

PRESENTED TO

UNITED NATIONS SPECIAL RAPPORTEUR ON THE
PROMOTION AND PROTECTION OF THE RIGHT TO
FREEDOM OF OPINION AND EXPRESSION

SUBMISSION

Media Freedom in the Digital Age

Introduction

The Greater Internet Freedom (GIF) consortium is grateful for the opportunity to provide input regarding the scope and protection of media freedom in the digital age, a critical component of the right to freedom of opinion and expression. GIF is a global program operating across 40 countries. GIF unites four international partners, seven regional partners, and more than 40 local organizations and beneficiaries fighting to preserve an open, secure, accessible, reliable, and interoperable internet—and by extension, protect the human rights enabled by access to the internet.

This submission is a collaborative effort by forty GIF consortium partners, led by the International Center for Not-for-Profit Law (ICNL), to highlight key opportunities, challenges, and threats to media in the digital age in response to the UN Special Rapporteur's call for comments, with a focus on digital media freedom. ICNL gathered inputs from GIF partners for this submission through 1) a survey that asked respondents to identify and provide examples of key threats and opportunities in their countries and regions, and 2) a workshop on January 11, 2022, that provided space for more in-depth discussion. Through these two avenues, ICNL received input from organizations in Angola, Armenia, Bangladesh, Bolivia, Bosnia and Herzegovina, Georgia, Indonesia, Kazakhstan, Kenya, Kyrgyzstan, the Maldives, Nigeria, the Philippines, Serbia, Sri Lanka, Tajikistan, Ukraine, Uzbekistan, Zambia, and Zimbabwe.

In the submission that follows, we describe notable laws and policies impacting digital media freedom and specific impacts of restrictions on women journalists and journalists from marginalized communities. We then discuss responses to restrictions on digital media freedom by civil society and media organizations, and close with recommendations for key stakeholders.

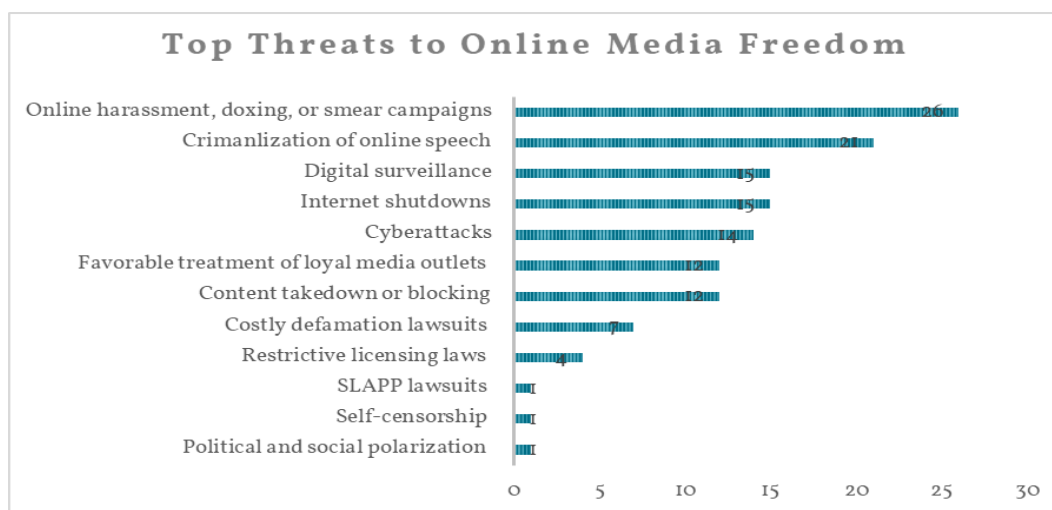
Laws and Policies Impacting Digital Media Freedom

In the survey, GIF partners were asked to identify the top three digital threats impacting media freedom in their country or region. The survey options included:

- restrictive licensing laws for independent online media outlets;
- criminalization of online speech leading to the arrest of journalists and media representatives;
- costly defamation lawsuits that accuse online media outlets of spreading fake news or misinformation;
- online harassment, doxing, or smear campaigns against journalists and media outlets;
- favorable treatment of online media outlets that are loyal to and do not criticize the government;
- content takedown or blocking of material published by journalists and media outlets online;
- digital surveillance of journalists;
- cyberattacks targeting journalists and media outlets; and
- internet shutdowns that hinder the work of journalists to report on and publicize the news.

In addition, respondents could choose “other” and include an alternate response. Three respondents chose this option and wrote in self-censorship, political and social polarization, and SLAPP lawsuits.

A summary of the responses to the survey follows:



ONLINE HARASSMENT, DOXING, OR SMEAR CAMPAIGNS

Twenty-six responses identified “online harassment, doxing, or smear campaigns against journalists or media outlets” as one of the primary threats to media freedom in the digital age. Respondents provided examples of governments and politicians harassing journalists or media outlets themselves and encouraging non-state actors to do so and failing to devote resources to protect journalists or investigate incidents of harassment. Often, online harassment targeted journalists reporting critical stories about the government, government policies, or political leaders.

In the **Philippines**, journalists who criticize President Rodrigo Duterte are subject to smear campaigns. President Duterte himself calls journalists “spies” and “vultures,” while pro-Duterte media outlets and public figures refer to journalists as “presstitutes” on social media platforms. Similarly, GIF partners from Zambia, Uzbekistan, Tajikistan, and Bangladesh reported online harassment against journalists who reported on government corruption or other stories critical of government officials.

It is important to note that harassment is not always limited to the online world. In **Tajikistan**, online harassment of journalists has been followed by physical harassment, with the police conducting unauthorized raids of media outlets and journalists’ homes to confiscate computer equipment, which in at least one case led to a journalist’s arrest. Independent journalist Abdullo Gurbati was beaten by unknown assailants following an online smear campaign against him for his reporting about Covid-19 in Tajikistan. As political polarization has increased in **Bolivia**, politicians have harassed journalists online, while private citizens have physically assaulted them in the streets.

Regardless of whether the culprits are state or non-state actors, online harassment, threats, and physical attacks are rarely investigated by authorities. In **Serbia**, prosecutors seldom pursue cases that involve attacks against journalists. Journalist Milan Jovanovic still has not received redress and damages after a former mayor ordered an arson attack on his home despite widespread domestic and international condemnation of the incident. After years of obstacles imposed by authorities during the investigation and trial, an appeals court overturned the conviction of the former mayor in December 2021. By failing to hold perpetrators of attacks against journalists accountable, it increases risks that journalists will be subject to ongoing harassment.

As discussed in more detail in Section III, women journalists and journalists from marginalized backgrounds are at increased risk of online harassment.

CRIMINALIZATION OF ONLINE SPEECH

Criminalization of online speech was also identified as a primary threat to media freedom in the digital age. Websites, blogs, and social media have enabled a diverse range of traditional and new journalists, such as citizen journalists, to report on the news, including stories that are perceived as critical of governments. At the same time,

social media has facilitated the spread of hate speech and disinformation. Governments have reacted by enacting laws that criminalize speech online under the pretext of national security, combatting “fake news,” protecting citizens against hate speech, or preventing cybercrime. However, the provisions of these laws often prohibit overly broad and vague categories of speech. This in turn enables authorities to arbitrarily prosecute speech they find critical of governmental figures or policies., thereby preventing journalists from reporting the news.

In **Bangladesh**, the [Digital Security Act](#) (DSA) has been used [to target and arrest journalists](#) since it was enacted in 2018. Charges include the unauthorized collection of information, publishing and transmitting false or defamatory information, and publishing and transmitting information that creates hatred between classes or communities of society. The DSA’s language is so vague that journalists simply reporting about the actions of government officials [have been found](#) to be in violation of its provisions.

In **Kazakhstan**, an alleged violation of Article 274 of the Criminal Code, which prohibits the dissemination of false information, was used to justify the [detention](#) of the author of the satirical Instagram page [Qaznews24](#). The page included absurd news stories, including stories that satirized officials. Police arrested the author on the basis that other users shared the page’s posts, spreading “fake news,” despite satire being a protected form of speech under international law.

In **Zimbabwe**, authorities [arrested a journalist](#) multiple times for inciting violence and spreading criminal falsehoods based on tweets about government corruption and government abuses during the country’s Covid-19 lockdowns.

In **Tajikistan**, authorities have opened several criminal cases against independent online journalists. [Khairullo Mirsaidov](#) was convicted of embezzling and misusing state funds and of making false reports to police after reporting on government corruption. [Daler Sharipov](#) was convicted of incitement to religious hatred after publishing a study that concluded that Islam did not justify acts of terrorism.

In **Indonesia**, the government has used the Electronic Information and Transactions Act to arrest several journalists including [Dandhy Laksono](#), [Mohammad Sadly Saleh](#), [Muhamad Asrul](#), [Diananta Putra Sumedi](#), [Fadli Aksar](#), [Wiwid Abdi Abadi](#), and [Gencar Djarot](#).

From Sri Lanka to Zambia to Bolivia, GIF consortium partners cited examples of journalists and non-journalists who posted content on social media being arrested and investigated. These threats, harassment, and prosecution of people who question or deviate from pro-government positions has created a climate of self-censorship, thereby curtailing media freedom both online and offline.

INTERNET SHUTDOWNS AND CONTENT BLOCKING

Internet shutdowns prevent everyone from receiving and imparting information online. The media and journalists are particularly affected by internet shutdowns: they can neither access information nor publish breaking news or reports. GIF consortium partners from Uganda, Zambia, and Indonesia described government-ordered internet shutdowns in the lead-up to elections or to quell dissent during protests. At times when access to information is most important, journalists are instead prevented from disseminating information to the citizenry. Partners from Tajikistan reported that losing access to online resources makes it difficult to evaluate or corroborate the authenticity of information and prevents citizens from following news about issues that impact their lives.

In **Uganda**, the government [ordered](#) a 5-day internet shutdown during the January 2021 elections and restricted access to over 100 VPNs to prevent citizens from circumventing the shutdown.

Governments seldom rely upon specific laws to authorize such shutdowns. The 2019 internet shutdown in Papua, **Indonesia**, for example, was justified based on “public interest,” with no other laws or justifications cited. Recently the Constitutional Court in Indonesia [upheld the decision](#), ruling that social strife was an adequate justification to block internet access (though, as noted in Section IV below, civil society did have initial success in challenging the shutdown).

Even when governments do not order a full shutdown, they may restrict access to certain sites or platforms. In September 2021, **Nigeria** [banned access to Twitter](#), which a GIF partner said is the most used social media platform by media organizations and individuals in the country. Although Nigeria [unblocked Twitter](#) in January 2022, the partner commented that the government needs Twitter to campaign and spread political messages in the lead up to the 2023 elections but will still try to control all other content on Twitter through content moderation policies. Recently, **Kazakhstan** [blocked media](#) sites, such as orda.kz and KazTag, as well as instant messaging services and social media platforms in response to protests across the country. There will also [reports](#) of localized internet shutdowns and a full shutdown during the unrest. In **Ukraine**, presidential decrees [have been used](#) to block almost 700 websites without a clear legal basis in domestic legislation, targeting, among others, major Russian services such as Vkontakte, Odnoklassniki, Mail.ru, and Yandex, that are deemed to threaten national security amidst the War in Donbas.

Some GIF countries plan to hold elections in 2022. GIF partners [expressed concern](#) that countries like Lesotho, Angola, and Zimbabwe are at risk of shutting down the internet in the lead up to and during upcoming elections, warning that this is an issue that should be monitored closely.

DIGITAL SURVEILLANCE AND CYBERATTACKS

GIF consortium partners also reported that governments have employed digital surveillance technologies and sponsored cyberattacks against journalists and media outlets. Due to the nature of these technologies, it is often difficult, if not impossible, to identify who ordered the surveillance or cyberattack. However, recent investigations by Citizen Lab, Amnesty International, and others have shed greater light on the practice of arbitrary or extrajudicial surveillance against journalists, media outlets, and civil society leaders. [According to Citizen Lab](#), Predator spyware was used to target journalists and other civil society actors around the world. Citizen Lab scanned for Predator spyware servers, and found that Predator spyware was used by customers in countries including but not limited to Armenia, Indonesia, and Serbia.

In **Kazakhstan**, a GIF partner expressed concern that authorities may be processing personal data from materials in the National Video Surveillance System to investigate disruptions in public order without obtaining consent of the personal data owner and without using the appropriate legal procedures established in the law.

In the **Philippines**, malicious actors have used distributed denial of service ([DDOS attacks](#)) to send a flood of inauthentic requests to the networks of media outlets, overloading their websites until the sites crashed and legitimate users were unable to access them. This happened to independent news sites like Rappler, ABS-CBN, and Pinoy Weekly. Although the culprits are unknown, similar cyberattacks [have been traced](#) to the Philippine Army, so it is suspected that the attacks were carried out or sponsored by the government. In **Nigeria**, journalists writing reports on public figures have also frequently been subject to [DDOS attacks](#) used to make websites inaccessible, as in the case of [2020 attacks](#) on the *Premium Times*.

In **Bolivia**, the government has [directed resources](#) to cyber-patrolling, in which the police and armed forces monitor websites, including social media, to determine whether Bolivians are posting content that the government deems to be misinformation about the Covid-19 pandemic. Although the government announced its intention to monitor only public open-source communications online, these [measures impact](#) private life, could lead to arrests, and threaten freedom of expression.

REGISTRATION AND FINANCIAL PRESSURES

Government policies related to registration and financial resources for media outlets can also lead to censorship. In **Indonesia**, [a new law requires all private electronic services](#), defined to include all media outlets that use electronic services, to register with the Minister of Communication and Informatics. Private electronic services are also required to prevent dissemination of “prohibited electronic information” and remove such prohibited information within 24 hours of receiving a take-down request (or 4 hours if authorities deem the takedown as “urgent”).

In **Uzbekistan**, when the government revokes or denies registration, the media outlet also loses access to government subsidies, which are only available to registered media. The government has increasingly clamped down on independent and opposition media outlets, with several outlets losing their official accreditation in 2005. Unregistered outlets are more reliant on foreign funding, which is also tightly controlled and does not provide outlets with reliable financial stability.

In **Bolivia**, a GIF consortium partner noted that that a lack of financial stability has undermined the independence of media outlets. Political leaders have used the inducement of revenues from political ads to push outlets to publish articles in favor of their political parties. Outlets that distance themselves and insist on independence have either closed or significantly reduced staff size in recent years. *La Razón* laid off more than 100 employees, *El Deber* laid off around 40 employees, *Los Tiempos* closed some branches, and *ERBOL* announced its closure.

Civil lawsuits against media outlets can also result in pressure to self-censor to avoid costly litigation in court or the payment of monetary damages, which courts frequently award to complainants. In **Georgia**, there is no registration or licensing required for online media, which allows them to operate with limited legal constraints. However, the threat of defamation lawsuits has the potential to chill the reporting of both digital and traditional outlets. For example, in 2021 three mayors of the governing Georgia Dream Party from Kutaisi, Poti, and Adigeni announced their intention to pursue defamation lawsuits against journalists, requesting 555,555 GEL each (approximately 18,000 USD). Such defamation lawsuits put an enormous financial burden on low-resourced media outlets.

Impacts of Digital Media Freedom Restrictions on Women Journalists and Journalists from Marginalized Communities

GIF consortium members noted several ways in which restrictions on digital media freedom disproportionately affect women journalists and journalists from marginalized communities.

In **the Balkans**, women journalists have been targeted by online attacks, including hate speech, sexual harassment, and misogyny, to a greater extent than their male colleagues. This hostile online environment stems in significant part from cultural norms, as well as the lack of any institutional protection for women. More generally, as the Balkan Investigative Reporting Network (BIRN) noted in a 2021 report, “[j]ournalists, particularly those dealing with investigative and political issues, remain most exposed to the risk of online attacks” in the Balkans, with “[w]omen, LGBT+ and Roma communities, national, racial, and other ethnic minorities suffer[ing] online attacks most frequently.”

In **Indonesia**, the organization PR2Media conducted a [survey](#) in 2021 regarding violence against Indonesian women journalists, both online and offline. More than 1,200 respondents participated in the survey, which confirmed the prevalence of online violence against women journalists. Nearly half of respondents stated that they had received harassing comments of a non-sexual nature (48%) or body shaming comments online (45%). Respondents also reported receiving harassing comments of a sexual nature (34%), being victims of misinformation/slander (28%), and receiving insults related to their ethnicity, religion, or race (22%).

In **Georgia**, women journalists and journalists not conforming to gender stereotypes are particularly likely to be targeted by unwarranted surveillance, online attacks, and harassment. In July 2021, a [massive leak](#) of data allegedly collected by the security services revealed that state surveillance disproportionately targeted female journalists. This surveillance followed [other incidents](#) in recent years of shadowy actors using illegal surveillance and the selective release of compromising videos to blackmail opposition female politicians and force them out of politics. Male journalists suspected of being gay have also been subject to online attacks, particularly if they criticize the government or opposition parties. These attacks often originate from people connected to the government or opposition parties, with these entities making little effort to distance themselves from such attacks.

In **Bangladesh**, women journalists are subject to greater harassment, including through legal sanctions, than male journalists. Journalists and civil society representatives voicing criticism of the government are often the subject of online attacks from Bangladeshi netizens, with especially harsh threats and verbal assaults against women journalists. Laws such as the Official Secrets Act have been used to crack down on critical reporting by women journalists, including the emblematic [case of Rozina Islam](#) last year.

Responses by Civil Society and Media to Digital Media Freedom Restrictions

GIF members described a host of initiatives by civil society and media organizations to push back against restrictions and expand digital media freedom.

SUPPORT FOR JOURNALISTS AND MEDIA ORGANIZATIONS

In many countries, civil society partners have conducted trainings for, and provided other supportive services to, journalists and media organizations.

In **Angola**, civil society organizations (CSOs) have trained independent journalists – who have primarily published reports through their own blogs – to bolster their ability to work through online platforms and encourage adoption of new technology and digital security measures.

In **Bolivia**, civil society partners have created a “SOS digital center” to address digital security issues and threats facing CSOs and media organizations. This center has provided support to more than 150 partners facing online harassment and threats, including restoration of email and social media accounts following online attacks, and has carried out workshops and digital security audits to help CSOs and media organizations minimize their digital risks.

In the face of numerous restrictions and attacks, CSOs in **Nigeria** have provided support to journalists to enable their continued reporting despite these restrictions and attacks, including by providing technical support to get websites up and running soon after DDOS attacks, and by sharing infographics on how media organizations can access social media despite the Twitter ban. More generally, CSOs have worked to sensitize journalists, including through trainings and participation in media conferences, on digital threats and appropriate digital security measures.

MOBILIZATION TO OPPOSE RESTRICTIVE MEASURES

There are also numerous examples of civil society effectively mobilizing to oppose the imposition of government restrictions on digital media freedom, including by engaging in advocacy to forestall the enactment of restrictive legislation and challenging rights-violating official actions in court.

In **Armenia**, civil society representatives mobilized in 2021 to successfully oppose enactment of a [proposed legislative change](#) that would have made it illegal for the media to quote anonymous sources, thus discouraging whistle-blowing and reporting on sensitive issues such as corruption. CSO partners worked together to issue a range of statements and opinions and take part in legislative discussions to highlight the negative consequence of the bill.

In **Indonesia**, CSOs had initial success in suing the government following a 2019 internet shutdown in Papua province. A three-judge panel [ruled](#) that the shutdown was illegal and found that decisions limiting people’s right to information must be in accordance with law and not merely a matter of government discretion (though, as described in Section II above, the shutdown was ultimately upheld by Indonesia’s Constitutional Court).

In **Ukraine**, civil society coalitions have mobilized to monitor and prevent government action with negative impacts on digital media freedom. Civil society has effectively forestalled enactment of proposed measures to, e.g., penalize the spread of disinformation, bolster content restriction, and implement restrictive elements of the Draft Law on Media.

In **Zambia**, partners mobilized to oppose enactment of a restrictive [cybersecurity and cybercrime law](#) with significant anticipated impacts on digital expression, including

through the development of international and comparative analyses of the proposed law; advocacy with parliamentarians, regulators, and ministers; and formation of a regional civil society coalition advocating for greater digital freedom and the revision of restrictive cybersecurity laws. While ultimately ineffective in preventing adoption of the law, this coordination provided a ready hub for advocacy when Zambia imposed a [social media blackout](#) in August 2021 in advance of presidential and parliamentary elections; Zambian partners mobilized immediately to oppose this anti-democratic action, including by filing court actions to contest the shutdown, resulting in reversal of the blackout after two days.

OTHER APPROACHES TO EXPAND DIGITAL MEDIA FREEDOM

CSOs have cooperated to bolster solidarity and mutual defense for journalists, enhance trust in media organizations, and build capacity to engage on digital freedom issues.

In **the Philippines**, civil society alliances have worked together to develop tools to [fight disinformation](#) and [empower citizen journalists](#) to provide reports to media organizations in order to expand public participation and build public trust in the media.

Throughout **Southern Africa**, CSOs have conducted trainings and capacity building for journalists on digital security and internet freedom to ensure they are able to keep safe online and understand their rights. CSOs have also pursued legal challenges to government actions curtailing media freedom and represented arrested journalists in legal proceedings *pro bono*. CSOs in the region have also conducted research in new areas, such as surveillance, privacy, and data protection, thereby increasing local capacity on these issues.

Recommendations for Key Stakeholders

GIF partners have identified several recommendations for governments, CSOs, and international actors to protect and expand digital media freedom.

GOVERNMENTS SHOULD:

- Repeal laws that are contrary to constitutional and international obligations regarding media freedom, including digital media freedom, and put in place legal frameworks to protect media freedom and the freedom of expression.
- Promote greater transparency regarding laws, especially new or proposed laws, with impacts on media freedom. Governments should undertake participatory review processes with civil society and other stakeholders on all such draft laws. Governments should compile and make public information about legal authorities permitting government bodies to surveil and restrict the activities of media organizations and journalists, including citizen journalists. Similarly,

governments should publicly explain the operation of proposed laws that would permit authorities to collect and store private information, including any mechanisms to ensure that privacy rights of individuals are not infringed.

INTERNATIONAL AND LOCAL CIVIL SOCIETY SHOULD:

- Work with governments and provide expertise where necessary to ensure laws respecting media freedom are put in place.
- Work with journalists to provide digital security and legal training, as well as *pro bono* legal representation where journalists face legal sanctions due to their work.
- Be attentive not only to laws restricting media freedom, but to laws enabling abuses by government entities that may chill digital media freedom in the future. For example, civil society activists should conduct advocacy and supportive interventions – including research, awareness-raising, and formation of cross-national coalitions – to ensure that the collection of electronic communications and data is subject to necessary safeguards and consistent with international human rights law, and to oppose adoption of legal frameworks that would authorize overbroad or indiscriminate collection of internet traffic data.

PRIVATE SECTOR ACTORS¹ SHOULD:

- Provide foreseeable and transparent policies on content moderation and consistently apply the provided rules.
- Adopt policies and practices to reduce online harassment and threats of women journalists and journalists from marginalized communities, including by devoting additional resources to enforcing existing policies concerning abuse and harassment, offering more accessible safety tools, and providing additional support and tracking of complaints during the abuse reporting process.
- Lend their own resources to promoting digital media freedom, including by challenging existing and proposed laws authorizing broad-based digital surveillance and criminalizing legitimate online expression, and providing support (including financial and legal support) to journalists facing sanctions and abusive litigation arising out of their expressive activities.

¹ Including social media companies, platforms, and internet service providers.

INTERNATIONAL ACTORS AND INSTITUTIONS² SHOULD:

- Highlight, including in country reviews, legal authorities and government practices restricting digital media freedom. Special mandates should pay special attention to and advocate against the adoption of proposed laws granting the government new powers to restrict online expression and media freedom.
- Promote greater opportunities for civil society to participate and greater attention to human rights issues in UN processes affecting online expression and digital media freedom. This includes pending negotiations on a UN Cybercrime Convention, as well as UN counterterrorism processes.

Contributing Organizations and Contact Information

Forty GIF consortium representatives contributed to this submission. The list below comprises the organizations that consented to being named. Members of the GIF consortium would be most pleased to discuss the content of this submission further, including to elaborate upon any of the cases referenced, and to answer any questions that the Special Rapporteur may have. For further information or if we can assist in any other way in the development of the report, please contact Shabnam Mojtahedi, ICNL Legal Advisor for Digital Rights, smojtahedi@icnl.org, or Zachery Lampell, ICNL Senior Legal Advisor for Freedom of Expression, zlampell@icnl.org.

CONTRIBUTING ORGANIZATIONS

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Associação Mwana Pwo
BIRN
Bloggers of Zambia
Bureau of Human Rights and Rule of Law
Civil Internet Policy Initiative
Co-Creation HUB
Digital Paradigm PF
Digital Security Lab Ukraine
Equal Opportunities
Eurasian Digital Foundation PF
Forum of Woman Journalists for Gender Equality
Fundación InternetBolivia.org
Hashtag Generation

² Including the UN Human Rights Council and its special procedures.

Human Rights Consulting Group PF
ICT Centre Tajikistan
International Center for Not-for-Profit Law
Internews
Institute for Development Freedom of Information (IDFI)
Kazguu University
Media Diversity Institute - Armenia
Media Institute of Southern Africa
Paradigm Initiative
Prevention Media
Public organization "Dawn"
Society for Peace and Democracy
SHARE Foundation
The Institute for Policy Research and Advocacy (ELSAM)
VOICE
Zambian Cyber Security Initiative Foundation
ЦПЖ (Центр переподготовки журналистов Узбекистана)