

In their first UPR of February 2010, Italy promised to strengthen media independence and pluralism, guarantee freedom of expression and protect journalists. Four years on, both human rights defenders (HRDs) and journalists complain of judicial harassment, with some of Europe's harshest libel laws allegedly abused to silence dissent.

1. Risks facing human rights defenders

- The most commonly cited obstacle to human rights defence and journalism is the use and abuse of legislation and the judicial system to stifle activism and freedom of expression. However there is also evidence to suggest that, in spite of the successful prosecution of emblematic cases of excessive use of force against social protest, lessons are yet to be learnt in order to guarantee non-repetition.
- As well as official restrictions on their reporting, journalists in Italy also face attacks and threats from anarchist groups and the mafia.¹ In 2013 Freedom House rated Italy's freedom of press as only 'partly free'.²

2. Official restrictions on the space for human rights defenders

- Judicial harassment has been used to hinder the activities of human rights defenders. In the weeks following Italy's last UPR, Front Line reported two sets of charges against the leadership of the EveryOne Group as 'a direct result of their legitimate human rights activities'. The Group's activities focus on the protection of the rights of the Roma population. Since being charged, the activists have suffered threats and harassment.³
- On April 27 2012, Roberto Malini and Dario Picciau were absolved of the charges of 'obstructing police operations'⁴ but have not received compensation for the thousands of euros spent in legal fees. However the libel charge against Mr Malini, Mr Picciau and Matteo Pegoraro remains pending since 2008, with the latest hearing postponed until 16 April 2014.
- The polemic No-Tav movement, which protests against the alleged imposition of a high-speed train project through the Val di Susa, also claims to be victims of judicial harassment, with four of its activists in pre-trial detention facing terrorism charges, and several other members of the movement facing lesser charges.⁵
- Whilst violent protest has represented a challenge to law enforcement on several occasions in Italy, the apparent lack of de-escalation tactics and accusations of heavy-handedness suggest that more could be done to isolate violent infiltrators, prevent violent clashes and investigate accusations of excessive use of force by the Italian security forces in the context of what are predominantly peaceful protests.⁶
- According to the Committee to Protect Journalists, 'in 2013, at least four journalists were convicted of libel in Italy, one of the few European Union states where defamation is still a criminal offence'. These included prison sentences related to stories of the corruption and alleged Mafia links of public officials.⁷
- Contravening the European Convention on Human Rights, in October 2013 *Il Giornale* director Francesco Gangemi was placed under house arrest for two years in a conviction related to his work on official corruption.⁸

3. Intimidation and reprisals against defenders accessing international human rights mechanisms

- Having submitted communications to the OHCHR and European human rights mechanisms, the leaders of EveryOne Group suffered an increase in threats.⁹

4. Human rights defenders facing particular risks

- According to Front Line 'HRDs working with the Roma minority in Italy, have faced accusations of defamation, criminal charges and general harassment from unidentified individuals during the course of their work'.
- Frontline also identifies LGBTI, environmental, and minority rights defenders as particularly at-risk groups.¹⁰
- Journalists working on issues of governmental corruption and organised crime face particularly high risks of threats, attacks and criminalisation.¹¹
- Given the involvement of organised crime in the trafficking of persons, and in particular of migrants, into and through Italy, HRDs working on these issues could also be exposed to a particularly high level of risk.¹²

5. The lack of response of the State regarding the protection of human rights defenders

- On 5 July 2013, the Supreme Court confirmed all 25 convictions issued on appeal against high-ranking officials and police officers responsible for the torture and other ill-treatment of G8 demonstrators in 2001.
- 'Senior officials were convicted for falsifying arrest documents, and sentences ranged from five years to three years and eight months of imprisonment. However, due to a law designed to cut inmate numbers, which allows

for a three-year reduction in sentences, nobody was imprisoned, although all were suspended from duty for five years. Convictions issued on appeal for grievous bodily harm against nine officers lapsed, as the statute of limitation came into effect prior to the conclusion of the appeal to the Supreme Court'.¹³

- Amnesty International believes that the systemic failures which allowed violations to take place in 2001 have not been addressed by the Italian authorities, suggesting that 'the Italian authorities have failed in the past nine years to take any measure to prevent police brutality of the scale occurred in Genoa from happening again'.¹⁴
- The fact that the crime of torture does not exist in the Italian criminal code has prevented judges from punishing perpetrators proportionately to their crime, including in the alleged torture of protesters in 2001,¹⁵ and could be seen to incentivise torture.
- In March 2014, the Italian Senate voted to codify the crime of torture, a decision which will have to be ratified by the Chamber of Deputies.¹⁶
- Italy does not have a national human rights institution (NHRI) to contribute to solutions for the protection of HRDs and journalists. This in spite of recommendations by both the UN High Commissioner for Human Rights¹⁷ and 16 States at Italy's 2010 UPR for the State to create one.
- 91 Italian civil society organisations have criticised the State both for consistently postponing the creation of an NHRI and failing to consult civil society regarding its faculties.¹⁸ In December, a parliamentary committee examining a bill to create an NHRI concluded that it would be impossible to pass the bill in the current session, due to imminent elections, in spite of the already lengthy revision of the bill in the higher chamber.¹⁹

6. Recommendations to the Government of Italy

- The Italian government should guarantee the integrity of HRDs and journalists, with particular attention to the vulnerable groups highlighted in this Briefing Paper, and ensure protection against reprisals for interacting with regional and international human rights mechanisms.
- The State must take measures to ensure that due process is followed, and that no abuse of the judicial system is allowed, in cases against HRDs and journalists, and should provide mechanisms for independent review of cases in which such abuses are alleged.
- Defamation must be decriminalised and laws reformed in line with proposals by civil society organisations.
- The State should undertake, with civil society, a review of the laws and protocols governing the management of protests, de-escalation strategies and the use of force, including lessons learned from Genoa 2001.
- Parliament should follow-up on its ratification, in October, of the Optional Protocol to the UN Convention against Torture, by ensuring the introduction of the crime of torture into the criminal code.
- Free, prior and informed consultation of communities affected by large-scale development projects must be guaranteed in order to prevent future conflicts.
- Italy must create, in consultation with civil society, an independent NHRI which complies with the Paris Principles, includes an area dedicated to freedom of expression and of the press, contemplates a focal point for HRDs, and includes a capacity to dictate protective measures for activists, protests, journalists and victims.

Italy will go to its Universal Periodic Review as President of the European Union which it co-founded. This represents the perfect opportunity to reaffirm its commitment to human rights at home, by taking strong legislative and practical measures for the free participation of human rights defenders and journalists.

¹ <http://cpj.org/blog/2013/04/anarchists-and-suspected-mafia-target-italian-medi.php>

² <http://www.freedomhouse.org/sites/default/files/Freedom%20of%20the%20Press%202013%20Maps%20for%20Website.pdf>

³ <http://www.frontlinedefenders.org/node/13988> and <http://www.liberazione.it/rubrica-file/Intimidazioni-e-insulti-telefonici-e-via-Facebook-controllo-scrittore-Roberto-Malini.htm>

⁴ http://www.everyonegroup.com/it/EveryOne/MainPage/Entries/2012/4/28_Pesaro_trial_againstRobertoMaliniand_DarioPicciau.html

⁵ <http://strugglesinitaly.wordpress.com/2014/02/21/entranslation-appeal-from-the-families-of-the-four-no-tav-demonstrators-arrested-for-terrorism/>

⁶ <http://www.aljazeera.com/news/europe/2012/11/2012112414242329798.html>, <http://uk.reuters.com/article/2013/10/19/uk-italy-demonstration-idUKBRE99I06L20131019>

⁷ <http://www.cpj.org/2014/02/attacks-on-the-press-in-2013-italy.php#more>

⁸ <http://www.article19.org/resources.php/resource/3546/en/italy:-solidarity-with-a-newspaper-director-under-home-arrest-for-defamation>

⁹ <http://www.liberazione.it/rubrica-file/Intimidazioni-e-insulti-telefonici-e-via-Facebook-controllo-scrittore-Roberto-Malini.htm>

¹⁰ <http://www.frontlinedefenders.org/node/16711>

¹¹ <http://www.cpj.org/2014/02/attacks-on-the-press-in-2013-italy.php#more>

¹² https://www.unodc.org/pdf/research/Migration_Africa.pdf

¹³ <http://www.amnesty.org/en/region/italy/report-2013>

¹⁴ <http://www.amnesty.org/en/news-and-updates/convictions-abuse-during-genoa-g8-protests-upheld-2010-03-08>

¹⁵ <https://www.amnesty.org/en/news-and-updates/convictions-abuse-during-genoa-g8-protests-upheld-2010-03-08>

¹⁶ <http://www.thelocal.it/20140306/italy-vote-paves-way-for-torture-law>

¹⁷ http://unipd-centrodirittiumani.it/public/docs/Opening_statement_Pillay.pdf

¹⁸ http://www.cestim.it/argomenti/25cpt/2012_secondo_rapporto_comitato_promozione_protezione_diritti_umani.pdf

¹⁹ <http://www.amnesty.org/en/region/italy/report-2013>