

1. **In your view, how does the right to freedom of opinion and expression contribute to the achievement of the SDGs? Please provide examples, where possible, with concrete data relating to impact. Please also mention relevant laws, policies and other measures.**

Sustainable Development Goal 4 on Quality Education: Lack of media and information literacy competencies, for people to be able to consume media critically, at a time of 'fake news' and 'alternative facts'.

In the Philippines:

The outcome of the last general election in the Philippines can be an example. Duterte was the first person to tap into social media virality in the Philippines. His campaign employed an army of internet trolls tasked to amplify his message throughout Philippine cyberspace. These trolls spread propaganda for Duterte, and continued to spread messages supporting his policies while he was President. This continued also with Marcos Jr who won the presidential election in May 2022. Indeed, Facebook pages, YouTube channels, and influencers amplify claims that alter public perception of the Marcos family, often downplaying or denying the kleptocracy and human rights violations of the Martial Law era. Marcos's campaign has come under fire for "whitewashing" his father's brutal regime as a "golden age" for the Philippines, all while perpetuating myths and exaggerations about the Marcos family that go back to the 1960s when the elder Marcos was president. Therefore, a years-long strategic disinformation campaign on social media helped rehabilitate and even polish the family's image. Pro-Marcos propaganda has proliferated — from glossy filtered TikTok framing archival images of the Marcos era as amusing, to YouTube videos declaring there were no martial law arrests.

That is why, education and media and information literacy competencies are required in order to not be overwhelmed by the various sources accessible online and to recognise whether or not it is fake news.

Sustainable Development Goal 16 on Peace, Justice and Strong Institutions

Target 16.7: Political and public participation rights are critical to the advancement of democratic government, the rule of law, social inclusion, and economic development. Therefore, governments must strive to harness the potential of information technology in order to narrow the digital gap and guarantee that the advantages of emerging technologies are available to everybody.

Target 16.10: Justice and strong institutions required a vibrant society. FoE, FoAA, civic space, and free, independent, pluralistic media are crucial to establishing and sustaining inclusive and peaceful societies, civic involvement, the rule of law, and keeping public institutions and officials, as well as the private sector, responsible. However, measures adopted to battle the COVID-19 pandemic in Asia fell short of legality, need, and proportionality.

2. Are there restrictions or other challenges to freedom of expression or access to information that affect the delivery of public services and achievement of economic, social and cultural rights in your country? Which groups of people are most affected by these restrictions and in what ways? What measures would you recommend to address their problems?

Repressive laws in Asia region that must be repealed: Communication and multimedia act in Malaysia; Criminal Defamation (Penal code), Computer Crimes Act (2007) in Thailand, the Protection from Online Falsehoods and Manipulation Act (POFMA) in Singapore, National Internet Gateway (NIG) in Cambodia (that for the time being is on hold)¹; Electronic Information and Transactions (ITE) and Blasphemy Law (Article 156a of the Indonesian Criminal Code) in Indonesia, National Security Law (NSL) in Honk Kong, Telecommunications Law and draft of the Cybersecurity Law in Myanmar, Unlawful Activities (Prevention) Act 1967 (UAPA) in India, the Public Security Act (PSA) imposed in Jammu and Kashmir, Prevention of Electronic Crimes Act (PECA) 2016 in Pakistan, Digital Security Act 2018 (DSA) in Bangladesh.

Thailand:

- Strategic Lawsuit Against Public Participation (SLAPP) has been used to curtail the freedom of expression, association and assembly and public participation in regulation and policy affected to human rights. In 2018, Thammakaset Company, a Thai poultry farm, sued some former workers, journalists and human rights defenders, who reported and supported the labour group filing the complaints of labour exploitation².
- Authoritarianism and close-knit relationships between states could be a challenge for people to exercise the freedom of expression. In September 2021, while criticism of using Sinovac Vaccine (China supported vaccine) in Thailand was going, the Chinese Embassy in Thailand responded, through facebook posts, to those criticisms and urged the critics to stop.³

Hong Kong :

- Hong Kong's NSL grants the Hong Kong government extensive rights to act against any person or institution suspected of terrorism, "subversion," encouraging independence for the city, or collaborating with external actors against Chinese interests.
- June 2021: Hong Kong pro-democracy paper Apple Daily closed down and till today seven of its staff members, including its founder Jimmy Lai, are being detained and risk a life sentence for alleged crimes against the state⁴

Singapore:

- September 2021: Singapore-based news portal The Online Citizen (TOC) temporarily closed its website and social media accounts after its licence was suspended by the

¹ <https://thediplomat.com/2022/02/cambodia-puts-controversial-national-internet-gateway-plan-on-hold/>

² <https://www.business-humanrights.org/en/latest-news/betagro-thammakaset-lawsuits-re-labour-exploitation-in-thailand/>

³ <https://www.thecoverage.info/news/content/2218> (in Thai)

⁴ <https://rsf.org/en/hong-kong-one-year-after-apple-daily-shutdown-seven-still-detained>

Infocomm Media Development Authority (IMDA) for alleged failure to reveal its foreign funders.⁵

Myanmar:

- Authorities commonly used short-term, localised internet shutdowns to prevent the opposition from coordinating or sharing information about atrocities, limiting internet access for millions of users.⁶
- Proposed Cybersecurity Law: drafted in 2021 and revised in February 2022, will devastate FoE and access to information across the country. People in the country rely significantly on internet connectivity, particularly social media sites like Facebook, for news, and many have struggled to go online since the junta gained control of the country's telecommunications regulators the attempted coup⁷. The revised version also criminalises the use of VPNs by up to three years in prison.
- The military forced significant price rises on mobile data and a slew of new phone taxes, severely limiting the affordability of internet access—particularly for impoverished people already disadvantaged by the economy's decline.⁸
- Junta revoked the licence to Mizzima, Democratic Voice of Burma (DVB), Khit Thit Media, Myanmar Now and 7Day News and media outlets offices were also raided. "The Irrawaddy" is the last of this long list with the motivation that it's jeopardised "state security, rule of law, and public peace"⁹.

Mongolia:

- In January 2023, the Mongolian parliament enacted a new law supposedly to "defend human rights on social media," but CSOs argue it undermines FoE and gives the state the ultimate power to regulate material on internet platforms.¹⁰ On 30th January the president chose to veto the controversial law. The veto, however, merely meant that the bill would be returned to parliament for a second reading. In order for the law to be annulled, the parliament must still act on the veto because the parliament has the most ability to make laws in Mongolia.¹¹

India:

- In Indian Administered Kashmir, the Jammu and Kashmir (J&K) police invoked UAPA against people accessing social media through VPNs during the longest-ever internet ban¹² imposed by the government of India post the revocation of Article 370, under which special status was given under the Constitution to Jammu and Kashmir.

⁵ <https://www.channelnewsasia.com/singapore/toc-online-citizen-suspended-licence-imda-2175986>

⁶ <https://www.rfa.org/english/news/myanmar/internet-09282022162550.html> (one of many examples)

⁷ https://www.hrw.org/sites/default/files/media_2022/02/220127%20Cyber-Security-Bill-EN.pdf

⁸ <https://www.aljazeera.com/economy/2022/2/11/myanmars-internet-gets-pricier-for-dissenters-apolitical-alike>

⁹ <https://asia.nikkei.com/Spotlight/Myanmar-Crisis/Myanmar-bans-Irrawaddy-news-site-for-disturbing-public-tranquility>

¹⁰ <https://www.rappler.com/technology/social-media/new-mongolian-law-social-media-threatens-free-speech/>

¹¹ <https://www.rappler.com/technology/social-media/mongolian-president-vetoes-controversial-social-media-law/>

¹² https://www.washingtonpost.com/world/asia_pacific/indias-internet-shutdown-in-kashmir-is-now-the-longest-ever-in-a-democracy/2019/12/15/bb0693ea-1dfc-11ea-977a-15a6710ed6da_story.html

- Kashmiri human rights defender Khurram Parvez¹³ was also booked under UAPA in what seems to be a retaliation for the years of documentation of serious human rights violations, including enforced disappearances, torture and unlawful killing, by Jammu and Kashmir Coalition of Civil Society (JKCCS).
- Kashmiri journalist and founding editor of the Kashmir Walla (TKW), Fahad Shah¹⁴, was also booked under UAPA and PSA in connection with TKW's reporting on various issues. Journalists Sajad Gul and Asif Sultan have been languishing in jail.
- UAPA was also wielded against protestors who protested against the Citizenship Amendment Act (CAA), which discriminated against citizenship based on religion. Several anti-CAA activists were arrested¹⁵ in connection with the violence in New Delhi and later booked under UAPA, including Umar Khalid, Sharjeel Imam, Gulfisha Fatima, Natasha Narwal, Safoora Zargar, Khalid Saifi, Meeran Haider and many others. While some were released, several anti-CAA activists continue to be behind bars for making speeches criticising the discriminatory nature of the law.

Journalists from minority groups (religious and gender minorities) and those in J&K are particularly vulnerable.

- April 2022, Meer Faisal alleged¹⁶ that he was attacked while covering an event organised by Hindu national groups in Delhi for his religious identity. Rana Ayyub is a prominent Muslim female journalist and is currently being investigated for allegations¹⁷ of money laundering and tax evasion. Government supporters and Hindu nationalist groups online have repeatedly abused and threatened Ayyub on social media, including morphing her picture into pornographic imagery.
- Siddique Kappan¹⁸, another Muslim journalist, has been in prison since October 2020 after he was arrested while on his way to cover the Hathras gang rape and murder case. Kappan was released after 28 months on 2 February 2023.

In 2021, India shut down the internet at least 106 times¹⁹, 85 of which were in the J&K regions. Furthermore, the government has also adopted the New Media Policy²⁰ in the region which effectively censors independent and critical journalism.

Pakistan:

- In February 2022, the government of Pakistan approved an amendment in the controversial Prevention of Electronic Crimes Act (PECA) 2016 through a presidential ordinance to curb the spread of 'fake news' in the country – fake news, per se, is not clearly defined.
- Pashtuns protesting the denial of rights and anti-tribal policies came together as the Pashtun Tahaffuz Movement (PTM) in 2018. It became a nationwide movement to highlight abuses against the community and was subjected to state violence and restrictions, both in the offline and the online world. PECA was used to arrest many PTM

¹³<https://www.ohchr.org/en/press-releases/2022/11/one-year-detention-un-experts-demand-immediate-release-kashmiri-activist>

¹⁴<https://www.csmonitor.com/Commentary/From-the-Editors/2022/1003/Press-freedom-democracy-and-Fahad-Shah>

¹⁵<https://www.amnesty.org/en/wp-content/uploads/2021/05/ASA2022692020ENGLISH.pdf>

¹⁶<https://scroll.in/latest/1021073/journalists-attacked-in-delhi-police-file-case-against-reporter-news-portal-for-promoting-enmity>

¹⁷<https://indianexpress.com/article/cities/delhi/ed-chargesheets-journalist-rana-ayyub-money-laundering-case-8206205/>

¹⁸<https://www.uscirf.gov/religious-prisoners-conscience/forb-victims-database/siddique-kappan>

¹⁹<https://indianexpress.com/article/business/commodities/106-net-shutdowns-in-india-in-2021-7892346/>

²⁰<https://thewire.in/media/kashmir-new-media-policy-press-freedom>

supporters, including the chief of the movement Manzoor Pashteen²¹. In addition, religious minorities have also borne the brunt of PECA as it takes Pakistan's blasphemy laws to the digital realm – PECA is used to put behind bars anyone who does anything perceived as sacrilegious. It has also given leeway to vigilantes to take law into their own hands as was seen in the lynching of Mashal Khan in 2017²² and Tahir Ahmad Naseem²³ in 2020 for alleged blasphemy committed online.

- PECA also allows for the persecution of the already vulnerable Ahmadiyya community. Dozens of Ahmadis have been booked under PECA and are also exposed to the blasphemy laws. It has also spiked online hate speech against the community as cyber laws do not account for hate speech against the community.
- The government also revoked the operating licence of ARY news for broadcasting “seditious content”²⁴ during an interview with PTI's Shehbaz Gill, followed by booking²⁵ ARY CEO Salman Iqbal and other staffers in multiple cases, particularly under the PECA law.

Bangladesh:

- The Digital Security Act 2018 (DSA) has been used to criminalise a wide range of speech and gives enormous powers to the government. It has been wielded against journalists, academics, opposition and also the minority communities to control online discourse and curb any critique of the ruling party, Awami League, in particular Prime Minister Sheikh Hasina. Sheikh Hasina's regime is increasingly becoming autocratic and has heavily cracked down on the opposition, in particular the Bangladesh Nationalist Party (BNP).
- As per the data collected by the Centre for Governance Studies,²⁶ (CGS) almost 11% of people targeted by the government through DSA are students. Similarly, religious minorities like the Hindu community continue to be disproportionately targeted through the law on the pretext of committing blasphemy via Facebook posts. As per data by the CGS, between 2020 and 2021, over 2000 DSA cases were filed against 1530 people. At least 90 were booked for allegedly hurting religious sentiments²⁷ and 55 out of them belonged to the Hindu community.

- 3. What factors affect the right to expression and information of women and girls, indigenous peoples and other poor and marginalised communities and their access to information and communications technology in your country? What legal, policy or other measures has the government taken to overcome these problems? How effective are these measures and what improvements would you recommend?**

In ASIA region:

²¹<https://peoplesdispatch.org/2022/10/26/pashtun-leader-manzoor-pashteen-faces-terrorism-and-treason-charges-for-speech/>

²² <https://www.bbc.co.uk/news/world-asia-42970587>

²³ <https://www.theguardian.com/world/2020/jul/29/pakistani-man-tahir-ahmed-naseem-blasphemy-laws-shot-dead-in-peshawar-court>

²⁴ <https://www.bloomberg.com/news/articles/2022-08-10/imran-khan-ally-arrested-for-sedition-after-army-comments>

²⁵ <https://www.dawn.com/news/1704118>

²⁶ <https://freedominfo.net/>

²⁷ https://www.thedailystar.net/weekend-read/news/what-does-it-mean-hurt-religious-sentiment-2970886#.Yhom- UL_E8.twitter

- Living in rural areas has an impact on women's and girls' and vulnerable communities' freedom to expression and information, as well as the access of poor and marginalised populations to information and communication technologies.
- Being a person with disabilities
- Relegation of the women figure of chores
- Migrants in irregular situations are disproportionately vulnerable to discrimination, exploitation, and marginalisation, frequently living and working in the shadows, afraid to complain, and denied their human rights and fundamental freedoms. The language barrier is also an issue related.
- Lack of transparency on how your data will be used if you need to register to access a website and similar.

ASEAN Leaders have endorsed in November 2020, the ASEAN Comprehensive Recovery Framework (ACRF), a unified community-wide exit strategy aimed at identifying the most essential steps required to bring the region through the crisis following the COVID-19.

ACRF established digital connectivity as a priority in order to facilitate regional connectivity and economic recovery. In particular, one of its board strategies is to “Accelerating Inclusive Digital Transformation” by focusing on 11 key priority areas such as “Enhancing connectivity” or “Promoting ICT in education”. However, this broad strategy appears doubtful in Asia, because in several ASEAN countries, internet shutdowns have been weaponized and used to shrink civic space (Papua and Myanmar). While illiberal democracies have implemented repressive legislations such as cyber security or surveillance laws to hamper the enhancing connectivity.

4. What laws, policies and practices exist in your country to facilitate public participation and access to information and data relating to sustainable development? Where have there been successes, or conversely challenges, with facilitating access to information and data relating to sustainable development in relation to a) governments and b) companies?

In Thailand, the government announced Thailand 4.0 policy²⁸ to leverage the digital technology driving the country forward in 2017. Open government was introduced, including an open-data platform to be available for the public to access information. Public hearing for regulation and law enactment (as guaranteed under Thailand’s constitution) was introduced to be available online via parliament website²⁹.

Adversely, the government has amended the Official Information Act to limit the right to access information. The amendment of the act provides board and arbitrary power for the officials to

²⁸ https://www.onde.go.th/assets/portals/files/Digital_Thailand_pocket_book_EN.pdf

²⁹ https://www.parliament.go.th/section77/survey_more_news.php?type=reportwsu

decide which information could be revealed. The information regarding royal institution and national security are prohibited to disclose.³⁰

5. What role does the media play in promoting sustainable development in your country? What challenges and threats do journalists face in accessing public information or reporting on or criticizing development policies?

Media can also promote peace, tolerance and dialogue between cultures, people, religious and political groups. In Indonesia, the chairman of Indonesia's Religious Harmony Forum (FKUB), asked religious leaders, including church leaders, to intensify "da'wah" or "messages of kindness" on their social media channels in order to prevent the spread of radicalism³¹

Journalists confront obstacles and risks when it comes to obtaining public information or reporting on development policies.

Cambodia:

- The Ministry of Material revoked the licence of three news outlets, Bayong Times, Cambodia Today, and the online site Khmer Cover TV, or KCTV, in April 2022 because they were "disseminating information that breaches the principles of journalism and commercial contracts being upheld. Cambodia Today's Touch Yuthea believes the decision is related to his reporting on flaws in government contract bidding processes on his news website³²
- September 2021: An online news publisher was convicted of felony incitement and sentenced to one year in jail for disseminating misinformation about a land dispute in Botum Sakor National Park, according to authorities. He had posted comments on Facebook through his media outlet, the demolition by authorities of crops cultivated by villagers for about 10 years and wooden houses on disputed land.³³
- November 2021: A reporter for VoD was harassed by authorities after he went to cover a press conference held by residents involved in a land dispute over the new Phnom Penh Airport in Kandal Stung district³⁴
- August 2022: Five journalists from an independent media organisation and four environmental activists were arrested while covering land clearing activity at a wildlife sanctuary in Phnom Tamao forest³⁵

India:

³⁰<https://www.thaipbsworld.com/govt-moves-to-restrict-freedom-of-information-is-a-mandate-for-corruption-critics-warn/>

³¹<https://www.persecution.org/2022/10/10/religious-leaders-in-indonesia-use-social-media-to-combat-radicalism/>

³²<https://www.voanews.com/a/watchdog-condemns-cambodia-for-revoking-media-licenses-/6514554.html>

³³<https://cambojanews.com/digital-news-publisher-convicted-sentenced-to-prison-for-koh-kong-dispute/>

³⁴<https://cambojanews.com/journalists-covering-mega-airport-project-face-threat-and-harassment/>

³⁵<https://cambojanews.com/journalists-and-environmental-activists-detained-beaten/>

- On 18th July 2022, Indian authorities arrested Rupesh Kumar Singh, a freelance journalist, following a nine-hour raid on his home. Few days before, on July 15, he published a thread on his Twitter account on the impact of industrial and air pollution on the health of populations in Jharkhand villages.³⁶

Bangladesh:

- Rozina Islam case: arrested and charged over alleged document theft. In her work, she has been critical of the Bangladeshi government's handling of the pandemic, including investigations into bribery and corruption in the recruitment of medical staff and irregularities in the health ministry's procurement.³⁷

- 6. What laws, policies and other institutional measures exist in your country to protect investigative journalism and whistleblowing? How effective are they and what further measures should be taken to protect journalists and whistleblowers? Where possible, please provide concrete examples of investigative journalism or whistleblowing related to sustainable development, e.g. exposure of corruption or misuse of natural resources.**

One of the greatest barriers to successfully prosecuting allegations of violations of human rights in courts in most Asian countries is the lack of efficient witness protection systems at both the national and regional levels.

Malaysia Whistleblower Protection Act 2010³⁸: Despite the presence of this law, there are no clear instructions on the complaint system, particularly regarding complainant confidentiality, investigation duration, complaint types, and transparency in the investigation. As a result, civil servants and journalists are hesitant to disclose corruption and power abuse for fear of retaliation, particularly if their report involves top government officials or ministers.

1MDB scandal in Malaysia: Malaysia's prime minister, Najib Razak, in 2009, set up a fund to promote economic development in a country where the median income stands at approximately £300 per month. The United States Department of Justice (DoJ) alleged that stolen money from 1MDB found its way to numerous associates of Najib (at least \$3.5bn has been stolen from 1MDB). The Edge (a publisher of business and financial publications in Malaysia and Singapore) was shut down for three months after covering the scandal on the ground that it was reporting issues against public interest. The Sarawak Report whistleblowing website (run by Clare Rewcastle-Brown, main whistleblower behind the website) was blocked by Malaysia after 1MDB allegations surfaced there. She was also charged with multiple defamation claims for

³⁶ <https://cpj.org/2022/07/indian-journalist-rupesh-kumar-singh-arrested-following-9-hour-home-raid/>

³⁷ <https://www.theguardian.com/global-development/2021/may/18/bangladeshi-journalist-arrested-and-charged-over-alleged-document-theft>

³⁸ <https://www.sprm.gov.my/admin/files/sprm/assets/pdf/pendidikan/akta-711-bi.pdf>

allegations that money linked to a state investment fund ended up in Prime Minister Najib Razak's bank accounts.³⁹

Lalitha Kunaratnam VS Azam Baki

Activist Lalitha wrote several articles that alleged wrongdoings by Malaysian Anti-Corruption Commissioner (MACC) chief Tan Sri Azam Baki in two publicly traded firms, indicating a potential conflict of interest. Her pieces were also backed up by publicly available documentation, adding them more legitimacy.⁴⁰

In January 2022, Azam Baki filed a defamation lawsuit against journalist Lalitha Kunaratnam over his alleged ownership of shares.⁴¹

For this, in February 2022, Lalitha faced almost four hours of questioning by the police over articles she wrote on Malaysian Anti-Corruption Commission (MACC) chief Azam Baki and she was investigated under Section 233 of the Communications and Multimedia Act 1998 (CMA) and Section 505 of the Penal Code for publishing statements "conducting to public mischief".⁴²

7. What do you believe are the key issues in relation to sustainable development in addition to or instead of the bullet points above that deserve attention by this mandate? Do you have any specific recommendations that you think the Special Rapporteur should make in her report?

Recommendations:

- Digital and media literacy programs are critical and should be included in states' attempts to combat a variety of information disorders; such programs might be carried out separately, but they could also be included into conventional educational system curriculum.
- Whistleblowers must be assured that their acts will not result in undesirable repercussions such as financial penalties, job dismissals, undermining family members or circles of friends, or threats of arbitrary arrest.
- Any proposed solutions, particularly legislative and regulatory measures, should be based on truly participatory procedures (adopt the Right Based Approach)
- Need to push for a robust access to public information systems, a plural, accessible, and diverse media context, the availability of independent and credentialed journalism, and the freedom to express views as they are all vital components of a healthy information system.

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https://www.washingtonpost.com/business/how-malaysias-1mdb-scandal-shook-the-financial-world/2022/08/24/a7b2b5d4-2377-11ed-a72f-1e7149072fbc_story.html

⁴⁰ According to the reports, Azam held nearly 3 million shares in a pair of companies and over 2 million warrants in another over the course of 2015 and 2016 while director of investigation at the MACC, also in possible breach of legal limits for public servants. Insisting that he has not committed any wrongdoing, Azam said the shares and warrants were purchased by his brother using the MACC chief's share trading account and that those shares were transferred to his brother's account later that year.

⁴¹ <https://www.voanews.com/a/malaysia-s-top-anti-corruption-cop-sues-whistleblower-for-defamation-/6408784.html>

⁴² <https://www.freemalaysiatoday.com/category/nation/2022/02/03/cops-grill-whistleblower-lalitha-for-almost-four-hours/>