

## Resolution on Freedom of Expression in the Time of COVID-19

*Adopted by the Assembly of Delegates of PEN International, during its 86th Annual Congress, held 2 to 6 November 2020.*

The COVID-19 pandemic poses an unprecedented global challenge requiring monumental governmental responses. The potential exists, however, for the crisis to be exploited to constrain freedom of expression. Public access to sound medical and scientific information about the virus must not be limited to suit political or economic interests, and the context of this emergency cannot be used by governments to further silence voices of opposition. The PEN International community is monitoring a worldwide array of cases in which journalists, activists, doctors, government officials, and others have been arrested, silenced, demoted or otherwise come under attack for speaking out about the pandemic. There are also concerning attempts at using laws to restrict expression or impose surveillance under the guise of fighting COVID-19.

- The following examples show how governments are imposing limits on free expression as they respond to the pandemic: In June 2020, the Chinese government formally arrested writer and civil rights advocate Xu Zhiyong under charges of “inciting subversion,” a naked attempt to harshly punish Xu for his forthright criticism of Chinese political leaders. Xu, a civil rights activist, lawyer, and essayist, was detained in February after publishing an online essay criticizing President Xi Jinping’s handling of the COVID-19 crisis and other matters and encouraging him to resign. Xu had been in hiding since December 2019, fearing arrest for his work: police used the pretext of “coronavirus prevention checks” to search for him at the homes of his friends and colleagues. Xu is currently being held incommunicado and has been charged with “inciting subversion against state power,” which carries a penalty of up to 15 years in prison. PEN America has recognized Xu with its 2020 PEN/Barbey Freedom to Write Award.(1)
- In Belarus, Alexander Lukashenko’s government has pursued journalists and others who seek to reveal the severity of the epidemic. Serguey Satsouk, director and editor of the news website Ezhednevnik, was arrested on charges of bribery and held in detention for more than a week, after reporting on and criticizing the government’s response to the COVID-19 pandemic. In another example, prosecutors in Vitebsk summoned Dr. Natalia Laryonava after she wrote on social media about her experience with the virus and called the Belarus authorities’ official count of cases “a complete myth.”(2)
- The COVID-19 crisis HAS had an especially tragic outcome in Egypt with the death of Shady Habash, an imprisoned film maker who, according to the prison authorities, died after drinking hand-sanitizer. Habash was among a group of writers and artists arrested in March 2018 for their reported involvement in producing and distributing a song by the exiled musician Ramy Essam. Since the coronavirus outbreak, human rights groups have documented multiple cases of COVID-19 inside Egypt’s crowded prisons, as well as several deaths. In March, the Ministry of Interior banned all prison visits and thousands of detainees have little to no communication with their families.(3)

- Russian media outlets investigating COVID-19 cases have faced accusations of “dissemination of false information” and of “sowing panic among the public and provoking public disturbance.” Roskomnadzor, Russia’s state media regulator, ordered radio station Ekho Moskvyy and news site Govorit Magadan to remove articles about the COVID-19 outbreak and related deaths from their platforms. Journalists have been questioned by law enforcement agencies about their reporting and, in some cases, asked to revoke articles or pressured to reveal sources. In Chechnya, Novaya Gazeta was threatened by the head of the Chechen republic after one of its journalists published articles about the outbreak. Additionally, prosecutors have refused reprieves for writers, academics, and human rights activists who face serious COVID-related health risks while held in Russian prisons. The government has also introduced surveillance measures related to virus case tracking that raise concerns, given the government’s history of retaliation against its critics. A new law establishing harsh punishments for those who spread false information about the epidemic also has the potential to limit or silence reporting and discourse.(4)
- In Cambodia, the government has sought to use the COVID-19 pandemic to deepen its crackdown on freedom of expression and press freedoms. In April 2020, Sovann Rithy, journalist and director of the TVFB news site, was arrested and charged under the criminal code for reporting a direct quote made by the Cambodian prime minister about COVID-19. More recently, the Cambodian government has used the pandemic to push through a state of emergency law, providing authorities with sweeping powers to further restrict media reporting and surveil private communications.(5)
- The Venezuelan government has increased detentions and legal harassment of journalists investigating information related to COVID-19, with the government regularly invoking the country’s anti-hate laws to persecute and prosecute journalists.(6)
- In Nicaragua, restrictions have been imposed on news coverage related to COVID-19 and journalists who have been critical of the government’s response and access to public health have been threatened or legally harassed. For example, journalists who denounced the authorities’ limitations on journalistic freedom related to covering the pandemic have been prevented from approaching hospitals and accessing public information. Nicaraguan journalist Sergio León was summoned by the judiciary in May to respond to a claim of slander and libel, allegedly for reporting on COVID-19, and was subsequently subjected to regular threats from government agencies. He passed away from COVID-19 on June 14, 2020.(7)
- The situation in Iran’s prisons under the pandemic is dire, so much so that in early October 2020 UN High Commissioner on Human Rights, Michelle Bachelet, called for the release of all rights defenders, lawyers and political prisoners, citing serious concerns over their situation and heightened risk of contracting COVID-19. Nasrin Sotoudeh, writer and rights activist, imprisoned in 2018 to serve a 38-year sentence and whose health is already precarious, spent several days in a prison hospital where some of the guards were later diagnosed as COVID positive. She was returned to her prison cell against medical advice.

Narges Mohammadi , imprisoned in 2015, was also diagnosed with COVID shortly before she was freed in October 2020.(8)

- In May 2020, Ugandan author and activist Kakwenza Rukirabashaija was arrested by military police at his home and detained in military barracks outside Kampala. He was charged with COVID-19 violations and cyber-related crimes for a post made on Facebook, although his interrogation and torture by state security agents centred on his newly published political satire, *The Greedy Barbarians*.(9) Rukirabashaija was released on bail and is on trial for what the authorities frame as 'doing an act likely to spread the infection of disease (COVID 19)' and that Rukirabashaija '...unlawfully/negligently posted messages on his Facebook account mobilising the public against complying with directives and public health guidelines issued to prevent the spread of COVID19, and knowing or having reason to believe that such actions would lead to further spread of COVID 19, a disease dangerous to human life.' Rukirabashaija was arrested again on 18 September 2020 and detained for three days and questioned over his new book, *Banana Republic: Where Writing is Treasonous* in which he narrates his torture ordeal during his first arrest in May 2020. He was released on a stringent police bond pending investigation for the odd offence of 'inciting violence and promoting sectarianism.' The bond terms require him to report to the police on a weekly basis, 240 kilometers away from his home. It is not yet clear whether he will be charged in a court of law.
- Tanzanian journalist Talib Ussi Hammad of the *Daima Daily* newspaper was suspended for six months in April 2020 for reporting on COVID-19. The *Mwananchi* daily newspaper had its online license suspended after it posted a photo of President John Pombe Magufuli surrounded by a crowd of people while shopping, eliciting online discussions on Tanzania's approach to addressing COVID-19.(10)
- The COVID-19 crisis has impacted on the already drawn-out political trials in Saudi Arabia, including of five female writer-activists Nouf Abdulaziz, Loujain Al-Hathloul, Eman Al-Nafjan, Hatoon Al-Fassi and Nassima Al-Sadah who were arrested in 2018 and charged in connection with their advocacy of women's rights. Al-Fassi and Al-Nafjan were freed pending trial while the others remain in prison. After a long hiatus, hearings resumed in their cases in February and March 2020 before Saudi Arabia suspended all court appearances due to COVID-19. The ability of family members to see their detained relatives has also been circumscribed, with phone calls and in-person visits also being curtailed for much of 2020, leaving them in near-isolation.(11)
- In the United States, President Donald Trump has continually discredited accurate reporting of the COVID-19 death toll and critiques of his handling of the pandemic. Doctors and health officials have been censored or fired for speaking out about the COVID-19 crisis. A Navy captain was relieved of his command when he raised the alarm about the coronavirus outbreak aboard his ship. A scientist in Florida was fired for refusing to alter data to support the state's reopening plan. In Puerto Rico, a law passed in the midst of media coverage critical of authorities' handling of the COVID-19 pandemic made it a crime to share information the government deems false about emergencies. In addition, the use of the term "Chinese Virus" by President Trump and others to describe the disease comes

amid a climate of rising hate crimes, violence, and verbal assaults against Asian-Americans during the pandemic.(12)

A health crisis of this nature may call for government action, including new regulations, to preserve public safety and address the social and economic impact of the crisis. However, the potential for abuse must not be ignored. Access to fact-based information and freedom of discourse are essential tools in combatting the emergency, and transparency in governmental actions is critical. Safeguards are necessary to ensure temporary restrictions do not become permanent infringements on rights. In such contexts, the role of journalists in investigating, reporting, and holding government to account only becomes more critical. It is also vital that writers, academics, activists, and scientists be able to speak freely. We must not emerge from this global crisis with new infringements on the critical right to free expression.

**The Assembly of Delegates of PEN International calls on all states to:**

- Recognize the potential of emergency steps related to addressing the COVID-19 pandemic to infringe on free expression, press freedom, and rights to assembly and privacy, and take all necessary steps to safeguard against this result;
- Maintain transparency in government actions regarding the pandemic, including open access to public health information and support for the accurate collection of data;
- Refrain from infringing on the freedom of the press to conduct robust, fact-based reporting that provides crucial information to the public and holds government to account for its leadership and interventions in addressing the crisis;
- Ensure that government techniques to monitor infection, trace contacts, and otherwise support public health are utilized for those purposes only, and do not become tools for surveillance and invasion of privacy.

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(2) "From Informed Responsibility to Dangerous Denial: COVID Responses in Eurasia." 2020. PEN America. <https://pen.org/contrasting-government-responses-to-covid-19-in-eurasia/>.

(3) "Egypt: Open Letter to Egyptian Authorities on Jailing and Death of Shady Habash." 2020. PEN International. <https://pen-international.org/news/egypt-open-letter-to-egyptian-authorities-on-death-of-shady-habash>.

(4) "From Informed Responsibility to Dangerous Denial: COVID Responses in Eurasia." PEN America, op.cit.

(5) "Cambodia's State of Emergency Law Endangers Human Rights, Warns UN Expert." 2020. United Nations Office of the High Commissioner for Human Rights. <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25801&LangID=E>.

(6) "Venezuela: Detenciones a Periodistas Muestran El Clima de Censura." 2020. PEN International. <https://pen-international.org/es/noticias/venezuela-detenciones-a-periodistas-muestran-el-clima-de-censura>; <https://cpj.org/2020/07/venezuelan-authorities-charge-2-journalists-imprison-1-under-anti-hate-law/>; "Venezuelan Authorities Charge 2 Journalists, Imprison 1, under 'Anti-Hate' Law." 2020. Committee to Protect Journalists. <https://cpj.org/2020/07/venezuelan-authorities-charge-2-journalists-imprison-1-under-anti-hate-law/>; "Venezuela: Amenazas a Escritores y Periodistas Debilitan El Acceso a La Información y La Libre Expresión." 2020. PEN International. <https://pen-international.org/es/noticias/venezuela-amenazas-escritores-periodistas-debilitan-acceso-informacion-libre-expresion>.

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(8) "Iran: Concerns for Nasrin Sotoudeh's Health amidst High Prevalence of COVID-19 in Iran's Prisons." 2020. PEN International. <https://pen-international.org/news/iran-concerns-for-nasrin-sotoudehs-health-amidst-high-prevalence-of-covid-19-in-irans-prisons>; "Iran: PEN International Welcomes the Release of Narges Mohammadi." 2020. PEN International. <https://pen-international.org/news/iran-pen-international-welcomes-release-of-narges-mohammadi>.

(9) "Uganda: Drop COVID-19-Related Charges and Release Kakwenza Rukirabashaija." 2020. PEN International. <https://pen-international.org/news/uganda-release-kakwenza-rukirabashaija>.

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