



**Submission from the Committee to Protect Journalists
to the Special Rapporteur on the promotion and protection of the right to freedom of
opinion and expression in response to the
Call for Submissions: Disinformation and freedom of opinion and expression**

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In response to the request by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the Committee to Protect Journalists submits the following analysis on disinformation and freedom of opinion and expression based on our experience protecting journalists and promoting press freedom globally. CPJ is an independent, nonprofit, nongovernmental organization that defends the rights of journalists to report the news safely and without fear of reprisal. Founded in 1981 in New York with correspondents in more than a dozen countries, CPJ accepts no governmental or intergovernmental funding and uses journalism to help journalists.

Disinformation raises several challenges for journalists and the practice of journalism, and threatens press freedom on and offline. Our experts and network of correspondents around the world regularly hear from journalists that their work, their safety, and the viability of journalism are undermined by the spread of disinformation. This submission outlines how these challenges manifest and suggests measures that could help address them, while recognizing that the issue is complex and multifaceted.

The COVID-19 pandemic and associated “infodemic” have worsened many of the challenges, and highlighted both the importance of independent, fact-based journalism as well as the repression by governments who dislike critical reporting. No doubt there are very legitimate concerns about the public safety threat posed by the spread of false information, but there is no evidence to indicate that criminalizing disinformation has a positive or deterrent effect. Many of the threats posed by disinformation to journalism and journalists are seen in the efforts to quell it, and do not stem from good faith efforts to improve public safety, but rather from tactics deliberately crafted to censor, silence, or chill the voices of those who would critique or question.

CPJ research and analysis by our network of experts shows:

- That the proliferation of disinformation poses a threat to both journalists who are targeted by it, as well as to the media ecosystem in which they operate.

- Some of the focus on “fake news” has rhetorically shifted to disinformation, although “fake news” is still used as an epithet to discredit and insult journalists and the media. Disinformation provides a more promising policy framework that avoids some of the vitriol surrounding the “fake news” mantra, which became popularized under former U.S. President Donald Trump.
- Because disinformation amid the COVID-19 pandemic is a real problem with public health implications, it provided cover for censorship and efforts ostensibly aimed at combatting or punishing fake/false news.
- Much of the “fake news” infrastructure used to silence critics has been in place for years, but governments have refueled efforts to pass legislation under the guise of addressing coronavirus disinformation.
- Disinformation is part of the online harassment landscape. Disinformation campaigns -- like all online harassment -- is a gendered problem and disproportionately targets women journalists.
- While much of the technology is new, the tactics -- like smear campaigns, or undermining a journalist’s credibility, or accusing them of being spies or unpatriotic -- are not.

As of November 18, 2020, CPJ had documented 207 press freedom violations in relation to the pandemic, including arrests, threats, physical attacks, legal action, and journalists who have gone missing. The first victim in many places has been truth and access to information, which exacerbates the so-called infodemic. This crisis has made it clearer than ever that citizens need reliable information as a matter of safety and public health.

New technology, old practices

Government efforts to criminalize disinformation and false news are not new. In recent years however, “fake news” legislation has become an increasingly popular tactic for governments around the world, morphing into “disinformation” legislation amid the pandemic. From Egypt to Iran to Singapore to Cameroon, these laws have been used to silence critics and justify detentions. As the technology advances, these efforts have been enhanced as repressive regimes try to introduce [cybercrimes regulations](#) with [similar](#) objectives. It’s notable that many of the current global crackdowns on the flow of information use new excuses but are carried out using pre-existing infrastructure. [COVID-19 in many cases provided fertile ground](#) for repressive governments to simply double down on existing policies and practices, and laws around fake news or the spreading of disinformation.

- CPJ reporting shows a steady increase in the number of journalists jailed on false news charges for the past several years, with at least 34 journalists jailed on these charges on

CPJ's [2020 prison census](#). By comparison, CPJ data showed only 10 journalists jailed on these charges [in 2015](#), and only 1 [in 2012](#).

- This practice was further on display during the pandemic, as journalists were regularly arrested or threatened for criticizing or disputing government numbers or narratives, from the [arrest of an editor in Somalia](#) to [Iran's requirement](#) that journalists only report official government numbers.
- Among the world's [leading censors](#), China has long used censorship and disinformation to manipulate the flow of information. More and more however, China is flexing its muscles on social media with cross-border [disinformation campaigns](#) to try and sway public opinion in neighboring Taiwan, an effort the Taiwanese have [tried to thwart](#) without resorting to censorship themselves.
- This is demonstrated throughout the Gulf countries, where government efforts to censor and control the flow of information [have been well documented](#).
- Cuba has long been [a difficult place](#) for journalists, a fact amplified by the passage of [Decree 370 in 2019](#) -- preventing dissemination of information "contrary to social interest" though the definition of "social interest" was entirely at the discretion of the authorities.

In those instances where governments did seize the opportunity to quash dissenting narratives, the threat posed to the press was substantial, as was the potential for resulting self-censorship.

- In March 2020, [Thailand](#) announced a state of emergency allowing the government to "correct" reports it deemed inaccurate, and allowed for journalists to be charged under the Computer Crimes Act, punishable with a possible five-year prison sentence.
- That same month, [South Africa](#) criminalized the spreading of disinformation about the pandemic with penalties that included fines and jail time.
- In [Hungary](#), the government proposed legislation that would see the publication of "false information" (defined at their discretion) punishable by up to five years in prison.

In many cases, new laws or regulations around disinformation haven't been successfully passed yet or are too new for us to see the lasting effect on press freedom. In some cases, public backlash to these emergency measures helped to bring about swift amendments to potentially dangerous policies.

- This was the case in [Bolivia](#), where Interim President Jeanine Añez Chávez signed a decree broadening criminal sanctions for disinformation related to the pandemic, only to walk it back after much public pushback and issue a new decree eliminating the areas of concern for freedom of expression advocates.

Other longstanding tactics to discredit journalists, like smear campaigns painting them as foreign spies or affiliates of criminal groups, have become all the more pernicious with the advent of social networks, allowing such rumors to spread more efficiently and to greater effect.

- In Northern Ireland, crime reporter [Patricia Devlin](#) has faced a steady increase of online threats and abuse from local militias, and has grown increasingly concerned about her safety, as any perception of being aligned with police can lead to greater danger.

Disinformation as a safety risk is both a personal and ecosystem problem

Disinformation threatens the safety of the press in distinct ways.

- Journalists can find themselves at risk when they are the object of a disinformation campaign -- whether state coordinated, or spurred by non-state actors. Deep fakes, [smear campaigns](#), and [doxxing](#) can all put reporters in imminent [danger](#).
- Similarly, when reporting on disinformation as a beat, journalists can find themselves caught in these cross hairs.
 - *New York Times* journalist Davey Alba, who covers disinformation, [faced a vicious online harassment campaign](#) shortly after publishing a story related to then U.S. President Trump's suggestion that disinfectants or ultraviolet light could treat COVID-19.
 - [Ramsha Jahangir](#) faced severe harassment after she reported on how Pakistan's ruling party used social media for image-management.
 - *Rappler* founder and CEO [Maria Ressa](#) has been targeted by government disinformation, online harassment, and legal harassment ever since she first reported on Philippine President Rodrigo Duterte's 2016 disinformation campaign.

For governments committed to controlling the story, pushing out disinformation and silencing critics is a common practice, particularly for those reporting critically on the pandemic and government responses.

- In Belarus, authorities [stripped the accreditations](#) of journalists Aleksey Kruchinin and Sergey Panasyuk after they challenged the government's official COVID-19 death toll.
- For [Moscow-based freelancer Vladimir Sevrinovsky](#), uncovering the truth and countering the state-driven narratives or falsehoods is among the hardest parts of the job.
- China [expelled](#) three *Wall Street Journal* reporters for an opinion headline about coronavirus in February, and journalist [Zhang Zhan](#) has been detained since May for covering COVID-19 in Wuhan.
- Reporters in the [Philippines were charged](#) with "false news" in relation to their reporting on COVID-19.
- In the U.S. territory of Puerto Rico, a [new law](#) threatened jail time for spreading "false information" about COVID-19.

But the proliferation of disinformation is also a media environment problem and its spread can make any assignment a dangerous one. Journalists reporting in Washington, D.C., on January 6 found themselves caught up in an armed insurrection. Political reporting became a physically dangerous assignment because of a situation entirely fueled by disinformation. Moreover, when the public is taught to distrust the media, the physical safety of journalists and the institutional safeguards for press freedom are both rendered more vulnerable.

- Conspiracy groups like QAnon, which identify the media as a threat or enemy, [pose a serious risk for journalists on the ground](#), putting them at greater risk for stalking harassment or violence.
- Similarly, as wildfires ravaged the U.S. state of Oregon, journalists found themselves [threatened by armed men](#) who suspected reporters of being protestors and “looters” who had been taking to the streets in Portland.

Disinformation also threatens the media landscape by [draining resources](#), as underfunded newsrooms now see time and labor spent dispelling and debunking lies, rather than reporting.

This is a gendered threat

- Coordinated disinformation attacks have been aimed at journalists of all stripes, but they are overwhelmingly directed at women journalists.
- Personal smear campaigns, focused not on the content of reporting but rather on the character or behavior of a female journalist, are particularly common in countries where a woman’s reputation is central not only to her credibility but also to her safety. Hacked photos of women drinking or dressed in swimwear, rumors of impropriety, and deep fakes are common tactics for silencing women journalists.
- Indian journalist Neha Dixit has frequently been targeted by these types of smear campaigns, and [spoke to CPJ](#) about the way that images of her had been manipulated to appear sexually explicit and were shared online, and how fake Twitter accounts had been created in her name to discredit her.
- Targeted disinformation campaigns like these have been documented in high-profile cases like that of freelance journalist [Rana Ayyub](#) in India, political reporter [Patricia Campos Mello](#) in Brazil, and Filipina journalist and *Rappler* founder and CEO [Maria Ressa](#).

Fake news rhetoric has exacerbated the problem

There is no question that the rise in anti-press rhetoric has contributed to the dangers facing working journalists. [CPJ research has found](#) that former U.S. President Donald Trump’s sustained disparagement of the press in particular [provided cover for “fake news”](#) rhetoric and retaliation domestically and around the globe. In the case of disinformation, this rhetoric has in

some ways created a boogeyman effect -- where governments can justify targeting it as a public ill, or in the case of COVID-19, a public safety issue, even if they refrain from defining it, and their motive for doing so is censorship rather than safety.

- CPJ has documented the ways that Trump's [anti-press rhetoric](#) has been echoed by other leaders from [El Salvador](#) to [Brazil](#) to [the Philippines](#).
- CPJ research has also shown how [Trump's rhetoric](#) fueled [anti-press sentiment](#) around the recent Capitol siege.

Responses cannot be one-size fits all

So far, there are no silver bullets for dealing with disinformation. Legislative tools frequently -- if not deliberately -- ensnare working journalists, and even well-intended public health efforts can have unintended consequences. Meanwhile platforms are not always equipped or effective at responding to these campaigns as they arise. One thing is clear: context is key.

- Targeted disinformation campaigns tied to elections, protests, or regional politics are often too specific to be identified or flagged by broad platform guidelines.
 - In Guatemala for instance, a journalist being painted as a “leftist” can be incredibly dangerous, yet in many cases platform reporting policies for takedowns don't take into account cultural or linguistic contexts.
 - In Sri Lanka, disinformation campaigns regularly take place in Sinhala rather than English or more widely spoken languages, making it harder for human rights groups or the international community to track what's happening due to linguistic barriers. This was the case for journalist [Dharisha Bastians](#), who was targeted by a vicious campaign, but generating awareness and support for her situation was substantially more difficult.
- In Taiwan, a series of policies and practices -- [from publicly correcting](#) disinformation, to holding [public fora for debate](#) on topics central to the propaganda -- were reasonably successful in efforts to combat China's disinformation campaigns. How feasible it is to replicate these efforts in a different political environment is unclear.
- Efforts to counter disinformation can land journalists in the crosshairs. In India, editor-in-chief of *The News Minute* website, Dhanya Rajendran, [explained to CPJ](#) that the very act of trying to correct the disinformation on social media can elicit serious trolling campaigns.
- On the other hand, some U.S. journalists expressed unease to CPJ about any government efforts to explicitly define or put out national guidelines on disinformation, concerned that the effort could potentially increase the risk for journalists, and further fuel the narrative of conspiracy theorists who are fearful of “government controlling speech.”

Disinformation is a sophisticated problem. The threats it poses to freedom of expression, and to a free press, are as numerous as they are complex. But sophisticated problems cannot be addressed with vague laws or ill-defined policies; rather, they require nimble and tailored responses. It is imperative that genuine threats to public safety, like that posed by a global pandemic, are not used as a means to justify the erosion of public trust or the endangerment of a free press. Their role is essential to a functional democracy and preserving it necessitates efforts from governments, the private sector, civil society, and international institutions. UN efforts to intervene in this evolving issue would be best aimed at holding governments and their institutions responsible for their role in perpetuating disinformation, encouraging them to adopt greater openness and transparency so that official information is more accessible to journalists and the public alike, and ensuring that public health legislation is narrowly tailored and does not criminalize reporting or other journalistic acts.