating a favourable environment for freedom of expression, and prosecution of those responsible for attacks on journalists and other media actors.⁸⁴

77 European Convention on Human Rights (opened for signature 4 November 1950, entered into force 3 September 1953). https://www.echr.coe.int/documents/d/echr/convention_ENG [Accessed: 28 April 2025].
78 *Handyside v. United Kingdom* (1976) App no. 5493/72 ECHR. <https://hudoc.echr.coe.int/eng?i=001-57499> [Accessed: 28 April 2025].
79 *Lingens v Austria* (1986) App no 9815/82 ECHR. <https://hudoc.echr.coe.int/fre?i=001-57523> [Accessed: 28 April 2025].
80 *Magyar Jeti Zrt v Hungary* (2018) App no 11257/16 ECHR. <https://hudoc.echr.coe.int/fre?i=001-187930> [Accessed: 28 April 2025].
81 *Big Brother Watch and Others v United Kingdom* (2021) App nos 58170/13, 62322/14, and 24960/15 ECHR. <https://hudoc.echr.coe.int/fre?i=001-210077> [Accessed: 28 April 2025].
82 Council of Europe (n.d.). *Council of Europe Portal*. <https://www.coe.int/en/web/portal> [Accessed: 28 April 2025].
83 Council of Europe (n.d.). *Implementation of Recommendation CM/Rec(2016)4*. <https://www.coe.int/en/web/freedom-expression/implementation-of-recommendation-cm/rec-2016-4> [Accessed: 28 April 2025].
84 Council of Europe (n.d.). *Implementation Guide*. <https://www.coe.int/en/web/freedom-expression/implementation-guide> [Accessed: 28 April 2025].

AMERICAS

In the Americas, the **Inter-American Commission on Human Rights (IACmHR)**⁸⁵ and the **Inter-American Court of Human Rights (IACtHR)**⁸⁶ play a similar role to the mechanisms in the other regional systems, working to protect journalists and media outlets from state repression under the **American Convention on Human Rights (ACHR)**.⁸⁷ The IACmHR's **Special Rapporteur for Freedom of Expression** also contributes to this goal through its special reports and declarations.⁸⁸

The IACtHR has delivered significant rulings that shape protections for freedom of expression. In **Kimel v. Argentina (2008)**, the Court held that the criminal conviction of a journalist for libel violated the ACHR, finding that the sanction was disproportionate and had a chilling effect on freedom of expression, particularly on matters of public interest.⁸⁹ In **López Lone et al. v. Honduras (2015)**, the IACtHR reinforced the need for judicial independence, ruling that lawyers and judges should not face disciplinary action for expressing views on matters of public interest.⁹⁰ In **Palamara Iribarne v. Chile (2005)**, the Court held that Chile had violated a retired naval officer's rights by censoring his book, prosecuting him in a military court, and denying due process. The Court emphasised the importance of freedom of expression and judicial guarantees, and ordered the State to amend its domestic laws to ensure compliance with international human rights standards.⁹¹

Special protection is accorded to human rights defenders in the region: the **Escazú Agreement**⁹² was the first regional agreement to incorporate language protecting the rights of human rights defenders in environmental matters, including the right to freedom of opinion and expression.

The **Organisation of American States (OAS)**⁹³ has also been proactive in establishing standards to reflect the changing media landscape, including the challenges posed by digital disinformation and surveillance technologies. In 2013, the IACmHR's **Special Rapporteur for Freedom of Expression** published a thematic report on the right to freedom of expression in the digital age, which examines how States should safeguard free speech in the face of these new challenges while preventing online harm. It stressed the importance of avoiding disproportionate legal responses that could suppress legitimate speech, highlighting the need for balanced approaches that respect both safety and free expression.⁹⁴

Together, these regional mechanisms create a multi-layered protection regime that reinforces international norms and help address gaps in state-level enforcement, offering recourse for victims of repression and advancing the global jurisprudence on freedom of expression.

For further reflection on the application of regional jurisprudence, see [Spotlight: From Regional Rulings to Domestic Reform on Freedom of Expression](#).

85 Organisation of American States (n.d.). *Inter-American Commission on Human Rights*. <https://www.oas.org/en/iachr/Default.asp> [Accessed: 28 April 2025].
86 Organisation of American States (n.d.). *Inter-American Court of Human Rights*. <https://corteidh.or.cr/index.cfm?lang=en> [Accessed: 28 April 2025].
87 Organisation of American States (1969). *American Convention on Human Rights* (OAS Treaty Series No. 36). https://www.oas.org/dil/treaties_b-32_american_convention_on_human_rights.pdf [Accessed: 28 April 2025].
88 Organisation of American States (n.d.). *Office of the Special Rapporteur for Freedom of Expression*. <https://www.oas.org/en/iachr/expression/index.asp> [Accessed: 28 April 2025].
89 *Kimel v Argentina* (2008) Series C No. 177 (IACtHR). <https://iachr.ils.edu/cases/kimel-v-argentina> [Accessed: 28 April 2025].
90 *López Lone and Others v Honduras* (2015) Series C No 302 (IACtHR). <https://globalfreedomofexpression.columbia.edu/cases/lone-others-v-honduras> [Accessed: 28 April 2025].
91 *Palamara Iribarne v Chile* (2005) Series C No 135. (IACtHR). <https://globalfreedomofexpression.columbia.edu/cases/palamara-iribarne-v-chile> [Accessed: 28 April 2025].
92 Regional Agreement on Access to Information, Public Participation and Justice in Environmental Matters in Latin America and the Caribbean (adopted 4 March 2018, entered into force 22 April 2021). 3388 UNTS, 5. https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtidsg_no=XXVII-18&chapter=27&clang=en [Accessed: 28 April 2025].
93 Organisation of American States (n.d.). *Organisation of American States*. <https://www.oas.org/en> [Accessed: 28 April 2025].
94 Inter-American Commission on Human Rights, Office of the Special Rapporteur for Freedom of Expression and the Internet. OEA/Ser.L/V/II. CIDH/RELE/INF.11/13. http://www.oas.org/en/iachr/expression/docs/reports/2014_04_08_Internet_ENG%20_WEB.pdf [Accessed: 28 April 2025].



**REGIONAL
ANALYSIS**

**AND
SPOTLIGHTS**

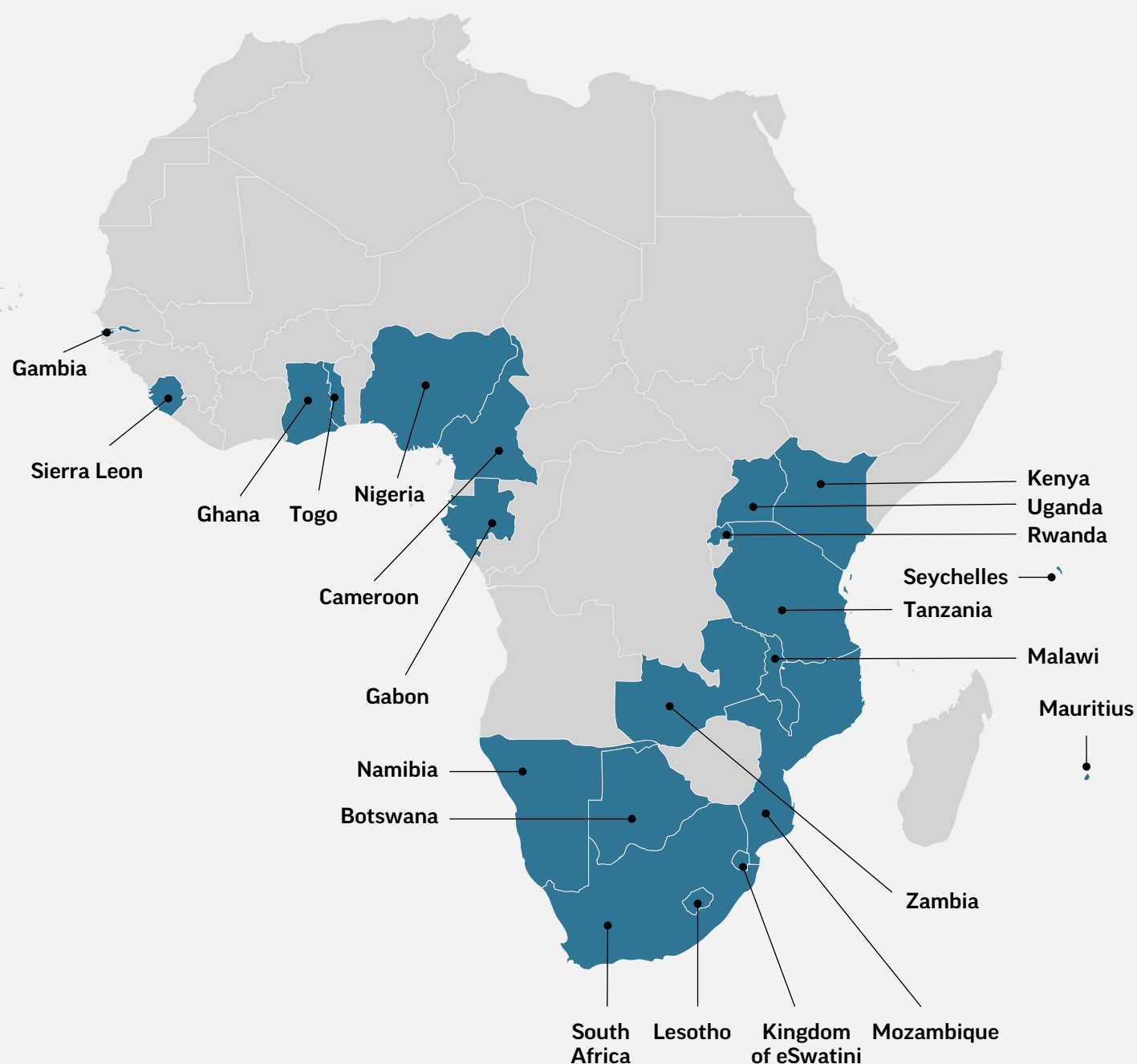
AFRICA

In the Region

The African region comprises 21 Commonwealth countries: Botswana, Cameroon, Kingdom of eSwatini, Gabon, The Gambia, Ghana, Kenya, Lesotho, Malawi, Mauritius, Mozambique, Namibia, Nigeria, Rwanda, Seychelles, Sierra Leone, South Africa, Togo, United Republic of Tanzania, Uganda, and Zambia.

INTERNATIONAL COMMITMENTS

All Commonwealth States in the region have ratified the International Covenant on Civil and Political Rights (ICCPR).⁹⁵ While almost all Commonwealth countries in Africa maintain restrictive laws, their commitment to the ICCPR and other international human rights instruments, as well as the Charter of the United Nations, obligates them to uphold and protect these rights.



REGIONAL HIGHLIGHTS

- Across Commonwealth Africa, constitutional guarantees of freedom of expression are frequently undermined by broad legal exceptions relating to national security, public order, and morality – routinely enforced through defamation, sedition, and cybercrime laws, as well as intrusive regulatory regimes, to suppress dissent and stifle debate.
- Journalists in **Cameroon, Nigeria, Rwanda, Sierra Leone** and **Uganda** face intimidation and violence for exposing corruption and abuse of power. Judicial failures to hold perpetrators accountable perpetuate a climate of impunity.
- **Ghana, Lesotho, Seychelles, Sierra Leone**, and **South Africa** have decriminalised defamation, while courts in **Malawi, The Gambia** and **Kenya** have ruled it unconstitutional. Yet 14 of 21 Commonwealth African States still retain criminal defamation laws, enabling authorities to silence critics.
- Blasphemy laws remain in force in 14 of 21 countries, targeting dissenting religious views and restricting freedom of belief. In some **Nigerian** states governed by Sharia law, blasphemy offences may carry the death penalty.
- Sedition laws remain in force in **Botswana, Cameroon**, and **Nigeria**, though reforms have been undertaken in **Malawi, Sierra Leone**, and **Uganda**.
- National security laws are widely used by authorities across Commonwealth Africa to suppress dissent. In **Cameroon, Rwanda**, and **Uganda**, enforcement is particularly harsh, often targeting journalists and activists. Similar patterns exist in **The Gambia, Togo**, and the **Kingdom of eSwatini**, where such laws are leveraged to maintain political control, especially during elections and protests. Although less frequent, in **Botswana, South Africa**, and **Ghana** these laws are still used to silence critical voices.
- Cybercrime and cybersecurity legislation are increasingly used to police online speech. High-profile cases such as *Stella Nyanzi* in **Uganda** and *Agba Jalingo* in **Nigeria** show how vague provisions are weaponised to penalise dissent in digital spaces.
- Media independence remains under pressure. In **Cameroon, Gabon, Rwanda, Seychelles**, and **Uganda**, state control of media outlets fuels self-censorship. Journalists in **Botswana, Malawi**, and **Mauritius** enjoy greater press freedom, but they still face harassment covering sensitive issues. **Ghana** and **South Africa** have relatively more open media spaces, yet both struggle with political interference and concentrated media ownership. SLAPPs have risen in **South Africa**, while violence against journalists has increased in **Ghana**.
- Access to Information (ATI) laws are in place in 15 of 21 countries, but weak implementation – particularly in **Botswana, Cameroon**, and the **Kingdom of eSwatini** – undermines transparency and limits public engagement. Even where laws exist, enforcement is hindered by bureaucracy and broad national security exemptions.
- **Botswana, Ghana**, and **Sierra Leone** are members of the Global Media Freedom Coalition, committing to promote media freedoms and support initiatives such as the UN Plan of Action on the Safety of Journalists.

95 Office of the United Nations High Commissioner for Human Rights (OHCHR) (2023). *Status of Ratification Interactive Dashboard*. <https://indicators.ohchr.org> [Accessed: 28 April 2025].

CONSTITUTIONAL GUARANTEES
VS LEGAL RESTRICTIONS

While most Commonwealth African constitutions enshrine freedom of expression, these protections are undermined by broad exceptions relating to national security, public order, public safety, public health, and morality.

Governments frequently invoke these to justify media censorship, suppress public discourse, and intimidate critics – particularly in the digital space – fostering a climate of fear and self-censorship among journalists and activists.

South Africa provides one of the strongest protections under Section 16 of its Constitution, with narrowly drawn exceptions for hate speech, incitement to violence, and war propaganda.⁹⁶ **Ghana's** 1992 Constitution also safeguards free expression, while permitting limitations for national security, public order, public morality, and protecting the reputation, rights and freedoms of others. Its active judiciary and civil society enhance this protection.⁹⁷

In contrast, **Rwanda's** constitutional protections are weakened in practice through vague restrictions, such as protecting “good morals” or “honour,” which are harshly enforced via defamation and national security laws.⁹⁸ **Rwanda's** 2008 Genocide Ideology Law has been widely criticised for

suppressing political dissent under the guise of national security.⁹⁹

Kenya's Constitution guarantees freedom of expression, but allows limitations for war propaganda, incitement to violence, and hate speech¹⁰⁰ However, these protections are inconsistently enforced, with national security and public order often cited to justify restrictions.¹⁰¹ The **Kenyan** 2018 Computer Misuse and Cybercrimes Act, which criminalises the spread of false information and offensive communication,¹⁰² has raised significant concern due to its vague definitions, leading to inconsistent enforcement and the criminalisation of legitimate online expression. It has also been used to impose hefty fines and jail terms for journalists, activists, and social media users, raising concerns about state overreach and the chilling effect on free expression.¹⁰³

Similarly, **Nigeria's** 1999 Constitution permits restrictions on free expression for defence, public order, and national security,¹⁰⁴ while its 2015 Cybercrimes Act¹⁰⁵ criminalises the dissemination of “false” information and “offensive” online speech, with severe penalties, including imprisonment, frequently used against critics of the government.

Malawi and **Namibia** stand out for their strong constitutional commitments to freedom of expression. Section 44(1) of **Malawi's** Constitution emphasises that any limitations must be reasonable, necessary

in a democratic society, and aligned with international human rights standards.¹⁰⁶ It also guarantees press freedom, allowing the media to report and publish both domestically and internationally.¹⁰⁷ Similarly, Article 21(2) of **Namibia's** Constitution allows for restrictions to protect national security, public order, decency, and morality, but these must be reasonable and justifiable in a democratic society.¹⁰⁸

However, in practice, both countries face challenges. In **Malawi**, journalist Gregory Gondwe was harassed in 2024 for reporting on military corruption.¹⁰⁹ In **Namibia**, intimidation of journalists covering high-level scandals involving public officials was reported in 2023.¹¹⁰

In other countries – **Botswana, Cameroon, Gabon, Lesotho, Malawi, Mauritius, Mozambique, Namibia, Seychelles, Sierra Leone, Tanzania, The Gambia, Uganda**, and **Zambia** – vague legal restrictions consistently undermine constitutional protections for freedom of expression, on grounds of national security, public safety, public order, morality, and the rights of other persons. Notably,

the **Seychelles** continues to employ criminal libel laws and restrictive media regulations,¹¹¹ while **Mozambique**¹¹² and **Zambia**¹¹³ use these provisions to suppress demonstrations and censor media content. The **Kingdom of eSwatini**¹¹⁴ and **Togo**¹¹⁵ use broad national security provisions to restrict freedom of expression, often targeting dissent and critical voices.

DEFAMATION

Ghana, Lesotho, Seychelles, Sierra Leone, and **South Africa** have decriminalised defamation – while the courts in **The Gambia, Kenya**, and most recently **Malawi** have ruled criminal defamation unconstitutional. In a July 2025 landmark decision, the High Court of Malawi declared Section 200 of the Penal Code, which criminalised defamation, unconstitutional, affirming that it violated constitutional protections for freedom of expression.¹¹⁶ Although criminal defamation under Section 194 of **Kenya's** Penal Code¹¹⁷ was declared unconstitutional by the Kenyan High Court in 2017¹¹⁸, the provision has not been formally repealed, i.e it remains on paper but is

96 Government of South Africa (1996). *Constitution of the Republic of South Africa (Chapter 2)*, s.16. <https://www.justice.gov.za/constitution/SACConstitution-web-eng.pdf> [Accessed: 28 April 2025].

97 Government of Ghana (1992). *Constitution of the Republic of Ghana (Chapter 5)*, ss.21 and 164. https://audit.gov.gh/files/publications/The_1992_Constitution_of_the_Republic_of_Ghana635603143.pdf [Accessed: 28 April 2025].

98 Government of Rwanda (2023). *Constitution of the Republic of Rwanda (Chapter IV)*, s.38. <https://www.rlrc.gov.rw/index.php?elD=dumpFile&t=f&f=73306&token=86e18ada4c9d2b3afaf150fd8c13784eb2d99ad9> [Accessed: 28 April 2025].

99 Goitom, H. (2011). 'Rwanda: Amnesty International Calls for Review of Genocide Ideology Law, Media Law', *Library of Congress*, 09 June. <https://www.loc.gov/item/global-legal-monitor/2011-06-09/rwanda-amnesty-international-calls-for-review-of-genocide-ideology-law-media-law> [Accessed: 28 April 2025].

100 Government of Kenya (2010). *Constitution of Kenya (Chapter 4)*, s.33. <https://kdc.go.ke/wp-content/uploads/2021/12/Constitution-of-Kenya-2010-min.pdf> [Accessed: 28 April 2025].

101 ARTICLE 19 (2024). *Kenya: Safeguard freedom of expression for suitable development*. <https://www.article19.org/resources/kenya-safeguard-freedom-of-expression-for-sustainable-development> [Accessed: 28 April 2025].

102 National Computer and Cybercrime Coordination Committee (NC4), Government of Kenya (2018). *The Computer Misuse and Cybercrimes Act (Part III)*, ss.22 to 23. <https://nc4.go.ke/the-computer-misuse-and-cybercrimes-act-2018> [Accessed: 28 April 2025].

103 ARTICLE 19 (2021). *Kenya: Harmonise legal framework on free expression with ICCPR recommendations*. <https://www.article19.org/resources/kenya-harmonise-free-expression-with-iccpr-recommendations> [Accessed: 28 April 2025].

104 Government of Nigeria (1999). *Constitution of the Federal Republic of Nigeria, (Chapter IV)*, ss.39 and 45. <https://faolex.fao.org/docs/pdf/nig164561.pdf> [Accessed: 28 April 2025].

105 Government of Nigeria (2015). *Cybercrimes (Prohibition, Prevention, Etc) Act (Part III)*, s.24. <https://www.nfiu.gov.ng/images/Downloads/downloads/cybercrime.pdf> [Accessed: 28 April 2025].

106 Government of Malawi (1994). *Republic of Malawi (Constitution) Act (Chapter IV)*, s.44(1). <https://malawilii.org/akn/mw/act/1994/20/eng@2020-11-03> [Accessed: 28 April 2025].

107 Ibid, s.36.

108 Government of Namibia (2015). *Constitution of the Republic of Namibia (Chapter 3)*, art.21(2). https://www.gov.na/documents/869282/1100166/_1648-MICT-A5+Constitution+LATEST+pdf.pdf/Ofcd0500-2bb7-a128-acd6-e09854332b7f?t=1660043528076 [Accessed: 28 April 2025].

109 Southern Defenders, Southern Africa Human Rights Defenders Network, Amnesty International (2024). 'Escalating threats against investigative journalists expose deterioration of press freedom in Malawi', 19 February. <https://www.amnesty.org/en/wp-content/uploads/2024/02/AFR3677192024ENGLISH.pdf> [Accessed: 28 April 2025].

110 Committee to Protect Journalists (2023). 'Namibia's New Era newspaper suspends managing editor after editorial criticises judiciary', 31 October. <https://cpj.org/2023/10/namibias-new-era-newspaper-suspends-managing-editor-after-editorial-criticizes-judiciary> [Accessed: 28 April 2025].

111 The repeal of the general offence of criminal defamation in Seychelles did not extend to section 62A of the Penal Code, which still criminalises the publication of any defamatory or insulting material aimed at bringing the President into hatred, ridicule, or contempt, with a penalty of up to three years' imprisonment. Likewise, section 63 of the Penal Code remains in effect, criminalising defamation of foreign princes or dignitaries with intent to disturb peace or diplomatic relations between Seychelles and other nations. Internews (2023). *Impact of Cybercrime and Cyber Security Laws on Media Freedom and Digital Rights, Chapter 14: Seychelles*. <https://internews.org/wp-content/uploads/2023/11/ARISA-IEA-CHAPTER-14-Seychelles.pdf> [Accessed: 28 April 2025], p.23.

112 Human Rights Watch (2024). 'Mozambique: Abuses Against Media, Activists Before Elections', 11 September. <https://www.hrw.org/news/2024/09/11/mozambique-abuses-against-media-activists-elections> [Accessed: 28 April 2025].

113 Amnesty International (2024). 'East and Southern Africa: Journalists targeted amid ongoing crackdown on media', 03 May. <https://www.amnesty.org/en/latest/news/2024/05/media-freedom-under-threat> [Accessed: 28 April 2025].

114 Amnesty International (2024). 'Eswatini: Major setback as Supreme Court upholds repressive Suppression of Terrorism Act', 14 August. <https://www.amnesty.org/en/latest/news/2024/08/eswatini-major-setback-as-supreme-court-upholds-repressive-suppression-of-terrorism-act> [Accessed: 28 April 2025].

115 Amnesty International (2024). 'Togo: Elections Against a backdrop of muzzling dissenting voices', 29 April. <https://www.amnesty.org/en/latest/news/2024/04/togo-elections-against-a-backdrop-of-muzzling-dissenting-voices> [Accessed: 28 April 2025].

116 Press Council of the Free State (2025). *Landmark ruling against defamation: A pivotal moment for media freedom in Malawi*. <https://presscouncil.org.za/2025/07/17/landmark-ruling-against-defamation-a-pivotal-moment-for-media-freedom-in-malawi> [Accessed: 08 August 2025].

117 Government of Kenya (2012). *Penal Code (Chapter 63)*. https://www.kenyalaw.org/kl/fileadmin/pdfdownloads/Acts/PenalCode_Cap63.pdf [Accessed: 28 April 2025].

118 Columbia University, Global Freedom of Expression (2017). *Okuta v. Attorney General*. <https://globalfreedomofexpression.columbia.edu/cases/okuta-v-attorney-general> [Accessed: 28 April 2025].



Throughout the Commonwealth, legal loopholes turn constitutional guarantees of free speech into fragile illusions. Photo credit: Alexander Zvir / Pexels.

unenforceable. Moreover, criminal liability for the publication of false information likely to damage another’s reputation persists in **Kenya** under Section 23 of the Computer Misuse and Cybercrimes Act.¹¹⁹

However, 14 of the 21 Commonwealth African states still retain criminal defamation laws. In many of these countries, defamation and insult laws are frequently misused to deter or intimidate journalists, activists, and critics. Although these laws are framed as neutral, they are often disproportionately applied to shield high-ranking officials and government figures from scrutiny. This misuse suppresses dissent and restricts political discourse, effectively protecting those in power – regardless of the laws’ original intent.¹²⁰ Such provisions typically carry heavy fines or custodial sentences, thereby discouraging critical reporting and fostering a climate of fear.

In **Nigeria**, section 375 of the Criminal Code establishes penalties for criminal defamation, classifying it as a misdemeanour. Any person who publishes defamatory material may be sentenced to up to one year in prison, rising to two years if the material is knowingly false.¹²¹ Notably, the law applies regardless of whether the defamed person is alive or deceased.¹²² In Northern **Nigeria**, sections 392 and 394 of the Penal Code Law provide for similar offences, with penalties of up to two years’ imprisonment, a fine, or both.¹²³

Similarly, **Uganda’s Penal Code** imposes up to three years imprisonment for defamation.¹²⁴ **Uganda’s Anti-Terrorism Act**¹²⁵ originally aimed at combating terrorism,¹²⁶ can classify defamation as a national security threat, leading to harsh penalties. Its broad and vaguely defined provisions are often misused against critics of the government, creating

119 Government of Kenya (2018). *Computer Misuse and Cybercrimes Act*, No. 5, s.23. <https://kenyalaw.org/kl/fileadmin/pdfdownloads/Acts/ComputerMisuseandCybercrimesActNo5of2018.pdf> [Accessed: 28 April 2025].

120 Soraide, R. (2022). ‘The “misuse” of the judicial system to attack freedom of expression: trends, challenges and responses’, *UNESCO Digital Library*. <https://unesdoc.unesco.org/ark:/48223/pf0000383832> [Accessed: 28 April 2025].

121 Government of Nigeria (1990). *Criminal Code Act (Chapter 33)*, s.375. http://www.commonlii.org/ng/legis/num_act/ccat15 [Accessed: 28 April 2025].

122 Ibid, s.373.

123 Government of Nigeria (1998). *Penal Code Law (Cap. P3) (Chapter XXIII)*, ss.391 and 394. <https://moj.jg.gov.ng/wp-content/uploads/2021/02/PENAL-CODE-LAW-compressed.pdf> [Accessed: 28 April 2025].

124 Government of Uganda (1950). *Penal Code Act (Chapter XVII)*, ss.179(1) and 180(1). <https://ulii.org/akn/ug/act/ord/1950/12/eng@2014-05-09> [Accessed: 28 April 2025].

125 Government of Uganda (2002). *Anti-Terrorism Act*. <https://ulii.org/akn/ug/act/2002/14/eng%402002-06-07> [Accessed: 28 April 2025].

126 International Commission of Jurists (2004). *The Anti-Terrorism Act, 2002 (Uganda): Human Rights Concerns and Implications*. https://www.icj.org/wp-content/uploads/2012/04/icj_anti-terrorism_act_positionpaper_2002.pdf [Accessed: 28 April 2025].

a chilling effect on freedom of expression. In **Ghana**, despite a generally favourable media environment, the Criminal Code Act makes it a second-degree felony to knowingly communicate false reports that damage the state’s reputation.¹²⁷

In **Rwanda**, defamation of public officials was decriminalised in 2019, but journalists may still be prosecuted for defaming foreign officials. As one senior journalist noted: “In practice, self-censorship is so widespread that the concern [prosecutions for defamation] rarely arises.”¹²⁸

In **Cameroon**, Section 305(1) of the Penal Code prescribes criminal defamation penalties ranging from six days to six months in prison and a fine of 5,000 to 2 million Central African CFA francs (approximately GBP 6.50 to GBP 2,567).¹²⁹

“As there is no specific law targeting press offences, the Anti-Terrorism law is often the instrument of choice. Journalists rarely stand trial in court because the National Communication Council [whose head is appointed by the head of state] does the sanctioning and in extreme cases (which is quite often) they appear before the military tribunal.

Self-exiled Cameroon journalist, Mimi Mefo Newuh, arrested and held for several days in 2018¹³⁰

Cameroon is currently ranked as the fourth biggest jailer of journalists in Africa.¹³¹

Cybercrime laws in **Kenya**, **Nigeria**, and **Tanzania** extend defamation provisions into the digital realm, criminalising online speech and the dissemination of false information. These laws carry significant penalties. In **Nigeria**, the Cybercrimes Act imposes fines up to 7 million naira (approximately GBP 3,232) and prison terms for up to three years for online defamation.¹³² **Kenya’s** Computer Misuse and Cybercrimes Act¹³³ allows for fines of up to 5 million Kenyan shillings (approximately GBP 29,322) and prison terms for up to 10 years. **Tanzania’s** Cybercrimes Act, includes fines up to 5 million Tanzanian shillings (approximately GBP 1,394) and/or up to three years’ imprisonment for publishing false information.¹³⁴

These laws are often ambiguously worded and do not require proof of malice or intent to harm, making them ripe for abuse. In **Nigeria**, the Cybercrimes Act does not require proof of malice, thus individuals can be prosecuted even for the unintentional dissemination of false information.¹³⁵ Critics also point to vague terms such as “grossly offensive” or “annoying,” which lack clear definitions and enable arbitrary enforcement.¹³⁶ **Kenya’s** law similarly focuses on the act of dissemination rather than intent. In **Tanzania**, no actual harm needs to be demonstrated – only that the information was known to be false – raising serious concerns about alignment with

127 Government of Ghana (1960). *Criminal Code (Act 29) (Part IV, Chapter 1 Offences Against the Safety of the State)*, s.185. <https://home.gis.gov.gh/wp-content/uploads/2020/05/Criminal-Offences-Act-1960-Act-29.pdf> [Accessed: 28 April 2025].

128 CJA Journalist Questionnaire, Rwanda (July 2024).

129 Government of Cameroon (1993). *Cameroon Penal Code (Chapter II)*, s.305(1). <https://www.dignitylawchambers.com/wp-content/uploads/2021/04/ Penal-Code-eng.pdf> [Accessed: 28 April 2025].

130 CJA Journalist Questionnaire, Cameroon (July 2024).

131 Mbunwe, T. (2024) ‘CPJ ranks Cameroon as Africa’s 4th worst jailed of journalists in 2023’, *MIMI MEFO*, 19 January. <https://mimimefoinfos.com/cpj-ranks-cameroon-as-africas-4th-worst-jailer-of-journalists-in-2023/> [Accessed: 28 April 2025].

132 Government of Nigeria (2015). *Cybercrimes (Prohibition, Prevention, Etc) Act*. <https://cert.gov.ng/ngcert/resources/CyberCrime-Prohibition-Prevention-etc-Act-2015.pdf> [Accessed: 28 April 2025].

133 National Computer and Cybercrime Coordination Committee (NC4), Government of Kenya (2018). *The Computer Misuse and Cybercrimes Act (Part III)*, s.23. <https://nc4.go.ke/the-computer-misuse-and-cybercrimes-act-2018> [Accessed: 28 April 2025].

134 Government of Tanzania (2015). *The Cybercrimes Act (Part 11)*, s.16. <https://ictpolicyafrica.org/fr/document/c2m8s3qnqws?page=15> [Accessed: 28 April 2025].

135 Government of Nigeria (1990). *Criminal Code Act (Chapter 33)*. http://www.commonlii.org/ng/legis/num_act/ccat15 [Accessed: 28 April 2025].

136 Press Release: Coalition lauds cybercrimes Act amendment and urges FG to further safeguard freedom of expression’ (2024). *Paradigm Initiative*, 19 March. <https://paradigmhq.org/press-release-coalition-lauds-cybercrimes-act-amendment-and-urges-fg-to-further-safeguard-freedom-of-expression> [Accessed: 28 April 2025].



From prison sentences in Uganda to death penalties in northern Nigeria, blasphemy laws across the region target free expression and fuel repression. Photo credit: Aasad Ali T / Pexels.

international human rights standards and the right to democratic participation.¹³⁷

The use of overly restrictive laws to suppress legitimate public debate continues across several African countries. In **Eswatini**, the Sedition and Subversive Activities Act criminalises criticism of the monarchy,¹³⁸ limiting open discourse. In contrast, **South Africa** provides robust protections for free speech. However, the Prevention and Combating of Hate Crimes and Hate Speech Act 2023¹³⁹ has sparked concern. Critics argue that it may unduly infringe on freedom of expression due to its expansive definitions.¹⁴⁰

In **Mozambique**, **Namibia**, and the **Seychelles**, a combination of defamation and national security laws are employed to restrict freedom of expression. Though penalties in the Seychelles are infrequently applied, they can be particularly severe. For instance,

in 2020, an independent newspaper was ordered to pay over 23,000 Euros (approximately GBP 19,367) in damages for a defamation case related to the publication of a 2016 article.¹⁴¹

In **Botswana**, Sections 192 to 195 of the Penal Code provide for criminal defamation, punishable by fines. However, the only defences available for criminal defamation are privilege and good faith, offering limited protection.¹⁴² The law's broad scope continues to raise concern among free speech advocates.

In **Lesotho**, the government reintroduced the controversial Computer Crimes and Cybersecurity Bill in 2023. The bill has been widely criticised for its broad and vague provisions which could reintroduce criminal defamation into the country's legal framework – reversing earlier reforms and potentially curtailing freedom of expression.¹⁴³

137 Government of Tanzania (2015). *The Cybercrimes Act (Part 11)*, s.16. <https://ictpolicyafrica.org/fr/document/c2m8s3qnqws?page=15> [Accessed: 28 April 2025].

138 Government of Eswatini (1938). *Sedition and Subversive Activities Act*, s.5. <https://eswatiniilii.org/akn/sz/act/1938/46/eng@1998-12-01> [Accessed: 28 April 2025].

139 Government of South Africa (2024). *Prevention and Combating Hate Crimes and Hate Speech Act*. https://www.gov.za/sites/default/files/gcis_document/202405/50652preventionandcombatingofhatecrimesandhatespeech162023.pdf [Accessed: 28 April 2025].

140 Basil Sherinda, M. (2021). 'New criminal intent in hate speech law: the Prevention and Combating of Hate Crimes and Hate Speech Bill in relation to the CC judgement in Qwelane v SAHRC', *Helen Suzman Foundation (HSF) Briefs*, 07 December. <https://hsf.org.za/publications/hsf-briefs/New-criminal-intent-in-hate-speech-law-the-prevention-and-combating-of-hate-crimes-and-hate-speech-bill> [Accessed: 28 April 2025].

141 Laurence, D. (2021). 'Seychelles climbs in world press freedom ranking; now in top third of all countries', *Seychelles News Agency*, 03 May. <http://www.seychellesnewsagency.com/articles/14772/Seychelles+climbs+in+World+Press+Freedom+rankings%3B+now+in+top+third+of+all+countries> [Accessed: 28 April 2025].

142 Government of Botswana (1964). *Penal Code (Division III)*, ss.196 and 199. <https://botswanalaws.com/consolidated-statutes/principle-legislation/penal-code> [Accessed: 28 April 2025].

143 Government of Lesotho (2023). *Computer Crime and Security Bill*. <https://www.gov.ls/computer-crime-and-security-bill-2023-discussed/?form=MGQAV3> [Accessed: 28 April 2025].

BLASPHEMY AND HURTING OR INSULTING RELIGIOUS SENTIMENTS

Blasphemy laws – intended to protect religious sentiments by prohibiting speech or actions deemed offensive to religious beliefs – exist in 14 of the 21 Commonwealth African countries, with varying provisions and levels of enforcement.¹⁴⁴

In **Nigeria**, blasphemy is criminalised under both state and federal laws. In some northern states governed by Sharia law, it is punishable by death – making **Nigeria's** blasphemy laws among the harshest, even more severe than laws on defamation.¹⁴⁵ One prominent case is that of Mubarak Bala, an outspoken atheist and President of the Humanist Association of **Nigeria**. In April 2020, Bala was arrested in Kano for allegedly making blasphemous posts about Islam on social media. His criticism of religion, considered deeply offensive by many in the predominantly Muslim north, led to his detention without trial for months, drawing international condemnation. He was eventually charged with blasphemy and cybercrime. In 2022, he was sentenced to 24 years in prison after pleading guilty.¹⁴⁶ In May 2024, the Kano State Court of Appeal ruled that his punishment was excessive and reduced his prison sentence to five years.¹⁴⁷ Notably, on 9 April 2025, the ECOWAS Court ruled Kano

State's blasphemy laws are unconstitutional, finding them vague and disproportionate under African Charter and the ICCPR, and ordered Nigeria to amend or repeal them.¹⁴⁸ In **Nigeria**, there have been reports of deadly riots sparked by allegations of blasphemy in 1994, 2002, 2007, 2021, and 2022.¹⁴⁹

In **Botswana**, it is a criminal offence punishable by up to one year of imprisonment to write, speak, gesture, or display objects with the intent to wound another person's religious feelings.¹⁵⁰ **Uganda's** Penal Code criminalises acts intended to cause or that result in hostility or contempt toward religious beliefs.¹⁵¹ These provisions are often invoked in cases involving religious disputes or derogatory remarks about religious figures. In 2022, the International Commission of Jurists called on **Ugandan** authorities to address ongoing violations of the right to freedom of religion or belief—particularly against individuals practising traditional or indigenous religions or beliefs.¹⁵²

In **Cameroon**, Section 152 of the Penal Code¹⁵³ criminalises “contempt of race or religion,” with penalties ranging from six days to six months' imprisonment and fines of 5,000 to 500,000 CFA francs (approximately GBP 642 to GBP 64,200).¹⁵⁴ Similarly, **Zambia's** Penal Code includes two relevant provisions: Section 128 criminalises the defilement or

144 Botswana, Cameroon, Eswatini, The Gambia, Kenya, Malawi, Mauritius, Nigeria, Rwanda, Seychelles, South Africa, Tanzania, Uganda, Zambia.

145 'Nigerian singer sentenced to death for blasphemy in Kano State' (2020). *BBC*, 10 August. <https://www.bbc.co.uk/news/world-africa-53726256> [Accessed: 28 April 2025].

146 United State Commission on International Religious Freedom (2024). *Mubarak Bala*. <https://www.uscifr.gov/religious-prisoners-conscience/forb-victims-database/mubarak-bala> [Accessed: 28 April 2025].

147 Bello, B. (2024). 'Blasphemy: A Court reduces atheist Mubarak Bala's 24-year sentence', *Vanguard*, 13 May. <https://www.vanguardngr.com/2024/05/blasphemy-acourt-reduces-atheist-mubarak-balas-24-year-sentence> [Accessed: 28 April 2025].

148 Genocide Watch (2025). 'ECOWAS Court: Blasphemy Law violates African Charter,' 21 May. <https://www.genocidewatch.com/single-post/ecowas-court-kano-blasphemy-law-violates-african-charter#:~:text=By%20Unini%20Chioma%20%7C%20The%20Nigeria.mob%20killings%20of%20alleged%20blasphemers> [Accessed: 28 April 2025].

149 Obadare, E. (2022). 'Gruesome "Blasphemy" Killing Brings Nigeria's Long-Running Ethnos-Religious Divide Into Sharp Focus', *Council on Foreign Relations*, 16 May. <https://www.cfr.org/blog/gruesome-blasphemy-killing-brings-nigerias-long-running-ethno-religious-divide-sharp-focus> [Accessed: 28 April 2025].

150 Government of Botswana (1964). *Penal Code (Division II)*, s.140. https://www.vertic.org/media/National%20Legislation/Botswana/BW_Penal_Code.pdf [Accessed: 28 April 2025].

151 United States Commission on International Religious Freedom (2023). *Blasphemy Law Compendium*. <https://www.uscifr.gov/sites/default/files/2023-09/2023%20Blasphemy%20Law%20Compendium.pdf> [Accessed: 28 April 2025], p.43.

152 International Commission of Jurists (2022). *Violations of the Right to Freedom of Religion or Belief in Uganda*. <https://www.icj.org/wp-content/uploads/2022/02/Uganda-Violations-of-the-Right-to-Freedom-of-Religion-or-Belief-publications-briefing-paper-2022-ENG.pdf> [Accessed: 28 April 2025].

153 A contempt shall mean any defamation, abuse or threat conveyed by gesture, word or cry uttered in any place open to the public, or by any procedure intended to reach the public.

154 Government of Cameroon (2016). *Penal Code Act*, s.241. <https://assets.tobaccocontrolaws.org/uploads/legislation/Cameroon/Cameroon-Penal-Code.pdf> [Accessed: 28 April 2025].

destruction of religious sites or objects with intent to insult a religion,¹⁵⁵ while Section 131 prohibits wounding religious feelings through words, sounds, gestures, or visual representations, with penalties of up to one year’s imprisonment. These laws have been criticised for their vagueness and broad scope, which risk arbitrary enforcement and politically motivated prosecutions.¹⁵⁶

In **Tanzania**, defamation of religious beliefs and practices is criminalised, with penalties including imprisonment. These laws are commonly used in cases involving controversial speech perceived to threaten religious harmony.¹⁵⁷ In **The Gambia**, blasphemy-like laws criminalise the insulting of religious beliefs, aiming to uphold respect for religious figures and practices, with violations resulting in imprisonment or fines.¹⁵⁸

Although there have been no recent high-profile prosecutions for blasphemy in **The Gambia**, **Tanzania**, or **Zambia**, the presence of these laws continues to pose a threat to free speech. Blasphemy and blasphemy-like laws, while framed as protecting religious sentiments, often include overly broad language that can suppress open discourse and critical engagement, increasing the risk of arbitrary enforcement.

SEDITION

Sedition laws – which criminalise speech or actions inciting rebellion against the state or undermining its authority – remain a prominent and often problematic feature of legal frameworks across many Commonwealth

African countries. Often colonial in origin, these laws are broadly defined and frequently used to suppress political dissent, restrict public discourse, and reinforce state control. They often come with vague definitions, giving authorities significant leeway to prosecute a wide range of activities perceived as threatening state interests or public order.

In **Nigeria**, Sections 50 to 59 of the Criminal Code prohibit publications deemed to incite discontent or disaffection against the government. Section 50(2) defines “seditious intention” to include any effort to bring hatred or contempt upon, or excite disaffection against, the President, State Governors, or the Federal Government—even if the statement is true. In *Arthur Nwankwo v The State*, the Court of Appeal found sedition provisions unconstitutional and incompatible with the right to freedom of expression. However, this ruling applies only in Nigeria’s southern region; sedition provisions under the Penal Code remain in force in the northern states.¹⁵⁹

In **Botswana**, the Penal Code criminalises sedition, specifically targeting actions or speech against the President and government officials, with imprisonment a potential penalty.¹⁶⁰ Additionally, the National Security Act further expands state powers to conduct broader surveillance and detain individuals without charge, thereby enabling broader application of sedition laws under the pretext of protecting national security.¹⁶¹ In **Cameroon**, sedition is criminalised under the Penal Code and is often used in conjunction with the Anti-Terrorism Law to prosecute dissent, especially in conflict-affected regions

155 Government of Zambia (1990). *The Penal Code Act (Chapter XVI)*, ss.128 and 131. <https://www.parliament.gov.zm/sites/default/files/documents/acts/Penal%20Code%20Act.pdf> [Accessed: 28 April 2025].

156 Kyambalesa, H. (2021). 'PF's Abuse of Sedition Laws', *Lusaka Times*, 10 May. <https://www.lusakatimes.com/2021/05/10/pfs-abuse-of-sedition-laws> [Accessed: 28 April 2025].

157 End Blasphemy Laws (2020). *Tanzania*. <https://end-blasphemy-laws.org/countries/africa-sub-saharan/tanzania/20PENAL%20CODE.pdf> [Accessed: 28 April 2025].

158 United States Commission on International Religious Freedom (2023). *Blasphemy Law Compendium*. <https://www.uscifr.gov/sites/default/files/2023-09/2023%20Blasphemy%20Law%20Compendium.pdf> [Accessed: 28 April 2025], p.43.

159 Oziegbe, A. (2018). 'The Law of Sedition in Contemporary Nigerian Criminal Law: A Review of the Case of Arthur Nwankwo v The State', *Port Harcourt Law Journal*, 13 July. https://www.researchgate.net/publication/326380881_The_Law_of_Sedition_in_Contemporary_Nigerian_Criminal_Law_A_Review_of_the_Case_of_Arthur_Nwankwo_v_The_State [Accessed: 28 April 2025].

160 Government of Botswana (2016). *Botswana Penal Code (Part II, Division I)*, ss.50 and 51. <https://policehumanrightsresources.org/content/uploads/2016/03/Penal-Code-Botswana-19641.pdf?x49094> [Accessed: 28 April 2025].

161 Media Institute of South Africa (2017). *So this is Democracy? Botswana: National Overview 2017*. https://misa.org/wp-content/uploads/2018/05/STID2017_Botswana.pdf [Accessed: 28 April 2025].



Lagos, Nigeria, November 2019. Protesters demand free expression while blasphemy laws impose harsh punishments. Photo credit: Oluwafemi Dawodu / Shutterstock.

such as the North, South-West, and North-West.¹⁶² **The Gambia**’s anti-sedition law makes it a crime to incite hatred or disaffection against the president, vice-president, or other authorities, and it has been used against journalists, human rights defenders or critics of the government.¹⁶³ **Lesotho**’s Penal Code criminalises acts that undermine the government’s or monarch’s authority,¹⁶⁴ leading to potential imprisonment.¹⁶⁵ **Rwanda** enforces sedition laws alongside statutes addressing genocide denial and ethnic division—tools frequently used to suppress political opposition.¹⁶⁶ In **Gabon**, the Penal Code defines seditious intention as any act or speech that incites hatred, contempt, or disaffection

against the Sovereign, his successors, the government, or the Constitution. It also prohibits actions promoting enmity between groups or encouraging unlawful constitutional changes. However, the law also provides a framework for legitimate criticism of the government, provided that it is done in good faith and through lawful means. Criticisms of the government, constitution, or administration of justice are permitted by law when aimed at pointing out mistakes or seeking constructive changes.¹⁶⁷

The **Seychelles** criminalises actions undermining state authority through sedition laws, which have resulted in the

162 'Cameroon using 'anti-terror' law to silence media: CPJ' (2017). *Al Jazeera*, 20 September. <https://www.aljazeera.com/news/2017/9/20/cameroon-using-anti-terror-law-to-silence-media-cpj> [Accessed: 28 April 2025].

163 CJA Journalist Questionnaire, *The Gambia* (July 2024).

164 Government of Lesotho (2012). *Penal Code Act (Part V)*, s.76. <https://lesotholii.org/akn/ls/act/2012/6/eng@2012-03-09> [Accessed: 28 April 2025].

165 Mohloboli, K. (2014). 'Mochoboroane faces sedition charge', *Lesotho Times*, 13 November. <https://lestimes.com/mochoboroane-faces-sedition-charge> [Accessed: 28 April 2025].

166 Moses, G. (2024). 'Rwandan Youtuber Rashid Hakuzimana Sentenced: A Deep Dive into the Intersection of Free Speech, Governance, and Genocide Denial', *ODRI Media*, 10 October. <https://www.odrimedia.co.ke/rwandan-youtuber-rashid-hakuzimana-sentenced-a-deep-dive-into-the-intersection-of-free-speech-governance-and-genocide-denial> [Accessed: 28 April 2025].

167 The Government of Gabon (2018). *The Penal Code Act*. <https://gabon.vercel.app/law/penal-code-act> [Accessed: 28 April 2025].

suppression of dissent.¹⁶⁸ The **Kingdom of eSwatini**'s Sedition and Subversive Activities Act criminalises activities perceived as undermining the monarchy or government authority.¹⁶⁹ Similarly, **Zambia**'s Penal Code criminalises acts considered to undermine the government, with severe penalties including imprisonment.¹⁷⁰ In **Kenya**, sedition provisions exist in the Penal Code,¹⁷¹ but are rarely enforced. More commonly, the Computer Misuse and Cybercrimes Act is used to prosecute online criticism of the government, effectively serving similar functions.

There have been positive developments in some countries. In **Malawi**, President Lazarus Chakwera signed amendments to the Penal Code in February 2023, decriminalising certain sedition-related offences – a significant step forward for freedom of expression.¹⁷² In 2020, **Sierra Leone** repealed Part V of the Public Order Act of 1965, which included provisions relating to defamatory and seditious libel.¹⁷³ However, the Cybersecurity and Cybercrimes Act of 2021 remains in place and has been used to target speech challenging the government.¹⁷⁴ **Uganda** has repealed sections 39, 40 and 50 of the Penal Code Act, which provided for sedition and false news offences through the Uganda Law Revision (Miscellaneous Amendments) Act of 2023.¹⁷⁵ **Tanzania** uses the Media Services Act

to suppress dissent,¹⁷⁶ despite lacking specific sedition laws. The Act imposes stringent licensing requirements, expands state control over media content, and allows authorities to suspend or shut down critical outlets. While Section 54 offers a defence based on prior verification of published material, its protections are limited. The Act's vague criteria for "offensive content" enable its use to censor critical voices. For example, in 2019, *The Citizen* newspaper was banned for a week after publishing a report on the depreciation of the Tanzanian shilling. Authorities claimed the article was false and could incite public alarm – despite the publication's verification efforts.¹⁷⁷ These cases highlight how the Media Services Act, despite its provisions for verification, continues to be a tool for suppressing free speech and controlling the media landscape.

NATIONAL SECURITY

National security laws are intended to safeguard vital national interests and public security. In many Commonwealth African countries, however, journalists and monitoring organisations report that state security forces and law-enforcement officials are a principal source of violent assaults, threats and harassment of critical journalists, activists and opposition figures.¹⁷⁸

168 Government of Seychelles (2014). *The Penal Code*. <https://www.warnathgroup.com/wp-content/uploads/2017/11/Seychelles-Penal-Code.pdf> [Accessed: 28 April 2025].

169 International Commission of Jurists (2024). 'Eswatini: Supreme Court decision upholding repressive security laws is a blow to human rights', 30 August. <https://www.ici.org/eswatini-supreme-court-decision-upholding-repressive-security-laws-is-a-blow-to-human-rights> [Accessed: 28 April 2025].

170 Committee to Protect Journalists (2021). 'Zambian columnist Sishuwa could face sedition charge for opinion piece on election', 12 May. <https://cpj.org/2021/05/zambian-columnist-sishuwa-sishuwa-could-face-sedition-charge-for-opinion-piece-on-election> [Accessed: 28 April 2025].

171 Government of Kenya (1930). *Penal Code (Chapter XVIII)*, ss.40, 42, 43A, 44, 47 and 132. http://kenyalaw.org/kl/fileadmin/pdfdownloads/Acts/PenalCode_Cap63.pdf [Accessed: 28 April 2025].

172 Media Institute of South Africa (MISA) Malawi (2022). 'Members of Parliament remove sedition as a criminal offence', 22 November. <https://malawi.misa.org/2022/11/22/members-of-parliament-in-malawi-remove-sedition-as-criminal-offence> [Accessed: 28 April 2025].

173 Government of Sierra Leone (2020). The Public Order (Amendment) Act. https://www.parliament.gov.sl/uploads/bill_files/The%20Public%20Order%20Amendment%20Act.%202020.pdf [Accessed: 28 April 2025].

174 Rashid Thomas, A. (2021). 'Sierra Leone's proposed cyber-crime legislation is a threat to free speech and civil liberty', *The Sierra Leone Telegraph*, 23 March. <https://www.thesierraleonetelegraph.com/sierra-leones-proposed-cyber-crime-legislation-is-a-threat-to-free-speech-and-civil-liberty> [Accessed: 28 April 2025].

175 Southern African Litigation Centre (2021). 'Uganda: Repeals vagrancy, sedition, and false news offences', 11 July. <https://www.southernafricalitigationcentre.org/uganda-repeals-vagrancy-sedition-and-false-news-offences> [Accessed: 28 April 2025].

176 Government of Tanzania (2016). *The Media Services Act (Part VII)*, s.54. <https://www.mawasiliano.go.tz/uploads/documents/sw-1687500868-THE%20MEDIA%20SERVICE%20ACT.%202016.pdf> [Accessed: 28 April 2025].

177 Committee to Protect Journalists (2019). 'Tanzania Imposes 7-day publication ban on The Citizens', 01 March. <https://cpj.org/2019/03/tanzania-citizen-7-day-publication-ban> [Accessed: 28 April 2025].

178 Conroy-Krutz, J. (2020). 'The Squeeze on African Media Freedom', *Journal of Democracy*, 01 January. <https://www.journalofdemocracy.org/articles/the-squeeze-on-african-media-freedom> [Accessed: 28 April 2025].

“**Journalists in Uganda endure intimidation and violence almost every day. They are frequently targeted by the security services, which are the primary perpetrators of violence against journalists...Journalists who question authorities and the country's human rights record face repercussions, including violence.**

Gilbert Sendugwa, African Freedom of Information Centre

In **The Gambia**, despite improvements following the fall of the Jammeh government, abuses persist.

“**Attacks against the media [in The Gambia] in the past seven years have been perpetrated by supporters of the ruling party and the security forces... However, no single investigations have been undertaken or culprits punished for the crimes.**

Senior Journalist, The Gambia¹⁷⁹

In 2023 the Gambia Press Union published details about numerous cases of violent assaults and other abuses reportedly committed by state authorities against journalists and media outlets.¹⁸⁰ The President of the **Sierra Leone** Association of Journalists reports that journalists there are not generally safe from attacks: “*The main perpetrators of such attacks are security officers (physical attacks) or political supporters (online attacks); in rural areas, the perpetrators are mainly traditional authorities. Mostly the perpetrators go unpunished.*”

179 CJA Journalist Questionnaire, The Gambia (July 2024).

180 CJA Journalist Questionnaire, The Gambia (July 2024); 'GPU Renews Call to End Impunity for Crimes Against Journalists' (2023). *Gambia Press Union*, 02 November. <https://gpu.gm/gpu-renews-call-to-end-impunity-for-crimes-against-journalists> [Accessed: 28 April 2025].

181 Reporters Without Borders (2025). 'Sierra Leone: New anti-terrorism bill exposes journalists to heavy unjust prison sentences', 5 February. <https://rsf.org/en/sierra-leone-new-anti-terrorism-bill-exposes-journalists-heavy-unjust-prison-sentences> [Accessed: 28 July 2025]; Committee to Protect Journalists (2025). 'Sierra Leone's counterterrorism bill called 'significant threat to press freedom'', 31 March. <https://cpj.org/2025/03/sierra-leones-counterterrorism-bill-called-significant-threat-to-press-freedom> [Accessed: 28 July 2025]; Media Foundation for West Africa (2025). 'Sierra Leone: Anti-terror bill threatens press freedom', 02 April. <https://mfwa.org/country-highlights/sierra-leone-anti-terror-bill-threatens-press-freedom> [Accessed: 28 July 2025].

182 CJA Journalist Questionnaire, Nigeria (July 2024).

183 CJA Journalist Questionnaire, Rwanda (July 2024).

To make matters more worrisome for journalists, **Sierra Leone**'s proposed the Counter Terrorism Act, 2024 – passed by Parliament on 11 March 2025, but not yet signed into law – contains vague definitions and penalties of up to 30 years' imprisonment for publishing information deemed “false” or “prejudicial to national security.” Media groups including Reporteurs Sans Frontiers (RSF), the Committee to Protect Journalists (CPJ), Media Freedom for West Africa, and the Sierra Leone Association of Journalists, have strongly protested the bill, warning that it could be weaponised to silence critical reporting and suppress civic dissent.¹⁸¹

In **Nigeria**, 13 journalists have been killed since 2006, with only one case leading to any accountability. A senior journalist noted the concerns of colleagues over the lack of guarantees for their physical safety: “There are no official practical or procedural protections in place. Journalists rely on public outcry for their cases to be in the public domain.”¹⁸² In **Rwanda**, the apparatus of State power threatens journalists who question the government's past or present actions.

“**Since the genocide, there has been a long list of Rwandan journalists and editors, who have been assassinated, disappeared, fled the country or jailed. Their fates and experiences haunt those still trying to operate inside Rwanda, underlining the importance of extreme caution and self-censorship, and serving as a reminder of the likely consequences of not towing the line.**

Journalist, Rwanda¹⁸³

Botswana, Ghana and South Africa have relatively democratic systems, but national security laws are occasionally invoked to



In Rwanda, state power casts a heavy shadow over press freedom, with journalists facing threats, imprisonment, or exile. Photo credit: Justin Muhinda / Pexels.

suppress critical voices, especially during politically sensitive times. In **Botswana**, security laws have been used to restrict access to information on matters of the state.¹⁸⁴ Under the Penal Code, any person who is found to publish any false statement, rumour or report which is likely to cause fear and alarm to the public or to disturb the public peace, is guilty of seditious intention or criminal defamation,¹⁸⁵ though courts have recognised defences for efforts to verify the information before its publication.¹⁸⁶

The judiciary in both **Botswana** and the **Seychelles** has taken steps to protect freedom of expression, as seen in the **Botswana** case of *Media Publishing (Pty) Ltd v Attorney General of Botswana*.¹⁸⁷ Similarly, in the **Seychelles**, the judiciary has been willing to uphold press

freedom and freedom of expression, even when it means ruling against the government. This has been instrumental in ensuring that journalists and media outlets can operate freely and report on issues of public interest without fear of reprisals.¹⁸⁸

In **South Africa**, the Protection of State Information Bill – passed by Parliament in 2013 but never signed into law – has faced strong civil society opposition. In 2017, the Constitutional Court found parts of it unconstitutional. Though amendments were proposed, critics argue that the Bill still poses risks to press freedom, as it could be misused to suppress dissent and limit access to information, under the guise of national security.¹⁸⁹ In 2020, President Ramaphosa referred it back to Parliament over constitutional concerns.¹⁹⁰ In **Ghana**, national

security agencies have been accused of intimidating journalists reporting on corruption or governance.¹⁹¹ For example, the Electronic Communications Act has been used to arrest journalists for disseminating information deemed false or harmful to national security.¹⁹² Authorities also cite national security to deny access to information requests.¹⁹³

In **Cameroon**, **Rwanda** and **Uganda**, national security laws are more commonly used as direct instruments of repression. In **Rwanda**, anti-terrorism and security laws are invoked to silence critics and prevent dissent, often framing independent journalists and activists as threats to national stability.¹⁹⁴ In 2019, freelance BBC journalist Phocas Ndayizera¹⁹⁵ was convicted and sentenced to 10 years alongside seven others for allegedly plotting terrorist attacks.¹⁹⁶ Activist Diane Rwigara was arrested and charged with incitement and fraud after attempting to run for president in 2017. She was later released on bail after spending more than a year in detention without trial.¹⁹⁷ In **Cameroon**, the Military Tribunal sentenced activist Mancho Bibixy to 15 years and fined him 268 million CFA francs (approximately GBP 344,016) under the 2014 Anti-Terrorism Law and the Criminal Code for a wide range of charges, including “acts of terrorism”, “secession,” “hostility against the homeland”,

“revolution”, “propagation of false information”, “contempt of public bodies and public servants”, “resistance”, “depredation by band”, “failure to hold his national ID card” and “insurrection”.¹⁹⁸ The law has since been used to jail many journalists and activists. Another example is the case of Junior Ngombe, who was charged with “inciting rebellion” over a TikTok post.¹⁹⁹

In **Uganda**, anti-terrorism laws and emergency regulations are used to detain opposition figures, journalists, and activists, particularly around elections and protests.²⁰⁰ **Uganda’s** Anti-Terrorism Act allows the government to frame dissent as a national security threat.²⁰¹ **The Gambia**, the **Kingdom of eSwatini** and **Togo** have leveraged national security laws to maintain control over political dissent. In **The Gambia**, while there have been reforms since the end of Yahya Jammeh’s rule, the government still uses security laws to restrict media coverage on sensitive issues.²⁰² The **Kingdom of eSwatini** remains tightly controlled,²⁰³ with authorities using security concerns to justify crackdowns on pro-democracy protests. In **Togo**, authorities routinely invoke national security justifications to limit political assembly and press freedoms during periods of political unrest.

184 Freedom House (2021). *Freedom in the World Country Report: Botswana*. <https://freedomhouse.org/country/botswana/freedom-world/2021> [Accessed: 28 April 2025].

185 Government of Botswana (1964). *Penal Code Part II Division I*, s.59(f). <https://botswanalaws.com/consolidated-statutes/principle-legislation/penal-code> [Accessed: 28 April 2025].

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187 *Media Publishing (Pty) Ltd v Attorney General of Botswana*, [2001] 2 BLR 485. <https://globalfreedomofexpression.columbia.edu/cases/media> [Accessed: 28 April 2025].

188 Judiciary of Seychelles (2023). *30 Years of the Constitution Promoting Press Freedom*. <https://www.judiciary.sc/news/30-years-of-the-constitution-promoting-press-freedom> [Accessed: 28 April 2025].

189 Government of South Africa (2010). *Protection of State Information Bill*, ss.3, 7, 8 and 13. https://www.michalsons.com/wp-content/uploads/2020/06/Protection-of-State-Information-Bill-POSIB_bill06H-2010.pdf [Accessed: 28 April 2025].

190 Mahlati, Z. (2020). 'Ramaphosa sends Protection of State Information Bill back to Parliament', *Independent Online*, 13 June. <https://www.iol.co.za/news/politics/ramaphosa-sends-protection-of-state-information-bill-back-to-parliament-49307480?form=MG0AV3> [Accessed: 28 April 2025].

191 Laary, D. (2022). 'Press freedom. Ghanaian journalists face a crackdown on free speech', *Development and Cooperation (D+C)*, 12 April. <https://www.dandc.eu/en/article/press-freedom-ghana-taking-step-backwards-journalists-are-being-prosecuted-under-criminal> [Accessed: 28 April 2025].

192 Government of Ghana (2008). *Electronic Communications Act*, s.76(f). <https://nca.org.gh/wp-content/uploads/2023/04/NCA-Electronic-Communications-Act-775.pdf> [Accessed: 28 April 2025].

193 Government of Ghana (2019). *Right to Information Act*, art.989. <https://faolex.fao.org/docs/pdf/gha218869.pdf> [Accessed: 28 April 2025].

194 Freedom House (2021). *Rwanda: Transnational Repression Origin Country Case Study*. <https://freedomhouse.org/report/transnational-repression/rwanda> [Accessed: 28 April 2025].

195 Mutimukeye, C. (2018). 'Rwanda: un journaliste de la BBC porté disparu', *Jambonews*, 25 November. <https://www.jambonewsnet/actualites/20181125-rwanda-un-journaliste-de-la-bbc-porte-disparu> [Accessed: 28 April 2025].

196 Committee to Protect Journalists (2018). 'Phocas Ndayizera Freelance | Imprisoned in Rwanda', 21 November. <https://cjj.org/data/people/phocas-ndayizera> [Accessed: 28 April 2025].

197 Amnesty International (2018). 'Rwanda: Drop freedom of expression charges against political activist, Diane Rwigara', 07 November. <https://www.amnesty.org/en/latest/press-release/2018/11/rwanda-drop-freedom-of-expression-charges-against-political-activist-diane-rwigara> [Accessed: 28 April 2025].

198 International Federation For Human Rights (2018). 'Cameroon: Mr. Mancho Bibixy Tse sentenced to 15 years in Prison', 18 June. <https://www.fidh.org/en/issues/human-rights-defenders/cameroon-mr-mancho-bibixy-tse-sentenced-to-15-years-in-prison> [Accessed: 28 April 2025].

199 'Cameroonian TikTok charged with inciting rebellion - HRW' (2024). *TRT Afrika*, 30 July. <https://trtafrika.com/africa/cameroonian-tiktok-charged-with-inciting-rebellion-hrw-18189565> [Accessed: 28 April 2025].

200 ARTICLE 19 (2024). 'Uganda: Drop terrorism charges against political opposition', 08 August. <https://www.article19.org/resources/uganda-drop-terrorism-charges-against-political-opposition-members> [Accessed: 28 April 2025].

201 Government of Uganda (1950). *Penal Code Act (Chapter XVII)*, ss.179(f) and 180(f). <https://ulii.org/akn/ug/act/ord/1950/12/eng@2014-05-09> [Accessed: 28 April 2025].

202 ARTICLE 19 (2023). 'The Gambia: Crackdown on free speech must stop', 07 November. <https://www.article19.org/resources/the-gambia-crackdown-on-free-speech-must-stop> [Accessed: 28 April 2025].

203 Amnesty International (2021). 'Eswatini: Dozens killed, tortured, abducted as pro democracy protests intensify', 02 July. <https://www.amnesty.org/en/latest/press-release/2021/07/eswatini-dozens-killed-tortured-abducted-as-pro-democracy-protests-intensify> [Accessed: 28 April 2025].

USE OF TECHNOLOGY AND INTERNET REGULATIONS

The African Union Cyber Security and Personal Data Protection – also known as the Malabo Convention – was adopted by the African Union in 2014²⁰⁴ and officially entered into force in June 2023.²⁰⁵ The Malabo Convention aims to establish a unified legal framework for Africa on cybersecurity, cybercrime, and data protection. However, only seven of the 21 Commonwealth African nations have ratified the Convention,²⁰⁶ leaving the region largely without harmonised protections against cyber threats or misuse of online regulation.²⁰⁷

In **Nigeria**, the Cybercrimes (Prohibition, Prevention, etc.) Act, 2015 and the Terrorism (Prevention) Act, 2011 [now replaced by the Terrorism (Prevention and Prohibition Act), 2022] are used to suppress dissent and regulate online speech, with severe penalties for violations. For example, the Cybercrime Act criminalises the dissemination of false information online, especially when it can cause harm, panic, or threaten public order,²⁰⁸ punishable by fines of up to 7 million Nigerian naira (approximately GBP 3,232) or three years in prison, or both.²⁰⁹ Previously, the Cybercrime Act's cyberstalking provision

had been used to silence criticism of public officials and businesses.²¹⁰ The Cybercrime (Prohibition, Prevention, etc.) Amendment Act of 2024 removed a contentious provision from the 2015 Act concerning cyberstalking, which had been misused to curtail freedom of expression.²¹¹ Meanwhile, the Terrorism (Prevention and Prohibition Act), 2022 contains vague definitions that allow political dissent to be treated as terrorism.²¹² The broad scope of what constitutes terrorism can encompass political dissent or activism, making it a tool for silencing opposition. Critics argue that these provisions undermine constitutional rights to free expression and are used to suppress political criticism under the guise of combating terrorism.²¹³ These laws are often invoked to control online discourse. In November 2019, **Nigeria** introduced to the Senate the Protection from Internet Falsehood and Manipulations Bill 2019,²¹⁴ also known as the "Social Media Bill",²¹⁵ which seeks to criminalise spreading false or malicious information via social media, and – if passed – would give the government sweeping powers to arbitrarily shut down parts of the internet and limit access to online social media platforms.²¹⁶

Kenya's Computer Misuse and Cybercrimes Act (2018) imposes penalties of up to 5 million

- 204 African Union (2014). *African Union Convention on Cyber Security and Personal Data Protection*. <https://africanlii.org/akn/aa-au/act/convention/2014/cyber-security-and-personal-data-protection/eng@2014-06-27> [Accessed: 28 April 2025].
- 205 Eneyew Ayalew, Y. (2023). 'The African Union's Malabo Convention on Cyber Security and Personal Data Protection enters into force nearly after a decade. What does it mean for Data Privacy in Africa or beyond?', *EJIL: Talk!*, 15 June. <https://www.ejiltalk.org/the-african-unions-malabo-convention-on-cyber-security-and-personal-data-protection-enters-into-force-nearly-after-a-decade-what-does-it-mean-for-data-privacy-in-africa-or-beyond> [Accessed: 28 April 2025].
- 206 Ghana, Mauritius, Mozambique, Namibia, Rwanda, Togo, and Zambia. African Union (2024). *List of Countries Which Have Signed, Ratified, Acceded to the African Union Convention on Cyber Security and Personal Data Protection*. <https://au.int/sites/default/files/treaties/29560-sl-african-union-convention-on-cyber-security-and-personal-data-protection.pdf> [Accessed: 28 April 2025].
- 207 Ifeanyi-Ajufo, N. (2024). 'The AU took important action on cybersecurity at its 2024 summit - but more is needed', *Chatham House*, 26 February. <https://www.chathamhouse.org/2024/02/au-took-important-action-cybersecurity-its-2024-summit-more-needed> [Accessed: 28 April 2025].
- 208 Government of Nigeria (1990). *Criminal Code Act (Chapter 33)*, s. 24(1)(b). http://www.commonlii.org/ng/legis/num_act/ccat15 [Accessed: 28 April 2025].
- 209 Ibid, s.24.
- 210 Ibid.
- 211 Ibid.
- 212 Government of Nigeria (2022). *Terrorism Prevention and Prohibition Act*. https://nctc.gov.ng/ova_doc/terrorism-prevention-publication-web [Accessed: 28 April 2025].
- 213 Amnesty International (2023). 'Nigeria: Accountability For Human Rights Violations Remains Elusive', July. <https://www.amnesty.org/en/wp-content/uploads/2023/07/AFR4469702023ENGLISH.pdf> [Accessed: 28 April 2025].
- 214 Government of Nigeria (2019). *Protection from Internet Falsehoods and Manipulation and Other Related Matters Bill*. <https://nass.gov.ng/documents/bill/download/10965.pdf> [Accessed: 28 April 2025].
- 215 Mabika, V. and C. Ogu, E. (2022). 'Internet Impact Brief: Nigeria's Protection from the Internet Falsehood and Manipulation Bill 2019', *Internet Society*, 21 February. <https://www.internetsociety.org/resources/2022/internet-impact-brief-nigerias-protection-from-internet-falsehood-and-manipulation-bill-2019> [Accessed: 28 April 2025].
- 216 Policy and Legal Advocacy Centre (2020). *Protection from Internet Falsehoods, Manipulations and Other Related Matters Bill, 2019*. <https://placng.org/i/wp-content/uploads/2020/03/Protection-from-Internet-Falsehood-Bill-Summary.pdf> [Accessed: 28 April 2025].



In Nigeria, strict online regulations silence dissent, leaving citizens at risk of fines, imprisonment, or both. Photo credit: Red Confidential / Shutterstock.

Kenya shillings (approximately GBP 29,322) or 10 years in prison for publishing false information.²¹⁷ In **Uganda**, the Computer Misuse (Amendment) Act, 2022,²¹⁸ further restricts digital speech, criminalising the sharing of "prohibited information" or content using a false identity, with penalties of 15 million Ugandan shillings (approximately GBP 3,053) or five years' imprisonment.²¹⁹

Seychelles recently replaced its outdated 1998 law²²⁰ with the Cybercrimes and Other Related Crimes Act.²²¹ Under this law, a person could be liable to a fine of up to 125,000 Seychellois rupees (approximately GBP 7,071) and/or imprisonment of up to 5 years for sending, delivering, or showing a message, visual or

otherwise, which is false or misleading and which causes annoyance, inconvenience, or is likely to cause distress or needless anxiety to any person.²²² This law, like other similar laws in the region, suffers from broad language that could potentially stifle free expression. Members of the National Assembly have called for clarification of terms such as "cyber harassment" and "cyber extortion", and questioned whether mobile phones fall under the definition of computers.²²³

In 2020, **Tanzania** enacted regulation 16(2) of the Electronic and Postal Communications (Online Content) Regulations 2020 to regulate online content and ensure it aligns with national interests and does not disrupt

- 217 National Computer and Cybercrime Coordination Committee (NC4), Government of Kenya (2018). *The Computer Misuse and Cybercrimes Act (Part III)*, ss.22 to 23. <https://nc4.go.ke/the-computer-misuse-and-cybercrimes-act-2018> [Accessed: 28 April 2025].
- 218 Odueso, T. (2022). 'Museveni passes Uganda's controversial Computer Misuse Bill', *Techbal*, 13 October. <https://techcabal.com/2022/10/13/museveni-passes-ugandas-controversial-computer-misuse-bill/> [Accessed: 28 April 2025].
- 219 Government of Uganda (2022). *The Computer Misuse (Amendment) Bill*. <https://parliamentwatch.ug/wp-content/uploads/2022/07/Computer-Misuse-Amendment-Bill-2022.pdf> [Accessed: 28 April 2025].
- 220 The Computer Misuse Act was repealed and replaced with the Cybercrimes And Other Related Crimes Act. Government of Seychelles (1998). *Computer Misuse Act. Seychelles Computer Misuse Act, 1998*. <https://seylil.org/akn/sc/act/1998/17/eng@2015-12-31> [Accessed: 28 April 2025]; Government of Seychelles (2021). *Cybercrimes And Other Related Crimes Act*. <https://www.gazette.sc/sites/default/files/2021-12/Act%2059%20-%20Cybercrimes%20and%20Other%20Related%20Crimes%20Act%202021.pdf> [Accessed: 28 April 2025].
- 221 'New law to better fight cyber, other crimes committed on social media, digital platforms' (2021). *Seychelles Nation*, 25 November. <https://www.nation.sc/articles/11485/new-law-to-better-fight-cyber-other-crimes-committed-on-social-media-digital-platforms> [Accessed: 28 April 2025].
- 222 Government of Seychelles (2021). *Cybercrimes and other Related Crimes Act*, art.59. <https://seylil.org/akn/sc/act/2021/59/eng@2021-12-20> [Accessed: 28 April 2025].
- 223 Ibid.

public order or compromise morality.²²⁴ The regulation has been criticised by human rights activists who argue that it can lead to censorship and suppression of free speech.²²⁵ **Gabon's** cybercrime law can potentially be used to restrict online expression, particularly if content is considered offensive to public order or national security. The law was passed to address crimes committed through information and communication technologies, including defamation, dissemination of false information, and offences against public order.²²⁶

Internet shutdowns have increasingly become a common tool used by governments in the region to suppress free expression, especially during elections and periods of unrest.²²⁷ Authorities in **Cameroon, Mauritius, Nigeria, Tanzania, and Uganda** have restricted internet access, including access to social media platforms to prevent critical information sharing during planned protests.²²⁸ These digital restrictions are often justified by claims of national security and public order, but many legal experts and human rights groups argue they constitute censorship and undermine political dissent and public discourse.²²⁹ In **Uganda**, a notable example occurred during the 2021 general elections when the government imposed a

nationwide internet shutdown for over 100 hours to hinder opposition mobilisation and reporting of irregularities, with social media platforms remaining blocked for 719 days until April 2023.²³⁰ This drew widespread condemnation from international observers and civil society groups.²³¹

Nigeria suspended Twitter operations in 2021 for seven months, citing its potential to undermine national stability.²³² **Cameroon** shut down access to the internet twice from January to April 2017 and from October 2017 to April 2018, particularly targeting unrest in the two English speaking regions.²³³ In **Tanzania**, in August 2024, the Communications Regulatory Authority implemented an intermittent internet chokehold across mainland **Tanzania** and **Zanzibar**, resulting in the shutdown of Twitter, WhatsApp, and other social media platforms. Mobile phone service providers restricted the use of short text messages and voice calls.²³⁴ This clampdown on internet usage drew widespread international condemnation, prompting statements from the international community expressing concerns over the infringement of fundamental rights to information and expression.²³⁵ The UN Office of the High Commissioner for Human Rights (OHCHR) noted:

224 Government of Tanzania (2020). *The Electronic and Postal Communications Act*. [https://www.tcra.go.tz/uploads/documents/sw-1619088125-The%20Electronic%20and%20Postal%20Communications%20\(Online%20Content\)%20Regulations.%202020.pdf](https://www.tcra.go.tz/uploads/documents/sw-1619088125-The%20Electronic%20and%20Postal%20Communications%20(Online%20Content)%20Regulations.%202020.pdf) [Accessed: 28 April 2025].

225 ARTICLE 19 (2021). 'Tanzania: Online Content Regulations 2020 extremely problematic in the context of COVID 19 pandemic', 19 January. <https://www.article19.org/resources/tanzania-online-content-regulations-problematic-covid-19-pandemic> [Accessed: 28 April 2025].

226 Gouvernement du Gabon (2018). *Cybersécurité et cybercriminalité Ordonnance n°15/PR/2018*. <https://www.droit-afrique.com/uploads/Gabon-Ordonnance-2018-15-cybersecurite-cybercriminalite.pdf> [Accessed: 28 April 2025].

227 Mlaba, K. (2021). 'Africa's Internet Shutdowns: Where, Why, and How Do They Happen?', *Global Citizen*, 09 May. <https://www.globalcitizen.org/en/content/africa-internet-shutdowns-impact-human-rights> [Accessed: 28 April 2025].

228 Access Now (2024). *Emboldened Offenders, Endangered Communities: Internet Shutdowns in 2024*. <https://www.accessnow.org/wp-content/uploads/2025/02/KeepItOn-2024-Internet-Shutdowns-Annual-Report.pdf> [Accessed: 28 April 2025]; 'Mauritius blocks social media until after election, opposition and civil society groups cry foul' (2024). *Reuters*, 01 November. <https://www.reuters.com/world/africa/mauritius-suspends-social-media-until-after-election-communications-regulator-2024-11-01> [Accessed: 28 April 2025]; 'Cameroon shuts down internet in English-speaking areas' (2017). *Al Jazeera*, 26 January. <https://www.aljazeera.com/news/2017/1/26/cameroon-shuts-down-internet-in-english-speaking-areas> [Accessed: 28 April 2025].

229 Giles, C. and Mwai, P. (2021). 'Africa internet: Where and how are governments blocking it', *BBC News*, 14 January. <https://www.bbc.co.uk/news/world-africa-47734843> [Accessed: 28 April 2025].

230 Xynou, M., Basso, S., Padmanabhan, R., Filastò, A., DefendDefenders, Defenders Protection Initiative (2021). 'Uganda: Data on internet blocks and nationwide internet outage amid 2021 general election', *OONI*, 22 January. <https://ooni.org/post/2021-uganda-general-election-blocks-and-outage> [Accessed: 28 April 2025].

231 'Uganda social media ban raises questions over regulation in Africa' (2021). *BBC*, 15 January. <https://www.bbc.co.uk/news/world-africa-55618994> [Accessed: 28 April 2025].

232 Adeboye, A. (2021). 'Nigerian govt suspends Twitter 'indefinitely'', *Premium Times*, 04 June. <https://www.premiumtimesng.com/news/headlines/465595-nigerian-govt-suspends-twitter-operations-indefinitely.html?tztc=1> [Accessed: 28 April 2025].

233 Ritzen, Y. (2018). 'Cameroon internet shutdowns cost Anglophones millions', *Al Jazeera*, 26 January. <https://www.aljazeera.com/news/2018/1/26/cameroon-internet-shutdowns-cost-anglophones-millions> [Accessed: 28 April 2025].

234 Zaina Foundation (2020). *Internet Shutdown Report in Tanzania*. <https://zainafoundationtz.org/wp-content/uploads/2021/08/INTERNET-SHUTDOWN-REPORT-IN-TANZANIA-2020.pdf> [Accessed: 28 April 2025].

235 Ibid.



Sureveillance and internet shutdowns strip citizens of their right to speak and access information. Photo credit: Samon Yu.

“
Free flow of information is critical to any democratic society, and especially so in an electoral context ... Any restrictions on information and communication technology must be in line with international human rights laws and standards.

UN Office of the High Commissioner for Human Rights²³⁶

In 2018, **Cameroon, Nigeria, Sierra Leone**, and **Togo** were among 20 countries where public authorities imposed internet shutdowns.²³⁷ In June 2020, the ECOWAS Community Court of Justice ruled that **Togo's** 2017 internet shutdown during anti-government protests was illegal. The court found that the shutdown violated the right to freedom of expression

and ordered the **Togolese** government to compensate the plaintiffs and to implement safeguards for free speech in the future.²³⁸ **Sierra Leone** cut internet services during anti-government protests in August 2022.²³⁹

Other governments, including in **Gabon** and **Zambia**, have used internet disruptions during political unrest and elections. **Zambia** imposed a 48-hour social media blackout during the 2021 elections.²⁴⁰ In **Gabon**, the government imposed significant restrictions during the 2023 presidential election, including cutting off internet access, expelling foreign journalists, and barring independent election observers from participating.²⁴¹ **Mozambique** imposed its first internet shutdown on record in response to protests over the outcome of elections.²⁴²

236 'UN rights chief Bachelet condemns Tanzania election violence' (2020). *UN News*, 10 November. <https://news.un.org/en/story/2020/11/1077292> [Accessed: 28 April 2025].

237 Access Now (2019). *The State of Internet Shutdowns around the World The 2018 #KeepItOn Report*. <https://www.accessnow.org/wp-content/uploads/2019/07/KeepItOn-2018-Report.pdf> [Accessed: 28 April 2025].

238 Amnesty International (2020). 'Togo. La décision de la Cour de justice de la CEDEAO envoie un message clair que les coupures volontaires d'Internet violent la liberté d'expression', 25 June. <https://www.amnesty.org/fr/latest/news/2020/06/togo-envoie-un-message-clair-que-les-coupures-volontaires-internet-violent-la-liberte> [Accessed: 28 April 2025].

239 James Reddick (2022). 'Sierra Leone internet cut amid anti-government protests', *The Record*, 10 August. <https://therecord.media/sierra-leone-internet-cut-amid-anti-government-protests> [Accessed: 28 April 2025].

240 Felicia and Díaz Hernández, M. (2023). 'Shutdown in Zambia on election day: How it affected people's lives and wellbeing', *Access Now*, 14 September. <https://therecord.media/sierra-leone-internet-cut-amid-anti-government-protests> [Accessed: 28 April 2025].

241 'Gabon blocks internet access, imposes curfew amid election voting delay' (2023). *France 24*, 26 August. <https://www.france24.com/en/africa/20230826-gabon-blocks-internet-access-imposes-curfew-amid-election-voting-delays> [Accessed: 28 April 2025].

242 Keynes, M. (2023). 'Mozambique: Internet Shutdown as Polls Close', *All Africa*, 11 October. <https://allafrica.com/stories/202310120129.html> [Accessed: 28 April 2025].

“Democracy and human rights take a massive hit when new countries like Kenya and Mozambique – historically shining examples of upholding open and secure internet access – join the list of internet shutdown offenders...”

Bridget Andere, Access Now²⁴³

Access Now also reported that **Malawi** and **Mauritania** were among 14 countries that imposed internet shutdowns in 2019, with the shutdown in **Mauritania** lasting more than seven days.²⁴⁴ These shutdowns, combined with vague and overbroad cybercrime laws, significantly impair freedom of expression and public access to information.

RIGHT TO INFORMATION

Access to Information (ATI) – also known as the Right to Information (RTI) – is fundamental to democratic governance and free expression. Fifteen of the 21 Commonwealth African countries have enacted ATI laws,²⁴⁵ providing legal backing for transparency and accountability. These laws empower citizens to engage in public life and scrutinise decision-making by accessing critical information.

“The Gambia Access to Information Act is currently seen as a game changer in the eyes of many observers.. it will enhance transparency of government to the public and the media, and in the process enhance accountability for decisions in spending, operations and procedures of governance in the country.

Journalist, The Gambia²⁴⁶

However, the absence of similar legislation in other countries impedes the enforcement of these rights, limiting access to information that is necessary for meaningful participation in public affairs. The absence of ATI laws in **Botswana**,²⁴⁷ **Cameroon**,²⁴⁸ **Gabon**,²⁴⁹ the **Kingdom of eSwatini**,²⁵⁰ **Lesotho**,²⁵¹ and **Mauritius**²⁵² significantly hinders citizens' engagement in public affairs. In *Newspaper Company Botswana t/a Botswana Gazette v Water Utilities Corporation & Another*, the High Court dismissed a request for a public report on dam construction, stating that the lack of ATI legislation justified the denial of access.²⁵³ This underscores the urgent need for robust ATI laws to facilitate transparency and accountability in governance.

Even where ATI laws exist, implementation challenges persist due to bureaucratic

inefficiencies and national security concerns. For instance, in **Ghana**,²⁵⁴ **Kenya**,²⁵⁵ and **South Africa**,²⁵⁶ access to information is frequently hindered by administrative hurdles and government opacity, despite the existence of ATI laws. Similarly, in **Nigeria**²⁵⁷ and **Uganda**,²⁵⁸ blanket exemptions for national security, defence, and intelligence are often used to withhold information – undermining the public's right to know. International standards require that such restrictions should be narrowly defined, justified, and subject to independent oversight to ensure they are not used merely to suppress criticism or shield government malpractices.²⁵⁹

INTERFERENCE IN THE INDEPENDENT FUNCTIONING OF THE MEDIA

Across Commonwealth African countries, interference in the independence and proper functioning of the media by state and non-state actors takes various forms – including political and corporate ownership, harassment, intimidation, and economic pressure.

In **Ghana**, although the media is generally seen as rather free, ownership by political figures raises concerns about objectivity, with a third of media outlets tied to the state or politically affiliated shareholders.²⁶⁰ Recent arrests and violence against journalists have sparked fears of a return to suppressive measures such as criminal libel laws.²⁶¹

“Journalists have been subjected to physical violence, harassment or threats whenever they report on issues that throw light on corruption-related practices and abuse of public resources involving people and institutions. The perpetrators are state or non-state actors, political and criminal groups... It is only in a few cases that perpetrators are punished but not severely [enough] to serve as a deterrent.

Dominic Hlordzi, Ghana Journalists Association²⁶²

The 2019 street murder of *Tiger Eye* journalist Ahmed Hussein-Suale, who helped expose high-level bribery in **Ghana's** football association, remains unresolved, fuelling a climate of fear among investigative journalists. In **Rwanda**, a senior journalist reports that independent and critical outlets have been weakened by the systematic denial of government advertising, which is instead channelled to regime-friendly media. Consequently, “*all news and analysis coming out of Rwanda have the blessing of the presidential press unit.*”²⁶³

In **The Gambia**, the initial 'honeymoon period' of liberalisation that followed the election of President Adama Barrow in 2017 has

243 Access Now (2024). 'Africa in 2023: internet shutdowns attack democracy', 26 August. <https://www.accessnow.org/press-release/africa-keepit-on-internet-shutdowns-2023-en> [Accessed: 28 April 2025].

244 Access Now (2020). *Targeted, Cut Off, and Left In The Dark The #KeepItOn report on internet shutdowns in 2019*. <https://www.accessnow.org/wp-content/uploads/2020/02/KeepItOn-2019-report-1.pdf> [Accessed: 28 April 2025].

245 Africa Freedom of Information Center (2024). *Access to Information Laws in Africa*. <https://www.africafoicentre.org/foi-laws> [Accessed: 28 April 2025].

246 CJA Journalist Questionnaire, The Gambia (July 2024).

247 'MISA commends Botswana for gazetting ATI bill' (2024). MISA, 29 August. <https://misa.org/blog/misa-commends-botswana-for-gazetting-ati-bill> [Accessed: 28 April 2025].

248 Taniye, M. (2024). 'Report reveals lapses in access to information in Cameroon', *The Guardian Post Daily*, 12 June. <https://www.theguardianpostcameroon.com/post/3169/en/report-reveals-lapses-in-access-information-in-cameroon> [Accessed: 28 April 2025].

249 There is some access to environmental information governed by Law No. 007/2014 on Environmental Protection, which ensures that the public has the right to access certain environmental data. International Energy Agency (2022). *Law 07/2014 on Environmental Protection*. <https://www.iea.org/policies/11932-law-072014-on-environmental-protection> [Accessed: 28 April 2025].

250 Human Rights Watch (2021). 'Submission to the Universal Periodic Review of Eswatini', 26 March. <https://www.hrw.org/news/2021/03/26/submission-universal-periodic-review-eswatini> [Accessed: 28 April 2025].

251 Sebusi, M. (2024). 'MISA calls for enactment of access to information law', *The Free Library*, 16 October. <https://www.thefreelibrary.com/MISA+calls+for+enactment+of+access+to+information+law.-a0811220668> [Accessed: 28 April 2025].

252 Ramsamy, C. (2023). 'A Long-Awaited Freedom of Information Act for Mauritius. But When?', *Friedrich Ebert Stiftung*, 26 January. <https://fesmedia-africa.fes.de/news/a-long-awaited-freedom-of-information-act-for-mauritius-but-when.html> [Accessed: 28 April 2025].

253 *News Company Botswana (PTY) LTD v Water Utilities Corporation Gaselemogwe Senai* [2023] SALC 1 (HC). <https://www.southernafricallitigationcentre.org/wp-content/uploads/2023/09/Gazete-vs-WUC-judgment-pdf> [Accessed: 28 April 2025].

254 Diamond Kpogli, B. (2023). 'RTI implementation still encounters challenges – Information Minister', *Modern Ghana*, 14 December. <https://www.modernghana.com/news/1279866/rti-implementation-still-encounters-challenges.html> [Accessed: 28 April 2025].

255 ARTICLE 19 (2014). *Kenya: Realising the Right to Information*. <https://www.article19.org/data/files/medialibrary/38388/Kenya-RTI-for-web.pdf> [Accessed: 28 April 2025].

256 Dimba, M. (2024). 'Transparency, democracy the losers with most public institutions shamelessly ignoring requests for information', MSN, 02 October. <https://www.msn.com/en-za/news/other/transparency-democracy-the-losers-with-most-public-institutions-shamelessly-ignoring-requests-for-information> [Accessed: 28 April 2025].

257 A Osawe, O. (2022). 'A comparative analysis of the right of access to information under the Nigerian Freedom of Information Act 2011 and the South African Promotion of Access to Information Act 2001', *African Human Rights Law Journal*. <https://www.saflii.org/za/journals/AHRLJ/2022/21.pdf> [Accessed: 28 April 2025], pp.476 to 492.

258 Lubumbula, S. (2021). 'Obstructed; Why Uganda's Access to Information law is failing to empower citizens', *The Sunrise*, 04 October. <https://sunrise.ug/news/202110/obstructed-why-ugandas-access-to-information-law-is-failing-to-empower-citizens.html> [Accessed: 28 April 2025].

259 ARTICLE 19 (2020). 'Freedom of expression and national security: A summary', 07 December. <https://www.article19.org/resources/foe-and-national-security-a-summary> [Accessed: 28 April 2025].

260 Media Ownership Monitor (2024). Ghana. <https://www.mom-gmr.org/en/countries/ghana> [Accessed: 28 April 2025].

261 Mensah, K. (2022). 'Activists Concerned About Recent Arrests of Journalists in Ghana', VOA News, 22 February. <https://www.voanews.com/a/6454256.html> [Accessed: 28 April 2025].

262 CJA Journalist Questionnaire, Ghana (July 2024); CIVICUS (2023). 'Safety of Journalists Continues to be a Concern in Ghana as Assaults on Journalists Persist', 17 July. <https://monitor.civicus.org/explore/safety-of-journalists-continues-to-be-a-concern-in-ghana-as-assaults-on-journalists-persist> [Accessed: 28 April 2025].

263 CJA Journalist Questionnaire, Rwanda (July 2024).

since eroded. Independent newspapers and broadcasters have been denied licences or shut down, leaving a landscape dominated by pro-government media. The dominance of pro-government media has been described as so strong that “*only newspapers under [former president Yahya] Jammah control continue to be in existence today.*”²⁶⁴

South Africa stands out for its relatively robust constitutional protections and vibrant media sector. Nonetheless, challenges remain, such as the concentration of media ownership and creeping political influence.²⁶⁵ There has been a notable increase in the use of SLAPPs – lawsuits that are typically initiated by corporations or politically powerful persons with the intent to intimidate and silence critics, including activists, journalists, and public interest groups. The goal of SLAPP suits is not necessarily to win a case at trial but to impose significant legal costs and burdens on the accused, discouraging them from investigating or speaking out on public issues. This tactic creates a chilling effect on those who might otherwise engage in critical discourse.²⁶⁶

A report by Corruption Watch found that the harassment of journalists in **South Africa** is increasing, particularly with respect to online intimidation, harassment, bullying, mostly aimed towards women journalists.²⁶⁷ A notable case is *Maughan v Zuma and Others*, in which former President Jacob Zuma initiated a private criminal prosecution against journalist Karyn Maughan for publishing details of his medical condition during his

criminal trial. The High Court dismissed the defamation case as an abuse of legal process, affirming the role of journalists in reporting on matters of public interest.²⁶⁸

In **Cameroon, Gabon, Rwanda**, and the **Seychelles**,²⁶⁹ media ownership by political entities or their allies often translates into significant restrictions on free speech. In the **Seychelles**, journalists self-censor to protect advertising revenue, and reporting is generally politicised.²⁷⁰ In **Cameroon**, the government’s control over major media platforms is reinforced by a biased media regulator – the National Communication Council – which has been accused of failing to recognise independent media and acting as “another tool of oppression rather than an arbitrator.” Press freedom advocates say independent journalists are extremely vulnerable.²⁷¹ A recent CPJ report ranked Cameroon as the fourth worst jailer of journalists in Africa, and the worst in Commonwealth Africa.²⁷²

“Although Cameroon has one of the richest media landscapes in Africa, it is one of the continent’s most dangerous countries for journalists, who operate in a hostile and precarious environment. Renowned journalist Martinez Zogo was kidnapped and murdered in early 2023.

Reporters Without Borders²⁷³

In **Gabon**, media controlled by the ruling elite ensures critical reporting is silenced and government-friendly narratives dominate.

Freedom House reports that journalists self-censor to avoid legal retaliation.²⁷⁴ In **Rwanda**, political control of the media is reinforced by arbitrary arrests, detentions, and physical attacks on journalists.²⁷⁵ In April 2020, Dieudonné Niyonsenga of Ishema TV was arrested while on his way to cover the impact of the government’s imposed lockdown during the COVID-19 pandemic. After spending 11 months in pre-trial detention, he was acquitted in April 2021. However just two days later, a High Court overturned the acquittal, sentencing him to seven years in prison and imposing a fine of 5 million Rwandan francs (approximately GBP 2,831).²⁷⁶

In **The Gambia** journalists have faced violence or arrest by state agents.

“June 2014: I was arrested and detained by the Major Crimes Unit of the Gambia Police Force for reporting on trafficking of Gambian girls to the Middle East and challenges police faced in prosecuting agents recruiting girls for such purposes. Publication was deemed “false publication”. I spent 8 weeks reporting at Police HQ on bail (while Police claimed I was being investigated) but never presented before a court. Rights groups see it as an intimidation tactic to silence my critical reporting style.

Journalist, The Gambia²⁷⁷

In **Nigeria**, officials frequently harass journalists, especially those who cover corruption,²⁷⁸ human rights violations, separatist and communal violence, or other politically sensitive topics by publicly criticising and arresting them.²⁷⁹ Press freedom advocates have criticised the Nigerian Press Council for imposing “overly restrictive” criteria on who may work as a journalist – discriminating against online and citizen reporters.²⁸⁰ In **Togo**²⁸¹ and **Malawi**²⁸² governments wield influence over media ownership to limit critical reporting and preserve favourable public image narratives. In **Mozambique**,²⁸³ **Namibia**,²⁸⁴ and **Zambia**,²⁸⁵ while a degree of media pluralism exists, editorial independence is undermined by political pressures and ownership patterns. **Mozambican** journalists often face abuse of power by the police, including harassment, intimidation, physical aggression, and equipment tampering – however cases against law enforcement officers are rarely officially recorded or pursued.²⁸⁶

In **Lesotho**, journalists often face harassment and intimidation, particularly when reporting on corruption. The Media Institute for Southern Africa (MISA) reported that in November 2021, a journalist from news radio station 357FM was detained and tortured by police for linking stolen weapons to a senior police officer. He was forced to reveal information on the whereabouts of a police officer he allegedly interviewed on 357FM. According to MISA,

264 CJA Journalist Questionnaire, The Gambia (July 2024).
265 Govenden, P. (2024). ‘South Africa’s media have done good work with 30 years of freedom but need more diversity’, *The Conversation*, 01 May. <https://theconversation.com/south-africas-media-have-done-good-work-with-30-years-of-freedom-but-need-more-diversity-228790> [Accessed: 28 April 2025].
266 Centre for Environmental Rights (2022). ‘South African Constitutional Court provides new protection for activists against SLAAP suits’, 15 November. <https://cer.org.za/news/south-african-constitutional-court-provides-new-protection-for-activists-against-slap-suits> [Accessed: 28 April 2025].
267 Dlamini, K. (2022). ‘Journalists in SA Threatened By Police, Politicians, and the Public’, *Corruption Watch*, 12 May. <https://www.corruptionwatch.org.za/journalists-in-sa-threatened-by-police-politicians-and-the-public> [Accessed: 28 April 2025].
268 Columbia University, Global Freedom of Expression (2023). *Maughan v Zuma*. <https://globalfreedomofexpression.columbia.edu/cases/maughan-v-zuma> [Accessed: 28 April 2025].
269 Kiburi, S.W. (2023). ‘African Media Landscape Regional Study Report: The case of East Africa’, *Africa-China Reporting Project*, 16 January. <https://africachinareporting.com/african-media-landscape-regional-study-report-the-case-of-east-africa> [Accessed: 28 April 2025].
270 Freedom House (2021). *Freedom in the World 2021: Seychelles*. <https://freedomhouse.org/country/seychelles/freedom-world/2021> [Accessed: 28 April 2025].
271 Mbutwe, T. (2024). ‘CPJ ranks Cameroon as Africa’s 4th worst jailer of journalists in 2023’, *MIMIMEFO*, 19 January. <https://mimimefoinfos.com/cpj-ranks-cameroon-as-africas-4th-worst-jailer-of-journalists-in-2023> [Accessed: 28 April 2025].
272 Esono Nwenfor, B. (2024). ‘Cameroon Maintains Appalling Record of Third Worst Jailer of Journalists’, *Pan African Visions*, 22 January. <https://panafricanvisions.com/2024/01/cameroon-maintains-appalling-record-of-third-worst-jailer-of-journalists> [Accessed: 28 April 2025].
273 Reporters Without Borders (2023). *Africa: Cameroon*. <https://rsf.org/en/country/cameroon> [Accessed: 28 April 2025].

274 Freedom House (2024). *Freedom in the World 2024: Gabon*. <https://freedomhouse.org/country/gabon/freedom-world/2024> [Accessed: 28 April 2025].
275 Mudge, L. (2021). ‘What Press Freedom Looks Like in Rwanda’, *Human Rights Watch*, 03 May. <https://www.hrw.org/news/2021/05/03/what-press-freedom-looks-rwanda> [Accessed: 28 April 2025].
276 Reporters Without Borders (2001). ‘Rwandan online video reporter given “absurd” seven-year-jail sentence’, 22 November. <https://rsf.org/en/rwandan-online-video-reporter-given-absurd-seven-year-jail-sentence> [Accessed: 28 April 2025].
277 CJA Journalist Questionnaire, The Gambia (July 2024).
278 Committee to Protect Journalists (2024). ‘Nigeria police charge 4 journalists with cybercrimes for corruption reporting’, 03 October. <https://cpj.org/2024/10/nigeria-police-charge-4-journalists-with-cybercrimes-for-corruption-reporting> [Accessed: 28 April 2025].
279 Freedom House (2024). *Freedom in the World 2024: Nigeria* <https://freedomhouse.org/country/nigeria/freedom-world/2024> [Accessed: 28 April 2025].
280 CJA Journalist Questionnaire, Nigeria (July 2024).
281 Freedom House (2024). *Freedom in the World 2024: Togo*. <https://freedomhouse.org/country/togo/freedom-world/2024> [Accessed: 28 April 2025].
282 Kabwato, L. (2021). ‘Media, election and political change in Malawi’, *iSpeak*, 03 June. <https://ispeak.africa/media-elections-and-political-change-in-malawi> [Accessed: 28 April 2025].
283 Reporters Without Borders (2021). *Africa: Mozambique*. <https://rsf.org/en/country/mozambique> [Accessed: 28 April 2025].
284 Freedom House (2024). *Freedom in the World 2024: Namibia*. <https://freedomhouse.org/country/namibia/freedom-world/2024> [Accessed: 28 April 2025].
285 Freedom House (2024). *Freedom in the World 2024: Zambia*. <https://freedomhouse.org/country/zambia/freedom-world/2024> [Accessed: 28 April 2025].
286 ‘Polícia agride jornalistas da STV e desaparece com câmara’ (2024). *O País*, 04 June. <https://opais.co.mz/policia-agride-jornalistas-da-stv-e-desaparece-com-camara> [Accessed: 28 April 2025].

the journalist was released without charge the same day.²⁸⁷ Additionally, Government ownership or control over key media outlets allows political authorities to shape public discourse and suppress opposition views.²⁸⁸

In **Uganda**, particularly during elections, government authorities have raided and shut down radio stations and other outlets,²⁸⁹ and removed accreditation from journalists as retribution for critical reporting.²⁹⁰ In **Botswana, Malawi, and Mauritius**, while journalists generally enjoy relative freedom to report, they encounter harassment, particularly when reporting on sensitive issues. In **Botswana**, political influence can subtly shape media narratives, with the government sometimes exerting pressure on media outlets to align with its viewpoints. This has led to a cautious approach among journalists, who may self-censor to avoid conflicts with political authorities.²⁹¹ In **Malawi**, journalist Macmillan Mhone was charged with publishing news likely to cause fear after reporting on alleged government-linked fraud.²⁹² In **Kenya**, the

Media Council documented 612 instances of press freedom violations between 2013 and June 2024, though the lack of categorised data obscures the precise nature of these abuses.²⁹³

In **Sierra Leone**²⁹⁴ and **Togo**²⁹⁵ threats of physical harm and online abuse are common for journalists challenging authority. The **Kingdom of eSwatini**'s²⁹⁶ media environment remains openly hostile, with harassment and intimidation of journalists widespread. These tactics collectively undermine freedom of expression and create a chilling effect on critical discourse across the region. **Tanzania** has demonstrated a clear intent to silence any form of criticism or opinion deemed dissident.²⁹⁷ In 2016 and 2017, at least 27 journalists and human rights defenders were arbitrarily arrested and detained or faced judicial harassment.²⁹⁸ Freelance journalist Azory Gwanda working in rural Tanzania disappeared on 21 November 2017 and has never been found.²⁹⁹ The government has failed to conduct a credible investigation and has at times dismissed the case outright.³⁰⁰

CONCLUSION

Although freedom of expression is constitutionally protected in most Commonwealth African states, these guarantees are frequently undermined by a web of restrictive laws – including those on defamation, sedition, cybercrime, blasphemy, public order, and national security. These laws are often arbitrarily applied, curbing free speech, constraining media freedom, and limiting public debate.

While some progress has been made – such as the decriminalisation of defamation in certain jurisdictions – the broader legal landscape remains repressive. Weak judicial oversight, vague regulatory frameworks, and politically motivated prosecutions contribute to a climate of fear and self-censorship. Access to information laws, where absent or poorly implemented, further restrict transparency and limit the media's watchdog role.

The safety of journalists is severely compromised, with many facing harassment and intimidation, arbitrary arrest, or even violence. Political interference – combined with media ownership by ruling elites – has led to biased reporting and undermines public trust in the press.

To uphold democratic governance and protect freedom of expression, urgent legal and institutional reforms are needed. These reforms must align domestic laws with international human rights standards, enhance judicial independence, promote media pluralism, and safeguard journalists' rights. Without such reforms, constitutional guarantees of free expression will remain compromised, hindering democratic governance and meaningful public discourse.

287 'Escalating cases of harassment of journalists in Lesotho' (2021). MISA, 17 November. <https://lesotho.misa.org/2021/11/17/escalating-cases-of-harassment-of-journalists-in-lesotho> [Accessed: 28 April 2025].

288 Freedom House (2024). *Freedom in the World 2024: Lesotho*. <https://freedomhouse.org/country/lesotho/freedom-world/2024> [Accessed: 28 April 2025].

289 Committee to Protect Journalists (2021). 'Ugandan security personnel harass journalists, shut down radio stations during elections', 08 February. <https://cpj.org/2021/02/ugandan-security-personnel-harass-journalists-shut-down-radio-station-during-elections> [Accessed: 28 April 2025].

290 Freedom House (2024). *Freedom in the World 2024: Uganda*. <https://freedomhouse.org/country/uganda/freedom-world/2024> [Accessed: 28 April 2025].

291 Your Botswana (2021). *Media freedom in Botswana improves under Masisi*. <https://yourbotswana.com/2021/01/29/media-freedom-in-botswana-improves-under-masisi> [Accessed: 28 April 2025].

292 Amnesty International (2024). 'East and Southern Africa: Journalists targeted amid ongoing crackdown on media', 03 May. <https://www.amnesty.org/en/latest/news/2024/05/media-freedom-under-threat> [Accessed: 28 April 2025].

293 Media Council of Kenya (2023). *Press Freedom Violations: Current Status*. <https://mediacouncil.or.ke/node/445> [Accessed: 28 April 2025].

294 Kamara, C. A. (2023). 'Media Report highlights challenges for journalists', Politico SL, 03 December. <https://politicosl.com/articles/media-report-highlights-challenges-journalists> [Accessed: 28 April 2025].

295 Amnesty International (2024). *The State of the World's Human Rights*. <https://www.amnesty.org/en/documents/pol10/7200/2024/en> [Accessed: 28 April 2025].

296 Ndlangamandla, M. (2023). 'Campaign for Free Expression (CFE) condemns assassination threats, intimidation on journalists in Eswatini', Swaziland News, 22 March. <https://freeexpression.org.za/wp-content/uploads/2023/03/News-The-Swaziland-News.pdf> [Accessed: 28 April 2025].

297 International Federation of Human Rights (2017). 'Tanzania: Freedom of Expression in Peril', 01 August. https://www.fidh.org/IMG/pdf/joint_position_note_tanzania_fidh_lhrc.pdf [Accessed: 28 April 2025].

298 Ibid.

299 Committee to Protect Journalists (2024). Azory Gwanda. <https://cpj.org/data/people/azory-gwanda> [Accessed: 28 April 2025].

300 Committee to Protect Journalists (2018). 'One year after disappearance, CPJ calls for credible investigation into journalist Prageeth Eknelygoda's fate', 08 February. <https://cpj.org/2018/11/one-year-after-disappearance-cpj-calls-for-credible> [Accessed: 28 April 2025].



Journalists in Ghana at work under pressure, facing harassment, censorship, and legal risks. Photo credit: Foto Accent Studios.

RECOMMENDATIONS FOR AFRICA

Member States in the region are urged to:

1. STRENGTHEN LEGAL FRAMEWORKS AND THEIR IMPLEMENTATION

- Align domestic laws with international standards on freedom of expression and media freedom, ensuring the laws are clearly defined, necessary, proportionate, and non-discriminatory. The laws should also require state authorities to foster an enabling environment for a free and independent media.
- Repeal criminal defamation laws – particularly in **Botswana, Cameroon, Kenya, Kingdom of eSwatini, Malawi, Nigeria, The Gambia, Togo, Zambia, and Uganda**. Civil defamation laws should be narrowly defined, with public interest defences provided.
- Reform cybercrime, anti-terrorism, and hate speech laws to prevent political misuse. These should be precise and consistent with the Rabat Plan of Action, which limits legal prohibitions to cases involving incitement to discrimination, hostility, or violence.
- Narrow the scope of national security legislation to prevent its use in silencing dissent or targeting opposition figures. Ensure transparency in the drafting and application of national security laws, and subject them to independent oversight.
- Rwanda** should review its legal definition of genocide denial, including with regard to the denial, minimisation, or propagation of genocide, and bring it into alignment with international human rights law, ensuring that national laws do not infringe on the right to freedom of expression.

- Sierra Leone** should consider adding a chapter to its Constitution, as recommended by the Sierra Leone Association of Journalists, that guarantees free speech and media freedom.
- Revise blasphemy laws to remove provisions that criminalise peaceful religious criticism or commentary. In particular, **Nigeria** should abolish the death penalty for blasphemy.
- Botswana, Cameroon, Gabon, Kingdom of eSwatini, Lesotho, and Mauritius** should prioritise the enactment and effective implementation of Access to Information (ATI) laws.
- Encourage the ratification of the Malabo Convention on cybercrime to align national laws with international standards.

2. PROMOTE JUDICIAL INDEPENDENCE, DUE PROCESS GUARANTEES, AND ACCESS TO JUSTICE FOR DEFENDANTS

- Strengthen judicial independence to prevent the misuse of laws that restrict freedom of expression and media freedom.
- Ensure the right to a fair trial for all, and guarantee effective remedies when this right is violated. Legal aid should be made available to promote equal access to justice.
- Cameroon** should release journalists and activists detained or jailed without due process and those who were convicted in military courts; end the arbitrary arrests and prosecutions of journalists, and end the misuse of Anti-Terrorism laws.

3. ENSURE MEDIA PLURALISM AND PROTECT DIGITAL RIGHTS

- Adopt laws supporting independent media ownership and transparent, non-discriminatory licensing procedures – particularly in **Cameroon, Gabon, and Rwanda**.
- State authorities should refrain from arbitrary internet shutdowns, especially during elections and at times of unrest.
- Enact anti-SLAPP protections in both law and practice to prevent the abuse of the legal system to intimidate journalists and public interest organisations, with the judiciary playing a more proactive role in protecting journalists from baseless or retaliatory criminal charges.

4. PROTECT JOURNALISTS AND FOSTER A VIBRANT CIVIL SOCIETY

- Adopt and apply guidelines for the protection of journalists put forward by UNESCO, other UN bodies, and the High Level Panel of Legal Experts on Media Freedom, and ensure prompt, independent and effective investigations into attacks against media workers.
- Respond fully to UNESCO's requests for information regarding the status of investigations into journalist killings, and commit to regular reporting under international obligations.

- Work cooperatively with civil society organisations to reform media laws to safeguard the freedom of the press, and to ensure robust regulatory frameworks and mechanisms.

5. ESTABLISH AND STRENGTHEN ACCOUNTABILITY MECHANISMS

- Facilitate access to regional human rights mechanisms, such as the African Court on Human and Peoples' Rights and the ECOWAS Court, to allow CSOs to challenge restrictive laws that infringe on free expression, as seen in **The Gambia**.
- Cooperate with the Universal Periodic Review and other UN human rights mechanisms.
- Join the Media Freedom Coalition, committing to legal reforms and diplomatic advocacy to promote media freedom.
- Promote and strengthen collaboration with media organisations in other countries and regions – particularly within the Commonwealth – through exchanges, joint projects, and research initiatives that will support African media to address shared challenges.



SPOTLIGHT

DECRIMINALISING DEFAMATION: BALANCING REPUTATION AND FREE SPEECH

Freedom of expression is an undisputed cornerstone of a democratic society. It allows individuals to seek, receive and express information, ideas and opinions free of censorship or undue interference, regardless of frontiers. Crucially, it enables the media and other actors with essential ‘watchdog’ roles in society to hold power-holders to account. At the same time, individuals have a right to protect their reputation and personal dignity. Therefore, freedom of expression is not absolute – defamatory speech may be lawfully restricted in accordance with international human rights law.

Acknowledging this tension between rights, the Supreme Court of India in May 2016 upheld the constitutionality of the country’s criminal defamation law, emphasising that “a person’s right to freedom of speech has to be balanced with the other person’s right to reputation.”³⁰¹

THE MISUSE OF CRIMINAL DEFAMATION TO SILENCE CRITICS

Defamation laws date back to the Roman Empire.³⁰² Today, their foundation in international law lies in Article 17 of the

International Covenant on Civil and Political Rights (ICCPR), which provides for protection against arbitrary or unlawful attacks on a person’s honour and reputation. By extension, Article 19 of the ICCPR permits restrictions on expression for the legitimate purpose of protecting the reputation of others, but only where the restrictions meet the strict criteria of legality, necessity, proportionality, and non-discrimination.³⁰³

Defamation laws are meant to address intentional, malicious, and wrongful attacks on a person’s character – not to suppress legitimate speech, debate, or dissent. Yet, in recent years, meritless defamation proceedings have increasingly been used to harass critics, journalists, and human rights defenders. States and powerful private actors have weaponised defamation laws to evade scrutiny and silence opposition, creating a chilling effect that fosters self-censorship.

Of particular concern is the continued use of criminal defamation laws to target dissent, despite clear guidance from the UN Human Rights Committee urging States to decriminalise defamation. The Committee has emphasised that “the application of the criminal law should only be countenanced in

the most serious of cases and imprisonment is never an appropriate penalty.”³⁰⁴ In a notable 2023 case, Indian opposition leader Rahul Gandhi was convicted of criminal defamation for a 2019 remark referring to thieves sharing the surname ‘Modi’. He was sentenced to two years in prison and was disqualified as a member of the Indian Parliament. Although his conviction was later suspended by India’s Supreme Court,³⁰⁵ the case highlights how criminal defamation laws are used to silence political opponents.

THE SHIFT TOWARD DECRIMINALISATION AND ITS LIMITATIONS

Recognising these abuses, several countries – including the UK, Sri Lanka, and South Africa – have decriminalised defamation. Civil defamation provides a more proportionate means of redress, allowing remedies such as monetary damages without criminalising speech. However, civil defamation laws must also be carefully crafted to comply with international human rights standards, as they too may be misused to arbitrarily stifle free expression – particularly for journalists and public interest advocates.

A concerning trend emerging in countries such as Australia, Canada, Malta, and the UK, is the increasing use of civil defamation suits by public officials, corporations, and high-profile individuals to silence critics, journalists, and non-governmental organisations. These lawsuits, often referred to as ‘Strategic Lawsuits against Public Participation’ (SLAPPs), are designed to

overwhelm opponents and critics with long, costly and baseless legal action, using the justice system as a weapon to intimidate them into silence. Defamation allegations often form the basis of such suits.³⁰⁶

According to Columbia University:

“[i]n a SLAPP, the claim is merely a façade for the plaintiff, who is in fact manipulating the judicial system in order to limit the effectiveness of the opposing party’s speech and deter that party, or other potential interested parties, from participating in public affairs.”³⁰⁷

SLAPP suits have been widely used to silence environmental activists. In South Africa, Australian company Mineral Commodities Limited (MRC) and its CEO, filed two defamation cases against activists who had opposed its plans to mine titanium on the Wild Coast.³⁰⁸ In 2017, MRC’s subsidiary, Mineral Sand Resources (MSR), filed another civil suit against two attorneys from the Centre for Environmental Rights and a local activist, over comments made during a university lecture. Together, these suits seek nearly ZAR 10 million (approximately GBP 398,840) in damages and remain unresolved.³⁰⁹

CHARTING A PATH FORWARD

Addressing the misuse of defamation laws requires ensuring all legal measures comply

304 UN Human Rights Committee, *General Comment No. 34: Article 19 – Freedoms of opinion and expression* (12 September 2011). UN Doc CCPR/C/GC/34. <https://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf> [Accessed: 17 October 2024].

305 ‘Rahul Gandhi: India Supreme Court suspends opposition leader’s conviction’ (2023). BBC News, 04 August. <https://www.bbc.com/news/world-asia-india-66404405> [Accessed: 17 October 2024].

306 Media Defence (2025). *Defamation – South and Southeast Asia*. <https://www.mediadefence.org/resource-hub/defamation-south-and-southeast-asia> [Accessed: 17 October 2024].

307 Columbia University (2024). *Global Freedom of Expression Factsheet: Strategic Lawsuits Against Public Participation (SLAPPs)*. <https://globalfreedomofexpression.columbia.edu/wp-content/uploads/2024/04/Factsheet-SLAPPs.pdf> [Accessed: 17 October 2024].

308 Centre for Environmental Rights (n.d.). SLAPP Suit #1: MRC and Caruso v John Clarke. <https://cer.org.za/programmes/corporate-accountability/litigation/slapp-suits/slapp-suit-1-mrc-and-caruso-v-john-clarke> [Accessed: 17 October 2024].

309 International Center for Not-for-Profit Law (2020). *Protecting Activists from Abusive Litigation: SLAPPs in the Global South and How to Respond*. <https://www.icnl.org/wp-content/uploads/SLAPPs-in-the-Global-South-vf.pdf> [Accessed: 17 October 2024].

301 *Subramanian Swamy v. Union of India* [2016] 7 SCC 221 (SC). <https://indiankanoon.org/doc/80997184> [Accessed: 17 October 2024]; Human Rights Watch (2016). *Stifling Dissent: The Criminalization of Peaceful Expression in India*. <https://www.hrw.org/report/2016/05/25/stifling-dissent/criminalization-peaceful-expression-india> [Accessed: 17 October 2024].

302 Media Defence (2025). *Defamation – South and Southeast Asia*. <https://www.mediadefence.org/resource-hub/defamation-south-and-southeast-asia> [Accessed: 17 October 2024].

303 International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976). 999 UNTS 171, art.19. <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights> [Accessed: 17 October 2024].

with international human rights law, including the ICCPR. Legislators and courts must ensure that the design and application of defamation laws adhere to the principles of legality, necessity, proportionality and non-discrimination.

Well-crafted defamation laws should include strong truth and public interest defences, ensuring criticism of public officials, corporations, and powerful institutions – are not unfairly penalised. For example, in July 2021, three Australian states – New South Wales, Victoria, and South Australia – reformed their defamation laws³¹⁰ to include a public interest defence, mitigating the chilling effect of defamation suits on public interest journalism.

Remedies must also be proportionate. Excessive damages can be as restrictive as criminal sanctions. To counter the abuse of civil defamation laws, states should enact anti-SLAPP legislation, as seen in Canada, the US, and the EU. As the Freedom Forum explains, anti-SLAPP laws:³¹¹

- shift the burden to the person filing the lawsuit, requiring them to prove the likelihood of success before a case proceeds, thereby preventing prolonged legal battles,
- pause costly pre-trial procedures until the courts rule on the merits,
- allow immediate appeals to avoid protracted and expensive litigation, and
- mandate that unsuccessful plaintiffs cover the defendant's legal costs.

In addition, the law should distinguish between public figures and private individuals. Public figures should meet a higher threshold to claim defamation,

given that public scrutiny is fundamental to democracy. A landmark case in this area is *New York Times Co. v. Sullivan*,³¹² in which the U.S. Supreme Court held that public officials must show “actual malice” – that is, knowledge of falsity or reckless disregard for the truth – to succeed in a defamation suit. The Court famously stated that “erroneous statement is inevitable in free debate,” and free speech must have “breathing space” to flourish in a democratic society.³¹³

CONCLUSION

Decriminalising defamation is an essential step, but it is not enough. The growing misuse of civil defamation suits reveals that the real problem is not solely rooted in criminal law, but in the ways legal systems can be manipulated to suppress dissent. At its core, this reflects a broader power struggle – driven by the ambition of State authorities and other powerful actors to ‘control the narrative’ to the exclusion of other voices.

This misuse of defamation laws is at odds with Article 2 of the Commonwealth Principles on Freedom of Expression and the Role of the Media in Good Governance, which calls on Member States to repeal or amend laws that unduly restrict free expression and to ensure that civil proceedings are not used frivolously or vexatiously. Ultimately, if legal systems can easily be leveraged by the powerful to intimidate critics and silence dissent, then the solution must lie not only in legal reform but in ensuring meaningful accountability and robust safeguards for those who challenge power.

In today's political climate, this is more urgent than ever.

310 Freedom House (2023). *Freedom on the Net 2023: Australia*. <https://freedomhouse.org/country/australia/freedom-net/2023> [Accessed: 17 October 2024].

311 Freedom Forum (n.d.). *How Anti-SLAPP Laws Protect Your Right to Free Speech*. <https://www.freedomforum.org/anti-slapp-laws> [Accessed: 17 October 2024].

312 *Brown v. Board of Education of Topeka* [1954] 347 U.S. 254. <https://www.law.cornell.edu/supremecourt/text/376/254> [Accessed: 17 October 2024].

313 Goldberg, K. (2021). ‘Perspective: Supreme Court Shouldn't Make It Riskier to Scrutinize Prominent People.’ *Freedom Forum*, 15 December. <https://www.freedomforum.org/perspective-supreme-court-shouldnt-make-it-riskier-to-scrutinize-prominent-people> [Accessed: 17 October 2024].

Decriminalisation has not ended abuse. Civil defamation suits, often SLAPPs, now serve to intimidate journalists and activists. Photo credit: Daniel Rocha / Pexels.

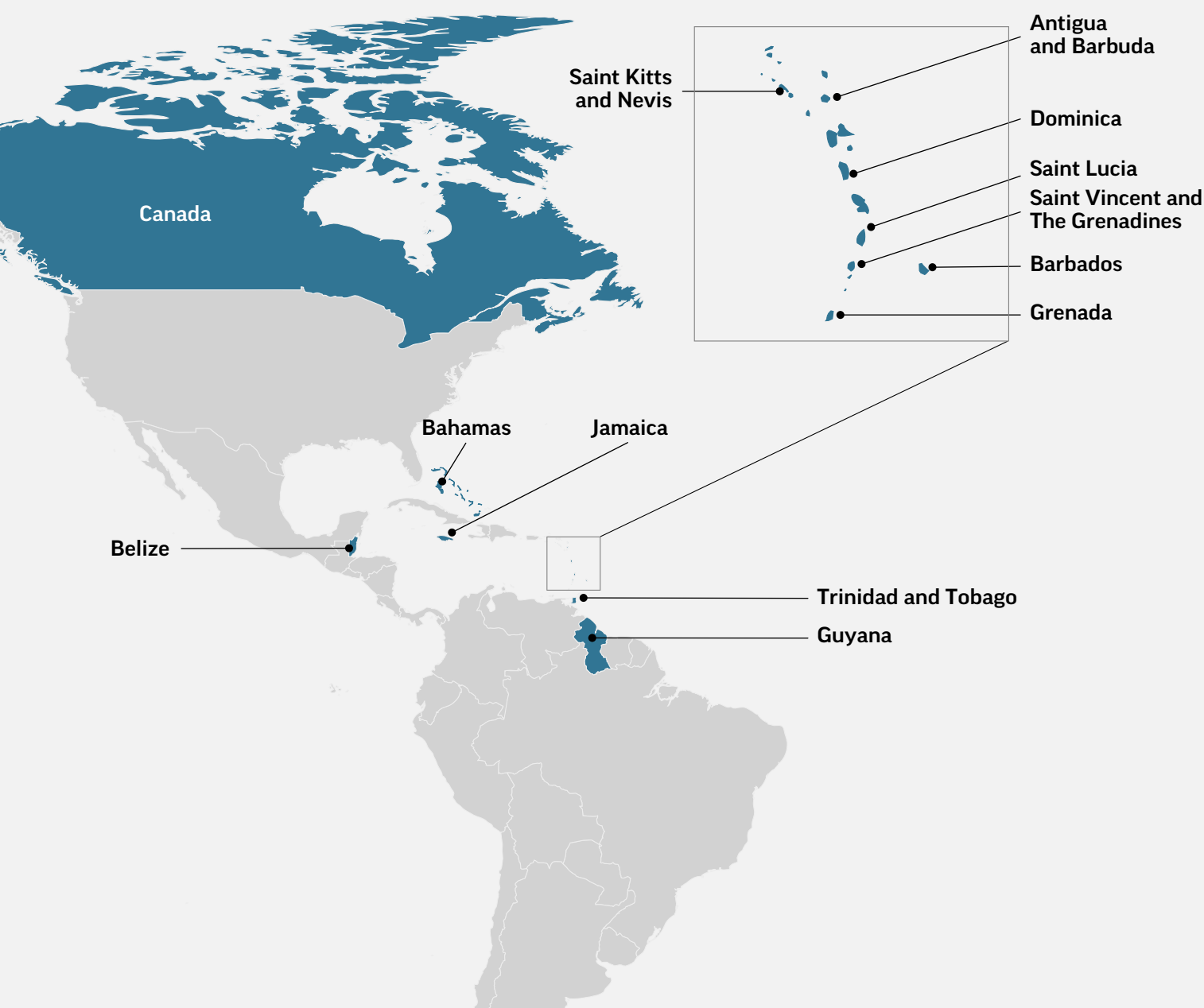
AMERICAS AND THE CARIBBEAN

In the Region

The Americas and Caribbean region comprises 13 Commonwealth States: Antigua and Barbuda, The Bahamas, Barbados, Belize, Canada, Dominica, Grenada, Guyana, Jamaica, Saint Lucia, Saint Kitts and Nevis, Saint Vincent and the Grenadines, and Trinidad and Tobago.

INTERNATIONAL COMMITMENTS

Eleven Commonwealth States in the region have ratified the International Covenant on Civil and Political Rights (ICCPR). At the time of writing, **Saint Lucia** is a signatory but has not ratified, while **Saint Kitts and Nevis** has neither signed nor ratified the ICCPR.



REGIONAL HIGHLIGHTS

- Freedom of expression is constitutionally guaranteed in all Commonwealth countries in the Americas and Caribbean region. While the general frameworks are broadly consistent, specific restrictions vary considerably.
- Only three countries in the region – **Antigua and Barbuda**, **Grenada**, and **Jamaica** – have fully decriminalised defamation.
- **Barbados** and **Jamaica** have repealed sedition laws, while others continue to retain and use them. **Dominica**, **Saint Kitts and Nevis**, and **Trinidad and Tobago** have applied sedition laws to target political speech. **Canada** retains the harshest penalties, with sedition punishable by up to 14 years' imprisonment.
- Blasphemy laws remain on the books in all countries except **Canada**. Although not enforced in **Antigua and Barbuda**, **Barbados**, **Grenada**, and **Saint Vincent and the Grenadines**, their continued existence can still have a chilling effect on expression.
- **Antigua and Barbuda**, **Dominica**, and **Saint Kitts and Nevis** have expansive national security and anti-terrorism laws allowing for significant restrictions on speech and media, with penalties reaching up to 25 years' imprisonment.
- Cybercrime legislation in several countries – including **Antigua and Barbuda**, **Guyana**, and **Saint Vincent and the Grenadines** – contains vague provisions criminalising online speech. **Grenada** has re-criminalised defamation in the context of online communications. While government-induced internet shutdowns are rare, digital technologies present evolving challenges to freedom of expression.
- **Barbados**, **Dominica**, **Grenada**, and **Saint Vincent and the Grenadines** lack any right to information (RTI) legislation. In those countries where RTI laws exist, enforcement remains weak. **Guyana's** framework, in particular, is inadequate and in need of reform. Concerns over the independence of broadcasting authorities persist in **The Bahamas**, **Barbados**, **Guyana**, and **Saint Kitts and Nevis**, although courts in some of the jurisdictions have established safeguards to prevent abuse of discretionary licensing powers.
- Only **Belize**, **Canada**, and **Guyana** in the region are members of the 51-member Media Freedom Coalition, committing to legal reforms and diplomatic advocacy to promote media freedom.



Constitutional guarantees of expression exist across the region, yet each country defines rights and restrictions differently. Photo credit: Pickadook.

CONSTITUTIONAL GUARANTEES VS LEGAL RESTRICTIONS

Freedom of expression is constitutionally guaranteed in all Commonwealth countries in the Americas and Caribbean region. While the general structure of protections is broadly consistent, specific guarantees and permissible limitations vary.

Jamaica is the only country whose constitution includes the right to ‘seek’ information.⁵⁰⁰ **The Bahamas** uses the word ‘impart’,⁵⁰¹ while **Antigua and Barbuda** uses ‘disseminate’.⁵⁰² In **Barbados**,⁵⁰³ **Dominica**,⁵⁰⁴ **Grenada**,⁵⁰⁵ **Guyana**,⁵⁰⁶ **Saint Kitts and Nevis**,⁵⁰⁷ and **Saint Vincent and the Grenadines**⁵⁰⁸ the term ‘communicate’ is used. **Canada**’s constitutional right encompasses freedom of thought, belief, opinion, and expression.⁵⁰⁹ **Guyana**’s

- 500 Government of Jamaica (1962). *Jamaica 1962 (rev. 2015) Constitution (Chapter III)*, s.3(d). https://www.constituteproject.org/constitution/Jamaica_2015 [Accessed: 28 April 2025].
- 501 Government of The Bahamas (1973). *Bahamas (The) 1973 Constitution (Chapter III)*, s.23(1). https://www.constituteproject.org/constitution/Bahamas_1973 [Accessed: 28 April 2025].
- 502 Government of Antigua and Barbuda (1981). *The Antigua and Barbuda Constitution Order (Chapter II)*, s.12. <https://pdba.georgetown.edu/Constitutions/Antigua/antigua-barbuda.html> [Accessed: 28 April 2025].
- 503 Government of Barbados (2002). *The Constitution of Barbados (Chapter II)*, s.20(1). https://www.oas.org/dil/the_constitution_of_barbados.pdf [Accessed: 28 April 2025].
- 504 Government of Dominica (1978). *The Constitution of the Commonwealth of Dominica (Chapter I)*, s.10. <https://pdba.georgetown.edu/Constitutions/Dominica/constitution.pdf> [Accessed: 28 April 2025].
- 505 Government of Grenada (1973). *Constitution of Grenada (Chapter 1)*, s.10. https://www.constituteproject.org/constitution/Grenada_1992 [Accessed: 28 April 2025].
- 506 Government of Guyana (1980). *Constitution of Guyana (Chapter XII)*, s.146. https://www.constituteproject.org/constitution/Guyana_2016 [Accessed: 28 April 2025].
- 507 Government of Saint Christopher and Nevis (1983). *The Constitution of Saint Christopher and Nevis (Chapter II)*, s.12(1). http://www.oas.org/juridico/pdfs/mesicic4_kna_const_stkitts.pdf [Accessed: 28 April 2025].
- 508 Government of Saint Vincent and the Grenadines (1979). *The Constitution of Saint Vincent and the Grenadines 1979 (Chapter I)*, s.10. https://www.constituteproject.org/constitution/St_Vincent_and_the_Grenadines_1979 [Accessed: 28 April 2025].
- 509 Government of Canada (1867). *Canada (rev. 2011), Constitution Act (Part 1)*, s.2. https://www.constituteproject.org/constitution/Canada_2011#s783 [Accessed: 28 April 2025].

constitution explicitly excludes hate speech and incitement to hostility from protection.⁵¹⁰

Press freedom is specifically recognised in the constitutions of **Antigua and Barbuda**,⁵¹¹ **Canada**,⁵¹² and **Trinidad and Tobago**.⁵¹³ In **Trinidad and Tobago**, case law has reinforced the seriousness of press freedom violations,⁵¹⁴ while **Canadian** legislation includes robust protection of journalistic sources.⁵¹⁵

Constitutions in the region address permissible limitations on freedom of expression either through general limitation clauses or specific free speech restrictions. General clauses allow restrictions to protect the rights of others or public interests. **Canada**, for example, permits only “reasonable limits demonstrably justified in a free and democratic society.”⁵¹⁶

Ten countries (all except **Canada**, **Jamaica**, and **Trinidad and Tobago**) also specify restrictions related to defence, public safety, public order, public morality, and public health; protection of reputations and private lives of persons concerned in legal proceedings; protection of confidential information; regulation of communications and public exhibitions; and limitations on public officials to ensure proper performance of their duties. **Guyana**’s constitution uniquely adds restrictions to ensure balanced information dissemination and to prevent racial or ethnic divisions.⁵¹⁷

These specific provisions codify broader justifications for limiting expression compared to those permitted under ICCPR’s Articles 19 and 20. Restrictions also include maintaining judicial authority, which, as the UN Human Rights Committee noted, may include contempt laws; regulation of telecommunications and broadcasting, and even public entertainment, which may have a chilling effect on various forms of expression, and restrictions on public officers.⁵¹⁸

All countries in the region – except **Barbados**, **Belize**, and **Trinidad and Tobago**–require that restrictions be “reasonably justifiable in a democratic society,” emphasising the need for accountability and reinforcing the principle of proportionality.

DEFAMATION

Criminal defamation laws – vestiges of colonial legal systems – continue to limit free expression in much of the region.

Some countries have removed criminal penalties, while others retain them, with varying enforcement and penalties.

Antigua and Barbuda,⁵¹⁹ **Grenada**,⁵²⁰ and **Jamaica**⁵²¹ have fully decriminalised defamation. **Belize** has largely done so,⁵²² though defamatory statements against the monarch remains a misdemeanour under the

- 510 Government of Guyana (1980). *Constitution of Guyana (Chapter XII)*, s.146(3). https://www.constituteproject.org/constitution/Guyana_2016 [Accessed: 28 April 2025].
- 511 Government of Antigua and Barbuda (1981). *The Antigua and Barbuda Constitution Order (Chapter II)*, s.13. <https://pdba.georgetown.edu/Constitutions/Antigua/antigua-barbuda.html> [Accessed: 28 April 2025].
- 512 Government of Canada (1867). *Canada Constitution Act (Part 1)*, s.2(b). https://www.constituteproject.org/constitution/Canada_2011#s783 [Accessed: 28 April 2025].
- 513 Government of Trinidad and Tobago (1976). *The Constitution of the Republic of Trinidad and Tobago (Chapter 1)*, s.4(k). https://www.oas.org/juridico/english/mesicic3_tto_constitution.pdf [Accessed: 28 April 2025].
- 514 *One Caribbean Media Group Ltd v Attorney General of Trinidad and Tobago* [2020] TT 2021 HC 10, [2021] CV2020-01000 para. 48. <https://tt.vlex.com/vid/one-caribbean-media-group-870699342> [Accessed: 28 April 2025].
- 515 International Federation of Journalists (2017). ‘Canada strengthens the protection of journalists’ sources’, 26 October. <https://www.ifj.org/media-centre/news/detail/article/canada-strengthens-the-protection-of-journalists-sources> [Accessed: 28 April 2025].
- 516 Government of Canada (1867). *Canada Constitution Act (Part 1)*, s.1. https://www.constituteproject.org/constitution/Canada_2011#s783 [Accessed: 28 April 2025].
- 517 Government of Guyana (1980). *Constitution of Guyana (Chapter XII)*, s.146(2)(b). https://www.constituteproject.org/constitution/Guyana_2016 [Accessed: 28 April 2025].
- 518 Human Rights Committee (2011). *General Comment No. 34, Article 19: Freedoms of Opinion and Expression*. <https://www.ohchr.org/sites/default/files/english/bodies/hrc/docs/gc34.pdf> [Accessed: 28 April 2025], paras. 39 and 40.
- 519 Government of Dominica (1876). *Libel and Slander Act (Chapter 7:04)*, s.5. <http://www.commonlii.org/ag/legis/act/lasa1876138.pdf> [Accessed: 28 April 2025].
- 520 Government of Grenada (2012). *Criminal Code (Amendment) Act*. <https://grenadaparlament.gd/wp-content/uploads/2021/08/Act-No.-29-of-2012-Criminal-Code-Amendment-Act.pdf> [Accessed: 28 April 2025].
- 521 Government of Jamaica (2013). *The Defamation Act*. https://www.japarlament.gov.jm/attachments/341_The%20Defamation%20Act.%202013.pdf [Accessed: 28 April 2025].
- 522 Government of Belize (2022). *Defamation Act*. <https://www.nationalassembly.gov.bz/wp-content/uploads/2022/02/Final-Defamation-Bill-2022.pdf> [Accessed: 28 April 2025].

Criminal Code.⁵²³ In contrast, **Saint Vincent and the Grenadines** expanded penalties under the 2016 Cybercrimes Act, which imposes fines of up to 500,000 East Caribbean dollars (approximately GBP 140,076) and up to two years' imprisonment for online defamation.⁵²⁴

Elsewhere, criminal defamation laws remain in place: maximum penalties include imprisonment for 12 months in **Barbados**,⁵²⁵ five years in **Canada**,⁵²⁶ three years in **Guyana**,⁵²⁷ and two years in **The Bahamas**,⁵²⁸ **Dominica**,⁵²⁹ **Saint Kitts and Nevis**,⁵³⁰ **Saint Vincent and the Grenadines**,⁵³¹ and **Trinidad and Tobago**.⁵³² Enforcement varies and some courts have introduced safeguards. In **The Bahamas**, prosecutions are rare,⁵³³ and civil suits are more common in **Saint Lucia**.⁵³⁴ In **Guyana**, journalist Nazima Raghubir, President of the Guyana Press Association (GPA), reports no prosecutions of journalists under defamation laws in the past two decades.⁵³⁵

In **Canada**, enforcement is rare, particularly against journalists, even though there have been a few prosecutions, as reported by the

Committee to Protect Journalists (CPJ).⁵³⁶ Although there are consistent calls for abolition,⁵³⁷ **Canadian** courts have upheld criminal defamation as constitutional, provided that intent to defame is proven beyond reasonable doubt.⁵³⁸

In a case from **Trinidad and Tobago**, the UK's Privy Council, which serves as the country's highest court of appeal, upheld criminal defamation but required proof of 'intended harm', while affirming protection for political expression.⁵³⁹ This ruling also binds **Antigua and Barbuda**, **The Bahamas**, **Grenada**, **Jamaica**, **Saint Kitts and Nevis**, and **Saint Vincent and the Grenadines**, which also retain the Privy Council as their final appellate court.

The mere presence of such laws – even unenforced – can be problematic. In **Saint Kitts and Nevis**, criminal defamation laws contribute to self-censorship.⁵⁴⁰ In **Dominica**, the Skerit government routinely threatens lawsuits against members of the media resulting in some self-censorship.⁵⁴¹ In **Jamaica**, despite decriminalisation, heavy fines in civil suits for

defamation stifle press freedom.⁵⁴² In **Antigua and Barbuda**, libel suits from politicians continue to pose risks to journalists.⁵⁴³

BLASPHEMY AND HURTING OR INSULTING RELIGIOUS SENTIMENTS

Blasphemy laws in the region stem from colonial legal traditions. While some countries have repealed or ceased using these laws, others continue to enforce them to criminalise speech considered offensive to religious sensibilities.

Some laws target speech in public places, while in others it is on publication and distribution of materials, or both, with varying penalties. In **Antigua and Barbuda**, blasphemous language in public can result in up to one month's imprisonment.⁵⁴⁴ In **Saint Vincent and The Grenadines**, blasphemous or profane speech in public places is punishable by imprisonment of up to three months⁵⁴⁵ – or five years where aggravating factors exist (e.g. intention to insult religious feelings or refusal to desist).⁵⁴⁶

The Bahamas,⁵⁴⁷ **Grenada**,⁵⁴⁸ and **The Bahamas, Grenada, and Trinidad and Tobago**⁵⁴⁹ criminalise the publication or sale of blasphemous materials (up to two years' imprisonment), while **Guyana** criminalises blasphemous libel (up to one year).⁵⁵⁰ In

Saint Lucia⁵⁵¹ and **Saint Vincent and the Grenadines**,⁵⁵² blasphemy remains a criminal exception under defamation law, carrying up to five years' imprisonment.



Peaceful sit-in protest highlights public resistance to speech laws that still carry prison terms in some countries. Photo credit: Lara Jameson / Pexels.

- 523 Government of Belize (2020). *Criminal Code (Chapter 101), Revised Edition*. <https://bco.gov.bz/download/criminal-code-chapter-101-of-the-laws-of-belize-revised-edition-2020> [Accessed: 28 April 2025].
- 524 Government of Saint Vincent and the Grenadines (2016). *Cybercrime Act (Part II)*, s.19(2). https://assembly.gov.vc/assembly/images/ActsBillsPolicies/SVG_Cybercrime_Act_2016.pdf [Accessed: 28 April 2025].
- 525 Committee to Protect Journalists (2016). *Criminal Defamation Laws in The Caribbean*. <https://cpj.org/reports/2016/03/the-caribbean> [Accessed: 28 April 2025].
- 526 Government of Canada (1985). *Criminal Code (R.S.C., 1985, c. C-46)*, s.298 to 315. <https://laws-lois.justice.gc.ca/eng/acts/c-46> [Accessed: 28 April 2025].
- 527 Government of Guyana (1998). *Criminal Law (Offences) Act (Chapter 8:01)*, s.107 to 114. https://www.oas.org/juridico/spanish/mesicic2_guy_criminal_law_act.pdf [Accessed: 28 April 2025].
- 528 Government of The Bahamas (2017). *Penal Code (Chapter 84)*, ss.315 and 316. <http://laws.bahamas.gov.bs/cms/images/LEGISLATION/PRINCIPAL/1873/1873-0015/1873-0015.pdf> [Accessed: 28 April 2025].
- 529 Government of Dominica (1876). *Libel and Slander Act (Chapter 7:04)*, s.5. <https://www.dominica.gov.dm/laws/chapters/chap7-04.pdf> [Accessed: 28 April 2025].
- 530 Government of Saint Kitts and Nevis (2002). *Libel and Slander Act (Chapter 4:18)*, Revised Edition. https://lawcommission.gov.kn/wp-content/documents/Act02and09TOC/Ch-04_18-Libel-and-Slander-Act.pdf [Accessed: 28 April 2025].
- 531 Government of Saint Vincent and the Grenadines (1989). *Criminal Code (Chapter 171)*, s.274. https://www.oas.org/en/sla/dlc/mesicic/docs/mesicic5_svg_annex8.pdf [Accessed: 28 April 2025]; Government of Saint Vincent and the Grenadines (2016). *Cybercrime Act (Part II)*, s.19(1). https://assembly.gov.vc/assembly/images/ActsBillsPolicies/SVG_Cybercrime_Act_2016.pdf [Accessed: 28 April 2025].
- 532 Government of Trinidad and Tobago (1845). *Libel and Defamation Act (Chapter 11:16)*. <https://agla.gov.tt/downloads/laws/11.16.pdf> [Accessed: 28 April 2025].
- 533 Freedom House (2023). *Freedom in the World 2023: Bahamas*. <https://freedomhouse.org/country/bahamas/freedom-world/2024> [Accessed: 28 April 2025].
- 534 Freedom House (2023). *Freedom in the World 2023: Saint Lucia*. <https://freedomhouse.org/country/st-lucia/freedom-world/2023> [Accessed: 28 April 2025].
- 535 CJA Journalist Questionnaire, Guyana (July 2024).
- 536 Committee to Protect Journalists (2016). *Criminal Defamation Laws in North America*. <https://cpj.org/reports/2016/03/north-america> [Accessed: 28 April 2025].
- 537 Law Reform Commission of Canada (1984). *Defamatory Libel, Working Paper No. 35*. https://publications.gc.ca/collections/collection_2022/jus/j32-1/j32-1-35-1984-eng.pdf [Accessed: 28 April 2025].
- 538 *R v Lucas* [1998] 1 SCR 439 (SCC). <https://decisions.scc-csc.ca/scc-csc/scc-csc/en/item/1606/index.do> [Accessed: 28 April 2025].
- 539 *Ramadhur v Ramadhur* [2020] UKPC 7. <https://www.jcpc.uk/cases/jcpc-2018-0043.html> [Accessed: 28 April 2025].
- 540 Freedom House (2023). *Freedom in the World 2023: Saint Kitts and Nevis*. <https://freedomhouse.org/country/st-kitts-and-nevis/freedom-world/2023> [Accessed: 28 April 2025].
- 541 Freedom House (2023). *Freedom in the World 2023: Dominica*. <https://freedomhouse.org/country/dominica/freedom-world/2024> [Accessed: 28 April 2025].

- 542 Committee to Protect Journalists (2016). *Criminal Defamation Laws in The Caribbean*. <https://cpj.org/reports/2016/03/the-caribbean> [Accessed: 28 April 2025].
- 543 Freedom House (2022). *Freedom in the World 2022: Antigua and Barbuda*. <https://freedomhouse.org/country/antigua-and-barbuda/freedom-world/2022> [Accessed: 28 April 2025].
- 544 Government of Antigua and Barbuda (1892). *The Small Charges Act (Chapter 405)*, s.9. <https://laws.gov.ag/wp-content/uploads/2018/08/cap-405.pdf> [Accessed: 28 April 2025].
- 545 Government of Saint Vincent and the Grenadines (1988). *The Criminal Code (Chapter 171)*, s.289. https://www.oas.org/en/sla/dlc/mesicic/docs/mesicic5_svg_annex8.pdf [Accessed: 28 April 2025].
- 546 Ibid, s.117 and 119.
- 547 Government of The Bahamas (1924). *The Bahamian Penal Code (Chapter 24)*, s.489. <https://laws.bahamas.gov.bs/cms/images/LEGISLATION/PRINCIPAL/1873/1873-0015/1873-0015.pdf> [Accessed: 28 April 2025].
- 548 Ibid, s.322.
- 549 Government of Trinidad and Tobago (1844). *Criminal Offences Act (Chapter 11:01)*, s.5. <https://natlex.ilo.org/dyn/natlex2/natlex2/files/download/105212/TT0105212.pdf> [Accessed: 28 April 2025].
- 550 Government of Guyana (1998). *Criminal Law (Offences) Act (Chapter 8:01)*, s.348. https://www.oas.org/juridico/spanish/mesicic2_guy_criminal_law_act.pdf [Accessed: 28 April 2025].
- 551 Government of Saint Lucia (2005). *Criminal Code (Chapter 3:01), Revised Edition*, ss.318(g) and 326(6). <https://www.govt.lc/media.govt.lc/www/resources/legislation/Criminal%20Code.pdf> [Accessed: 28 April 2025].
- 552 Government of Saint Vincent and the Grenadines (1988). *The Criminal Code (Chapter 171)*, s.279. https://www.oas.org/en/sla/dlc/mesicic/docs/mesicic5_svg_annex8.pdf [Accessed: 28 April 2025].

The Bahamas⁵⁵³ and **Guyana**⁵⁵⁴ allow exemptions for religious opinions expressed decently and in good faith, potentially protecting some forms of satire or commentary.

Some laws now extend beyond traditional notions of blasphemy to include broader offences against religion or hurting religious sentiments. In **Trinidad and Tobago**, vilifying another's religion in a manner likely to provoke a breach of peace may incur a fine of 1000 Trinidad and Tobago dollars (approximately GBP 110).⁵⁵⁵ **Saint Lucia** criminalises disruptive, disrespectful, or violent behaviour in or near places of worship, which is punishable by imprisonment for up to one year.⁵⁵⁶ **Saint Vincent and the Grenadines** prohibits acts that insult or disrupt religious practice – including damaging property or intentionally wounding religious feelings – punishable by up to five years in prison.⁵⁵⁷

There has been progress. **Canada**⁵⁵⁸ and **Jamaica**⁵⁵⁹ have repealed blasphemy laws. Though **Canada's** law was rarely enforced (the last conviction was in 1927), prior to the repeal of the law in 2018, it was occasionally used to

threaten prosecution.⁵⁶⁰ It is noted that other countries might rely on the existence of these laws on **Canadian** statute books to justify the presence of their own actively used laws.⁵⁶¹

In several other countries—**Antigua and Barbuda**,⁵⁶² **Barbados**,⁵⁶³ **Grenada**,⁵⁶⁴ and **Saint Vincent and the Grenadines**⁵⁶⁵—such laws are rarely used to prosecute individuals. In **Belize**, the 2022 Defamation Act⁵⁶⁶ excludes blasphemous content from privileged communication, but since defamation is a tort, there are no criminal penalties.

SEDITION

Sedition laws remain a significant barrier to free expression in the region, often used to suppress political dissent. Only **Barbados**⁵⁶⁷ and **Jamaica**⁵⁶⁸ have repealed laws relating to sedition.

In **Trinidad and Tobago**, despite calls for repeal by the opposition,⁵⁶⁹ the Privy Council upheld the constitutionality of the Sedition Act in 2023. It ruled that the law, because it predated the 1962 Constitution, was saved

- 553 Government of The Bahamas (1924). *The Bahamian Penal Code (Chapter 24)*, ss.321 and 489. <https://laws.bahamas.gov.bs/cms/images/LEGISLATION/PRINCIPAL/1873/1873-0015/1873-0015.pdf> [Accessed: 28 April 2025].
- 554 Government of Guyana (1998). *Criminal Law (Offences) Act (Chapter 8:01)*, s.348. https://www.oas.org/juridico/spanish/mesicic2_guy_criminal_law_act.pdf [Accessed: 28 April 2025].
- 555 Government of Trinidad and Tobago (2000). *Miscellaneous Laws Act*, s.96A. <https://www.ttparliament.org/wp-content/uploads/2022/01/a2000-85.pdf> [Accessed: 28 April 2025].
- 556 Government of Saint Lucia (2005). *Criminal Code (Chapter 3:01)*, ss.566 and 567. <https://www.govt.lc/media.govt.lc/www/resources/legislation/Criminal%20Code.pdf> [Accessed: 28 April 2025].
- 557 Government of Saint Vincent and the Grenadines (1988). *The Criminal Code (Chapter 171)*, s.117 to 119. https://www.oas.org/en/sla/dlc/mesicic/docs/mesicic5_svg_annex8.pdf [Accessed: 28 April 2025].
- 558 Brean, J. (2023). 'Monty Python and the last case of blasphemous libel in Canada', *National Post*, 27 May. <https://nationalpost.com/news/canada/monty-python-life-of-brian-blasphemous-libel> [Accessed: 28 April 2025]; End Blasphemy Laws (2018). 'Canada Repeals "blasphemy" law!', 12 December. <https://end-blasphemy-laws.org/2018/12/canada-repeals-blasphemy-law> [Accessed: 28 April 2025].
- 559 Government of Jamaica (2013). *The Defamation Act*. https://www.japarliament.gov.jm/attachments/341_The%20Defamation%20Act.%202013.pdf [Accessed: 28 April 2025].
- 560 End Blasphemy Laws (2020). *Canada*. <https://end-blasphemy-laws.org/countries/americas/canada/#:::text=Section%20296%20of%20the%20Criminal.term%20not%20exceeding%20two%20years> [Accessed: 28 April 2025].
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- 562 US Department of State (2017). *2017 Report on International Religious Freedom*. <https://www.state.gov/reports/2017-report-on-international-religious-freedom> [Accessed: 28 April 2025].
- 563 Ibid.
- 564 Ibid.
- 565 Fiss, J. and Kestenbaum, G. J. (2017). 'Respecting Rights? Measuring the world's Blasphemy Laws', *US Commission on International Religious Freedom*, July. <https://www.uscirf.gov/sites/default/files/Blasphemy%20Laws%20Report.pdf> [Accessed: 28 April 2025].
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- 567 CIVICUS Monitor (2016). *Barbados: Expression Under Threat*. https://monitor.civicus.org/explore/Barbados_expression [Accessed: 28 April 2025].
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- 569 'Kamla Seeks to Open Debate to Repeal Sedition Act' (2019). *Loop News*, 04 September. <https://tt.loopnews.com/content/kamla-seeks-open-debate-repeal-sedition-act> [Accessed: 28 April 2025].



Outdated sedition provisions still threaten press freedom across the Commonwealth, despite growing calls for repeal. Photo credit: Nicole Glass Photography / Shutterstock.

under a 'savings clause' in Section 6 of the Constitution.⁵⁷⁰ This is a particular legal peculiarity of constitutions from former British colonies – including in Anglophone Caribbean, Africa and other jurisdictions – which insulates certain laws that are inconsistent with international human rights law from being struck down. However, the court added a safeguard – stating that the law implies a requirement to show an 'intention to incite violence or disorder'.⁵⁷¹ The law was invoked in a recent high-profile

case involving a **Canadian** vlogger who was charged with sedition and jailed for posting videos featuring alleged gang members criticising the Caribbean nation's government.⁵⁷²

In a reversal of progress, **Guyana's** 2018 Cybercrime Act reintroduced and expanded sedition provisions – raising penalties from two to five years – despite opposition.⁵⁷³ The law has been used to arrest and silence critics.⁵⁷⁴

- 570 *Attorney General of Trinidad and Tobago v Vijay Maharaj and another* [2023] UKPC 36. <https://www.jcpc.uk/cases/jcpc-2021-0099.html> [Accessed: 28 April 2025].
- 571 Ibid, para. 48.
- 572 'Kamla Seeks to Open Debate to Repeal Sedition Act' (2019). *Loop News*, 04 September. <https://tt.loopnews.com/content/kamla-seeks-open-debate-repeal-sedition-act> [Accessed: 28 April 2025].
- 573 Previously, sedition was narrowly defined under Section 321 of the Criminal Law (Offences) Act, with a maximum punishment of two years' imprisonment. This law superseded the National Security Act which had a much wider ambit of what was considered seditious, and was repealed in 1997. 'Activist Previously Charged with Sedition Says PPP Has No Moral Authority to Speak on Related Clause' (2018). *Kaieteur News*, 04 May. <https://www.kaieteurnews.com/2018/05/04/activist-previously-charged-with-sedition-says-ppp-has-no-moral-authority-to-speak-on-related-clause> [Accessed: 28 April 2025]; Chabrol, D. (2018). 'British colonial sedition law crushed free expression by blacks; has no place in independent media', *Demerara Waves*, 05 May. <https://demerarawaves.com/2018/05/05/british-colonial-sedition-law-crushed-free-expression-by-blacks-has-no-place-in-independent-guyana> [Accessed: 28 April 2025].
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“

The Guyana Press Association is the latest body to call for the removal of the offence of sedition from the Cybercrimes Bill because of the danger it presents to free speech. According to clause 18 of the Bill, persons commit an offence of sedition when they attempt to bring into hatred or excite disaffection towards the government.

Nazima Raghubir, President of the Guyana Press Association⁵⁷⁵

In **The Bahamas**, sedition law allows for pre-censorship of materials deemed contrary to the public interest or national security,⁵⁷⁶ increasing scope for abuse.

Punishments vary significantly: up to 14 years in **Canada**,⁵⁷⁷ five years in **Guyana**,⁵⁷⁸

Saint Vincent and the Grenadines,⁵⁷⁹ **Trinidad and Tobago**,⁵⁸⁰ and **Saint Lucia**,⁵⁸¹ three years in **The Bahamas**⁵⁸² and **Grenada**,⁵⁸³ and two years in **Belize**⁵⁸⁴ and **Saint Kitts and Nevis**.⁵⁸⁵ Milder penalties include up to six months in **Dominica**⁵⁸⁶ and 12 months in **Antigua and Barbuda**.⁵⁸⁷

These laws continue to be applied. In **Saint Vincent and the Grenadines**, activist Kenson King was charged with sedition for expressing his frustration with the political situation and online calls for civil unrest.⁵⁸⁸ In **Trinidad and Tobago**, the opposition leader was arrested following a political speech.⁵⁸⁹ In **Dominica**, opposition members – including former Prime Minister Edison James – have faced incitement charges.⁵⁹⁰

Ambiguity in defining sedition remains problematic. In 1951, **Canada**’s Supreme Court noted the “vagueness” of the offence, in particular that the standard for seditious intention was fundamentally unclear.⁵⁹¹ In

1990, the Court narrowed the definition to incitement to violence, disorder, or unlawful conduct, rejecting historical legal limitations on free speech “where they conflicted with the larger Canadian conception of free speech.”⁵⁹² Notably, there have been no recent sedition prosecutions in **Canada**.

NATIONAL SECURITY

National security laws are a major tool used to restrict free speech across the region.

While intended to maintain public order, counter terrorism, and safeguard state sovereignty, these laws frequently grant excessive powers to the state, curtailing legitimate expression.

Broadly defined offences and severe penalties are key concerns. In **Antigua and Barbuda**, the Prevention of Terrorism Act, 2005 empowers the government to regulate communications and impose penalties of up to 25 years’ imprisonment for supporting vaguely defined terrorism offences.⁵⁹³ Emergency powers further allow the authorities to declare states of emergency, and control media and public discourse.⁵⁹⁴ Similar powers exist in **Saint Kitts and Nevis**.⁵⁹⁵ **Saint Lucia**’s Anti-Terrorism Act also prescribes up to 25 years’ imprisonment for supporting terrorism.⁵⁹⁶ **Dominica**’s Anti-Terrorism Act includes broadly worded offences such as attempting to “compel a government” or “intimidate the public” to

advance a political, ideological, or religious cause.⁵⁹⁷ Opposition parties have been vocally critical of these vague statutes, which risk being used to silence dissent.⁵⁹⁸

Canada provides a better model by defining terrorism in a way that distinguishes it from “ordinary crimes.” However, even its law fails to clearly differentiate between the motives of “political,” “religious,” and “ideological,” raising concerns over the potential breadth of its application.⁵⁹⁹

National security is also frequently cited to restrict public demonstrations and gatherings. In **Trinidad and Tobago**, the government may prohibit political or civil society demonstrations in the interest of national security.⁶⁰⁰ Although exemptions are allowed for religious or sporting events, the provision has the potential to suppress political expression.

In **Belize**, police officers are prohibited from expressing opinions on national security matters unless officially sanctioned. This restriction extends to both traditional and digital platforms, including social media,⁶⁰¹ effectively curbing the right of public servants to raise concerns or challenge abuses.

575 CJA Journalist Questionnaire, Guyana (July 2024).

576 Government of The Bahamas (1924). *The Bahamian Penal Code (Chapter 24)*, s.396. <https://laws.bahamas.gov.bs/cms/images/LEGISLATION/PRINCIPAL/1873/1873-0015/1873-0015.pdf> [Accessed: 28 April 2025].

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578 Government of Guyana (2018). *Cybercrime Act*, s.18. <https://www.parliament.gov.gy/publications/acts-of-parliament/cyber-crime-act-2018> [Accessed: 28 April 2025].

579 Government of Saint Vincent and the Grenadines (1988). *The Criminal Code (Chapter 171)*, ss.52 and 53. https://www.oas.org/en/sla/dlc/mesicic/docs/mesicic5_svg_annex8.pdf [Accessed: 28 April 2025].

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581 “Government of Saint Lucia (2004). *The Criminal Code (Chapter 3.01)*, s.305. <https://www.govt.lc/www/legislation/criminal%20code.pdf> [Accessed: 28 April 2025].”

582 Government of The Bahamas (1924). *The Bahamian Penal Code (Chapter 24)*, ss.395 and 397. <https://laws.bahamas.gov.bs/cms/images/LEGISLATION/PRINCIPAL/1873/1873-0015/1873-0015.pdf> [Accessed: 28 April 2025].

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591 *Boucher v The King* [1951] SCR 265. <https://www.canlii.org/en/ca/scc/doc/1950/1950canlii2/1950canlii2.html> [Accessed: 28 April 2025].

592 *R. v Keegstra* [1990] 3 SCR 697. <https://decisions.scc-csc.ca/scc-csc/scc-csc/en/item/695/index.do> [Accessed: 28 April 2025].

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USE OF TECHNOLOGY AND INTERNET REGULATIONS

There is growing use of technology and internet-related laws in the region to suppress speech.

Initially introduced to address cybercrime and regulate online communication, these laws are increasingly criticised for vague definitions, harsh penalties, and their chilling effect on public discourse. Common trends include the criminalisation of online speech, increased self-censorship, and surveillance.

A key concern is the criminalisation of online speech through cybercrime laws with vague language and disproportionate penalties. In **Antigua and Barbuda**, the Electronic Crimes Act, 2013 penalises sending offensive or threatening messages and transmitting false information or content that causes “annoyance, inconvenience, danger, obstruction, insult, injury, intimidation, enmity, hatred or ill will,” with imprisonment of up to seven years.⁶⁰² In the 2022 case *George Wehner v The Attorney General of Antigua and Barbuda*, Wehner – a political radio host – was charged and arrested under the Act.⁶⁰³ Like other critics of the law, he argued that the provision was overly broad and vague, and infringed on political satire and public discourse.⁶⁰⁴ The court upheld the law, finding the provisions proportionate and constitutional.

In **The Bahamas**, the Electronic Communications and Transactions Act⁶⁰⁵ holds intermediaries liable for criminal

offences linked to user-generated content, including libel, punishable by up to two years’ imprisonment.⁶⁰⁶ While the law is rarely enforced,⁶⁰⁷ such provisions may pressure platforms to over-censor content in order to avoid liability. The 2018 Report of the Special Rapporteur on Freedom of Expression noted that such liability regimes risk over-censorship and infringe on users’ right to free expression.⁶⁰⁸ Additional regulations in **The Bahamas** – such as the Computer Misuse Act, 2003 and Data Protection Act, 2003 – introduce further criminal penalties that may suppress online speech.

Barbados has proposed the Cybercrime Bill, 2024, which imposes even stricter regulations, and penalties of up to 70,000 Barbadian dollars (approximately GBP 26,493) or seven years’ imprisonment for “malicious communications”. Free expression advocates have raised concerns about the bill’s vague language and the risk of self-censorship, especially in the absence of robust safeguards.⁶⁰⁹

In **Saint Vincent and The Grenadines**, the Cybercrime Act, 2016 government expands defamation and harassment offences to include online communications, with penalties of up to 500,000 East Caribbean dollars (approximately GBP 140,075) and two years’ imprisonment. Terms such as “cyber-harassment” and “cyber-bullying” are vaguely defined, leaving space for potential misuse.⁶¹⁰

In **Guyana**, the Cybercrime Act of 2018 criminalises sedition, humiliation, and



Expansive online offences leave Caribbean citizens vulnerable to censorship and punishment.
Photo credit: Eleanor Scriven / Shutterstock.

unauthorised storing and sharing of data relating to national security.⁶¹¹ Efforts are underway to expand the Act to cover social media platforms, which could further suppress online discourse.⁶¹² A recent arrest under this law involved political activist Kadackie Amsterdam, who was charged after a caller on his programme allegedly suggested beheading senior officials.⁶¹³ Proposed amendments would extend the Act’s reach to social media platforms, raising further concerns.

Belize’s Cybercrime Act, 2020 criminalises defamation and statements that cause ridicule, contempt, or embarrassment, with penalties of up to 15,000 Belize dollars (approximately GBP 5,609) or 10 years’ imprisonment.⁶¹⁴ In **Jamaica**, the Cybercrimes Act, 2015 imposes up to 20 years’ imprisonment for repeat offences involving malicious communications.⁶¹⁵ In December 2023, the Joint Select Committee proposed

expanding the law to include new offences such as cyber defamation, spamming and social engineering.⁶¹⁶

In other countries, while penalties are lighter, the underlying provisions remain vague and open to abuse:

- **Grenada’s** Electronic Crimes Act, 2013 reintroduced criminal defamation and penalises “offensive” communications with up to one year in prison. It also allows warrantless arrests and uses vague and subjective terms such as “grossly offensive” and “annoyance,” making it open to broad interpretation.⁶¹⁷
- **Saint Kitts and Nevis’** Electronic Crimes Act, 2017 penalises obscene or threatening messages with fines up to 10,000 East Caribbean dollars (approximately GBP 2,801) and imprisonment of up to 12 months.⁶¹⁸

602 Government of Antigua and Barbuda (2013). *Electronic Crimes Act*, s.4. <https://laws.gov.ag/wp-content/uploads/2019/02/a2013-14.pdf> [Accessed: 28 April 2025].

603 *George Wehner v The Attorney General of Antigua And Barbuda et. al* [2022] ECSC ANUHCv 2017/0612. <https://www.eccourts.org/judgment/george-wehner-v-the-attorney-general-of-antigua-and-barbuda-et-al#> [Accessed: 28 April 2025].

604 Ibid, para. 33.

605 Government of The Bahamas (2003). *Electronic Communications and Transactions Act*, s.20. https://bfsb-bahamas.com/legislation/ecom-trans_act.pdf [Accessed: 28 April 2025].

606 Government of The Bahamas (2017). *Penal Code (Chapter 84)*, s.315. <https://laws.bahamas.gov.bs/cms/images/LEGISLATION/PRINCIPAL/1873/1873-0015/1873-0015.pdf> [Accessed: 28 April 2025].

607 U.S Department of State (2023). *The Bahamas*. <https://www.state.gov/reports/2023-country-reports-on-human-rights-practices/thebahamas> [Accessed: 28 April 2025].

608 UN Human Rights Council, *Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression* (6 April 2018). UN Doc A/HRC/38/35. <https://docs.un.org/en/A/HRC/38/35> [Accessed: 28 April 2025].

609 ‘Cybercrime Bill in focus’ (2024). *Barbados Today*, 15 May. <https://barbadostoday.bb/2024/05/15/cybercrime-bill-in-focus> [Accessed: 28 April 2025].

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614 Government of Belize (2020). *Cybercrime Act (Chapter 106:01)*, s.15. https://www.agm.gov.bz/uploads/laws/63976d192f056_CAP_106.01_Cybercrime_Act.pdf [Accessed: 28 April 2025].

615 Government of Jamaica (2015). *The Cybercrimes Act*. https://www.japarliament.gov.jm/attachments/339_The%20Cybercrimes%20Acts.%202015.pdf [Accessed: 28 April 2025].

616 Linton, L. (2023). ‘New Offences Recommended for Cybercrimes Act’, *Jamaica Information Service*, 11 December. <https://jis.gov.jm/new-offences-recommended-for-inclusion-in-cybercrimes-act> [Accessed: 28 April 2025].

617 ‘Grenada Electronic Defamation Bill Now Law’ (2018). *International Press Institute*, 28 January. <https://ipi.media/grenada-electronic-defamation-bill-now-law-despite-government-promise> [Accessed: 28 April 2025].

618 Government of Saint Kitts and Nevis (2017). *Electronic Crimes Act*, s.13. https://lawcommission.gov.kn/wp-content/documents/Act17TOC/Ch-04_41-Electronic-Crimes-Act.pdf [Accessed: 28 April 2025].

- **Saint Lucia's** Computer Misuse Act, 2009 penalises indecent, obscene, threatening, or menacing communications with up to three months' imprisonment (or six months for repeat offences) and fines ranging from 10,000–20,000 East Caribbean dollars (approximately GBP 2,801–5,603).⁶¹⁹

An emerging concern is the regulation of social media platforms and intermediaries:

- In **The Bahamas**, the Electronic Communications and Transactions Act introduces provisions that hold intermediaries accountable for content published on their platforms,⁶²⁰ a form of indirect regulation of online speech.
- In **Trinidad and Tobago**, the government established a Social Media Monitoring Unit to track content related to child pornography, prostitution, and trafficking. Though its stated goal is to target serious crimes, its existence raises surveillance concerns, and the potential misuse of surveillance to monitor political dissent online.⁶²¹
- In a positive development, Justice Frank Seepersad of the **Trinidad and Tobago** Supreme Court in 2021 ruled that journalist source confidentiality and press freedom are constitutionally protected and compensable if violated.⁶²²
- **Canada's** Proposed Online Harms Act, 2024, will require social media platforms to moderate harmful content, including hate speech. While it

addresses legitimate harms, concerns remain about how broadly these obligations will be interpreted.⁶²³

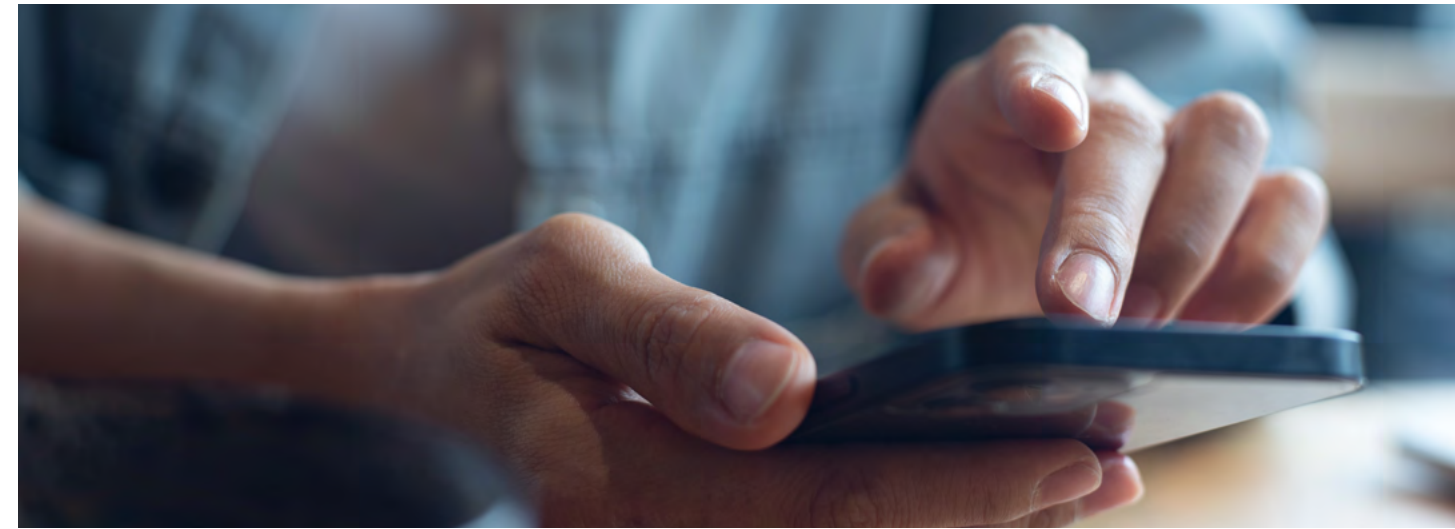
Encouragingly, there is an absence of recorded instances of government-imposed internet shutdowns in the Caribbean.

Overall, cybercrime and digital laws in the region reveal a complex picture: while intended to address legitimate concerns, their broadly defined terms and vague language, as well as harsh penalties create risks for free speech, especially online. Nonetheless, the absence of internet shutdowns offers a glimmer of hope for digital rights.

RIGHT TO INFORMATION

The legal landscape on the right to information (RTI) across the region is uneven. While some countries lack RTI laws altogether, others struggle with weak frameworks or ineffective implementation. The Escazú Agreement – a regional treaty on access to information, public participation, and justice in environmental matters – sets standards for transparency and freedom of information legislation, but several Commonwealth countries in the region are yet to join.⁶²⁴ **The Bahamas, Barbados, and Trinidad and Tobago** have not signed the agreement, and **Jamaica** has signed but not ratified it.

Only three countries in the region – **Barbados, Dominica, and Grenada** – lack RTI laws. Although **Saint Vincent and the Grenadines** enacted legislation in 2003, it has never



Mobile access grows, but weak Right to Information laws keep citizens in the dark. Photo credit: TippaPatt / Shutterstock.

been brought into force.⁶²⁵ Draft bills were introduced in **Barbados**⁶²⁶ and **Grenada**,⁶²⁷ but not enacted.

Even where laws exist, challenges persist in ensuring their implementation. Journalists and activists often struggle to use RTI laws effectively due to lack of awareness, bureaucratic hurdles, and unresponsive authorities.⁶²⁸

“Across the region, we are seeing limited use [of RTI laws], even [in countries] where it exists, we are hearing frustration with how it works as well as we are hearing journalist saying it's just not working.

Senior Journalist, The Americas and the Caribbean region⁶²⁹

Where [RTI] laws do exist, the Media Institute of the Caribbean obtained survey data that reveals:

- 86% of users reported getting no response to RTI requests,
- 49% said there was no clear explanation for denial
- 56% of those surveyed labelled the law a “waste of time”.⁶³⁰

Lack of political will and institutional support further hampers access. In **Antigua and Barbuda**, the recently enacted Freedom of Information Act, 2004 remains dormant due to the absence of an Information Commissioner since 2021.⁶³¹ **The Bahamas'** Freedom of Information Act suffers from budgetary shortfalls, hampering the processing of requests.⁶³² Commenting on

619 Government of Saint Lucia (2021). *Revised laws of Saint Lucia*, s.15. <https://attorneygeneralchambers.com/laws-of-saint-lucia/computer-misuse-act/section-15> [Accessed: 28 April 2025]; Council of Europe (n.d.). *Saint Lucia – Octopus Cybercrime Community*. https://www.coe.int/en/web/octopus/country-wiki/-/asset_publisher/wM2oCWukY7tM/content/saint-luc-1 [Accessed: 28 April 2025].

620 Government of The Bahamas (2003). *Electronic Communications and Transactions Act*, s.20. <https://bfsb-bahamas.com/legislation/ecom-trans-act.pdf> [Accessed: 28 April 2025].

621 Freedom House (2023). *Freedom in the World 2023: Trinidad and Tobago*. <https://freedomhouse.org/country/trinidad-and-tobago/freedom-world/2023> [Accessed: 28 April 2025].

622 Committee to Protect Journalists (2021). *Trinidad and Tobago High Court Rules Police Raid on Newspaper Violated Constitutional Right of Press Freedom*. <https://cpj.org/2021/02/trinidad-and-tobago-high-court-rules-police-raid-on-newspaper-violated-constitutional-right-of-press-freedom> [Accessed: 28 April 2025].

623 Siddiqui, F. (2024). 'Bill C-63: The Online Harms Act', Norton Rose Fulbright, 12 March. <https://www.nortonrosefulbright.com/en/knowledge/publications/307d02f8/bill-c-63-the-online-harms-act> [Accessed: 28 April 2025].

624 Regional Agreement on Access to Information, Public Participation, and Justice in Environmental Matters in Latin and the Caribbean (adopted 4 March 2018, entered into force 22 April 2021). https://treaties.un.org/pages/viewdetails.aspx?src=treaty&mtidsg_no=xxvii-18&chapter=27&clang=en [Accessed: 28 April 2025].

625 Freedom House (2023). *Freedom in the World 2023: Saint Vincent and the Grenadines*. <https://freedomhouse.org/country/st-vincent-and-grenadines/freedom-world/2023> [Accessed: 28 April 2025].

626 Government of Barbados (2018). *Draft of Freedom of Information Act*. <https://www.oas.org/es/sap/dgpe/acceso/docs/Barbados2008.PDF> [Accessed: 28 April 2025].

627 'Grenada Yet to Enact Freedom of Information Legislation' (2017). *Grenada Now*, 29 December. <https://nowgrenada.com/2017/12/grenada-yet-to-enact-freedom-of-information-act-legislation> [Accessed: 28 April 2025].

628 Media Institute of the Caribbean (2024). *Review of Legislative Framework of Freedom of Information and Access to Information Legislation in the English Speaking Caribbean*. https://static1.squarespace.com/static/5dc9534f03129631666a717f/t/66328cacd6b1202fd32bde6e/1714588860905/Final+Report+FOT_ATI+Project.pdf [Accessed: 28 April 2025].

629 'Guyana Has Least Effective Access to Information Laws' (2024). *Kaieteur News*, 03 May. <https://www.kaieteurnewsonline.com/2024/05/03/guyana-has-least-effective-access-to-information-laws-in-the-region-caribbean-media-institute> [Accessed: 28 April 2025].

630 Media Institute of the Caribbean (2024). *Review of Legislative Framework of Freedom of Information and Access to Information Legislation in the English Speaking Caribbean*. https://static1.squarespace.com/static/5dc9534f03129631666a717f/t/66328cacd6b1202fd32bde6e/1714588860905/Final+Report+FOT_ATI+Project.pdf [Accessed: 28 April 2025].

631 Emmanuel, A. R. (2024). 'Attorney Urges Strengthening of Freedom of Information Act', *Antigua Observer*, 17 September. <https://antiguaobserver.com/attorney-urges-strengthening-of-freedom-of-information-act> [Accessed: 28 April 2025].

632 McKenzie, N. (2024). 'ORG "Sorely Disappointed" in Freedom of Information Unit Funding', *EyeWitness News*, 04 June. <https://ewnews.com/org-sorely-disappointed-in-freedom-of-information-unit-funding> [Accessed: 28 April 2025].



Global communication technologies expand access, but political interference in licensing continues to threaten independent media in several Commonwealth countries. Photo credit: Metamorworks.

the 2024–2025 budget, the Organisation for Responsible Governance (ORG) noted: “This amount is insufficient for necessary technology, training within the government, and public education... The draft budget lacks designated funding for an Ombudsman office and maintains insufficient funding for the Public Disclosure Commission... These mechanisms are vital for transparency, accountability, and effectiveness in government decision-making and spending.”⁶³³

Another challenge lies in broad exemptions or discretion granted to public bodies:

- In **Guyana**, the President has broad discretionary power to exempt public agencies.⁶³⁴

- **The Bahamas** permits discretionary public body exemptions without applying objective criteria.⁶³⁵
- **Antigua and Barbuda**’s Freedom of Information Act lists numerous exempt public agencies.⁶³⁶
- In **Saint Vincent and the Grenadines** any document can be declared exempt, even without falling into one of the statutory exemption categories.⁶³⁷
- Under **Jamaican** law If a Minister issues a Certificate of Exemption for a document, that decision cannot be appealed or reversed, as the certificate is deemed conclusive by law.⁶³⁸
- Similar discretionary exemptions exist in **Belize**⁶³⁹ and **Trinidad and Tobago**.⁶⁴⁰

633 Ibid.
 634 Government of Guyana (2011). *Access to Information Act (Part I)*, s.4(1)(c). https://www.oas.org/es/sla/ddi/docs/acceso_informacion_base_dc_leyes_pais_GY_2.pdf [Accessed: 28 April 2025].
 635 Government of The Bahamas (2017). *Freedom of Information Act*, s.3(6)(c). https://natlex.ilo.org/dyn/natlex2/r/natlex/fe/details?p3_isn=104826 [Accessed: 28 April 2025].
 636 Government of Antigua and Barbuda (2004). *The Freedom of Information Act*. <https://laws.gov.ag/wp-content/uploads/2018/08/a2004-19.pdf> [Accessed: 28 April 2025].
 637 Government of Saint Vincent and the Grenadines (2003). *Freedom of Information Act*, s.36. https://observatoriop10.cepal.org/sites/default/files/documents/vc_-_freedom_of_information_act_2003.pdf [Accessed: 28 April 2025].
 638 Government of Jamaica (2002). *The Access to Information Act*, s.23. <https://www.pioj.gov.jm/wp-content/uploads/2019/07/Access-to-Information-Act.pdf> [Accessed: 28 April 2025].
 639 Government of Belize (2011). *Freedom of Information Act (Chapter 13)*, s.22(2). <https://ombudsman.gov.bz/wp-content/uploads/2017/02/Freedom-of-Information-Act.pdf> [Accessed: 28 April 2025].
 640 Government of Trinidad and Tobago (1999). *Freedom of Information Act (Chapter 22:02)*, s.25(3). <https://www.finance.gov.tt/wp-content/uploads/2019/07/The-Freedom-of-Information-Act.pdf> [Accessed: 28 April 2025].

A modest safeguard exists in **Saint Kitts and Nevis**, where a public interest override may mitigate excessive secrecy.⁶⁴¹ **Guyana** also includes a limited override for some categories, but the Information Commissioner still has broad discretion to refuse RTI requests due to “resource constraints.”⁶⁴²

Guyana’s Access to Information Act, 2011 is widely seen as the least effective in the region. The Media Institute of the Caribbean has called for its full repeal and replacement.⁶⁴³ A senior journalist remarked: “Because the Information Commissioner is the be-all and end-all, there is no internal appeal. Any appeal has to go to the High Court.”⁶⁴⁴

INTERFERENCE IN THE INDEPENDENT FUNCTIONING OF THE MEDIA

While several countries in the region demonstrate respect for press freedom, serious concerns remain regarding the issuance of licences, political interference, and broader suppression of independent media.

The lack of independence of broadcasting authorities is a persistent issue. UNESCO has called for greater transparency and independence in broadcast licensing authorities and processes in **The Bahamas**,⁶⁴⁵ **Barbados**,⁶⁴⁶ **Guyana**,⁶⁴⁷ and **Saint Kitts and Nevis**.⁶⁴⁸

Cases from Guyana and Trinidad and Tobago demonstrate how judicial oversight can be a safeguard against arbitrary licensing practices and the misuse of discretionary powers.

Nonetheless, courts have established some safeguards against the misuse of discretionary powers related to media licensing. In **Guyana**, for example, the Guyana National Broadcasting Authority (GNBA) – whose board is appointed by the President – has faced accusations of partisanship in both regulation and licensing decisions.⁶⁴⁹ The perceived pro-government bias of state-owned media such as the *Guyana Chronicle*, and the lack of transparency in licence issuance, undermine media independence.⁶⁵⁰ Although a constitutional challenge to the law conferring discretionary powers was unsuccessful, subsequent legal challenges to how those powers were exercised have been successful.⁶⁵¹ Similarly, in **Trinidad and Tobago**, the Privy Council found that the government’s refusal to grant a radio broadcasting licence constituted a breach of the rights to equality and freedom of expression.⁶⁵² These cases demonstrate how judicial oversight can be a safeguard against arbitrary licensing practices and the misuse of discretionary powers.

641 Government of Saint Kitts and Nevis (2018). *Freedom of Information Act*, s.23. https://www.oas.org/es/sla/dlc/mesicic/docs/mesicic5_skn_freedominfoact_annex4.pdf [Accessed: 28 April 2025].
 642 Ibid, ss.38 and 25.
 643 Media Institute of the Caribbean (2024). *Review of Legislative Framework of Freedom of Information and Access to Information Legislation in the English Speaking Caribbean*. <https://static1.squarespace.com/static/5dc9534f03129631666a717f/t/66328cacd6b1202fd32bde6e/1714588860905/Final+Report+FOI+ATI+Project.pdf> [Accessed: 28 April 2025].
 644 ‘Guyana Has Least Effective Access to Information Laws’ (2024). *Kaieteur News*, 03 May. <https://www.kaieteurnews.com/2024/05/03/guyana-has-least-effective-access-to-information-laws-in-the-region-caribbean-media-institute> [Accessed: 28 April 2025].
 645 UN Human Rights Council, *Compilation of information prepared by the Office of the United Nations High Commissioner for Human Rights for The Bahamas* (13 February 2023). UN Doc A/HRC/WG.6/43/BHS/2. https://upr-info.org/sites/default/files/country-document/2023-04/UN_Compilation_43_BA_E.pdf [Accessed: 28 April 2025], para. 17.
 646 UN Human Rights Council, *Compilation of information prepared by the Office of the United Nations High Commissioner for Human Rights for Barbados* (13 February 2023). UN Doc A/HRC/WG.6/43/BRB/2. https://upr-info.org/sites/default/files/country-document/2023-04/UN_Compilation_43_BB_E.pdf [Accessed: 28 April 2025], para. 21.
 647 UN Human Rights Committee, *Concluding observations on the third periodic report of Guyana* (03 May 2024). UN Doc CCPR/C/GUY/CO/3. <https://documents.un.org/doc/undoc/gen/g24/056/49/pdf/g2405649.pdf> [Accessed: 28 April 2025], para. 30.
 648 UN Human Rights Council, *Compilation of information prepared by the Office of the United Nations High Commissioner for Human Rights for Saint Kitts and Nevis* (29 October 2020). UN Doc A/HRC/WG.6/37/KNA/2. https://upr-info.org/sites/default/files/documents/2021-02/a_hrc_wg_6_37_kna_2_e.pdf [Accessed: 28 April 2025], para. 12.
 649 UN Human Rights Committee, *Concluding observations on the third periodic report of Guyana* (03 May 2024). UN Doc CCPR/C/GUY/CO/3. <https://documents.un.org/doc/undoc/gen/g24/056/49/pdf/g2405649.pdf> [Accessed: 28 April 2025], para. 42.
 650 Freedom House (2023). *Freedom in the World 2023: Guyana*. <https://freedomhouse.org/country/guyana/freedom-world/2023> [Accessed: 28 April 2025].
 651 Earlier, in a case challenging exercise of powers, the Court held that the State’s reasons for refusing to grant a radio broadcast licence could not justify a breach of the appellant’s right to freedom of expression. *Central Broadcasting Services Ltd v Attorney General of Trinidad and Tobago* [2009] UKPC 10 1 AC 1221 (PC). <https://www.bailii.org/uk/cases/UKPC/2009/10.html> [Accessed: 28 April 2025].
 652 Ibid.



Government influence over advertising revenue continues to shape media narratives in the region. Photo credit: Joe007 (Elad)

Media pluralism in the region is also threatened by concentrated ownership, restricted access to and censorship by state-run media, and bias in the allocation of government advertising revenue. In **Grenada**, press freedom advocates have denounced censorship at the partly state-owned **Grenada Broadcasting Network**.⁶⁵³ In **Saint Kitts and Nevis**, the government owns the only local television station, with opposition groups reportedly restricted from accessing it.⁶⁵⁴ Similar concerns have been raised in **Saint Vincent and the Grenadines**,⁶⁵⁵ and in

Dominica,⁶⁵⁶ where opposition parties have been denied access to state-owned media, resulting in unbalanced political coverage. In 2022, the Caribbean Court of Justice (CCJ) heard a case alleging the opposition's exclusion from state media in **Dominica**, including the national radio station.⁶⁵⁷

In **Antigua and Barbuda**, American election observers noted the need to “de-politicise the media landscape” and ensure equitable access to all media.⁶⁵⁸ Prime Minister Gaston Browne notoriously labelled the *Observer* – a frequent

653 Freedom House (2024). *Freedom in the World 2024: Grenada*. <https://freedomhouse.org/country/grenada/freedom-world/2024> [Accessed: 28 April 2025].
654 Freedom House (2024). *Freedom in the World 2024: Dominica* <https://freedomhouse.org/country/dominica/freedom-world/2024> [Accessed: 28 April 2025].
655 Ibid.
656 Ibid.
657 Ibid.
658 U.S. Department of State (2023). *2023 Country Reports on Human Rights Practices: Antigua and Barbuda*. <https://www.state.gov/reports/2023-country-reports-on-human-rights-practices/antigua-and-barbuda> [Accessed: 28 April 2025].

government critic – as “fake news” and a national threat.⁶⁵⁹
Trinidad and Tobago has also faced criticism for using state advertising to reward media outlets that support the government, exerting indirect control through financial means.⁶⁶⁰

“
[In Guyana], State ads are not placed on news agencies that are branded as anti-government.. these ads, as well as payment for coverage, are given to media houses with a pro-government agenda, and to social media commentators and influencers. These ads can include notices, ads for services, contracts, etc., and are placed by government ministries, state-owned companies, and semi-autonomous agencies.

Nazima Raghubir, President of the Guyana Press Association⁶⁶¹

HARASSMENT AND INTIMIDATION OF JOURNALISTS

Harassment and threats – both online and offline – remain a serious concern in several countries in the region, affecting media independence and safety.

In **Belize**, although the media generally covers a range of viewpoints, journalists have reported incidents of threats, harassment, and even assault.⁶⁶² In **Guyana**, journalists – particularly women⁶⁶³ – have been subjected to cyberattacks and online abuse.⁶⁶⁴ Guyanese

journalist Nazima Raghubir has noted: “The police have been unresponsive in following up reports or charging anyone... Safeguards must be taken either personally by the journalist, their media house, or, if requested, the Guyanese Press Association tries to assist.”⁶⁶⁵

In **Canada**, public hostility toward journalists has increased. Brent Jolly, President of the Canadian Association of Journalists, notes that the public “are fed reams of mis- and disinformation”, which has resulted in “considerable antipathy towards the press”.

“
The rise in online hate and harassment directed towards journalists is a considerable concern. We have noticed a considerable increase in harassment and threats directed towards women and journalists of colour over the past years. Unfortunately, even after completing all the requisite paperwork, journalists, in my experience, seldom hear back from law enforcement with updates on their cases...I have heard from many journalists, particularly those early in their careers, about how incidents of harassment change their perception of their roles in society and many have decided to leave the industry as a result.

Brent Jolly, President, Canadian Association of Journalists”.⁶⁶⁶

He notes that harassment and threats directed towards women and journalists of colour has seen a particular rise over the past five years, yet “even after completing all the requisite paperwork journalists, in my experience, seldom hear back from law enforcement with any further updates on their cases.”⁶⁶⁷ He goes on to note: “The

659 Freedom House (2023). *Freedom in the World 2023: Antigua and Barbuda*. <https://freedomhouse.org/country/antigua-and-barbuda/freedom-world/2023> [Accessed: 28 April 2025].
660 Freedom House (2024). *Freedom in the World 2024: Trinidad and Tobago*. <https://freedomhouse.org/country/trinidad-and-tobago/freedom-world/2024> [Accessed: 28 April 2025].
661 CJA Journalist Questionnaire, Guyana (July 2024).
662 Freedom House (2024). *Freedom in the World 2024: Belize*. <https://freedomhouse.org/country/belize/freedom-world/2024> [Accessed: 28 April 2025].
663 ‘Guyana Press Association seeks international help to address cyber attacks on journalists’ (2024). *News Source Guyana*, 14 April. <https://newssourcegy.com/news/guyana-press-association-seeks-international-help-to-address-cyber-attacks-on-journalists> [Accessed: 28 April 2025].
664 UN Human Rights Committee, *Concluding observations on the third periodic report of Guyana* (03 May 2024). UN Doc CCPR/C/GUY/CO/3. <https://documents.un.org/doc/undoc/gen/g24/056/49/pdf/g2405649.pdf> [Accessed: 28 April 2025], para.42.
665 CJA Journalist Questionnaire, Guyana (July 2024).
666 CJA Journalist Questionnaire, Canada (July 2024).
667 Ibid.



Without accountability for harassment, media independence remains at risk across the Commonwealth. Photo credit: Zef Art / Shutterstock.

fact that violations are permitted without significant punishment creates a chilling effect and deters some journalists from reporting on sensitive public interest stories. I have also heard from many journalists, particularly those early in their careers, about how incidents of harassment change their perception of their roles in society and many have decided to leave the industry as a result.”

In June 2024, **Jamaican** investigative journalist Giovanni Dennis, who aired a report on illegal drag racing on TVJ,⁶⁶⁸ was subjected to online abuse and threats. The matter was reported to the police, but no action was taken. The attacks appeared to be from individuals who believed the report led authorities to shut

down the racing. The Press Association of Jamaica, Media Association of Jamaica, the Parliamentary Opposition, and the Government condemned the attacks.⁶⁶⁹

“
The online space has become the site of attacks on journalists who do work people disapprove of. These attacks are generally launched by anonymous accounts.
Journalist, Jamaica⁶⁷⁰

668 YouTube (2024). *Fast & Furious Jamaica: Illegal Drag Racing*. <https://www.youtube.com/watch?v=Wbtznz-3dV88> [Accessed: 28 April 2025].
669 CJA Journalist Questionnaire, Jamaica (July 2024).
670 CJA Journalist Questionnaire, Jamaica (July 2024).

POSITIVE DEVELOPMENTS
AND ONGOING CHALLENGES

In many states, press freedom is generally respected, though there remains room for improvement.

In Jamaica, media outlets operate freely and express diverse views.⁶⁷¹ Courts have upheld press freedom, including in a case where the Prime Minister’s injunction to block rebroadcast of a programme was successfully challenged.⁶⁷²

“
[Though,] the media is very free from state interference... Most media houses are almost all privately owned... with that... comes internal pressures not to report negatively on issues involving media owners or board members. However, because we have two national newspapers, two major TV stations, and multiple radio stations – all under separate ownership – an issue ignored by one media house can be picked up by another.
Journalist, Jamaica⁶⁷³

In **Saint Kitts and Nevis**, press freedom is largely respected, and radio coverage is relatively pluralistic. However, the state’s ownership of the only local TV station continues to raise access concerns.⁶⁷⁴

In **The Bahamas**, press freedom is generally upheld, and privately owned media express a range of viewpoints, though partisanship remains a concern.⁶⁷⁵

In **Trinidad and Tobago**, media independence is broadly respected, although there have been recent reports of journalists being denied access to a Prime Ministerial press briefing.⁶⁷⁶

In **Grenada**, politicians have filed lawsuits against the media, hampering critical reporting.⁶⁷⁷

In **Canada**, while press freedom is widely respected, journalists covering sensitive topics such as Indigenous protests have at times been obstructed, detained, or charged.⁶⁷⁸ While not indicative of widespread repression, these incidents highlight persistent challenges, even in environments that are generally supportive of press freedom.



Public spaces for expression exist—but many still face hostility and intimidation for using their voice. Photo credit: Malcolm Garret.

671 Freedom House (2024). *Freedom in the World 2024: Jamaica*. <https://freedomhouse.org/country/jamaica/freedom-world/2024> [Accessed: 28 April 2025].
672 ‘Victory for press freedom – Attorneys praise ruling overturning injunction’ (2016). *Jamaica Gleaner*, 04 August. <https://jamaica-gleaner.com/article/lead-stories/20160804/victory-press-freedom-attorneys-praise-ruling-overturning-injunction> [Accessed: 28 April 2025].
673 CJA Journalist Questionnaire, Jamaica (July 2024).
674 Freedom House (2024). *Freedom in the World 2024: Saint Kitts and Nevis*. <https://freedomhouse.org/country/st-kitts-and-nevis/freedom-world/2024> [Accessed: 28 April 2025].
675 Freedom House (2024). *Freedom in the World 2024: The Bahamas*. <https://freedomhouse.org/country/bahamas/freedom-world/2024> [Accessed: 28 April 2025].
676 Reporters without Borders (n.d.). *Trinidad and Tobago*. <https://rsf.org/en/country/trinidad-and-tobago> [Accessed: 28 April 2025].
677 Freedom House (2024). *Freedom in the World 2024: Grenada*. <https://freedomhouse.org/country/grenada/freedom-world/2024> [Accessed: 28 April 2025]; Worme & Another v Commissioner of Police of Grenada [2004] UKPC 8, 2 WLR 1044. <https://www.5rb.com/case/worme-another-v-commissioner-of-police-of-grenada> [Accessed: 28 April 2025]; Government of Grenada (1987). *Criminal Code*, s.252(2). https://www.oas.org/juridico/spanish/mesicic2_grd_criminal_code.PDF [Accessed: 28 April 2025]; ‘Grenada Today was eventually liquidated as a result of this case’ (2009). *Reporters Without Borders*, 28 October. <https://rsf.org/en/grenada-today-be-liquidated-result-former-prime-ministers-libel-suit> [Accessed: 28 April 2025].
678 Craig, S. (2024). ‘In Canada, a pattern of police intimidation of journalists is emerging’, *Al Jazeera*, 15 June. <https://www.aljazeera.com/opinions/2024/6/15/in-canada-a-pattern-of-police-intimidation-of-journalists-is-emerging> [Accessed: 28 April 2025]; CIVICUS Monitor (2023). *Canada: Indigenous defenders and journalists arrested in raid on protest camp*. <https://monitor.civicus.org/explore/canada-indigenous-defenders-and-journalists-arrested-raid-protest-camp2> [Accessed: 28 April 2025].

RECOMMENDATIONS FOR THE AMERICAS AND THE CARIBBEAN

Member States in the region are urged to:

1. STRENGTHEN LEGAL FRAMEWORKS AND THEIR IMPLEMENTATION

- **Saint Kitts and Nevis** should sign and ratify the ICCPR, and **Saint Lucia** should ratify it.
- Align national laws governing freedom of expression and the media with international human rights standards, ensuring an enabling environment for independent journalism.
- Decriminalise defamation in **Canada, The Bahamas, Barbados, Dominica, Guyana, Saint Kitts and Nevis, Saint Vincent and the Grenadines**, and **Trinidad and Tobago**.
- Amend cybercrime laws in **Antigua and Barbuda, Guyana**, and **Saint Vincent and the Grenadines** to remove vague provisions and prevent the criminalisation of legitimate online expression.
- Repeal or amend laws relating to sedition used to stifle political dissent in **Antigua and Barbuda, The Bahamas, Belize, Canada, Dominica, Grenada, Guyana, Saint Lucia, Saint Kitts and Nevis, Saint Vincent and the Grenadines**, and **Trinidad and Tobago**.
- Repeal existing blasphemy laws in **Antigua and Barbuda, The Bahamas, Barbados, Belize, Grenada, Guyana, Saint Lucia, Saint Kitts and Nevis, Saint Vincent and the Grenadines**, and **Trinidad and Tobago**.

- Improve the implementation of right to information (RTI) laws in those countries where such laws exist but remain underused or inactive. Ensure public interest override clauses are included in the legislation. Ensure adequate resourcing of supporting mechanisms, and functional oversight bodies (e.g. appoint information commissioners).
- Urge ratification and implementation of the Escazú Agreement by all Commonwealth states in the region.

2. PROMOTE JUDICIAL INDEPENDENCE, DUE PROCESS GUARANTEES, AND ACCESS TO JUSTICE FOR DEFENDANTS

- Strengthen judicial independence to prevent the misuse of laws that restrict freedom of expression and media freedom.
- Ensure the right to a fair trial for all, and guarantee effective remedies when this right is violated. Legal aid should be made available to promote equal access to justice.
- Empower courts to oversee misuse of discretionary powers, including the government control over broadcast licenses, as illustrated in **Guyana** and **Trinidad and Tobago**.

3. ENSURE MEDIA PLURALISM AND PROTECT DIGITAL RIGHTS

- Reform broadcast licensing authorities to ensure transparency, independence, and impartiality. Governments should not use licensing mechanisms to suppress dissenting voices.
- Prevent the misuse of cybercrime laws to suppress online speech in **Antigua and Barbuda, Guyana**, and **Saint Vincent and the Grenadines**. Definitions of offences such as “cyber-harassment” or “malicious communications” must be clear and narrowly defined.
- Reform regulations on the right to free expression online, including reforms to intermediary liability frameworks – particularly in **The Bahamas** – to protect platforms from being compelled to over-censor.

4. PROTECT JOURNALISTS AND FOSTER A VIBRANT CIVIL SOCIETY

- Adopt and apply guidelines for the protection of journalists put forward by UNESCO, other UN bodies, and the High Level Panel of Legal Experts on Media Freedom, and ensure prompt, independent and effective investigations into attacks against media workers.
- Work cooperatively with civil society organisations to reform media laws to safeguard the freedom of the press, and to ensure robust regulatory frameworks and mechanisms.
- **Trinidad and Tobago** should refrain from arbitrarily prohibiting public demonstrations, particularly those organised by civil society, under the pretext of national security.

5. ESTABLISH AND STRENGTHEN ACCOUNTABILITY MECHANISMS

- Join and implement obligations under regional agreements like the Americas Convention on Human Rights (ACHR), and the Escazú Agreement. Also, participate under the mechanisms of the Organisation of American States (OAS) to strengthen media freedom in the region.
- Cooperate with the Universal Periodic Review and other UN human rights mechanisms.
- Join the Media Freedom Coalition, committing to legal reforms and diplomatic advocacy to promote media freedom.
- Promote and strengthen collaboration with media organisations in other countries and regions – particularly within the Commonwealth – through exchanges, joint projects, and research initiatives that will support media in the Americas and the Caribbean to address shared challenges.

 SPOTLIGHT

BLASPHEMY LAWS IN THE COMMONWEALTH AND THE NEED FOR REFORM

Blasphemy laws, which criminalise acts deemed offensive to religious sensibilities, have long been a contentious issue in several Commonwealth countries. These laws, often remnants of colonial legal frameworks, present significant challenges when tested against international human rights standards. A 2023 report by The High Level Panel of Legal Experts on Media Freedom,⁶⁷⁹ *'On Religious Freedom and Discontent: Report on International Standards and Blasphemy Laws'*,⁶⁸⁰ explores the use and existing impact of blasphemy laws on media freedoms and urges their repeal or reform in line with human rights norms.

TESTING BLASPHEMY LAWS AGAINST INTERNATIONAL STANDARDS

When tested against international legal frameworks, such as the International Covenant on Civil and Political Rights (ICCPR), blasphemy laws often violate core human rights, including freedom of speech, of religion and belief, and the right to a fair trial. An exception applies when blasphemy laws

are narrowly tailored to address “advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence” as set out in Article 20(2) of the ICCPR, as per guidance of the UN Human Rights Committee.⁶⁸¹ Reports by UN Special Procedures, as well as the UN-approved Rabat Plan of Action and Beirut Declaration on the Faith for Rights Framework, have also clarified that laws prohibiting criticism of religious leaders or institutions are inconsistent with international human rights obligations.

THE IMPACT OF BLASPHEMY LAWS ON FREE EXPRESSION

There are numerous cases where blasphemy laws have been misused to suppress dissent, and silence minority groups and independent reporting. Accusations of blasphemy have led to extrajudicial killings, lengthy prison sentences, and have even led to executions. According to reports, 70% of Asian countries prohibit blasphemy⁶⁸² and 46% of all Commonwealth States have laws

prohibiting blasphemy including in Pakistan, Nigeria, and Bangladesh.⁶⁸³ These laws are frequently vague and overly broad, allowing for arbitrary enforcement. Such practices not only breach the principles of legality and proportionality required under international law, but also perpetuate a culture of fear and self-censorship, limiting reportage and opinion that implicates religious ideas.

COLONIAL LEGACY AND THE COMMONWEALTH'S ROLE

In many Commonwealth countries, blasphemy laws are a legacy of colonial rule, originally designed to maintain public order in religiously diverse colonies with dominant religion/s. Colonial provisions relating to blasphemy have often been augmented by newer (and sometimes more stringent) prohibitions in some States and are often implemented by governments in contexts where extreme religiosity is prevalent.⁶⁸⁴ The persistence of these laws today highlights the failure of legal reforms to break fully from colonial-era policies that prioritise religious conformity over individual freedoms.

GOOD PRACTICE BY COMMONWEALTH STATES TO ADDRESS THE HARMS OF BLASPHEMY LAWS

Some Commonwealth countries have made significant strides toward repealing or reforming blasphemy laws. The United Kingdom abolished its blasphemy law in 2008, with Malta, Canada and New Zealand following in 2016, 2018 and 2019, respectively. These States recognised

that blasphemy laws are outdated and incompatible with human rights standards, including on free expression.

These examples of good practice provide valuable lessons for other Commonwealth countries. By aligning domestic laws with international standards, these countries have demonstrated that it is possible to safeguard public order without infringing on individual rights.

The adoption of the *Commonwealth Principles on Freedom of Expression and the Role of the Media in Good Governance* at the 2024 Commonwealth summit meeting, commits Member States to uphold freedom of expression, and provides a framework through which the Commonwealth can advocate for the repeal and reform of blasphemy laws that are incompatible with international human rights standards, including those which remain on the books but have fallen into misuse. Harmful effects of blasphemy laws can also be mitigated by protecting free expression and journalistic freedom, and ensuring fair trial and due process standards are upheld. Member States should exchange good practices, engage with civil society, enhance public education and training for media and religious actors, and request support for necessary repeal and reform from relevant experts, including the High Level Panel, and others.⁶⁸⁵

679 The High Level Panel of Legal Experts on Media Freedom is an independent body of 15 leading experts in the field of international law with a remit to provide legal advice and recommendations to the 51 state members of the Media Freedom Coalition. Currently there are 12 Commonwealth States that are members of the Media Freedom Coalition.

680 Nundy, K., Member of the High Level Panel of Legal Experts on Media Freedom (2023). *On Religious Freedom and Discontent: Report on International Standards and Blasphemy Laws*. May. <https://mediafreedomcoalition.org/wp-content/uploads/2023/05/HLP-Blasphemy-Laws-report-2023.pdf> [Accessed: 17 October 2024].

681 UN Human Rights Committee, *General Comment No. 34: Article 19 – Freedoms of opinion and expression* (12 September 2011). UN Doc CCPR/C/GC/34. <https://www2.ohchr.org/english/bodies/hrc/docs/gc34.pdf> [Accessed: 17 October 2024].

682 Nundy, K., Member of the High Level Panel of Legal Experts on Media Freedom (2023). *On Religious Freedom and Discontent: Report on International Standards and Blasphemy Laws*. May. <https://mediafreedomcoalition.org/wp-content/uploads/2023/05/HLP-Blasphemy-Laws-report-2023.pdf> [Accessed: 17 October 2024].

683 Villa, V. (2022). 'Four-in-Ten Countries and Territories Worldwide Had Blasphemy Laws in 2019.' *Pew Research Center*, 25 January. <https://www.pewresearch.org/short-reads/2022/01/25/four-in-ten-countries-and-territories-worldwide-had-blasphemy-laws-in-2019-2> [Accessed: 17 October 2024].

684 For example, in 2023, Pakistan took steps to expand its blasphemy laws by introducing legislation that increased penalties for the use of derogatory remarks against Muslim individuals. Guramani, N. (2023). 'Senate passes bill to ramp up punishment for blasphemy to at least 10 years.' *Dawn*, 08 August. <https://www.dawn.com/news/1769073> [Accessed: 17 October 2024]; Human Rights Commission of Pakistan (2023). 'Amendments to blasphemy laws create further room for persecution.' 17 January. <https://hrqp-web.org/hrqpweb/amendments-to-blasphemy-laws-create-further-room-for-persecution> [Accessed: 17 October 2024].

685 The High Level Panel of Legal Experts on Media Freedom provides legal opinions to States, including Media Freedom Coalition members, on legislation – either at their request or of their own volition.

ASIA

In the Region

The Asia region comprises 8 Commonwealth countries: Bangladesh, Brunei Darussalam, India, Malaysia, Maldives, Pakistan, Singapore, and Sri Lanka.

INTERNATIONAL COMMITMENTS

Five Commonwealth States in the region have ratified the International Covenant on Civil and Political Rights (ICCPR). **Brunei, Malaysia, and Singapore** have neither signed nor ratified this core international human rights treaty.⁶⁸⁶



REGIONAL HIGHLIGHTS

- Freedom of expression is constitutionally guaranteed in all Asian Commonwealth States except **Brunei**. However, the right is not absolute and is subject to broad and often vague restrictions.
- Defamation laws, both civil and criminal, are commonly used to silence dissent. Only the **Maldives** and **Sri Lanka** have decriminalised defamation.
- Blasphemy are used to suppress journalists, bloggers, and activists in **Brunei, Pakistan, and the Maldives**. Other countries – **Bangladesh, India, Malaysia, and Singapore** – use laws prohibiting the “hurting of religious sentiments” to achieve similar aims.
- Even in States that have attempted to ‘decolonise’ their penal codes, sedition laws remain tools to suppress political opposition, notably in **Brunei, India, Pakistan, and Malaysia**.
- Counter-terrorism laws are frequently misused to curb free expression. In **India** (via the Unlawful Activities Prevention Act) and **Sri Lanka** (via the Prevention of Terrorism Act), broadly defined provisions are routinely weaponised against activists, journalists, and critics.
- Internet shutdowns are often deployed to suppress dissent. **India and Bangladesh** are among the top five countries globally for the most frequent internet blackouts.
- Legal frameworks across the region are frequently misused to restrict freedom of expression. Nevertheless, the judiciary in many jurisdictions has played a crucial role in protecting journalists and activists facing threats to their rights.
- **Bangladesh, India, Pakistan, and Sri Lanka** contend with deep political and corporate pressures that undermine journalistic independence. Threats, harassment, surveillance, and censorship are widespread – particularly in **India and Pakistan**, where state and corporate influence over the media is pervasive. Governments exert control through ownership structures, regulatory pressure, and in some cases, targeted violence and impunity.
- Right to Information (RTI) laws have been enacted in five of the eight countries: **Bangladesh, India, Maldives, Pakistan, and Sri Lanka** – though implementation and effectiveness vary. **Malaysia** is moving toward federal legislation, while **Brunei** and **Singapore** lack any dedicated RTI frameworks, limiting public access to government-held information.
- The **Maldives** is the only Asian Commonwealth country that is a member of the Media Freedom Coalition, reflecting its commitment to legal reform, international advocacy, and diplomatic and financial support for media freedom.

686 United Nations Human Rights Treaty Bodies (2024). Ratification status by country or treaty. https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/treaty.aspx [Accessed: 28 April 2025].

CONSTITUTIONAL GUARANTEES
VS LEGAL RESTRICTIONS

Freedom of expression is enshrined in the constitutions of all Asian Commonwealth countries except **Brunei**, but these guarantees are subject to broad restrictions, typically in the interests of national security, public order, and morality. These vague and expansive limitations create legal uncertainty and facilitate selective or arbitrary application by courts and authorities. For instance, courts may uphold restrictions on so-called “false news” under the guise of protecting public order – an interpretation that allows problematic laws to avoid being declared unconstitutional.⁶⁸⁷ This expansive reading undermines the principle of legal certainty and enables censorship.

With the exception of **Sri Lanka**, all Asian Commonwealth constitutions explicitly permit restrictions on freedom of expression in relation to state sovereignty and national security. Although **Sri Lanka**’s Constitution does not explicitly refer to national security, public order, or morality as grounds for limiting free speech, it allows for restrictions “in the interest of racial and religious harmony.”⁶⁸⁸ In practice, emergency laws such as the Public Security Ordinance of 1959 and the Prevention of Terrorism Act of 1979 override constitutional protections, including freedom of expression.

Notably, **Pakistan** is the only country in the region to have removed defamation from the list of constitutional grounds for restricting speech through a 1975 amendment.⁶⁸⁹

Despite this, defamation remains both a civil and criminal offence under **Pakistani** law. In contrast, the constitutions of all other States in this region, including **Sri Lanka** – which decriminalised defamation in 2002 – continue to allow it as a constitutional restriction.

Additionally, the constitutions of **Malaysia**, **Maldives** and **Pakistan** include explicit restrictions on speech in the interest of Islam, further narrowing the scope of permissible expression.

In **India**, despite a strong constitutional mandate protecting free speech, there is no explicit legal protection for journalistic expression or the confidentiality of sources.⁶⁹⁰ Article 19(1)(a) of the Constitution guarantees freedom of speech, but it is subject to numerous restrictions under Article 19(2), including for the sovereignty and integrity of **India**, state security, foreign relations, public order, morality, contempt of court, defamation, and incitement to an offence.⁶⁹¹

By contrast, **Brunei** is an absolute monarchy where the Sultan exercises executive authority, and there are no national level elections.⁶⁹² The **Brunei** Constitution does not explicitly guarantee freedom of expression. Press and assembly freedoms are severely curtailed through various laws, including the Penal Code and the Sedition Act.⁶⁹³ While the Constitution recognises Islam as the official religion, it allows for the peaceful practice of other faiths under strict conditions.⁶⁹⁴

DEFAMATION

In South and Southeast Asia, defamation remains both a civil and criminal offence across most jurisdictions.

Criminal defamation is particularly widespread. In six of the eight countries – **Bangladesh**, **Brunei**, **India**, **Pakistan**, **Malaysia**, and **Singapore** – colonial-era Penal Codes criminalise defamation, with penalties ranging from two and five years’ imprisonment. Only the **Maldives** and **Sri Lanka** have decriminalised defamation, in 2002⁶⁹⁵ and 2016⁶⁹⁶ respectively.

● ●
In practice, both criminal and civil defamation laws are frequently used to silence critics, journalists, and activists, creating a stark gap between constitutional guarantees and the lived reality of free expression.

In **India**, where the Constitution guarantees free speech, political leaders frequently file criminal defamation cases against journalists, activists, and opposition figures.

A notable case occurred in 2023, when Indian opposition leader Rahul Gandhi was convicted of criminal defamation and sentenced to two years’ imprisonment for referring to thieves with the surname “Modi”. As a result, he was disqualified from Parliament. The Supreme Court of **India** later suspended the conviction, allowing him

to appeal.⁶⁹⁷ Despite calls by civil society to decriminalise defamation, in 2016, the Supreme Court upheld the constitutionality of the law, stating, “A person’s right to freedom of speech has to be balanced with the other person’s right to reputation.”⁶⁹⁸

The constitutionality of criminal defamation has been challenged elsewhere in the region. In **Singapore** Terry Xu, editor of the Online Citizen, was sentenced to three weeks in jail for criminal defamation after publishing an article alleging corruption at the “highest echelons” of the government.⁶⁹⁹ His defence argued that criminal defamation was unconstitutional and violated the right to free expression. The Online Citizen was later taken offline in September 2021 after its licence was suspended for failing to comply with funding disclosure requirements.⁷⁰⁰

Criminal defamation continues to be used to deter investigative reporting. On 9 February 2024, the Committee to Protect Journalists (CPJ) urged **Malaysian** authorities to reverse the two-year prison sentence handed in absentia to British journalist Clare Rewcastle-Brown. Known for exposing the 1MDB corruption scandal involving Malaysian officials, she was convicted of defaming the Malaysian royal Sultanah Nur Zahirah in her book “*The Sarawak Report – The Inside Story of the 1MDB Expose*”. CPJ described the sentence as an attack on press freedom, warning it would discourage journalists from reporting on corruption in **Malaysia**. Rewcastle-Brown was not notified of the trial and is appealing the verdict. Interpol extradition requests by Malaysian authorities were previously denied.⁷⁰¹

687 A relevant case highlighting this issue is *The Online Citizen Pte Ltd v Attorney-General*, from the Singapore Court of Appeals, where such expansive interpretations of permissible limitations were contested. *The Online Citizen Pte Ltd v Attorney-General* [2021] SGCA 96. https://www.elitigation.sg/gd/s/2021_SGCA_96 [Accessed: 28 April 2025].

688 Article 15(2) states that free speech is “subject to such restrictions as may be prescribed by law in the interests of racial and religious harmony or in relation to parliamentary privilege, contempt of court, defamation or incitement to an offence.” Government of Sri Lanka (2023). *The Constitution of the Democratic Socialist Republic of Sri Lanka*, art.15(2). <https://parliament.lk/files/pdf/constitution.pdf> [Accessed: 28 April 2025].

689 Government of Pakistan (2018). *Constitution of the Islamic Republic of Pakistan*, art.19. https://www.constituteproject.org/constitution/Pakistan_2018.pdf?lang=en [Accessed: 28 April 2025]; Clooney Foundation for Justice (2023). Pakistan: PECA Report, September 2023. https://cfj.org/wp-content/uploads/2023/09/Pakistan_PECA-Report_September-2023.pdf [Accessed: 28 April 2025].

690 CJA Journalist Questionnaire, India (July 2024).

691 Government of India (1950). *Constitution of India*, art.19(2). <https://indiankanoon.org/doc/1218090> [Accessed: 28 April 2025].

692 Freedom House (2020). *Freedom in the World 2020: Brunei*. <https://freedomhouse.org/country/brunei/freedom-world/2020> [Accessed: 28 April 2025].

693 Ibid.

694 Government of Brunei (2006). *Constitution of Brunei Darussalam*, art.3(1). https://www.constituteproject.org/constitution/Brunei_2006 [Accessed: 28 April 2025].

695 Sri Lanka abolished criminal defamation through the Penal Code (Amendment) Act, No. 12 of 2002. Government of Sri Lanka (2002). *Penal Code (Amendment) Act, No. 12*. https://www.vertic.org/media/National%20Legislation/Sri%20Lanka/LK_Penal_Code_Amend_Act_No_12_2002.pdf [Accessed: 28 April 2025].

696 Government of the Maldives (2023). *President’s statement on the occasion of the 59th anniversary of the establishment of diplomatic relations between the Maldives and Japan*. <https://presidency.gov.mv/Press/Article/19826> [Accessed: 28 April 2025].

697 ‘Rahul Gandhi: India Supreme Court suspends opposition leader’s conviction’ (2023). BBC News, 04 August. <https://www.bbc.com/news/world-asia-india-66404405> [Accessed: 28 April 2025].

698 *Subramanian Swamy v Union of India* [2016] (SC). <https://indiankanoon.org/doc/80997184> [Accessed: 28 April 2025]; Human Rights Watch (2016). ‘Stifling Dissent: The Criminalisation of Peaceful Expression in India’, 24 May. <https://www.hrw.org/report/2016/05/25/stifling-dissent/criminalization-peaceful-expression-india> [Accessed: 28 April 2025].

699 Thomson Reuters Foundation (2023). *Weaponizing Law: Attacks on Media Freedom*, April. <https://www.trust.org/documents/weaponizing-law-attacks-media-freedom-report-2023.pdf> [Accessed: 28 April 2025].

700 ‘Online Citizen editor, writer charged with criminal defamation’ (2021). *Channel News Asia*, 12 November. <https://www.channelnewsasia.com/singapore/online-citizen-toc-terry-xu-editor-writer-criminal-defamation-2308961> [Accessed: 28 April 2025]; Thomson Reuters Foundation (2023). *Weaponizing Law: Attacks on Media Freedom*, April. <https://www.trust.org/documents/weaponizing-law-attacks-media-freedom-report-2023.pdf> [Accessed: 28 April 2025].

701 Committee to Protect Journalists (2024). ‘Malaysia hands 2-year prison sentence to UK journalist Clare Rewcastle Brown’, 09 February. <https://cpj.org/2024/02/malaysia-hands-2-year-prison-sentence-to-uk-journalist-clare-rewcastle-brown> [Accessed: 28 April 2025].



Women are active in demanding free political speech in South Asia. Photo credit: Pixabay.

Malaysia's 2012 amendment to the 1950 Evidence Act holds websites owners, editors and even owners of devices liable for third-party content. This expands liability for defamation and has a chilling effect on online expression.⁷⁰²

In **Pakistan**, the Prevention of Electronic Crimes Act, 2016 (PECA) introduced a new offence of “cyber defamation” under section 20, which penalises actions that harm the dignity or reputation of a natural person.⁷⁰³ In fact, section 20 of PECA imposes a greater penalty for the offence of defamation than under the **Pakistan** Penal Code (three years versus two years imprisonment under the Penal code).⁷⁰⁴ This provision has been

frequently used against journalists, civil society actors, and critics.⁷⁰⁵

While criminal penalties can significantly impact freedom of expression, civil defamation lawsuits can be equally chilling, especially when courts award excessive damages, even in cases brought against political leaders. This contradicts international human rights standards, including the UN Human Rights Committee's General Comment 34.⁷⁰⁶ In **Singapore**, for example, blogger Leong Sze Hian was ordered to pay 133,000 Singaporean Dollars (approx. GBP 77,810) to Prime Minister Lee Hsien Loong for sharing a Facebook post deemed defamatory.⁷⁰⁷

Most recently in 2024, the Punjab Government in **Pakistan** passed the Punjab Defamation Act,⁷⁰⁸ introducing a civil remedy for defamation, Media and human rights organisations criticised the law for being rushed through without proper consultation, creating parallel judicial structures, putting the burden of proof on defendants (rather than plaintiffs), and granting privileged status to constitutional officeholders – undermining the principle of equality before the law.⁷⁰⁹

In many countries across the region, defamation laws are also weaponised against women who publicly accuse influential men of sexual misconduct. A high-profile case involved Indian journalist Priya Ramani, who was sued for criminal defamation by former Union Minister M.J. Akbar after she accused him of sexual harassment. While Ramani was ultimately acquitted in 2021,⁷¹⁰ her case highlighted the use of defamation suits to intimidate women who speak out, forcing them to go through lengthy legal battles. Another high-profile defamation case related to the #MeToo movement in **Pakistan** involved singer Meesha Shafi and actor-singer Ali Zafar. In 2018, Meesha Shafi accused Ali Zafar of sexual harassment. In response, she and eight other women were charged with criminal defamation.⁷¹¹

BLASPHEMY AND HURTING OR INSULTING RELIGIOUS SENTIMENTS

Laws criminalising blasphemy, or speech ‘hurting or insulting religious sentiments’ exist in all Asian commonwealth countries.

In **Brunei**,⁷¹² **Maldives**,⁷¹³ and **Pakistan**,⁷¹⁴ blasphemy laws are quite strict and vary in their enforcement and penalties. Punishments range from maximum imprisonment of one year (in the **Maldives**) to the death penalty (in **Pakistan**). **Pakistan's** blasphemy laws – rooted in colonial-era penal provisions – carry punishments ranging from 10 years in prison to capital punishment.⁷¹⁵ While no executions have been carried out,⁷¹⁶ dozens of people remained on death row as of late 2021.⁷¹⁷

In 2013, **Brunei** introduced a new Penal Code that imposes the death penalty for certain blasphemy offences, along with broader restrictions on religious freedom, including prohibitions on propagating any religion other than Islam.⁷¹⁸ The code came into effect in 2019, though a moratorium on the death penalty was adopted the same year.⁷¹⁹

The **Maldives** has witnessed several high-profile arrests of human rights activists on blasphemy charges. In 2019, Mohamed Rusthum Mujuthaba was arrested, reportedly tortured, and held in solitary confinement, with no lawyer willing to represent him.⁷²⁰ In

702 Freedom House (2023). *Freedom in the World 2023: Malaysia*. <https://freedomhouse.org/country/malaysia/freedom-world/2023> [Accessed: 28 April 2025]; Freedom House (2015). *Freedom in the World 2015: Annual Report*. <https://www.refworld.org/reference/annualreport/freehou/2015/en/104929> [Accessed: 28 April 2025]; International Commission of Jurists (2023). *Malaysia: Universal Periodic Review Submission*. <https://www.icy.org/wp-content/uploads/2023/07/ICJ-MALAYSIA-UPR-SUBMISSION-AS-LODGED-18-JULY-2023.pdf> [Accessed: 28 April 2025]; Tan, D. (2021). ‘The aftermath of the Malaysiakini decision’, Malay Mail, 16 March. <https://www.malaymail.com/news/what-you-think/2021/03/16/the-aftermath-of-the-malaysiakini-decision-daron-tan/1958251> [Accessed: 28 April 2025].

703 Section 20 of PECA criminalises the transmission of false information that harms someone’s reputation or privacy, using vague terms such as ‘intimidates’ and ‘information’. Government of Pakistan (2016). *Prevention of Electronic Crimes Act (PECA)*, s.20. <https://pakistancode.gov.pk/pdffiles/administrator6a061efe0ed5bd153fa8b79b8eb4cba7.pdf> [Accessed: 28 April 2025].

704 Section 500 provides for punishment for defamation of the Pakistan Penal Code; “Whoever defames another shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both”. s 20 of PECA States”, shall be punished with imprisonment for a term which may extend to three years or with fine which may extend to one million rupees or with both”. Government of Pakistan (1860). *Pakistan Penal Code*, ss.20 and 500. <https://www.fmu.gov.pk/docs/laws/Pakistan%20Penal%20Code.pdf> [Accessed: 28 April 2025].

705 Clooney Foundation for Justice (2023). *Section 20 of Pakistan’s Prevention of Electronic Crimes Act: Urgent Reforms Needed*. https://cfj.org/wp-content/uploads/2023/09/Pakistan_PECA-Report_September-2023.pdf [Accessed: 28 April 2025].

706 Human Rights Committee, *General Comment No. 34, Article 19: Freedoms of opinion and expression* (12 September 2011), UN Doc CCPR/C/GC/34. <https://www.ohchr.org/en/documents/general-comments-and-recommendations/general-comment-no34-article-19-freedoms-opinion-and> [Accessed: 28 April 2025].

707 International Commission of Jurists (2023). *Singapore: Civil defamation ruling against blogger Leong Sze Hian further shrinks the space for freedom of expression online*. <https://www.icy.org/singapore-civil-defamation-ruling-against-blogger-leong-sze-hian-further-shrinks-the-space-for-freedom-of-expression-online> [Accessed: 28 April 2025].

708 Library of Congress (2024). ‘Pakistan: Controversial Punjab Defamation Act Signed into Law’, *Global Legal Monitor*, 25 June. <https://www.loc.gov/item/global-legal-monitor/2024-06-25/pakistan-controversial-punjab-defamation-act-signed-into-law> [Accessed: 28 April 2025].

709 Human Rights Commission of Pakistan (2024). ‘HRCP’s national roundtable calls for repeal of Punjab Defamation Act amid fears of national firewall and greater censorship’, 28 June. <https://hrcp-web.org/hrcpweb/hrcps-national-roundtable-calls-for-repeal-of-punjab-defamation-act-amid-fears-of-national-firewall-and-greater-censorship> [Accessed: 28 April 2025].

710 ‘MJ Akbar: India ex-minister loses #MeToo defamation case to Priya Ramani’ (2021). *BBC News*, 03 February. <https://www.bbc.com/news/world-asia-india-56006498> [Accessed: 28 April 2025].

711 Adil, H. (2021). ‘Pakistan activists hail court move to pursue Ali Zafar case’, *Al Jazeera*, 15 January. <https://www.aljazeera.com/news/2021/1/15/pakistan-activists-hail-court-move-to-pursue-ali-zafar-case> [Accessed: 28 April 2025].

712 Government of Brunei Darussalam (2013). *Syariah Penal Code*, s.213. https://www.agc.gov.bn/agc%20images/laws/gazette_Pdf/2013/en/syariah%20penal%20code%20order2013.pdf [Accessed: 28 April 2025].

713 Government of Maldives (2014). *Penal Code*, s.617. <https://www.law.upenn.edu/live/files/4203-maldives-penal-code-2014> [Accessed: 28 April 2025].

714 Government of Pakistan (1860). *Pakistan Penal Code*, ss.295-B and 295-C. <https://www.fmu.gov.pk/docs/laws/Pakistan%20Penal%20Code.pdf> [Accessed: 28 April 2025].

715 U.S. Department of State (2023). *2023 Report on International Religious Freedom: Pakistan*. <https://www.state.gov/reports/2023-report-on-international-religious-freedom/pakistan> [Accessed: 28 April 2025].

716 Ibid.

717 Human Rights Watch (2023). *World Report 2023: Events of 2022 – Pakistan*. <https://www.hrw.org/world-report/2023/country-chapters/pakistan#79bf71> [Accessed: 28 April 2025].

718 Human Rights Watch (2019). ‘Brunei’s Pernicious New Penal Code’, 22 May. <https://www.hrw.org/news/2019/05/22/bruneis-pernicious-new-penal-code> [Accessed: 28 April 2025].

719 House of Commons Library (2022). ‘Use of blasphemy laws and allegations in Commonwealth countries’, 03 October. <https://researchbriefings.files.parliament.uk/documents/CDP-2022-0160/CDP-2022-0160.pdf> [Accessed: 28 April 2025].

720 Amnesty International (2022). ‘Maldivian Activist Faces Jail for Blasphemy’, 06 June. <https://www.amnesty.org/en/wp-content/uploads/2023/01/ASA2956782022ENGLISH.pdf> [Accessed: 28 April 2025].



Laws targeting speech deemed offensive to religion put activists at risk, with arrests, torture, and solitary confinement used to enforce compliance. Photo credit: Kindel Media.

2018, activist Aishath Velezinee was arrested for allegedly disrupting religious unity and later released for medical reasons, though her case remains unresolved.⁷²¹

Even in countries without explicit blasphemy statutes – such as **Bangladesh**⁷²² and **Malaysia** – similar outcomes are achieved through the criminalisation of speech that offends or insults religious feelings. For example, on 17 January 2024, Malaysian film producer Tan Meng Kheng was charged under Section 298 of the Penal Code for the “deliberate intention of wounding the religious feelings of others” in relation to his film *Mentega Terbang*.⁷²³ The film includes scenes depicting the main character asking a non-Muslim friend

for pork and another in which her father permits her to convert to another religion. Although he pleaded not guilty, the producer was placed under a gag order prohibiting him from making public statements during the trial. The Magistrates Court granted an application by the defence to refer two constitutional questions to the High Court: (i) whether Section 298 violates Article 10 of the Federal Constitution (protection of freedom of speech), and (ii) whether the phrase “hurting the religious feelings of a person” is so vague as to violate the right to a fair trial. The main case has been postponed pending the High Court’s decision, with a hearing scheduled for 24 October 2024.⁷²⁴

721 End Blasphemy Laws (2021). ‘Maldives: Overview of Blasphemy Laws and Their Impact’, 10 May. <https://end-blasphemy-laws.org/countries/asia-central-southern-and-south-eastern/maldives> [Accessed: 28 April 2025].

722 Section 298 of the Bangladesh Penal Code and s.28 of the Digital Security Act 2018 (DSA) replaced by the almost identical Cyber Security Act, 2023 contains punishments for acts that can hurt religious values or sentiments. “Crucially, the Cyber Security Act retains the five authoritarian speech offences under the DSA that were weaponised by the ruling party and its affiliates to muzzle peaceful dissent. These speech offences penalise opinions that can be deemed by authorities as ‘propaganda against the spirit of liberation war’, ‘false and offensive information’, ‘hurting religious sentiments’, ‘defamatory information’ or ‘deteriorating law and order’ by ‘disrupting communal harmony’.” Amnesty International (2024). ‘Bangladesh: Interim government must restore freedom of expression in Bangladesh and repeal Cyber Security Act’, 08 August. <https://www.amnesty.org/en/latest/news/2024/08/bangladesh-interim-government-must-restore-freedom-of-expression-in-bangladesh-and-repeal-cyber-security-act> [Accessed: 28 April 2025].

723 Zikri, A. (2024). ‘Director and producer of banned controversial indie film “Mentega Terbang” charged in court’, *Malay Mail*, 17 January. https://www.malaymail.com/news/malaysia/2024/01/17/director-and-producer-of-banned-controversial-indie-film-mentega-terbang-charged-in-court/112866#google_vignette [Accessed: 28 April 2025].

724 Anbalagan, V.(2024). ‘Mentega Terbang duo’s trial on hold pending constitutional challenge’, *Free Malaysia Today*, 26 July. <https://www.freemalaysiatoday.com/category/nation/2024/07/26/mentega-terbang-duos-trial-on-hold-pending-constitutional-challenge> [Accessed: 17 October 2024].

Countries like **India**,⁷²⁵ **Singapore**,⁷²⁶ and **Sri Lanka**⁷²⁷ also enforce laws protecting religious sentiments. In 2022, Sri Lankan authorities arrested social media commentator Sepal Amarasinghe for alleged insults to Buddhism posted on YouTube.⁷²⁸ Similarly, comedian Nathasha Edirisooriya was arrested for allegedly disrespecting Buddhism during a stand-up comedy performance.⁷²⁹

In a more recent example, in September 2024, three First Information Reports (FIRs)⁷³⁰ were registered by ruling BJP party leaders in **India** against leader of opposition Rahul Gandhi for allegedly hurting the religious sentiments of the Sikh community through his remarks made during his US visit.⁷³¹ Gandhi was charged under sections 299 (intentional insult to religious beliefs) and 302 (hurting religious feelings) of the *Bharatiya Nyaya Sanhita*.⁷³²

SEDITION

Sedition laws, originally introduced in England to suppress dissent and to criminalise speech deemed rebellious against the Crown, continue to be used– directly or indirectly– across all the Commonwealth Asian countries.⁷³³

●●
Even where there have been attempts to ‘de-colonise’ legislation and the offence of sedition has been formally removed – such as in India, Singapore,⁷³⁴ and Sri Lanka – other legal provisions in penal codes or terrorism-related legislation are used to pursue similar ends.

Sedition provisions are often vague and overbroad, and impose harsh criminal penalties, including life imprisonment. These laws are widely misused to suppress free expression, particularly dissent against the state.⁷³⁵ In **India**, for instance, over 800 sedition cases have been filed against 13,000 individuals since 2013.⁷³⁶ Journalists have been arrested under sedition charges for reporting on the Farm Bills, COVID-19, and the Hathras gang rape.⁷³⁷ Similar practices are observed in **Pakistan**, where reporting on Balochistan or the military’s political role has led to sedition charges.⁷³⁸ In **Malaysia**, government data released in 2023

725 Section 299 penalises the deliberate and malicious outrage of religious feelings through words, signs, or electronic means with up to three years of imprisonment, a fine, or both. Section 196 addresses promoting disharmony, enmity, or hatred between religious or other groups, with penalties of up to three years in prison, extendable to five years if committed in a place of worship, along with fines. Section 353(2) punishes the circulation of false information or rumours likely to incite enmity or hatred between religious groups with imprisonment up to three years, fines, or both. Government of India (2023). *Bharatiya Nyaya Sanhita*, s.299. https://www.indiacode.nic.in/handle/123456789/20062?view_type=browse [Accessed: 28 April 2025].

726 Government of Singapore (1985). *Penal Code*, s.298. https://sso.agc.gov.sg/Act-Rev/PC1871/Published/20081130?DocDate=19870330&ProvlDs=P4XV_295-#pr298 [Accessed: 28 April 2025].

727 Government of Sri Lanka (2022). *Penal Code*, s.291A. <https://www.srilankalaw.lk/revised-statutes/volume-vi/878-penal-code-ordinance.html> [Accessed: 28 April 2025].

728 Amnesty International (2023). *Sri Lanka 2023: Report*. <https://www.amnesty.org/en/location/asia-and-the-pacific/south-asia/sri-lanka/report-sri-lanka> [Accessed: 28 April 2025].

729 Ibid.

730 A First Information Report (FIR) is a written document prepared by the police when they first receive information in connection with the commission of a cognisable offence. Based on the FIR, the police begin their investigation.

731 ‘FIRs filed against Rahul Gandhi in Chhattisgarh for allegedly hurting Sikh sentiments’ (2024). *Times of India*, 20 September. <https://timesofindia.indiatimes.com/india/firs-filed-against-rahul-gandhi-in-chhattisgarh-for-allegedly-hurting-sikh-sentiments/articleshow/113520501.cms> [Accessed: 28 April 2025].

732 Ibid.

733 Some countries such as India, Singapore, and Australia have replaced laws which used the term ‘sedition’ with new laws that criminalise the acts that involve overthrowing the government or the constitution.

734 These include the Maintenance of Religious Harmony Act, the Protection from Online Falsehoods and Manipulation Act 2019, the Administration of Justice (Protection) Act 2016, the Undesirable Publications Act, the Newspaper and Printing Presses Act, and specific provisions under the Penal Code. Mahmud, A. (2021). ‘Bill to repeal Sedition Act introduced in Parliament; its application is ‘limited’ given overlaps with other laws’, *Channel News Asia*, 14 September. <https://www.channelnewsasia.com/singapore/sedition-act-repeal-race-religion-harmony-2173671> [Accessed: 28 April 2025].

735 Clooney Foundation for Justice (2022). *Sedition Laws in Asia: A Comparative Analysis*, April. <https://hri.law.columbia.edu/sites/default/files/publications/sedition-report-april-2022.pdf> [Accessed: 28 April 2025].

736 ARTICLE 14 (2022). *A Decade of Darkness: The Story of Sedition in India*. <https://sedition.article-14.com> [Accessed: 28 April 2025].

737 Ibid.

738 CJA Journalist Questionnaire, Pakistan (July 2024).

revealed 367 investigations under the Sedition Act over the past five years.⁷³⁹

In **Singapore**, the Sedition Act of 1938 was repealed in 2021.⁷⁴⁰ However, **Singapore's** Foreign Interference (Counter-Measures) Act (FICA), passed in 2022, defines foreign interference broadly, and includes threats to national sovereignty.⁷⁴¹

“**Behind specious wording and using national sovereignty as a cover, this bill [as it then was] gives the government a blank check to slap a ‘foreign agent’ label on any media outlet it dislikes and to impose extremely harsh sentences simply for the intent to publish content. Above all, it would allow the government to introduce a system of prior censorship without saying so openly.**

Reporters Without Borders⁷⁴²

In July 2024, **Singapore** invoked FICA to order five social media platforms to block 95 accounts from public access.⁷⁴³

In **India**, the Bharatiya Nyaya Sanhita (BNS) replaced the Indian Penal Code (IPC) on 1 July 2024. This new code does not explicitly mention “sedition”, but gives police wider powers to deal with broader

“sedition-like” offences. According to senior journalist, Rajdeep Sardesai: “Despite the Supreme Court weighing in against sedition, the Government of **India** in a new criminal law has only strengthened the law by giving even wider powers to the police to act against ‘any act endangering sovereignty, unity and integrity of **India**’.”⁷⁴⁴

The now-repealed Section 124A of the IPC criminalised acts or speech that brought the **Indian** Government into hatred or contempt, or incited disaffection. In one high-profile case, journalist Vinod Dua was charged under Section 124A for criticising the government’s COVID-19 pandemic response. The Supreme Court ultimately ruled in his favour, affirming the right of journalists to criticise the government – so long as the speech does not incite violence or public disorder.⁷⁴⁵ However, the Court stopped short of holding authorities accountable for their misuse of the law, despite the clear violations of liberty and damage to the reputation of Mr. Dua.⁷⁴⁶

Section 152 of the BNS, which replaces section 124A of the IPC of **India**, penalises activities that incite ‘subversive activities’ or encourage ‘feelings of separatist activities’ or endanger the ‘sovereignty or unity and integrity of **India**.’ While sedition is no longer an offence under the BNS, there is a provision that penalises: (i) inciting or attempting to incite secession, armed rebellion, or subversive activities, (ii) encouraging feelings of separatist activities, or (iii) endangering

sovereignty or unity and integrity of **India**.⁷⁴⁷ These offences may be committed through spoken or written words or signs, electronic communication, or financial means.⁷⁴⁸

Observers argue that Section 152 effectively retains and expands the scope of sedition.⁷⁴⁹

“**Earlier [in India], sedition had to be seen as inciting the use of force or violence, now, merely feelings of ‘separatist activity’ whether successful or not, are sufficient to get one life imprisonment.**

Journalist, India⁷⁵⁰

Key terms such as “subversive activities” remain undefined, creating legal uncertainty.⁷⁵¹ The BNS also makes it easier for police to issue First Information Reports (FIRs) against journalists.

“**FIRs against journalists who are merely doing their jobs have become so commonplace that journalists write stories bracing for FIRs.**

Nupur Basu, Journalist and Film-maker, India⁷⁵²

The new provision has yet to be fully tested in court in **India**.

In **Pakistan**, sedition under Section 124A of the Penal Code has long been used to silence critics, including journalists, opposition leaders, and human rights defenders. It has been applied to imprison Pashtun and Baluch

leaders accused of separatism, and more recently the former Prime Minister Imran Khan—though the charge was later quashed by the Balochistan High Court.⁷⁵³

In a landmark ruling in March 2023, the Lahore High Court struck down Pakistan’s colonial-era sedition law as unconstitutional,⁷⁵⁴ declaring it incompatible with the right to free expression, and criticising its use to suppress political dissent. The decision was widely hailed by civil society as a breakthrough for civil liberties in **Pakistan**.

In **Malaysia**, despite repeated pledges—most recently in March 2024—to repeal or reform the Sedition Act, the law continues to be used



Everyone has the right to free expression without fear. Photo credit: Lara Jameson / Pexels.

739 The Sedition Act had been in existence since 1938 and criminalised conduct with seditious tendencies including promoting disaffection against the Government and feelings of ill-will and hostility between different races or classes. ARTICLE 19 (2024). ‘Malaysia: Repeal Sedition Act in the Court of Appeals’, 26 May. <https://www.article19.org/resources/malaysia-repeal-sedition-act-in-the-court-of-appeals> [Accessed: 28 April 2025].

740 Ministry of Home Affairs, Singapore (2022). ‘Commencement of the Sedition Repeal Act 2021’, 01 May. <https://www.mha.gov.sg/mediaroom/press-releases/commencement-of-the-sedition-repeal-act-2021> [Accessed: 28 April 2025]; ‘Singapore Parliament repeals Sedition Act after 83 years’ (2024). *The Straits Times*, 08 January. <https://www.straitstimes.com/singapore/politics/singapore-parliament-repeals-sedition-act-after-83-years> [Accessed: 28 April 2025].

741 Foreign interference may take the form of foreign actors seeking to undermine Singapore’s sovereignty, disrupt social cohesion, and/or manipulate domestic politics. Ministry of Home Affairs, Singapore (2024). *Foreign Interference (Countermeasures) Act (FICA)*. <https://www.mha.gov.sg/fica#:~:text=FICA%20was%20passed%20by%20Parliament%20on%204%20October.politically%20significant%20persons%2C%20who%20could%20be%20local%20proxies> [Accessed: 28 April 2025].

742 Reporters Without Borders (2024). ‘Singapore’s Foreign Interference Bill: A Legal Monstrosity with Totalitarian Leanings’, 06 October. <https://rsf.org/en/singapore-s-foreign-interference-bill-legal-monstrosity-totalitarian-leanings> [Accessed: 28 April 2025].

743 ‘Singapore orders social media sites to block 95 accounts in first such use of foreign interference law’ (2024). *The Straits Times*, 11 September. <https://www.straitstimes.com/singapore/s-pore-orders-social-media-sites-to-block-95-accounts-in-first-such-use-of-foreign-interference-law> [Accessed: 28 April 2025].

744 Rajdeep Sardesai, CJA Journalist Questionnaire, India (July 2024).

745 Vinod Dua v Union of India [2021] 275 (SC). <https://indiankanoon.org/doc/50969306> [Accessed: 28 April 2025].

746 Supreme Court Observer (2024). ‘A Missed Opportunity: Vinod Dua’s Sedition Case’, 21 February. <https://www.scoobserver.in/journal-a-missed-opportunity-vinod-duas-sedition-case> [Accessed: 28 April 2025].

747 PRS Legislative Research (2023). *Bharatiya Nyaya Sanhita*. <https://prsindia.org/billtrack/the-bharatiya-nyaya-sanhita-2023> [Accessed: 28 April 2025].

748 Ibid.

749 Ibid.

750 CJA Journalist Questionnaire, India (July 2024).

751 PRS Legislative Research (2023). *Bharatiya Nyaya Sanhita*. <https://prsindia.org/billtrack/the-bharatiya-nyaya-sanhita-2023> [Accessed: 28 April 2025].

752 Nupur Basu, CJA Journalist Questionnaire, India (July 2024).

753 MSN News (2024). ‘Jailed former Pakistan PM Imran Khan booked for inciting official to mutiny’, *TOI World Desk*. <https://www.msn.com/en-in/news/world/jailed-former-pakistan-pm-imran-khan-booked-for-inciting-official-to-mutiny/ar-AA1qz6cy?ocid=BingNewsSerp> [Accessed: 28 April 2025].

754 *Haroon Farooq v Federation of Pakistan* [2023] 2 (HL). <https://africanlii.org/akn/za/doc/non-african-judgment/2023-03-30/haroon-farooq-v-federation-of-pakistan-others/eng@2023-03-30> [Accessed: 28 April 2025]; ‘Pakistani court strikes down sedition law in win for free speech’ (2023). *Al Jazeera*, 30 March. <https://www.aljazeera.com/news/2023/3/30/pakistani-court-strikes-down-sedition-law-in-win-for-free-speech> [Accessed: 28 April 2025]; Poddar, U (2023). ‘Incompatible with democracy: Why a Pakistani court has struck down its colonial sedition law’, *Scroll*, 07 April. <https://scroll.in/article/1047204/incompatible-with-democracy-why-a-pakistani-court-has-struck-down-its-colonial-sedition-law> [Accessed: 28 April 2025].

to suppress political dissent.⁷⁵⁵ In July 2023, Muhammad Sanusi Md Nor, a politician with the conservative PAS party, was charged under the Act for questioning decisions made by the monarchy regarding government formation.⁷⁵⁶ His case is currently before the courts.⁷⁵⁷ Notably, the **Malaysian** Court of Appeal has issued rulings striking down Sedition Act provisions when found to violate constitutional guarantees of freedom of expression.⁷⁵⁸

In **Brunei**, sedition laws are also used to silence criticism. The broadly framed Sedition Act criminalises content that undermines the “prominence of the national philosophy” and carries a penalty of three years’ imprisonment.⁷⁵⁹ Under Section 4A, the government can suspend newspapers publishing “seditious” material.

NATIONAL SECURITY

All Asian Commonwealth countries maintain criminal penalties for terrorism and national security offences which, in practice, are often used to arbitrarily restrict freedom of expression. While such limitations are typically framed as necessary in the interest of state security, they are often applied to suppress dissent and investigative journalism.

For example, according to Human Rights Watch, **Sri Lanka’s** Prevention of Terrorism

Act, 1979 (PTA)⁷⁶⁰ allows authorities to arrest individuals without a warrant for vaguely defined “unlawful activities,” and to detain suspects for up to 18 months without being presented before a court.⁷⁶¹ In May 2020, Ahnaf Jazeem, a 26-year-old Muslim poet, was arrested under the PTA for allegedly promoting ‘religious extremism’ though a Tamil poetry book published in 2017. He spent nearly two years in detention before being granted bail.⁷⁶² In 2022, the **Sri Lankan** government introduced amendments to the PTA, including a proposed reduction in the detention period from 18 to 12 months. However, civil society activists have warned that the proposed amendments to the law leave the most widely abused provisions untouched.⁷⁶³

Similarly, **India’s** Unlawful Activities Prevention Act, 1967 (UAPA) faces strong criticism for severely curtailing the right to freedom of expression. Originally enacted to protect national security, the UAPA empowers the government to take preventive measures against individuals or organisations deemed involved in terrorism or activities threatening **India’s** sovereignty and integrity. It broadly defines “unlawful activities” to include acts, spoken or written words, symbols, or representations that support cession or secession, disrupt territorial integrity, or foster disaffection against **India**.⁷⁶⁴

The 2019 amendments to the UAPA further expanded state powers by allowing authorities to designate individuals as “terrorists” without requiring a court conviction. Securing bail under the UAPA is extremely difficult, as courts must deny bail if there are “reasonable grounds for believing that the accusation against such person is prima facie true,” thereby limiting judicial discretion.⁷⁶⁵ According to the People’s Union for Civil Liberties, based on the government’s own data, only 1,080 out of 4,690 individuals detained under the UAPA between 2018 and 2020 were granted bail.⁷⁶⁶

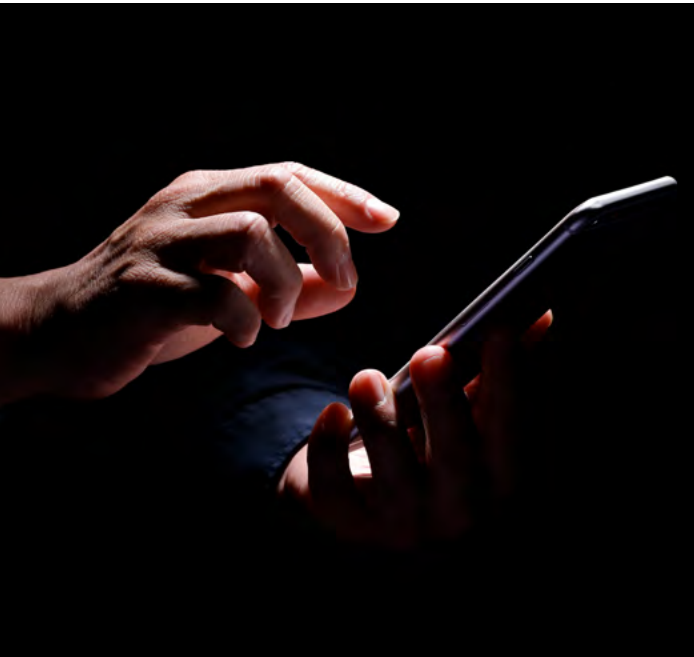
This legal framework in **India** has led to multiple instances where journalists have been held for prolonged periods without bail or trial. According to *The Wire*, 16 journalists had been charged under the UAPA, with 7 still imprisoned as of October 2023.⁷⁶⁷ A notable case is that of journalist Siddique Kappan, arrested in 2020 while reporting on the rape and death of a Dalit girl in Uttar Pradesh.⁷⁶⁸ Despite the lack of substantive evidence, Kappan was held for 843 days before being granted bail, drawing international condemnation.

Another troubling case is the arrest of Prabir Purkayastha, editor of *NewsClick*, under the UAPA in October 2023 on unsubstantiated charges of spying. Police raided over 80 NewsClick staff homes and confiscated nearly 250 electronic devices – without providing hash values for the seized data, a critical step in safeguarding digital evidence integrity.⁷⁶⁹ In May 2024, the Supreme Court ordered his release. In response to media protests against the increasing trend of police raids and seizure of equipment, the Supreme Court of India

directed the **Indian** Government to develop guidelines governing the seizure of digital devices by law enforcement agencies.⁷⁷⁰

USE OF TECHNOLOGY AND INTERNET REGULATIONS

With rapid advancements in technology and communication, a concerning regional trend has emerged: the increasing use of repressive cybersecurity and internet-related laws and regulations to censor speech and expression. All Asian Commonwealth countries have either used existing laws or enacted new ones that criminalise online expression through overly broad definitions of national security, public order, disinformation or misinformation.



Broad national security laws are frequently used to monitor and silence digital communication. Photo credit: Nobuhiro Asada / Shutterstock

755 Aiman, A. (2024). ‘Cabinet agrees to start process of amending Sedition Act’, *Free Malaysia Today*, 24 March. <https://www.freemalaysiatoday.com/category/nation/2024/03/24/cabinet-agrees-to-start-process-of-amending-sedition-act> [Accessed: 28 April 2025].

756 ‘Malaysia charges politician with sedition over sultan remarks’ (2023). *Al Jazeera*, 18 July. <https://www.aljazeera.com/news/2023/7/18/malaysia-charges-politician-with-sedition-over-sultan-remarks> [Accessed: 28 April 2025].

757 ‘Pardoned Sanusi has a sedition case postponed to Oct 25’ (2024). *The Star*, 27 September. <https://www.thestar.com.my/news/nation/2024/09/27/039pardoned039-sanusi-has-sedition-case-postponed-to-oct-25> [Accessed: 28 April 2025]; ‘AG’s Chambers rejects Sanusi’s representation to dismiss sedition charges’ (2024). *The Star*, 17 May. <https://www.thestar.com.my/news/nation/2024/05/17/ags-chambers-rejects-sanusis-representation-to-dismiss-sedition-charges> [Accessed: 28 April 2025].

758 In two key cases in Malaysia, Mat Shuhaimi Shafiei v the Public Prosecutor and Azmi Sharom v the Public Prosecutor v Azim Sharom, the Court found that section 3(3) of the Sedition Act was unconstitutional for violating freedom of expression. While the decision upheld the Sedition Act itself, it is pertinent to note that the Court, reiterated that restrictions under Article 10(2) of the Constitution were not without limit, i.e. “that the law promulgated under art 10(2) must pass the proportionality test in order to be valid”. ‘Abolish the Sedition Act’ (2016). *Malaysiakini*, 22 December. https://www.malaysiakini.com/letters/368622#google_vignette [Accessed: 28 April 2025]; Mat Shuhaimi Shafiei v Kerajaan Malaysia [2016] MYCA 146 (Court of Appeal of Malaysia). <https://globalfreedomofexpression.columbia.edu/wp-content/uploads/2016/11/Mat-Shuhaimi-Shafiei-v-Kerajaan-Malaysia-Judgment-CoA.pdf> [Accessed: 28 April 2025]; *Public Prosecutor v Azmi bin Sharom* (Federal Court of Malaysia, Case No: 08-311-09-2015(B)). <https://www.amerbon.com/blawg/commentary-on-public-prosecutor-v-azmi-bin-sharom> [Accessed: 28 April 2025].

759 Reporters Without Borders (2024). *Brunei*. <https://rsf.org/en/country/brunei> [Accessed: 28 April 2025].

760 Government of Sri Lanka (1983). *Sri Lankan Penal Code*, No. 2, ss.120 and 121. <https://www.warnathgroup.com/wp-content/uploads/2015/03/Sri-Lanka-Penal-Code.pdf> [Accessed: 28 April 2025].

761 Human Rights Watch (2022). ‘Legal Black Hole: Sri Lanka’s Failure to Reform the Prevention of Terrorism Act’, 07 February. <https://www.hrw.org/report/2022/02/07/legal-black-hole/sri-lankas-failure-reform-prevention-terrorism-act> [Accessed: 28 April 2025].

762 Ibid.

763 Ibid.

764 Government of India (1967). *Unlawful Activities (Prevention) Act*, s.2(o). <https://indiankanoon.org/doc/165949346> [Accessed: 28 April 2025].

765 Ibid; Supreme Court Observer (2023). ‘Bail Under UAPA: Court in Review’, 21 October. <https://www.scobserver.in/journal/bail-under-uapa-court-in-review> [Accessed: 28 April 2025].

766 People’s Union for Civil Liberties (2022). ‘Report on the Unlawful Activities (Prevention) Act, 1967’, 28 September. <https://pucl.org/wp-content/uploads/2023/05/PUCI-28.09.2022.pdf> [Accessed: 28 April 2025].

767 Free Speech Collective (2023). ‘16 Indian journalists have been charged under UAPA; 7 are currently behind bars’, *The Wire*, 06 October. <https://thewire.in/media/16-indian-journalists-have-been-charged-under-uapa-7-are-currently-behind-bars> [Accessed: 28 April 2025].

768 Human Rights Watch (2022). ‘India: Media Freedom Under Threat’, 03 May. <https://www.hrw.org/news/2022/05/03/india-media-freedom-under-threat> [Accessed: 28 April 2025].

769 ‘NewsClick: Raids on Indian media ‘aim to muzzle free speech’ (2023). *BBC News*, 24 October. <https://www.bbc.com/news/world-asia-india-67011231> [Accessed: 28 April 2025].

770 The Court Order comes as a result of a petition filed in October 2022 by the Foundation for Media Professionals – a journalists collective. Spandana R. (2023). ‘Guidelines for Search and Seizure of Digital Devices a Must Under Right to Privacy, Supreme Court Says’, *Supreme Court Observer*, 07 November. <https://www.scobserver.in/journal/guidelines-for-search-and-seizure-of-digital-devices-a-must-under-right-to-privacy-supreme-court-says> [Accessed: 28 April 2025].

Several of these laws grant expansive powers to the executive with insufficient due process safeguards or independent judicial oversight. Common features include:

- criminalisation of speech that should be protected under international human rights standards;
- executive authority to demand content takedowns or access to user data without judicial oversight;
- power to impose internet shutdowns or block websites; and
- restrictive licensing regimes for internet intermediaries.

“**Though the development of the internet and social media requires legislation to ensure the protection of privacy and to guard against misinformation, many laws [in India] framed to deal with these issues have put additional and often loosely defined powers in the hands of the government which seriously restrict freedom of expression.**

Journalist, India⁷⁷¹

Singapore’s POFMA allows a single government minister to declare online content ‘false’ and order its removal or correction if deemed to be in the public interest.

Singapore’s Protection from Online Falsehoods and Manipulation Act, 2019 (POFMA)⁷⁷² has been widely criticised for undermining international standards on freedom of expression. Experts suggest that POFMA has served as a blueprint for similar

disinformation laws around the world. The law allows a single government minister to declare online content “false,” and order its removal or correction if deemed to be in the public interest.⁷⁷³ Human Rights Watch noted that by mid-2020, POFMA had been invoked over 50 times, mainly against critics of the government.⁷⁷⁴ The International Commission of Jurists has called for the law to be repealed or substantially amended to comply with international standards, to ensure judicial oversight, narrow its definition of “public interest,” and increase transparency.⁷⁷⁵

In **Sri Lanka**, the newly enacted Online Safety Act, 2024 (OSA)⁷⁷⁶ contains vague and sweeping language that threatens free speech and investigative journalism.⁷⁷⁷ Among other concerns, the Act criminalises “false statements” that may pose a threat to national security, public health or public order, or which promotes feelings of ill-will and hostility between different classes of people or voluntarily causes disturbance to any assembly lawfully engaged in the performance of religious worship or religious ceremonies.⁷⁷⁸ It is being described as “draconian” by critics.⁷⁷⁹ The OSA also grants an appointed Online Safety Commission the broad power to determine what constitutes prohibited content. The Commission can direct service providers to remove such content or disable access for alleged offenders.

“**The [Online Safety] Act poses a serious threat to free speech and the independence of journalism in Sri Lanka, potentially weakening the media’s role as a critical watchdog and stifling open debate and criticism of the government.**

Kumar Lopez, Journalist, Sri Lanka⁷⁸⁰

Pakistan’s Prevention of Electronic Crimes Act, 2016 (PECA) has become one of the most frequently used tools to suppress dissent under the guise of combatting cyber terrorism.⁷⁸¹ PECA has been used widely against political activists and journalists.⁷⁸² According to the Freedom Network’s 2021 report, 23 journalists had been targeted under the PECA, with criminal cases filed against 13 of them.⁷⁸³ In May 2024, the **Pakistani** government established a new agency, the National Cyber Crimes Investigation Agency (NCCIA), to replace the FIA’s cybercrime wing and investigate cases under PECA.⁷⁸⁴ At the time of writing, it has barely started functioning, though already critics have raised concerns about the institutional culture and lack of transparency in such agencies.⁷⁸⁵

In **Bangladesh**, the Cyber Security Act, 2023 continues the troublesome legacy of laws undermining digital freedom in the region. Although the Cyber Security Act replaced the widely criticised Digital Security Act,

2018 (DSA), rights groups have flagged that it retains the same authoritarian speech provisions under the DSA that were weaponised by the ruling party and its affiliates to stifle peaceful dissent.

Amnesty International notes that the new law still penalises vague offences such as “false and offensive information”, “hurting religious sentiments”, “defamatory information” or “deteriorating law and order” by “disrupting communal harmony”.⁷⁸⁶ The Cyber Security Act retains sweeping powers of authorities to search, arrest and detain individuals and seize their devices without due safeguards on the usage and storage of data in them.⁷⁸⁷ It also empowers government agencies to make blanket requests for information to be blocked or removal of online content based on vague grounds such as “threat to cyber security”, without judicial review or opportunity to appeal the process.⁷⁸⁸ Although termed as a “request”, such arbitrary demands by the Cyber Security Agency and law enforcement forces are binding on the **Bangladesh** Telecommunication Regulatory Commission.⁷⁸⁹

Other countries are considering new laws that could further erode online rights.

In **India** a proposed Telecommunications Bill would expand government powers to impose internet shutdowns, enhance surveillance, and potentially undermine encryption without independent oversight – raising concerns for both privacy and free expression.⁷⁹⁰

In **Malaysia**, the Cyber Security Act⁷⁹¹ has

771 CJA Journalist Questionnaire, India (2024).
772 Government of Singapore (2019). *Protection from Online Falsehoods and Manipulation Act*. <https://sso.agc.gov.sg/Act/POFMA2019> [Accessed: 28 April 2025].
773 Human Rights Watch (2021). ‘Singapore: Fake News Law Curtails Speech’, 13 January. <https://www.hrw.org/news/2021/01/13/singapore-fake-news-law-curtails-speech> [Accessed: 28 April 2025].
774 Ibid.
775 International Commission of Jurists (2021). ‘Singapore: ICJ Calls on Government to Repeal or Substantially Amend the POFMA Two Years After It Entered Into Force’, 04 October. <https://www.icj.org/resource/singapore-icj-calls-on-government-to-repeal-or-substantially-amend-the-pofma-two-years-after-it-entered-into-force> [Accessed: 28 April 2025].
776 Government of Sri Lanka (2024). *Online Safety Act, No. 9*. <https://www.parliament.lk/uploads/acts/gbills/english/6311.pdf> [Accessed: 28 April 2025].
777 Ibid, s.4.
778 Ibid, Part III; Amnesty International (2024). ‘Sri Lanka: Online Safety Act a major blow to freedom of expression’, 24 January. <https://www.amnesty.org/en/latest/news/2024/01/sri-lanka-online-safety-act-major-blow-to-freedom-of-expression> [Accessed: 28 April 2025].
779 Ibid; Ng, K. (2024). ‘Sri Lanka’s controversial internet safety law comes into force’, BBC News, 01 February. <https://www.bbc.com/news/world-asia-68163414> [Accessed: 28 April 2025].

780 Kumar Lopez, CJA Journalist Questionnaire, Sri Lanka (2024).
781 Carnegie Endowment for International Peace (2024). ‘Pakistan’s Punitive State: Terrorism and the Police’, 20 June. <https://carnegieendowment.org/research/2024/06/pakistan-punitive-state-terrorism-police?lang=en> [Accessed: 28 April 2025].
782 Clooney Foundation for Justice (2023). *Section 20 of Pakistan’s Prevention of Electronic Crimes Act: Urgent Reforms Needed*. https://cfj.org/wp-content/uploads/2023/09/Pakistan_PECA-Report_September-2023.pdf [Accessed: 28 April 2025].
783 Hashim, A. (2021). ‘Pakistan journalists targeted by cyberlaw’, Al Jazeera, 02 November. <https://www.aljazeera.com/news/2021/11/2/pakistan-journalists-targeted-cyber-crime-law-press-freedom> [Accessed: 28 April 2025].
784 Carnegie Endowment for International Peace (2024). ‘Pakistan’s Punitive State: Terrorism and the Police’, 20 June. <https://carnegieendowment.org/research/2024/06/pakistan-punitive-state-terrorism-police?lang=en> [Accessed: 28 April 2025].
785 Ibid.
786 Amnesty International (2024). ‘Bangladesh: Interim government must restore freedom of expression and repeal Cyber Security Act’, 08 August. <https://www.amnesty.org/en/latest/news/2024/08/bangladesh-interim-government-must-restore-freedom-of-expression-in-bangladesh-and-repeal-cyber-security-act> [Accessed: 28 April 2025].
787 Ibid.
788 Ibid.
789 Ibid.
790 ARTICLE 19 (2024). *India: Telecom Bill and the new era of digital colonialism*. <https://www.article19.org/resources/india-telecom-bill-and-the-new-era-of-digital-colonialism> [Accessed: 28 April 2025].
791 ARTICLE 19 (2024). *Malaysia Cybercrime Analysis*. <https://www.article19.org/wp-content/uploads/2024/04/2024.04.04-Malaysia-Cybercrime-Analysis-2024.pdf> [Accessed: 28 April 2025]; Government of Malaysia (2024). *Cyber Security Act (Act 854)*. <https://www.nacsa.gov.my/act854.php> [Accessed: 28 April 2025].



Journalists in Pakistan continue to push for full and meaningful access to public information. Photo credit: Evan Schneider / UN Photo.

introduced sweeping search and seizure powers. Its criminal provisions do not require any actual intent to violate, effectively introducing many strict liability offences. The **Malaysian** government recently passed the Online Safety Act which became law in 2025 – this Act requires all online platform service providers to adhere to government-mandated Standard Operating Procedures.⁷⁹²

RIGHT TO INFORMATION

Five of the eight Commonwealth Asian countries – **Bangladesh, India, Maldives, Pakistan, and Sri Lanka** – have enacted national RTI legislation, enabling citizens to request access to public documents to hold governments accountable.

In **Malaysia**, while there is no federal RTI

law,⁷⁹³ two states – Penang and Selangor – have enacted legislation permitting citizens to make RTI requests.⁷⁹⁴ However, these state laws remain subordinate to federal legislation such as the Official Secrets Act 1972,⁷⁹⁵ which restricts access to certain types of government information.⁷⁹⁶ The federal government has committed to drafting a Freedom of Information Bill, expected to be tabled in Parliament in 2025.⁷⁹⁷ Civil society groups continue to push for strong guarantees of public access to government information and the establishment of an independent oversight body.⁷⁹⁸

Brunei Darussalam and **Singapore** have not enacted dedicated RTI legislation. In **Brunei**, information disclosure is partly regulated by the Authority for Info-communications

792 <https://www.dataguidance.com/news/malaysia-online-safety-act-2025-receives-royal-assent>
793 Ibid.
794 United Nations Office on Drugs and Crime (UNODC) (2024). *Right to Information in ASEAN Member States, Mongolia and Timor-Leste*. https://www.unodc.org/roseap/uploads/documents/Publications/2024/Right_to_Information_in_ASEAN_Member_States_Mongolia_and_Timor-Leste_Sep_2024.pdf [Accessed: 08 March 2025].
795 Government of Malaysia (1972). *Official Secrets Act (Act 88)*. https://www.commonlii.org/my/legis/consol_act/osa1972156 [Accessed: 08 March 2025].
796 United Nations Office on Drugs and Crime (UNODC) (2024). *Right to Information in ASEAN Member States, Mongolia and Timor-Leste*. https://www.unodc.org/roseap/uploads/documents/Publications/2024/Right_to_Information_in_ASEAN_Member_States_Mongolia_and_Timor-Leste_Sep_2024.pdf [Accessed: 08 March 2025].
797 National Governance Planning Division Malaysian Anti-Corruption Commission (2025). *Freedom of Information Act will help us develop further*. <https://bpgn.sprm.gov.my/en/freedom-of-information-act-will-help-us-develop-further> [Accessed: 08 March 2025].
798 ARTICLE 19 (2024). *Commemorating the International Day for Universal Access to Information (IDUAL) 2024: Do Not Delay Our Right to Information Any Further*. https://www.article19.org/wp-content/uploads/2024/09/IDUAL-2024_-_Do-Not-Delay-the-Right-to-Information-Any-Further.pdf [Accessed: 08 March 2025].

Technology Industry (AITI), but access to government documents remains severely limited.⁷⁹⁹ In **Singapore**, while some public data is accessible through government websites, requests for unpublished information are subject to the discretion of public authorities.⁸⁰⁰ Civil society actors have repeatedly called for RTI legislation, but the **Singaporean** government has dismissed these appeals, characterising such laws as frivolous and prone to abuse.⁸⁰¹

Among the five Asian countries with RTI laws, implementation and impact vary. **India's** Right to Information Act, 2005⁸⁰² is considered one of the region's strongest.⁸⁰³ It allows citizens to request information in any form without stating reasons.⁸⁰⁴ However, challenges persist – processing delays,⁸⁰⁵ insufficient training and capacity of information commissions,⁸⁰⁶ and lack of awareness of the law, particularly in rural areas.⁸⁰⁷ There have also been reports of harassment and violence against those making RTI requests, highlighting the risks of exercising this right.⁸⁰⁸ Additionally, concerns have been raised about the Indian government's use of blanket exceptions to

reject requests in the name of national security and intelligence.⁸⁰⁹

Bangladesh's Right to Information Act (2009)⁸¹⁰ is progressive in scope, applying to both public bodies and certain private entities receiving public funds.⁸¹¹ However, exclusions for state security and intelligence agencies limit its effectiveness. Implementation has also been hindered by low public awareness, weak implementation mechanisms, and the lack of an internal coordinating mechanism.⁸¹²

Pakistan made significant strides in 2017 when it replaced its 2002 legislation⁸¹³ with the more robust Right of Access to Information Act.⁸¹⁴ The new legislation establishes an independent oversight body, provides sanctions for obstruction of access, and introduces clearer procedures for requesting information and handling appeals.⁸¹⁵ While an important step forward, the legislation continues to be limited by its broad list of exceptions and restrictions on access for non-citizens.⁸¹⁶

In the **Maldives**, the 2014 Right to Information Act⁸¹⁷ is comprehensive and includes a

799 United Nations Office on Drugs and Crime (UNODC) (2024). *Right to Information in ASEAN Member States, Mongolia and Timor-Leste*. https://www.unodc.org/roseap/uploads/documents/Publications/2024/Right_to_Information_in_ASEAN_Member_States_Mongolia_and_Timor-Leste_Sep_2024.pdf [Accessed: 08 March 2025].
800 Freedom of Information Singapore Working Group (n.d.). *Where do Freedom of Information Laws Exist?*. <https://foisg.wordpress.com> [Accessed: 08 March 2025].
801 360 Info (2022). *Singapore seeks accountability without transparency*. <https://360info.org/singapore-seeks-accountability-without-transparency> [Accessed: 08 March 2025].
802 Government of India (2005). *The Right to Information Act*. https://cic.gov.in/sites/default/files/RTI_English.pdf [Accessed: 08 March 2025].
803 360 Info (2022). *Right to information not always equal*. <https://360info.org/right-to-information-not-always-equal> [Accessed: 08 March 2025].
804 ARTICLE 19 (2015). *Asia Disclosed: A Review of the Right to Information across Asia*. <https://www.article19.org/data/files/medialibrary/38121/FINAL-Asia-Disclosed-full.pdf> [Accessed: 08 March 2025].
805 Ibid.
806 Ibid.
807 360 Info (2022). *Right to information not always equal*. <https://360info.org/right-to-information-not-always-equal> [Accessed: 08 March 2025].
808 ARTICLE 19 (2015). *Asia Disclosed: A Review of the Right to Information across Asia*. <https://www.article19.org/data/files/medialibrary/38121/FINAL-Asia-Disclosed-full.pdf> [Accessed: 08 March 2025].
809 Friedrich Naumann Foundation (2021). *Right to Information*. <http://freiheit.org/south-asia/right-information> [Accessed: 08 March 2025].
810 Government of Bangladesh (2009). *Right to Information Act (No. 20)*. <https://mrdirb.org/wp-content/uploads/2021/04/RTI-Act-English-1.pdf> [Accessed: 08 March 2025].
811 ARTICLE 19 (2015). *Asia Disclosed: A Review of the Right to Information across Asia*. <https://www.article19.org/data/files/medialibrary/38121/FINAL-Asia-Disclosed-full.pdf> [Accessed: 08 March 2025].
812 Ibid.
813 Government of Pakistan (2002). *Freedom of Information Ordinance (No. XCVI of 2002) (Repealed by Act XXXIV of 2017)*. https://www.moib.gov.pk/MediaLaws/Freedom_of_%20Information_Ordinance2002_2.pdf [Accessed: 08 March 2025].
814 Government of Pakistan (2017). *Right of Access to Information Act (No. XXXIV)*. <https://download1.fbr.gov.pk/Docs/20181091110018405RightofAccessstoInformationAct2017.pdf> [Accessed: 08 March 2025].
815 Centre for Law and Democracy (2017). *Note on the Pakistan Right of Access to Information Bill*. https://www.law-democracy.org/wp-content/uploads/2012/08/Pakistan_RTI_Note_Oct17.pdf [Accessed: 08 March 2025].
816 Ibid.
817 Government of Maldives (2014). *Right to Information Act (No. 1)*. <https://icom.mv/uploads/English%20translation%20of%20the%20Right%20to%20Information%20Act.pdf> [Accessed: 08 March 2025].

strong appeals process.⁸¹⁸ Nonetheless, the law’s effectiveness is weakened by the disproportionate amount of information required in order for petitioners to submit their request,⁸¹⁹ and vague, broad exemptions.⁸²⁰

Sri Lanka’s 2016 Right to Information Act⁸²¹ has been commended for its wide scope, proactive disclosure mandates, and an independent RTI Commission.⁸²² However, it is hindered by excessive exemptions and a lack of enforcement mechanisms for public authorities who fail to disclose the requested information.⁸²³

INTERNET SHUTDOWNS

Internet shutdowns remain a common tool of control during periods of unrest, elections or mass protests in several Commonwealth Asian States. **Bangladesh, India,** and **Pakistan** have all implemented shutdowns – ranging from hours to several months – curtailing access to critical information and disrupting communication.

Governments also employ alternative methods such as blocking websites, throttling bandwidth, or limiting access to 2G networks, which, while technically maintaining connectivity, render meaningful internet use

virtually impossible.⁸²⁴ In **Malaysia**, while there has been no recorded instance of an internet shutdown in the past decade, the Government routinely blocks LGBTQ+ content, religious material, politically critical websites, and pornography.⁸²⁵

Most recently in **Bangladesh**, internet users experienced significant disruptions between 14 July to 5 August 2024. A complete internet blackout was imposed for more than five days to contain deadly protests over government job quotas.⁸²⁶ Even after mobile networks were restored, social media restrictions remained in place. This was not an isolated incident. According to digital rights advocacy group Access Now, **Bangladesh** is among the top five countries globally that routinely shut down the internet as a means of exercising control.⁸²⁷

“
India continues to lead the world in internet shutdowns, and is frequently referred to as the “internet shutdown capital of the world.”

Access Now⁸²⁸

India is reported to have had the highest number of internet shutdowns for six

consecutive years,⁸²⁹ with at least 116 reported in 2023. According to the *Software Freedom Law Centre*, an Indian non-profit, there were 799 instances of internet shutdown in the past decade.⁸³⁰ One of the longest was in the state of Manipur, where 44 consecutive orders suspended all broadband and mobile services for a staggering 212 days in 2023.⁸³¹

Past incidents include the five-month shutdown in Jammu and Kashmir following the revocation of its special status in August 2019, citing anticipated security threats.⁸³² More recently, in February 2024, internet services were suspended in Haryana and Rajasthan during farmer protests. The Haryana government cited the need to prevent “misinformation and rumours on social media” and to deter mob mobilisation that could endanger lives and property.⁸³³

In **Pakistan**, authorities have used the Telecommunications (Re-organization) Act, 1966 to monitor social media and to suspend internet access. Internet platforms were blocked at least six times prior to the February 2024 general election, and mobile services were suspended on election day itself. Growing concerns surround the Government’s plan to implement a nationwide firewall or ‘Lawful Intercept Management System’ aimed at filtering online content and curbing dissent on social media.⁸³⁴

Sri Lankan authorities have similarly blocked access to social media platforms in response

to public protests. For example, platforms such as Facebook, Twitter/X, YouTube, WhatsApp, Viber, and Telegram were blocked during the April 2022 economic protests and following the 2019 Easter Sunday terrorist attacks. Authorities justified the restrictions as necessary to limit the spread of disinformation and hateful content, and to limit sectarian violence during the politically tense period following the terrorist attacks. However, these measures also impeded access to independent news sources and restricted users’ ability to communicate, particularly with those in areas affected by the crisis.⁸³⁵

Courts in **India** and **Pakistan**⁸³⁶ have reviewed shutdowns and occasionally ruled them unlawful, but enforcement and transparency remain weak. In the landmark *Anuradha Bhasin v. Union of India*⁸³⁷ judgment, the Indian Supreme Court held that indefinite internet shutdowns are unconstitutional and that any such orders must meet the tests of necessity and proportionality. However, the Court did not lift the ongoing restrictions and instead directed the Government to review and revoke unjustified shutdowns. The Court also reaffirmed that freedom of speech and expression online is protected under the Constitution, but may be restricted in the interest of national security. The Court further mandated that all shutdown orders be published and subjected to review.⁸³⁸

818 Centre for Law and Democracy (2017). *Note on the Pakistan Right of Access to Information Bill*. https://www.law-democracy.org/wp-content/uploads/2012/08/Pakistan.RTI_Note_Oct17.pdf [Accessed: 08 March 2025].

819 Friedrich Naumann Foundation (2021). *Right to Information*. <http://freiheit.org/south-asia/right-information> [Accessed: 08 March 2025].

820 Centre for Law and Democracy (2023). *Maldives: Note on the Right to Information Act*. <https://www.law-democracy.org/wp-content/uploads/2023/10/Maldives.RTI-Note-Oct23.pdf> [Accessed: 08 March 2025].

821 Government of Sri Lanka (2016). *Right to Information Act (No. 12)*. https://www.media.gov.lk/images/pdf_word/2016/12-2016_E.pdf [Accessed: 08 March 2025].

822 World Bank Group (2017). *In Sri Lanka, Open Government Aims to Boost Development*. <https://www.worldbank.org/en/news/feature/2017/05/24/information-key-opening-minds-improve-development-impact> [Accessed: 28 April 2025].

823 Friedrich Naumann Foundation for Freedom (2021). *Right to Information*. <https://www.freiheit.org/south-asia/right-information> [Accessed: 28 April 2025].

824 UN Human Rights Council, *Internet shutdowns: trends, causes, legal implications and impacts on a range of human rights* (13 May). UN Doc A/HRC/50/55. <https://documents.un.org/doc/undoc/gen/g22/341/55/pdf/g2234155.pdf?OpenElement> [Accessed: 28 April 2025].

825 The Malaysian Communications and Multimedia Commission is empowered under Section 263 of the CMA to request network licensees to assist it, or other authorities, in preventing the commission or attempted commission of an offence and in enforcing the laws, including the preservation of national security. For instance, the Malaysian Ministry of Home Affairs gazetted an order prohibiting publications related to LGBTQ+ on Swatch brand watches. This prohibition was following the reported raid conducted on 11 Swatch brand watch boutiques in several States and seized rainbow-themed collections thereafter. ‘KDN enforces ban on publications related to LGBTQ on Swatch watches collections’ (2023). *The Malaysian Reserve*, 10 August. <https://themalaysianreserve.com/2023/08/10/kdn-enforces-ban-on-publications-related-to-lgbtq-on-swatch-watches-collections> [Accessed: 28 April 2025].

826 ‘Bangladesh restores mobile internet after 11-day blackout to quell protests’ (2024). *Al Jazeera*, 28 July. <https://www.aljazeera.com/news/2024/7/28/bangladesh-restores-mobile-internet-after-11-day-blackout-to-quell-protests> [Accessed: 28 April 2025]; ‘What you need to know about the internet crackdown in Bangladesh’ (2024). *The Daily Star*, 29 July. <https://www.thedailystar.net/business/news/what-you-need-know-about-internet-crackdown-bangladesh-3676346> [Accessed: 28 April 2025].

827 ‘Global report on internet shutdowns: Bangladesh ranked 5th’ (2023). *The Daily Star*, 30 October. <https://www.thedailystar.net/tech-startup/science-gadgets-and-tech/tech-news/news/global-report-internet-shutdowns-bangladesh-ranked-5th-3260651> [Accessed: 28 April 2025].

828 Access Now (2023). ‘Unabashed and unabated: India leads the world shutdown count for sixth year’, 26 August. <https://www.accessnow.org/press-release/india-keepiton-internet-shutdowns-2023-en> [Accessed: 28 April 2025].

829 Ibid.

830 Software Freedom Law Center and Internet Shutdowns (n.d.). *Tracking Internet Shutdowns in India*. <https://url.uk.m.mimecastprotect.com/s/Ml8wC9LjEcmRG1fZEIvn?domain=internetshutdowns.in> [Accessed: 28 April 2025].

831 Rajvanshi, A. (2024). ‘2023 Was the Worst Year for Internet Shutdowns Globally, New Report Says’, *Time*, 16 May. <https://time.com/6978512/internet-shutdowns-india-report> [Accessed: 28 April 2025].

832 Al Jazeera (2020). ‘India restores internet in Kashmir after 7 months of blackout,’ 5 March. <https://www.aljazeera.com/news/2020/3/5/india-restores-internet-in-kashmir-after-7-months-of-blackout> [Accessed: 28 April 2025].

833 Internet Freedom Foundation (2024). ‘Statement: The ongoing internet shutdowns in the states of Haryana & Rajasthan, & online censorship in response to Farmers Protest’, 13 February. <https://internetfreedom.in/the-ongoing-internet-shutdowns-in-the-states-of-haryana-rajasthan-online-censorship-in-response-to-farmers-protest> [Accessed: 28 April 2025].

834 Cheema, U. (2024). ‘Firewall Being Installed to Rein in Social Media’, *The News*, 07 June. <https://www.thenews.com.pk/print/1197782-firewall-being-installed-to-rein-in-social-media> [Accessed: 28 April 2025].

835 ‘Gotabaya Rajapaksa: Economic crisis protesters defy curfew in Sri Lanka’ (2022). *BBC News*, 03 April. <https://www.bbc.com/news/world-asia-60962185> [Accessed: 28 April 2025]; Defence Ministry Request to Block Social Media: TRC’ (2022). *Daily Mirror*, 03 April. https://www.dailymirror.lk/breaking_news/Defence-Ministry-request-to-block-social-media-TRC/108-234369 [Accessed: 28 April 2025].

836 *CM Pak Limited v Pakistan Telecommunication Authority* [2018], Case No. 42/2016. <https://cyrilla.org/en/entity/o9ajibb203a?searchTerm=access%20to%20info> [Accessed: 28 April 2025]. Overturned by the Supreme Court of Pakistan, *M/O Information Technology and Telecommunications, Islamabad, and The Pakistan Telecommunications Authority, Islamabad v Pakistan* [2020] case Nos. C.A 977-978/2018. <https://cyrilla.org/en/entity/t1icuh50v8> [Accessed: 28 April 2025].

837 The case concerned the internet and movement restrictions imposed in Jammu and Kashmir in 2019, in the name of protecting public order. *Anuradha Bhasin v Union of India*, [2020] 1 SCR 812. <https://indiankanoon.org/doc/82461587> [Accessed: 28 April 2025].

838 Ibid.

INTERFERENCE IN THE INDEPENDENT FUNCTIONING OF THE MEDIA

Historically, **Bangladesh, India, Pakistan,** and **Sri Lanka** have enjoyed a relatively vibrant media sector, with many television news channels and print publications presenting a range of perspectives. **India** alone hosts approximately 500 TV news stations and 17,000 newspaper titles,⁸³⁹ catering to audiences in over 20 languages. By contrast, in **Singapore**, all domestic newspapers, radio stations, and television channels are owned by government-linked companies.⁸⁴⁰ Similarly, **Brunei**'s only television station is state-run, and the country's main English-language daily newspaper, *The Borneo Bulletin*, is controlled by the Sultan's family.⁸⁴¹

Despite this vibrancy, journalists and media outlets across the region face persistent pressure from political and corporate actors. Intimidation, harassment, and surveillance are common, severely compromising media independence and limiting public access to unbiased information. Journalist contributors from **Bangladesh, India, Pakistan,** and **Sri Lanka** have noted that media professionals are increasingly "vulnerable," frequently facing threats from both state and non-state actors, including having to defend themselves against spurious legal cases brought to silence them.⁸⁴²

In conflict zones such as Kashmir and Manipur in **India**, it is common for government agencies to initiate criminal proceedings against journalists who report 'inconvenient truths.'

“In Manipur’s ethnic conflict it has become commonplace to threaten journalists who question the one-sided narrative of the state government by filing police complaints against them. This has effectively prevented independent non-Manipuri journalists from reporting on the conflict.

Journalist, India⁸⁴³

Political interference remains a dominant form of media control throughout the region. Governments frequently attempt to shape narratives, suppress dissent, and undermine the media's watchdog function. In **Sri Lanka**, the *Media Ownership Monitor* found that more than half of the surveyed outlets are owned by individuals with political affiliations.⁸⁴⁴ A similar pattern exists in **Bangladesh**, where a study found that “most owners of media outlets are directly or indirectly affiliated with political parties.”⁸⁴⁵

Concerns over state influence are also rising in the **Maldives**, where the Maldives Journalist Association has raised alarms over the State's control of media regulatory bodies as a threat to press freedom.⁸⁴⁶ In a serious roll back of press freedom, on 18 and 19 August 2025, **Maldives'** Parliament revived the Media and Broadcasting Regulation Bill,⁸⁴⁷ which would see the replacement of the existing Media Council and Broadcasting Commission with

839 'India media guide' (2023). BBC News, 21 March. <https://www.bbc.com/news/world-south-asia-12557390> [Accessed: 28 April 2025].
840 There are two major players—Singapore Press Holdings, which is linked to the ruling party and has a near-monopoly of the press, and MediaCorp, owned by a state investment agency, which runs TV and radio stations. 'Singapore media guide' (2023). BBC News, 23 March. <https://www.bbc.com/news/world-asia-15966553> [Accessed: 28 April 2025]; Freedom House (2024). *Freedom in the World 2024: Singapore*. <https://freedomhouse.org/country/singapore/freedom-world/2024> [Accessed: 28 April 2025].
841 Freedom House (2024). *Freedom in the World 2024: Brunei*. <https://freedomhouse.org/country/brunei/freedom-world/2024> [Accessed: 28 April 2025].
842 CJA Journalist Questionnaires, India, Pakistan, Bangladesh, Sri Lanka (July 2024).
843 CJA Journalist Questionnaire, India (July 2024).
844 Reporters Without Borders (2024). *Sri Lanka: Media Capture in Real Time*. <https://rsf.org/en/sri-lanka-media-capture-real-time> [Accessed: 28 April 2025].
845 Riaz, S. (2021). 'Media ownership pattern in Bangladesh', *Illinois State University*, 08 February. <https://news.illinoisstate.edu/2021/02/riaz-publishes-on-media-ownership-pattern-in-bangladesh> [Accessed: 28 April 2025].
846 International Federation of Journalists (2023). *Media Mirror: Unveiling Public Trust in the Maldivian Media*. https://www.ifj.org/fileadmin/user_upload/231219_Media_Mirror_-_Unveiling_Public_Trust_in_the_Maldivian_Media.pdf [Accessed: 28 April 2025].
847 People's Majlis (n.d.). *Parliament Work - Maldives Media and Broadcasting Regulation Bill*. <https://majlis.gov.mv/en/20-parliament/parliament-work/1741> [Accessed: 28 April 2025].



Independent journalism in South and Southeast Asia is under attack. Threats, surveillance, and false legal cases are used to silence critical voices and weaken press freedom. Photo credit: Andy Leung / Pixabay.

a new **Maldives** Media and Broadcasting Commission, which would be dominated by presidential appointees.⁸⁴⁸ The proposed new body would have unchecked executive powers to fine journalists and media outlets, suspend registrations, block websites, and halt broadcasts.⁸⁴⁹

In **India** and **Pakistan**, the situation is particularly acute. Media outlets often face threats of shutdown, hefty fines, or license revocations for publishing critical stories or exposing corruption. For instance, the Indian government used emergency powers to restrict access to a British Broadcasting Corporation (BBC) documentary that examined Prime Minister Modi's role during the inter-

religious riots in the state of Gujarat in 2002, when he was its chief minister. This was followed by income tax raids on two BBC offices in **India** and the questioning of staff members.⁸⁵⁰ Similarly, in **Malaysia**, police raided Al Jazeera's Kuala Lumpur office and seized computers following its broadcast of a programme critical of the government's treatment of undocumented migrants during the COVID-19 pandemic.⁸⁵¹

Governments also interfere with media operations by cutting access to distribution networks, withdrawing advertising, or banning particular channels and presenters. The **Pakistan** Electronic Media Regulatory Authority (PEMRA), for instance, has ordered

848 Committee to Protect Journalists (2025). "CPJ urges Maldives president to reject 'regressive' media bill," 21 August. <https://cpi.org/2025/08/cpi-urges-maldives-president-to-reject-regressive-media-bill> [Accessed: 28 April 2025].
849 Human Rights Watch (2025). "Maldives: Authorities Tighten Grip on Media," 28 August. <https://www.hrw.org/news/2025/08/28/maldives-authorities-tighten-grip-on-media> [Accessed: 28 April 2025].
850 Freedom House (2024). *Freedom in the World 2024: India*. <https://freedomhouse.org/country/india/freedom-world/2024> [Accessed: 28 April 2025].
851 'Malaysian police raid Al Jazeera's office, seize computers' (2020). Al Jazeera, 05 August. <https://www.aljazeera.com/news/2020/8/5/malaysian-police-raid-al-jazeeras-office-seize-computers> [Accessed: 28 April 2025].

television channels to shut down for airing criticism of the government,⁸⁵² terminated live interviews of opposition leaders,⁸⁵³ and blocked cable operators from broadcasting networks that aired critical programs”.^{854 855} **Pakistan’s** leading English-language daily DAWN faced advertising bans and distribution blockages for its critical coverage of the government.⁸⁵⁶ As a result, over 2,000 journalists and media workers lost their jobs in **Pakistan** in 2018–2019 due to the economic pressure exerted on media outlets.⁸⁵⁷

In the **Maldives**, Freedom House reports that the government exerts considerable influence over the media through advertising by state-owned enterprises, as well as financial support from politically aligned business leaders.⁸⁵⁸ Press freedom suffered a significant blow with the 2022 Evidence Act, which allows courts to compel journalists to reveal their sources. Although the Constitution protects media freedom, the vague exceptions in the law grant judges broad discretion, raising fears of self-censorship. Reporters Without Borders and other organisations have warned that this provision could lead to self-censorship and erode journalistic independence.⁸⁵⁹

Corporate influence is also growing, particularly in **India**, where a handful of powerful business conglomerates now control large segments of the media.⁸⁶⁰ Reporters Without Borders raised alarm over the takeover of *New Delhi Television* (NDTV) –

India’s last major independent broadcaster – by billionaire Gautam Adani, a known supporter of Prime Minister Modi.⁸⁶¹ This is not an isolated incident: Mukesh Ambani, chairman of Reliance Industries and a close associate of the Prime Minister, controls more than 70 media outlets.⁸⁶²

“
The biggest threat to India’s democracy is the state of its media today. The quality of any democracy has to be the quality of information its citizens have when they vote or make up their mind about their government. And that information is severely compromised.

Seema Chishti, Editor of The Wire, India⁸⁶³

Journalist safety remains a major concern across the subcontinent, especially in **India** and **Pakistan**, where impunity for attacks on journalists is widespread.

According to Reporters Without Borders’ 2024 report, “With an average of 3 or 4 journalists killed in connection with their work every year, **India** is one of the world’s most dangerous countries for the media.” Seema Chishti further remarked: “The frequency of attacks on media and journalists is high. At least five journalists are imprisoned in **India** today. Attacks on media, especially where there is deep strife

852 ‘Pemra suspends TV channel 24NewsHD’s licence’ (2020). *Dawn*, 24 July. <https://www.dawn.com/news/1566940> [Accessed: 28 April 2025].

853 Kermani, S. (2019). ‘Pakistan censorship: Hovering above the mute button’, *BBC News*, 28 July. <https://www.bbc.com/news/world-asia-49088653> [Accessed: 28 April 2025].

854 Committee to Protect Journalists (2019). ‘TV news channels blocked in Pakistan after airing interview with former president’, 09 July. <https://cpj.org/2019/07/tv-news-channels-blocked-in-pakistan-after-airing-p.php> [Accessed: 28 April 2025].

855 Freedom House (2024). *Freedom in the World 2024: Pakistan*. <https://freedomhouse.org/country/pakistan/freedom-world/2024> [Accessed: 28 April 2025]; Human Rights Watch (2021). *Proposed Pakistan Authority Seeks Greater Control Over Media*. <https://www.hrw.org/news/2021/08/23/proposed-pakistan-authority-seeks-greater-control-media> [Accessed: 28 April 2025].

856 ‘Disruption to Dawn’s distribution continues across country’ (2018). *Dawn*, 20 June. <https://www.dawn.com/news/1414903> [Accessed: 28 April 2025].

857 CJA Journalist Questionnaire, Pakistan (2024); ‘Toothless and terrified: The state of Pakistan’s media’ (2020). *The Diplomat*, 22 October. <https://thediplomat.com/2020/10/toothless-and-terrified-the-state-of-pakistans-media> [Accessed: 28 April 2025].

858 Freedom House (2024). *Freedom in the World 2024: Maldives*. <https://freedomhouse.org/country/maldives/freedom-world/2024> [Accessed: 28 April 2025].

859 ‘Maldives media guide’ (2023). *BBC News*, 21 March. <https://www.bbc.com/news/world-south-asia-12653775> [Accessed: 28 April 2025]; Reporters Without Borders (2021). *RSF seeks revision of Maldives law forcing journalists to reveal sources*. <https://rsf.org/en/rsf-seeks-revision-maldives-law-forcing-journalists-reveal-sources> [Accessed: 28 April 2025].

860 Reporters Without Borders (2023). *NDTV takeover signals end of pluralism in India’s leading media*. <https://rsf.org/en/ndtv-takeover-signals-end-pluralism-india-s-leading-media> [Accessed: 28 April 2025].

861 Ibid.

862 Ibid.

863 Seema Chishti, CJA Journalist Questionnaire, India (July 2024).

and conflict, by state authorities under the guise of national interest and security, e.g. Kashmir and Manipur, is rampant. **India** was never perfect, but the past ten years have been awful.”⁸⁶⁴

A senior **Pakistani** journalist similarly observed: “**Pakistan** is one of the most dangerous countries for journalists.”⁸⁶⁵ The number of journalists killed in **Pakistan** is among the highest in Asia.⁸⁶⁶ Since 1993, at least 101 journalists have been killed in the country⁸⁶⁷ – 90 of them between 2002 and 2022.⁸⁶⁸ In a recent case, Bol TV anchor Imran Riaz Khan was arrested in May 2023 and held incommunicado for four months. During the May 2023 PTI protests, activists vandalised a **Pakistan** Radio station in Peshawar and destroyed media equipment.⁸⁶⁹ Despite the enactment of laws like the Protection of Journalists Act, 2014 and the Protection of Journalists and Media Professionals Act, 2021,⁸⁷⁰ implementation remains weak.

“
Despite the presence of such laws [in Pakistan], six journalists have lost their lives this year [2024] and their killers have yet not been brought to justice.
Journalist, Pakistan⁸⁷¹

864 Ibid.

865 CJA Journalist Questionnaire, Pakistan (July 2024).

866 Ibid.

867 UNESCO (2024). *Statistics on Killed Journalists*. <https://www.unesco.org/en/safety-journalists/observatory/statistics?hub=72609> [Accessed: 28 April 2025].

868 International Jurists Network (2023). ‘The dangerous reality for journalists in Pakistan’, 29 June. <https://ijnnet.org/en/story/dangerous-reality-journalists-pakistan> [Accessed: 28 April 2025].

869 Freedom House (2024). *Freedom in the World 2024: Pakistan*. <https://freedomhouse.org/country/pakistan/freedom-world/2024> [Accessed: 28 April 2025].

870 International Federation of Journalists (2025). ‘Pakistan: Senate approves landmark amendment to journalist protection bill,’ 31 July. <https://www.ifj.org/media-centre/news/detail/category/press-releases/article/pakistan-senate-approves-landmark-amendment-to-journalist-protection-bill> [Accessed: 01 August 2025].

871 CJA Journalist Questionnaire, Pakistan (July 2024).

872 Freedom House (2024). *Freedom in the World 2024: Bangladesh*. <https://freedomhouse.org/country/bangladesh/freedom-world/2024> [Accessed: 28 April 2025].

873 Reporters Without Borders (2023). *At least nine journalists injured during Sri Lanka protests*. <https://rsf.org/en/least-nine-journalists-injured-during-sri-lanka-protests> [Accessed: 28 April 2025].

874 Freedom House (2022). *Freedom in the World 2022: India*. <https://freedomhouse.org/country/india/freedom-world/2022> [Accessed: 28 April 2025]; Human Rights Watch (2021). *India: Spyware Use Violates Supreme Court Privacy Ruling*. <https://www.hrw.org/news/2021/08/26/india-spyware-use-violates-supreme-court-privacy-ruling> [Accessed: 28 April 2025].

875 *Manohar Lal Sharma v Union of India*, (2023) 11 SCC 401. <https://indiankanoon.org/doc/39021018> [Accessed: 28 April 2025].

876 Ibid, para. 39.

In **Bangladesh**, arrests and physical assaults on journalists have increased under the Awami League government.⁸⁷² In **Sri Lanka**, at least nine journalists were injured while trying to cover the 2022 protests.⁸⁷³

Surveillance of journalists by state agencies is another disturbing trend. In **India**, authorities were implicated in the use of Pegasus spyware, developed by Israel’s NSO Group. The spyware was found on phones belonging to dozens of journalists, opposition leaders, and activists.⁸⁷⁴ An international media consortium and Amnesty International brought the case before the Indian Supreme Court,⁸⁷⁵ which noted in an interim order:

“
It is undeniable that surveillance and the knowledge that one is under the threat of being spied on can affect the way an individual decides to exercise his or her rights. Such a scenario might result in self-censorship. This is of particular concern when it relates to the freedom of the press, which is an important pillar of democracy. Such chilling effect on the freedom of speech is an assault on the vital public watchdog role of the press, which may undermine the ability of the press to provide accurate and reliable information.
Supreme Court of India⁸⁷⁶

CONCLUSION

While the legal frameworks in many Commonwealth Asian countries have often been weaponised to suppress freedom of expression, courts have, in several instances, acted as critical safeguards for journalists, activists, and ordinary citizens whose rights are under threat.

In **India**, the Supreme Court has consistently upheld the constitutional guarantee of free speech, even as challenges in enforcement persist. In a landmark case *Shreya Singhal v Union of India*, the Supreme Court struck down Section 66A of the Information Technology Act, declaring it unconstitutional due to its disproportionate restriction on the right to freedom of expression under Article 19(1)(a).⁸⁷⁷

Pakistan's judiciary has played a significant role in upholding freedom of expression. In 2023, it declared colonial-era sedition provisions unconstitutional.⁸⁷⁸ In another key ruling, the Islamabad High Court in April 2022 invalidated amendments to the Prevention of Electronic Crimes Act (PECA),⁸⁷⁹ deeming them "unconstitutional"⁸⁸⁰ and reaffirming that access to information and freedom of opinion are essential for a democratic society.⁸⁸¹

In **Sri Lanka**, the courts have taken notable steps to protect freedom of expression, particularly in the post-civil war era. For example, in the case of *Mohamed Ramzy Razik*

v B.M.A.S.K. Senaratne, the Supreme Court found that the arrest and detention of a man over a Facebook post during the COVID-19 pandemic violated his fundamental rights to equality, freedom of speech, and protection from arbitrary arrest.⁸⁸² The petitioner argued that his social media post was an expression of frustration against an unfair campaign blaming Muslims for the spread of the virus, while the **Sri Lankan** authorities claimed the post incited racial hatred against the Muslim community, alleging that the references to "Ideological Jihad" and a call to take up the "pen and keyboard" for an ideological war, could lead to violence and disharmony. The Court awarded compensation to the petitioner for his wrongful arrest and detention, emphasising that while speech can be restricted by law under Article 15, such restrictions must be narrowly construed and aligned with the specific intent of the legislature.

Bangladesh's judiciary has played a more ambivalent role. The Digital Security Act 2018 (DSA), widely criticised for enabling the state to silence dissent, led to over 7,000 cases being filed between 2018 and 2023.⁸⁸³

One of the most tragic examples was the death of writer Mushtaq Ahmed in custody in 2021, after being repeatedly denied bail for Facebook posts critical of the

877 In 2012, two young women, Shaheen Dhada and Rinu Srinivasan, were arrested by Mumbai police for expressing their displeasure on Facebook over a bandh called in response to the death of Shiv Sena leader Bal Thackeray. The arrests were made under Section 66A of the Information Technology Act, which criminalised the sending of "offensive" messages via computer or communication devices. Following public outcry, the Supreme Court issued an interim order in *Singhal v. Union of India*, requiring that no arrest under Section 66A be made without prior approval from senior police officers. The constitutional validity of Section 66A was subsequently challenged in the same case. The petitioners argued that the provision was unconstitutionally vague, and that its prohibitions – against speech causing annoyance, inconvenience, danger, obstruction, insult, injury, criminal intimidation, or ill-will – exceeded the reasonable restrictions permissible under Article 19(2) of the Constitution. *Shreya Singhal v Union of India*, [2015] 5 SCC 1. <https://indiankanoon.org/doc/110813550> [Accessed: 28 April 2025].

878 'Pakistani court strikes down sedition law in win for free speech' (2023). *Al Jazeera*, 30 March. <https://www.aljazeera.com/news/2023/3/30/pakistani-court-strikes-down-sedition-law-in-win-for-free-speech> [Accessed: 28 April 2025].

879 PECA was amended by an ordinance in 2022 to make online defamation of the authorities, including the military and the judiciary, a criminal offence with harsh penalties. Amnesty International (2022). 'Pakistan: Repeal draconian cybercrime law', 28 February. <https://www.amnesty.org/en/latest/news/2022/02/pakistan-repeal-draconian-cyber-crime-law> [Accessed: 28 April 2025].

880 'IHC strikes down PECA ordinance' (2023). *The Express Tribune*, 08 April. <https://tribune.com.pk/story/2351529/ihc-strikes-down-peca-ordinance> [Accessed: 28 April 2025].

881 'PECA ordinance declared null by IHC' (2023). *The News*, 08 April. <https://www.thenews.com.pk/latest/948485-peca-ordinance-declared-null-by-ihc> [Accessed: 28 April 2025].

882 Sri Lanka Brief (2023). *Sri Lanka: Ramzy Razik wins FR case against the police; LKR one million and sixty thousand compensation ordered*. <https://sri.lankabrief.org/sri-lanka-ramzy-razik-wins-fr-case-against-the-police-lkr-one-million-and-sixty-thousand-compensation-ordered-full-judgement> [Accessed: 28 April 2025].

883 'Balancing security and civil liberties' (2024). *Dhaka Tribune*, 01 March. <https://www.dhakatribune.com/opinion/op-ed/340685/balancing-security-and-civil-liberties> [Accessed: 28 April 2025]



The call for 'Freedom' remains urgent across the Commonwealth, where laws continue to restrict expression. Photo credit: Nate Steele / Unsplash.

government's handling of the pandemic.⁸⁸⁴ While the DSA has since been repealed following national and international pressure, its replacement – the Cyber Security Act – retains many of the same provisions, offering little substantive reform.⁸⁸⁵

In Southeast Asia, courts have generally been less assertive in protecting freedom of expression compared to their South Asian counterparts. Nonetheless, the decisions highlighted above offer an important foundation to build upon.

To meaningfully advance freedom of expression, it is essential that governments in the region go beyond case-by-case judicial remedies and undertake comprehensive legal reform. This includes repealing or amending laws that criminalise speech – such as those on sedition and defamation – and introducing safeguards to prevent misuse of national security and digital laws. Such reforms are critical to ensuring the full protection of democratic rights and the creation of a genuinely free and independent media environment.

884 Musan, H. (2023). 'Bangladesh Government Scraps Controversial Digital Security Act', *The Diplomat*, 21 August. <https://thediplomat.com/2023/08/bangladesh-government-scraps-controversial-digital-security-act> [Accessed: 28 April 2025].

885 Amnesty International (2023). *Amnesty International Report: Bangladesh*. <https://www.amnesty.org/en/location/asia-and-the-pacific/south-asia/bangladesh/report-bangladesh> [Accessed: 28 April 2025].

RECOMMENDATIONS FOR ASIA

Member States in the region are urged to:

1. STRENGTHEN LEGAL FRAMEWORKS AND THEIR IMPLEMENTATION

- **Brunei, Malaysia, and Singapore** should sign and ratify the International Covenant on Civil and Political Rights (ICCPR).
- Align domestic laws with international standards on freedom of expression and media freedom, ensuring the laws are clearly defined, necessary, proportionate, and non-discriminatory. The laws should also require state authorities to foster an enabling environment for a free and independent media.
- Ensure that laws on defamation, sedition, blasphemy, and cybercrime must be clearly defined or revised to prevent misuse and to protect free speech.
- **Bangladesh, Brunei, India, Pakistan, Malaysia, and Singapore** should follow the example of the **Maldives** and **Sri Lanka** in fully decriminalising defamation.
- Repeal or substantially amend sedition and sedition-like provisions in laws across the region.
- Abolish the death penalty for blasphemy in **Brunei** and **Pakistan**, along with all criminal penalties involving deprivation of liberty for blasphemy-related offences in **Bangladesh, India, Malaysia, Maldives, Singapore, and Sri Lanka**.
- Reform broad anti-terrorism legislation – such as **India's** Unlawful Activities (Prevention) Act, 1967 and **Sri Lanka's** Prevention of Terrorism Act, 1979 – to bring them in line with international human rights norms.

- Repeal or amend repressive digital laws like **Bangladesh's** Cyber Security Act 2023, **Pakistan's** Prevention of Electronic Crimes Act 2016, **Singapore's** Protection from Online Falsehoods and Manipulation Act 2019, and **Sri Lanka's** Online Safety Act 2024.
- Establish national mechanisms to ensure the protection of journalists, particularly those reporting on corruption, human rights violations, or political dissent. **Pakistan's** recent amendments to the Protection of Journalists and Media Professionals Act, 2021 are a step in this direction, but require robust implementation to be effective.
- Law enforcement agencies, particularly in **India, Pakistan, and Sri Lanka**, should prioritise the prosecution of perpetrators of violence and harassment against journalists. This includes fast-tracking investigations, ensuring access to protective measures, and guaranteeing legal recourse against intimidation and attacks.

2. PROMOTE JUDICIAL INDEPENDENCE, DUE PROCESS GUARANTEES, AND ACCESS TO JUSTICE FOR DEFENDANTS

- Strengthen judicial independence to prevent the misuse of laws that restrict freedom of expression and media freedom.
- Ensure the right to a fair trial for all, and guarantee effective remedies when this right is violated. Legal aid should be made available to promote equal access to justice.
- Ensure that disinformation and online regulation laws granting broad executive powers – such as **Singapore's** POFMA – are subject to independent judicial oversight to prevent abuse.

- Empower the courts to play a more proactive role in protecting journalists from baseless or retaliatory criminal charges.
- Encourage courts in Southeast Asia to adopt a more questioning stance in assessing the constitutionality of laws and executive actions, particularly in light of constitutional protections for freedom of expression.

3. ENSURE MEDIA PLURALISM AND PROTECT DIGITAL RIGHTS

- Cybercrime and digital security laws must be narrowly tailored to avoid infringing on legitimate expression or dissent.
- Refrain from imposing blanket internet shutdowns or engaging in excessive surveillance that restricts the free flow of information, particularly in South Asian countries.
- Take urgent steps to address systemic political and corporate interference in media ownership and operations.
- Conduct a comprehensive review of media ownership laws and practices to dismantle conflicts of interest, enhance transparency, and safeguard press independence as a core democratic institution.
- Promote the development and sustainability of independent, public-interest journalism through dedicated funding streams, including grants, tax incentives, and support for non-governmental funding models.

4. PROTECT JOURNALISTS AND FOSTER A VIBRANT CIVIL SOCIETY

- Adopt and apply guidelines for the protection of journalists put forward by UNESCO, other UN bodies, and the High Level Panel of Legal Experts on Media Freedom, and ensure prompt, independent and effective investigations into attacks against media workers.
- Respond fully to UNESCO's requests for information regarding the status of investigations into journalist killings, and commit to regular reporting under international obligations.
- Work cooperatively with civil society organisations to reform media laws to safeguard the freedom of the press, and to ensure robust regulatory frameworks and mechanisms.
- In **Pakistan**, stop the use of cyber defamation laws to target civil society and journalists.

5. ESTABLISH AND STRENGTHEN ACCOUNTABILITY MECHANISMS

- Cooperate with the Universal Periodic Review and other UN human rights mechanisms.
- Join the Media Freedom Coalition, committing to legal reforms and diplomatic advocacy to promote media freedom.
- Promote and strengthen collaboration with media organisations in other countries and regions – particularly within the Commonwealth – through exchanges, joint projects, and research initiatives that will support Asian media to address shared challenges.

 SPOTLIGHT

HUMAN RIGHTS IN THE DIGITAL SPACE

The internet has become the world's most powerful medium for expression and source of information. As underlined in the Commonwealth Cyber Declaration, cyberspace offers "a common space, within which the diversity and richness of Commonwealth identities can be expressed".⁸⁸⁶ The emergence of new technologies is reshaping the way we communicate and interact, creating both new opportunities and complex challenges for the exercise of human rights in digital spaces. While the internet has enhanced access to information and broadened avenues for participation, it is also a growing source of misinformation and disinformation, with serious implications for public discourse, democratic institutions, and social cohesion.

The same rights that people have offline must also be protected online, as affirmed by the Commonwealth Cyber Declaration and numerous UN Human Rights Council resolutions.⁸⁸⁷ Central to this is the right to freedom of expression and information online, which is essential for the enjoyment of all human rights.

Unfortunately, across the Commonwealth, many governments have responded to the increasing relevance of digital spaces through overly restrictive laws, policies and practices. In several countries, existing laws on defamation, blasphemy and sedition – many of which are colonial in origin – have been adapted to suppress online speech. For example, in St. Vincent and The Grenadines, the Cybercrime Act of 2016 expanded criminal defamation laws to include online expression, introducing higher penalties.⁸⁸⁸ At the same time, in other States, new legislation is being enacted under the guise of regulating cyberspace – ostensibly to combat disinformation, hate speech, cybercrime, and cyberterrorism – but often at the cost of free expression, privacy, and civic space.

Besides disrupting traditional media's financial model, government attempts to regulate digital and social media are also restricting the space and freedoms of traditional media. These outlets are increasingly caught in the crossfire of legislation aimed at curbing social media misuse. Fiji,⁸⁸⁹ Papua New Guinea,⁸⁹⁰ and

Tonga⁸⁹¹ are among countries to have passed laws to prosecute those who publish defamatory content on social media, while Papua New Guinea,⁸⁹² Nauru,⁸⁹³ Samoa,⁸⁹⁴ and the Solomon Islands⁸⁹⁵ have, at various points, threatened to ban Facebook altogether.

A closer look at these laws, even if well-intentioned, reveals significant and troubling flaws. Many contain vague and overbroad provisions, wrongfully criminalise free expression, impose disproportionately harsh penalties, and are applied without independent oversight. As a result, States have used these laws to arbitrarily restrict the right to freedom of expression and access to information in digital spaces, in clear violation of international and regional human rights laws and standards.

Such laws represent state overreach, and a form of over-regulation in defiance of international and regional human rights laws and standards. These laws have been used against journalists, media outlets, human rights defenders and lawyers, with the aim of silencing or intimidating them. Even when not actively enforced, the threat of severe and disproportionate penalties has a chilling effect on the free communication of ideas, opinions and information, encouraging self-censorship to avoid liability. These include laws, policies and practices that:

- Criminalise forms of online expression that should not be criminalised,
- Permit internet shutdowns or communications bans that are unnecessary and disproportionate,
- Expand state powers to remove online content or surveil individuals without sufficient oversight or due process guarantees, and
- Impose overly burdensome administrative and licensing requirements on internet intermediaries, media outlets and civil society organisations, with disproportionate sanctions for non-compliance.

This report reveals a concerning array of such laws across the regions, with several Asian Commonwealth countries standing out as examples of the dangers of state over-regulation. India, is described by Access Now as the 'world's internet shutdown leader', with at least 116 recorded shutdowns in 2023.⁸⁹⁶ Pakistan's Electronic Crimes Act, 2016 has been used to criminalise journalists, human rights defenders and political opponents, under the guise of combating misinformation and cybercrime.⁸⁹⁷ Sri Lanka's recently enacted Online Safety Act, 2024 has been widely criticised as an 'assault on freedom of expression, opinion, and information', due to its vague, overbroad, and disproportionate criminal

886 Commonwealth Heads of Government (2018). *Commonwealth Cyber Declaration*. <https://thecommonwealth.org/commonwealth-cyber-declaration-2018> [Accessed: 17 October 2024].

887 UN Human Rights Council, *The promotion, protection and enjoyment of human rights on the Internet* (7 July 2021). UN Doc A/HRC/47/L.22, p. 3. <https://documents.un.org/doc/undoc/ltd/g21/173/56/pdf/g2117356.pdf> [Accessed: 17 October 2024].

888 Government of Saint Vincent and the Grenadines (2016). *Cybercrime Act*. https://assembly.gov.vc/assembly/images/ActsBillsPolicies/SVG_Cybercrime_Act_2016.pdf [Accessed: 17 October 2024].

889 U.S. Department of State (n.d.). *Human Rights Reports: Custom Report Excerpts*. <https://2021-2025.state.gov/report/custom/50b17d9c8f/> [Accessed: 17 October 2024]; Government of Fiji (n.d.). *Online Safety Commission Fiji*. <https://osc.com.fjhttps://osc.com.fj/?utm> [Accessed: 17 October 2024].

890 CIVICUS Monitor (2025). *Papua New Guinea: Cybercrime law used to criminalise expression as government proceeds with restrictive media policy*. <https://monitor.civicus.org/explore/papua-new-guinea-cybercrime-law-used-to-criminalise-expression-as-government-proceeds-with-restrictive-media-policy/> [Accessed: 17 October 2024].

891 Government of Tonga (2020). *Electronic Communication Abuse Offences Act*. https://ago.gov.to/cms/images/LEGISLATION/PRINCIPAL/2020/2020-0113/ElectronicCommunicationAbuseOffencesAct2020_1.pdf [Accessed: 17 October 2024].

892 'Tiny Pacific nation sparks uproar by banning Facebook; here's why the government stands firm amid major backlash' (2025). *The Economic Times*, 26 March. <https://economictimes.indiatimes.com/news/international/us/tiny-pacific-nation-sparks-uproar-by-banning-facebook-heres-why-the-government-stands-firm-amid-major-backlash/articleshow/119501025.cms> [Accessed: 17 October 2024].

893 Farrell, P. (2015). 'Facebook blocked on Nauru due to "paranoia" about media scrutiny, says former president', *The Guardian*, 04 May. <https://www.theguardian.com/world/2015/may/04/facebook-blocked-on-nauru-due-to-paranoia-about-media-scrutiny-says-former-president> [Accessed: 17 October 2024].

894 'Samoa govt looking to ban Facebook' (2020). *RNZ*, 16 July. <https://www.rnz.co.nz/international/pacific-news/421311/samoa-govt-looking-to-ban-facebook> [Accessed: 17 October 2024].

895 Amnesty International (2020). 'Solomon Islands: Total Facebook ban over criticism of government is brazen attack on freedom of expression', 17 November. <https://www.amnesty.org/en/latest/press-release/2020/11/solomon-islands-facebook-ban-due-to-criticism-of-government-is-brazen-attack-on-freedom-of-expression/> [Accessed: 17 October 2024].

896 Access Now (2024). 'India leads the world internet shutdown count for sixth year.' 15 May. <https://www.accessnow.org/press-release/india-keepit-on-internet-shutdowns-2023-en> [Accessed: 17 October 2024].

897 Human Rights Watch (2025). 'Pakistan: Repeal Amendment to Draconian Cyber Law.' 03 February. <https://www.hrw.org/news/2025/02/03/pakistan-repeal-amendment-draconian-cyber-law> [Accessed: 15 February 2025].

and administrative provisions.⁸⁹⁸ In Malaysia, the Communications and Multimedia Act 1998 has enabled state censorship of online content, disproportionately targeting marginalised groups, particularly LGBTQ communities.⁸⁹⁹

At the same time, many Commonwealth countries have failed to adequately address the growing threats of online violence, abuse and harassment faced by journalists, lawyers, and human rights defenders in the course of their legitimate work. These include online death threats; harassment and intimidation on social media platforms; and technology-facilitated gender-based violence – disproportionately affecting those from marginalised groups. A 2020 survey by the International Center for Journalists (ICFJ) found that 73% of women journalists across 15 countries had experienced online violence.⁹⁰⁰ Anton Harber from the Campaign for Free Expression observed:

“**Online threats and harassment of journalists, particularly women journalists, are rife. These can include threats of rape and murder. When certain political leaders verbally attack these journalists, it is often followed by an apparently organised campaign of online threats. The justice system does not hold the culprits to account and appears to pay little attention to reported threats.**

Despite their commitments to uphold freedom of expression, many Commonwealth States have failed to ensure access justice and effective remedies. This reflects either a lack of appropriate legal and oversight mechanisms – or the failure to implement existing ones – resulting in a troubling pattern of under-regulation that leaves individuals unprotected.

International human rights law offers clear guidance: the same rights that people have offline must be protected online. Commonwealth governments must take effective measures to ensure that digital spaces are safe for all, through the adoption and implementation of robust laws grounded in international human rights standards.

Protection against harm must not be used as a pretext for arbitrary restrictions on the freedom of expression. It bears repeating that restrictions on freedom of expression – whether offline or online – must always meet the criteria of legality, legitimate purpose, necessity, proportionality, and non-discrimination. Criminal law, as one of the most severe tools available to the state, should only be used as a last resort – especially where custodial sentences are involved.

⁸⁹⁸ International Commission of Jurists (2023). 'Sri Lanka: Proposed Online Safety Bill would be an assault on freedom of expression, opinion, and information.' 29 September. <https://www.icj.org/sri-lanka-proposed-online-safety-bill-would-be-an-assault-on-freedom-of-expression-opinion-and-information> [Accessed: 17 October 2024].

⁸⁹⁹ International Commission of Jurists (2023). 'Southeast Asia: New ICJ report highlights discriminatory online restrictions against LGBT people.' 25 July. <https://www.icj.org/southeast-asia-new-icj-report-highlights-discriminatory-online-restrictions-against-lgbt-people> [Accessed: 17 October 2024].

⁹⁰⁰ International Center for Journalists (2022). 'The Chilling: A Global Study on Online Violence Against Women Journalists.' 02 November. https://www.icfj.org/sites/default/files/2023-02/ICFJ%20Unesco_TheChilling_OnlineViolence.pdf [Accessed: 17 October 2024].



Access to information is now at our fingertips, but censorship, online harassment, and surveillance remain growing risks in many Commonwealth countries. Photo credit: Insta_photos.

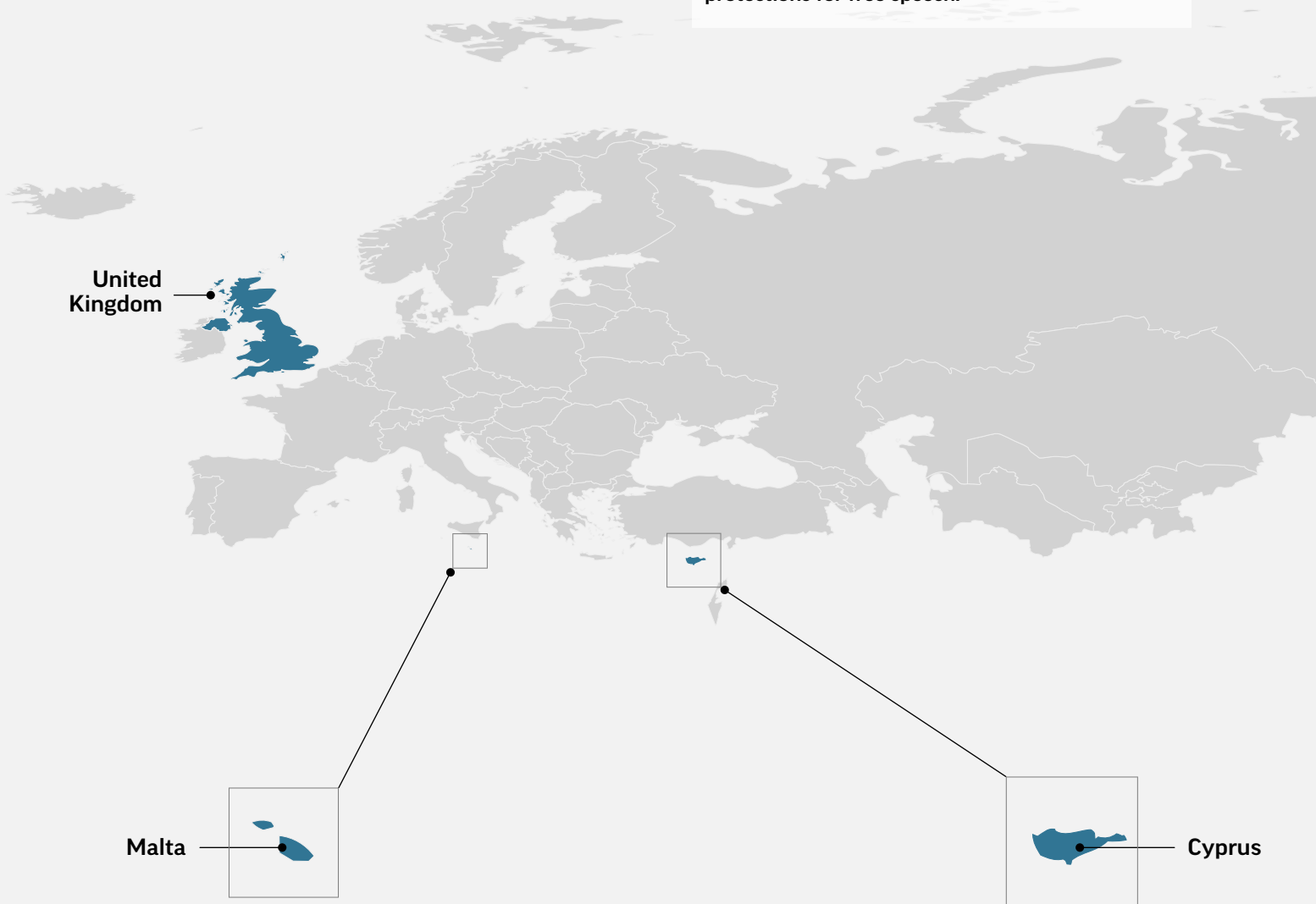
EUROPE

In the Region

The Europe region comprises 3 Commonwealth countries: The Republic of Cyprus, Malta, and the United Kingdom (UK).

INTERNATIONAL COMMITMENTS

All three Commonwealth States in this region have ratified the International Covenant on Civil and Political Rights (ICCPR). All three States are also legally bound to comply with the European Convention on Human Rights (ECHR)⁹⁰¹ and rulings of the European Court of Human Rights (ECtHR),⁹⁰² which provides generally robust protections for free speech.⁹⁰³



REGIONAL HIGHLIGHTS

- Freedom of speech is constitutionally guaranteed in **Malta** and **Cyprus** and is recognised as a fundamental civil right in the **UK**, protected by the Human Rights Act 1998. However, it is not an absolute right. National legislation in all three countries contain provisions which limit freedom of expression, including for reasons of national security, public order and public health.
- Defamation is not a criminal offence in **Malta** and the **UK**. **Cyprus** continues to criminalise defamation, albeit in a limited manner and to the extent that the Attorney General may still authorise criminal prosecutions in cases concerning the reputation of the army, religious symbols, the deceased, and foreign officials.
- Blasphemy has been decriminalised in **Malta** and the **UK**. **Cyprus** retains blasphemy offences, although no evidence was found of any prosecution in recent years.
- There is increasing use of vexatious legal actions (SLAPPs) targeting journalists and other media actors, particularly in cases involving defamation and privacy. In 2023 **Malta** had the highest number of SLAPP cases per capita in the European Union, and the **UK** has gained an ignoble reputation as the 'world capital' for SLAPPs.
- Sedition remains a criminal offence in **Cyprus** and **Malta**.
- Criminal laws on national security, public order and privacy obstruct freedom of expression and legitimate journalism. The **UK** has misused provisions of its anti-terror laws to arrest media workers, including a publisher and freelance journalist.
- A pressing concern in all the three countries is the alarming increase of violence, abuse, and harassment faced by journalists, both online and offline. The murder of Maltese journalist Daphne Caruana Galizia in 2017 is emblematic of this trend.
- The media in the region functions with a relatively high degree of freedom and independence, but in the **UK** there are concerns about laws that hinder investigative journalism and a lack of media plurality, and in **Cyprus** a lax regulatory framework leaves journalists feeling vulnerable. Many of **Malta's** newspapers and broadcasters are under the control of political parties. In all three countries journalists express a lack of confidence in their respective government's commitment to protecting them against online harassment and threats.
- European Commonwealth countries have enacted right to information (RTI) laws, but while the **UK's** Freedom of Information Act provides broad public access, **Malta** and **Cyprus** face significant transparency issues, with **Malta** frequently obstructing requests and **Cyprus** imposing more restrictions on access compared to the **UK**.
- Cyprus** and the **UK** are members of the 51-member global Media Freedom Coalition, committing to legal reforms, support and international advocacy for media freedom through diplomatic and financial means.

901 European Convention on Human Rights (adopted 4 November 1950, entered into force 3 September 1953). https://www.echr.coe.int/documents/d/echr/convention_ENG [Accessed: 28 April 2025].

902 European Court of Human Rights (n.d.). About Us. <https://www.echr.coe.int> [Accessed: 28 April 2025].

903 Additional regional frameworks include key Council of Europe bodies: the Committee of Ministers representing the Member States, the independent Commissioner for Human Rights, and the Parliamentary Assembly of the Council of Europe (PACE). Article 11 of the European Union's Charter of Fundamental Rights also protects freedom of expression and information. The Media Freedom Representative of the OSCE exercises an independent mandate to monitor, assist and warn the 57 participating States to respect commitments taken by consensus.

CONSTITUTIONAL GUARANTEES
VS LEGAL RESTRICTIONS

Freedom of expression is guaranteed by the Constitution of **Malta**,⁹⁰⁴ as well as the European Convention Act (by which Malta enacted its obligations pursuant to the ECHR).⁹⁰⁵ Freedom of speech is also constitutionally guaranteed in **Cyprus**.⁹⁰⁶

Freedom of expression is recognised as a fundamental civil right in the **UK** and is protected in the Human Rights Act 1998 (which incorporates the principles of the ECHR).⁹⁰⁷ Judges must give effect to other laws in a way that is compatible with Article 10 of the ECHR, for example in cases concerning the protection of journalists’ sources. Further, crimes of defamation, sedition and blasphemy have all been decriminalised.

However, freedom of expression is not an absolute right and national legislation in all three European Commonwealth countries contain provisions directly limiting freedom of expression, including for reasons of national security, public order and public health. Further, whilst defamation has been decriminalised in Malta and the **UK**, in **Cyprus**, the Attorney General can authorise criminal prosecutions in cases concerning the reputation of the army, the deceased and foreign officials; and crimes of blasphemy and sedition can be invoked in certain circumstances.

Notwithstanding the significant legal protections that exist across all three European Commonwealth countries, the Council of Europe’s Secretary-General declared in 2022 that serious shortcomings in Member States’ fulfilment of their commitments to freedom of expression rights were at the core of a general “democratic backsliding” across Europe.⁹⁰⁸

DEFAMATION

Despite the decriminalisation of defamation offences in the European Commonwealth States, journalists and media houses in the region have faced rising numbers of Strategic Lawsuits Against Public Participation (SLAPPs). The largest number of those threats and actions relate to issues of damage to reputation or defamation.

In the **UK**, defamation was decriminalised in 2013.⁹⁰⁹ However, section 106 of the Representation of the People Act 1983 makes it a criminal offence for a person to publish a false statement of fact regarding a candidate’s personal character or conduct before or during an election in order to influence the outcome of that election,⁹¹⁰ unless they can show reasonable grounds for believing the statement to be true and did so believe.⁹¹¹

In **Cyprus**, although defamation was decriminalised in 2003,⁹¹² the Attorney General can still authorise criminal prosecutions in cases concerning the reputation of the army, the deceased,

and foreign officials.^{913 914} That loophole is plainly incompatible with Article 19 of the ICCPR.

Newspapers and other publications in **Cyprus** report that the risk of civil defamation cases filed under the Civil Offences Law is a major source of anxiety,⁹¹⁵ especially in view of the financial burden of defending cases. The **Cyprus** Media Ethics Committee, which represents the Union of **Cyprus** Journalists, the Publishers Association and owners of public and private broadcasting organisations as well as online media, observes that in this climate the mere threat of a lawsuit is often enough for media or journalists to censor themselves.⁹¹⁶

In **Malta**, criminal defamation provisions are seen as having been abused for many years in the past, including by public figures and elected politicians. At the time Daphne Caruana Galizia (a Maltese investigative journalist assassinated in a car bomb attack in 2017) was killed she faced five criminal libel cases and over 40 civil cases, including lawsuits brought by a serving government minister and his close policy aide.⁹¹⁷ The law allowed a plaintiff to file multiple

suits against a defendant for the same alleged offence.⁹¹⁸

Since the removal of criminal provisions on defamation in the Maltese law reforms of 2018,⁹¹⁹ the number of prosecutions against journalists and news media has fallen markedly. Nevertheless in 2023 **Malta** was the country with the highest number of SLAPPs cases per capita in the European Union,⁹²⁰ with 1,993 cases per 100,000 people.⁹²¹

Moreover, the anomalous practice of passing on “inherited” lawsuits after a defendant’s death has continued. Thirty lawsuits pending against Daphne Caruana Galizia at her death were initially transferred to members of her family under a provision in Maltese law,⁹²² and some of those were still active in 2024. In 2023 Daphne’s son deplored the practice as “prejudicial” since he did not have access to what his mother knew or thought when she published her reports. In a 2020 report the Parliamentary Assembly of the Council of Europe called the practice “unacceptable”.⁹²³

In 2022, *The Shift News* faced 40 freedom of information lawsuits brought by Maltese government entities under the Freedom of Information (FOI) Act 2008 in respect of requests for information about public spending

904 Government of Malta (1964). *The Constitution of Malta*, art.41. <https://legislation.mt/eli/const/eng> [Accessed: 28 April 2025].

905 Government of Malta (1987). *European Convention Act (Chapter 319)*. <https://legislation.mt/eli/cap/319/eng> [Accessed: 28 April 2025].

906 Government of Cyprus (1960). *The Constitution of Cyprus*, art.19.1. [https://www.law.gov.cy/law/law.nsf/1D2CDD154DCF33C9C225878E0030BA5E/\\$file/The%20Constitution%20of%20the%20Republic%20of%20Cyprus.pdf](https://www.law.gov.cy/law/law.nsf/1D2CDD154DCF33C9C225878E0030BA5E/$file/The%20Constitution%20of%20the%20Republic%20of%20Cyprus.pdf) [Accessed: 28 April 2025].

907 Government of the United Kingdom (1998). *The Human Rights Act*. <https://www.legislation.gov.uk/ukpga/1998/42/contents> [Accessed: 28 April 2025].

908 Council of Europe (2024). *Press Freedom in Europe: Time to Turn the Tide. Annual assessment of press freedom in Europe by the partner organisations of the Safety of Journalists Platform*. <https://rm.coe.int/annual-report-2024-platform-for-the-safety-of-journalists-web-pdf/1680aeb373> [Accessed: 28 April 2025], pp.10, 55-56 and 87.

909 Government of the United Kingdom (2013). *Defamation Act*. <https://www.legislation.gov.uk/ukpga/2013/26/section/1/enacted> [Accessed: 28 April 2025].

910 Government of the United Kingdom (1983). *Representation of the People Act*, s.106. <https://www.legislation.gov.uk/ukpga/1983/2> [Accessed: 28 April 2025].

911 Centre for Media Pluralism and Media Freedom (2017). *Decriminalisation of Defamation Infographic*. <https://cmpf.eui.eu/wp-content/uploads/2019/01/decriminalisation-of-defamation-Infographic.pdf> [Accessed: 28 April 2025].

912 International Press Institute (n.d.). *By way of Law 84(I)/2003*. <http://legaldb.freemedia.at/legal-database/cyprus> [Accessed: 28 April 2025].

913 Government of Cyprus (1960). *The Constitution of the Republic of Cyprus (Part VI)*, art.113. [https://www.law.gov.cy/law/law.nsf/1D2CDD154DCF33C9C225878E0030BA5E/\\$file/The%20Constitution%20of%20the%20Republic%20of%20Cyprus.pdf](https://www.law.gov.cy/law/law.nsf/1D2CDD154DCF33C9C225878E0030BA5E/$file/The%20Constitution%20of%20the%20Republic%20of%20Cyprus.pdf) [Accessed: 28 April 2025].

914 Centre for Media Pluralism and Media Freedom (2017). *Decriminalisation of Defamation Infographic*. <https://cmpf.eui.eu/wp-content/uploads/2019/01/decriminalisation-of-defamation-Infographic.pdf> [Accessed: 28 April 2025]; Government of Cyprus (1959). *Cyprus Criminal Code (Chapter 154)*, arts.50D, 202A and 68. https://www.cylaw.org/nomoi/enop/non-ind/O_154/full.html [Accessed: 28 April 2025]; Clooney, A. and Neuberger, D. (2024). *Freedom of Speech in International Law*. <https://global.oup.com/academic/product/freedom-of-speech-in-international-law-9780198899372> [Accessed: 28 April 2025], p.87; Council of Europe (2003). *Defamation and Freedom of Expression Selected Documents*. <https://rm.coe.int/1680483b2d> [Accessed: 28 April 2025], p.61.

915 Government of Cyprus (1973). *The Civil Offences Law (Chapter 148)*, s.17(1). https://www.cylaw.org/nomoi/enop/ind/O_148/section-sc2e003922-dafe-4add-8533-d4693caa4256.html [Accessed: 28 April 2025].

916 CJA Journalist Questionnaire, Cyprus (July 2024).

917 Commissioner for Human Rights (2019). ‘Commissioner calls on Maltese authorities to withdraw posthumous defamation lawsuits against the family of Daphne Caruana Galiz’, *Council of Europe*, 19 September. <https://www.coe.int/en/web/commissioner/-/commissioner-calls-on-maltese-authorities-to-withdraw-posthumous-defamation-lawsuits-against-the-family-of-daphne-caruana-galiz-1> [Accessed: 28 April 2025].

918 Council of Europe (2020). *Last interview with Daphne Caruana Galizia published on the third anniversary of her death*. <https://www.coe.int/en/web/freedom-expression/-/last-interview-with-daphne-caruana-galizia-published-on-third-anniversary-of-her-death> [Accessed: 28 April 2025]; Clark, M. and Horsley, W. (2020). *A Mission to Inform; Journalists at risk speak out*. <https://rm.coe.int/prems-021220-gbr-2018-a-mission-to-inform-journalists-at-risk-speak-ou/16809ff1e2> [Accessed: 28 April 2025]; Council of Europe (2017). *Daphne Caruana Galizia: A Journalist Killed for Speaking Out*. <https://rm.coe.int/prems-092120-gbr-2018-daphne-caruana-galizia-16x24-web/16809ff1e3> [Accessed: 28 April 2025].

919 Government of Malta (2018). *Media and Defamation Act*. <https://legislation.mt/eli/cap/579/eng/pdf> [Accessed: 28 April 2025].

920 Conti, L. (2024). ‘Malta: Anti-SLAPP proposals require a more ambitious approach’, *ARTICLE 19*, 03 August. <https://www.article19.org/resources/malta-anti-slapp-proposals-require-a-more-ambitious-approach-to-be-efficient> [Accessed: 28 April 2025].

921 European Union (2024). *Official Journal of the European Union*, C 65/6. https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:C_202402656 [Accessed: 28 April 2025].

922 Government of Malta (1855). *Code of Organisation and Civil Procedure (Chapter 12)*, art.806-810A. <https://legislation.mt/eli/cap/12/eng> [Accessed: 28 April 2025].

923 Demarco, J. (2020). ‘Malta’s media freedom ‘particularly worrying’ - Council of Europe’, *The Shift News*, 29 January. <https://theshiftnews.com/2020/01/29/maltas-media-freedom-particularly-worrying-council-of-europe/> [Accessed: 28 April 2025].



Legal threats remain a powerful tool against journalists, despite reforms to defamation laws. Photo credit: Artem Avetisyan / Shutterstock.

and contracts.^{924 925} Although the Data Protection Commissioner ruled in favour of *The Shift News*, each of the government entities lodged identical appeals against the decision. *The Shift News* deplored those legal actions as vexatious – designed merely to exhaust its time and resources and send “a clear signal to others that the **Maltese** government will fight media attempts to obtain information under the FOI law.”^{926 927} The Data Commissioner has recommended amending the Freedom of Information Act, removing public authorities’ right to appeal against an order granting access to a document.⁹²⁸

In 2023 a specific legal protection covering satirical speech was added to Chapter 399 of **Malta’s** Electronic Communications (Regulation) Act.⁹²⁹ This provision has been invoked successfully by comedians who were prosecuted for satirical and comedic statements.⁹³⁰

A European stakeholders’ initiative, the Coalition Against SLAPPs in Europe (CASE), is committed to abolishing SLAPPs, and has published figures showing a massive increase in SLAPP cases.⁹³¹

924 Government of Malta (2008). *Freedom of Information Act*. <https://legislation.mt/eli/cap/496/eng> [Accessed: 28 April 2025]; European Union (2024). *Official Journal of the European Union*, C 65/6. https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:C_202402656 [Accessed: 28 April 2025].

925 International Press Institute (2022). *Joint statement in support of The Shift News as it faces a freedom of information battle with the government of Malta*. <https://ipi.media/joint-statement-in-support-of-the-shift-news-as-it-faces-a-freedom-of-information-battle-with-the-government-of-malta> [Accessed: 28 April 2025].

926 ARTICLE 19 (2022). ‘Malta: Support for The Shift News in the freedom of information battle’, 08 August. <https://www.article19.org/resources/malta-shift-news-freedom-of-information> [Accessed: 28 April 2025].

927 In the light of the recent exposure of failings in Malta’s rule of law standards, *The Shift News* added that “The Maltese authorities’ attitude helps to stoke a climate of impunity and minimisation of the importance of this case, with grave consequences for the freedom of the press in the country”.

928 European Centre for Press and Media Freedom (2023). *Malta: Media battle for access to public information*. <https://www.ecpmf.eu/malta-media-battle-for-access-to-public-information> [Accessed: 28 April 2025]; ‘Data protection chief: Freedom of Information law needs to be revised’ (2012). *Times of Malta*, 25 May. <https://timesofmalta.com/article/data-protection-chief-freedom-of-information-law-needs-to-be-revised.874396> [Accessed: 28 April 2025].

929 Government of Malta (2023). *Artistic Expression (Enhancement) Act*, art.49. <https://legislation.mt/eli/cap/399/eng/pdf> [Accessed: 28 April 2025].

930 Agius, M. (2024). ‘Comedian cleared over Gordon Manche carpet bomb ‘threat’, *Malta Today*, 16 May. https://www.maltatoday.com.mt/news/court_and_police/129220/comedian_cleared_over_gordon_manche_carpet_bomb_threat [Accessed: 28 April 2025].

931 Coalition Against SLAPPs in Europe (CASE) (n.d.). *How to Identify a SLAPP*. <https://www.the-case.eu/slapps> [Accessed: 28 April 2025].

“
The true extent of SLAPPs is unknown as the chilling effect of receiving legal threats can prevent publication or alter stories to avoid huge legal bills in lengthy court cases.

The National Union of Journalists (NUJ)⁹³²

In a significant recent development, the European Anti-SLAPP Directive – known as “Daphne’s Law” – was adopted into EU law in May 2024. All Member States are now required to transpose its provisions into domestic legislation within two years. The legislation provides for procedural safeguards against SLAPPs and other supportive measures for those who are targeted. **Malta** became the first EU Member State to transpose the Directive by way of the Strategic Lawsuits Against Public Participation Order, 2024,⁹³³ although there is some criticism that the legislation fails to provide comprehensive anti-SLAPP protection.⁹³⁴

In recent years, the **UK** gained a reputation as the “world capital” for SLAPPs, because it was the forum of choice for the global elite to launch legal threats against journalists and others seeking to scrutinise and expose wrong-doing.⁹³⁵ In a high-profile case, Chelsea football club owner Roman Abramovich brought an action against journalist Catherine Belton and publisher HarperCollins over statements in her book.⁹³⁶

Award-winning journalist Carole Cadwalladr also faced a defamation suit in London brought by millionaire businessman and political donor Arron Banks, co-founder of the 2016 Brexit campaign “Leave.EU.” The case concerned remarks Cadwalladr made in public talks and on social media. Although she successfully defended the claim at first instance, the Court of Appeal partially reversed the ruling, ordering her to pay a significant share of Mr Banks’ legal costs and a smaller sum in damages – totalling several hundred thousands pounds. Press freedom advocates condemned the outcome, warning it set “a chilling precedent for journalism”.⁹³⁷

While the Economic Crime and Corporate Transparency Act has been introduced in the **UK** to help counter SLAPPs,⁹³⁸ its scope is limited to matters of economic crime. The National Union of Journalists (NUJ), as part of the **UK** Anti-SLAPP Coalition, continues to call for comprehensive and standalone anti-SLAPP legislation.

The **UK’s** Solicitors Regulation Authority (SRA) has issued a warning to law firms and solicitors against participating in SLAPP cases, emphasising its authority to take enforcement action.⁹³⁹ Media organisations and freedom of expression advocates have called for stronger non-legal safeguard – such as early judge-led assessments of the merits of lawsuits against media workers – to stop what many describe as a flood of SLAPPs.⁹⁴⁰

932 CJA Journalist Questionnaire, United Kingdom (July 2024).

933 Government of Malta (2024). *Legal Notice 177 of 2024, Strategic Lawsuits Against Public Participation Order*. <https://legislation.mt/eli/ln/2024/177/eng> [Accessed: 28 April 2025].

934 Daphne Caruana Galizia Foundation (2024). *Implementation of the EU anti-SLAPP Directive in Malta*. <https://www.daphne.foundation/en/2024/08/02/letter-slapps> [Accessed: 28 April 2025].

935 Majid, A. (2022). ‘UK is the SLAPP tourism capital of Europe but the scale of the ‘iceberg problem’ is not fully known’, *Press Gazette*, 01 June. https://pressgazette.co.uk/media_law/uk-slapp-libel-tourism-capital-europe [Accessed: 28 April 2025].

936 Tobitt, C. (2021). ‘Putin’s People journalist and publisher settle Roman Abramovich libel claim’, *Press Gazette*, 22 December. <https://pressgazette.co.uk/news/putins-people-journalist-and-publisher-settle-roman-abramovich-libel-claim> [Accessed: 28 April 2025].

937 Graham Harrison, E. (2023). ‘Carole Cadwalladr to appeal against ruling that she pay Arron Banks’s legal’, *The Guardian*, 23 May. <https://www.theguardian.com/uk-news/2023/may/23/carole-cadwalladr-to-appeal-ruling-that-she-pay-legal-costs-in-arron-banks-case> [Accessed: 28 April 2025].

938 UK Parliament (2023). *The Economic Crime and Corporate Transparency Act*. <https://www.legislation.gov.uk/ukpga/2023/56> [Accessed: 28 April 2025].

939 Solicitors Regulation Authority (2024). *Warning notice; Strategic Lawsuits Against Public Participation (SLAPPs)*. <https://www.sra.org.uk/solicitors/guidance/slapps-warning-notice> [Accessed: 28 April 2025].

940 Thomson Reuters Foundation (2023). *Weaponizing the Law: Attacks on Media Freedom*. <https://www.trust.org/wp-content/uploads/legacy/weaponizing-law-attacks-media-freedom-report-2023.pdf> [Accessed: 28 April 2025].



When people are forced into silence, abuses go unchallenged and justice is denied. Photo credit: Justin Essah / Unsplash.

BLASPHEMY AND HURTING OR INSULTING RELIGIOUS SENTIMENTS

In the **UK**, blasphemy was decriminalised in England and Wales in 2008 and in Scotland in 2020.⁹⁴¹ In **Malta**, blasphemy was decriminalised in 2016.⁹⁴² Deliberately offending a person's religious sentiments is a criminal offence in **Cyprus**, as is publishing with the intent to humiliate a religion or insult those who follow it,⁹⁴³ although no evidence was found of any prosecution in recent years.

SEDITION

In the **UK** the offences of sedition, seditious libel, obscene libel, and defamatory libel were decriminalised in 2010.⁹⁴⁴ However, sedition remains a criminal offence in both **Cyprus** and **Malta**.⁹⁴⁵ In **Cyprus**, a guilty verdict can result in a prison sentence of up to five years; in **Malta**, up to four years, depending on the specific legislation applied and the court hearing the case.

In **Malta**, the President has certain powers to prohibit the importation, publication, possession, and distribution of seditious matter.⁹⁴⁶

NATIONAL SECURITY

In a landmark **UK** case in 2013, David Miranda, an associate of Edward Snowden, was detained at Heathrow Airport under Schedule 7 of the Terrorism Act 2000. Authorities confiscated materials derived from data obtained from the US and **UK** intelligence sources. The **UK** Court of Appeal later ruled that detaining a person at a port of entry in relation to journalistic material lacked adequate safeguards and was incompatible with Article 10 of the ECHR.⁹⁴⁷

Concerns about the misuse of counter-terrorism powers resurfaced in April 2023, when French publisher Ernest Moret was arrested upon arrival in London under the same provisions.⁹⁴⁸ The Independent Reviewer of Terrorism Legislation, Jonathan

Hall KC, concluded that anti-terrorism laws had been wrongly applied to justify the confiscation of Moret's laptop and phone.⁹⁴⁹ He referred the matter to the police watchdog and called for stronger safeguards to prevent counter-terror laws from being used in public order investigations.

“The problem with exercising counter-terrorism powers to investigate whether an individual is a peaceful protester or a violent protester is that it is using a sledgehammer to crack a nut...This was an investigation into public order for which counter-terrorism powers were never intended to be used. The rights of free expression and protest are too important in a democracy to allow individuals to be investigated in protests that have turned violent.”

Jonathan Hall KC, Independent Reviewer of Terrorism Legislation⁹⁵⁰

In August 2024, the use of terrorism legislation to target journalists drew fresh criticism after Richard Medhurst, a Syrian-British freelance journalist known for his coverage of Palestinian rights, was

arrested and detained at Heathrow Airport. He was reportedly held for expressing opinions deemed supportive of a proscribed organisation.⁹⁵¹ Leading journalists' associations, including the NUJ and the International Federation of Journalists, condemned the arrest. NUJ General Secretary Michelle Stanistreet and IFJ General Secretary Anthony Bellanger warned that such actions risk creating a chilling effect on press freedom in the **UK** and beyond, instilling “fear of arrest by **UK** authorities simply for carrying out their work.”⁹⁵²

In the **UK**, broader concerns have also been raised about the misuse of surveillance powers under the Investigatory Powers Acts of 2000 and 2016. In 2019, the Investigatory Powers Tribunal found that the domestic security service MI5 had committed serious compliance failures between 2014 and 2019, including breaches of statutory safeguards.⁹⁵³

In their 2024 publication, Freedom of Speech in International Law,⁹⁵⁴ a group of international legal experts sharply criticised the **UK's** failure to provide a public interest defence for journalists in national security and terrorism-related cases. A leading media lawyer highlighted the urgent need for such a defence across four key statutes that impose criminal liability on journalists:⁹⁵⁵ the **UK** National Security Act 2023,⁹⁵⁶ Official Secrets Act 1989,⁹⁵⁷ Terrorism Acts,⁹⁵⁸ and Computer Misuse Act 1990.⁹⁵⁹ Without

941 Blasphemy remains a crime under Northern Ireland's common law, and civil penalties for blasphemous libel continue to operate under Northern Ireland's Criminal Libel Act, 1819, s.1. Government of the United Kingdom (2008). *Criminal Justice and Immigration Act*, s.79. <https://www.legislation.gov.uk/ukpga/2008/4/contents> [Accessed: 28 April 2025]; The Scottish government repealed its blasphemy law in April 2020. International Bar Association (2023). *On Religious Freedom and Discontent: Report on International Standards and Blasphemy Laws*. <https://www.ibanet.org/document?id=Blasphemy-laws-report-2023> [Accessed: 28 April 2025].

942 However, uttering an insult that consists of “blasphemous words or expressions” is a contravention under Article 342 of the Criminal Code of Malta. International Bar Association (2023). *On Religious Freedom and Discontent: Report on International Standards and Blasphemy*. <https://www.ibanet.org/document?id=Blasphemy-laws-report-2023> [Accessed: 28 April 2025]; Government of Malta (1854). *Criminal Code*, art.342. <eur-lex.europa.eu/legal-content/FR/TXT/PDF/?uri=NIM:202100290> [Accessed: 28 April 2025].

943 Government of Cyprus (1959). *Cyprus Criminal Code*, art.142. <https://legislationline.org/sites/default/files/2023-09/Criminal%20code%20of%20Cyprus.pdf> [Accessed: 28 April 2025].

944 Government of the United Kingdom (2009). *Coroners and Justice Act*, s.73. <https://www.legislation.gov.uk/ukpga/2009/25/contents> [Accessed: 28 April 2025].

945 Article 73-78 of the Cyprus Criminal Code and Article 10 of the Malta Seditious Propaganda (Prohibition) Ordinance (Chapter 71). Those found guilty pursuant to the Criminal Code face up to 6-18 months in prison. Those found guilty pursuant to the Seditious Propaganda (Prohibition) Ordinance (Chapter 71) face a prison sentence of up to 4 years or 10 months (depending on the particular court that tries the case).

946 Government of Malta (1932). *The Seditious Propaganda (Prohibition) Ordinance Act (Chapter 71)*. <https://legislation.mt/eli/cap/71/eng/pdf> [Accessed: 28 April 2025].

947 *R (Miranda) v SSHD* [2016] EWCA Civ 6. <https://www.bailii.org/ew/cases/EWCA/Civ/2016/6.html> [Accessed: 28 April 2025].

948 Sandford, D. and Rhoden-Paul, A. (2023). ‘Met Police use anti-terror laws to arrest French publisher condemned’, *BBC News*, 18 April. <https://www.bbc.co.uk/news/uk-65314605> [Accessed: 28 April 2025].

949 Weaver, M. (2023). ‘Arrest of French publisher in London referred to police watchdog’, *The Guardian*, 21 July. <https://www.theguardian.com/uk-news/2023/jul/21/police-watchdog-investigating-arrest-french-publisher-ernest-moret> [Accessed: 28 April 2025]; Independent Reviewer of Terrorism Legislation (n.d.). *Report on use of Schedule 7 powers (Ernest Moret)*. <https://terrorismlegislationreviewer.independent.gov.uk/report-on-use-of-schedule-7-powers-ernest-moret> [Accessed: 28 April 2025], paras. 57 and 62.

950 Independent Review of Terrorism Legislation (2023). *Report on use of Schedule 7 powers (Ernst Moret)*. <https://terrorismlegislationreviewer.independent.gov.uk/report-on-use-of-schedule-7-powers-ernest-moret> [Accessed: 28 April 2025].

951 National Union of Journalists (2024). *NUJ and IFJ statement on arrest of Richard Medhurst*. <https://www.nuj.org.uk/resource/nuj-and-ifj-statement-on-arrest-of-richard-medhurst.html> [Accessed: 28 April 2025]; Wilkins, B. (2024). ‘Can’t Make This Up’: Journalist Arrested Under UK Anti-Terror Law Hours After Criticising It. <https://www.commondreams.org/news/richard-medhurst> [Accessed: 28 April 2025].

952 National Union of Journalists (2024). *NUJ and IFJ statement on arrest of Richard Medhurst*. <https://www.nuj.org.uk/resource/nuj-and-ifj-statement-on-arrest-of-richard-medhurst.html> [Accessed: 28 April 2025].

953 *Liberty v Security Service* [2023] UKIPTrib1. <https://www.judiciary.uk/judgments/liberty-v-security-service> [Accessed: 28 April 2025].

954 Clooney, A. and Neuberger, D. (2024). *Freedom of Speech in International Law*. <https://global.oup.com/academic/product/freedom-of-speech-in-international-law-9780198899372> [Accessed: 28 April 2025].

955 CJA Journalist Questionnaire, UK (July 2024).

956 Government of the United Kingdom (2023). *National Security Act*. <https://www.legislation.gov.uk/ukpga/2023/32/contents> [Accessed: 28 April 2025].

957 Government of the United Kingdom (1989). *Official Secrets Act*. <https://www.legislation.gov.uk/ukpga/1989/6/contents> [Accessed: 28 April 2025].

958 Government of the United Kingdom (2000). *Terrorism Act 2000*. <https://www.legislation.gov.uk/ukpga/2000/11/contents> [Accessed: 28 April 2025]; Government of the United Kingdom (2006). *Terrorism Act 2006*. <https://www.legislation.gov.uk/ukpga/2006/11/contents> [Accessed: 28 April 2025].

959 Government of the United Kingdom (1990). *Computer Misuse Act*. <https://www.legislation.gov.uk/ukpga/1990/18/contents> [Accessed: 28 April 2025].

these reforms, the **UK** risks falling short of its obligations under international standards on freedom of expression.

In **Malta**, Article 41(2) of the Constitution permits restrictions on freedom of expression in the interests of defence, public safety, and public order. The Official Secrets Act,⁹⁶⁰ originally enacted in 1923, prohibits the unauthorised disclosure of information, documents, or other materials relating to **Malta's** national security.

In **Cyprus**, freedom of expression may be restricted under the Computer Misuse and Cybercrime Law and Data Protection legislation,^{961 962} particularly in cases involving online expression that includes hate speech, defamation, or national security concerns.

PEACEFUL PROTESTS AND SURVEILLANCE

A 2024 Amnesty International report highlighted the growing erosion of the right to peaceful assembly across Europe, as States increasingly deploy law enforcement measures to stigmatise, criminalise, or impose excessive restrictions on peaceful protesters.⁹⁶³ Amnesty identified a pattern of repressive laws, arbitrary arrests and prosecutions, and the expanding use of invasive surveillance technologies.

In the **UK**, the NUJ called for clarification and transparency following media reports – later

confirmed – of covert monitoring of journalists in Northern Ireland to identify their sources.⁹⁶⁴

In 2022, journalists and media organisations raised strong objections after reporters and photographers covering the Just Stop Oil protests were arrested and accused of conspiracy to cause a “public nuisance”. Police later issued an apology, acknowledging their mistakes.⁹⁶⁵

The UK Public Order Act 2023 further expanded police powers to restrict and criminalise protest activity.⁹⁶⁶ Critics warn that the Act equates peaceful, disruptive protest with “serious violence” and may significantly deter participation in peaceful assembly. A specific provision was included, in response to the Just Stop Oil protests, to ensure that journalists cannot be prevented from observing or reporting on protests.

Additionally, the Police, Crime, Sentencing and Courts Act 2022 increased both police and ministerial powers to restrict the right to peaceful assembly, including on the grounds of noise and nuisance – raising concerns that the implementation of such powers could be disproportionate.⁹⁶⁷

In May 2024, the **UK** High Court ruled that the government acted unlawfully by introducing additional protest restrictions under the Public Order Act, without proper parliamentary scrutiny. The Court found that expanding the definition of “serious disruption” to include

anything “more than minor” was unlawful.⁹⁶⁸ Although the ruling has been appealed, the contested provisions remain in force.

Concerns persist regarding the surveillance of protesters and journalists, particularly the use of spyware and facial recognition technology to track, monitor, and collect personal data. In 2021, the UN Human Rights Committee expressed concern over the “increased use by police forces of facial recognition technology to monitor peaceful gatherings” in the **UK**,⁹⁶⁹ and urged the government to “end the use of facial recognition and other mass surveillance technologies by law enforcement agencies at protests”⁹⁷⁰ to protect rights to privacy, non-discrimination, freedom of expression, and peaceful assembly.

In a notable case in **Malta**, the family of murdered journalist Daphne Caruana Galizia invoked the right to freedom of expression under the ECHR to defend the rights of those protesting against government inaction over her assassination.⁹⁷¹

The family displayed a banner on private property – installed with the owners’ consent – accusing senior politicians of responsibility. When local authorities repeatedly removed the banner, the family challenged the actions before a Maltese court, claiming violations of their freedom of expression rights under Article 10 of the ECHR and Article 41 of the Maltese Constitution.

In 2019, the Court ruled in the family’s favour, finding that the authorities’ actions lacked transparency, accountability, clarity, and foreseeability. The Court further held that the banner conveyed a message of political importance which was of public

interest, meriting the highest level of legal protection. The applicants were awarded €5,000 (approximately GBP 4,210) in non-pecuniary damages.⁹⁷²

USE OF TECHNOLOGY AND INTERNET REGULATIONS

The covert or unlawful use of technology – and the lack of protection for journalists and other actors online – remains a pressing concern across European Commonwealth States. In response, several governments have enacted new laws and regulations that are incompatible with international human rights law and standards protecting the right to freedom of expression.

In the **UK**, the Online Safety Act 2023 introduces a new duty of care on social media platforms and search services to safeguard users. It assigns the media regulator, Ofcom, responsibility for enforcing its provisions, including the removal of illegal content and the protection of children online. The Act also creates several new criminal offences, such as sending false information, threatening messages, or intimate images. While the law aims to ensure people’s access to high-quality journalism by offering special protections for content published by recognised news outlets, publishers have raised concerns over how “recognised” media will be defined. The News Media Association warned that the new regulatory framework could amount to a “state-sponsored press – antithetical to any functioning democracy.”⁹⁷³

In **Cyprus**, a controversial ‘fake news’ bill – dealing with the dissemination of false information and offensive or obscene content

960 Government of Malta (1923). *Official Secrets Act (Chapter 50)*. <https://legislation.mt/eli/cap/50/eng/pdf> [Accessed: 28 April 2025].

961 Republic of Cyprus (2018). *Protection of Natural Persons with Regard to the Processing of Personal Data and for the Free Movement of Such Data Law (Law 125(I)/2018)*. [https://www.dataprotection.gov.cy/dataprotection/dataprotection.nsf/2B53605103DCE4A4C225826300362211/\\$file/Law%20125\(I\)%20of%202018%20ENG%20final.pdf](https://www.dataprotection.gov.cy/dataprotection/dataprotection.nsf/2B53605103DCE4A4C225826300362211/$file/Law%20125(I)%20of%202018%20ENG%20final.pdf) [Accessed: 28 April 2025].

962 The Legal 500 (n.d.). *Cyprus: Data Protection & Cybersecurity*. <https://www.legal500.com/guides/chapter/cyprus-data-protection-cybersecurity> [Accessed: 28 April 2025].

963 Amnesty International (2024). ‘Europe: Sweeping pattern of systematic attacks and restrictions undermine peaceful protest’, 08 July. <https://www.amnesty.org/en/latest/news/2024/07/europe-sweeping-pattern-of-systematic-attacks-and-restrictions-undermine-peaceful-protest> [Accessed: 28 April 2025].

964 National Union of Journalists (2024). *PSNI report on access to journalist’s records is grounds for grave concern*. <https://www.nuj.org.uk/resource/psni-report-on-access-to-journalist-s-records-grounds-for-grave-concern.html> [Accessed: 28 April 2025]; National Union of Journalists (2024). *IPT hearings into PSNI covert surveillance continue*. <https://www.nuj.org.uk/resource/ipt-hearings-into-psni-covert-surveillance-continue.html> [Accessed: 28 April 2025].

965 Gayle, D. (2022). ‘Hertfordshire police admit unlawfully arresting journalist at Just Stop Oil protest’, *The Guardian*, 21 December. <https://www.theguardian.com/uk-news/2022/dec/21/hertfordshire-police-admit-unlawfully-arresting-journalist-at-just-stop-oil-protest> [Accessed: 28 April 2025].

966 Forest, R. (2023). ‘Public Order Bill: New restrictions to protest tempered but will still bite’, *Bond*, 09 February. <https://www.bond.org.uk/news/2023/02/public-order-bill-new-restrictions-to-protest-tempered-but-will-still-bite> [Accessed: 28 April 2025]; JUSTICE (2023). *The State We’re In: Addressing Threats & Challenges to the Rule of Law*. <https://files.justice.org.uk/wp-content/uploads/2023/08/31123029/JUSTICE-The-State-We’re-In-Addressing-Threats-Challenges-to-the-Rule-of-Law-September-2023.pdf> [Accessed: 28 April 2025].

967 Liberty (n.d.). *How Does the New Policing Act Affect My Protest Rights?* https://www.libertyhumanrights.org.uk/advice_information/pcsc-policing-act-protest-rights [Accessed: 28 April 2025].

968 Amnesty International UK (2024). *UK government plan to push more anti-protest legislation through Lords must be stopped*. <https://www.amnesty.org.uk/press-releases/uk-government-plan-push-more-anti-protest-legislation-through-lords-must-be-stopped> [Accessed: 28 April 2025]; ARTICLE 19 (2024). *UK: New government must prioritise freedom of expression*. <https://www.article19.org/resources/uk-new-government-must-prioritise-freedom-of-expression> [Accessed: 28 April 2025].

969 UN Human Rights Committee, Concluding observations on the eighth periodic report of the United Kingdom of Great Britain and Northern Ireland (3 May 2024), UN Doc CCPR/C/GBR/CO/8, para. 52. <https://documents.un.org/doc/undoc/gen/g24/056/43/pdf/g2405643.pdf> [Accessed: 28 April 2025].

970 Ibid, para. 53.

971 Daphne Caruana Galizia Foundation (n.d.). *Human Rights Cases*. <https://www.daphne.foundation/en/justice/human-rights-cases> [Accessed: 28 April 2025].

972 Caruana Galizia et al v The Planning Authority [2019] (No. 79/2018/LSO) First Hall, Civil Court. <https://globalfreedomofexpression.columbia.edu/cases/galizia-v-the-planning-authority> [Accessed: 28 April 2025].

973 ‘Online Safety Bill: Government must continue to protect press freedom’ (2022). *News Media UK*, 22 September. <https://newsmediauk.org/blog/2022/09/22/online-safety-bill-government-must-continue-to-protect-press-freedom> [Accessed: 28 April 2025].

online – has triggered alarm over its likely chilling effect on press freedom. The proposed law would make certain offences punishable by fines and imprisonment of up to one year.⁹⁷⁴ The government stated its intent was to strike a “golden ratio,” aiming “on the one hand, to protect the journalistic profession and on the other hand, to safeguard every citizen... from malicious comments on the internet.”⁹⁷⁵ However, the International and European Federations of Journalists (IFJ-EFJ), together with the Union of **Cyprus** Journalists (UCJ-ESK), strongly opposed the bill.⁹⁷⁶ In October 2024, the government paused its consideration and agreed to consult with concerned media and civil society organisations.⁹⁷⁷

Meanwhile, the European Digital Services Act grants internet service providers operating inside the EU expanded powers to unilaterally remove certain types of user content to prevent the publication of illegal content.⁹⁷⁸ Many concerned groups have raised concern that these broad powers could result in overreach and lead to censorship by the platforms themselves.

RIGHT TO INFORMATION

Of the Commonwealth countries in this region, only **Cyprus** is not a signatory to the Council of Europe Convention on Access to

Official Documents, 2009 which enshrines the right of access to official documents held by public bodies.⁹⁷⁹

Each European Commonwealth country has enacted legislation recognising the right to information. In the **UK**, the Freedom of Information Act 2000⁹⁸⁰ provides public access to information held by public authorities through two key mechanisms: public authorities are obliged to publish certain information about their activities, and members of the public are entitled to request information from public authorities.⁹⁸¹ Public authorities under the Act include government departments, local authorities, the National Health Service, state schools, and police forces.⁹⁸²

In **Malta**, the Freedom of Information (FOI) Act (Cap. 496)⁹⁸³ establishes the right of the public to access information held by public authorities. However, in practice, media organisations report that the law is frequently misused to obstruct access to information and obscure public transparency.⁹⁸⁴ Eligibility to make an FOI request is limited to individuals who have resided in **Malta** for at least five years and are either Maltese citizens, EU citizens, or nationals of the EEA.⁹⁸⁵

According to the European Centre for Press and Media Freedom, FOI requests in **Malta** are often denied on arbitrary grounds, significantly

974 Free Speech Union (2024). *Cyprus proposes five-year prison sentences for spreading fake news*. <https://freespeechunion.org/cyprus-proposes-five-year-prison-sentences-for-spreading-fake-news> [Accessed: 28 April 2025].

975 Council of Europe (2024). ‘Cyprus: Reply to proposal to criminalise fake news’, COE, 04 October. <https://rm.coe.int/cyprus-en-reply-proposal-to-criminalise-fake-news-in-cyprus-4october201680b1d497> [Accessed: 28 April 2025].

976 European Federation of Journalists (2024). *Cyprus: Legislative attempts to introduce a five-year prison sentence for spreading fake news*. <https://europeanjournalists.org/blog/2024/07/18/cyprus-legislative-attempts-to-introduce-a-five-year-prison-sentence-for-spreading-fake-news> [Accessed: 28 April 2025].

977 International Press Institute (2024). ‘Cyprus pauses fake news law to consult media stakeholders’, 10 October. <https://ipi.media/cyprus-fake-news-law-media-stakeholders-meeting> [Accessed: 28 April 2025].

978 Council of the European Union (n.d.). *Digital Services Act*. <https://www.consilium.europa.eu/en/policies/digital-services-act> [Accessed: 28 April 2025]; European Commission (n.d.). *Digital Services Act*. https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/europe-fit-digital-age/digital-services-act_en [Accessed: 28 April 2025].

979 Council of Europe (n.d.). *The Council of Europe Convention on Access to Official Documents (CETS No. 205): About the Convention*. <https://www.coe.int/en/web/access-to-official-documents> [Accessed: 28 April 2025].

980 Government of the United Kingdom (2000). *Freedom of Information Act*. <https://www.legislation.gov.uk/ukpga/2000/36/contents> [Accessed: 28 April 2025].

981 The Act covers any recorded information that is held by a public authority in England, Wales and Northern Ireland, and by UK-wide public authorities based in Scotland.

982 Information Commissioner’s Office (2017). *The Guide to Freedom of Information*. <https://ico.org.uk/media2/migrated/4020010/guide-to-freedom-of-information-4-9.pdf> [Accessed: 28 April 2025].

983 Government of Malta (2009). *Freedom of Information Act*. <https://legislation.mt/eli/cap/496/eng> [Accessed: 28 April 2025].

984 European Centre for Press and Media Freedom (2022). *Malta: Media battle for access to public information*. <https://www.ecpmf.eu/malta-media-battle-for-access-to-public-information> [Accessed: 28 April 2025].

985 Government of Malta (n.d.). *Freedom of Information (FOI) Request Form*. <https://www.servizz.gov.mt/en/Pages/Other/Government-Information-Services/Freedom-of-Information/WEB2169/default.aspx> [Accessed: 28 April 2025].



Laws granting access to public information exist across European Commonwealth countries, but misuse and barriers continue to block transparency and limit press freedom. Photo credit: Burak Argun / Pexels.

delayed, or met with incomplete responses. Evidence also indicates that requests from particular media outlets – or on certain topics – are sometimes handled in a discriminatory manner by certain administrative bodies.⁹⁸⁶

The Media Pluralism Report 2024 (covering 2023) flagged as a major concern the lack of transparency around money flows between government, media, and private businesses in **Malta**. The report assigned **Malta** a high-risk score of 77% for the right to information, citing a stalled and reportedly unsatisfactory reform process, frequent arbitrary delays, and a broader tendency of the government to ignore or sideline critical media. One example is *The Shift News*, a small independent newsroom that has had to invest significant resources over several years to challenge repeated refusals of access to information in court.⁹⁸⁷

In **Cyprus**, the Right of Access to Public Sector Information Law of 2017 came into force in 2020. It grants natural and legal persons

the right to request and obtain information held by public authorities. While similar in structure to the **UK**’s FOI Act, the Cypriot law includes broader exemptions. For example, if another law regulates access to information on a particular issue, Law 184(I)/2017 does not apply. Furthermore, this law will not apply where relevant EU legislation or a court order is in place.⁹⁸⁸

Under the law, public authorities may reject FOI requests if one of the listed exceptions applies. These include national security concerns, protection of financial interests, or where the information is otherwise accessible to the applicant through other means.⁹⁸⁹

INTERFERENCE IN THE INDEPENDENT FUNCTIONING OF THE MEDIA

In the **UK**, the NUJ has underscored the urgent need for new safeguards to protect media plurality, noting that just three companies –

986 European Centre for Press and Media Freedom (2022). *Malta: Media battle for access to public information*. <https://www.ecpmf.eu/malta-media-battle-for-access-to-public-information> [Accessed: 28 April 2025].

987 Centre for Media Pluralism and Media Freedom (2023). *Monitoring Media Pluralism in the Digital Era: Application of the Media Pluralism Monitor in the European Member States and Candidate Countries in 2023*. https://cadmus.eui.eu/bitstream/handle/1814/77010/Malta_EN_mpm_2024_cmpf.pdf?sequence=1&isAllowed=y [Accessed: 28 April 2025].

988 Government of Cyprus (2020). *Right of Access to Public Sector Information Law of 2017 (184 (I) / 2017)*. [https://www.informationcommissioner.gov.cy/informationcommissioner/informationcommissioner.nsf/EC4E95413DF3A0D2C22586250030F456/\\$file/The%20Right%20of%20Access%20to%20Information%20of%20the%20Public%20Sector%20Laws%20of%202017%20to%202018%20\(English\).pdf](https://www.informationcommissioner.gov.cy/informationcommissioner/informationcommissioner.nsf/EC4E95413DF3A0D2C22586250030F456/$file/The%20Right%20of%20Access%20to%20Information%20of%20the%20Public%20Sector%20Laws%20of%202017%20to%202018%20(English).pdf) [Accessed: 28 April 2025].

989 Frangos Law. (n.d.). *New Law Grants the Rights to Access to Information Kept by the Public Authorities*. <https://www.frangoslaw.com/news/news/new-law-grants-the-right-to-access-to-information> [Accessed: 28 April 2025].

DMG Media, News UK, and Reach – control 90% of the country’s newspaper market.^{990 991} The Digital Markets, Competition and Consumers Act 2024 includes provisions to prevent foreign powers from gaining control or undue influence over newspaper enterprises.⁹⁹² This clause was added in response to efforts by RedBird IMI, a company backed by the United Arab Emirates, to acquire *The Telegraph* newspaper and *The Spectator* magazine.⁹⁹³

In **Malta**, political parties are legally permitted to own and operate media outlets. The two dominant political parties in **Malta** each own and operate television and radio stations, online news media platforms, and publish daily and weekly newspapers.⁹⁹⁴

“It is an open secret that the state broadcaster is directly controlled by the government of the day, with critical journalists often sidelined. The two main political parties in Malta also have their own media outlets, which are nothing short of propaganda tools.

Journalist, Malta⁹⁹⁵

The Maltese journalist with close knowledge of the media landscape further questioned the government’s understanding of the

media’s watchdog function, noting: “The Prime Minister refuses to acknowledge the media as the fourth pillar of democracy, saying if it becomes so, it will need to be subject to regulatory checks and balances.”⁹⁹⁶

The EU-funded European Centre for Media Pluralism and Media Freedom⁹⁹⁷ identified an exceptionally high risk score of 84% in the category of “political independence” for the media in **Malta** in 2023.⁹⁹⁸

In **Cyprus**, while press freedom is guaranteed by the Constitution, the outdated and lax regulatory framework has raised ongoing concerns about the rights of journalists and undue influence over the media.⁹⁹⁹ The media regulatory framework has remained largely unchanged for years.¹⁰⁰⁰ A 2023 amendment to the Law on Radio and Television Organisations now permits a single person or entity to own multiple media outlets without threshold or limitation – effectively enabling “unimpeded media control.”¹⁰⁰¹ European newspaper publishers have expressed concern that the law sets an unwelcome precedent and have warned against any further moves towards overly prescriptive media regulation.¹⁰⁰²

Pressure is mounting on the Cypriot authorities to align with the EU’s Media Freedom Act, adopted in May 2024 and due to take effect in August 2025. Among other provisions, the

Act introduces transparency requirements and safeguards on media ownership and the allocation of state advertising.¹⁰⁰³

The **Cyprus** Media Ethics Committee has warned that the powers granted to the electronic media regulator – the **Cyprus** Radio and Television Authority – to impose fines for breaches of broadcasting standards pose a threat to journalistic independence.^{1004 1005} The Committee considers the creation of a single legal framework to safeguard press freedom and the journalistic profession a high priority, stating:

“The influence of political parties, and the government, business interests and the church, often forces journalists to self-censorship. Cyprus Media Ethics Committee¹⁰⁰⁶

The 2017 assassination of Maltese journalist Daphne Caruana Galizia was widely regarded as a wake-up call for all European governments. It prompted coordinated action to address the growing threats journalists face from both state and non-state actors. Sustained pressure from the EU, the Council of Europe, NGOs, and Daphne’s family led to the establishment of an independent Commission of Inquiry. In 2021 the Commission published a scathing report holding the Maltese government responsible for creating an atmosphere of impunity that contributed to her murder – describing a system that “like an octopus, spread to other entities and regulators and the Police, leading to the collapse of rule of law.”¹⁰⁰⁷

Multiple cases of harassment and alleged judicial intimidation of other journalists in **Malta** have since been recorded by the Council of Europe’s Platform for the Safety of Journalists, part of its press freedom alerts system.^{1008 1009} Daphne’s case remains listed as an unresolved case of impunity due to long delays in the judicial process and the ongoing failure to prosecute the suspected mastermind.¹⁰¹⁰



Without stronger protections, Cypriot journalists face growing pressure from political and business interests, leading to self-censorship and weakened public debate. Photo credit: New Africa / Shutterstock.

990 National Union of Journalists (2024). *A Future for News: The NUJ’s Recovery Plan for the News Industry*. <https://www.nuj.org.uk/resource/a-future-for-news-the-nuj-s-recovery-plan-for-the-news-industry.html> [Accessed: 28 April 2025].

991 Ibid.

992 Government of the United Kingdom (2024). *Online Safety Act*. <https://www.legislation.gov.uk/ukpga/2024/13/contents> [Accessed: 28 April 2025].

993 Craft, J. (2024). ‘Telegraph up for sale as Redbird seeks to offload UK newspapers’, *The Guardian*, 30 April. <https://www.theguardian.com/media/2024/apr/30/telegraph-up-for-sale-redbird-imi-uae-newspapers> [Accessed: 28 April 2025].

994 Centre for Media Pluralism and Media Freedom (n.d.). *Local Media for Democracy: Country Focus – Malta*. <https://cmpf.eu.eu/local-media-for-democracy-country-focus-malta> [Accessed: 28 April 2025].

995 CJA Journalist Questionnaire, Malta (July 2024).

996 Ibid.

997 The Media Pluralism Monitor (MPM) is a research project that assesses the health of media ecosystems in Europe, highlighting threats to media pluralism and media freedom in the European Union’s Member States and candidate countries. The assessed risk scores for various indicators and sub-indicators are grouped as “Low (0 – 33%), Medium (34-66%) and High (67-100%)” in the text and data visualisations are given to aid comprehension. The findings highlight the risks for media pluralism and media freedom in the four major areas encompassed by the MPM. Centre for Media Pluralism and Media Freedom (2023). *Media Pluralism Monitor 2023*. <https://cmpf.eu.eu/media-pluralism-monitor-2023> [Accessed: 28 April 2025].

998 Muscat, C. (2024). ‘Concerns on press freedom in Malta sustained in new report’, *The Shift News*, 28 June. <https://theshiftnews.com/2024/06/28/concerns-on-press-freedom-in-malta-sustained-in-new-report> [Accessed: 28 April 2025].

999 CJA Journalist Questionnaire, Cyprus (July 2024).

1000 Republic of Cyprus (1989). *Press Law*. https://www.cylaw.org/nomoi/enop/non-ind/1989_1_145/full.html [Accessed: 28 April 2025].

1001 International Press Institute (2024). *Media Freedom and pluralism in the Republic of Cyprus: an overview*. <https://ipi.media/media-freedom-pluralism-cyprus-article> [Accessed: 28 April 2025].

1002 ‘Publishers express reserve towards EMFA’ (2024). *Europe Diplomatic*, 13 March. <https://europediplomatic.com/2024/03/13/publishers-express-reserve-towards-emfa> [Accessed: 28 April 2025].

1003 Note that the United Kingdom is no longer bound by EU legislation since it left the EU in 2020.

1004 CJA Journalist Questionnaire, Cyprus (July 2024).

1005 Cyprus Radio-Television Authority (2021). *Consolidated Law up to Amendment 197(I)*. [https://crta.org.cy/en/assets/uploads/pdfs/FINAL%20CONSOLIDATED%20LAW%20up%20to%20Amendment%20197\(I\).2021.pdf](https://crta.org.cy/en/assets/uploads/pdfs/FINAL%20CONSOLIDATED%20LAW%20up%20to%20Amendment%20197(I).2021.pdf) [Accessed: 28 April 2025].

1006 CJA Journalist Questionnaire, Cyprus (July 2024).

1007 ARTICLE 19 (2021). *Malta: Landmark Public Inquiry recommendations on Daphne Caruana Galizia’s assassination must be implemented*. <https://www.article19.org/resources/malta-landmark-public-inquiry-recommendations-on-daphne-caruana-galizas-assassination-must-be-implemented> [Accessed: 28 April 2025]; Daphne Caruana Galizia Foundation (2021). *Public Inquiry Report Daphne Caruana Galizia A Journalist Assassinated on 16th October 2017*. <https://globalfreedomofexpression.columbia.edu/wp-content/uploads/2021/12/public-inquiry-report-en.pdf> [Accessed: 28 April 2025].

1008 Safety of Journalists Platform, Council of Europe (n.d.). *Malta: Search results*. <https://fom.coe.int/en/recherche:motCle=malta> [Accessed: 28 April 2025].

1009 Council of Europe (n.d.). *Platform to promote the protection of journalism and safety of journalists*. <https://fom.coe.int/en/accueil> [Accessed: 28 April 2025].

1010 Council of Europe (2023). *Alert detail*. <https://fom.coe.int/en/alerte/detail/29768461:globalSearch=true> [Accessed: 28 April 2025].

The Commission of Inquiry set up after Daphne’s murder called for “new laws and institutions to combat the Mafia”.¹⁰¹¹ However, the Daphne Caruana Galizia Foundation has criticised the Maltese government for failing to address the systemic conditions that enabled her murder, noting that journalists “must still work in an environment which made the murder of a journalist possible”.¹⁰¹² In 2022, OSCE Representative on Freedom of the Media, Teresa Ribeiro, urged the Maltese authorities to implement the Commission’s recommendations, including legislative reforms to protect journalists and prevent future attacks.¹⁰¹³

The safety of journalists remains a critical concern in the **UK** as well. In 2019, Lyra McKee, a 29-year-old journalist, was shot and killed while covering a riot in Londonderry, Northern Ireland. Three men went on trial for her murder in 2024.¹⁰¹⁴ The earlier murder of investigative journalist Martin O’Hagan in 2001, also in Northern Ireland, remains unsolved, with the NUJ calling for an international investigation.

“**The murder of Martin O’Hagan was a watershed moment for journalism in the UK and Ireland. The failure to properly investigate it has cast a long shadow and continues to embolden those who seek to silence journalists.**

National Union of Journalists (NUJ)¹⁰¹⁵

UK-based Iranian journalists have also faced persistent transnational threats to

their safety and that of family members. In March 2024, journalist Pouria Zeraati, an Iranian-British journalist and presenter with a Persian-language news channel, was stabbed outside his London home. **UK** intelligence services have reportedly foiled 20 plots linked to Iran to kidnap or kill staff of Iran International TV.¹⁰¹⁶

One of the most pressing concerns for journalists across all three European Commonwealth jurisdictions is the growing impact of social media and online attacks on the press.

“**The perpetrators are rarely held accountable [for online harassment], with any verbal attacks normally dismissed as insignificant by the authorities. We have little faith in the state authorities to carry out effective investigations—either because they have insufficient resources or because of a lack of interest.**

Journalist, Malta¹⁰¹⁷

The **Cyprus** Media Ethics Committee reports that while journalists in the country are generally safe from physical violence or direct threats, they are frequently subjected to verbal attacks by officials, and targeted by online harassment. The Committee notes: “Perpetrators of such attacks and threats are not held accountable, and there is no confidence among journalists that state authorities can protect press freedom.”¹⁰¹⁸ It also highlights that excessive influence from political and business interests often discourages coverage of sensitive topics such

as corruption, leading many journalists to resort to self-censorship.

In the Turkish-occupied northern part of **Cyprus**, multiple cases of undue hindrances and pressures exerted by Turkey on journalists have been documented on the Council of Europe’s Platform for the Safety of Journalists.¹⁰¹⁹ These include criminal prosecutions, political interference, and official sanctions against those critical of the Turkish military presence or Turkish-Cypriot authorities.

In the **UK**, available data reveals that women journalists and those from minority ethnic backgrounds face disproportionately high levels of online abuse.¹⁰²⁰

A 2020 NUJ survey of over 300 members found that 78% agreed with the statement that “abuse and harassment has become normalised and seen as part of the job.”¹⁰²¹ A separate survey by Reach and Women in Journalism reported that 60% of women journalists had received offensive and personal comments for their work, 35% had experienced hate speech or hate crimes, and over 50% had been subject to online threats and social media backlash.¹⁰²²

Although the Police and Criminal Evidence Act includes protections for journalists’ sources,¹⁰²³ **UK** journalists also rely on jurisprudence of the European Court of Human Rights (ECtHR) to reinforce those

protections.¹⁰²⁴ However, the Terrorism Act 2000 has been used to compel journalists to disclose confidential materials and sources.¹⁰²⁵ Concerns have been raised regarding the broad definitions contained in Sections 1, 32, and 38(b) of the Act, which could jeopardise journalists’ ability to protect their sources and maintain editorial independence.¹⁰²⁶

Additional concerns stem from the **UK** Investigatory Powers Act 2016, which allowed security agencies to use bulk hacking to search for and identify journalists’ sources without independent authorisation. Despite civil society challenges – including by human rights group Liberty¹⁰²⁷ – amendments introduced through the Investigatory Powers (Amendment) Act 2024 have, according to critics, further expanded the scope of already intrusive surveillance powers.^{1028 1029} The NUJ has also raised concerns about the reported use of spyware, such as Pegasus, against journalists in the **UK**.¹⁰³⁰

In Northern Ireland, journalists have voiced serious mistrust of the Police Service of Northern Ireland (PSNI) over covert surveillance practices following media revelations of secret monitoring with the aim of identifying journalists’ sources.¹⁰³¹ In 2018, investigative journalists Barry McCaffrey and Trevor Birney were arrested during dawn raids on their homes following the alleged leak of a confidential document used in a film about

1011 ARTICLE 19 (2021). *Malta: Landmark Public Inquiry recommendations on Daphne Caruana Galizia’s assassination must be implemented*. <https://www.article19.org/resources/malta-landmark-public-inquiry-recommendations-on-daphne-caruana-galizias-assassination-must-be-implemented> [Accessed: 28 April 2025].

1012 ARTICLE 19 (2022). *Malta: Implement Public Inquiry Recommendations*. <https://www.article19.org/resources/malta-implement-public-inquiry-recommendations/19> [Accessed: 28 April 2025].

1013 Organisation for Security and Cooperation in Europe (OSCE) (2022). *OSCE Representative on Freedom of the Media concludes visit to Malta*. <https://www.osce.org/representative-on-freedom-of-media/531101> [Accessed: 28 April 2025].

1014 ‘Sinn Féin calls for action over journalist’s murder’ (2020). BBC News, 20 June. <https://www.bbc.co.uk/news/articles/c2eejvzv9jo> [Accessed: 28 April 2025].

1015 National Union of Journalists (2024). *NUJ renews call for O’Hagan murder review in plea to Benn, Starmer and Harris*. <https://www.nuj.org.uk/resource/nuj-renews-call-for-o-hagan-murder-review-in-plea-to-benn-starmer-and-harris.html> [Accessed: 28 April 2025].

1016 Townsend, M. and Parent, D. (2024). ‘Iran TV presenter Pouria Zeraati stabbed in London, flees abroad for safety amid transnational repression’, *The Guardian*, 16 July. <https://www.theguardian.com/global-development/article/2024/jul/16/iran-tv-presenter-pouria-zeraati-stabbed-london-flees-abroad-safety-transnational-repression> [Accessed: 28 April 2025]; Lawless, J. (2024). ‘MI5 spy chief says Russia and Iran are behind a ‘staggering’ rise in deadly plots’, *AP News*, 09 October. <https://apnews.com/article/uk-intelligence-mi5-threats-russia-iran-936d7c24d303f6a41f6b1cef7c7b814> [Accessed: 28 April 2025].

1017 CJA Journalist Questionnaire, Malta (July 2024).

1018 CJA Journalist Questionnaire, Cyprus (July 2024).

1019 Council of Europe (n.d.). *Northern Cyprus: Search results*. <https://fom.coe.int/en/recherche:motCle=northern%20cyprus> [Accessed: 28 April 2025].

1020 CJA Journalist Questionnaire, UK (July 2024).

1021 National Union of Journalists (2020). *NUJ Safety Report*. <https://www.nuj.org.uk/resource/nuj-safety-report-2020.html> [Accessed: 28 April 2025].

1022 Tobitt, C. (2024). ‘Online abuse toll means fifth of women journalists considered leaving industry’, *Press Gazette*, 08 March. <https://pressgazette.co.uk/media-audience-and-business-data/women-in-journalism-online-abuse> [Accessed: 28 April 2025].

1023 Note that the Police and Criminal Evidence Act 1984 is not in force in Scotland.

1024 E.g. *Goodwin v The United Kingdom* (1996), the ECtHR noted the importance of protecting journalistic sources for press freedom and reasoned that disclosure would produce a chilling effect in society, unless disclosure is justified by public interest.

1025 Campbell, D. (2022). ‘Birmingham pub bombings: Chris Mullin wins fight to protect source’, *The Guardian*, 22 March. <https://www.theguardian.com/media/2022/mar/22/birmingham-pub-bombings-chris-mullin-wins-fight-to-protect-source> [Accessed: 28 April 2025].

1026 Turvill, W. and Press Association (2024). ‘Media lawyer warns of looming problem with Terrorism Act being used to seek out journalistic sources’, *Press Gazette*, 29 September. https://pressgazette.co.uk/media_law/media-lawyer-warns-looming-problem-terrorism-act-being-used-to-look-out-journalistic-sources [Accessed: 28 April 2025].

1027 Liberty (2024). *Legal challenge to the Investigatory Powers Act*. <https://www.libertyhumanrights.org.uk/issue/legal-challenge-investigatory-powers-act> [Accessed: 28 April 2025].

1028 Government of UK (2024). *Investigatory Powers (Amendment) Act*. <https://www.legislation.gov.uk/ukpga/2024/9/contents> [Accessed: 28 April 2025].

1029 ARTICLE 19 (2024). *UK: New government must prioritise freedom of expression*. <https://www.article19.org/resources/uk-new-government-must-prioritise-freedom-of-expression> [Accessed: 28 April 2025].

1030 National Union of Journalists (2021). *Spyware Pegasus helped target over 180 journalists, global report reveals*. <https://www.nuj.org.uk/resource/spyware-pegasus-helped-target-over-180-journalists-global-report-reveals.html> [Accessed: 28 April 2025].

1031 O’Neill, J. (2024). ‘PSNI’s journalist surveillance: The story so far’, *BBC News*, 11 May. <https://www.bbc.com/news/articles/c1rv18v2e87g> [Accessed: 28 April 2025].

the sectarian conflict in Ulster, known as ‘the Troubles’. A court later found the warrants used in the search to be inappropriate and affirmed the journalists’ right to protect their sources. The PSNI subsequently paid GBP 875,000 in damages.¹⁰³² In December 2024, the **UK** Investigatory Powers Tribunal ruled that the journalists’ communications had been unlawfully surveilled by multiple police forces, as had those of numerous other journalists in Northern Ireland.

In **Cyprus**, concerns have been raised over the alleged unauthorised surveillance of investigative journalist Makarios Drousiotis through spyware and intimidation. Authorities have been criticised for failing to conduct a prompt and thorough investigation.¹⁰³³ In **Malta**, journalists have similarly been targeted by spyware tools such as Pegasus and Predator.¹⁰³⁴

In response to growing concerns around journalist safety, the **UK** government established the National Committee for the Safety of Journalists in 2020, followed by a National Action Plan in 2021.¹⁰³⁵ The Committee includes representatives from government, law enforcement, and the media, and serves as a consultative forum for promoting best practices. Its work includes

dialogue on media-police relations at public events and the formation of a task force on non-legislative responses to SLAPPs.

In **Malta**, journalists have recommended adopting the Netherlands’ PersVeilig (Press Safety) model – a nationwide mechanism that fosters cooperation between police, prosecutors, and journalist associations to respond swiftly to threats and attacks targeting journalists and the media.¹⁰³⁶

The Daphne Caruana Galizia Foundation has established a public interest litigation network, an independently-governed network of lawyers in **Malta**, to pursue public interest cases in the absence of adequate legal or state safeguards.¹⁰³⁷ The foundation has also launched a legal clinic offering support and representation to independent journalists.¹⁰³⁸

There is growing consensus that national governments must adopt multi-stakeholder approaches to establish robust national mechanisms for the protection of journalists and quality journalism.¹⁰³⁹ As part of its Journalists Matter campaign, the Council of Europe has urged all member states to adopt National Committees and Action Plans for this purpose.¹⁰⁴⁰

1032 This year, the Investigatory Powers Tribunal had held hearings to determine if the journalists’ communications data were unlawfully monitored to uncover their sources. A ruling is expected before the end of the year. National Union of Journalists (2024). *IPT hearings into PSNI covert surveillance continue*. <https://www.nuj.org.uk/resource/ipt-hearings-into-psni-covert-surveillance-continue.html> [Accessed: 28 April 2025]; Hughes, B. (2024). ‘The challenge of protecting journalists from surveillance’, *BBC News*, 18 July. <https://www.bbc.co.uk/news/articles/cv2gj5690lno> [Accessed: 28 April 2025].

1033 Media Freedom Rapid Response (2024). *Cyprus: Call for thorough investigations into surveillance of Makarios Drousiotis*. <https://www.mfrr.eu/cyprus-call-for-thorough-investigations-into-surveillance-of-makarios-drousiotis> [Accessed: 28 April 2025].

1034 European Union (2023). *Rule of Law in Malta: 6 Years after the assassination of Daphne Caruana Galizia and the need to protect journalists*. https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:C_202402656 [Accessed: 28 April 2025].

1035 Government of the UK (n.d.). *National Committee for the Safety of Journalists*. <https://www.gov.uk/government/groups/national-committee-for-the-safety-of-journalists> [Accessed: 28 April 2025]; Government of the UK (2023). *National Action Plan for the Safety of Journalists*. <https://www.gov.uk/government/publications/national-action-plan-for-the-safety-of-journalists/national-action-plan-for-the-safety-of-journalists-2023> [Accessed: 28 April 2025].

1036 CJA Journalist Questionnaire, Malta (July 2024).

1037 Public Interest Litigation Network (n.d.). *A Collaborative access to justice network*. <https://www.piln.mt> [Accessed: 28 April 2025].

1038 Daphne Caruana Galizia Foundation (2023). *Legal Clinic for journalists running for second year*. <https://www.daphne.foundation/en/2023/09/07/legal-clinic> [Accessed: 28 April 2025].

1039 Council of Europe (n.d.). *Journalists Matter: The Council of Europe’s Safety of Journalists Campaign*. <https://www.coe.int/en/web/freedom-expression/safety-of-journalists-campaign> [Accessed: 28 April 2025].

1040 Council of Europe (n.d.). *How to protect journalists and other media actors?* <https://www.coe.int/en/web/freedom-expression/implementation-guide> [Accessed: 28 April 2025].



Equality, justice, and truth cannot exist without freedom of expression and media freedom. These rights remain essential for holding power to account. Photo credit: Larry Alger / Unsplash.

CONCLUSION

Despite constitutional and other legislative guarantees, journalists’ organisations and civil society groups continue to express concern that freedom of expression and press freedom are under threat in European Commonwealth countries and across Europe more broadly. While defamation has been decriminalised in all three European Commonwealth States, other legislative tools are still routinely used to restrict freedom of expression – including media freedom and the right to protest – often under the pretext of national security.

Strategic Lawsuits Against Public Participation (SLAPPs) pose a persistent

threat to investigative journalism, functioning as a powerful deterrent to scrutiny of those in power. Journalists also frequently face online abuse, and in some cases, physical threats and violence.

There are, however, positive developments and mechanisms that may serve as models for similar initiatives elsewhere. These include the EU Anti-SLAPP Directive, the **UK**’s National Committee for the Safety of Journalists, the Council of Europe’s Platform for the Safety of Journalists, and the Daphne Caruana Galizia Foundation’s legal clinic, which provides legal support and representation to independent journalists.¹⁰⁴¹

1041 Public Interest Litigation Network (n.d.). *A Collaborative access to justice network*. <https://www.piln.mt> [Accessed: 28 April 2025].

RECOMMENDATIONS FOR EUROPE

Member States in the region are urged to:

1. STRENGTHEN LEGAL FRAMEWORKS AND THEIR IMPLEMENTATION

- Reform laws governing freedom of expression and the media to align with international human rights standards, which require state authorities to foster an enabling environment for a free and independent media. Laws on defamation, sedition, blasphemy, and cybercrime must be clearly defined and/or revised to prevent misuse and to protect free speech.
- In **Cyprus** and **Malta**, repeal outdated legislation on criminal defamation and sedition.
- In **Cyprus**, amend media laws and prospective legislation to conform with standards set out in the EU's Media Freedom Act.
- In **Malta**, repeal the provision in law enabling “inherited” lawsuits to be passed from a deceased defendant to a family member or any other person.
- In the **UK** and **Cyprus**, adopt robust standalone Anti-SLAPPs legislation covering defamation, privacy and data protection; strengthen pre-action protocols through early judge-led evaluation of cases to determine whether or not they meet a strict proportionality test.
- Strengthen the **UK** Solicitors Regulation Authority 2022 warning notice to identify and deter SLAPPs earlier.
- Control legal costs in defamation proceedings across all jurisdictions.

- In **Malta**, adopt the recommendations of the Data Commissioner to amend the Freedom of Information Act, removing public authorities’ right to appeal against an order granting access to a document, and applying a public interest test for some exemptions in the Act.
- In the **UK**, conduct a public consultation to adopt public interest safeguards for journalists in relevant legislation; reverse the burden of proof onto the claimant in libel cases brought by corporations, raise the threshold for corporate claimants to sue, and set strict limits on penalties and costs that can be imposed on defendants.

2. PROMOTE JUDICIAL INDEPENDENCE, DUE PROCESS GUARANTEES, AND ACCESS TO JUSTICE FOR DEFENDANTS

- Strengthen judicial independence to prevent the misuse of laws that restrict freedom of expression and media freedom.
- Ensure the right to a fair trial for all, and guarantee effective remedies when this right is violated. Legal aid should be made available to promote equal access to justice.
- Enhance judicial independence to prevent the misuse of laws that restrict free expression, ensure that everyone enjoys the right to a fair trial, and ensure effective remedies when individuals’ freedom of expression is violated or abused; provide legal aid for such cases to promote equal access to justice.

- In **Malta**, review and implement the recommendations made by the Commission of Inquiry into the murder of Daphne Caruana Galizia.
- In **Malta**, emulate the Netherlands’ model PersVeilig (Press Safety) protection mechanism.
- Establish National Committees and Action Plans to strengthen journalists’ safety according to Council of Europe recommendations and Implementation Guide.
- Establish national mechanisms to protect quality journalism with multi-stakeholder participation.

3. ENSURE MEDIA PLURALISM AND PROTECT DIGITAL RIGHTS

- In **Malta**, implement further reforms to create a favourable environment for media freedom and take concerted action to secure the media’s independence and economic sustainability.
- In **Cyprus**, overhaul media regulatory bodies to ensure their independence and address public concerns about powers to impose onerous fines on broadcasters.
- In the **UK**, align the case law on data protection, privacy or online harms to the European standards on freedom of expression.

4. PROTECT JOURNALISTS AND FOSTER A VIBRANT CIVIL SOCIETY

- Adopt and apply guidelines for the protection of journalists put forward by UNESCO, other UN bodies, and the High Level Panel of Legal Experts on Media Freedom, and ensure prompt, independent and effective investigations into attacks against media workers.
- Work cooperatively with civil society organisations to reform media laws to safeguard the freedom of the press, and to ensure robust regulatory frameworks and mechanisms. Consult with civil society organisations on drafting of laws, as has been done in **Cyprus**.

5. ESTABLISH AND STRENGTHEN ACCOUNTABILITY MECHANISMS

- Cooperate with, participate in, and implement obligations and recommendations of, regional bodies and mechanisms like the ECHR and the Council of Europe.
- Cooperate with the Universal Periodic Review and other UN human rights mechanisms.
- **Malta** should join the Media Freedom Coalition, committing to legal reforms and diplomatic advocacy to promote media freedom.
- Promote and strengthen collaboration with media organisations in other countries and regions – particularly within the Commonwealth – through exchanges, joint projects, and research initiatives that will support European media to address shared challenges.

PACIFIC

In the Region

The Pacific region comprises 11 Commonwealth countries: Australia, Fiji, Kiribati, Nauru, New Zealand, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu, and Vanuatu.

INTERNATIONAL COMMITMENTS

Australia, Fiji, New Zealand, Papua New Guinea, Vanuatu, and Samoa have ratified the International Covenant on Civil and Political Rights (ICCPR), committing to uphold international human rights standards. In contrast, **Kiribati, Solomon Islands, Tonga, and Tuvalu**, have not ratified the ICCPR,¹⁰⁴² while **Nauru** has signed, but not yet ratified the treaty.¹⁰⁴³



REGIONAL HIGHLIGHTS

- All countries in the region – except **Australia** – have constitutional or statutory guarantees for freedom of expression.
- Defamation laws, both civil and criminal, are commonly used to suppress dissent. Only **New Zealand** and **Fiji** have decriminalised defamation. **Australia** retains criminal penalties, though they are rarely enforced, with civil liability posing a more significant risk to journalists. In **Samoa**, criminal libel was reintroduced in December 2017, after being repealed in 2013.
- Blasphemy remains a criminal offence in several Pacific countries, including **Papua New Guinea, Samoa, and Vanuatu**. **New Zealand** repealed its blasphemy law in 2019, while in **Australia**, blasphemy laws exist at state level, but are largely obsolete and unenforced.
- Sedition remains an offence across the region except in **New Zealand**. **Australia** repealed sedition provisions in 2010 but retained similar language under the Criminal Code Act 1995. **Fiji's** Crimes Act 2009 continues to be used against critical media.
- Counter-terrorism laws in **Australia** and **New Zealand** are broadly framed, raising concerns about vague language that enables arbitrary or discriminatory enforcement, especially against minority communities.
- Digital security laws – including those in **New Zealand, Australia, and Fiji** – aim to address cyberbullying and harmful online behaviour, but raise serious concerns about overly broad and vague definitions, disproportionate penalties, and risks to marginalised groups and whistleblowers.
- Media freedom is robust in **New Zealand** and comparatively stronger in **Australia**, although issues of concentrated ownership and national security laws remain. In smaller Pacific Island states, political interference and financial limitations pose significant threats to press freedom.
- All 11 Pacific Commonwealth countries have committed to introducing Right to Information (RTI) laws under regional frameworks, but only **Australia, Fiji, New Zealand, and Vanuatu** have enacted dedicated legislation.
- **Australia** and **New Zealand** are also among the 12 Commonwealth states that are members of the Media Freedom Coalition, pledging collective action to protect media freedom globally.¹⁰⁴⁴

1042 UN Treaty Body Database (2024). Ratification Status of Nauru. tinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=121&Lang=EN [Accessed: 28 April 2025].

1043 Ibid.

1044 Media Freedom Coalition (n.d.). Global Pledge. <https://mediafreedomcoalition.org/about/global-pledge> [Accessed: 28 April 2025].



The right to protest underlines broader struggles for free expression across Australia and the Pacific Islands. Photo credit: Lara Jameson / Pexels.

CONSTITUTIONAL GUARANTEES VS LEGAL RESTRICTIONS

Freedom of expression is constitutionally or statutorily protected in most Pacific countries, with important nuances:

New Zealand and **Australia** lack explicit constitutional guarantees. **New Zealand** recognises freedom of expression as a fundamental human right under section 14 of the **New Zealand** Bill of Rights Act 1990 (NZBORA),¹⁰⁴⁵ subject to “reasonable limits” under section 5.¹⁰⁴⁶ **New Zealand** has repealed offences such as blasphemy and

sedition, that were previously found in **New Zealand’s** Crimes Act 1961.

Surprisingly, **Australia** also does not explicitly protect freedom of expression as a statutory right. However, the **Australian** Courts apply the principle of statutory interpretation favouring fundamental rights.¹⁰⁴⁷ In the absence of explicit laws protecting freedom of expression, the outcome of cases is dependent on various factors, including the composition of the judicial bench at the time.¹⁰⁴⁸

“Calls for a Media Freedom Law to force the courts to pay more attention to the public interest in a free press, have so far fallen on deaf ears.”

Jonathan Holmes, Chair of ABC Alumni Ltd., Australia¹⁰⁴⁹

Fiji, Kiribati, Nauru, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu, and Vanuatu constitutionally guarantee freedom of expression – though subject to restrictions based on interests of public safety or security, public order, morality, and health.

In **Fiji**, under the Bainimarama-led governments, the Media Industry Development Decree (later converted to an Act), was used to suppress media reporting critical of the government on the grounds the content was harmful to “national interest” and “public order”.¹⁰⁵⁰ These restrictive press laws, enforced through the threat of fines and jail time, fostered a climate of self-censorship among journalists. Its repeal in April 2023 has led to a more open environment.¹⁰⁵¹

1045 Government of New Zealand (1990). *Bill of Rights Act*, s.14. <https://www.legislation.govt.nz/act/public/1990/0109/latest/DLM225513.html> [Accessed: 28 April 2025].

1046 Ibid, s.5.

1047 “A well-established principle of statutory interpretation in Australian courts is that Parliament is presumed not to have intended to limit fundamental rights, unless it indicates this intention in clear terms. In *Nationwide News Pty Ltd v Wills* (1992) 177 CLR 1 and *Australian Capital Television Pty Ltd v the Commonwealth* (1992) 177 CLR 106, the majority of the High Court held that an implied freedom of political communication exists as an incident of the system of representative government established by the Constitution. This was reaffirmed in *Unions NSW v New South Wales* [2013] HCA 58.” Australian Human Rights Commission (n.d.). *Freedom of information, opinion and expression*. <https://humanrights.gov.au/our-work/rights-and-freedoms/freedom-information-opinion-and-expression> [Accessed: 28 April 2025].

1048 Jones, M. (1997). ‘Free Speech Revisited: The Implications of Lange and Levy’, *Australian Journal of Human Rights*. <https://classic.austlii.edu.au/au/journals/AUJHRRights/1997/24.html> [Accessed: 28 April 2025].

1049 Jonathan Holmes, CJA Journalist Questionnaire, Australia (2024).

1050 Citizens’ Constitutional Forum (2013). *An Analysis: 2013 Fiji Government Constitution*. <https://constitutionnet.org/sites/default/files/ccf-analysis-final-2013.pdf> [Accessed: 28 April 2025].

1051 Ibid.

DEFAMATION

Criminal defamation remains in force in all Pacific countries except **Fiji**¹⁰⁵² and **New Zealand**.¹⁰⁵³

Punishments typically range from three months to five years. **Papua New Guinea** is an outlier, having repealed a criminal penalty from its Defamation Act¹⁰⁵⁴ and simultaneously adding it to its Criminal Code with harsher penalties including imprisonment of 10–25 years.¹⁰⁵⁵

In Samoa, criminal libel was reinstated in 2017,¹⁰⁵⁶ after it was repealed in 2013.¹⁰⁵⁷ The reintroduction of criminal libel was prompted by anonymous bloggers publishing allegations of corruption and other serious crimes against prominent public figures.¹⁰⁵⁸

The decision to reintroduce criminal libel was criticised for the lack of public consultation, redundancy (given existing civil defamation

remedies), and excessive scope.¹⁰⁵⁹ Despite the regressive step, the issue itself continues to be a part of public discourse. More recently, **Samoa’s** police chief called for defamation to be made a civil matter, so as not to waste police resources.¹⁰⁶⁰

In **Australia**, criminal defamation is extremely rare¹⁰⁶¹ but civil defamation laws remain complex and chilling. Public interest journalism suffers from the threat of high damages which can deter investigative journalism and public commentary.¹⁰⁶² Fear of defamation lawsuits has led to self-censorship among both the media and ordinary internet users.”¹⁰⁶³ In 2019, the **Australian** Law Reform Commission flagged a potential future review of defamation law noting that it is “complex, technical and arcane.”¹⁰⁶⁴ In 2021, three **Australian** States, New South Wales, Victoria, and South Australia,¹⁰⁶⁵ implemented reforms of defamation laws,¹⁰⁶⁶ which included the addition of a public interest defence to

1052 Defamation in Fiji is treated as a civil wrong under the law of torts, and is governed by the Defamation Act 1971. Individuals can seek civil remedies for defamation by libel or slander, but it is not possible to receive a criminal penalty for a defamation conviction in Fiji. CHRI Lawyer Questionnaire, Fiji (2024).

1053 Defamation law in New Zealand is primarily governed by the Defamation Act 1992 and in tort as developed by the Courts. The Act governs what remedies an individual can seek for being subject to defamatory comments. The remedies include declarations, ordering a retraction in the media, or punitive damages. It is not possible to receive a criminal penalty for a defamation conviction in New Zealand. CHRI Lawyer Questionnaire, New Zealand (2024).

1054 Government of Papua New Guinea (2016). *Defamation (Amendment) Act 2016 - Repealed Act III of the Defamation Act 1962*. https://www.parliament.gov.pg/uploads/acts/16A_36.pdf [Accessed: 28 April 2025].

1055 Government of Papua New Guinea (2016). *Criminal Code (Amendment) Act 2016*. https://www.parliament.gov.pg/uploads/acts/16A_34.pdf [Accessed: 28 April 2025].

1056 Government of Samoa (2013). *Crimes Act 2013*, s.117A. https://www.paclii.org/ws/legis/consol_act_2024/ca201382/ [Accessed: 28 April 2025].

1057 The criminal libel offence that was under the Crimes Ordinance 1961 was repealed following the enactment of the Crimes Act 2013. Pacific Media Center (2017). ‘Parliament votes to bring back criminal libel law over social media’, 20 December. <https://pmcarchive.aut.ac.nz/pacific-media-watch/samoa-parliament-votes-bring-back-criminal-libel-law-over-social-media-10056.html> [Accessed: 28 April 2025]; ‘Govt. brings back Criminal Libel law in hunt for ‘Ghost writers’ (2017). *Samoa Observer*, 02 November. <https://www.samoaoobserver.ws/category/samoa/5461> [Accessed: 28 April 2025].

1058 Lance Polu, CJA Journalist Questionnaire, Samoa (2024).

1059 Ibid, p.3.

1060 Samoa’s police chief calls for the government to repeal criminal defamation law’ (2023). *Benar News*, 16 February. <https://www.benarnews.org/english/news/pacific/samoa-defamation-law-02152023210248.html> [Accessed: 28 April 2025].

1061 Burgess, C. (2013). *Criminal Defamation in Australia: Time to Go or Stay*. <https://oenoviva-capital-resources.com/wp-content/uploads/2020/12/AMG-228-Criminal-Defamation-in-Australia.pdf> [Accessed: 28 April 2025].

1062 Prior to the legislative changes introduced Australia-wide in 2005 regarding the uniform defamation laws, a company of any size was permitted to pursue civil defamation claims. This led to what is known as a ‘SLAPP suit’ where defamation claims are used to shut down individuals expressing their opinions on a specific company. These laws were amended in 2005 and now only companies with less than 10 employees, or which are not-for-profit, can bring a defamation claim (as well as, of course, individuals).

1063 Freedom House (2023). *Freedom on the Net 2023: Australia*. <https://freedomhouse.org/country/australia/freedom-net/2023> [Accessed: 28 April 2025]. In 2021, The Guardian published an opinion piece by Dr Daniel Joyce, an Associate of the Australian Human Rights Institute and Senior Lecturer at UNSW Law & Justice, in which he noted that “Politicians have long used defamation law to protect their personal reputations and as a strategic tool in shaping political communication” and that defamation law places a “burden upon freedom of expression” sometimes referred to as a “chilling effect.” Joyce, D. (2021). ‘Christian Porter’s defamation action threatens to chill public interest journalism’, *The Guardian*, 15 March. <https://www.theguardian.com/commentisfree/2021/mar/16/christian-porters-defamation-action-threatens-to-further-chill-public-interest-journalism> [Accessed: 28 April 2025].

1064 Government of Australia (n.d.). *Australian Law Reform Commission: Starting the conversation on law reform*. https://www.alrc.gov.au/wp-content/uploads/2019/08/reform_priorities_preliminary_analysis_paper_for_web_v_2_0.pdf [Accessed: 28 April 2025].

1065 The Model Defamation Amendment Provisions are applicable in New South Wales, Victoria, South Australia, Queensland, Tasmania and the Australian Capital Territory as of August 2024.

1066 Freedom House (2023). *Freedom on the Net 2023: Australia*. <https://freedomhouse.org/country/australia/freedom-net/2023> [Accessed: 28 April 2025].

curb the chilling effect of defamation suits on public interest journalism.¹⁰⁶⁷ In a high-profile defamation case in 2023, the Australian Broadcasting Corporation (ABC) was ordered by the Federal Court to pay retired Australian special forces officer Heston Russell 390,000 Australian dollars (approximately GBP 200,360) after the ABC published articles alleging that Russell had committed war crimes during his service in Afghanistan. The Court found that the broadcaster failed to justify its reporting under the new “public interest” defence.¹⁰⁶⁸

BLASPHEMY AND HURTING OR INSULTING RELIGIOUS SENTIMENTS

Blasphemy remains a criminal offence in **Papua New Guinea**,¹⁰⁶⁹ **Samoa**,¹⁰⁷⁰ and **Vanuatu**.¹⁰⁷¹ Additionally, laws criminalising speech that insults or hurts religious sentiments are found in the penal codes of **Fiji**,¹⁰⁷² **Kiribati**,¹⁰⁷³ **The Solomon Islands**,¹⁰⁷⁴ and **Tuvalu**.¹⁰⁷⁵

Blasphemy is not a criminal offence under **Australian** federal law, but some states and territories still retain it as a common law offence. In South Australia, Victoria, and the Northern Territory, blasphemy is absent in criminal codes, though there has been no formal abolition. In New South Wales¹⁰⁷⁶ and Tasmania,¹⁰⁷⁷ blasphemy (or blasphemous libel) is listed in criminal codes but these provisions remain unenforced and widely viewed as obsolete.

In **New Zealand**, blasphemy remained a crime until March 2019,¹⁰⁷⁸ when Parliament unanimously repealed the offence. Even prior to its repeal, the offence under the Crimes Act 1961 had rarely been enforced.¹⁰⁷⁹

SEDITION

Sedition remains an offence in all Pacific Commonwealth countries except **New Zealand**.¹⁰⁸⁰ In **Australia**, sedition provisions were formally repealed in 2010 following recommendations from the Australian Law

Reform Commission, but similar offences were reintroduced under the Criminal Code Act 1995,¹⁰⁸¹ effectively preserving the offence’s core elements.¹⁰⁸²

Fiji’s sedition laws have been used against the media, including a 2016 case where the *Fiji Times* was prosecuted but later acquitted.

In **Fiji**, the sedition provisions under the Crimes Act 2009 have been used against the media and dissenting voices.¹⁰⁸³ In one significant case, a **Fijian** High Court acquitted Hank Arts, the publisher of the *Fiji Times*, along with its editors and a letter writer, of sedition charges. The case centred on an article published in 2016 in the *Nai Lalakai* newspaper, which prosecutors claimed promoted hostility between Muslims and non-Muslims. The court found that the prosecution had failed to prove the charges beyond a reasonable doubt. While the verdict was widely welcomed as a victory for press freedom,¹⁰⁸⁴ it resulted in considerable financial and emotional cost to the defendants.

“ Although the individuals [in the Fiji case] were acquitted, it came at a substantial financial cost to the newspaper and caused considerable stress for those involved, including the publisher and editor.

Shailendra Bahadur Singh, Head of Journalism, The University of the South Pacific, Fiji¹⁰⁸⁵

NATIONAL SECURITY

In addition to featuring as a restriction in countries’ constitutions, most Pacific States have enacted legislation governing national security, often with significant implications for freedom of expression. For example, **Fiji**’s Public Order (Amendment) Decree grants broad powers to the government to restrict expression, including speech likely to “sabotage the economy” or undermine the “financial integrity” of the state.¹⁰⁸⁶

In **Nauru**, section 81 of the National Disaster Risk Management (Amendment) Act 2020 prohibits publishing or posting messages – via social or mass media – that may cause fear, mislead the public, or distort official information, with harsh penalties.¹⁰⁸⁷ The law also expands police powers to act without a warrant during national disasters.¹⁰⁸⁸



Laws framed as national security measures in Pacific States give authorities extensive surveillance powers, threatening privacy, free speech, and public trust. Photo credit: Ethan Sexton.

1067 Australia Parliamentary Counsel’s Committee (2020). *Model Defamation Provisions*, s.29A. https://pcc.gov.au/uniform/2020/Consolidated_Model_Defamation_Provisions.pdf [Accessed: 28 April 2025].

1068 Russell v. Australian Broadcasting Corporation [2023] FCA 1223. <https://www.judgments.fedcourt.gov.au/judgments/Judgments/fca/single/2023/2023fca1223> [Accessed: 28 April 2025]; Freedom House (2023). *Freedom on the Net 2023: Australia*. <https://freedomhouse.org/country/australia/freedom-net/2023> [Accessed: 28 April 2025].

1069 Government of Papua New Guinea (1989). *Classification of Public (Censorship) Act 1989*, s.2(i). http://www.paclii.org/pg/legis/consol_act/copa1989393 [Accessed: 28 April 2025]; Government of Papua New Guinea (1977). *Summary Offences Act 1977*, s.25A. http://www.paclii.org/pg/legis/consol_act/soa1977189 [Accessed: 28 April 2025].

1070 Government of Samoa (1961). *Crimes Ordinance 1961*, s.42. https://www.vertic.org/media/National%20Legislation/Samoa/WS_Crimes_Ordinance_2009.pdf [Accessed: 28 April 2025].

1071 House of Commons Library (2022). *Use of Blasphemy Laws and Allegations in Commonwealth Countries*. <https://researchbriefings.files.parliament.uk/documents/CDP-2022-0160/CDP-2022-0160.pdf> [Accessed: 28 April 2025]; Villa, V. (2022). ‘Four-in-ten countries and territories worldwide had blasphemy laws in 2019’, Pew Research Center, 25 January. <https://www.pewresearch.org/short-reads/2022/01/25/four-in-ten-countries-and-territories-worldwide-had-blasphemy-laws-in-2019-2> [Accessed: 28 April 2025]; Government of Vanuatu (2014). *Customs (Prohibited Import) Regulations Order No. 115 of 2014*, s.1. <https://customsinlandrevenue.gov.vu/travellers/prohibited-imports.html> [Accessed: 28 April 2025].

1072 Government of Fiji (1945). *Penal Code*, ss.145, 146 and 148. https://www.vertic.org/media/National%20Legislation/Fiji/FJ_Penal_Code.pdf [Accessed: 28 April 2025].

1073 Government of Kiribati (1977). *Penal Code*, ss.123 to 127. http://www.paclii.org/ki/legis/consol_act/pc66 [Accessed: 28 April 2025].

1074 Government of Solomon Islands (2010). *Penal Code*, s.131 to 135. https://www.paclii.org/sb/legis/consol_act/pcc2683/ [Accessed: 28 April 2025]; End Blasphemy Laws (2023). *Solomon Islands*. <https://end-blasphemy-laws.org/countries/oceania/solomon-islands/> [Accessed: 28 April 2025].

1075 Government of Tuvalu (2022). *Penal Code, Revised Edition*, s.123 to 127. https://tuvalu-legislation.tv/cms/images/LEGISLATION/PRINCIPAL/1965/1965-0007/1965-0007_2.pdf [Accessed: 28 April 2025].

1076 Government of New South Wales (1900). *Crimes Act 1900*, ss.529 and 574. <https://legislation.nsw.gov.au/view/html/inforce/current/act-1900-040> [Accessed: 28 April 2025].

1077 Government of Tasmania (1924). *Criminal Code Act 1924*, s.119. [https://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/tas/consol_act/cc192494/s119.html#:~:text=\(1\)%20Any%20person%20who%2C,is%20a%20question%20of%20fact](https://www8.austlii.edu.au/cgi-bin/viewdoc/au/legis/tas/consol_act/cc192494/s119.html#:~:text=(1)%20Any%20person%20who%2C,is%20a%20question%20of%20fact) [Accessed: 28 April 2025].

1078 Under section 123 of the Crimes Act 1961, the publishing of any “blasphemous libel” was considered a crime and any culprits could receive a prison sentence of up to a year. Government of New Zealand (1961). *Crimes Act 1961*, s.123. <https://www.legislation.govt.nz/act/public/1961/0043/1370/DLM329036.html> [Accessed: 28 April 2025].

1079 There was only one, unsuccessful, prosecution for blasphemous libel in New Zealand, against the publisher of the newspaper The Maoriland Worker in 1922 for publishing two poems by the poet Siegfried Sassoon. Government of New Zealand (1961). *Crimes (Offence of Blasphemous Libel) Amendment Bill*. <https://www.legislation.govt.nz/bill/member/2018/0018/latest/whole.html> [Accessed: 28 April 2025].

1080 W.E.F 1 January 2008, sedition is no longer considered a criminal offence under the Crimes Act 1961. Government of New Zealand (2007). *Crimes (Repeal of Seditious Offences) Amendment Act 2007*. <https://www.legislation.govt.nz/act/public/2007/0096/latest/whole.html> [Accessed: 28 April 2025].

1081 Government of Australia (1995). *Criminal Code Act 1995*. <https://www.legislation.gov.au/C2004A04868/latest/text> [Accessed: 28 April 2025].

1082 Ibid, ss.80.2. and 80.1AC. For example; section 80.2 of the Criminal Code Act 1995 (Cth) creates an offence to intentionally urge another to overthrow by force or violence the Australian Constitution, federal or state governments, or lawful authority of the Commonwealth Government. This is punishable by a maximum 7-year jail term. Section 80.1AC of the Criminal Code Act 1995 (Cth) provides the offence of treachery where a person engages in conduct involving the use of force or violence, intending to overthrow the Australian Constitution, federal or state governments, or lawful authority of the Commonwealth Government – which is punishable by a maximum life jail term.

1083 UN Human Rights Committee, *Compilation on Fiji* (22 August 2019), UN Doc CCPR/C/FJI/CO/3, para. 36. <https://documents.un.org/doc/undoc/gen/g19/248/22/pdf/g1924822.pdf> [Accessed: 28 April 2025].

1084 ‘Not Guilty: Newspaper acquitted of sedition’ (2018). *The Fiji Times*, 29 May. <https://www.fijitimes.com/fi/not-guilty-newspaper-acquitted-of-sedition> [Accessed: 28 April 2025].

1085 Shailendra Bahadur Singh, CJA Journalist Questionnaire, Fiji (2024).

1086 Government of Fiji (1969). *Public Order Act 1969*, s.17. <https://www.laws.gov.fj/Acts/DisplayAct/819> [Accessed: 28 April 2025].

1087 Freedom House (2024). *Freedom in the World 2024: Nauru*. <https://freedomhouse.org/country/nauru/freedom-world/2024> [Accessed: 28 April 2025].

1088 Ibid.

In **New Zealand**, the Counter-Terrorism Legislation Act 2021¹⁰⁸⁹ has drawn criticism from UN Special Rapporteurs, who labelled its definitions – particularly of terrorism – as “overbroad” and “vague.”¹⁰⁹⁰ Such broad definitions carry the risk of arbitrary and discriminatory enforcement, particularly against minority communities.¹⁰⁹¹

These concerns echo warnings from the Human Rights Committee that similarly cautioned that the disproportionate use of surveillance and search powers can undermine freedom of expression by creating a chilling effect leading to self-censorship.¹⁰⁹² However, **New Zealand** has also taken affirmative steps: section 19 of the Intelligence and Security Act 2017 explicitly safeguards freedom of expression, clarifying that exercising the rights to protest, dissent, or advocate does not, in itself, justify action by intelligence and security agencies against an individual.¹⁰⁹³

Australia is well-known in this region, and potentially globally, for being “the most secretive democracy.”¹⁰⁹⁴ According to a 2013 review undertaken by the Attorney General’s office,¹⁰⁹⁵ there are 875 secrecy provisions in

primary and secondary legislation, including section 122.4 of the Criminal Code Act 1995, which criminalises unauthorised disclosure of government information.¹⁰⁹⁶ As noted by Human Rights Watch, these laws and police actions have had a chilling effect on free speech, particularly targeting journalists and whistleblowers.¹⁰⁹⁷

In an egregious display of power, in 2019, police raided the Sydney headquarters of the Australian Broadcasting Corporation (ABC) over reports alleging war crimes committed by Australian special forces from 2006–2013 in Afghanistan.¹⁰⁹⁸ The reports were based on leaked defence documents.¹⁰⁹⁹ Major David McBride, the whistleblower who provided the ABC with these documents, was sentenced in May 2024 to five years and eight months in prison for unlawfully disclosing government documents.¹¹⁰⁰ According to the Chair of ABC Alumni Ltd. Jonathan Holmes: this case poses “a more serious threat”¹¹⁰¹ than the original police raids. He noted, “very few critics of the security laws have made an issue of this alarming application of the ‘theft’ offence and of its corollary, receipt of stolen

Commonwealth property, to criminalise acts of public interest journalism.”¹¹⁰²

In response to growing pressure, in 2022 the **Australian** government completed a review of secrecy provisions, including the broadly worded reference to “any amendments that are necessary to adequately protect public interest journalism”.¹¹⁰³ The government has since accepted key reforms aimed at strengthening safeguards for journalists and whistleblowers providing information to Royal Commissions,¹¹⁰⁴ and requiring ministerial consent before prosecuting journalists for certain secrecy offences.¹¹⁰⁵

RIGHT TO INFORMATION

Only four countries – **Australia, Fiji, New Zealand**, and **Vanuatu** – have enacted Right to Information laws, despite all eleven committing to do so.

All 11 Commonwealth Pacific countries have committed to implementing Right to Information (RTI) legislation under regional

instruments such as the 2005 Pacific Plan¹¹⁰⁶ and the 2018 Boe Declaration.¹¹⁰⁷ However, only four – **Australia, Fiji, New Zealand**, and **Vanuatu** – currently have dedicated RTI legislation in place.¹¹⁰⁸

Several countries recognise the right to information in their constitutions, though with varying scope and clarity. **Papua New Guinea** enshrines this right explicitly (Article 51 of the Constitution,)¹¹⁰⁹ and a 1998 court case affirmed this right.¹¹¹⁰ In contrast, **Nauru, Samoa, Solomon Islands, Tonga**, and **Tuvalu** protect freedom of expression without guaranteeing access to information.¹¹¹¹ **Kiribati** and **Solomon Islands** have drafted RTI legislation, but these are yet to be enacted. Although these efforts signal progress, the lack of enactment and implementation of RTI laws means that access to information remains reliant on inconsistent administrative practices.¹¹¹²

Tonga adopted a Freedom of Information (FOI) policy in 2012, accompanied by a National Implementation Plan,¹¹¹³ and the

1089 Government of New Zealand (2021). *Counter-Terrorism Legislation Act 2021*. https://www.legislation.govt.nz/act/public/2021/0037/latest/whole.html?search=sw_096be8ed81b40d67_conduct_25_se&p=1 [Accessed: 28 April 2025].

1090 Office of the High Commissioner for Human Rights (OHCHR) (2021). *Concerns over Counter-Terrorism Act*. <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gld=26910> [Accessed: 28 April 2025], p.4.

1091 Ibid, p.7.

1092 UN Human Rights Committee, ‘Concluding observations on the sixth periodic report of New Zealand’ (28 April 2016) UN Doc CCPR/C/NZL/CO/6. <https://documents.un.org/doc/undoc/gen/g16/087/77/pdf/g1608777.pdf> [Accessed: 28 April 2025].

1093 Government of New Zealand (2019). *Intelligence and Security Act 2019*, s.19. <https://www.legislation.govt.nz/act/public/2017/0010/latest/whole.html#DLM7118914> [Accessed: 28 April 2025].

1094 With Australia’s laws and its range of investigations targeted at whistleblowers, there is a strong case to be made that this is the world’s most secretive democracy. ‘Australia May Well Be The Most Secretive Democracy’ (2019). *New York Times*, 05 June. <https://www.nytimes.com/2019/06/05/world/australia/journalist-raids.html> [Accessed: 28 April 2025]; ‘Australia: Relaxed, Sunny, and Secretive?’ (2019). *New York Times*, 06 June. <https://www.nytimes.com/2019/06/06/world/australia/journalism-raids-abc.html> [Accessed: 28 April 2025].

1095 Secrecy offences serve to protect against harm caused by the unauthorised communication of, or other dealings with, government information or protect information that forms part of a limited category of inherently harmful information (such as security classified information) or that would otherwise cause harm to Australia’s interests. The general secrecy offences specifically exclude individuals employed by the Australian Broadcasting Commission or Special Broadcasting Service Corporation which are government-owned media entities from the definition of Commonwealth officer. The secrecy offences serve to protect from unauthorised disclosure of Commonwealth information where that information may cause harm to essential public interests, such as national security and the safety of the public.

1096 Government of Australia, Attorney General’s Office (2013). *Review of Secrecy-Provisions Final Report*. <https://www.ag.gov.au/sites/default/files/2023-11/secrecy-provisions-review-final-report.pdf> [Accessed: 28 April 2025].

1097 Human Rights Watch (2020). *Australia: National Security Laws Chill Free Speech*. <https://www.hrw.org/news/2020/01/14/australia-national-security-laws-chill-free-speech> [Accessed: 28 April 2025].

1098 Human Rights Watch (2020). *Afghanistan: Events of 2019*. <https://www.hrw.org/world-report/2020/country-chapters/afghanistan> [Accessed: 28 April 2025].

1099 ‘A blow to democracy: Federal Court dismisses ABC case against AFP raids’ (2020). *SBS News*, 17 February. <https://www.sbs.com.au/news/article/a-blow-to-democracy-federal-court-dismisses-abc-case-against-afp-raids/rhe76p231> [Accessed: 28 April 2025].

1100 McBride was charged under section 131.1 of the Criminal Code Act 1995 which deals with the theft of Commonwealth property – a charge to which Major McBride pleaded guilty. *R v David McBride* (No. 4) [2024] ACTSC 147. https://www.courts.act.gov.au/_data/assets/pdf_file/0003/2451369/McBride-No-4.pdf [Accessed: 28 April 2025].

1101 Jonathan Holmes, CJA Journalist Questionnaire, Australia (2024).

1102 Ibid.

1103 Australia Attorney-General’s Department (2023). *Reforms to Commonwealth secrecy offences*. <https://www.ag.gov.au/crime/secrecy-offences/reforms-commonwealth-secrecy-offences> [Accessed: 28 April 2025].

1104 Ibid.

1105 Ibid.

1106 Pacific Islands Forum Secretariat (2005). *The Pacific Plan*. www.adb.org/sites/default/files/linked-documents/robp-pacific-2013-2015-pacific-plan.pdf [Accessed: 25 February 2025].

1107 Pacific Islands Forum Secretariat (2018). *Boe Declaration on Regional Security*. <https://forumsec.org/publications/boe-declaration-regional-security> [Accessed: 25 February 2025].

1108 Government of Australia (1982). *Freedom of Information Act 1982*. <https://www.legislation.gov.au/C2004A02562/2008-11-01/text> [Accessed: 25 February 2025]; Government of Fiji (2018). *Information Act 2018*. <https://www.fiji.gov.fj/getattachment/9d6f70b2-0bb6-48b4-b66b-3dc2e9acf59b/Act-9---Information-Act.aspx> [Accessed: 25 February 2025]; Government of New Zealand (1982). *Official Information Act 1982*. <https://www.legislation.govt.nz/act/public/1982/0156/latest/DLM64785.html> [Accessed: 25 February 2025]; Government of Vanuatu (2016). *Right to Information Act 2016*. <https://rti.gov.vu/images/docs/Right%20to%20Information%20Act%20No%2013%20of%202016.pdf> [Accessed: 25 February 2025].

1109 Government of Papua New Guinea (1975). *Constitution of the Independent State of Papua New Guinea*, s.51. <https://www.parliament.gov.pg/images/misc/PNG-CONSTITUTION.pdf> [Accessed: 27 February 2025].

1110 In Papua New Guinea, the right to information was successfully upheld in a landmark 1998 National Court case, where a citizen invoked Section 51 of the Constitution to access information about funds allocated to a Member of Parliament, setting an important legal precedent. *Peter Kop Kiniwi v Vincent Auali and The State* [1998] PNGLR 162 (National Court of Papua New Guinea). <https://vlex.com/vid/peter-kop-kiniwi-v-922803789> [Accessed: 27 February 2025]; United Nations Office on Drugs and Crime (UNODC) (2023). *Providing Access to Information in Pacific Island Countries to Better Address Corruption*. https://www.unodc.org/roseap/uploads/documents/pacific/2023/UN-PRAC_Paper_-_Providing_Access_to_Information_in_PICs_to_Better_Address_Corruption.pdf [Accessed: 27 February 2025].

1111 Government of Nauru (1968). *Constitution of Nauru*, art. 3. https://www.constituteproject.org/constitution/Nauru_1968 [Accessed: 27 February 2025]; Government of Samoa (1962). *Constitution of the Independent State of Samoa*, art. 13. https://www.pacii.org/ws/legis/consol_act_2024/cotisos1960438 [Accessed: 27 February 2025]; Government of Solomon Islands (1978). *Constitution of Solomon Islands* (rev. 2014), art. 3. https://www.constituteproject.org/constitution/Solomon_Islands_2014 [Accessed: 27 February 2025]; Government of Tonga (1875). *Constitution of the Kingdom of Tonga* (rev. 1988), art. 7. https://www.constituteproject.org/constitution/Tonga_1988 [Accessed: 27 February 2025]; Government of Tuvalu (1986). *Constitution of Tuvalu*, art. 11. https://www.constituteproject.org/constitution/Tuvalu_1986 [Accessed: 27 February 2025].

1112 United Nations Office on Drugs and Crime (UNODC) (2023). *Providing Access to Information in Pacific Island Countries to Better Address Corruption*. https://www.unodc.org/roseap/uploads/documents/pacific/2023/UN-PRAC_Paper_-_Providing_Access_to_Information_in_PICs_to_Better_Address_Corruption.pdf [Accessed: 25 February 2025].

1113 United Nations Office on Drugs and Crime (UNODC) (2020). *Status of the Right to Information in Pacific Island Countries*. https://www.unodc.org/roseap/uploads/archive/documents/pacific/2020/UN-PRAC_Paper_-_Status_of_Right_to_Information_in_Pacific_Island_Countries.pdf?utm [Accessed: 25 February 2025].

establishment of an FOI Unit and an FOI Cabinet Steering Committee which supports implementation.¹¹¹⁴ However, **Tonga** lacks legislation that guarantees public access to government information, and officials are not legally required to disclose their assets and income, thus limiting the overall transparency and effectiveness of the policy.¹¹¹⁵

Even in countries where RTI laws exist, enforcement is weak due to institutional and resource constraints. **Fiji's** 2018 Information Act restricts the right to request information to Fijian residents and citizens,¹¹¹⁶ and only permits requests for information that directly affect the applicant – substantially narrowing its scope.¹¹¹⁷ The Act lacks sanctions for non-compliance and does not grant the Accountability and Transparency Commission (ATC) authority to investigate complaints against public officials, thus weakening oversight and enforcement.¹¹¹⁸

“
There is a gap in access to official information vital to serving the public interest. The Samoa national Media Organisation had discussed with previous governments the need for an Official Information Act so the media can access official information for the public in the service of democracy. Since then, there is no indication of progress towards establishing an Official Information Act for Samoa.

Lance Polu, Journalist, Samoa¹¹¹⁹

Australia's Freedom of Information (FOI) Act 1982, **Vanuatu's** Right to Information (RTI) Act 2016, and **New Zealand's** Official Information Act 1982 are praised for their relatively wide scope.¹¹²⁰ However, **Australia's** FOI regime is undermined by its ambiguous exemption provisions and excessive fees to access information,¹¹²¹ while **New Zealand's** system faces bureaucratic delays in processing requests and under resourcing.¹¹²² **Vanuatu's** RTI law excludes information held under customary systems and traditional practices, potentially limiting access to information in the public interest.¹¹²³

1114 Ibid.

1115 Freedom House (2021). *Freedom in the World 2021: Tonga*. <https://freedomhouse.org/country/tonga/freedom-world/2021#:~:text=Tonga%20does%20not%20have%20a,policies%20or%20auditor%20general's%20reports> [Accessed: 25 February 2025].

1116 United Nations Office on Drugs and Crime (UNODC) (2020). *Status of the Right to Information in Pacific Island Countries*. https://www.unodc.org/roseap/uploads/archive/documents/pacific/2020/UN-PRAC_Paper_-_Status_of_Right_to_Information_in_Pacific_Island_Countries.pdf [Accessed: 25 February 2025].

1117 Ibid.

1118 Ibid.

1119 Lance Polu, CJA Journalist Questionnaire, Samoa (July 2024).

1120 Government of Australia (1982). *Freedom of Information Act 1982*. <https://www.legislation.gov.au/C2004A02562/2008-11-01/text> [Accessed: 25 February 2025]; Government of New Zealand (1982). *Official Information Act 1982*. <https://www.legislation.govt.nz/act/public/1982/0156/latest/DLM64785.html> [Accessed: 25 February 2025]; Government of Vanuatu (2016). *Right to Information Act 2016*. <https://rti.gov.vu/images/docs/Right%20to%20Information%20Act%20No%2013%20of%202016.pdf> [Accessed: 25 February 2025].

1121 Office of the Victorian Information Commissioner (2024). *Inquiry into the Freedom of Information Act 1982: Submission by the Office of the Victorian Information Commissioner*. <https://ovic.vic.gov.au/wp-content/uploads/2024/05/LRP-Full-Review-of-FOI-Act-OVIC-submission-December-2023.pdf> [Accessed: 25 February 2025].

1122 Bertelsmann Stiftung (2022). *New Zealand Report: Sustainable Governance Indicators 2022*. https://www.sgi-network.org/docs/2022/country/SGI2022_New_Zealand.pdf [Accessed: 25 February 2025].

1123 United Nations Office on Drugs and Crime (UNODC) (2023). *Providing Access to Information in Pacific Island Countries to Better Address Corruption*. https://www.unodc.org/roseap/uploads/documents/pacific/2023/UN-PRAC_Paper_-_Providing_Access_to_Information_in_PICs_to_Better_Address_Corruption.pdf [Accessed: 25 February 2025].

USE OF TECHNOLOGY AND INTERNET REGULATIONS

All countries in the Pacific region have enacted laws or policies on digital security that impact freedom of expression.

In **New Zealand**, the Harmful Digital Communications Act 2015 (HDCA)¹¹²⁴ was designed to address cyberbullying and online abuse. While well-intentioned, the law's definition of "harm" – as "serious emotional distress" – is broad and open to interpretation. It applies to all forms of electronic communication, including emails, texts, social media posts, and online community forums. The Act also imposes criminal penalties.¹¹²⁵ Although only a few criminal convictions have occurred under the HDCA in recent years, concerns remain about the law's potential for overreach and the risk of disproportionate sanctions, and its possible chilling effect on online expression.

Australia has enacted multiple laws regulating online content.¹¹²⁶ The Online Safety Act 2021¹¹²⁷ introduces protections against cyberbullying and child exploitation, and gives the federal government significant powers to block or remove online content.¹¹²⁸ Civil society groups, including ARTICLE 19, have raised concerns that the law could disproportionately impact marginalised groups – including sex workers, LGBTQ+ individuals, educators and artists – and undermine privacy by threatening end-to-end encryption.¹¹²⁹ In 2023, ARTICLE 19 joined a global coalition urging the **Australian** government to reconsider proposed 'online safety industry standards' for their potential

to erode digital rights and undermine the use of end-to-end encryption, putting security and privacy of internet users at greater risk.¹¹³⁰

*Australian Broadcasting Corporation v Kane (No. 2)*¹¹³¹ was a landmark case exemplifying the tension between media freedom and digital security. In June 2019, federal police raided the home of a News Corp journalist and the office of ABC Sydney over published articles based on leaked classified government documents. The News Corp article related to an exchange of letters between two government departments revealing a proposal to give new domestic surveillance powers to the Australian Signals Directorate. The warrant alleged the journalist had published information classified as an official secret – leading to a police search of the journalist's home, computer and mobile phone. The court ruled that the raid on the journalist's home was invalid, but she allowed the police to retain and use the data. The judge dismissed arguments that the raids contravened the implied freedom of political communication, highlighting weak legal protections for journalists under Australia's digital and secrecy laws.

Whistleblower prosecutions have also intensified–the **Australian** government has authorised several prosecutions against various whistleblowers about secrecy offences. The case of 'Witness K', who revealed that Australia had spied on the Timor-Leste government during oil and gas negotiations, was prosecuted largely behind closed doors. These cases reflect the real risks faced by journalists and whistleblowers who expose government wrongdoing.

1124 Government of New Zealand (2015). *Harmful Digital Communications Act 2015*. <https://www.legislation.govt.nz/act/public/2015/0063/latest/whole.html> [Accessed: 28 April 2025].

1125 Ibid, s.22(3), any person convicted of causing harm by posting a digital communication may be liable to imprisonment for a term not exceeding 2 years or a fine not exceeding \$50,000.

1126 Government of Australia (2004). *Surveillance Devices Bill 2004*. https://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bld=r2010 [Accessed: 28 April 2025]; Government of Australia (1914). *Crimes Act 1914*. <https://www.legislation.gov.au/C1914A00012/latest/versions> [Accessed 28 April 2025]; Government of Australia (1995). *Criminal Code Act 1995*. <https://www.legislation.gov.au/C2004A04868/2022-11-10/text> [Accessed: 28 April 2025]; Government of Australia (1992). *Broadcasting Services Act 1995*. <https://wipo.int/edocs/lexdocs/laws/en/au/au360en-volume1.pdf> [Accessed: 28 April 2025].

1127 Freedom House (2023). *Freedom on the Net 2023: Australia*. <https://freedomhouse.org/country/australia/freedom-net/2023> [Accessed: 28 April 2025].

1128 Ibid.

1129 Ibid.

1130 ARTICLE 19 (2023). *Australia: Joint Letter urging commissioner to safeguard encryption*. <https://www.article19.org/resources/australia-joint-letter-urging-commissioner-to-safeguard-encryption> [Accessed: 28 April 2025].

1131 *Australian Broadcasting Corporation v. Kane (No 2)* [2020] FCA 133. https://www.austlii.edu.au/cgi-bin/viewdoc/au/cases/cth/FCA/2020/133.html?context=1;query=Kane%20FCA%20133;mask_path= [Accessed: 28 April 2025].

Fiji's Online Safety Act 2018,¹¹³² which criminalises cyberbullying and online abuse, has been criticised for being overly broad. “Harm” under section 2 of the Act is defined as “serious emotional distress.”¹¹³³ Maximum penalties include fines and imprisonment for up to five years for individuals and seven years for corporate entities.¹¹³⁴ The OHCHR Regional Office for the Pacific has warned that the definition of “harm” is vague, broad, and open to abuse.¹¹³⁵

INTERFERENCE IN THE INDEPENDENT FUNCTIONING OF THE MEDIA

State and political interference, financial pressures, and legal constraints continue to undermine the independence of the media across most of the Pacific region.

That being said, **New Zealand** upholds strong media freedom protections and consistently ranks high in the World Press Freedom Index.¹¹³⁶ Legal safeguards protect journalists' sources,¹¹³⁷ and breaches of media rights often provoke swift public and institutional responses. However, calls have been made to reform the Broadcasting Act 1989,¹¹³⁸ which some argue restricts the media's right to freedom of expression in an increasingly digital environment.

While the media in **Australia** enjoys greater freedom compared to its Pacific or Asian counterparts, it still faces challenges. The ownership of print and broadcast media

is reasonably concentrated. Leading conglomerates include News Corp Australia, Seven West Media and the merged Fairfax Media-Nine Entertainment group.¹¹³⁹ According to an Australian media professional,

“Australia has the most concentrated media ownership of any ‘Western’ democratic country”.¹¹⁴⁰

Australia has repealed laws relating to media ownership, which prevented one organisation from owning more than two out of three media platforms (print, radio and TV) in any one market. **Australian** journalists do not generally face violence or arbitrary detention. But the perception of their security situation is no less worrying. In a 2021 study,¹¹⁴¹ nearly 90% of respondent journalists in **Australia** said they feared increased threats, harassment, or intimidation – including from government actors.¹¹⁴²

Fiji maintains an active media sector, with several private TV stations, radio channels, and newspapers.¹¹⁴³ However, the Fiji Broadcasting Commission Act, 1953 gives the government significant control over the Fiji Broadcasting Corporation, which can put restrictions on editorial independence. The now-repealed Media Industry Development Act imposed strict licensing provisions –requiring media outlets to register with a government-controlled authority and adhere to strict

codes of conduct. The Act also included heavy penalties for non-compliance with its other provisions, leading to widespread self-censorship among journalists. Its repeal in April 2023 was widely welcomed, though observers caution that the true test of press freedom will come as the media transitions out of a long period of restricted expression.

“The new government [of Fiji] has been rightly praised for repealing the draconian act... but the government’s tolerance for criticism is yet to be fully tested.

Shailendra Bahadur Singh, Head of Journalism, The University of the South Pacific, Fiji¹¹⁴⁴

In the smaller Pacific Island nations, press freedom is generally respected, but limited advertising markets have a negative impact on media sustainability. State-owned media outlets dominate the landscape in some countries, with only a few independent or private actors. Radio remains the primary medium in **Kiribati, Nauru, Papua New Guinea, Solomon Islands, Tuvalu**, and **Vanuatu**.¹¹⁴⁵

While press freedom has traditionally been respected in the region, there are growing concerns about state control and censorship. In **Papua New Guinea**, a draft National Media Development Policy proposes penalties for journalists and media outlets that publish content contrary to national development objectives.¹¹⁴⁶ In **Vanuatu**, UN agencies have reported intimidation of journalists by elected officials for critical reporting, and the use of criminal libel laws.¹¹⁴⁷ In the **Solomon Islands**, the government announced plans to increase control over the Solomon

Islands Broadcasting Corporation (SIBC), including vetting news to prevent “lies and misinformation.” The government denied formal censorship, but acknowledged efforts to ensure “balanced” reporting.¹¹⁴⁸

Restricting foreign journalists' access is also a tactic used in this region. **Nauru** imposes a non-refundable fee of 8,000 Australian dollars (approximately GBP 4,110) on visiting journalists to the country.¹¹⁴⁹ In 2022, the **Solomon Islands** government threatened to ban foreign journalists following an ABC investigative documentary which explored the country's ties with China.¹¹⁵⁰

CONCLUSION

Freedom of expression in the Pacific Commonwealth countries is shaped by a mix of legal protections, political realities, resource limitations, and cultural factors. While **Australia** and **New Zealand** offer comparatively strong guarantees, many Pacific Island nations face the more fundamental challenge of access to resources. The use of criminal defamation and sedition laws, state control over media, and a lack of access to information laws, all continue to hinder full realisation of this fundamental right.

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RECOMMENDATIONS FOR THE PACIFIC

Member States in the region are urged to:

1. STRENGTHEN LEGAL FRAMEWORKS AND THEIR IMPLEMENTATION

- **Kiribati, Nauru, Solomon Islands, Tonga, and Tuvalu** should ratify the ICCPR to demonstrate their commitment to upholding freedom of expression.
- Reform laws governing freedom of expression and media to align with international human rights standards, particularly by revising or repealing laws on defamation, sedition, blasphemy, and cybercrime to prevent misuse. The laws should also require state authorities to foster an enabling environment for a free and independent media.
- **Australia** should enact dedicated legislation (e.g. a bill of rights) that explicitly protects freedom of expression and press freedom.
- All countries should follow the example of **New Zealand** and **Fiji** by decriminalising defamation.
- Support the Australian Law Reform Commission in its effort to simplify defamation laws.
- **Samoa** should repeal its 2017 law that reintroduced criminal libel provisions.
- Sedition laws, particularly in **Fiji**, should be amended or repealed to comply with international standards.
- Amend overly broad counter-terrorism laws – especially in **Australia** and **New Zealand** – to prevent arbitrary enforcement.

2. PROMOTE JUDICIAL INDEPENDENCE, DUE PROCESS, AND ACCESS TO JUSTICE FOR DEFENDANTS

- Strengthen judicial independence to prevent the misuse of laws that restrict freedom of expression and media freedom.
- Ensure the right to a fair trial for all – particularly in cases involving media, activities, and whistleblowers – and guarantee effective remedies when this right is violated. Legal aid should be made available to promote equal access to justice.

3. ENSURE MEDIA PLURALISM AND PROTECT DIGITAL RIGHTS

- In collaboration with donors, provide **financial support** to public and independent media outlets to counteract small advertising markets and limited profit margins that threaten media independence in smaller nations, including **Papua New Guinea, Solomon Islands**, and **Vanuatu**.
- Offer scholarships and fellowships to attract and retain journalists, especially in smaller island states.
- Review and revise online safety laws – such as **Australia's** Online Safety Act and **Fiji's** Online Safety Act 2018 – to ensure they are narrowly tailored, with adequate safeguards to protect online speech, particularly for marginalised groups.

4. PROTECT JOURNALISTS AND FOSTER A VIBRANT CIVIL SOCIETY

- Adopt and apply guidelines for the protection of journalists put forward by UNESCO, other UN bodies, and the High Level Panel of Legal Experts on Media Freedom, and ensure prompt, independent and effective investigations into attacks against media workers.
- Work cooperatively with civil society organisations to reform media laws to safeguard the freedom of the press, and to ensure robust regulatory frameworks and mechanisms.

5. ESTABLISH AND STRENGTHEN ACCOUNTABILITY MECHANISMS

- Implement obligations under regional instruments like the 2005 Pacific Plan.
- Cooperate with the Universal Periodic Review and other UN human rights mechanisms.
- Join the Media Freedom Coalition, committing to legal reforms and diplomatic advocacy to promote media freedom.
- Promote and strengthen collaboration with media organisations in other countries and regions – particularly within the Commonwealth – through exchanges, joint projects, and research initiatives that will support Pacific media to address shared challenges.



APPENDICES

APPENDIX A: TERMINOLOGY

The following terms are defined in a range of international agreements to which many nations are signatories. By endorsing these key definitions, states have committed to aligning their national laws and policies with established international standards and norms.

FREEDOM OF EXPRESSION

Freedom of expression is a fundamental human right recognised under international law, enshrined in instruments such as the **Universal Declaration of Human Rights (UDHR)** (Article 19) and the **International Covenant on Civil and Political Rights (ICCPR)** (Article 19). It encompasses the right to seek, receive, and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing, or through any other medium of choice. Freedom of expression is crucial for democratic participation, the pursuit of truth, and the protection of other rights, including freedom of association, freedom of assembly, and the right to vote.

However, freedom of expression is **not an absolute right**. It may be subject to certain restrictions, but these must adhere to strict conditions under international law.

Any limitations on freedom of expression must meet the stringent **three-part test** outlined in Article 19(3) of the ICCPR:

- 1. Legality:** Restrictions must be provided by law, ensuring clarity and precision in the application of such laws.
- 2. Legitimate Aim:** Any restriction must pursue a legitimate aim, i.e., the protection of national security, public order, public health, morals, or the rights and reputations of others.
- 3. Necessity and Proportionality:** Restrictions must be necessary and the least restrictive means available to achieve the legitimate aim.

Arbitrary Restrictions on Freedom of Expression

Governments may not impose blanket or arbitrary restrictions on freedom of expression that exceed the strict three-part test. Common forms of unlawful restrictions that are impermissible include:

- **Censorship:** Blanket bans on political dissent, media freedom, or public criticism of the government, without justification under international law, constitute violations of freedom of expression.
- **Vague Laws:** Laws that are overly broad or vague, allowing for arbitrary or discriminatory enforcement, are not permissible.
- **Criminal Sanctions:** The use of the criminal law to restrict expression can be considered necessary and proportionate in the most egregious and exceptional cases, such as incitement to violence. In particular, states should consider decriminalising defamation and imprisonment is never an appropriate penalty.

DEFAMATION

Defamation refers to the act of making a false statement about an individual or organisation that causes harm to their reputation. It can take the form of either **libel** (written defamation) or **slander** (spoken defamation). Defamation laws aim to balance the right to freedom of expression with the protection of individuals' reputations, but excessive or abusive **defamation laws, such as criminal defamation provisions**, can unduly chill free speech.

SEDITION

Sedition involves acts or speech inciting rebellion against the authority of the state. Historically, sedition laws have been used to

criminalise political dissent or criticism of the government. While states may have legitimate interests in protecting national security, sedition laws are often criticised for being overly broad and suppressing legitimate free expression. According to international human rights standards, **sedition laws** should not be used to silence political opposition or suppress free speech.

BLASPHEMY

Blasphemy refers to the act of expressing disrespect or irreverence towards religious

beliefs, deities, or sacred entities. Many countries still maintain **blasphemy laws** that punish individuals for offending religious sentiments. However, blasphemy laws are widely criticised for being incompatible with international human rights standards, particularly as they are often used to suppress freedom of expression and target minority viewpoints or dissenting religious opinions. The **UN Human Rights Committee** has consistently emphasised that blasphemy laws are inconsistent with the principles of freedom of expression and should be repealed.



Protest becomes the language of those denied the right to speak. Photo credit: Jorge Soto Farias.

APPENDIX B: COMMONWEALTH PRINCIPLES ON FREEDOM OF EXPRESSION AND THE ROLE OF THE MEDIA IN GOOD GOVERNANCE¹¹⁵¹

Commonwealth Principles on Freedom of Expression and the Role of the Media in Good Governance (as revised by the Member Country Expert Working Group)

Emphasising our commitment to the values and principles set out in the Commonwealth Charter and other Commonwealth statements, including the Singapore Declaration of Commonwealth Principles, the Harare Commonwealth Declaration, the Millbrook Action Programme, the Latimer House Principles, and the Trinidad and Tobago Affirmation of Commonwealth Values and Principles,

Reaffirming our core Commonwealth principles of consensus and common action, mutual respect, inclusiveness, transparency, accountability, legitimacy, and responsiveness,

Reiterating our commitment to peaceful, open dialogue and the free flow of information, including through a free and responsible media, and to enhancing democratic traditions and strengthening democratic processes,

Reaffirming that freedom of expression is a cornerstone of democratic societies and essential to good governance and the promotion of transparency, accountability and the rule of law,

Underlining that freedom of expression, online as well as offline, is important for the enjoyment of all human rights, including the right to development, and fundamental to achieving the Sustainable Development Goals, including Goal 16 to promote just, peaceful and inclusive societies,

Acknowledging the critical role of accurate, reliable and accessible information, especially

in times of crisis, conflict and emergencies such as that of the Covid-19 pandemic,

Recognising the particular risks and vulnerabilities faced by journalists and media workers, and the specific risks faced by women journalists on account of their gender,

Emphasising the need to ensure a safe and enabling environment for journalists and media workers,

Acknowledging that journalism is continuously evolving to include new forms of media and that media consumption is increasingly online,

Recognising the importance of full cooperation with international mechanisms and processes, such as international and regional rapporteurs, UN treaty body reporting and the UN Human Rights Council's Universal Periodic Review, and UN agencies, such as UNESCO, to advancing the achievement of the Sustainable Development Goals,

Reaffirming the important role that civil society plays in our communities and countries as partners in promoting and supporting Commonwealth values and principles, including democracy, human rights and good governance,

Welcoming, in the spirit of partnership, the valuable contribution made by the Commonwealth Journalists Association, the Institute of Commonwealth Studies, the Commonwealth Lawyers Association, the Commonwealth Legal Education Association, the Commonwealth Human Rights Initiative and the Commonwealth Parliamentary Association, which together initiated the process of drafting a set of principles on freedom of expression

and the role of the media in good governance,

Having resolved to adopt the following Commonwealth Principles on Freedom of Expression and the Role of the Media in Good Governance for effective implementation by member countries of the Commonwealth, in accordance with the laws and customs of each country.

1. Freedom of expression

Freedom of expression is a cornerstone of democracy and underpins good governance, public accountability and respect for all human rights. Everyone has the right to freedom of expression, which includes the right to seek, receive and impart information and ideas of all kinds through any media and regardless of frontiers. Member states should respect the right to freedom of expression and promote the free flow of information and ideas.

2. Restrictions on freedom of expression

Any restrictions on freedom of expression should be in accordance with standards established in international human rights law. Restrictions such as those which are essential to prevent incitement to violence, hatred or discrimination, should be prescribed by law, and necessary in pursuit of a legitimate aim.

Member states should consider repealing or amending laws which unduly restrict the right to freedom of expression. Where criminal sanctions are prescribed by law in respect of defamation, those laws should provide that such sanctions are only applied in instances of serious offences and are necessary and proportionate. Member states should ensure that their laws do not provide for excessive or disproportionate damages in civil defamation cases and that civil proceedings are not used frivolously or vexatiously. Member states should ensure that their defamation laws provide for defences based on truth and public interest.

Member states should ensure that their laws provide for the qualified journalistic privilege not to disclose journalists' sources unless ordered by an independent and impartial judicial or other authority. Journalists' sources should always be protected unless such an

authority has accepted that the public interest in disclosure outweighs protection. The rights of whistle-blowers should be protected by appropriate legislation.

3. Access to information

Access to information held by public bodies is key to promoting transparency, good governance and full participation in the democratic process. Member states should enact and implement right to information legislation in line with international standards, taking account of the Commonwealth Freedom of Information Principles which were endorsed by Commonwealth Law Ministers and noted by Heads of Government in Durban in 1999. Laws which provide for official secrecy in matters of national security should be in accordance with relevant obligations under international human rights law and apply only where unauthorised disclosure poses a demonstrable risk of serious harm to national security.

4. Parliaments, legislatures and the media

Open, two-way flows of information between Parliaments, legislatures and the media and the public are essential to enfranchise the public and ensure that legislators are informed about public opinion. Parliaments, legislatures and legislators should protect the right to freedom of expression and respect the role of the media in informing the public and holding elected governments to account. Parliaments and legislatures should facilitate media coverage of their proceedings and provide journalists with information without unreasonable restrictions. Parliaments and legislatures should respect the right of individuals and of the media to comment on their actions and performance. Criminal and defamation laws should not be used to restrict legitimate criticism of Parliaments and legislatures.

5. Judiciaries, courts and the media

The rule of law, including the independence of the judiciary, is essential to uphold the right to freedom of expression, other human rights and the democratic process. Member states should ensure their laws promote open justice and do not unduly restrict media access to the courts or the reporting of proceedings. Member states should ensure their laws protect the judiciary

¹¹⁵¹ Adopted by the Commonwealth Heads of Government at their summit meeting in Samoa in October 2024.

from threats or acts of violence, abuse and other forms of intimidation. The criminal law and contempt proceedings should not be used to restrict legitimate discussion of matters concerning the judiciary and the courts. Media have a responsibility not to undermine the authority or independence of the judiciary, not to prejudice or interfere with pending court proceedings, and to communicate judicial decisions to the public fairly and accurately.

6. The role of the media in elections

The media play an essential role in the democratic process, especially during times of elections and referenda. All relevant public bodies should promote and respect this role. Free, fair and credible elections are possible only where the electorate is well-informed about election matters and has access to accurate, sufficient, diverse and pluralistic information, including election procedures, key electoral issues, and positions of candidates and parties. Where key electoral information is available, this should be proactively disclosed. All political parties and candidates should have access to the media in an equitable way.

7. The safety of journalists and media workers

The safety of journalists and media workers is essential to preserve the fundamental right to freedom of expression. Threats or acts of violence, abuse, harassment or other forms of intimidation, including sexual and gender-based violence against women journalists and media workers, curtail freedom of expression and undermine public trust in, and the credibility of, journalism.

Member states should put in place effective laws and measures to establish a safe and enabling environment for journalists and media workers to work without fear of violence, abuse, intimidation, discrimination or interference, including online. Member states should take prompt measures to protect journalists and media workers when they face a serious threat of harm or are subject to violence. Protection should extend not only to professional journalists and media workers but also to bloggers and others who engage in forms of self-publication in print,

on the internet or other media. Member states should ensure that state organs and agents, in particular law enforcement officers and military personnel, promote and respect international human rights and humanitarian law obligations relating to the safety of journalists and their protection as civilians in situations of conflict. Media owners should provide their employees with adequate training, equipment and support to operate in dangerous environments and appropriate assistance in emergencies.

8. Ending impunity

Member states should act decisively to end impunity through impartial, prompt and effective investigations into all alleged cases of killings, attacks and ill-treatment of journalists and media workers, by prosecutions to bring the instigators and perpetrators of such crimes to justice and by the provision of effective redress for the victims. Member states should uphold United Nations resolutions on the safety of journalists and the issue of impunity, implement the UN Plan of Action and cooperate with requests from UNESCO's Director-General for information on judicial follow-up to the killing of journalists.

9. Media self-regulation and complaints

Media organisations and journalists should set and supervise their professional standards and codes of practice. Journalistic ethics require that the media should report accurately and fairly, issue corrections, allow a fair opportunity to reply when appropriate and, subject to legitimate public interest, respect the right to privacy and personal dignity, particularly of minors.

Media owners should recognise that ownership entails a commitment to inform citizens about matters of public interest and not merely to advance partisan or personal interests. It is part of the media's responsibility to ensure that journalists are adequately trained and that their private interests do not distort their reporting of public issues. Media and journalists' organisations should establish credible complaints systems to adjudicate on alleged breaches of professional codes of practice and to provide members of

the public with effective redress for unprofessional conduct.

10. Media regulation

Any system of media regulation should be the least restrictive necessary for a well-functioning democratic society. It should uphold the media's independence and its role in informing people about matters of public interest and encourage media self-regulation. It should promote media plurality and access to the media for all, including those belonging to linguistic and cultural minorities, without discrimination on the basis of race, colour, religion, gender, political or other opinion, or other grounds. It should include mechanisms to prevent undue concentration of media ownership and to make ownership transparent.

Member states should promote universal and affordable access to the internet and refrain from arbitrary shutdowns, blocking, filtering and other measures preventing or restricting access to it. People should enjoy the same rights online as they have offline. Legal and regulatory frameworks for internet development should promote openness and transparency. Internet service providers and social media platforms should do their utmost to protect users from harm and to uphold freedom of expression and access to information. Restrictions on the operations of websites and other online media services should only be imposed when prescribed by law and should be necessary, proportionate, and content-specific. The actions of member states in response to the proliferation and convergence of digital media should not diminish existing safeguards for freedom of expression and privacy.

Any system of registration for print or online news media, or for journalists, should not restrict the right to freedom of expression and should only be applied for such necessary purposes as accreditation.

For broadcasting, member states are encouraged to set up regulatory bodies independent of government to establish and enforce fair and equitable rules. Member states should strive to promote a diverse,

independent private broadcasting sector comprising commercial and community broadcasters. Public broadcast services should operate under governance frameworks which guarantee their editorial independence.

Data protection laws and other measures to protect the right to privacy should be applied with appropriate safeguards for freedom of expression.

11. Observance of these Principles

Member states should promote the widest possible awareness of these principles and ensure their observance. Member states are encouraged to consider setting up and supporting independent and accountable oversight bodies free from political and commercial interference or influence, such as information commissions, human rights commissions, election commissions, independent broadcasting authorities, telecommunication regulators, ombudsman offices and appeals procedures in accordance with international norms and appropriate domestic legislation.

APPENDIX C: ACKNOWLEDGEMENTS

This report is the result of a Commonwealth-wide collaboration between organisations and individuals with a shared commitment to safeguard freedom of expression and media freedoms.

Building on years of collective effort by Commonwealth Accredited Organisations – several of which initiated the work on the Commonwealth Principles on Freedom of Expression and the Role of the Media in Good Governance in 2016 and have long championed these issues – this report is a continuation of that shared vision and advocacy.

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Photo credit: Lightspring.

