



Promoting Free Expression and Access to Information:

2009 Success and Impact Report

March 2010

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Introduction

ARTICLE 19's journey over the last 12 months has been largely influenced by the slow reversal of the democratic leap of the 1980s and 1990s at the same time as a transformation of the media landscape. In 2009, tensions between religion and free expression have remained high, including within the United Nations where difficult debates have taken place over "defamation of religion", the renewal of the mandate of the Special Rapporteur on Freedom of Expression, and the Durban Review Conference. Traditional media and the practice of journalism across the world have continued to be under pressure, whether arising from violence from governments or non state actors (including armed groups or criminal gangs), regressive legal standards, the financial crisis, or audience migration to the Internet. Legal regression through copycat has persisted and grown, with charity and NGOs becoming one of its primary targets in 2009. The internet has become both the last frontier for free speech but also the latest battleground for censorship and control, with governments around the world developing, implementing and sharing a vast array of technological and legal mechanisms to curtail its use. The situation for freedom of expression has continued to deteriorate in Sudan, China, Russia, Azerbaijan, Burma, Guinea, Yemen and Venezuela, to name a few. The protection of freedom of expression saw no progress in Burma and worsened in Sudan in 2009. The *Khartoum Advocacy Centre Blog* established in 2008 by A19 and its partners to combat censorship was closed down in 2009 and our partners are currently in exile.

There were some positive trends and victories. The number of killings of media workers has gone down in 2009, thus continuing the trend initiated in 2008. A few countries moved to decriminalize defamation, including the UK. New laws on access to government-held information were passed, particularly in Latin America. In 2009 as well, the Council of Europe (COE) adopted the first regional treaty on access to information. The Universal Periodic Review process has been positive overall: States included in the 2009 process have prepared a written report and many recommendations are detailed, clear and demanding.

ARTICLE 19 has sought to respond to this complex global environment by re-enforcing its legal, standard-setting and policy work, while strengthening its direct impact on the ground through results-based interventions well tailored to the various national environments.

Global transparency

Throughout the year, ARTICLE 19's work on access to information has gone from strength to strength, reflecting the increasing importance attributed to transparency and better global understanding of what it can do for democracy and good governance. A19 is clearly one of the key actors engaged in strengthening transparency and our commitment to link RTI with

anti-poverty mean that our interventions are particularly ground-breaking as well as of relevance as we approach the MDG review process.

At national level, A19 was directly responsible, alone or in partnership, for the adoption of progressive access to information laws or policies in **Bangladesh (end of 2008)**, **Cambodia**, **Macedonia**, the state of **Kalantan** in Malaysia, the state of **Selangor** in Indonesia, **Mongolia**, and **Nepal**.

In a number of countries, A19 was instrumental in strengthening national coalitions and campaigning for freedom of information legislation. For instance, in 2009, in **Kenya**, A19 has spearheaded the development and implementation of a new RTI strategy for civil society and embarked on a similar process in **Senegal** and **West Africa**. In **Nigeria**, A19's cutting edge methodology on transparency was hailed by partners as a major breakthrough which has also re-energized civil society's campaign for the right to know. In **Brazil**, A19 has become one of two lead actors in advocating for transparency, including by setting up a successful RTI interactive website (www.livreacesso.net), through which civil society organisations and individuals are able to exchange ideas and data on the right to access public information in the country.

A19 contributed to a new RTI initiative in **Vietnam**, where A19 assisted officials from the Ministry of Justice in preparing an RTI law. A19 also took the lead in preventing the adoption of regressive reforms on access to information in **Mexico** and **Bulgaria**, while in the **United Kingdom**, A19 analysis and lobbying work, together with partners, led to the scrapping of a draft freedom of information bill that would have removed parliament from the ambit of the existing Freedom of Information Act. The Parliamentary Constitutional Affairs Committee also adopted many of our concerns concerning a new costing regime for the existing Act.

A19's work in **Yemen** included a number of awareness raising, trainings and campaigning activities. One positive outcome was that the government representative finally agreed that he will sit down with YPAC (Yemeni Parliamentarians Against Corruption) to smooth over differences since both submitted two different access to information laws. MPs praised A19 insight, comments and analyses and took note of A19 critique and recommendations. A19 and its partners now hope that the law will be adopted in the first half of 2010.

In **Bangladesh**, following last year's success when a law on access to government held information was adopted, A19 has been working on bridging the gap between the principle and the practice. One first objective has been to raise the awareness of civil society, the media and the public at large about the law. One key element of this campaign has been **10 rickshaw plate parades** in district towns with rickshaw plates displaying messages and slogans, such as, "*Information is power*" and "*Free Information is the key to Development*". It has proven to be a significantly effective tool in disseminating information to the grass roots on their right to seek, receive and share information especially information that would

enable them to access better health and education services and those that would promote sustainable livelihood. A total of 1,185 invited participants (have participated in the parades with many others joining in as the parades progressed through the towns. The parades attracted huge attention on the day and in the local media and proved to be a very successful tool for raising public awareness among people from different walks of life of a fairly complex issue.

Policy and legal reforms

Over the last year, a major focus of A19's intervention has been legal and policy work to support progressive legal reforms and prevent regressive steps. In the difficult environment of post 9/11, A19 has recorded some noteworthy successes:

A19 secured legal guarantees for freedom of expression and freedom of the media in Brazil, Moldova, Southern Sudan, Nepal, Mexico, Poland and the UK.

On 10 July 2009, the **United Kingdom** government formally committed to decriminalising defamation by abolishing the common law offences of sedition, seditious libel and defamatory libel, as a direct result of A19 advocacy on the subject.

In **Mexico**, A19 successfully advocated for the federalization of crimes against journalists, and against amendments to the Law of Radio and Television, enacted by the parliament. These were ruled by the Mexican Supreme Court of Justice as violating the constitution and international human rights standards. In **Poland**, A19 and its partners successfully advocated against a new media law which was then vetoed by the President. After three years of intense effort, A19's draft legislation on the right to information, public service broadcasting and the independent media authority bill were finally adopted by the **Government of Southern Sudan**. The legislation promotes an environment conducive for freedom of expression in Southern Sudan and will set an example for national Sudanese legislation and for surrounding countries. In **Rwanda**, A19 analysis of the Rwanda Genocide Ideology Law received wide coverage in Rwanda and was distributed widely in the country and internationally.

In **Kenya**, A19 played a major role in the debate around the Communication Act. A19 largely contributed to the Kenya-ICT Consumers Conference that brought together actors in the human rights, ICT and media sectors to discuss the draft regulations. A19 submitted recommendations on The Broadcasting Regulations which are intended to govern the exercise of licensing powers and regulation of content. We also made submissions on The Radio Communications and Frequency Regulations which deal with the issuance of radio licences and frequencies. A19 was instrumental in ensuring that Section 88 (allowing raids of media houses) of the Communication Act be repealed. Through the legal analyses and participation

in many working groups, A19 significantly increased awareness of the draft regulations and the both positive and negative impact they could have on the ICT and media sector.

In May 2009, A19 made a submission to the **Kenya Committee of Experts** on the Constitutional Review, regarding FoE provisions in the Kenyan Constitution. In November 2009, the Committee of Experts released their draft Harmonised Constitution. A number of recommendations made by ARTICLE 19 have been taken on board in sections 50, 51 and 52 of the new draft. The right to freedom of expression is now guaranteed in the draft including the right to ‘seek, receive and impart information’; (previously only the right to receive and impart information was guaranteed). Media freedoms are also guaranteed as per A19’s recommendations.

The **Brazilian Congress** approved a decree to create a public television channel, and the Supreme Court held that the Press Law was void as it breached the constitutional guarantee of freedom of expression. A19 was accepted as *amicus curiae* to the Supreme Court and presented a legal opinion demonstrating how the law violated international human rights standards. ARTICLE 19 was responsible for bringing a human face to the discussions, as the only organization to present a report with real cases of people affected by the provisions of the law, including cases of journalists reporting on corruption and human rights defenders facing defamation lawsuits. The case of a retired teacher who was condemned to three months detention for criticising inhuman conditions in the local penitentiary in a bulletin (with a distribution of 200) was presented to the judges during an oral presentation by A19 at the plenary voting session. In May 2009 the Press Law was repealed in full by the Supreme Court.

ARTICLE 19 also recorded some important successes at the level of regional and international mechanisms, including through litigation. In 2009, ARTICLE 19 won its case at the National Human Rights Committee, on behalf of two **Uzbek** citizens. ARTICLE 19 argued that the refusal of the Uzbek authorities to re-register one applicant’s newspaper was a breach of his right to freedom of expression, and also a breach of the second applicant’s right as a reader of the newspaper to receive *information and ideas in print*.

ARTICLE 19 recommendations on Azerbaijan, Egypt and Mexico were adopted by the **United Nations Human Rights Council** during the last sessions of the Universal Periodic Review (UPR). A19 experienced similar successes with the Human Rights mechanisms (ICCPR) when it submitted its shadow reports on Russia.

ARTICLE 19 and its partners are also credited with mitigating the worse effects of international tensions on free expression standards within the UN. While many problems remain, the worse may have been avoided thanks to an energetic campaign against the introduction of the “**defamation of religion**” legal norm. A19 also contributed to soft norm

development through the production of two Joint Statements for the four Special Rapporteurs on FoE.

Campaign against censorship and impunity

In response to the growing problem of violence against individual journalists, ARTICLE 19 has developed new response mechanisms which it first tested in Mexico, and which are now part of an A19-specific protection methodology. A19 tools are multi-dimensional, focusing on systemic and policy reforms, security measures and training, litigation, and other direct protection measures, etc.

In 2009, in **Mexico**, A19 registered 320 cases of attacks against journalists, 87 of which were documented in detail, provided direct protection to 15 journalists and secured the safety in a third country for three of them. In 2009, A19 in conjunction with the Rory Peck held Security trainings for Mexican and Honduran Journalists operating in high risk zones. A19 is now advocating for the Council of the Congressional Commission for Aggression against Journalists to push for greater protection measures. A19 is also negotiating with the Ministry of Public Security for the publication of a set of guidelines for police officers on how to deal with the media, along with the establishment of a permanent training course in the Police Academy on the same issue.

Defamation remained one of A19 key target for global advocacy. In 2009, A19 launched a global map of civil defamation and actively campaigned against civil defamation in the UK, including by providing support to MPs and Lords.

In **Bangladesh**, A19 organised a very successful fellowship program which met a large success. For instance, one of the fellows, **Tahseena Sadeq** was congratulated by Save the Children Fund Bangladesh for her work on Juvenile Justice, highlighting weaknesses in the implementation of the Child Law, 1974. She commented that *“The Fellowship has provided me with the opportunity to explore the issue with the delinquents in corrective institutions, lawyers and administrators and to understand how the system fails them; this work will remain a reference and an inspiration for all my life.”* **Fahima Khanam** wrote on the issue of pollution created by industrial waste from local factories in the upazila district of Narsingdi. On publication, her report drew the attention of the local MP and district magistrate who took charge of the issue and led discussions on the development of standards for disposing industrial waste. Other fellows agreed that the programme had enhanced their capacity for undertaking investigative journalism and reporting, and increased their profile in mainstream media.

In **Russia**, the Centre for Media Rights Protection of Dagestan (CMRP), established by A19 last year, organised a seminar for journalists from different republics of North Caucasus

(Ingushetia, Kabardino-Balkaria, North Ossetia, Stavropol, Volgograd and Dagestan) on *Russian Legislation on Extremism in Media: Practice and Tendencies*. The seminar was the first held on extremism issues to be held in North Caucasus.

ARTICLE 19 launched in December a new website - the **Azad tribune** - which seeks to support Iran bloggers community and build on social networking to combat censorship. Established in both Farsi and English the website enables visitors to share campaign ideas, experiences, opinions and post articles and report violations

A19's advocacy work may have contributed to preventing even worse outcomes in Yemen, **Azerbaijan**, and Russia but the situation in these countries has unfortunately deteriorated. A19 has taken the lead in initiating a number of coalition based activities on behalf of those imprisoned in Yemen and Azerbaijan or to denounce killings in Russia. Our efforts have been widely acknowledged by national partners and individuals. The protection of freedom of expression unfortunately saw no progresses in Burma and worsened in Sudan in 2009. The ***Khartoum Advocacy Centre Blog*** established in 2008 by A19 and its partners to combat censorship was closed down in 2009 and our partners are currently in exile. In response, we have developed a new strategy of interventions focusing on the forthcoming referendum in 2010 and the aftermath. Throughout the year, A19 denounced the killings of human rights defenders and journalists in **Russia**, participated in activities with other organisations, and funded a poster to commemorate Natalya Estemirova, killed in July. A copy of the poster was handed over to Russia President Medvedev.

Vulnerable Communities' Right to Know and Right to Speak

In 2009, A19 initiated two new “empowerment through information” projects in Nigeria and Kenya, and continued the implementation of its projects in Mexico, Brazil, and Bangladesh. In 2008 A19 conceptualised the “third generation of RTI Activism” which seeks to balance the focus on legal reforms (on average a ten-year process) with an emphasis on other good practices which strengthen vulnerable populations' access to the media and to information, including through the use of ad hoc Fol provisions and awareness-raising with grassroots organisations.

A 2009 example of this approach took place in **Nigeria** where the Fol campaign had reached a stalemate. In response, A19 organised trainings and discussions on Service Delivery in the Healthcare Sector during which participants identified the various RTI provisions under health-related laws and policies, the types of information people needed from the health sector, and which institutions should be targeted.

In **Bangladesh**, A19 initiated a research into the protection of the free flow of information and participation in the context of the debate on climate change and strategies for

mitigation, adaptation, technology transfer and financing. The study concluded that Bangladesh has, so far, had limited success in complying with the provisions of the UNFCCC on raising public awareness and putting in place training and information dissemination strategies to inform vulnerable communities about the impact of climate change on their lives and livelihoods. A19 responded to the findings through officials letters and statements calling on the Government to abide by the terms of the Convention, respect the necessity of transparency, and fulfill the rights of civil society and the public to participate.

In **Brazil**, A19 partner Voto Consciente used municipal RTI tools to request information from the Municipal Legislature (*Camara Municipal*) and then after many unsuccessful informal requests, with A19 assistance, litigated against the Camara. The State Court of Sao Paulo ruled that access to information was undeniably a right protected under the legal system and that the municipality was obliged to provide information to individuals and NGOs.

A19 submitted one amicus brief (jointly with Human Rights Watch) in the case at the **European Court for Human Rights - KAOS vs Turkey**. The case concerns the obligations of states to protect rights of sexual expression under Article 10 of the European Convention on Human Rights. The case specifically engages with the question of when repressive measures restricting sexual speech violates freedom of expression as per article 10 of the Convention.

In December 2009, at the Copenhagen Conference on **Climate Change**, A19 released the report *Changing the Climate for Freedom of Expression and Freedom of Information*, the only document of its kind, highlighting the FOE and FOI challenges in the climate justice agenda and outlining a set of recommendations to governments, international community, civil society organizations and media to advance the protection of FOE/FOI right in the campaigns for climate justice.

ARTICLE 19 integrated a gender perspective into its work. For instance, A19 presswork substantially covered the repression of senior female politicians; and the Defamation Maps referred specifically to gender-related sexual defamation in the Middle East and North Africa. *Simmering Under Ashes*, published to celebrate struggles in Burma, contained at least 50 per cent female contributors and an entire chapter on gender-related topics. In **Africa**, A19 took special care in ensuring that its trainings addressed gender concerns, such as insensitive reporting and stereotyping, evident in most media in the region. In **Kenya**, A19 consulted with AWC (Africa Women and Child) to ensure inclusion of gender-sensitive perspectives in the RTI project and methodology. A19 also actively worked in support of Lubna Hussein, a Sudan journalist, working with the UN who was arrested and charged with blasphemy.

In **Brazil**, A19 has adopted a “sectoral approach” to access to information on women’s issues. According to a A19 survey sent to women’s organisations, the main challenges relating to access to information in their work were: (i) lack of disaggregated data concerning race

(especially as regards access to the health system) and women's economic rights; and (ii) lack of consolidated data of national coverage on violence against women. On this basis, A19 launched a *special newsletter on women's right to information* and created a webpage with information about access to information and women's rights (<http://www.livreacesso.net/tiki-index.php?page=Mulher>) in our thematic website, referring to the results of the mentioned survey.

Other achievements

- A19's 2009 achievements included the provision of some 30 expert legal analyses on FoI and FoE which have been used widely by civil society, United Nations and government officials. In Iraq, A19 legal intervention was highlighted by international actors as "a type of analytical work that is severely missing in the region".
- A19's *Camden Principles on freedom of expression and equality* have been endorsed by three UN Special Rapporteurs (on racism, freedom of expression and religion), and was awarded the book of the month title by the Arabic Network for Human Rights Information.
- In December 2009, A19 released the report *Changing the Climate for Freedom of Expression and Freedom of Information*, the only document of its kind, highlighting the FOE and FOI challenges in the climate justice agenda and outlining a set of recommendations to governments, the international community, civil society organizations and media to ensure the success of the climate justice agenda through a better integration of FOE/FOI.
- ARTICLE 19 was commissioned by the UK *Guardian* to write a series of three opinion pieces on the Durban Review Conference for their interactive online facility, *Comment is Free*, published before and just after the event. We also collaborated with Human Rights Watch on a piece, a short version of which was published by IHT and a longer version online by the *New Statesman* during the week of the Conference. A19's Executive Director gave interviews during the Conference to about half a dozen journalists, including the *New York Times*, *Economist*, Swiss Public Radio, Radio France Internationale and Al-Jazeera.
- The number of visitors to the A19 website has grown by 15.4 per cent from January to October 2009 compared to the same period in the previous year. Compared to other NGOs with websites of a similar size, we remain with a higher number of visits and our visitors remain on the site for longer too. The number of news releases has increased again by 19 per cent from 2008. The quality of references to ARTICLE 19 within the media has grown by 4.3 per cent, with more references in TV, radio and in newspapers than 2008.



Goal One: Promote Global transparency

Goal Two: Establish enabling legal environment

Goal Three: Campaign against impunity and censorship

Goal Four: Strengthen the right of the poorest and most vulnerable communities to freedom of expression

Goal Five: Strengthen ARTICLE 19's impact