

MARCH 2, 2019

The Perils of the Internet

**A South Asia Media
Defenders Network
(SAMDEN) convening**

Annexure 2

Background Note

Almost all South Asian countries have laws – remnants of a colonial past – that often impede journalists from carrying out their full mandate. Last November, for instance, Manipuri journalist Kishorechand Wangkhem was arrested for uploading online content criticising the leaders of the state and central governments. His charge, strangely, fell under the National Security Act (NSA) – a law that is supposed to be invoked, ideally, against an individual who acts “in a manner which prejudicial to the defence of India, relations with a foreign power, security of India, security of state or maintenance of public order”.

As noted above, media workers in India – and indeed, also in surrounding countries – can be punished by arrest under various sections: criminal defamation, sedition, morality, obscenity and expressions of sexuality, among others.

In SAMDEN’s second convening, we will focus on the specific provisions of the Information Technology Act and see how these are sought to be used against free speech and reportage in India. The vaguely worded Section 67 and 67(A) of the IT Act that penalises “Obscenity, Publishing Sexually Explicit Acts” was, for instance, used to arrest journalist [Prabhat Singh, March 2016](#) for criticising fraudulent arrests by the Bastar Police over Whatsapp.

Yet other Sections of the Act give the government an astonishingly wide scope for surveillance: Section 69 can let any government official or policeman to listen in to your calls, read your SMSs and emails, and monitor the websites you visit, without a magistrate’s warrant. The government can also block websites under Section 69(A). More recently, through the proposed IT [Intermediary Guidelines (Amendment) Rules] 2018, it also wishes to give service providers and platforms greater powers to monitor, censor and block user content – a move that has drawn criticism from rights groups across India as well as the United Nations Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression.

Legal woes are part of what plagues free speech in the country – the other being downright violence, assault and intimidation, both on and off the screen. According to the Committee to Protect Journalists (CPJ), at least 47 journalists have been killed in India over the past 20 years -- 11 since 2014. Several, if not all, of these journalists received threats beforehand for the (often sensitive or controversial) work they had been doing. Last March, Sandeep

Sharma, a journalist from Madhya Pradesh who was investigating the sand mafia was killed in a “road accident”. He had earlier sought police protection after having received threats. He got no help. Before her murder, Gauri Lankesh had been the target of an active online hate campaign. However, even despite concerns expressed by United Nations Special Rapporteurs (after severe online threats against journalist Rana Ayyub), journalists in India continue to get attacked in varying magnitudes, sometimes receiving death threats, without much to protect them.

While all threats do not end in acute violence, they often force editors and organisations to withdraw critical stories, quit their jobs, or suffer a heavy psychological toll. Some end in physical attacks meant to serve as warnings. A [study by Trollbusters and the International Women's Media Foundation](#) found that “around 40% of the female journalists they interviewed across the world had stopped writing about stories they knew would be lightning rods for attacks”. These dangers can no longer be ignored. Journalists have the right to practice their chosen profession, and threats must be condemned and acted upon. Perhaps an answer to this violence can be a national legislation along the lines of the Maharashtra Media Persons and Media Institutions (Prevention of Violence and Damage or Loss to Property) Act, 2017 to protect journalists from threats and attacks, and ensuring police action against cybersecurity threats. We propose to develop and work around these areas in this convening.

Expected outcomes:

- **Critiquing existing IT laws** to see if amendments can be proposed to preserve the freedom of the press without disadvantaging provisions for national security;
- Deliberating on the provisions of existing legislation such as the Maharashtra Media Persons and Media Institutions (Prevention of Violence and Damage or Loss to Property) Act, 2017, and the proposed draft on journalist safety in the state of Chhattisgarh and **proposing a draft national legislation along its lines**. We will also consider Mexico's Mechanism to Protect Human Rights Defenders and Journalists (*please see your resource package for these documents*);
- **Raising public awareness** about attacks against journalists;
- **Producing a handbook** for dealing with online harassment, doxing, and implicit or explicit threats (in English, and eventually in vernacular languages).

Agenda

Registration and Tea: 9:30 am	
<p style="text-align: center;">Session 1 10:00 am-1:00 pm</p> <p style="text-align: center;">Critiquing IT laws which are/may be used against media freedom, and proposing amendments</p>	<p>Opening Remarks: Sanjoy Hazarika, Co-Convenor, SAMDEN, and International Director, CHRI</p> <p>Chair: Kishore Bhargava, Technology Mentor, LinkAxis Technologies</p> <p>Speakers: Mahfuz Anam, Editor and Publisher, The Daily Star, Dhaka (over Skype); Commodore Lokesh Batra, RTI activist; Akshit Sangomla, Down to Earth; Anju Anna John, project officer, police reforms, CHRI</p>
11:30 am: Tea Break	
<p style="text-align: center;">Session 1, continued</p> <p style="text-align: center;">Should we think of legislation to protect journalists?</p>	<p>Session talking points: Are there elements in existing legislation that can be used to draft a national legislation? <i>(see study pack for these documents, as well as a critique)</i></p>
Lunch: 1:00 pm-1:45 pm	
<p style="text-align: center;">Session 2 1:45 pm-4:00 pm</p> <p style="text-align: center;">When Journalism can be Fatal: A Conversation around the perils of the Internet</p> <p style="text-align: center;"><i>Navigating the challenges and blurred lines between hate speech, threat to harm and actual harm</i></p>	<p>Chair: Venkatesh Nayak, Programme Head, Access to Information programme, CHRI</p> <p>Speakers: Rana Ayyub, independent journalist and author; Smriti Singh, Amnesty India; Patricia Mukhim, editor, The Shillong Times; Apar Gupta, Executive Director, Internet Freedom Foundation; Joanne, Internet Freedom Foundation; Kumar Lopez, Director, Sri Lanka Press Institute (SLPI); Sanjoy Hazarika, Co-Convenor, SAMDEN, and International Director, CHRI; Paranjy Guha Thakurta, Journalist, author and film-maker</p> <p>Session talking points:</p> <ul style="list-style-type: none"> • Delineating the biggest threats to journalists in the online space with first person accounts • At what point does hate speech and trolling cross to actual threats to life and liberty? • The psychological and emotional impact of 'non-physical' online attacks • What can be done?
<p>Conclusions/Recommendations Tea: 4:00 pm</p>	