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COVID-19 IS NEW PRETEXT FOR OLD TACTICS OF REPRESSION IN GCC

Countries of the Gulf Cooperation Council (GCC), specifically Bahrain, Kuwait, Oman, Saudi Arabia, and the United Arab Emirates (UAE), have used the COVID-19 pandemic as a pretext to continue pre-existing patterns of suppressing the right to freedom of expression in 2020. Starting in March 2020, as the virus began to spread in the GCC, all of these governments have issued statements to all people in the country warning of criminal liability for publishing “false news” or “spreading misinformation”, and in many instances have prosecuted individuals who posted content on social media about the pandemic or the government’s response. In none of the cases analyzed by Amnesty International has the organization found the responsible states to have made any effort to demonstrate that the restrictions and penalties imposed on comments posted online were truly necessary to protect public health, let alone proportionate as the least restrictive means available to fulfill a well-defined public health need.

Amnesty International has reviewed official statements by these countries, issued via government social media accounts and comments given by government sources for reporting in the controlled domestic press, for the period from March to present. In the cases analyzed by Amnesty International, countries in the GCC have failed to demonstrate that the restrictions on freedom of expression can be justified under the narrow exceptions permitted under international human rights law and standards, which may be permissible for the protection of public health among other legitimate objectives. Indeed, it appears that investigations, summons, and prosecutions are often being initiated specifically to target online criticism of these governments’ responses to the pandemic, which falls clearly within the right to freedom of expression. Such a policy is wholly inappropriate as a pandemic response. Given that prisons are an environment particularly conducive to spread of the novel coronavirus, the priority should be on thinning out of prison populations.

Amnesty calls on these governments to cease using COVID-19 as a pretext for prosecuting individuals who are exercising their right to freedom of expression, and to urgently step up their efforts to ensure that they disseminate reliable, accessible, evidence-based and trustworthy information, including on the measures that are being taken to protect public health and address the pandemic, which is crucial to counter false and misleading information.

REGIONAL BACKGROUND

Throughout the GCC, a years-old pattern of summoning, interrogating, arresting, prosecuting, and imprisoning those who post online comments that cast the government in a negative light – or that the government perceives as such – continues in 2020, but now with the frequent invocation of COVID-19 and the protection of public health as a justification. While some of the content singled out in criminal investigations and prosecutions mentioned COVID-19, none of the details reported by the authorities establish that these comments went beyond what is permissible under the right to freedom of expression or put anyone at risk. Other online comments that led to prosecutions were related only tangentially, or not at all, to the pandemic, and simply represent the continuation of existing patterns of repression seen in these Gulf states.

In Bahrain and Kuwait especially, government sources have indicated that substantial resources are being devoted to quashing online discussion, and in Kuwait, in particular, the government has disclosed that stepped-up activity in state monitoring of social media has led to an exceptionally high number of investigations and prosecutions related to expression online this year. In Qatar, Amnesty International remains concerned that the government retains laws that unduly restrict the right to freedom of expression, and in fact has [added more laws](#) curbing this right early this year, though the organization has not documented new prosecutions under these laws in connection with the pandemic. After one of the major national newspapers in Qatar, *al-Raya*, published a report reproducing the content of the new law curbing freedom of expression in January this year, the editors abruptly reversed course, issuing an “apology” for

publishing something “without verifying with the responsible authorities” and for “having stirred up argument”, and had within 24 hours deleted the story and all references to it from their website and social media accounts.¹

All of these Gulf countries have maintained pre-existing restrictions on communications technologies during the pandemic. These restrictions have had particular impact on non-nationals, who in some countries represent up to 85% of residents, given that restrictions on communications technologies have hindered their ability to connect with their families abroad. Relatives of low-paid migrant workers often remain in the countries of origin of the GCC’s “guest worker” population, usually due to restrictive visa policies and failure to pay wages that could secure just and favourable living conditions for the workers and their families. The UAE, which maintains some of the most extensive restrictions on communication technologies in the Gulf, has been particularly non-transparent about its policies on international calls, [disregarding](#) queries from the press on the subject.

RECENT COUNTRY PRACTICES JUSTIFIED AS COVID-19 RESPONSES

BAHRAIN

Bahrain’s Office of Public Prosecution [announced](#) in mid-March that it “will confront decisively ... anyone who publishes or participates in the circulation of false news and biased rumors” during the pandemic, since circumstances demand citizens’ “support for the agencies and institutions of the state”. It accompanied this policy statement with the news that it had “ordered the preventive detention”, preparatory to “urgent prosecution”, of a man who had made a voice recording which was “circulated on a social media site” claiming that Bahrain would impose a state of emergency due to the pandemic. The irony is that, while Bahrain has not formally declared a state of national emergency, doing so is one of the few conditions under which it could lawfully derogate from the right to freedom of expression (under Article 4 of the International Covenant on Civil and Political Rights, to which it is a party).

On 20 March, the Cyber Crime Directorate within the Ministry of Interior [announced](#) that it had 16 employees “working around the clock” to “monitor and track offending [social media] accounts”, reporting that it had recently opened over 60 new investigations and referred over 40 social media users for prosecution for “disturbing public security”. The Ministry invoked Article 168 of the Penal Code as a legal basis for its actions, referring to one of multiple provisions of Bahraini law that criminalize publication of “false news” or other information the government deems untrue. The Ministry made vague connections between the posts and COVID-19, complaining that “despite the current circumstances” a number of social media users continued to post content the government disapproves of. This weak attempt at a pandemic-related justification by the authorities – which fails to show that these criminal proceedings were a necessary and proportionate step to achieve a legitimate health goal – highlights the fact that the policy, like the laws used to enforce it, are part of much longer-term patterns of repression.

KUWAIT

On 19 March, the Kuwaiti press, relaying information from government sources, [reported](#) that the Office of Public Prosecution had “raised the tempo to work around the clock” on suppression of “false news about the coronavirus”, going as far as “reducing orders for arrest in other cases that can bear delay” in order to “focus now on” prosecutions relating to content online. Kuwait has thus deprioritized the prosecution of other crimes in order to focus on these offences, which under various provisions of Kuwaiti law can lead to prison sentences. While the WHO and other international mechanisms have urged countries to move promptly towards prison decongestion, Kuwaiti authorities seem to be moving towards the opposite direction by aggressively stepping up prosecutions for people who are freely expressing themselves, even if prisons are dangerous hotspots during a pandemic. Among the examples cited by the government of prosecutions raised in connection with coronavirus were one of a defendant who “published false news about major spread of the virus in Egypt without proof” – a claim that, whether true or false, is clearly protected speech under international human rights law and should not have warranted criminal action.

A month after the disclosure that the Office of Public Prosecution was working “around the clock” to prioritize investigations of dissemination of “false news”, a source with the Ministry of Information [informed](#) another Kuwaiti news outlet that the Ministry had devoted intensive labor to “monitor[ing] websites and news services that broadcast lies and rumors and provoke sedition” since the pandemic began. This included referral of “25 news services sites” for prosecution within a few months, a volume “equivalent to a full year’s work” in previous years. The controlled Kuwaiti

¹ As of today, the apology, too, has been deleted from the [URL](#) where it was published, though it can still be viewed in the [PDF](#) of the print edition for the date of publication and [via](#) the Internet Archive project.

press has [warned](#) that even dissemination of disapproved information on private networks such as WhatsApp can subject users to criminal liability carrying a term of three to 15 years in prison.

OMAN

On 22 July, Oman's Office of Public Prosecution [Tweeted](#) that it had secured the conviction of an individual for "publishing material that infringes on public order", with a punishment of six months in prison and a fine of 1,000 Omani rials (over \$2,500 USD). The official account [went on](#) to explain that the case arose when the "the Office of Public Prosecution monitored on the accused's account Tweets stirring up social division and regionalist chauvinism, about some residents of the country hit by the coronavirus not being given free medical care". The official Twitter account set up by Oman's Government Communications Center for COVID-related information has [reported](#) several other prosecutions of individuals who "incited" against the positions taken by state health agencies.

Just five days after the first confirmed cases of coronavirus were officially reported in Oman, the new Sultan Haitham bin Tarik [issued a decree](#) reaffirming the extraordinary powers of the Internal Security Agency, which has an open-ended mandate "to combat activities harmful to the Sultanate's security and stability" and has repeatedly been implicated in the arrest of individuals for exercising their right to freedom of expression. Like other countries in the region, Oman provided another legal weapon for use against expression that is deemed critical by the authorities even as the virus began to spread within the country.

SAUDI ARABIA

In March, the Office of Public Prosecution [announced](#) on Twitter that it was prohibited to produce or publish rumours related to goods and services leading to false marketing, or what would result in misleading and false perceptions about these goods and services, and that violators would face criminal responsibility. Furthermore, the Office of Public Prosecution [added that](#) "producing photos or videos that violate curfew or instigate against it and publishing these through information technology is a major crime which warrants arrest and is punishable under Article 6 of the Anti-Cyber Crimes Law". Within ensuing days, the Public Prosecution and General Security announced the arrest of several individuals for their comments online, including for "mocking the COVID-19 crisis" and for photographing empty shelves.

Article 6 of the Anti-Cyber Crime Law states that the "production, preparation, transmission, or storage of material impinging on public order, religious values, public morals and privacy, through the information network or computers" is a crime punishable by up to five years' imprisonment and a maximum of 3 million riyals as a fine (\approx \$800,000 USD). Saudi courts have repeatedly invoked this law, and particularly this provision, when convicting and sentencing government critics and human rights defenders for peacefully exercising their rights to freedom of expression and association, citing tweets and other online messages as evidence, according to court judgements analysed by Amnesty International.

UNITED ARAB EMIRATES

On 16 March, the UAE's federal Attorney General, Hamad Saif al-Shamsi, held a press conference [warning](#) the public that "Spreading fake information and rumours is a crime punishable by law", specifying in particular that those "[s]preading rumors about the virus on social media", even "out of ignorance", "will face legal consequences". He added that a number of people had [already](#) been summoned and sent to court on these grounds. Other government agencies, both [federal and at the emirate level](#), have repeated such threats of imprisonment.

On 1 April, the local police force of Ajman emirate [published](#) a video on its Twitter account threatening legal consequences for spreading "rumours" about COVID-19, citing as one such unacceptable "rumour" that COVID-19 is transmissible via sneezing up to a range of eight metres. Instead of focusing on disseminating accurate and trustworthy information on the measures that are being taken to protect public health and address the pandemic, the government placed its attention on prosecuting individuals who were simply discussing matters of national concern. On 3 April, the Dubai police [reported](#) that they had arrested an "Asian youth" who posted "news with no basis in truth" on social media, and reiterated warnings like those of federal Attorney General al-Shamsi that publishing "misleading" material is a crime and that "anyone" publishing "biased" items could be imprisoned for a minimum of one year.

INTERNATIONAL LEGAL STANDARDS

The right to freedom of expression is enshrined in Article 19 of the International Covenant on Civil and Political Rights (ICCPR) and Article 19 of the Universal Declaration of Human Rights (UDHR). Bahrain and Kuwait have both acceded to

the Covenant; Oman, Saudi Arabia, and the UAE are among the few UN member states that are not parties to the Covenant.

Article 19 allows for limited circumstances when the right might be restricted. Public health may be invoked as a ground for limiting the right to freedom of expression in order to allow a state to take measures dealing with a serious threat to the health of the population, but such measures must be provided by law and be necessary and proportionate, and specifically aimed at a relevant legitimate purpose such as preventing the spread of or otherwise addressing a disease like COVID-19, or providing care for the sick.

The Human Rights Committee, which is the UN mechanism tasked with monitoring compliance with the ICCPR, has stressed that the word *necessary* in Article 19 is not empty verbiage and that any restrictions on expression imposed in the name of public health “must conform to the strict tests of necessity and proportionality”. As the Committee explains, “It is for the State party to demonstrate the legal basis for any restrictions imposed.... [I]t must demonstrate in specific and individualized fashion ... the necessity and proportionality of the specific action taken”, which “must be the least intrusive instrument amongst those which might achieve” the protection of public health.²

Blanket prohibitions on the dissemination of information, based on vague and ambiguous concepts such as “false news” or “spreading misinformation”, are incompatible with international human rights law and standards since they fail this test. International law does not permit general prohibitions of expressions of an erroneous opinion or an incorrect interpretation of events.³ Therefore, legislation prohibiting and criminalizing “false news” is in clear violation of the right to freedom of expression,⁴ and risks having a chilling effect on the general population and media leading to self-censorship out of fear of reprisals.

The best way to pre-empt negative consequences of “misinformation”, spread maliciously or not, is for the authorities to build up a reliable and prompt system of accurate information that leads to increased trust by the general public. This is essential to effectively contain the spread of the virus and avoid harmful misdirection of resources. In order for the public to have that trust, affected communities and society at large need to have access to all relevant and available information. States should therefore step up their efforts to ensure that they disseminate reliable, accessible, evidence-based, and trustworthy information, including on the measures that are being taken to protect public health and address the pandemic, which is crucial to counter false and misleading information.⁵

² UN Human Rights Committee, [General Comment No. 34, Article 19: Freedoms of opinion and expression](#), UN Doc. CCPR/C/GC/34, 12 September 2011, paras. 22, 27, 35, 34.

³ Human Rights Committee, General Comment No. 34, para. 49.

⁴ UN Special Rapporteur on Freedom of Opinion and Expression, OSCE Representative on Freedom of the Media, Special Rapporteur on Freedom of Expression of the Inter-American Commission on Human Rights, and the Special Rapporteur on Freedom of Expression and Access to Information of the African Commission on Human and Peoples' Rights, [Joint Declaration on freedom of expression and “fake news”, disinformation and propaganda](#), 3 March 2017, para. 2.a.

⁵ UN Special Rapporteur on Freedom of Opinion and Expression *et al.*, [Joint Declaration on Freedom of Expression](#), para. 2.d.