

INTERNATIONAL HUMAN RIGHTS AND THE CLOSING CIVIC SPACE

HEARING

BEFORE THE

SUBCOMMITTEE ON AFRICA, GLOBAL HEALTH,
GLOBAL HUMAN RIGHTS, AND
INTERNATIONAL ORGANIZATIONS

OF THE

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CONTENTS

	Page
WITNESSES	
Lin, Joanne, National Director, Advocacy and Government Affairs, Amnesty International USA	7
Radsch, Dr. Courtney, Advocacy Director, Committee to Protect Journalists ...	28
Kao, Emilie, Director of the Richard and Helen Devos Center for Religion & Civil Society, Heritage Foundation	38
APPENDIX	
Hearing Notice	56
Hearing Minutes	57
Hearing Attendance	58
RESPONSES TO QUESTIONS SUBMITTED FOR THE RECORD	
Responses to questions submitted for the record from Chairman Bass	59
AGH REMARKS	
AGH remarks submitted for the record	72

INTERNATIONAL HUMAN RIGHTS AND THE CLOSING CIVIC SPACE

Wednesday, December 9, 2020

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON AFRICA, GLOBAL HEALTH,
GLOBAL HUMAN RIGHTS, AND INTERNATIONAL
ORGANIZATIONS,
COMMITTEE ON FOREIGN AFFAIRS,
Washington, DC,

The subcommittee met, pursuant to notice, at 2:02 p.m., via Webex, Hon. Karen Bass [chairwoman of the subcommittee] presiding.

Ms. BASS. I note a quorum is present, and the Subcommittee on Africa, Global Health, Global Human Rights, and International Organizations will come to order.

Without objection, the Chair is authorized to declare a recess of the subcommittee at any point, and all members will have 5 days to submit statements, extraneous material, and questions for the record, subject to the length limitation in the rules. To insert something in the record, please have your staff email the previously mentioned address or contact full committee staff.

As a reminder to members, please keep your video function on at all times, even when you are not recognized by the Chair. Members are responsible for muting and unmuting themselves. And please remember to mute yourself after you finish speaking.

Consistent with House Res. 965 and the accompanying regulations, staff will only mute members and witnesses as appropriate when they are not under recognition to eliminate background noise.

I recognize myself for opening remarks.

Pursuant to notice, we are holding a hearing on the International Human Rights and the Closing of Civic Spaces. I would like to thank our distinguished witnesses: Ms. Lin, the national director for advocacy and government affairs at Amnesty International; Dr. Radsch, advocacy director for the Committee to Protect Journalists; and Ms. Emilie Kao, director of Richard and Helen DeVos Center for Religion and Civil Society at the Heritage Foundation, for joining us today.

We look forward to your suggestions on ways to enhance and better protect individual and collective human rights, particularly in the time of a global pandemic where governments may misuse their power to limit the rights of citizens.

Today we hold this hearing on the eve of the International Human Rights Day, December 10, which is reserved to commemorate the adoption of the Universal Declaration of Human Rights in 1948. By definition, human rights are fundamental rights and freedoms to which we are all equally entitled, without distinction,

based on place of residence, gender, or national or ethnic origins, religion, sexual orientation, or any other status. Human rights are universal and inalienable, indivisible, independent, and equal and nondiscriminatory.

Today we emphasize the importance of preserving international human rights by reviewing and finding solutions to the various obstacles confronting the protection and expansion of human rights for more people. Since 2019 the world has witnessed governments throughout the world take deliberate measures to limit rights and freedoms.

I have highlighted human rights atrocities around the world, and I want to mention a few. Now, let me just be clear on the examples I am mentioning are in Africa, but we know that Africa is not the only place where human rights abuses are taking place. As a matter of fact, human rights abuses are taking place all over the world in just about every country.

I personally have urged governments to cease internet blackouts and social media disinformation in countries, such as Ethiopia and Tanzania; to stop journalists from being detained, such as Matias Guente in Mozambique; stop the abuse of citizens who disagree with governments, such as Bobi Wine in Uganda or Maurice Kamto in Cameroon; and end electoral reforms that remove Presidential term limits, such as in Guinea.

I have called out governments for abusing citizens because of their religious practices, called for the end of human trafficking and the displacement and mistreatment of migrants around the world. I have called out governments for election tampering, interfering with the judicial process, and using constitutions to manipulate Presidential term limits.

And I have called out this administration on various issues with other Members of Congress, including the mass deportation of Eritreans and other countries where populations of people of color during President Trump's travel ban, and also currently what we are experiencing, which is resisting the peaceful transfer of power. We cannot accept this from our country. We most certainly cannot accept it from around the world. We have always been a beacon of hope and light for the world, and we need to continue to do that.

Now, whether it is introducing legislation in 2017 to try and build a comprehensive strategy to address the humanitarian and security crisis in Yemen, encouraging the adherence of the rule of law and not support irregular unconstitutional transfers of power in Venezuela, or calling out Tanzania for internet suppression. I believe everyone should have fundamental basic human rights without constraint or fear.

All of us should take a pause and reexamine our role as public servants, Members of Congress and members of a global society writ large. We must continue to follow these issues closely, create spaces where all citizens can discuss them, and support the changes necessary to protect and promote the human rights of every individual.

I know my colleagues and I will be listening closely to your solutions of creating greater opportunities for inclusion and spaces to assemble peacefully and speak freely.

I want to thank our witnesses for participating in this important hearing, and our committee is looking forward to hearing your recommendations on how to strengthen human rights on a global scale.

I now recognize the ranking member for the purpose of making his opening statement.

Thank you very much.

Representative SMITH.

Mr. SMITH. Thank you very much, Chairwoman Bass, for convening today's important hearing on the very, very important topic of human rights and on the eve of Human Rights Day.

December 10, 1948, was, of course, the day that the United Nations General Assembly adopted the Universal Declaration of Human Rights, or the UDHR, and I would like to reflect in my remarks a little bit about the significance of that event and what preceded it and made it necessary.

For the UDHR was born of the horrors of the Holocaust and World War II, as well as the imperfect attempt to achieve some sort of justice at the Nuremberg and Tokyo War Crimes tribunals. Recall, the defendants at Nuremberg and Tokyo had broken no positive laws. Indeed, they controlled the power of the State, which dictated the laws.

To dispense a modicum of justice to right the obvious injustice that had been done to tens of millions of victims, Robert Jackson, a prosecutor at Nuremberg who took a leave of absence from his duties as a sitting Associate Justice of the U.S. Supreme Court, referenced the need to apply, quote, a natural law that binds each man to refrain from acts so inherently wrong and injurious to others that he must know that they will be treated as criminal.

It is this notion of a law above whatever the positive law may be at a particular time which likewise animates the UDHR. There are some rights which are so fundamental that the State may never take them away, regardless of its power it may wield at any given moment.

We see this notion expressed, for example, in Article 26 of the UDHR, which States, and I quote, Parents have a prior right to choose the kind of education that should be given to their children, closed quote. This is a right that is prior to the State. In other words, it is grounded in nature and cannot be taken away by the State.

These are the rights which our Declaration of Independence referred to as unalienable, having been endowed by our Creator. Foremost among those rights is, of course, the right to life, without which no other rights are possible.

This notion of Natural Law is certainly compatible with a Judeo-Christian tradition, one that directly inspired the framers of the UDHR, such as Catholic Jacques Maritain, the Orthodox Charles Malik, or the Jewish Rene Cassin.

But it is deeper and broader than that, much more deeper. It is not just Jeremiah and St. Paul who spoke about the law being written of the hearts of men and women, but Cicero and Confucius as well.

Indeed as our witness Emilie Kao's notes and her remarks, UDHR drew from a diverse array of sources. Among its drafters

was Peng-chun Chang who contributed a Confucian Natural Law perspective, the tao that is written in the heart.

Thus I, and I know many others, categorically reject any notion that when we hold the government of the People's Republic of China to account for its cruelty, abuses, and violations of fundamental human rights norms that we are seeking somehow to impose a Western standard upon it. Far from it. These are universal norms, and they are very consistent, and they are consonant with the Chinese notion of a tao, or a law, which is above any positive law arbitrarily imposed by the State. The actions of Xi Jinping and the Chinese Communist Party must be judged according to this law and their mandate to govern, the mandate of heaven which the Confucians appealed to, depends on whether their actions conform to this norm. If they fall short, they are to be held to account.

Thus, when I speak of the barbarism of harvesting organs from Falun Gong practitioners or the cruelty of forced abortion and its enormous deleterious impact on both women and children or the incarceration of millions of Muslim Uyghurs in concentration camps, or mass jailing of Hong Kong democracy activists, including the brave Joshua Wong unjustly jailed for the fourth time, or Xi Jinping's efforts to rewrite the Bible, the father that dictates to the Communist Party, I and many others are only seeking to hold the Chinese leadership to the noblest standards from within the Chinese tradition.

As we hear from our witnesses today, I ask that we also reflect on what the source of the rights of which we speak. They do not come from the State, for as we saw in the horrors of World War II and the Holocaust or the Armenian genocide, the State which is the sole guarantor of rights can take them away and, in so doing, commit grave offenses against human dignity. Rather, the source must be transcendent, objective, and immutable.

Again, Chairwoman Bass, thank you for convening this, and I too look forward to the testimony of our very distinguished witnesses.

Ms. BASS. And as always, Mr. Smith, I always enjoy your presentation of history and taking us back to the origin and providing a wide context, appreciate that very much.

I will now introduce the witnesses.

Joanne Lin directs Amnesty International USA's policy advocacy program targeting Congress and the Federal Government. She leads and manages a team of eight human rights advocates. She has overseen advocacy initiatives to halt U.S. arm sales to the Saudi-Emirati coalition, to pressure Myanmar to halt atrocities against Rohingya, to release detained asylum seekers, and to mandate background checks on all U.S. gun sales. She is recognized as one of the Nation's premier experts on immigration and refugee law and policy. Ms. Lin has been named a top grassroots association lobbyist by The Hill in 2018 and 2019.

Dr. Courtney Radsch is the advocacy director at the Committee to Protect Journalists. As a veteran journalist, researcher, and free expression advocate, she writes and speaks about the nexus of media technology and human rights. She is the author of a book and several book chapters and articles about the Arab Spring, media, terrorism, and human rights. Dr. Radsch has participated in expert consultations at the United Nations, OSCE, and the E.U.

On press freedom, countering violent extremism, online violence against women, and journalist safety. Dr. Radsch has worked as a journalist for the New York Times, in Dubai, and the Daily Star in Lebanon.

Ms. Emilie Kao is an attorney who has defended religion freedom for the last 17 years. She worked on behalf of victims of religious freedom violations in East Asia and the Middle East at the State Department's Office of International Religious Freedom, the law office of Jus Cogens and the Becket Fund for Religious Liberty. Previously she worked at the United Nations in Geneva and the law firm of Latham and Watkins. She taught international human rights at George Mason University Law School as an adjunct law professor.

Emilie is a graduate of Harvard Law School where she received a J.D. And Harvard-Radcliffe College where she received a degree in Near Eastern civilizations and languages.

I now recognize each witness for 5 minutes. And without objection, your prepared statements will be made part of the record.

I will first call on witness No. 1, which is Ms. Joanne Lin.

STATEMENT OF MS. JOANNE LIN, NATIONAL DIRECTOR, ADVOCACY AND GOVERNMENT AFFAIRS, AMNESTY INTERNATIONAL USA

Ms. LIN. Good afternoon, Chairwoman Bass, Ranking Member Smith, and members of the subcommittee. My name is Joanne Lin, and I am the national director for advocacy and government affairs at Amnesty International USA.

This is a time of hope and a time of fear for civic space and human rights. On the one hand, new technologies have empowered activists to speak and fight for human rights. On the other hand, government censorship and reprisal, sometimes aided by Big Tech, is jeopardizing and silencing that human rights advocacy.

Today I will address three global trends: First, internet shutdown; second, Big Tech complicity and censorship; and, third, government attacks on civil society.

Trend No. 1, internet shutdown. Governments are increasingly shutting down internet access and, thus, stifling people's ability to get information to communicate and to organize. Activists rely on the internet, in particular encrypted messaging services, to document and share information. Without the internet, activists are forced to use nonsecure means of communication, such as phone calls, text messages, thereby increasing their risk of being arrested.

To understand the interplay of internet restrictions in human rights, let's look at what has happened in Myanmar. In 2019, the government-imposed internet shutdown in Rakhine and Chin States, areas where authorities have long persecuted religious and ethnic minorities. Over 130,000 Rohingya are interred in mass detention camps in Rakhine State.

The internet shutdown lasted 14 months and took place at a time when access to information, whether about armed conflict or COVID-19, could literally mean the difference between life and death.

Ten activists were convicted of protesting without permission, nine sentenced to prison terms. One poet activist was convicted for

putting up a banner that read, quote, “is the internet being shut down to hide war crimes and killing people?”

Trend No. 2, Big Tech complicity and censorship. While some countries have imposed internet shutdowns, others are censoring content and turning to Big Tech as a partner. Just last week Amnesty published a report finding Facebook complicit in censorship and repression on an industrial scale in Vietnam.

In 2020, Facebook complied with 95 percent of censorship requests by the Vietnamese Government. This staggering figure demonstrates that Facebook isn’t just letting censorship unfold on its platform, Facebook is complicit in government censorship.

Facebook’s actions have direct human rights impact in Vietnam, a country with a record of repression, including jailing people for social media use. Of the 170 prisoners of conscience in Vietnam, nearly 40 percent have been jailed solely for their social media activity.

Big Tech complicity and censorship isn’t limited to Vietnam. Across the world, from Thailand to Turkey, governments are co-opting social media platforms to censor people’s voices at scale.

Trend No. 3, civil society under attack. A growing number of countries are cracking down on civil society and NGO’s, including Amnesty sections in Hungary, Turkey, and India.

In Hungary, a government-affiliated magazine published a list of individuals described as mercenaries paid to overthrow the government. The list included Amnesty Hungary staff, as well as other activists and academics. Some of the individuals on the list received threats of rape and death.

In Turkey, police arrested and jailed the board chair and director of Amnesty Turkey in 2017. While they were released pending the outcome of their appeals, other activists have been locked up for years.

While Amnesty has managed to survive in Hungary and Turkey, that has not been the case in India. In 2020, Amnesty India was forced to lay off all staff and cease all human rights work after its bank accounts were frozen. This followed years of intimidation by the government, including raids of Amnesty India offices and interrogation of staff and board members.

The forced shuttering of Amnesty International in the world’s largest democracy has sent a chilling message to civil society around the world.

[The prepared statement of Ms. Lin follows:]

**AMNESTY
INTERNATIONAL**



TESTIMONY OF JOANNE LIN

NATIONAL DIRECTOR, ADVOCACY AND GOVERNMENT AFFAIRS

AMNESTY INTERNATIONAL USA

HOUSE FOREIGN AFFAIRS SUBCOMMITTEE ON AFRICA, GLOBAL HEALTH, GLOBAL
HUMAN RIGHTS, AND INTERNATIONAL ORGANIZATIONS

Hearing on “International Human Rights and Closing Civic Space”

December 9, 2020

Good afternoon Chairwoman Bass, Ranking Member Smith, and Members of the Subcommittee. My name is Joanne Lin, and I am the National Director of Advocacy and Government Affairs at Amnesty International USA. Amnesty International is the world's largest grassroots human rights organization, with 10 million members and supporters. We advocate against injustice in all forms and strive to create a world where human rights can be enjoyed by all people.

Today I am going to focus on three global trends, all which have the operative effect of closing civic space: (1) internet shutdowns or restrictions; (2) Big Tech complicity in censorship; and (3) government attacks on civil society.

My testimony will address three emerging global trends, followed by country-specific analyses, and will conclude with policy recommendations for Congress and the U.S. government. For purposes of this hearing and due to page limits and time constraints, I will be addressing only a sample of countries around the world experiencing assaults on civic space. For a full analysis of Amnesty International's country-specific assessments, please visit this website: <https://2020elections.amnestyusa.org/countries/>

Two of the trends—internet restrictions and Big Tech complicity in censorship—relate to information technologies. These technologies have fundamentally reshaped and redefined what constitutes civic space. In the 21st century, virtual platforms and networks have become the new civic space. This had been cemented in 2020—the year of the COVID-19 pandemic—when the world shut down and was shut in, and online platforms became a principal means of engagement.

1) Trend #1: Increasing use of internet shutdowns

Since early 2019, Amnesty International has documented internet shutdowns in at least eight African nations as well as in [Iran](#), Myanmar, and Jammu and Kashmir. To illustrate the interplay of internet restrictions and human rights violations, let us look at the prolonged internet shutdown in Myanmar which lasted 14 months in [Rakhine and Chin](#) states.

Human rights activists rely on the internet—in particular encrypted messaging services—to document and share information. Without secure methods of communication, activists are forced to rely on less secure means of communication such as calls and texts, thereby increasing their risk of being surveilled, harassed, arrested, and prosecuted in connection with their work.

In June 2019 Myanmar authorities started to impose internet shutdowns, which lasted until August 2020 (over 14 months). During the internet shutdowns it became impossible to get information about the ongoing armed conflict between the Myanmar military and Arakan army. It also became impossible to get information about [COVID-19](#) on everything from the spread of the disease, to personal hygiene tips, how to wear a homemade mask—even as the coronavirus spread rapidly in Rakhine State. The internet blackouts also impeded the delivery of critical humanitarian aid. The prolonged internet shutdown took place at a time when [access to information](#)—whether about armed conflict, COVID-19, or humanitarian aid—could literally mean the difference between life and death.

Nearly [30 non-governmental organizations](#) (“NGOs”) urged authorities to lift the internet restrictions. Ten activists who called for an end to the internet shutdown were convicted of protesting without permission; nine were sentenced to one-month prison terms. One [poet activist](#) was convicted for putting up a banner that read, “Is the internet being shut down to hide war crimes and killing people?”

2) Trend #2: Big Tech complicity in censorship

While some countries have imposed internet shutdowns, other countries are censoring online content and turning to Big Tech as a partner.

Just last week on December 1, [Amnesty International](#) published a report finding Facebook complicit in “censorship and repression on an industrial scale” in Vietnam. The government reported that Facebook complied with 95 percent of censorship requests. This staggering figure demonstrates that Facebook is not just letting censorship unfold on its platform; Facebook is complicit in government censorship.

Facebook's actions have direct human rights impact. Vietnamese authorities often harass, intimidate, prosecute, and jail people for their social media use. Of the 170 prisoners of conscience in Vietnam, 69 prisoners—nearly 40 percent—have been jailed solely for their social media activity.

Big Tech complicity in censorship is not limited to Vietnam. Rather, what's happening in Vietnam is a sign of things to come. Across the world, from Thailand to Turkey, we are seeing governments co-opt Facebook and other social media platforms to limit freedom of expression and to censor people's voices at scale.

3) Trend #3: Civil society organizations under serious attack

In recent years a growing number of governments have begun to restrict space previously permitted for independent civil society. Government attacks on NGOs have been relentless and hard-hitting, and have reached Amnesty International sections around the world including Hungary, Turkey, and India.

Hungary: [Hungary](#)'s government has pursued a campaign to silence civil society. In 2018 a magazine with close ties to the government published a list of individuals described as “mercenaries” paid to overthrow the government. The list included staff of Amnesty Hungary as well as other civil society activists and academics. Individuals whose names were published on the list found themselves on the receiving end of a campaign of harassment that included threats of rape and death.

Turkey: In Turkey, police arrested and detained Amnesty Turkey's board chair and Amnesty Turkey's director alongside other human rights activists in 2017. This summer they were convicted and sentenced to serve lengthy prison sentences. While the Amnesty Turkey leaders have since been released from detention pending the outcome of their appeals, others are not so fortunate. Renowned civil society leader and philanthropist Osman Kavala has just completed his third year in prison despite a massive international outcry demanding his release.

India: While Amnesty International has managed to survive in Hungary and Turkey, that has not been the case in India, the world's most populous democracy. In 2020 Amnesty India was forced to halt its human rights work after its bank accounts were frozen. Amnesty India had no choice but to lay off all staff and suspend all research, campaigning, and advocacy. This follows [two years of relentless threats](#), intimidation, and harassment by the Indian government, including raids of Amnesty India's offices and multiple interrogations of staff and board members, without counsel.

In sharing these three Amnesty International examples, I want to be very clear that Amnesty recognizes that as a global movement with an established brand and paid

professional staff, we are better situated and equipped to contend against government forces that seek to quash dissent and stifle civil society. We also recognize that today's hearing and Congress's future actions should not focus on Amnesty's concerns, but rather the concerns of human rights defenders and prisoners of conscience across the world who daily face risks of harassment and imprisonment, for the simple act of expressing their opinion.

Nevertheless, the forced shuttering of Amnesty International in the world's largest democracy, with a rich history and tradition of tolerance, pluralism, and nonviolent dissent—is devastating not only for the millions of Indians aided by Amnesty India, but also sends a very troubling message to human rights defenders and civil society around the world.

Power of peaceful protest movements: While the global outlook on civic space looks bleak, there has been one bright spot—and it is bright indeed—and that is the large-scale [protest movements](#) that exploded in 2019—in [Hong Kong](#), [Lebanon](#), Iraq, Chile, Bolivia, just to name a few places. These [protest movements](#) span urban and rural areas, represent diverse cross-sections of the population, and have shown tremendous staying power. Even after the COVID-19 outbreak in 2020, protest movements rose quickly in [Belarus](#), [Nigeria](#), [Thailand](#), [Egypt](#), and elsewhere. Many of these protesters have been met with police violence, sometimes lethal violence. Nonetheless, whether protesting against political corruption, economic inequality, police killings, or the climate crisis, these peaceful protest movements demonstrate that people across the world will not be deterred in their fight for greater government responsiveness, accountability, and justice.

Peaceful protesting is a human right. Yet the way many governments have chosen to respond to these protests has been disproportionate, unwarranted, and rife with violations of human rights standards. An Amnesty International investigation documented an alarming pattern of the [Hong Kong](#) police deploying reckless and indiscriminate tactics against demonstrators in the summer of 2019, as well as evidence of torture and other ill-treatment in detention. In October 2019 [Chilean](#) security forces deliberately injured protesters to discourage dissent, killing at least four people and seriously wounding thousands more. [Iraqi](#) security forces used excessive—and, in over 600 cases, lethal—force to disperse the demonstrators in October 2019. Demonstrators were brutally repressed by the security forces in [Mali](#), resulting in the deaths of at least 11 protesters and bystanders in July 2020. In [Lebanon](#), security forces shot at unarmed crowds in August 2020, causing severe injuries. Amnesty International researchers uncovered a widespread campaign of torture launched by authorities in [Belarus](#) in August 2020 against peaceful protesters in their custody. In October 2020 Nigerian authorities [suppressed](#)

protests calling for an end to police brutality violently and through unlawful arrests and detentions.

II. COUNTRY-SPECIFIC ANALYSES

Around the globe human rights defenders (“HRDs”) are routinely the target of judicial harassment, smear campaigns, intimidation, death threats, illegal surveillance, arbitrary detention, sexual violence, torture, enforced disappearance, and even assassination by governments, armed groups, and corporations.

HRDs who are imprisoned solely for their peaceful human rights work are also considered [Prisoners of Conscience](#) (“POCs”). A POC is any person who is imprisoned or otherwise physically restricted solely for the peaceful expression of their beliefs or identity.

Governments across the world are [increasingly attacking NGOs](#) by creating laws that subject their staff and members to surveillance, nightmarish bureaucratic hurdles, and the ever-present threat of imprisonment. In many countries, organizations who dare to speak out for human rights are being bullied into silence. Groups of people who come together to defend and demand human rights are facing growing barriers to working freely and safely. Silencing them and preventing their work has consequences for everyone

The U.S. government should recognize the role of civil society organizations and human rights defenders in protecting human rights and freedoms, as well as the unprecedented challenges they are facing in many countries.

Ethiopia: Starting in November 2020, the world has turned its attention to the crisis in Ethiopia’s Tigray region. The Ethiopian government has started to employ harsh tactics reminiscent of previous governments, including the [arbitrary arrest](#) of thousands of nonviolent protesters, journalists, and civil society leaders such as Bekele Gerba and Eskinder Nega.

Since taking office in 2018, Prime Minister Abiy Ahmed’s government has overturned the repressive civil society law and released dozens of detained journalists and bloggers. In 2019 Ethiopia leapt 40 places up the World Press Freedom Index. With the recent wave of arrests, the Ethiopian government [risks rolling back](#) the progress it made on media freedom.

The U.S. government must press Abiy to allow unrestricted humanitarian assistance to the people of Tigray and internally displaced people (“IDPs”) and refugees, and provide increased technical and monetary support for urgent humanitarian needs of IDPs in Ethiopia; release civilian Tigrayans detained during the course of other government military

operations in Tigray; and allow an independent investigation into all alleged abuses committed during the military action in Tigray, with the aim of holding accountable persons responsible for abuses. This investigation must be part of ensuring accountability for intercommunal violence that has occurred since 2018. The U.S. government must also invest for success in Ethiopia by providing technical support in provision of civilian police training, including providing urgent capacity enhancement support for members of the security forces to respect, protect and fulfill human rights; and increasing support to local civil society, media and human rights defenders to defend and promote human rights in the country through monitoring, documentation, reporting, advocacy and campaigning.

Nigeria: The Nigerian government has been waging a sustained [campaign on independent media](#) and civil society organizations for several years. This crackdown has come in the form of repressive legislation, threats, attacks, and unjust [arrest](#) and detention. While the crackdown has focused on groups working on issues of corruption and the government's [counterinsurgency efforts](#) against Boko Haram, there are signs that groups and individuals involved in calls for police reform are now also being targeted.

In October 2020 Nigeria was rocked by a series of protests demanding police reform and accountability for the Special Armed Robbery Unit (“SARS”). The unit was infamous for facilitating corruption, arbitrary detention, extrajudicial execution, and torture throughout the country. Nigerian authorities [suppressed](#) the protests, both violently and through unlawful arrests, detentions, and other means. Despite being met with [violence by the police and military](#), causing the [deaths of at least 15 people](#), the student-led nonviolent protests continued for weeks before being paused as Nigerian President Muhammadu Buhari and the governors of several states announced they would conduct investigations into the allegations of abuses.

Nigeria has a poor record on investigating and holding its security forces accountable: Of over two dozen commissions of inquiry over the last two decades, not one commission report has been published and no one responsible for abuses has been held accountable. More alarmingly, Amnesty has received reports of the arrest of protest organizers, the freezing of bank accounts, and the seizure of passports.

The U.S. government should urge the Nigerian government to release all peaceful protesters arrested for taking part in the #ENDSARS protests and give clear unequivocal instructions to all security forces to end abuses and exercise restraint, especially when policing non-violent protests. U.S. officials should press Nigerian authorities to publicly commit to allow an immediate, independent, and credible investigation with a clear timeline into human rights abuses committed by SARS and the police in general, ensure full cooperation with the investigation, and provide justice and compensation for the

families of victims. The U.S. government should encourage Nigeria to initiate discussions with a clear timeline for actions with civil society organizations, a commitment to a comprehensive review of elements of the security sector accused of excessive use of force and other human rights abuses, with the aim of implementing reforms and improving accountability.

Cameroon: Cameroon's restricted civic space could further be reduced if the government continues its counterinsurgency campaigns in the Far North against Boko Haram and in the Anglophone regions against armed separatist groups. Both of those campaigns have included arbitrary arrests of journalists and opposition members, with reported cases of torture and other ill treatment in detention. Those responsible for these human rights violations continue to enjoy complete impunity.

Independent journalist Samuel Wazizi was [arrested](#) on August 2, 2019 in Buea, South-West region. Authorities transferred him to a military-run facility in the same city on August 7. On June 2, 2020, reports began circulating that Wazizi had [died in custody](#) following torture on an undetermined date, and that the government had hidden this information for 10 months. Wazizi's case is consistent with numerous other cases of Cameroonian journalists.

The U.S. government should press Cameroonian President Paul Biya to allow an independent investigation in the death of journalist Samuel Waziz. Further, the U.S. government should maintain current restrictions on U.S. security assistance to Cameroon and, after determining whether the Cameroonian government has undertaken efforts to ensure accountability for documented abuses, consider expanding restrictions.

China: In recent years human rights defenders, lawyers, and activists have been increasingly subjected to monitoring, harassment, intimidation, detention, and imprisonment in China. In July 2015 state security agents detained or questioned nearly 250 individuals in an unprecedented [government crackdown](#) on human rights lawyers and activists, holding many incommunicado for months.

Police across the country summoned and detained dozens of lawyers and activists who attended an [informal gathering held in December 2019 in Xiamen](#), where they discussed the situation of civil society and current affairs in China.

The authorities tightened its censorship further since the outbreak of COVID-19. Numerous articles relating to the virus were censored, and social media posts, sensitive hashtags and demands for free speech were quickly deleted or censored. [Chen Mei](#), an activist behind an online project archiving censored articles has been in police custody and out of contact with family since April 2020.

Since 2017 there has been a growing government campaign of [mass detention](#), intrusive surveillance, political indoctrination, and forced cultural assimilation against Uyghurs, Kazakhs and others in the Xinjiang Uyghur Autonomous Region (“Xinjiang”). It is estimated that up to [one million people have been held in detention camps](#) where they have endured a litany of human rights violations.

Congress should robustly support NGOs that assist HRDs including through prison visits, consultations with human rights defenders, provision of visas, and trial monitoring in China. The U.S. government should make the Xinjiang human rights crisis in a national security priority by calling for a UN fact-finding mission to Xinjiang, to hold accountable Chinese government officials responsible for human rights violations committed against Uyghurs and Turkic Muslims. Further, the U.S. government should provide protection opportunities to Uyghurs and other Turkic Muslims to ensure humanitarian pathways to the U.S.

Hong Kong: On June 30, 2020, China’s top legislative body passed a [draconian national security law](#) applicable to Hong Kong. Immediately after the law passed, authorities began using the law to crack down on legitimate and peaceful expression. People were arrested for possessing flags, stickers and banners with political slogans. Four student activists were [arrested over social media posts](#) allegedly “inciting secession” under the national security law and are potentially facing life sentences. One of the student activists, [Tony Chung](#), was charged with secession, money laundering, and conspiracy to publish seditious material and denied bail.

In July, 12 candidates who advocate viewpoints at odds with those of the government were [disqualified](#) from running in Hong Kong’s Legislative Council elections. On December 2, Joshua Wong, Agnes Chow and Ivan Lam—all former members of the disbanded political party Demosisto—were sentenced to jail over their involvement in the 2019 Hong Kong protests, joining the many others who have received jail time despite only exercising their right to protest peacefully. Once again, the government used the politically motivated charge of “inciting others to protest” to prosecute people who have merely spoken out and protested peacefully. By targeting well-known activists from Hong Kong’s largely leaderless protest movement, authorities are sending a warning to anyone who dares to criticize the government that they could be next.

In August, Hong Kong police raided the offices of [pro-democracy newspaper Apple Daily](#) and arrested owner Jimmy Lai and five others for “collusion with a foreign country or external forces to endanger national security” under the new national security law. According to media reports, [Jimmy Lai](#) was charged with “fraud” on December 3 and denied bail.

In addition, in August the Chinese coast guard [arrested 12 Hong Kongers](#) for allegedly crossing the border between Hong Kong and China in secret in a speedboat. Two of them were under 18 years old when arrested. Held incommunicado, without access to their family and family-hired lawyers, they are at imminent risk of torture and other ill-treatment. Four family-hired lawyers from mainland China dropped the cases after they were threatened by authorities.

On November 11, China's National People's Congress Standing Committee passed a resolution on "national security" grounds to disqualify Hong Kong lawmakers. On that same day the [Hong Kong government directly disqualified opposition lawmakers](#) Alvin Yeung, Dennis Kwok, Kwok Ka-ki and Kenneth Leung, without any further formal judicial process.

In early December 2020 Hong Kong authorities arrested eight people who participated in a protest at Chinese University of Hong Kong, including three students who have been charged under the national security law. These arrests are yet another example of the Hong Kong government's attempts to silent opposing views on campus under the pretext of "national security."

Congress and the U.S. government should support the human rights of the people of Hong Kong in bilateral and multilateral dialogues with China, both publicly and privately. The U.S. government should closely monitor the treatment of individuals who are criminally prosecuted, detained, or imprisoned on the basis of the national security law and demand that authorities comply with international human rights standards.

Myanmar: In August 2017 the Arakan Rohingya Salvation Army launched coordinated attacks on security force posts in northern Rakhine State, [Myanmar](#). In response, the Myanmar security forces, led by the Myanmar Army ("Tatmadaw"), attacked the entire Rohingya population in villages across northern Rakhine State. Over the next 10 months the Tatmadaw drove more than 700,000 Rohingya — more than 54 per cent of the Rohingya who lived in northern Rakhine State at the outset of this crisis in 2017 — into neighboring Bangladesh.

Crimes against humanity continue against the estimated 600,000 Rohingya who are still living in Rakhine State. Their rights to equality, a nationality, freedom of movement, and access to adequate healthcare, education, and work opportunities are routinely violated. Some 128,000 people remain confined to squalid detention camps within Rakhine State, reliant on humanitarian assistance for their survival.

The U.S. government should create a global coalition to respond to the human rights crisis in Myanmar, calling for multilateral targeted sanctions against senior military officials responsible for atrocities. Congress should increase and sustain its support for

humanitarian assistance—including funding that supports access to education—for refugees in Bangladesh and displaced people in Myanmar.

Viet Nam: Vietnamese authorities have been actively suppressing online speech amid the [COVID-19 pandemic](#) and have brought serious criminal charges against multiple internet users for their government-critical comments. Viet Nam is currently holding 170 prisoners of conscience, of whom 69 are behind bars solely for their social media activity.

In a December 2020 [report](#) Amnesty International documented the systematic repression of peaceful online expression in Viet Nam, including the widespread “geo-blocking” of content deemed critical of the authorities—meaning it becomes invisible to anyone trying to access it from Viet Nam—all while groups affiliated to the government deploy sophisticated campaigns on these platforms to harass everyday users into silence and fear.

The report found that tech giants Facebook and YouTube are allowing themselves to become tools of the Vietnamese authorities’ censorship and harassment of its population by complying with censorship demands, an alarming sign of how these companies could operate in other countries.

Everyone, regardless of their political opinion, has the right to participate in public life—both on and offline. The U.S. government should call on Vietnamese authorities to stop weaponizing online platforms and punishing people simply for exercising their right to freedom of expression.

Philippines: HRDs critical of President Rodrigo Duterte’s government are increasingly harassed, vilified and attacked. The prevailing climate of impunity has fueled an increase in the killings of activists for their political views.

In August 2020 peace advocate [Randall Echanis](#) and a neighbor were killed by unidentified individuals. Echanis had been involved in peace negotiations between the government and the National Democratic Front, a coalition of groups involved in an ongoing insurgency in parts of the country. A week later HRD [Zara Alvarez](#) was shot dead, becoming the 13th human rights worker of the group Karapatan killed during the Duterte administration.

In July 2020 President Duterte signed the “[Anti-Terrorism Act of 2020](#),” which puts HRDs, civil society organizations and members of the political opposition at greater risk under the government’s continuing crackdown against political dissent. The U.S. government should call on the Philippine government to reject the Anti-Terrorism Act which contains broad and dangerous provisions that risk further undermining human rights. The U.S. government should press the Philippine government to take measures to

stop attacks against HRDs critical of Duterte and seek accountability for those responsible for harassing, attacking, and killing HRDs.

Sri Lanka: Lawyers, HRDs, and victims of past abuses are being targeted by the police, intelligence agencies, and pro-government media. Following the November 2019 presidential election, a number of organizations—in particular, organizations in the war-affected Northern and Eastern provinces of the country—reported visits from intelligence officers who sought details of staff, programs and funding. Such visits are blatant attempts to harass and intimidate civil society.

In April 2020 Hejaaz Hizbullah, a lawyer who has represented victims of human rights violations, was arrested under the draconian Prevention of Terrorism Act. He has had limited access to his lawyers and family members and remains in arbitrary detention. The day before he was taken into custody, Hizbullah joined others in submitting a letter criticizing the denial of burial rights to the Muslim community under Sri Lanka's COVID-19 regulations.

In the very near future the U.S. government should reengage with the UN Human Rights Council (“UNHRC”), with particular attention to the upcoming session on Sri Lanka (Feb. 22 to Mar. 19). The U.S. government must reiterate to the Sri Lankan government the importance of upholding human rights, including by attending court hearings in key cases such as the Trinco Five students, Prageeth Eknaligoda, Ramzy Razeek, and Shakthika Sathkumara. The U.S. government should urge the Sri Lankan government to drop all charges pending against Ramzy Razeek; release Hejaaz Hizbullah; repeal the Prevention of Terrorism Act; and ensure that the families of the disappeared, the activists campaigning with them, and lawyers acting on their behalf are protected.

Congress should substantially increase civil society assistance for human rights groups that are working on truth and reconciliation issues and protecting HRDs.

India: In September 2020 [Amnesty International India](#) was forced to halt its human rights work after the government froze the organization's bank accounts. This latest action follows [two years of relentless threats](#), intimidation, and harassment by the Indian government. But this time, Amnesty International India had no choice but to bring its operations to a grinding halt.

It was in the wake of two major human rights reports that Amnesty International India's bank accounts were frozen. The first report covered the February 2020 [Delhi riots](#), documenting police complicity in the death of 50 people, many of whom were Muslim. The second report addressed arbitrary detention and internet restrictions that [persist in Kashmir](#), one year after it was stripped of its special status.

This is a devastating setback for Indian human rights defenders, civil society organizations, and most alarmingly, the millions of people in India who have been aided by Amnesty's human rights work. U.S. officials should make clear that the freeze on Amnesty International India's bank accounts must be lifted immediately. The Indian government must guarantee the right of all civil society organizations to seek, receive, and utilize funding freely and safely. This is a first, necessary step toward helping to protect the rights and freedoms of all people in India, and to ensure that HRDs and civil society organizations can continue to work in a safe environment.

The U.S. government must call on Indian authorities to [stop](#) the harassment and intimidation of journalists through draconian laws that threaten the response to the COVID-19 pandemic and [create an atmosphere of fear and reprisal](#).

The U.S. government should call for a human rights dialogue with India, and should fund and support international funding for civil society and human rights groups.

Pakistan: Authorities have repeatedly used [enforced disappearance](#) as an insidious form of extra-judicial punishment, silencing and intimidating political activists, religious minorities, and numerous others. Despite the protestations of Pakistani officials, cases of enforced disappearance are neither rare nor incidental; as of March 2019, the Commission of Inquiry on Enforced Disappearances recorded 2178 unresolved cases.

In one emblematic case HRD [Idris Khattak](#) was forcibly disappeared in November 2019. In a cruel twist of irony, Idris had spent years working to shed light on enforced disappearances. After a sustained public outcry, the government acknowledged that he was in custody, but Idris has yet to be granted access to his lawyer.

Blasphemy laws continue to pose a profound threat to many religious minorities. These laws, which broadly proscribe actions, words, or expressions that may be interpreted as insulting to religious sensibilities, are broad, vague, and coercive. At varying times they have provided license for the government to persecute religious minorities, or for violent mobs to harm them. Lawyers and public figures who have defended people accused of violating blasphemy laws have been targeted by mobs and gunned down in the street.

The U.S. government should publicly call on the government of Prime Minister Imran Khan to follow through on its promise to end enforced disappearance, criminalizing the practice, and ratifying and implementing into national law the International Convention for the Protection of All Persons from Enforced Disappearance. Moreover, the U.S. government should call on Pakistan to identify and account for all victims of enforced disappearance and either release them or promptly charge and prosecute them in civilian court.

The Secretary of State and the United States Ambassador-at-Large for International Religious Freedom should express concern about Pakistan's blasphemy laws and urge for their comprehensive repeal.

Turkey: The government of Turkish President Recep Tayyip Erdogan responded to the failed coup attempt of 2016 by waging a sustained attack on civil society. Hundreds of NGOs have been shut down and hundreds more have faced bureaucratic measures that limit their ability to operate. Thousands of NGO workers have been arrested, held in pre-trial detention, or sentenced to lengthy prison terms simply for their peaceful political activities.

When students at the Middle East Technical University in Ankara participated in a peaceful sit-in in support of [LGBTI rights](#) in May 2019, the Turkish government put 17 students and one academic on trial for "unlawful assembly." Turkish officials continue to hold philanthropist Osman Kavala behind bars, despite repeated calls from the [State Department](#) and from [European bodies and courts](#) demanding his release.

Amnesty International Turkey is itself no stranger to the Turkish government's campaign against civil society. In the summer of 2017 Turkish police arrested Amnesty International Turkey's board chair Taner Kilic and Amnesty International Turkey's director Idil Eser alongside other human rights activists. While they have both since been freed, their legal ordeal continues. This summer they were [convicted](#) of belonging to or abetting a terrorist organization and, earlier this month, a regional court of appeals upheld the convictions against them. They face lengthy prison sentences.

Turkey's assault on NGOs has expanded well beyond civil society organizations that work on issues traditionally considered sensitive or controversial. Shuttered NGOs include leading children's rights and women's rights organizations.

As the incoming administration moves to negotiate various areas of strategic concern with Turkish authorities, Congress must ensure that the Turkish government's human rights abuses are part of the discussions. The U.S. government should publicly call on Turkish officials, including Turkey's Ambassador, to release jailed HRDs. The U.S. government must use all diplomatic opportunities to raise concern about the Turkish government's crackdown on dissent and provide financial and diplomatic assistance to civil society organizations.

Egypt: Amnesty International has [documented](#) the Egyptian authorities' routine and systematic use of counter-terror legislation to prosecute thousands of peaceful critics and suspend guarantees to fair trial. Multiple UN experts have [expressed](#) concern about how Egypt's terrorism laws facilitate rights abuses, and how imprisoned HRDs are at [grave](#)

[risk](#) of contracting COVID-19. Egyptian authorities have a history of [reprisals](#) against civil society for engaging with UN officials.

Most recently in November 2020, Egyptian authorities [arrested](#) three senior staff members of the Egyptian Initiative for Personal Rights (“EIPR”) over baseless terrorism charges, apparently in retaliation for a meeting with 13 diplomats. To our knowledge, this is the first case of reprisals against civil society for engaging with a group of diplomatic representatives, thereby representing an escalation in the authorities’ crackdown. After a global outcry the HRDs were released on December 3, but it is unclear whether charges have been dropped.

The U.S. government must urge the Egyptian government to end attacks on peaceful protestors, release all POCs, and ensure all courts follow international standards for fair trials.

Saudi Arabia: In 2018 Saudi Arabia arrested 13 women’s rights activists for exercising their rights to freedom of expression, association and assembly. Five remain in detention: [Loujain al-Hathloul](#), Samar Badawi, [Nassima al-Sada](#), Nouf Abdulaziz and Maya’a al-Zahrani. On November 25 a Saudi judge decided to transfer al-Hathloul’s case to Saudi Arabia’s Specialized Criminal Court (“SCC”), an institution used to silence dissent and notorious for issuing lengthy prison sentences following seriously flawed trials. This is yet another sign that Saudi Arabia’s claims of reform on human rights are not genuine. The U.S. government should call on Saudi authorities to immediately and unconditionally release women’s rights activists and drop the baseless charges against them.

On October 1, 2018, Jamal Khashoggi, a Saudi journalist who went into self-exile in the U.S., entered the Saudi consulate in Istanbul to obtain marriage documents, never to be seen again. A transparent investigation into his killing has yet to take place. In December 2019 a Saudi court sentenced five people to death and three others to prison for Khashoggi’s murder. This verdict brought neither justice nor the truth for Khashoggi’s family. The trial was closed to the public and to independent monitors, with no information available as to how the investigation was carried out. The verdict failed to address the Saudi authorities’ involvement in this murder or clarify the location of Khashoggi’s remains. Congress and the incoming administration should call for an impartial U.N. investigation into the killing of Khashoggi.

Under the leadership of Crown Prince Mohamed bin Salman, HRDs, women’s rights activists, writers, artists, religious clerics, protestors and bloggers have been persecuted, silenced, detained, tortured and handed lengthy prison sentences for demanding reforms and advocating for peaceful change. Several were sentenced to death and executed based

on so-called “confessions” extracted under torture. We urge the U.S. government to call on Saudi Arabia to release all detained HRDs.

Lebanon: The August 2020 blast in Beirut’s port killed at least 190 people, injured more than 6,500 others, and left some 300,000 displaced or homeless. Tens of thousands of peaceful protesters assembled in cities across [Lebanon](#), accusing the political leadership of corruption and calling for [social and economic reforms](#). While the protests remain overwhelmingly peaceful, [excessive use of force](#) by the Lebanese army and security forces, including beatings and the use of live ammunition against protesters, has caused hundreds of injuries.

The U.S. government should urge the Lebanese government to halt excessive use of force, end unlawful detention, and otherwise respect the human rights of protesters. The Lebanese government should halt excessive use of force, end unlawful detention, and otherwise respect the human rights of protesters. The Lebanese government should accept an independent, international investigation into the circumstances of the August 2020 blast.

Iraq: Protests demanding political reform also took place in Iraq starting in October 2019. Amnesty International has documented [Iraqi security forces](#) using excessive—and, in over 600 cases, lethal—force to disperse the demonstrators. This includes masked gunmen and snipers using live ammunition, hunting rifles and shotguns firing pellets and birdshot, batons used to mete out severe beatings, and [a host of other instances of unlawful weapon use](#). Overwhelming evidence points to a pattern of Iraq’s security forces deliberately using military grade tear gas canisters and smoke grenades to kill protesters, in direct violation of international human rights law.

The U.S. government should call for an independent and impartial U.N. investigation into the killing of Iraqi protesters to secure justice for victims and hold accountable those responsible for the abuses.

Chile: Amnesty International has [documented](#) worrying patterns of police violence during the period of social unrest that broke out in October 2019. The police committed serious human rights violations on a widespread basis. Recently and following a number of demonstrations in Santiago, [new episodes of police violence](#) have been recorded, such as the case of a 16-year-old who fell from a bridge after being pushed by a police officer, who is now being charged with attempted murder.

Far from being isolated acts committed by officials acting on their own initiative, these acts of violence are likely to have been committed because of a policy whose ultimate aim was to discourage social protest.

The excessive use of force and impunity for human rights violations committed by the national police are not exclusive to the events that took place since October 2019 but are part of a constant and historical pattern that highlights the need for a thorough, structural reform of the Chilean National Police, including effective and independent mechanisms for control and accountability. The U.S. government should urge Chilean authorities to adopt all measures necessary to provide reparation to the victims of human rights violations and ensure that public order forces strictly follow international standards governing the use of force.

Colombia: The frequent threats, attacks and killings of people defending land, territory and the environment have highlighted the government's failure to address the serious crisis facing [human rights defenders](#). For years Colombia has been one of the world's most dangerous countries for people who are defending human rights, territory, and natural resources. But the situation has deteriorated, particularly for those living in geographically strategic and natural resource-rich areas, since the Peace Agreement between the government and the Revolutionary Armed Forces in 2016.

[Indigenous peoples' communities](#) suffer frequent attacks due to their defense of land and natural resources. In the department of Meta the failure to recognize the land rights of the Kubeo-Sikuaní Indigenous community has left them unprotected and under threat on their lands.

Ecuador: Women HRDs defending the Amazon and Indigenous peoples' rights have faced a series of attacks and death threats. The Ecuadorian authorities' lack of capacity and will to provide protection and conduct criminal investigations into the attacks jeopardizes indigenous people's lives. They are thus forced to choose between risking their families' lives and defending human rights and the environment.

Congress and the U.S. government should express public support for the work of Indigenous environmental land defenders in the Amazon and support the imposition of protective measures granted by international and regional bodies, including the Inter-American Commission on Human Rights. Further, the U.S. government must ensure that any planned or future trade deals, development projects, and bilateral cooperation between the U.S. and countries in the Amazon region contain strong protections for Indigenous rights and for safeguarding of the environment, adhering strictly to the principles of free, prior, and informed consent, and include a consultation process with affected communities and human rights organizations.

Climate crisis: The catastrophic effects of climate change make protecting environmental activists such as the Indigenous land defenders of the Amazon more vital than ever. Climate change will compound and magnify existing inequalities across societies, worsen

the ongoing human rights crises, and produce new ones. However, its effects are likely to be much more pronounced for certain groups—for example, those communities dependent on agricultural or coastal livelihoods—as well as those who are generally already marginalized, disadvantaged, and subject to discrimination.

Indigenous leaders in countries including Colombia, Guatemala, Brazil, Mexico, and Honduras continue to be threatened and killed for their work defending rights related to land, territory, and the environment.

U.S. foreign policy must protect the rights of everyone to speak out and mobilize for climate action or the protection of land, territory and environment, including through civil disobedience. The U.S. government should support efforts by HRDs to access administrative, judicial, legislative or any other appropriate means to adjudicate claims of human rights violations resulting from climate change or climate-related projects and measures at home and abroad, including when conduct within U.S. jurisdiction harms the rights of people outside U.S. borders.

Conclusion:

U.S. officials must call on foreign governments to immediately investigate and promptly prosecute those found responsible for the killing of HRDs. The U.S. government should also call on foreign governments to repeal any legislation or practices that criminalize or restrict the work of HRDs, such as have been enacted in India, Turkey, China, Guatemala, and Russia. All countries should immediately and unconditionally release all POCs, and should investigate any allegations of torture or other ill-treatment. Governments must guarantee POCs access to legal counsel, medical attention, and family members.

U.S. lawmakers should be on guard when governments move to redefine human rights or to deny the legitimacy of certain human rights, as this, too, is a marker and a tactic of shutting down civil society. Those promoting women's rights, including sexual and reproductive health and rights, LGBTI rights, the rights of asylum seekers and refugees and the rights of ethnic and religious minorities are particularly targeted by government policies.

Amnesty International joins a huge outpouring of U.S. civil society in our strong opposition to the U.S. government seeking to redefine human rights through the so-called "Unalienable Rights Commission" and its report or through efforts like the "Geneva Consensus" that try to undermine sexual and reproductive human rights. These efforts not only weaken human rights protections, they work to discredit and silence civil society, and encourage the harm wrought by other governments who are hostile to human rights.

Without a concerted effort by the U.S. and the international community to strengthen human rights protections, abusers will continue to shatter human lives and stifle development with impunity.

III. POLICY RECOMMENDATIONS

Recommendations for Congress:

In relation to foreign governments:

- Call on foreign governments to restore full internet access; immediately lift all internet blackouts to allow for the unimpeded flow of information to at-risk communities.
- Press foreign governments to end harassment, arrest, prosecution, and imprisonment of human rights defenders and activists; drop all charges against those challenging internet restrictions; unconditionally release all prisoners of conscience.
- Urge foreign governments to repeal all repressive laws that criminalize or restrict the work of human rights defenders, or violate the rights to freedom of expression, association, and peaceful assembly. Press foreign governments to bring their laws in line with international human rights standards.
- Call on foreign governments to investigate and prosecute those found responsible for the killing of human rights defenders, and to investigate any allegations of torture or other ill-treatment.

In relation to Big Tech: Corporations have a responsibility to respect human rights wherever they operate.

- Press Big Tech to adopt new content moderation and community standards policies that are grounded in international human rights standards, particularly the UN Guiding Principles on Business and Human Rights.
- Ensure that monitoring and oversight bodies such as Facebook's new Oversight Board are empowered to make binding policy changes with respect to content moderation and transparency, not merely in respect of individual cases.
- Expand the mandate of Facebook's Oversight Board to include the evaluation, grounded in international human rights law, of content moderation decisions that have been made pursuant to local law.

Recommendations for the incoming Biden administration:

- Institute a whole-of-government strategy review of its policy on freedom of expression, association and assembly which establishes a review board to respond as crises break out and to ongoing protests. This should culminate in a high-level

Presidential speech that enshrines the U.S. role in promoting and protecting the freedom of association and assembly across the world.

- Host a global forum at the State Department or the United Nations which includes civil society leaders and foreign governments to reaffirm the human rights to freedom of expression, association, and assembly.
- Issue State Department guidance on defending civic space to embassies, integrating civic space into diplomatic training and leadership briefings, designating a senior official to spearhead interagency coordination on civic space issues.
- Establish a foreign assistance fund that encourages actors promoting peaceful forms of protest, including documentation of human rights violations during police response to protests.
- Prioritize closing civic space in U.S. foreign policy agendas—linking civic space to other key foreign policy goals (economic, security).

Ms. BASS. Thank you. Thank you very much.

When we go to Q and A, you will have an opportunity to expand more. But I want to call on the next witness, Dr. Courtney Radsch. But I want to bring our witnesses' and our members' attention to a timer that you see. When you are looking at the layout, you should see a timer that is showing 5 minutes.

Let me call on Dr. Courtney Radsch.

**STATEMENT OF DR. COURTNEY RADSCH, ADVOCACY
DIRECTOR, COMMITTEE TO PROTECT JOURNALISTS**

Dr. RADSCH. Thank you, Chairwoman Bass, Ranking Member Smith, and other distinguished members of this subcommittee. Appreciate you hosting this important hearing and for inviting the Committee to Protect Journalists to testify.

My name is Courtney Radsch, and I serve as CPJ's director of advocacy and communications. At CPJ we believe that attacks on journalists are attacks on international human rights and civic space. But such attacks have a compounding effect because they not only silence journalists, they impede reporting on other human rights, political, economic, and environmental rights.

Humans have a right to engage in journalism and a right to access and exchange news and information, a right that has life and death consequences during a global health pandemic.

It looks likely that the responses to the coronavirus could shift the long-term paradigm for journalism in similar ways that the war on terror fueled the global expansion of antiterrorism laws and, in turn, ushered in an uptick in the jailing of journalists that continues today.

One of the most prominent ways that governments censor reporting is by outright criminalizing the act of journalism. And the COVID-19 pandemic has provided governments with a new excuse to further crack down on news organizations and journalists, mainly through restricting information that is not in line with the official narrative.

Like journalist Hopewell Chin'ono who was arrested and charged with incitement for his reporting on alleged COVID-19 procurement fraud within Zimbabwe's Ministry of Health.

The result is a world in which the press is even less free to report at a time when the public needs reliable information more than ever.

Due to the spread of COVID-19, imprisonment can now amount to a death sentence for the 250 journalists behind bars globally. Azimjon Askarov was a journalist in Kyrgyzstan sentenced to a life in prison for his reporting on human rights violations, and in July he died. His wife told CPJ she suspected he contracted COVID-19. Journalists in jail lack adequate access to healthcare, legal representation, and personal protective equipment.

The U.S. Government should demand the release of all journalists behind bars during the pandemic, especially in allied countries like Saudi Arabia, Egypt, and Turkey to name but a few. These cases are not atypical.

We have also seen the expulsion of foreign journalists from countries, including China, Egypt, and Iraq, in retaliation for reporting on the pandemic and government responses.

Another threat is the increasing use of fake news rhetoric and laws. In 2012, there was just one journalist behind bars on a false news statute. In 2019, there were 30. With the expansion of disinformation laws as governments seek to respond to the coronavirus, there is little doubt that these will be abused to restrict reporting and retaliate against a wide array of critical journalists.

Several governments, like South Africa and Cuba, have moved to criminalize disinformation about the pandemic, and the governments have been using emergency measures to halt the sharing of opinions, restricts journalists' movements, and put on other sort of press freedom restraints.

Finally, we are concerned about the proliferation of surveillance technologies that may legitimately be aimed at combatting the spread of the virus but are also prone to abuse as we saw with surveillance capabilities developed in response to the war on terror.

Companies have developed and sold increasingly sophisticated spyware to government actors with dubious press freedom records under the guise of combating terrorism, but in many cases, these tools are being used to target journalists as in Saudi Arabia, Mexico, Nigeria, and elsewhere.

This year we have seen coronavirus technologies deployed quickly and it appears without human rights impact assessments, sufficient privacy controls, or adequate restrictions on their use outside of the current context.

We are deeply concerned about what this will mean for civic space and independent media because once a technology is built, even if it is for the best of goals, the capability exists and there is no reverting back.

We are grateful that so many Members of Congress are active on press freedom, but given the severity of the threats against the press, more must be done.

And in my written testimony, I have made a series of recommendations, but I want to highlight just a few here. Pass the Protecting Human Rights During Pandemic Act, which has bipartisan support.

Speak publicly about the importance of a free and independent press to democracy, especially as related to the pandemic.

Ensure U.S. Government support and assistance, including through emergency visas and temporary relocation for journalists forced to flee because of threats.

And protect the independence of U.S. Government funded media which have been the first or only source of information on COVID in some countries.

Thank you for holding this important hearing and for inviting the Committee to Protect Journalists to testify.

[The prepared statement of Dr. Radsch follows:]

Testimony of Dr. Courtney C. Radsch

Advocacy Director, Committee to Protect Journalists

Hearing on “International Human Rights and the Closing Civic Space”

U.S. House of Representatives

Committee on Foreign Affairs

Subcommittee on Africa, Global Health, Global Human Rights, and International Organizations

December 9, 2020

Chairwoman Bass, Ranking Member Smith, and other distinguished members of this subcommittee, thank you for hosting this important hearing and for inviting the Committee to Protect Journalists to testify.

My name is Courtney Radsch, and I serve as CPJ’s director of advocacy and communications. The Committee to Protect Journalists is an independent, nonprofit organization that promotes press freedom worldwide and defends the right of journalists to report the news safely and without fear of reprisal. CPJ protects the free flow of news and commentary by taking action wherever journalists are under threat.

We are driven to do this because we recognize that press freedom is among the most fundamental of human rights. It protects the individual rights of people to engage in journalism, and benefits society at large by ensuring citizens have the information they need to hold their leaders and governments accountable. It is essential to democracy, accountability, and global security.

In the context of today’s hearing, journalists play a critical role in protecting human rights and civic space. As CPJ Executive Director Joel Simon testified to this very subcommittee in May 2019, journalists around the world have faced intimidation, harassment, imprisonment, and even death for their reporting on human rights violations.¹

Unfortunately, the situation has not improved since May 2019. If anything, the COVID-19 pandemic has provided autocratic and dictatorial governments an excuse to further their crackdowns on civil society, including news organizations and journalists.² The result is a world in which the press is even less free to report, at a time when the public needs reliable information more than ever. This only motivates us to continue our work.

¹ Testimony of Joel Simon, House Subcommittee on Africa, Global Health, Global Human Rights, and International Organizations hearing on “The Dangers of Reporting on Human Rights”

<https://www.congress.gov/116/meeting/house/109482/witnesses/HHRG-116-FA16-Wstate-SimonJ-20190516.pdf>

² <https://cpj.org/covid-19/>

The Global State of Press Freedom

Journalists around the world face unprecedented threats to their ability to do their jobs, and new threats seem to emerge every day. The following is a summary of those CPJ considers to be the most pressing.

Criminalization of journalism

One way governments censor reporting is by outright criminalizing the act of journalism. CPJ has now recorded at least 248 journalists behind bars for four consecutive years.³ The pandemic has provided governments with a new excuse to wield laws criminalizing the spread of “fake news” or information that is not in line with the official narrative.

Given the spread of COVID-19, imprisonment can now represent a death sentence for some journalists. Consider the case of Azimjon Askarov, in Kyrgyzstan. Askarov reported on human rights violations in his hometown of Bazar-Korgon amid ethnic violence that swept southern Kyrgyzstan in June 2010. He exposed fabricated criminal cases, arbitrary detentions, and the rape and abusive treatment of detainees in the Jalal-Abad region. He was arrested, convicted on charges that included incitement to ethnic hatred and complicity in the murder of a police officer, and sentenced to life in prison. A CPJ investigation found that authorities retaliated against Askarov for his reporting.⁴ In July, Askarov died in prison, and his wife told CPJ that she suspected he contracted COVID-19. We are now working with others to pursue justice.

In our most recent census of imprisoned journalists, CPJ found that 98 percent were locals imprisoned by their own governments—and the beat most likely to land a journalist behind bars was politics. This underscores the connection between journalism and attacks on civic space, as it is political leaders who lead attempts to restrict civic space.

The use of national security or anti-terror laws to justify crackdowns on the press is particularly disturbing. Roughly two-thirds of all imprisoned journalists in 2019 were jailed on anti-state charges, including accusations of terrorism. The false dichotomy between national security and journalistic practices makes it increasingly difficult for journalists and media organizations to report freely and independently.

One case we have been tracking closely is that of Hopewell Chin’ono in Zimbabwe. Chin’ono is an award-winning journalist who was arrested ahead of a national anti-corruption protest and

³ CPJ special report. “China, Turkey, Saudi Arabia, Egypt are world’s worst jailers of journalists” <https://cpj.org/reports/2019/12/journalists-jailed-china-turkey-saudi-arabia-egypt/>

⁴ CPJ special report. “In Kyrgyzstan, injustice and torture in Askarov case” <https://cpj.org/reports/2012/06/in-kyrgyzstan-injustice-and-torture-in-askarov-cas.php>

charged with incitement, after reporting on alleged COVID-19 procurement fraud within Zimbabwe's Ministry of Health that led to the arrest and sacking of its health minister.

After more than six weeks in pretrial detention in a maximum security prison, Chin'ono was released on bail in September, then re-arrested at his home in November for alleged contempt of court, and he was later charged with obstruction of justice for a tweet about the National Prosecution Authority. He was originally denied bail, and then released on bail on November 20.

Even after being released from prison, journalists can remain unable to work freely. Egyptian photojournalist Mahmoud Abou Zeid, also known as Shawkan, was released after spending more than five years behind bars in relation to his work. But, following his release, he was ordered to return to a police station each night to sleep under observation. Authorities have effectively rendered his release moot.⁵

The same applied to Egyptian journalist Alaa Abdelfattah.⁶ That is, until Abdelfattah was re-arrested and thrown back in jail just six months after his release in 2019, over an article he wrote.⁷ In Egypt, as in many other countries, harassment never ends for some journalists.

Fake news

Another concerning trend is the increasing extent to which political leaders accuse news organizations and journalists that publish critical information of being "fake news."

In some cases, the rhetoric is simply an attempt to smear the source of the reporting and undermine public confidence in the media. But undermining public confidence in the media can open the door to legal restrictions. Accordingly, CPJ has seen an increase in the passage and use of "false news" statutes to jail journalists. In 2019, we found the number of journalists imprisoned on "false news" charges rose to 30, up from 28 in 2018. Use of the charge has climbed steeply since 2012, when CPJ found only one journalist worldwide imprisoned for such an offense.

Even in robust democracies, notably the United States, elected officials have accused legitimate news organizations and journalists of being "fake news." Some democracies with strong institutions have resisted most legal threats to reporting, but the rhetoric itself is deeply troubling. It inspires threats against journalists and media outlets, and it empowers autocratic leaders around the world who are seeking a justification for their own repressive media policies.

⁵ CPJ blog. "Restrictive terms of Shawkan's release from Egyptian jail highlighted to UN." <https://cpi.org/2019/10/egypt-shawkan-photojournalist-arbitrary-detention/>

⁶ CPJ blog. "In Egypt, 'freedom' ends daily at 6pm for Shawkan and Abdelfattah." <https://cpi.org/2019/04/egypt-shawkan-abdelfattah-release-custody/>

⁷ <https://cpi.org/data/people/alaa-abdelfattah/>

Legal attacks

When direct attacks on the press fail, governments and individual actors sometimes opt to attack journalists through a variety of legal mechanisms. These include accusing journalists and their outlets of financial crimes or criminal defamation. In some countries, provisions inhibit reporting on public officials or criminalize “insult.” Defamation laws are easily misused by governments to suppress critical speech and intimidate reporters with the threat of criminal prosecution, fines, or jail time.

Consider the case of Philippine online news outlet *Rappler* and its executives and reporters, including CEO and Executive Editor Maria Ressa, who is an American citizen. Collectively they have faced myriad libel, tax, and regulatory lawsuits, and arrests, and had to pay tens of thousands of dollars in bail and bonds. At the moment, Ressa alone faces at least eight open cases on a range of charges, including two libel charges.⁸ If convicted on all accounts, she could be looking at life in prison.

Another way in which journalists come under legal attack is through Strategic Lawsuits Against Public Participation, or SLAPPs.⁹ These are brought forward by powerful bodies or individuals—corporations, public officials, high-profile persons—to censor, intimidate, and silence journalists and other critics for their expression on public interest issues by burdening them with the cost of a legal defense until they abandon their public position. In many cases, the plaintiff does not even seek to win the case, but these lawsuits are effective because even a baseless suit can take years of legal proceedings and require significant financial resources to defend. SLAPPs also contribute to a “chilling effect” and, if successful and known to other journalists, could discourage others from taking up similar subjects of public interest in their reporting.

Elections

CPJ has found that elections are often a dangerous time for journalists. Autocrats seeking to control the narrative around elections may move to censor what the press can publish, and punish news organizations or journalists who cross a perceived line.

Threats to journalists during elections are especially intense when the campaigns are marked by protests and violence. Journalists covering unrest related to elections often find themselves caught between protesters and police. To ensure elections are transparent and fair, we believe there must be an open media environment that ensures public debate and accountability.

⁸ CPJ alert. “CPJ calls on Philippine authorities not to contest editor Maria Ressa’s cyber libel appeal.” <https://cpj.org/2020/06/cpj-calls-on-philippine-authorities-not-to-contest-editor-maria-ressas-cyber-libel-appeal/>

⁹ <https://anti-slapp.org/what-is-a-slapp>

One recent example of election-related attacks on the press is the situation in Belarus. Following the contested August 9 presidential election, in which incumbent Aleksandr Lukashenko announced victory, protests have erupted across the country. Since then, at least 320 journalists have been detained for covering the protests, according to the Belarusian Association of Journalists, and the U.S. Congress-funded broadcaster Radio Free Europe/Radio Liberty reported that several journalists were under investigation for “organizing mass riots.”¹⁰

Protests

Journalists covering protests and other civil disturbances face legal and physical risks from all sides, often simultaneously. For some journalists, simply being present at a protest is enough to put them behind bars.

As I detailed in testimony to the U.S. Commission on Security and Cooperation in Europe, this year has seen a particularly dramatic increase in attacks on the press covering protests in the U.S.¹¹ The U.S. Press Freedom Tracker is in the process of documenting more than 960 attacks on journalists covering protests, including arrests, physical attacks, equipment damage, tear gassings, and rubber bullets.¹² These attacks represent a 600% increase of press freedom violations in the United States since 2019.

CPJ proactively issued safety guidance for journalists covering these protests, and has also engaged with elected officials to ensure any attacks are investigated and justice is pursued.¹³ There has been some progress, but not enough.

This is a problem domestically, but it is also a global problem. What happens in the U.S. has implications around the world. A deterioration of press freedom in the United States hurts the ability of the U.S. government to advocate for press freedom in its foreign policy.

¹⁰ CPJ alert. “Belarus authorities arrest journalists, issue jail sentences, launch investigation.”

<https://cpj.org/2020/11/belarus-authorities-arrest-journalists-issue-jail-sentences-launch-investigation/>

¹¹ Testimony of Dr. Courtney C. Radsch, U.S. Commission on Security and Cooperation in Europe Hearing on “Human Rights at Home: Media, Politics, and the Safety of Journalists”

https://www.cscce.gov/sites/helsinkicommission.house.gov/files/2020.07.23_CSCE_Radsch_testimony_final_written%202.pdf

¹² <https://pressfreedomtracker.us/>

¹³ CPJ safety advisory. “Covering U.S. protests over police violence.” <https://cpj.org/2020/05/cpj-safety-advisory-covering-u-s-protests-over-police-violence/>; and, CPJ alert. “Trump, U.S. governors must stand up for press freedom, CPJ and other groups say.” <https://cpj.org/2020/06/trump-u-s-governors-must-stand-up-for-press-freedom-cpj-and-other-groups-say/>

Technology

CPJ has closely tracked how the proliferation of spyware technologies, in a largely unregulated market, has allowed governments to more easily surveil and spy on journalists.

Because spyware is inherently difficult to trace, and is becoming increasingly sophisticated and undetectable, documenting concrete cases involving journalists can be a challenge. In many cases, a clear pattern of surveillance emerges, but not all of the pieces—the agency involved in surveillance, the names of victims, the surveillance vendor, and the immediate consequences—have been exposed.

Still, the public record is disturbing. Companies across Europe and the Middle East are developing and selling spyware to governments and other actors with records of press freedom violations, and those tools are being used to target journalists, CPJ has found.

Relatedly, many governments also have the authority to search the electronic devices of journalists and activists at national borders. This includes the U.S., where we have reported on how border agents have tracked and stopped journalists, and searched their electronic devices.¹⁴ Electronic device searches threaten the protection of sources, have a chilling effect on journalists that impacts broader society, and raise serious privacy rights issues.

While social media platforms have expanded the free flow of information, they too suffer from problems.

Social media platforms continue to allow anonymous users to harass journalists and are still struggling to enact mechanisms to effectively address this problem. This creates a chilling effect for journalists, and impacts women journalists most severely.¹⁵

These platforms are also not immune from pressure themselves. Governments regularly ask social media companies to censor content on their platforms they deem critical—or else completely block the services in the country. Since 2012, 13 countries have used Twitter's “country withheld content” tool to effectively censor content, according to the social media platform's transparency reports. Governments usually cite laws around national security, counter-terrorism, defamation, or hate speech when requesting such removals.¹⁶

¹⁴ CPJ special report. “Nothing to declare: Why U.S. border agency’s vast stop and search powers undermine press freedom.” <https://cpj.org/reports/2018/10/nothing-to-declare-us-border-search-phone-press-freedom-cbj/>

¹⁵ CPJ blog. “Survey details risks for female journalists in U.S., Canada.” <https://cpj.org/2019/09/canada-usa-female-journalist-safety-online-harassment-survey/>

¹⁶ CPJ blog. “How Turkey silences journalists online, one removal request at a time” <https://cpj.org/blog/2018/08/how-turkey-silences-journalists-online-one-removal.php>

Impunity

The ultimate form of censorship is murder, insofar as the perpetrators seek to kill a story by killing the person who is telling it. Since CPJ began tracking such data in 1992, more than 880 journalists have been murdered in relation to their work.¹⁷ During a 10-year index period ending on August 31, 2019, 318 journalists were murdered for their work worldwide, and in 86% of those cases no perpetrators were successfully prosecuted.¹⁸ Until this changes, journalists around the world will continue to work in an environment of uncertainty and vulnerability.

Perhaps the most prominent such case is that of Jamal Khashoggi, the *Washington Post* columnist who was murdered and dismembered in the Saudi consulate in Istanbul by officials widely believed to be dispatched from Riyadh. This abominable crime has thus far gone mostly unpunished. CPJ has reported on how the Saudi government was likely spying on Khashoggi by using a piece of spyware that could allow them to listen to his phone calls with Saudi dissident Omar Abdulaziz.¹⁹ Despite obstruction from the Trump administration, we continue to push for full justice in his case, and urge the Biden administration to make public the U.S. intelligence community's findings on the Khashoggi murder, and use targeted sanctions on anyone found to have played a role in the crime.²⁰

Obstruction and delay have a price as well. The lack of pushback from the Trump administration over the Khashoggi murder has been perceived by the Saudi regime as a greenlight to oppress, and regime's censorship and aggression toward dissent has only worsened since his killing.²¹

Conclusion and Recommendations

These are just a few examples that illustrate the lengths to which governments will go to ensure the press is not free to report, and their citizens are not exposed to critical reporting.²² Beyond the examples cited, and behind the figures and statistics, are compelling stories of people deprived of their right to work or to access and share information about their communities and

¹⁷ https://cpj.org/data/killed/?status=Killed&motiveConfirmed%5B%5D=Confirmed&type%5B%5D=Journalist&typeOfDeath%5B%5D=Murder&start_year=1992&end_year=2020&group_by=year

¹⁸ CPJ special report. "Getting Away With Murder." <https://cpj.org/reports/2019/10/getting-away-with-murder-killed-justice/>

¹⁹ CPJ blog. "How the Saudis may have spied on Jamal Khashoggi" <https://cpj.org/blog/2018/10/how-the-saudis-may-have-spied-on-jamal-khashoggi.php>

²⁰ CPJ blog. "Amicus briefs support CPJ's appeal in Khashoggi lawsuit." <https://cpj.org/2020/07/amicus-briefs-support-cpis-appeal-in-khashoggi-lawsuit/>

²¹ *The Hill*. "Saudi regime's brazen disregard for human rights a pattern that must be stopped." <https://thehill.com/opinion/international/481012-saudi-regimes-brazen-disregard-for-human-rights-a-pattern-that-must-be>

²² For additional cases, the One Free Press Coalition maintains a monthly list of the 10 most urgent cases: <https://www.onefreepresscoalition.com/list>

countries. Attacks on journalists are attacks on civil society and the open public square that citizens depend upon to exchange information, stay updated, and mobilize when necessary.

We are grateful that so many members of Congress are active on press freedom, and are willing to speak out in defense of journalists under threat. But given the severity of the threats against the press, more must be done. We make the following general recommendations to Congress:

- Commit to not attacking news media for critical coverage, and refrain from using the terms false or fake news;
- Speak publicly about the importance of a free and independent press to democracy;
- Issue public statements on cases of imprisoned and killed journalists, and political and legal attempts by governments to restrict press freedom;
- Include press freedom violations, including cases of imprisoned and killed journalists, in human rights measures moving through Congress;
- At the outset of 2021, work with members and staff of the subcommittees of the Committee on Foreign Affairs to hold a series of hearings on the unique regional and country-specific threats to press freedom, and what the U.S. can do to reverse violations;
- Support efforts to strengthen State Department support for press freedom, including urging U.S. embassies to apply maximum pressure on governments to release imprisoned journalists, ensure justice in the cases of murdered journalists, and reform any laws or practices that infringe on the rights of journalists;²³
- Ensure that the State Department supports journalists who are forced, because of credible threats to their lives, to flee their countries, and move to ensure the U.S. government provides emergency visas or asylum for persecuted journalists;²⁴
- Ensure the independence of U.S. government-funded media, including Voice of America, Radio Free Asia, and Radio Free Europe/Radio Liberty;
- Where possible, use federal government authority to ensure attacks against journalists in the U.S. are tracked, and accountability is sought;
- Ensure robust federal compliance with the Freedom of Information Act, which is a key avenue for the press to gain information on government activities;
- Move to consider a legal framework to regulate the sale and export of technologies from the U.S. that can be used to spy on journalists.

Thank you again for holding this important hearing, and for inviting the Committee to Protect Journalists to testify before you.

Thank you.

²³ <https://cpj.org/restoring-u-s-press-freedom-leadership-biden/>

²⁴ CPJ blog. "CPJ joins call for new emergency visa regulations to protect journalists fleeing threats." <https://cpj.org/2020/11/cpj-joins-call-for-new-emergency-visa-regulations-to-protect-journalists-fleeing-threats/>

Ms. BASS. Thank you so much for your testimony.
Let me call on our final witness, Ms. Emilie Kao.

**STATEMENT OF MS. EMILIE KAO, DIRECTOR OF THE RICHARD
AND HELEN DEVOS CENTER FOR RELIGION & CIVIL SOCIETY,
HERITAGE FOUNDATION**

Ms. KAO. Chairwoman Bass, Ranking Member Smith, and other distinguished members of the subcommittee, thank you so much for your invitation.

My name is Emilie Kao. I am director of the DeVos Center for Religion and Civil Society at the Heritage Foundation. All of the views expressed today are my own and should not be attributed to the Heritage Foundation.

As we commemorate the adoption of the Universal Declaration of Human Rights in 1948, let us be aware of the new and gradual encroachments upon freedom, as well as the familiar ones.

In 2019, the United Nations introduced the global strategy and action plan on hate speech. This strategy is well intentioned, but it follows the wrong path toward censorship. The U.N. introduced the strategy in response to attacks on houses of worship, and though there is no internationally accepted legal definition of hate speech, the U.N. Strategy defines hate speech as any kind of communication that uses, quote, “pejorative or discriminatory language about a person or a group on the basis of religion, race, gender, or other identity factors,” closed quote. But pejorative and discriminatory are subjective terms and easily abused.

First Lady Eleanor Roosevelt, who led the drafting of the Universal Declaration, warned that governments would seek to punish all criticisms under the guise of protecting against hostility.

There are both principles and pragmatic reasons for the United States to oppose the new strategy. First, the Universal Declaration established the principle that all human beings have inalienable rights because of our unique human dignity. They pointed to our endowment with reason and conscience, but speech restrictions violate this human dignity. They subject a person’s freedom to speak according to their reason and their conscience to supervision by the State.

James Madison said that a person’s opinion depends only on evidence contemplated by their own minds and cannot follow the dictates of other men. But hate speech, blasphemy, and defamation of religion laws require citizens to follow the dictates of other men.

American law treats speech as an end in itself, not the means to an end, even a noble one. The Supreme Court recognized counter speech is the best way to effect reason and conscience and protected our interest in security by limiting speech that is likely to incite imminent lawless action. Hate speech laws do not work.

European nations and Muslim majority countries have endorsed the U.N. Strategy, but evidence from those nations shows that speech restrictions radicalize extremists, and they do not protect the innocent.

In the Middle East and North Africa, 65 percent of countries have blasphemy laws, arguing that they keep the peace by preventing insult to Islam. Professor Nilay Saiya’s analysis of 51 Muslim majority States found that those which criminalize blasphemy

are more likely to suffer from Islamist terror attacks than those that did do not.

Amjad Mahmood Kahn warned that these laws create a sense of religious duty to silence those who are perceived as threatening the reputations of Muhammad, Islam, and Islamic governments.

The implementations of radicalization are global. The Pakistani branch of the Taliban tells its followers that, quote, “Zionist and crusader enemies of Islam are insulting the signs of Islam everywhere,” closed quote.

European governments are also enforcing restrictions on hate speech that offend religious sensibilities, but there is no evidence that their censorship reduces terrorism. According to the Pew Global Restriction Survey in 2015, Jewish people experienced more harassment in Europe than any other part of the world.

There are three recommendations for broadening civic space. First, the U.S. should proactively urge the United Nations to rescind its strategy on hate speech, increase efforts to protect free speech and religious freedom, and adopt the U.S. Supreme Court’s clear and objective standard of imminent lawless action.

Second, Congress should encourage the President and Secretary of State to oppose any international efforts to enact hate speech restrictions that fall short of the imminent lawless action test, in addition to opposing blasphemy, hypocrisy, and defamation of religion laws as both House Resolution 512, which just passed, and Senate Resolution 458 do.

Third, America’s global counterterrorism efforts and national security strategy should reflect the relationship between speech restrictions and terrorism. An open public square ensures that toxic narratives can be challenged by the truth that all human beings have inherent dignity and are created equal. Freedom offers the path toward greater justice, peace, and security.

[The prepared statement of Ms. Kao follows:]



CONGRESSIONAL TESTIMONY

“International Human Rights and the Closing Civic Space”
 Testimony before
 House Foreign Affairs Committee, Subcommittee: Africa, Global Health, Global Human Rights and
 International Organizations

United States House of Representatives

DECEMBER 9, 2020

Emilie Kao
 Director of the DeVos Center for Religion and Civil Society
 The Heritage Foundation

My name is Emilie Kao. I am the Director of the DeVos Center for Religion and Civil Society at The Heritage Foundation. The views I express in this testimony are my own and should not be construed as representing any official position of The Heritage Foundation.

Chairwoman Bass, Ranking Member Smith, and other distinguished members of the subcommittee, thank you for this opportunity to speak in observance of Human Rights Day on the topic of “International Human Rights and the Closing Civic Space.” The civic space is indeed closing for people in many parts of the world. I will offer observations as to how and why this is happening, what the U.S. Congress can do to support those seeking to keep public squares open, and why the protection of freedom of expression and freedom of thought, conscience, and religion are important to our counterterrorism and national security strategy.

The birth of the international human rights movement was a monumental achievement. After the staggering human toll of World War

II and horrors of the Holocaust, the nations of the world recognized the need to protect human rights beyond their own borders. They understood that a state which threatened the freedoms of its own people also constituted a threat to international peace and security. The Universal Declaration of Human Rights (UDHR) recognized the relationship between human rights and peace and security in its opening statement which describes “The inherent dignity and the equal and inalienable rights of all members of the human family” as “the foundation of freedom, justice and peace in the world.”

This remarkable consensus on the importance of human rights was forged by First Lady Eleanor Roosevelt who led the drafting committee. She brought about the watershed agreement among representatives from all over the map, geographically and ideologically. Their beliefs about human rights were shaped by diverse philosophies and religions including Confucianism, Islam, Judaism, Hinduism, and Christianity.

They grounded the UDHR in the universal truth that everyone everywhere shares a unique human dignity. Article 1 pointed to our endowment with reason and conscience as evidence of this unique dignity. Human dignity is the foundation for all thirty human rights in the UDHR and the two rights that are most closely related to our endowment with reason and conscience are protected in articles 18 and 19. They protect the individual's freedom of thought, conscience, and religion and freedom of opinion and expression respectively.¹ Princeton Professor Robert P. George has described human beings as "conscientious truth-seekers" and these two articles work together to protect our ability to seek the truth and live according to our consciences.

However, eighteen years after the UDHR, the U.N. General Assembly took a step backwards when it adopted the International Covenant on Civil and Political Rights. Though it protected freedom of expression in Article 20, it qualified this protection with a provision that permitted states to prohibit "advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence." The U.S. Senate entered a reservation stating that it could not require legislation or other action that would restrict the right of free speech and association protected by the Constitution.²

Mrs. Roosevelt presciently warned that Article 20 was "extremely dangerous" and "would encourage governments to punish all criticism under the guise of protecting against religious or national hostility." Today, growing government censorship is proving that Mrs.

¹ Article 18 states that "[e]veryone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance." Article 19 states that "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

Roosevelt's instincts were correct. A variety of governments are justifying censorship on the grounds that it is hostile, insulting, or hateful to a nation, a religion, a protected class of people or even to a particular viewpoint. Some governments do so to maintain a monopoly on political power. Others governments seek to enforce religious orthodoxy. And yet other governments do so in a misguided attempt to "keep the peace." But, perhaps most surprisingly, the United Nations now endorses the idea that governments should limit speech that offends or insults.

The freedom to seek the truth and live according to conscience is under increasing attack in closed societies like the People's Republic of China. Last week, a court in Hong Kong sentenced pro-democracy activists Joshua Wong and Agnes Chow and Ivan Lam to prison for their role in organizing protests against a new extradition law that would have allowed citizens of Hong Kong to be sent to the mainland for prosecution on criminal charges. The Chinese Communist Party (CCP) justifies punishment of its critics on the grounds that they are committing political crimes against China. But in China's one party state, everything is treated as a political act.

In the name of state security and combatting extremism, the CCP has enacted draconian restrictions on religious freedom seeking to eradicate it from the public square entirely. The Party even forbids children from entering houses of worship. Today, the CCP illegally detains over 1 million Uighur Muslims in political reeducation camps, keeps Catholic

and regardless of frontiers." Universal Declaration of Human Rights, https://www.ohchr.org/EN/UDHR/Documents/UDHR_Translations/eng.pdf.

² U.S. reservations, declarations, and understandings, International Convention on the Elimination of All Forms of Racial Discrimination, 140 *Congressional Record* S7634-02 (daily edition, June 24, 1994), <http://hrlibrary.umn.edu/usdocs/racialres.html>

bishops in prison, and has forcibly removed crosses from Protestant churches. China shows that a government which can silence one citizen to maintain its monopoly on power can eventually silence everyone.

In Islamic theocracies, rulers justify censorship in the name of protecting “religious feelings.” In the Middle East and North Africa, 65% of countries impose their interpretation of Islam as orthodoxy by making blasphemy a crime, even punishable by death.³ Governments that support blasphemy laws argue that they help “keep the peace,” by protecting Muhammed and his followers from insult.

But according to the research of Prof. Nilay Saiya, blasphemy laws exacerbate social hostilities rather than prevent them. His analysis of 51 Muslim-majority states with blasphemy laws during the period from 1991–2013, found that they are more likely to suffer from Islamist terrorism than countries that do not criminalize blasphemy.⁴ Amjad Mahmood Khan warns that blasphemy laws create a sense of religious duty among Muslims to silence those who are perceived as (even indirectly) threatening the reputations of Muhammed, Islam, or Islamic governments. In Pakistan, the local branch of the Taliban has made combatting blasphemy its “raison d’etre.”

Unfortunately, global counter-terrorism efforts rarely acknowledge the relationship between blasphemy laws and terrorism. This missed connection leaves religious minorities and

reformers more vulnerable to terrorist attacks. For them, the safest space is in a free society.

Even open societies in the West are becoming more interested in enforcing speech restrictions. They do so in the hopes that silencing speech will reduce terrorism, although the facts do not bear this out. Eight European countries have blasphemy laws and 36 have laws against the “defamation of religions” according to a 2011 Pew study.⁵ And since 2008, European Union law has required the criminalization of “hate speech.”⁶ Unlike Islamic theocracies, Western countries are motivated to enforce speech restrictions to protect the vulnerable. Nonetheless, this approach is misguided.

In 2011, the European Court of Human Rights (ECHR) upheld a verdict by an Austrian court that sentenced a woman to pay a fine for violating the criminal code’s prohibition on disparaging religious precepts. The woman speculated about Mohammed’s motives for marrying a young girl. In rejecting her appeal, the ECHR found that the Austrian court appropriately balanced her right to freedom of expression with “the right of others to have their religious feelings protected, and served the legitimate aim of preserving religious peace in Austria.”⁷ In the prior year, Denmark found that a Muslim imam violated its criminal code by making statements about sexual orientation which is a protected legal category.⁸

³Id.

⁴ Nilay Saiya, *Blasphemy and terrorism in the Muslim world*, *Terrorism and Political Violence*, 29:6, 1087-1105, DOI: [10.1080/09546553.2015.1115759](https://doi.org/10.1080/09546553.2015.1115759) (2017).

⁵ Brian J. Grim, *Laws Penalizing Blasphemy, Apostasy and Defamation of Religion are Widespread*, Pew Research Center (Nov. 21, 2012), available at <https://www.pewforum.org/2012/11/21/laws-penalizing-blasphemy-apostasy-and-defamation-of-religion-are-widespread/>.

⁶ Jacob Mchangama, “Lessons from Europe on Free Speech,” *Cato’s Letter*, 2018,

<https://www.cato.org/sites/cato.org/files/pubs/pdf/catos-letter-v16n3.pdf>.

⁷ European Court of Human Rights, *E.S. v. Austria*, 38450/12, Judgment 25.10.2018 [Section V], <https://hudoc.echr.coe.int/eng#%7B%22itemid%22%3A%2202-12171%22%7D>.

⁸ AP, “Imam in Denmark Gets Suspended Sentence for Anti-Gay Remarks,” *Business Insider*, (<https://www.businessinsider.com/ap-imam-in-denmark-gets-suspended-sentence-for-anti-gay-remarks-2017-11>).

Europe's example shows how quickly restrictions on speech can escalate and narrow the scope of public discourse for all. The ACLU once compared censorship to poison gas calling it a powerful weapon that can harm you when the wind shifts. They concluded "Freedom of expression for ourselves requires freedom of expression for others."⁹

All speech should exemplify civility and respect for others, but some speech is rooted in ignorance and motivated by prejudice or even hatred. The best way to promote the truth of human dignity and equality is not to silence those who are in error, but to expose their error through persuasive counterspeech.

American law treats speech as an end in itself, not the means to an end, even a noble one, like "religious peace." Our Founders recognized that religious freedom allows an individual to discharge a duty owed to the Creator that is precedent, both in order of time and in degree of obligation, to the claims of Civil Society. As James Madison wrote, this duty "can be directed only by reason and conviction, not by force or violence." The opinions of men can depend "only on the evidence contemplated by their own minds [and] cannot follow the dictates of other men."¹⁰

Laws against blasphemy, defamation of religions, and hate speech are all fatally flawed because they compel individuals to follow the dictates of other men. They place the state in the role of supervising a person's conscience and speech. Even the wisest government official or judge should not be empowered to overrule the conscience of another human being. But, laws that limit individual

conscience or speech to protect others' feelings do exactly that and violate inalienable human rights.

As Europe continues to wrestle with Islamist terror attacks, most recently the murder of a French schoolteacher who showed cartoons of Mohammed, it should preserve both the freedom of thought, conscience, and religion and the freedom of opinion and expression. In the face of these tragedies and threats to national security, governments may be tempted to impose tighter restrictions, even on peaceful religious practices, but this has been shown to be counterproductive to fighting terrorism.

Pew Research Center's 195-country cross-national comparison found that restrictions on freedom of religion or belief by the government or civil society were correlated with more violent religious persecution.¹¹ Conversely, protecting freedom of thought, conscience, and religion and speech allows for the competition of ideas in the public square. A robust civil society where disagreement can be expressed publicly and where citizens can openly live according to their religious beliefs and political convictions is the lifeblood of democracy.

Now, a new challenge to free speech is emerging from unexpected quarters. In an effort to meet the challenges of rising violent attacks on houses of worship (including synagogues, churches, and mosques) and the rapid dissemination of information through the Internet, the U.N. announced in 2019 that it would fully mobilize the U.N. system to tackle "hate speech."¹² The U.N. Secretary General's Global Strategy and Action Plan on Hate Speech encourages states and private

⁹ ACLU, "Censorship: Spotlight on Film,"

<https://www.aclu.org/other/censorship-spotlight-film>.

¹⁰ James Madison, Memorial and Remonstrance, 1785, morallaw.org/resources/key-documents/james-madisons-memorial-and-remonstrance/.

¹¹ Brian Grim and Roger Finke, "Religious Persecution in Cross-National Context: Clashing Civilizations or Regulated Religious Economies?," *American*

Sociological Review, Vol. 72, No. 4 (2007), pp. 633–658, <https://www.jstor.org/stable/25472482?seq=1>.

¹² United Nations Strategy and Action Plan on Hate Speech, <https://www.un.org/en/genocideprevention/documents/UN%20Strategy%20and%20Plan%20of%20Action%20on%20Hate%20Speech%2018%20June%20SYNOPSIS.pdf>.

companies to cooperate in limiting offensive speech.¹³ There is no universally agreed legal definition of “hate speech,” but this strategy has been endorsed by both European nations and by Muslim-majority countries.

As previously explained, Europe seeks to restrict speech in a misguided effort to reduce discord. Many Muslim-majority countries view it as a prelude to a global blasphemy law. The Organization of Islamic Cooperation (OIC) uses the terms blasphemy, defamation of religions, and “hate speech” interchangeably, to justify censorship. At a 2019 meeting of the OIC in Mecca, Pakistani Prime Minister Imran Khan told members that in forums like the United Nations and the European Union, “we must explain to them that they cannot hurt the sentiments of 1.3 billion people under garb of freedom of expression.”¹⁴

Prime Minister Khan is mistaken. The best way to protect Muslims is through robust protection of freedom of thought, conscience, and religion and freedom of speech. This is particularly true in societies with a dominant religious belief system. It is true for Muslims in Communist China, Hindu-majority India, and Buddhist-majority Myanmar. It is true for Jews and Christians in Muslim-majority nations. And it is true for Muslims, Jews, and Christians and people of other faiths in an increasingly secular Europe.

The U.S. has led international efforts to protect universal human rights since 1948, particularly at the U.N. As Secretary of State Michael Pompeo’s Commission on Unalienable Human Rights recently observed, America did not invent the idea of human rights, but no nation more closely incorporates those ideals into its

founding and character. The notion that all men are created equal and are endowed by God with inherent, natural rights that precede government was present at the very birth of our nation as expressly stated in the Declaration of Independence. The robust protection of freedom of religion and freedom of speech is in our country’s DNA.

Our Supreme Court articulated the standard that free speech protections would not extend to advocacy of imminent lawless action in *Brandenburg v. Ohio*.¹⁵ Rather than focusing on subjective standards like feelings of offense and insult or accusations of phobias, the Court established a clear, objective standard that protects public safety while also preserving individual liberty. In the face of multiple efforts to close civic spaces around the world, the U.S. should commit new resources and energy to protect the right to seek the truth and to live according to one’s conscience in thought, word, and deed.

This commitment should be reflected in our counterterrorism and national security strategy as well as in our human rights policy. Opening up the public square in closed societies gives reformers, moderates, and minorities a space to advocate for freedom. When they can live, speak, and act according to their consciences, pluralism thrives. Protecting the freedom to discuss, debate, and disagree weakens the ability of terrorists to dominate discourse with toxic narratives of exclusion. In an open society, they must contend with the truth that all human beings have inherent dignity and are created equal.

At the U.N., the U.S. should continue to explain to human rights officials and other

¹³ See also OHCHR, “Promotion and protection of the right to freedom of opinion and expression,” Report to the 74th U.N. General Assembly, A/74/486, October 9, 2019, <https://www.ohchr.org/EN/Issues/FreedomOpinion/Pages/Annual.aspx>.

¹⁴ *Gulf News*, “Imran Khan Tells OIC to Act Against Blasphemy, Islamophobia,” June 1, 2019, <https://gulfnews.com/world/asia/pakistan/imran-khan-tells-oic-to-act-against-blasphemy-islamophobia-1.64327026>.

¹⁵ 395 U.S. 444 (1969).

member states that hateful speech is best fought through persuasive counter speech. The U.N. was founded in the shadow of Hitler's atrocities and the UDHR was adopted to ensure that his crimes against humanity would never be repeated. Therefore, it is worth remembering that in the 1940s, Germany's Weimar Republic used laws against "insulting religious communities" to prosecute Nazi agitators. But, the Nazis turned those prosecutions for hate speech to their advantage, presenting themselves as political victims and whipping up public support among aggrieved sections of German society. Far from halting Nazism, hate speech legislation assisted it.¹⁶

International organizations like the U.N. should support the efforts of citizens around the world to keep the civic space open. Censorship cannot reverse hate. Holding governments accountable to protect speech that dissents and viewpoints that are unpopular empowers the marginalized and marginalizes the extremists. By protecting the peaceful expression of disagreement in the public square, governments can prevent their societies from going down the path of violence and terror. This facilitates efforts to resolve disagreement through discussion, not violence, within nations and contributes to international peace and security. If international organizations fail to protect freedom, the U.S. and its allies should continue to hold them accountable.¹⁷

Here are three recommendations:

1. The United States should proactively urge the U.N. to rescind its Strategy and Plan of Action on Hate Speech, increase efforts to protect free speech

and religious freedom, and adopt the "imminent lawless action" standard for limiting speech. Censorship cannot reverse hate. The best way to empower minorities and human rights advocates is to ensure they have the freedom to combat hatred through counter speech and the promotion of pluralism.

2. Both H.Res. 512 (which passed the House) and S.Res. 458 call upon the U.S. government to oppose blasphemy, apostasy, and defamation of religion laws. Congress should also encourage the President and Secretary of State to oppose international efforts to enact "hate speech" restrictions that fall short of the imminent lawless action test
3. America's global counter-terrorism efforts and the National Security Strategy should reflect the relationship between speech restrictions (like blasphemy laws) and terrorism.

As we commemorate Human Rights Day, let us be aware of the new and gradual encroachments upon freedom as well as the all too familiar ones that led to the adoption of the UDHR seventy-two years ago. Our inherent dignity and equality as human beings requires the protection of the freedom to seek the truth and to live and speak according to our consciences. Respecting this freedom will solidify the foundation for justice and peace in the world.

¹⁶ Brendan O'Neill, "How a Ban on Hate Speech Helped the Nazis," *The Australian*, March 28, 2014, <https://www.theaustralian.com.au/national-affairs/opinion/how-a-ban-on-hate-speech-helped-the-nazis/news-story/cb199a0aae4d42a54164f3c9463745f9>.

¹⁷ U.S. Statement on U.N. Strategy and Plan of Action on Hate Speech, June 18, 2019, <https://usun.usmission.gov/u-s-statement-on-un-strategy-and-plan-of-action-on-hate-speech/> (December 6, 2020).

CONGRESSIONAL TESTIMONY

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Ms. BASS. Thank you. Thank you very much. I thank you for your testimony and for all of our witnesses for taking your time out today.

I will now recognize members for 5 minutes each, and pursuant to House rules, all time yielded is for the purpose of questioning our witnesses.

I will recognize members alternating between Democrats and Republicans, and if you miss your turn, let our staff know, and we will circle back to you. If you seek recognition, you must unmute your microphone and address the Chair.

I will start by recognizing myself.

And I want to direct my first question to Ms. Lin. You know, I wanted to know what you think of the impact in the world that has happened because of what people are seeing here in the United States, whether we are talking about what is going on with the election, whether or not it was free and fair, the attacks on the media that we hear attacking journalists, talking about reporting fake news.

If you do not like something, you call it fake news. And I wanted to know what impact you feel we are having on the rest of the world where we typically try to hold the rest of the world accountable, and now the world is looking at us a bit.

So that is for Lin. I would also like Dr. Radsch to address that as well, especially in regard to journalists.

Ms. LIN. Thank you, Congresswoman Bass, for that question.

I mean, your question is the ultimate human rights question because we are all gathered here today to honor Human Rights Day tomorrow, and that Human Rights Day applies to all countries of the world, including what's happening right here in our borders. So, needless to say, people are looking at how we walk the walk, more so than how we talk the talk.

2020 has been a devastating year for human rights in the United States. The summer of 2020 has made clear that Black and Brown people live in great peril and that police killings remain a very serious problem throughout the country.

Now, clearly this problem is not limited to the United States. We have seen protests in Nigeria erupt this summer again calling out police brutality and protest movements taking to the streets demanding an end to SARS, which is their infamous police force there.

We have also seen people take to the streets in every continent, whether it is Hong Kong, Belarus, Iraq, Lebanon, Chile, and this shows that the civic space is still very much alive, that even in spite of everything that has been testified about to today, that people are demanding that their voices not be silenced, and they are demanding greater government accountability and justice.

Ms. BASS. Thank you.

Ms. LIN. Okay.

Ms. BASS. Let me go on to Dr. Courtney Radsch, especially when you hear people in rallies denounce the press in the United States. And so my question is really, what are you seeing internationally because of this, whether it is attacking, you know, one station or another?

The other thing is what about journalists who are reporting false information? And one of the things that concerns me a lot is COVID, false information about COVID in terms of whether or not you need to wear a mask, whether or not you need to abide by the guidelines, or whether or not hydroxychloroquine, you know, is a cure.

So I would like for you to respond to that. What impact are we having around the world?

Dr. RADSCH. Thank you so much for that question because it is really important because we have seen over the past 3 or 4 years that the rhetoric around false news ricocheted around the world. We saw that governments of all shapes and sizes, from authoritarian through Democratic, adopted that rhetoric. But we saw an evolution this year, especially with COVID-19, through the adoption of legislation to criminalize fake news.

So actually, yes, walking the walk very important, as Joanne said, but also talking the talk, both rhetorical and action oriented.

The abuses that we saw during the protests over the summer, the antipolice violence protests and the more than 900 plus freedom violations that we have tracked with the U.S. Press Freedom Tracker have sent a very chilling signal around the world, both in terms of what the U.S. law enforcement, how it treats its own journalists, and in terms of dismantling U.S. leadership on press freedom and its ability to be a moral authority.

Then when you couple that with your question about journalists reporting on false information, let's remember that how journalism works is that they are typically reporting on what politicians, doctors, scientists, and experts or the public are doing, saying, et cetera, so they are out there reporting.

So one of the big problems is that a lot of misinformation and disinformation is being perpetrated by government spokespeople, whether that is President Trump or Bolsonaro in Brazil where there is, you know, one of the most popular videos out there is about hydroxychloroquine being a cure for COVID-19, which obviously we know it is not.

So the journalists are in a very challenging position because, on the one hand, they need to report what the experts are saying. On the other hand, journalism is the first draft of history, and we are in an unprecedented health pandemic during which the science is evolving, our understanding is evolving, so there is not necessarily a truth out there.

And we need to look at that intersection and address the severe online harassment that then is perpetrated against journalists who are caught up in the politics of reporting on these issues.

Ms. BASS. Thank you, thank you.

Representative SMITH.

I think you are muted.

Mr. SMITH. Thank you very much. Did I get it?

Thank you. Thank you to our witnesses.

Let me just say we just celebrated the 20th anniversary on October 28th of the signing of the Trafficking Victims Protection Act, the law that I am the prime author of. It was a bipartisan law bicameral obviously. Article 4 of the Universal Declaration makes

clear that slavery is an abomination and no one should be subjected to it.

Perhaps you might want to speak to how well you think we are doing. I believe very strongly that the Trump Administration has done a tremendous job. The TIP office, run by Ambassador Richmond, has been very, very forthcoming and assertive in combatting human trafficking, so your thoughts on that.

Second, Ms. Lin, you talked about Vietnam. Back in February 2006, I chaired a landmark hearing on how Google, Microsoft, Cisco, and Yahoo were aiding and abetting dictatorships around the world, but it was focused primarily on China.

You have pointed out that Facebook is complicit in censorship and repression on an industrial scale. Your thoughts briefly on how we can further combat the incarceration of so many people who are online and then aided and abetted—you gave 95 percent of the censorship requests coming from Vietnam—that are followed by Facebook.

I find that, you know, obviously very disturbing, but it is a trend in the world, whether they be in Africa or Belarus or any other country.

Next, if I could, some of the stories that some of us on this side of the aisle find frustrating is that when unbelievably effective policies yield real results, like the rushed Warp Speed as it was called to get a vaccine, go underreported in terms of how it happened.

You know, I actually asked—it is after the election, so it is probably easier for them to say it, but I asked my Governors on a Zoom call, Commerce—or not Commerce; Health Secretary what her view was of it, and it was nothing but accolades for the Trump Administration.

I have never seen any of that, any of it in print anywhere. It may be in some conservative media, but not in the Washington Post or the New York Times, and that is disturbing, the imbalance.

I really do believe that the press has an absolute obligation to ask the hard questions, but I do also think there needs to be—you know, when I took journalism classes, and I loved to write, I write op-eds all the time, I write my own speeches, but the three As, accuracy, accuracy, accuracy and a real keen sense of objectivity needs to be, I think, more embraced.

And I think that would go a long way to telling the truth. That is all we ask; just tell the truth and ask the hard questions, but tell the truth. But Warp Speed got almost nothing.

Next, on the issue of India, and I think, again, that is a very, very troubling state of affairs that the largest democracy tells the embassy international people, you are out. Maybe you want to speak to that very briefly with Modi because I do think there are other serious human rights abuses occurring under his watch, particularly in the realm of religious freedom.

And, Ms. Kao, you know, maybe you want to speak as well to, you know, the blasphemy laws. You know, right in the Universal Declaration it makes very clear everyone has the right to freedom of thought, conscience, and religion. The right includes freedom to change religion or belief. If you do that in some countries, what happens? You are executed. And I think we need to more aggressively assert that universally recognized human right.

So our witnesses, please.

Ms. LIN. Thank you, Congressman Smith, for the litany of terrific questions. I will go ahead and address the questions about Vietnam and India.

So you were clairvoyant to have a hearing on Big Tech in India.

Mr. SMITH. If I could interrupt you, T. Kumar provided great testimony from Amnesty at that hearing.

Ms. LIN. Yes. Thank you. He is my former colleague, and his contributions and legacy at Amnesty are still felt today. So thank you so much.

Specifically I just wanted to highlight what we have seen in Vietnam is not limited to Vietnam, and we know that we are seeing this trend extend across the world, to Thailand, to Turkey, to other countries of the world as well.

And we have two sets of recommendations because we have two actors involved. We have the Vietnamese Government and we have Big Tech.

So let me start with Big Tech for a moment, all right, because Big Tech is located in the United States. These corporations are all, for the most part, based in Silicon Valley. So we have three recommendations with respect to Big Tech.

First, that all of the high tech companies need to adopt new content moderation and community standards policies that are grounded in international human rights standards, particularly the U.N. Guiding principle on business and human rights.

Second, ensure monitoring and oversight bodies such as Facebook's new oversight board—they just had their first hearing last week—are empowered to make binding policy changes with respect to content moderation and transparency and not merely in individual cases.

And, third, expand the mandate of Facebook's oversight board to include the evaluation grounded in human rights law of content moderation decisions that have been made pursuant to local law.

So those are our recommendations with respect to Big Tech.

Then when you look at the actual government, so here we are talking about Vietnam in particular—

Ms. BASS. I am going to let you finish that point and then we will—because we are over time, but you go ahead and finish that point, and then we will come back to you a little later.

Ms. LIN. Okay. Thank you.

Two suggestions: One, that it is critical to call on the Vietnamese Government to end the harassment, arrest, prosecution, and imprisonment of human rights defenders and activists and to drop all charges against those, especially for those who were there for social media activity.

And then urge the Vietnamese Government to repeal all of the oppressive laws that have criminalized or restricted the work of human rights defenders.

Thank you.

Ms. BASS. Thank you.

Representative Phillips.

Mr. PHILLIPS. Thank you, Madam Chair. And to all of you witnesses here today, thank you for taking the time to be with us.

I want to focus my first question on COVID and how it has impacted elections. I am particularly concerned about how coronavirus has impacted civic spaces and elections all around the globe, of course, even including here in our country.

But we have seen elections delayed in Somalia, in Ethiopia and taken place with some limited engagement and restricted access in countries like Cote d'Ivoire.

Starting with Ms. Lin, can you speak to how elections have been impacted by the restrictions on civic spaces and how COVID has influenced this dynamic around the world?

Ms. LIN. Congressman Phillips, I actually am not [inaudible]. I can talk about the impact of COVID on civic space generally in terms of protest movement, but not on elections. So I do not know if there is another witness who could address your question more.

Mr. PHILLIPS. Okay. Yes, maybe, perhaps, Ms. Kao, is that something you might address?

Ms. KAO. Thank you very much, Congressman Phillips.

Actually, if I could, I would like to briefly address the way that the Chinese Government suppressed information about the coronavirus, if I may, because that is a massive human rights abuse that has not only cost the lives of millions of Chinese—millions of people around the world, as well as Chinese citizens.

They suppressed the freedom of speech of Dr. Li Wenliang, one of the first doctors to encounter the coronavirus, and they continued to suppress the freedom of doctors and journalists who wanted to report on the coronavirus, including the important information about human-to-human transmission.

I will let someone else speak to elections.

Mr. PHILLIPS. Okay. I do want to focus—our subcommittee is Africa, so I do want to try to focus your—Ms. Radsch, is that something you might address?

Dr. RADSCH. Yes, to some extent. So one of the things we have seen around the world is that elections are times when there are typically crackdowns on the press and it is a time when we see a lot of violence against the press.

Belarus is an interesting case where it is a very repressive environment for reporters. One of the only independent outlets there that was the first one to actually report on COVID was RFE/RL, the U.S.—congressionally funded outlet of the U.S. agency for media.

So that really underscores the critical role that independent media play in censorial countries that was undergoing a protest, and we saw massive protests erupt there in a place that has very restricted civic space.

I think one of the things about protests and elections that we have seen, you know, kind of proliferate around the world is that, you know, part of the civic space are the streets, and so the streets are kind of the last outlet in many countries when other forms of civic space, like the pages of the newspaper or the airwaves or internet platforms, are not available to engage in those debates that need to take place during elections.

And then that is part of the reason you see people going into the streets and you see protests. And then, of course, there is often an uptick in violence.

Mr. PHILLIPS. Okay. I appreciate that. Thank you.

To use the rest of my time, let's address some of the human rights questions that I have in Africa, clearly challenges in many nations, from protecting civilians from armed conflict, for any human rights activists from repression, opening up public spaces for dialog, and tackling discrimination and violence against both women and minorities.

Ms. Kao, what—any recommendations from you relative to what the U.S. Congress can do legislatively to ensure that those governments are being held accountable and supporting those who are faced with discriminations?

Ms. KAO. Thank you very much, Congressman Phillips.

Well, further to my comments and to my written submission, I think it is really important for the United States to be very clear that at the United Nations there should be no promotion of restriction from speech because that is only going to narrow the civic space in Africa as well as the rest of the world.

Authoritarian governments would love for, you know, the U.N. To support their restrictions on speech because, of course, they know that will increase their grip on political power. So that would be my primary recommendation.

In addition to that, I would say continue to, you know, support the State Department's efforts to protect religious freedom. Ambassador-at-Large Sam Brownback has convened now three international ministerials on religious freedom that have been incredibly successful in bringing together multi level partners to protect religious freedom. We see the atrocities that Boko Haram is committing, and, you know, obviously, they are dedicated not only to eradicating religious minorities but also to no education for females; thus, their name.

And so protecting religious freedom, protecting the ability of these religious minorities of all faiths to flourish in Africa is essential to the future of the government.

Mr. PHILLIPS. I appreciate that.

My time is expired, so I yield back. Thank you.

Ms. BASS. Thank you very much, Representative Phillips.

Representative HOULAHAN.

Ms. HOULAHAN. Thank you, Madam Chair, and thank you to all of you for being here today.

I have a couple of questions to followup on Mr. Phillips' lines or Representative Phillips' lines of questioning.

One is that this committee is Africa, but it is also Africa and human rights. And so I have one question about our own history and what's happening in our own Nation right now in terms of police brutality. And I am interested and concerned about how we as a Nation can rightfully or try to condemn the Nigerian Government when we are, obviously, very flawed in the way that we are approaching our response to this kind of issue.

Is there some way that the U.S. can be a better international model on the issues of civil rights and freedom of expression that you could recommend to this committee that we could be helpful with?

Ms. LIN. So, Congressman Houlihan, thank you so much for the question.

I really feel like your question is the question for everyone in the human rights community, whether we work on civil human rights or we work on international human rights. And, clearly, the United States history, the legacy of Jim Crow is still very much alive with us. The fact that police killings, that there have been 164 police killings of Black people between January 2020 and August 2020 is just proof positive that the work at home needs to be top priority.

That being said, you know, I do think that the United States has historically played a leadership role in advancing human rights, international human rights. I think that it is critical for the incoming administration to return to all of the various international bodies and agreements that were exited in the last few years.

And I think that is possible to do that with a dose of humility and honesty about our own history and that we can call for an end to police brutality in the United States at the same time that we are calling for an end to police brutality in Nigeria, that we can require that our police forces respond to peaceful protestors consistent with human rights standards here in the United States at the same time that we insist that they not use violence, excessive violence in Hong Kong, Lebanon, Iraq, and Belarus.

So that is the challenge before us going forward.

Thank you.

Ms. HOULAHAN. Thank you.

And my next question, although not centered around Africa per se, has to do with women's issues and gender-based violence and then that aspect of human rights. Specifically, Poland, which is where my heritage is from, and the fact that the Justice Minister has announced they have withdrawn from the Council of Europe's Istanbul Convention against violence against women.

And I was wondering what sort of long-term effects that might come from disengagement from issues, on the part of the United States, on gender-based violence will have on the rights of women globally. And how can we as a Nation effectively encourage Poland and other countries like Poland, who are reversing their progress on this issue, to change course?

Ms. LIN. Again, I am happy to start off with the answers here. So gender-based violence, again, is a scourge that still afflicts the United States and every country in the world, and we have seen this exacerbated in the time of COVID as people around the world have been shut in, many people in countries where there have been true lockdowns, in situations where people have lost jobs and sometimes have lost healthcare and are facing other economic pressures.

So attacking gender-based violence as an affirmative human rights issue is going to be a top priority for the next Congress, the incoming administration.

I am sorry, I do not know the particulars around Poland. I do have colleagues who do, and so I could get back to you on that.

But, needless to say, the United States needs to address it at home and challenge and require all countries around the world to do the same.

Ms. HOULAHAN. And, Ms. Kao, do you have anything to add to that?

Ms. KAO. Thank you for the question, Representative Houlahan.

I think it is important for the United States to engage in international human rights institutions. It is also important for the United States to keep those institutions accountable to their mandate.

One of our primary concerns at the Heritage Foundation with the U.N. Human Rights Council has been the lack of accountability. We have seen human rights violators, like China, like Venezuela, like some of the worst countries in the world, be elected to the Human Rights Council, and now they are in charge of actually choosing the experts that do the investigations of human rights around the world.

So we would love to see reform at the U.N. Human Rights Council in that area of accountability and as well also getting rid of the anti-Israel bias in singling out Israel for more condemnation than any other State, because we do believe that international organizations can play a very constructive role, and we would like to see the U.N. Human Rights Council do that.

Ms. HOULAHAN. Thank you to everybody. And my time has run out, and I will yield back. And I apologize, I am zooming off to a Women in Peace and Security conference at 3 o'clock, but thanks for having me today.

Ms. BASS. Wonderful. Thanks for coming, Representative Houlahan.

Representative Smith, are you still with us?

Mr. SMITH. Thank you very much, Madam Chair.

Let me just, if I could, I am a great believer in being inclusive of all of the information that should be on the record. Now, I do not like how Donald Trump handles press conferences. I just do not like it at all. But on the previous administration, James Risen, you might recall, who called Obama the greatest enemy of press freedom in his generation, the Associated Press were very, very upset—and I would be interested to know what some of our witnesses think—very upset when trying to find who was leaking what, you know, spied on everyone after then.

With Risen, it started under George W. Bush in terms of the Espionage Act, was carried over to the Obama Administration; but I am not sure—and if you have got information, that would be fine—that that kind of spying on the press was done during this administration.

Again, I think the press have an absolutely critical role to play in ferreting out information, protecting our liberties and our rights by being so proactive, but I think there has to be a sense of responsibility.

And, you know, Risen, you know, was revealing things that some people did not want out. And we all remember the Pentagon papers going back many, many years ago. I am grateful that the press reveal information that we need to know that gets, you know, hidden and becomes part of a clandestine operation that needs to be exposed.

So I just—my sense is that we need to call out everyone who abuses press freedom. And, unfortunately, you know, a caricature gets produced about what is really happening, what is not happening, and I do not think any President should, you know—and

openness and transparency is what we ought to be pressing aggressively for.

Yes, there are some State secrets that could be injurious to our national security, but there are also State secrets that are, you know, branded that in order to preclude any kind of scrutiny by anyone outside of a certain group of people.

So that would be one thing that I would be concerned about. I do think—and maybe we can speak to it again, but the idea he have what is happening with the media giants. And I think, Ms. Lin, you really hit that very, very strong, and I have been hitting it for 20 years.

I remember when the power shifted for Republicans to Democrats, my good friend, Tom Lantos—and I was his ranking member—called a hearing, and we had Yahoo come and testify, and Jerry Yang—we had a reporter’s mother. Shi Tao had gotten 10 years.

Yahoo gave up all the information about his personally identifiable information when what the secret police of China simply came in and said, “give us everything you have on Shi Tao.” They did. He went to prison for 10 years.

Well, Jerry Yang was sitting in the audience, and Lantos and I, Chairman Lantos at the time, pressed hard. And he was almost like doing mea culpas about what he had really been a part of; but they quickly revert back.

And I think if anything, Facebook is truly being complicit, as you said so eloquently earlier, with what these dictatorships are doing. Making a little more money does not help, and T. Kumar said this at my hearing in 2006. He goes, the argument is that this will open up society, having an internet, having this, having that. That one is controlled by a dictatorship.

I remember going to an internet cafe—and I will finish with this—in Beijing, and I typed in the Dalai Lama. Blocked. Typed in George W. Bush. Blocked—no, I got that he is—I typed in myself. I was blocked. Typed in all of these names, and it was like—then I typed in Tiananmen Square, just as I did at my hearing. Beautiful pictures. I typed in massacre at Tiananmen Square. Nothing, all blocked.

And, again, when I asked Amnesty—not Amnesty; Google and Cisco, Yahoo, and Microsoft under oath, because I swore them all in, how do you know what to censor? Who tells you? It is the government. But they wouldn’t tell us what words, what phrases, you know, how this really works.

So they just—my belief was, then and now, they get a request, they honor it, and then they say they are honoring the laws of that country, the laws of a dictatorship.

So, you know, these social media, these others, they have an affirmative obligation, and we have got to push harder and harder to ensure that they do not become, you know, the willing dupes of these dictatorships.

So thank you, Madam Chair, and I yield back.

Ms. BASS. You are very welcome.

I wanted to ask a few more questions. You mentioned Facebook, and I think it was Ms. Lin that talked about Facebook and censorship. You know, we have a challenge here where there are some

problems. I mean, there are some things Facebook does need to censor.

And I just wonder how you deal with that because, you know, one of the things—and I know our ranking member knows what I am talking about—you know, they put out deliberate misinformation. And I do not mean that Facebook is doing it, but they allow for it to be out there or they allow for foreign intervention. And so how do you deal with that?

I would also like to ask that slightly different with Ms. Kao, because it sounds like you do not think speech should be limited, you know, at all. And I am just wondering how you deal with that when it is deliberate misinformation, when you are calling and rallying people to something that could be violent, telling people to turn out, and that is something that we criticize other governments for.

So I am not sure where you land on that. So I would ask that of Ms. Lin and Ms. Kao.

Ms. LIN. Well, thank you for the question, Representative Bass and Representative Smith, about Facebook. So Representative Smith raised this very important issue. Money is a big factor here. So if you look at Facebook's revenues in southeast Asia, one-third of their revenues flow out of Vietnam. That is a huge market share.

And then you also need to look at the history of a particular country's human rights record. So even though Vietnam has ushered in all these economic reforms, it remains a very repressive society. If you look at any type of freedom measure, whether it is freedom of press, freedom of speech, freedom of expression, it is still a very closed society.

Ms. BASS. Well, excuse me, I was really referring to Facebook here. In other words, I understand what you are saying about Vietnam, but what about—because we do have problems with Facebook. We do. So I do not know if your position is that you just allow anything to be on, but, I mean, it has caused a lot of problems here.

Ms. LIN. Yes, no. I think that what you are raising is a very important issue. And I do think that—I do not have an answer for how to handle it here in the United States. I am not going to pretend that it is a simplistic one size fits all.

If you look at, for instance, Thailand, which is a country neighboring Vietnam, where there, again, Facebook did close a Facebook group with over a million members that were criticizing, expressing criticism of the Monarchy, which is illegal under Thai law, again, that happened in recent months in a country that is more open than Vietnam, but still is more closed than the United States.

So I think what you are asking about, Congresswoman Bass, is a hugely important question, but I think it requires a separate hearing in and of itself, because you are right, how it breaks out in each country is very, very challenging for all the reasons that I and the other witnesses have mentioned today.

Ms. BASS. Okay. Ms. Kao.

Ms. KAO. Thank you, Chairwoman Bass, for raising this important question. So I do think that speech which incites imminent lawless action should not be protected and it is not protected, because the Supreme Court in *Brandenburg versus Ohio* said that

speech that is likely to incite imminent lawless action does not receive the protection of the First Amendment.

I share your concern about other speech, you know, that may be hurtful, it may be insulting, it may be offensive, it may be bigoted, but I believe that the best way to address that kind of speech is through counterspeech, because counterspeech is what persuades people. It is what changes their hearts and minds. Silencing people and censoring them does not change their hearts and minds, and I think that narrows the civic space and it reduces the contact between people who hold different opinions.

I think today's hearing is so important, because we are talking about opening the civic space. And opening the civic space is what allows for more interactions between people who hold different opinions, to learn from one another, to debate one another, to disagree with one another.

And so that is why it is important to keep that space open and to allow people to say something that may be, you know, something that causes disagreement or even offense.

Ms. BASS. Okay. Well, thank you very much.

And let me thank the witnesses for appearing today, for taking time out of your schedule. I think this was a very important hearing, and I want to thank especially Ranking Member Smith and the other members that attended the hearing.

And, with that, we are adjourned.

[Whereupon, at 3:06 p.m., the subcommittee was adjourned.]

APPENDIX

**SUBCOMMITTEE HEARING NOTICE
COMMITTEE ON FOREIGN AFFAIRS
U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, DC 20515-6128**

**Subcommittee on Africa, Global Health, Global Human Rights, and International
Organizations**

Karen Bass (D-CA), Chair

December 9, 2020

TO: MEMBERS OF THE COMMITTEE ON FOREIGN AFFAIRS

You are respectfully requested to attend an OPEN hearing of the Subcommittee on Africa, Global Health, Global Human Rights, and International Organizations to be held virtually via Cisco WebEx. The hearing is available by live webcast on the Committee website at <https://foreignaffairs.house.gov/>:

DATE: Wednesday, December 9, 2020

TIME: 2:00 p.m., EST

SUBJECT: International Human Rights and the Closing Civic Space

WITNESS: Ms. Joanne Lin
National Director, Advocacy and Government Affairs
Amnesty International USA

Courtney Radsch, PhD
Advocacy Director
Committee to Protect Journalists

Ms. Emilie Kao
Director of the Richard and Helen DeVos Center for Religion & Civil
Society
Heritage Foundation

By Direction of the Chairman

COMMITTEE ON FOREIGN AFFAIRS

MINUTES OF SUBCOMMITTEE ON Africa, Global Health, Global Human Rights, and International Organizations HEARING

Day Wed. Date 12/09/2020 Room Virtual

Starting Time 2:01pm Ending Time 3:06pm

Recesses 0 (___ to ___) (___ to ___)

Presiding Member(s)

Rep. Karen Bass

Check all of the following that apply:

Open Session

Electronically Recorded (taped)

Executive (closed) Session

Stenographic Record

Televised

TITLE OF HEARING:

International Human Rights and the Closing Civic Space

SUBCOMMITTEE MEMBERS PRESENT:

See Attached.

NON-SUBCOMMITTEE MEMBERS PRESENT: (Mark with an * if they are not members of full committee.)

HEARING WITNESSES: Same as meeting notice attached? Yes No

(If "no", please list below and include title, agency, department, or organization.)

STATEMENTS FOR THE RECORD: (List any statements submitted for the record.)

Rep. Karen Bass, QFR

Rep. Christopher Smith, QFR (2)

TIME SCHEDULED TO RECONVENE _____

or

TIME ADJOURNED 3:06pm

Naomia A. Suggs-Brigety
Subcommittee Staff Associate

HOUSE COMMITTEE ON FOREIGN AFFAIRS
*SUBCOMMITTEE ON AFRICA, GLOBAL HEALTH, GLOBAL HUMAN RIGHTS, AND
 INTERNATIONAL ORGANIZATIONS*
 COMMITTEE HEARING

<i>PRESENT</i>	<i>MEMBER</i>
X	Karen Bass, CA
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X	Dean Phillips, MN
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RESPONSES TO QUESTIONS SUBMITTED FOR THE RECORD

Hearing on “International Human Rights and the Closing Civic Space”

U.S. House of Representatives
House Foreign Affairs Committees
Subcommittee on Africa, Global Health, Global Human Rights, and International Organizations

Rep. Karen Bass, Question for the Record

December 16, 2020

Ms. Joanne Lin
National Director, Advocacy and Government Affairs
Amnesty International USA

During your testimony you mentioned that 160 black and brown people were killed by police in the U.S. during 2020. Would you provide me with a list of these individuals names? If it is possible would you also provide the date of the shooting incident and the location (city, state) of the shootings.

Amnesty International USA response: Thank you for the opportunity to correct the hearing record and transcript. The 160 figure mentioned during the Q&A portion of the hearing was out-of-date and reflected the number (164) of Black people killed by police in the U.S., through August 2020.

According to [Mapping Police Violence](#), as of Dec. 8, 2020, 374 Brown people (all non-white races, Asian, Black, Hispanic, Native American, Pacific Islander) were killed by police; 206 of them Black people. Black people comprise 28 percent of those killed by police in 2020, despite being only 13 percent of the U.S. population.

[CBS News](#) did a feature in September 2020 that shares some of the information about the incidents where Black people were killed by police. This resource captures data regarding the 164 Black people killed by police in 2020 through the month of August, including their names and relevant dates and locations: <https://www.cbsnews.com/pictures/black-people-killed-by-police-in-the-us-in-2020-part-2/>

Can you give your assessment of how the Obama Administration handled the cases of James Risen and James Rosen – was it, for example, appropriate?

The Committee to Protect Journalists (CPJ) believes that the Obama administration's handling of the cases of James Risen and James Rosen was not appropriate. A 2012 special report published by CPJ, "[The Obama Administration and the Press](#)," by Leonard Downie Jr., discussed these cases in detail. Some of the following material is taken from that report, which we would suggest reading.

As with many press freedom issues at the federal level, the Risen case started under one administration (Bush) and extended into another (Obama).

In 2005, Risen and Eric Lichtblau [reported](#) for *The New York Times* about the warrantless intercepts of Americans' telephone calls in the NSA's secret electronic surveillance program. Then, in 2006, Risen published a book in which he revealed a failed CIA covert operation to sabotage Iran's nuclear program.

These reports upset Bush administration officials, who tried to persuade news executives to stop or delay such stories, which depended, in part, on confidential government sources of classified information. The Bush administration started intensive investigations to identify the sources for the stories on CIA secret prisons and NSA electronic surveillance and for Risen's book.

By the time Bush left office, no one had been prosecuted. However, a CIA officer was fired for unreported contacts with *Washington Post* national security reporter Dana Priest, and several Justice Department investigations were continuing.

The Obama administration inherited from the Bush administration an investigation in which former CIA officer Jeffrey Sterling was indicted on Dec. 22, 2010, and arrested on Jan. 6, 2011, on charges of providing Risen with extensive information about the failed CIA effort. The *Times* never published a story about it, but the information appeared to be the basis for a chapter in Risen's book.

Given his involvement, beginning in early 2008, the Justice Department repeatedly tried to subpoena Risen to testify against Sterling, arguing that he was an eyewitness to Sterling's crimes.

The ensuing legal battle saw a ruling in Risen's favor at the Federal District Court, which was appealed. A coalition of news organizations and related groups filed an appellate brief pointing to the many significant national security and government accountability news stories over the years that could not have been reported by the press without confidential sources.

However, a three-judge panel of the U.S. Court of Appeals for the Fourth Circuit in Richmond, Va., reversed the decision from two years earlier. Risen asked the full 15-judge appellate court to review the case, and he vowed to go to jail rather than identify his source. Supported once again by many press organizations, [including CPJ](#), he also formally asked the Justice Department to withdraw the subpoena.

In October 2014, Attorney General [Eric Holder](#), speaking at a Washington, D.C. event, stated, "No reporter's going to jail as long as I'm attorney general." In early 2015, Risen attended a pretrial hearing, where he confirmed that he would not testify. Risen was then excused from testifying, ending the seven-year legal fight.

The case of James Rosen, on the other hand, was uniquely an Obama administration pursuit.

In June 2009, Rosen was Fox News's chief Washington correspondent, when he reported that U.S. intelligence had discovered that North Korea was planning, in defiance of the United Nations, to escalate its nuclear program and conduct another nuclear weapons test. The Justice Department soon began a secret investigation, which produced an August 19, 2010, felony indictment of Stephen Jin-Woo Kim, a State Department contract analyst. He was charged with violating the Espionage Act by giving classified intelligence information about North Korea to Rosen, who was not named in the indictment.

It was not until four years later, in 2013, that we learned through a report by *The Washington Post* that the Justice Department had secretly subpoenaed and seized Rosen's telephone and e-mail records in the Espionage Act prosecution of Kim. Although investigators had already gathered evidence from Kim's phone records and computer at the State Department, where he had access to classified information, they used the secret subpoena to seize Rosen's phone records and personal e-mails. They also used electronic security badge records to track the comings and goings of Rosen and Kim at the State Department.

These two cases illustrate a larger problem under the Obama administration. According to our reporting, the Obama administration pursued at least eight prosecutions of alleged leakers under the Espionage Act. That is more than twice the total number of such prosecutions since the law was enacted in 1917. The Espionage Act was never intended to be used against news organizations or their sources and the Obama administration's use of the Act was in our view clearly inappropriate.

What impact did the conduct of the Obama Administration in the cases of James Risen and James Rosen have on journalists?

The Obama administration's conduct in the cases of both James Risen and James Rosen had a chilling effect on journalists, especially those who cover matters of national security. Several journalists interviewed for CPJ's report on the Obama administration told the author that leak investigations and surveillance revelations had made government sources fearful to talk about sensitive information.

As a *Wall Street Journal* [editorial](#) stated, "The chilling is even worse in this case because Mr. Rosen's personal communications were subject to search for what appears to be an extended period of time." In Rosen's case, the government subpoenaed and seized *years* of communications records for the two men during the government's investigation. In the course of our work at CPJ, we see these types of actions taken by autocrats and dictators—not the elected officials of democracies with purported checks and balances.

CPJ is also concerned by the degree to which the Bush and Obama administrations pitted journalism against the interests of national security. This is a pervasive mentality shared by leaders who crack down on the press around the world. Indeed, in our most recent annual global survey of imprisoned journalists, CPJ found that two-thirds of the record 274 journalists behind bars in relation to their work globally face anti-state charges. The U.S. in any way feeding into the mentality that reporting threatens national security puts journalists around the world at greater risk.

But there are also positive takeaways from these cases. It is important to note that the Obama administration did listen to and take action on concerns from civil society. In the midst of the controversy, Obama

said in a major speech on national security at the National Defense University that he was “troubled by the possibility that leak investigations may chill the investigative journalism that holds government accountable.” He said, “Journalists should not be at legal risk for doing their jobs,” even though his administration would still aggressively investigate government officials “who break the law” by leaking classified information.

The president asked Holder “to review existing Department of Justice guidelines governing investigations that involve reporters.” And Obama called on Congress to revive and pass a federal “shield law”—similar to those in 40 states and the District of Columbia—that would spell out defenses for journalists facing legal efforts to uncover their confidential sources and reporting contacts.

After a series of Justice Department meetings with news executives, reporters, and media lawyers, Holder announced Obama-approved revisions to the Justice guidelines that narrowed the circumstances under which federal investigators could subpoena and seize communications records of news organizations or reporters. News organizations would be given advance notice of such subpoenas unless the attorney general personally determined “for compelling reasons” that it would pose a clear and substantial threat to an investigation. Search warrants could be issued for a reporter’s phone and e-mail records only if the journalist was the focus of a criminal investigation for conduct not connected to ordinary newsgathering.

“Members of the news media will not be subject to prosecution based solely on newsgathering activities,” the Justice Department said. It also would explore “ways in which intelligence agencies themselves, in the first instance, can address information leaks internally through administrative means, such as the withdrawal of security clearances and imposition of other sanctions,” rather than criminal prosecutions.

These rules are still in effect today.

Can you provide an example from the Trump Presidency where the Trump Justice Department pursued journalists to the same degree as the Obama Justice Department pursued Rosen and Risen?

The Trump administration's treatment of the press in regards to alleged leaks represents a continuation of practices from previous administrations. Where the Obama administration used its power to improperly investigate sensitive reporting on terrorism, the Trump administration has used it more often to investigate reporting on immigration.

In April 2020, CPJ published a report, "[The Trump Administration and the Media](#)," also written by Leonard Downie Jr. In our report, we highlight at least two examples of the Trump administration spying on journalists. Both fall under the umbrella of the Department of Homeland Security and Customs and Border Protection.

As far as we are aware, the first time the Trump administration targeted a journalist and seized reporters' communications records was the case of Ali Watkins in 2017 (see: pages 24-25 of our Trump report). In 2017, Watkins was a reporter for *Politico* when she was contacted by CBP agent Jeffrey Rambo, who said he needed to meet with her immediately. As *The New York Times* [reported](#):

In a lengthy conversation at a bar near Dupont Circle, Mr. Rambo claimed to be helping the F.B.I. with investigations into leaks of sensitive material to journalists. He eventually revealed that he knew the details of a trip to Spain that Ms. Watkins had taken with James A. Wolfe, security director of the Senate Intelligence Committee, who was then her boyfriend.

[According to accounts Ms. Watkins provided to friends](#) and editors, Mr. Rambo hinted that he might disclose their relationship to The Washington Post and pressed her to become his informant and report to him on other journalists and their sources.

In June 2018, *The New York Times* [reported](#) that prosecutors with the U.S. Department of Justice seized Watkins' phone and email records from telecommunications companies— including Google and Verizon— as part of a leak-related investigation.

At the time, CPJ issued a [statement](#) warning that “the government’s seizure of Ali Watkins’s data sets a dangerous precedent.” The statement continued: “In order to perform their public accountability function, journalists must be able to protect their confidential sources. Efforts by government that undermine this ability therefore represent a fundamental threat to press freedom. ... We fear [the government’s seizure] could be an opening salvo in an ongoing battle over reporters’ ability to protect their sources.”

In May 2019, CPJ and the Reporters Committee for Freedom of the Press (RCFP) filed a joint [Freedom of Information Act \(FOIA\) request](#) seeking the documents, after learning that CBP agent Jeffrey Rambo was in contact with Watkins using a personal email address.

In August 2019, CPJ and RCFP filed a [lawsuit](#) against the U.S. government seeking to obtain documents related to the Watkins case. In the lawsuit, CPJ and RCFP argue that CBP has failed to meet legal deadlines required by FOIA, and ask the U.S. District Court for the District of Columbia to order immediate processing of the documents sought in the May filing. The suit seeks to make public a range government documents that would shed light on how CBP is conducting leak investigations—including emails from Rambo’s non-

governmental email account, and communications to CBP containing the phrases “leak” or “unauthorized disclosure.”

It turns out there was some validity to our fears that the Watkins case was an opening salvo in Trump administration attacks on journalists’ sources.

CPJ [reported](#) in March 2019 that there had been a total of six prosecutions of people in relation to their communication with the press since Trump assumed office. This represented a faster pace when compared with the 10 prosecutions (including eight under the Espionage Act) that the Obama administration pursued over eight years.

The Trump administration has pursued three of the cases under the Espionage Act—a tactic that press freedom advocates have long [opposed](#) as it conflates the act of leaking information in the public interest with spying for a foreign power.

The cases filed under the current administration include [Reality Winner](#), a former defense contractor convicted of emailing national defense information to a publication; former [FBI agent Terry Albury](#); and former CIA agent [Joshua Schulte](#). Albury pleaded guilty, and Schulte’s case is pending. There are also [two individuals](#) charged for leaking Treasury Department documents, known as suspicious activity reports.

While no journalist has been directly prosecuted in a leak investigation during Trump’s term, some reporters covering national security or other sensitive issues told CPJ that the aggressive pursuit of alleged leakers is affecting their work.

In conversations with over half a dozen top national security reporters and editors at a range of publications, some journalists told CPJ they worried that Trump's anti-press attitude could translate into criminalizing reporting on leaks; others that the administration may surveil their communications in the midst of an aggressive leak investigation; and most agreed that the prosecutions are chilling key sources and potential whistleblowers.

Many feared that the pace of these investigations is "part of a larger campaign to discredit the press," as James Risén, now a senior national security correspondent at *The Intercept*, told CPJ. "Today I think it's worse than ever. I think it's worse than in the Obama administration. They have accelerated the number of prosecutions and arrests, and to me it seems like a much more politicized process than ever before."

The second example of spying on journalists by the Trump administration concerns journalists at U.S. borders. On page 7, our Trump report states that CBP "has questioned journalists at border posts, searched their electronic devices, and monitored their movements in a secret database." In an October 2018 report, "[Nothing to Declare](#)," CPJ documented dozens of cases of journalists stopped at U.S. borders and pulled aside for secondary screenings and electronic device searches.

The citation from CPJ's Trump report also refers to leaked documents reported on by NBC 7 San Diego in [March 2019](#). The documents show that agents from CBP, Immigration and Customs Enforcement (ICE), U.S. Border Patrol, Homeland Security Investigations and agents from the San Diego sector of the Federal Bureau of Investigations (FBI) had shared access to a document that tracked journalists and others crossing the border during the migrant caravan crisis.

According to the NBC 7 report, “One photojournalist said she was pulled into secondary inspections three times and asked questions about who she saw and photographed in Tijuana shelters. Another photojournalist said she spent 13 hours detained by Mexican authorities when she tried to cross the border into Mexico City. Eventually, she was denied entry into Mexico and sent back to the U.S.”

Despite pressure from [CPJ](#) and a [bipartisan set of U.S. senators](#), as far as we are aware an internal investigation has not been released. You can read more on our work on this issue [here](#).

Beyond these behaviors, our report argues, there is also a marked difference between the Obama and Trump administrations: their normative global leadership, especially their public treatment of the press. President Trump and his administration have engaged in ceaseless attacks on the press in the U.S. This has helped destroy the credibility of the press and dangerously undermined truth and consensus, which has had particularly grave consequences during the COVID-19 pandemic. More troubling however is how President Trump's attacks on the press, and coddling of autocrats and dictators, has empowered foreign leaders to restrict their own media as evidenced by the record high number of journalists jailed globally at the conclusion of his term.

For Joanne Lin
National Director, Advocacy and Government Affairs
Amnesty International USA

We recently learned that Facebook suspended the account of APT32 because its security team learned that it was in reality a Vietnamese state-sponsored entity using Facebook to spread malware among human rights activists and journalists. The entity had apparently been operating since 2014, and was even employed to steal intellectual property.

Can you comment on the impact of this malware among the human rights community in Vietnam?

At this time, Amnesty International's Security Lab, which is the technical research branch of our organizations, does not have a lot of details about the specific malware allegedly distributed by APT32 and analyzed by Facebook other than it compromises Windows and Mac OS system, allows the adversary to completely monitor the targets activity.

The Security Lab has done research on attacks led by the APT32 group against Human Rights Defenders (HRDs) in Vietnam from June 2020 to present. We have identified several HRDs from Vietnam targeted by malware attacks that we attribute to APT32.

These attacks are happening in an already tense Human Rights context, with a strong repression of HRDs both offline and online. The report titled "[Let Us Breathe](#)" published in December 2020 describes the systematic repression of peaceful online expression in Vietnam, through the use of censorship and with the help of Facebook and Google. We also documented online harassment and criminalization of activists and bloggers.

Targeted surveillance operated by the group named Ocean Lotus (another common name for APT32), are adding another layer of insecurity and repression to the bloggers and activists expressing their rights online. While we cannot link these attacks formally to APT32 activities, there are multiple examples of accounts or websites being compromised shortly before people were arrested. For instance, in November 2019 the journalist Pham Chi Dung, founder of the Independent Journalists Association of Vietnam, reported that his website vietnamthoibao.org was hacked. A few weeks later, [he was arrested](#) for "making, storing, or spreading information, materials or items for the purpose of opposing the State of the

Socialist Republic of Viet Nam”. He is still in jail today, waiting for his trial in January 2021.

Because of this repression, a large part of the human rights community from Vietnam lives outside of the country. Two of the people and organizations we identified as targeted by APT32 were outside of Vietnam. Living and engaging in activism outside of the country protects them from the physical harm and surveillance they face within the country, but the attacks from APT32 can threaten activists and journalists beyond Vietnam’s borders.

Do you have a sense of how this malware attack has undermined the freedom of the press in Vietnam?

The online repression described above clearly affects journalists and media. According to Reporters Without Borders (RSF), 7 journalists were arrested in 2020 in Vietnam, and many bloggers were arrested including Do Cong Duong, Phan Cong Hai, Phan Kim Khanh, Pham Thanh, and Nguyen Tuong Thuy

Due to limitations in freedom of the press in the country, many independent media are based outside of Vietnam. Yet, these malware attacks are used to target them. In November 2017, the American company Volexity released a report describing APT32 successful attacks of more than 100 websites. The attackers injected code in the website in order to profile and attack selected visitors. Among these websites, more than 80 are Vietnamese media, human rights organizations, bloggers or religious organizations. In 2018, the company ESET identified 21 websites compromised in the same way by APT32, including 10 Vietnamese media websites. These attacks are going far beyond surveillance of people in Vietnam and may have been used to compromise systems and identify visitors or collaborators of Vietnamese media, even those based outside of the country.

AGH Subcommittee Hearing Remarks
“International Human Rights and Closing of Civic Spaces”
December 9, 2020

Chair (countdown): Five, four, three, two, one.

[Pause for three seconds, bang gavel]

Chair: The Subcommittee on Africa, Global Health, Global Human Rights, and International Organizations will come to order. Without objection, the Chair is authorized to declare a recess of the Subcommittee at any point and all members will have five days to submit statements, extraneous material and questions for the record, subject to the length limitation in the rules. To insert something into the record, please have your staff email the previously mentioned address or contact full committee staff.

As a reminder to Members, please keep your video function on at all times, even when you are not recognized by the Chair. Members are responsible for muting and unmuting themselves and please remember to mute yourself after you finish speaking. Consistent with the H.Res. 965 and the accompanying regulations, staff will only mute members and witnesses as appropriate when they are not under recognition to eliminate background noise.

I see that we have a quorum and will now recognize myself for opening remarks.

Pursuant to notice, we are holding a hearing on International Human Rights and Closing of Civic Spaces.

I would like to thank our distinguished witnesses, Ms. Joanne Linn, National Director for Advocacy and Government Affairs at Amnesty International USA, Dr. Courtney Radsch, Advocacy Director for the Committee to Protect Journalists, and Ms. Emilie Kao, Director of the Richard and Helen DeVos Center for Religion & Civil Society at the Heritage Foundation for joining us today. We look forward to your suggestions on ways to enhance and better protect individual and collective human rights, particularly in the time of a global pandemic where governments may misuse their powers to limit the rights of their citizens.

Today, we hold this hearing on the eve of International Human Rights Day, (December 10), which is reserved to commemorate the adoption of the Universal Declaration of Human Rights in 1948. By definition, Human Rights are fundamental rights and freedoms to which we all are equally entitled without distinction based on place of residence, gender, national or ethnic origin, religion, sexual orientation, or any other status. Human Rights are universal and inalienable, indivisible and interdependent, and equal and non-discriminatory.

Today, we emphasize the importance of preserving international human rights by reviewing and finding solutions to the various obstacles confronting the protection and expansion of human rights for more people. Since 2019, the world has witnessed governments throughout the world take deliberate measures to limit rights and freedoms. I have highlighted human rights atrocities across the world and want to mention a few.

I have urged governments to: cease internet blackouts and social media disinformation in countries such as Ethiopia, Zimbabwe, and Tanzania; stop journalists from being detained such as Matias Guente in Mozambique; stop the abuse of citizens who disagree with governments, such as Bobi Wine in Uganda or Maurice Kamto in Cameroon; and end electoral reforms that remove presidential term limits, such as in Guinea.

- I have called out governments for abusing citizens because of their religious practices, called for the end of human trafficking, and the displacement and mistreatment of immigrants across the world.
- I have called out governments for election tampering, interfering with the judicial process, and using constitutions to manipulate presidential term limits.
- And, I have called out this Administration on various issues with other Members of Congress including the mass deportation of Eritreans and other

countries with large populations of people of color during Trump's Muslim Travel Ban!

Whether it is introducing legislation in 2017 to try and build a comprehensive strategy to address the humanitarian and security crisis in Yemen; encouraging adherence to the rule of law and not support irregular unconstitutional transfers of power in Venezuela; or calling out Tanzania and Zimbabwe for internet suppression, I believe everyone should have fundamental basic human rights without constraint or fear .

All of us should take a pause and reexamine our role as public servants, Members of Congress, and members of a global society writ large. We must continue to follow these issues closely, create spaces where all citizens can discuss them, and support the changes necessary to protect and promote the human rights of every individual.

I know my colleagues and I will be listening closely to your solutions of creating greater opportunities for inclusion, and spaces to assemble peacefully and speak freely.

I would like to thank our witnesses for participating in this important hearing, and our Committee is looking forward to hearing your recommendations on how to strengthen human rights on a global scale.

I now recognize the ranking member for the purpose of making his opening statement.

CHAIR: Thank you very much, Ranking Member.

I will now introduce the witnesses.

I will now recognize each witness for five minutes and without objection, your prepared written statements will be made a part of the record. I will first call on Witness 1 for their testimony.

CHAIR: Thank you for your testimony. I will now recognize members for five minutes each and pursuant to House rules, all time yielded is for the purposes of questioning our witnesses. Because of the virtual format of this hearing, I will recognize members by Committee seniority, alternating between Democrats and Republicans. If you miss your turn, please let our staff know and we will circle back

to you. If you seek recognition, you must unmute your microphone and address the Chair verbally.

I will start by recognizing myself.

[QUESTION FOR WITNESS]

[WITNESS 1 RESPONDS]

CHAIR: I will now call on members for questioning. I will start with Mr. Smith, our Ranking Member.

[RANKING MEMBER QUESTIONS FOR WITNESSES]

[WITNESS RESPONSES]

CHAIR: Thank you Mr. Smith. I will now recognize Members by Committee seniority, alternating between Democrats and Republicans.

CHAIR: Member questions are now concluded. I will now move on to my closing remarks.