Module 10

Violence Against Journalists

Modules on Litigating Freedom of Expression and Digital Rights in South and Southeast Asia
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MODULE 10

VIOLENCE AGAINST JOURNALISTS

- Violence against journalists, especially in retaliation for their work, poses a serious threat to freedom of expression, whether it takes the form of physical or online attacks.
- States, in addition to avoiding ensuring that State actors do not engage in attacks, have a responsibility to take due diligence to prevent violence, protect journalists and investigate, prosecute and redress any attacks that are perpetrated.
- Protection of confidential journalistic sources is also important to protecting journalists and ensuring freedom of expression more generally.
- States must incorporate gender-sensitive approaches when responding to violence against journalists, given the prevalence of gender-based violence against female journalists.
- Practical steps may include developing a national plan of action or a specialised safety mechanism to address violence against journalists.

INTRODUCTION

Violence against journalists and others for exercising their right to freedom of expression poses a particularly serious threat to the realisation of this right. Besides violating the rights of the targets, such violence may lead to journalists self-censoring, especially by avoiding reporting on important but sensitive topics such as corruption, organised crime or human rights violations. This in turn harms the rights of society as a whole to access information about these issues freely.

This Module provides an overview of State obligations under international human rights law to address violence against journalists. It first gives a brief overview of the scope of State obligations to create a favourable environment for freedom of expression. It then looks specifically at State obligations to respond to physical and online violence against journalists, protection of journalistic sources, and gender-based violence. It ends with a discussion of practical approaches to combatting violence.

THE DUTY TO PROVIDE A FAVOURABLE ENVIRONMENT FOR FREEDOM OF EXPRESSION

States have a duty to promote a favourable environment for freedom of expression. On the one hand, this means avoiding taking actions which harm or interfere with the exercise of the right (“negative obligations”). On the other, it also encompasses positive obligations to promote and protect freedom of expression.

International human rights treaties generally impose obligations on State Parties to adopt laws or other measures necessary to give effect to the rights in the Covenant. These may include legislative,
judicial, administrative, educative and other appropriate measures.

States also have certain obligations to protect people from acts by private parties which harm their enjoyment of human rights. States are not fully responsible for the acts of third parties, but they must not fail to respond appropriately in the face of rights violations, including to “exercise due diligence to prevent, punish, investigate or redress the harm caused by such acts by private persons or entities.”

In the context of the right to freedom of expression, creating an enabling environment for freedom of expression requires States to take a range of actions, such as promoting media diversity and guaranteeing access to information. In addition, States should take steps to ensure that those who exercise their right to freedom of expression are not subject to retaliation for doing so, including violent attacks or other threats.

**PHYSICAL ATTACKS**

“The most extreme form of censorship is to kill a journalist. The killing not only silences the voice of the particular journalist, but also intimidates other journalists and the public in general.”

— UN Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, Christof Heyns

UNESCO’s Observatory on Killed Journalists documents 1529 journalists and media workers who have been killed since 1993. Impunity for these cases is unfortunately high: as of 2020, only 13% of the cases had been resolved. A number of countries in South and Southeast Asia are among the worst performers, including the Philippines (112), Pakistan (86), Afghanistan (81), India (65), Bangladesh (25) and Sri Lanka (12). The Committee for the Protection of Journalists also includes Afghanistan, the Philippines, Pakistan, Bangladesh and India on its impunity index, which counts countries with more than five unsolved journalist murders.

While killings are a particularly grave example of violence against journalists, other forms of violence also have serious impacts on the realisation of freedom of expression. These include, for example, torture, arbitrary arrest or detention, enforced disappearances, intimidation or harassment, and

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2. ibid. at para. 8.
3. See, for example, Council of Europe, ‘Recommendation CM/Rec(2016)4 of the Committee of Ministers to Member States on the protection of journalism and safety of journalists and other media actors’ (2016) at paras. 13, 15 (accessible at: https://search.coe.int/cm/Pages/result_details.aspx?ObjectID=09000016806415d9).
threats. Data on such acts is more challenging to track, but they can have serious consequences for freedom of expression.

None of these kinds of attacks on journalists, if based on their exercise of freedom of expression, can be justified “under any circumstance”. Such acts not only violate freedom of expression but also may violate other fundamental human rights, such as the right to life, the right to be free from torture, the right to liberty and security of the person, or the right to be free from interference with one’s privacy, family or home life.

States must first ensure that their own agents do not commit violence against journalists. State officials must, in addition to avoiding acts of violence themselves, “control and adequately supervise their officers”. On the other hand, lower-level officials should not be able to rely on a defence of obedience to superior orders for these kinds of serious crimes. Government officials should also take care to avoid making public statements which stigmatise the media, threaten journalists or undermine respect for media independence.

States also have positive obligations to create a safe environment for journalists. This means exercising due diligence to address attacks on journalists by non-State actors. A State’s positive obligations in these areas can be summarised as an obligation to prevent, to protect and to investigate, prosecute and redress.

- Preventing violence against journalists: States should take action to prevent violence against journalists, including “prevention mechanisms and actions to address some of the root causes of violence against journalists and of impunity”. These preventative measures may include amending legal frameworks to criminalise properly acts of violence against journalists, revising the media law framework to enable the media to engage freely in journalistic activity without interference, undertaking awareness-raising and education efforts, monitoring and reporting on attacks on journalists, or training security personnel, among others.

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9 Human Rights Committee, ‘General Comment No. 34’ at para. 34.
11 Human Rights Committee, General Comment No. 31’ at para. 18.
Compelling Good Behaviour from Investigatory Authorities: A Case from Pakistan

While investigatory authorities have primary responsibility for taking measures to prevent their own agents from harassing or using violence against journalists, courts can also order or recommend institutional changes. A good example is the decision of the Islamabad High Court in *Rana Muhammad Arshad v. Pakistan*. The journalist in this case had received a vague notice issued by the Federal Investigating Agency under the Prevention of Electronic Crimes Act, followed by a raid of his residence, apparently because of a tweet he had disseminated.

The Court noted an increase in complaints about vague notices under the Prevention of Electronic Crimes Act. It expressed concern that this was either the result of a misinterpretation of the law or an attempt to suppress journalism, contrary to the duty of the State to avoid any actual or perception of an abuse of its powers in order to threaten the press.\(^{15}\) The Court instructed the Federal Investigating Agency to formulate guidelines for investigating officers and to consider prescribing special guidelines regarding investigations of journalists, in light of the importance of freedom of the press. The Court also suggested that the government should consider establishing a mechanism for handling complaints about violations of freedom of the press and hold consultations with press institutions to understand their perceptions about media intimidation by authorities.\(^{16}\)

- **Protecting at-risk journalists:** States should also adopt "effective measures" to protect journalists from attacks.\(^{17}\) They could include issuing protective orders promptly, establishing specific information-gathering mechanisms or creating early warning mechanisms.\(^{18}\) It could also include offering specific protection to at-risk journalists, such as safety equipment, hotlines or even guards where needed.

In some cases, particularly in countries with recurring incidents of violence against journalists, specialised protection mechanisms should be created. Such mechanisms may incorporate features such as an urgent action procedure where journalists can request protective support.

When a State fails to take steps to protect a specific journalist who is at risk, that State may violate its obligation to protect. Whether the State has taken sufficient steps to protect a journalist will depend on the facts. However, in assessing State obligations in these cases, the European and Inter-American regional human rights courts have relied upon the following standard: whether authorities knew or should have known of a real and immediate danger to the journalist and failed to take reasonable protective measures.\(^{19}\)

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\(^{16}\) Id. at para. 11.

\(^{17}\) Human Rights Committee, ‘General Comment No. 34’, para. 23.


• **Investigation, prosecution and redress of attacks:** When an attack on a journalist occurs, authorities have a responsibility to take effective steps to investigate and prosecute that crime, and ensure that proper redress is provided. Failing to do so may violate Article 2(3) of the ICCPR (or the equivalent in other treaties), which requires effective remedies for human rights violations, in addition to freedom of expression and other implicated rights.\(^{20}\)

The investigation and prosecution of such crimes should meet certain minimum standards. They should be investigated thoroughly and rigorously, in a timely manner, and by impartial and effective authorities.\(^{21}\) Ensuring these standards are met will require certain institutional efforts, such as ensuring investigatory units are sufficiently well-resourced and that the independence of courts is protected.\(^{22}\)

In examining individual cases, human rights courts have looked at a variety of factors when assessing whether the State has fulfilled its obligations. Examples where this obligation was not met include:

- Unjustified or unreasonable delays in investigation and prosecution, such as when Russia failed to provide “convincing and plausible” reasons for lengthiness of investigations into the assassination of a journalist.\(^{23}\)
- Insufficient independence for responsible government authorities, such as when a Colombian military tribunal investigated alleged attacks on a journalist by members of the military.\(^{24}\)
- Failing to investigate whether a journalist’s murder was linked to his work as a journalist.\(^{25}\)

Proper redress includes not only obtaining a conviction but also ensuring the victim (or family members) are appropriately compensated. Such reparations may include broader restitution or

http://hudoc.echr.coe.int/eng?i=001-58257). Although Osman itself did not specifically address freedom of expression, elsewhere the Court has found violations of freedom of expression (along with other rights) for failures to protect journalists from attack. See Dink v. Turkey (2010), Application Nos. 2668/07, 6102/08, 30079/08, 7072/09 and 7124/09 (available at: https://hudoc.echr.coe.int/eng-press?i=003-326026169-3640194); and Özgür Gündem v. Turkey (2000), Application No. 23144/93 (available at: https://hudoc.echr.coe.int/eng-press?i=003-683056-68774).


\(^ {23}\) European Court of Human Rights, Maziopa and others v. Russia (2018), Application No. 15086/07 at para. 80-8 (accessible at: https://hudoc.echr.coe.int/eng?i=001-184660).

\(^ {24}\) Vélez Restrepo y Familiares v. Colombia (2012), Series C No. 248, https://cortehid.or.cr/docs/casos/articulos/seriec_248_esp.pdf (only available in Spanish but a summary in English is accessible at: https://www.corteid.or.cr/docs/casos/articulos/resumen_248_ing.pdf)

rehabilitation measures such as public apologies or memorials, guarantees to prevent such crimes in the future or changing laws and practices.\textsuperscript{26}

Finally, while this Module deals with human rights law, journalists are also protected under international humanitarian law, which governs armed conflicts. Under international humanitarian law, journalists are considered to be civilians, not combatants.\textsuperscript{27} Like other civilians present in a war zone, they should not be the subject of intentional military attacks.

**ONLINE VIOLENCE, SUCH AS ABUSE, TROLLING AND SMEAR CAMPAIGNS**

Online violence can sometimes be seen as less serious than offline violence. However, online violence and harassment can be linked to offline threats, and may serve as a predictor of a real-world threat or accelerate into offline attacks. In one survey of female journalists, for example, 20\% of respondents reported offline attacks or abuse linked to online violence they had experienced.\textsuperscript{28} Further, given that most modern communication occurs online, online harassment can have a dramatic impact on the exercise of freedom of expression, especially if the targets of such harassment self-censor in response.

Journalists may now experience forms of violence and harassment that are uniquely enabled by digital communications.\textsuperscript{29} Some examples include:

- Doxing, or sharing via the Internet of private identifying information such as name, location and address, can be particularly dangerous for journalists because it may allow would-be attackers to locate and harm them.
- Trolling, or posting or sending insulting or inflammatory messages about a specific person, can be harmful to a journalist’s sense of safety and well-being. In the offline context, such harassment would typically be limited in scale but in the digital age trolling can occur at a mass scale or a high rate of frequency, inundating the target with harmful messages.
- Smear campaigns can similarly attempt to damage a journalist’s reputation. While not unique to the digital era, such campaigns can again be mobilised on a much larger scale and be conducted more visibly and effectively than offline.
- On social media platforms, bots can mimic human activity, such as posting comments. Bot activity can be used to coordinate smear or trolling campaigns, particularly when well-funded or criminal elements have an interest in promoting a certain message or targeting a particular person.
- Cyberattacks can be directed at journalists or media institutions. Such cyberattacks may aim to install spyware on a journalist’s phone, for example, or take down a news website.

A major concern with these kinds of attacks on journalists is the extent to which they are coordinated or planned by malicious actors with the intent of discrediting or harming the journalist.\textsuperscript{30} The origin

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\textsuperscript{26} Human Rights Committee, ‘General Comment No. 31’ at para. 16.

\textsuperscript{27} International Committee of the Red Cross, ‘Customary IHL Database, Rule 34: Journalists’ (accessible at: https://ihl-databases.icrc.org/customary-ihl/eng/docs/v1_rul_rule34).


\textsuperscript{29} Report of the Secretary-General, ‘Safety of Journalists and the Issue of Impunity’ (2021), A/76/285 at para. 6.

\textsuperscript{30} Id. at para. 8.
of such coordinated attacks can be difficult to trace, but they sometimes originate in powerful State or non-State actors who have an interest in silencing a journalist.

As in the offline context, State actors should refrain from engaging in online violence against journalists, either directly or indirectly. For example, public officials should avoid making threats against journalists online. Politicians should ensure that their campaign staff or supporters are not engaged in disinformation-based smear campaigns about journalists.

States’ positive obligations include taking steps to address online violence by private actors. However, two main caveats arise here. First, State regulation of online content should be in strict compliance with international standards, noting that most of the online attacks described above involve expressive behaviour. As already described in earlier modules, regulation of online content is frequently overbroad or inappropriately tailored to the harm in question. In such cases, laws regulating online speech are often weaponised against journalists instead of offering them protection. Second, challenging questions arise around the extent to which State action against online harassment of journalists can be fully effective. The policies of private sector actors, such as large social media companies that operate globally, may have a more direct impact on the experience of journalists.

Notwithstanding these caveats, States can still play a key role in responding to online violence against journalism by private actors. For example:

- States should ensure to create an enabling environment for journalists online, including by eliminating laws which inappropriately criminalise online speech.\(^{31}\)
- Surveillance regimes and data protection laws should be reviewed to ensure that journalist identity and confidentiality of sources is protected. Targeted surveillance of journalists, in particular, can lead to self-censorship. Surveillance of journalists on account of their legitimate exercise of freedom of expression is never appropriate.\(^{32}\)
- States should engage in a range of awareness-raising and educational campaigns and initiatives specific to online violence against journalists.
- States should strengthen the ability of law enforcement officials and others to respond properly to online violence, for example by training them properly on how to respond to such attacks or improving their capacity to investigate and prosecute crimes in the digital space.\(^{33}\)
- States should also take steps to protect journalists against cyberattacks which may put them at risk, such as by taking steps to protect digital communications systems from such attack or supporting cybersecurity measures for at-risk journalists.\(^{34}\)

In addition, States should adopt “effective laws and measures” to prevent online attacks on journalists, but only where they respect principles related to freedom of expression.\(^{35}\) This includes principles on intermediary liability and Internet freedom discussed in earlier modules. However, within

\(^{31}\) *Id.* at para. 14.


\(^{34}\) International Mechanisms for Promoting Freedom of Expression, ‘2012 Joint Declaration on Crimes against Freedom of Expression’.

these bounds, States could explore laws which compel private actors, and particularly social media companies, to take greater responsibility for online violence against journalists occurring on their platforms. Examples could potentially include asking major platforms to monitor and report on violence against journalists or imposing transparency requirements regarding measures taken in response to online violence. The question of regulating major social media platforms is a complex and rapidly evolving one, however, and better practices in the specific area of journalist safety have yet to emerge.

**PROTECTION OF JOURNALISTIC SOURCES**

Protection of confidential journalistic sources is a core component of media ethics. Normally, journalists openly identify their sources but, if doing so would breach a promise made to the source, journalists will protect the source’s confidentiality. The ability of a journalist to protect confidential sources protects the willingness of sources to share information with journalists in the first place, and thereby protects the rights of society as a whole to access information about sensitive issues. Accordingly, the Human Rights Committee has said: “States parties should recognise and respect that element of the right of freedom of expression that embraces the limited journalistic privilege not to disclose information sources.”

Maintaining confidentiality may also be crucial to journalists’ own safety; journalists may be targeted if they are seen as potential witnesses rather than independent or confidential observers, for example.

Traditionally, concerns over protecting journalistic sources primarily arose in the context of court proceedings when courts sought to compel journalists to reveal their confidential sources. Clear rules should be set out in law which only allow source disclosure to be ordered in exceptional circumstances. For example, in a landmark European Court of Human Rights Case, *Goodwin v. United Kingdom*, the Court affirmed that journalists should only be compelled to reveal a source in “exceptional circumstances where vital public or individual interests were at stake.”

Protecting journalistic sources is “one of the basic conditions for press freedom”, so in order to meet the requirement of necessity under the three-part test, there must be an “overriding requirement in the public interest” justifying disclosure.

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36 Human Rights Committee, ‘General Comment No. 34’ at para. 45.
38 *Goodwin v. United Kingdom* (1996), Application No. 17488/90, Grand Chamber at para. 37 (accessible at: https://hudoc.coe.int/eng/?i=001-57974).
39 *Id.* at para. 39.
Protection of Journalistic Sources in the Asia Region

In Malaysia, in 2013, a major High Court ruling affirmed the importance journalistic protection of confidential sources. In *Datuk Seri Tiong King Sing v. Datuk Seri Ong Tee Keat*, the Court considered first whether the disclosure of sources was relevant and necessary, and found that in the case it was. However, because the harm caused by requiring disclosure would outweigh the benefits, the Court decided it was in the public interest to decline to mandate disclosure.\(^{40}\)

Similarly, Singapore’s Court of Appeals, in *Dorsey James Michael v. World Sport Group Pte Ltd* considered whether to allow an interrogation in a civil suit which would have compelled a journalist who blogged about a football corruption scandal to reveal his sources. The Court emphasised that “necessity” is “the main cornerstone” in such cases; the party requesting the interrogation must show that they need to identify the sources for the viability of their case, rather than that they are merely on a fishing expedition.\(^ {41}\) Where revealing sources is involved, the Court noted that the party trying to learn the source identity must show a “real interest” in suing the source whose identity is requested. Such an interest must be weighed against the public interest in retaining confidentiality. In balancing the “real interest” against the “public interest”, reference should be had to factors such as whether granting disclosure would be a “necessary and proportionate response”, how confidential the information was, and whether the information could be obtained from another source.\(^ {42}\)

In this case, World Sport Group had not demonstrated that it was necessary for them to obtain the identity of the sources. Further, the Court gave an extended discussion of the public interest in combatting corruption, suggesting that where there is high public interest in the information disclosed by confidential sources, such as in accountability for corruption, source confidentiality should be maintained.\(^ {43}\)

Outside the context of court proceedings, source confidentiality concerns also arise during searches and seizures of journalists’ homes, workplaces and property. The importance of protecting source confidentiality imposes a higher burden on police or investigatory authorities when they search media premises or journalist residences.\(^ {44}\) The European Court of Human Rights, for example, has said that prior to seizure of journalistic material or raids of media premises, a judge or independent body must


\(^{42}\) *Id.* at paras. 47-48.

\(^{43}\) *Id.* at paras. 71-79.

evaluate the risk to source confidentiality against the public interest in the investigation, and consider whether a less intrusive search could meet the investigatory needs.\textsuperscript{45}

However, in the modern era, digital communications have dramatically changed the manner in which both State and non-state actors can attempt to access confidential journalistic material or sources. Expanded legal grounds for surveillance combined with the technical tools to do so may create a “work around” for journalistic privilege, enabling governments to access sources outside of a court process and without the knowledge of journalists.\textsuperscript{46}

International human rights standards clearly condemn such practices. As stated in the Declaration of Principles on Freedom of Expression and Access to Information in Africa, for example, “States shall not circumvent the protection of confidential sources of information or journalistic material through the conduct of communication surveillance except where such surveillance is ordered by an impartial and independent court and is subject to appropriate safeguards.”\textsuperscript{47}

Similarly, in their 2018 Joint Declaration, the special international mandates on freedom of expression noted: “States should put in place effective practical and enforceable measures to avoid identifying confidential journalistic sources indirectly using digital means and should avoid taking actions that result in media outlets or journalists being used as an indirect means to pursue criminal investigations.”\textsuperscript{48}

The European Court of Human Rights, in Big Brother Watch v UK, found that a surveillance scheme violated the right to freedom of expression where it did not offer sufficient protection for journalistic source confidentiality. United Kingdom law had safeguards for source confidentiality when authorities specifically sought authorization to obtain data identifying a specific source. However, the broader bulk surveillance regime, including general requests for journalist communications data, did not incorporate any such safeguards.\textsuperscript{49} This meant, for example, that analysts could target journalists’ communications for examination without any judicial order or application of the criteria set out in Goodwin, discussed above.\textsuperscript{50}

Another key impact of the digital era is the changing nature of media work. A wide range of actors now engage in journalistic-type activities. For this reason, many international standards discussing source confidentiality apply the journalistic privilege broadly, such as to any “social communicator.”\textsuperscript{51}

\textsuperscript{45} Sanoma Uitgevers B.V. v. The Netherlands (2014) Grand Chamber, Application No. 38224/03 at paras. 89-92 (accessible at: https://hudoc.echr.coe.int/eng/?i=001-100445).

\textsuperscript{46} For an in-depth discussion of this issue, see Julie Posetti, Protecting Journalism Sources in the Digital Age, UNESCO (2017) (accessible at: https://unesdoc.unesco.org/ark:/48223/pf0000248054) (including an overview of the Asia and Pacific region beginning at p. 67).


\textsuperscript{48} International Mechanisms for Promoting Freedom of Expression, ‘2018 Joint Declaration on Media Independence and Diversit in the Digital Age’.

\textsuperscript{49} Big Brother Watch and others v United Kingdom (2021), Application Nos. 58170/13, 62322/14 and 24960/15 at paras. 524-525 (accessible at: https://hudoc.echr.coe.int/eng/?i=001-2100777).

\textsuperscript{50} Id. at paras. 444-445, 457.

or “person regularly engaged in the collection and dissemination of information to the public”.52

National legal systems are increasingly adapting to recognise this reality. For example, it is
noteworthy that in the Singapore Dorsey case described above, the journalist in question was a
blogger, not a formal journalist in the traditional sense.

**GENDER-BASED VIOLENCE**

The Committee on the Elimination of Discrimination against Women defines gender-based
violence to include that “which is directed against a woman because she is a woman or that affects
women disproportionately”.53 States have an obligation to avoid perpetrating such violence
themselves, but must also take “all appropriate measures to prevent, as well as to investigate,
prosecute, punish and provide reparations for, acts or omissions by non-State actors that result in
gender-based violence against women”.54 Violence against female journalists on account of their
work is, like all such forms of violence, an attack on freedom of expression.

Accordingly, States are obliged to address violence against female journalists not only under their
obligations to protect freedom of expression but also as part of their obligations to address
discrimination against women. United Nations bodies, including the Human Rights Council, Security
Council and the General Assembly, have issued resolutions strongly condemning attacks on female
journalists.55 For example, the Human Rights Council:

“(C)ondemns unequivocally the specific attacks on women journalists and media workers in
relation to their work, such as gender-based discrimination, including sexual and gender-

In practice, however, female journalists continue to experience gender-based violence in the course
of their work. Women represent a small portion of the journalists who are killed while pursuing
journalistic work. However, female journalists are disproportionately likely to experience gender-based
violence.57 Sexual violence, sexual harassment, online harassment, rape and the threat of rape are
all tools used to intimidate female journalists and discourage their work. Such acts are underreported,
due to cultural stigmas or fear of retaliation in the workplace.58 Other types of sexist harassment or
threats can also have serious consequences. One global survey of female journalists found that 37%
avoided reporting on certain topics because of attacks or harassment they had experienced.59

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52 Council of Europe, ‘Recommendation No. R (2000) 7 of the Committee of Ministers to Member States on
the right of journalists not to disclose their sources of information’ (2000).
53 Committee on the Elimination of Discrimination against Women, ‘General Recommendation No. 35 on
54 Id. at para. 24.
55 For a comprehensive list, see [https://en.unesco.org/themes/safety-journalists/women-journalists/UN-
resolutions-and-reports](https://en.unesco.org/themes/safety-journalists/women-journalists/UN-
resolutions-and-reports).
57 Report of the Special Rapporteur on violence against women, ‘Combating violence against women
58 Id. at paras. 23-31.
59 Michelle Ferrier, *Attacks and Harassment: The Impact on Female Journalists and Their Reporting*,
International Women’s Media Foundation and Trollbusters (2018), p. 44 (accessible at:
Female journalists are also much more likely to experience certain forms of online violence. A major 2020 UNESCO report on the topic found that 73% of female journalists who responded had experienced online violence. 42% were targeted with reputational threats, 25% received threats of physical violence, 18% were threatened with sexual violence, and 13% received threats directed at persons close to them. For 12% of respondents, the effects of online violence were so serious that they sought medical or psychological help. Some forms of online attacks are particularly gendered, such as the non-consensual sharing of intimate images, harassment via misogynistic or sexualised content, or the use of “deepfake” videos (videos which appear to portray someone but in fact are fake and yet this is very to detect) to harm the reputation of female journalists.

Given the distinctive harms experienced by female journalists, as well as cultural and social factors which may impact their experience of violence, measures taken to address journalist safety must take a gender sensitive approach. For example:

- **Preventative measures** should specifically address gender-based violence. This could include initiatives to combat harmful gender-based stereotypes, incorporate gender-sensitive content into awareness-raising and training programmes about violence against journalists, collect sex-disaggregated data about attacks on journalists or develop gender-sensitive investigation procedures. Public officials and authorities are also encouraged to avoid misogynist or discriminatory language towards female journalists.

- **Protection mechanisms** should also be gender-sensitive. Plans and protocols designed for the protection of journalists, for example, should address gender-specific risks and needs.

- **Investigation, prosecution and redress** should also incorporate gender considerations. Violence against women is often under-reported due to fear of further retaliatory attacks and cultural stigmas, especially around sexual violence. Gender-sensitive training of investigatory and prosecutorial authorities is therefore particularly important. States may also specifically need to strengthen their ability to investigate and respond to online gender-based violence.

In the online context, many of the major platforms have introduced initiatives to address women’s safety but smaller or newer platforms may still lack such initiatives. Further, many women report that complaints about gender-based violence on online platforms are not adequately addressed and

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60 Report of the Special Rapporteur on freedom of expression (2021), A/76/258 at para. 45.
62 Id at p. 6.
that there is limited transparency around how complaints are handled.\textsuperscript{69} Greater efforts are needed to protect women from gender-based violence online, but platforms need to develop such policies transparently, in consultation with civil society and leading experts, and in a manner which reflects concern for principles of freedom of expression.

While this discussion has focused on gender-based violence against women, gender non-conforming journalists may experience particularly harmful forms of gender-based violence which also require correspondingly gender-sensitive responses.

**PRACTICAL APPROACHES**

Violence against journalists can arise from a complex mix of factors, such as a culture of impunity for such crimes, a climate of insecurity in a country, insufficient respect for the independence of the press or an ongoing violent conflict. Responding effectively to violence against journalists therefore requires a comprehensive, tailored State response. Countries with lower levels of violence against journalists should undertake some initiatives, such as monitoring attacks. However, countries with high levels of violence should consider a comprehensive plan or response, including developing a national specialised safety mechanism.

National specialised safety mechanisms are protection initiatives specifically designed normally to enhance protection of journalists or the effectiveness of investigation or protection systems. The most well-known example of such a mechanism is Colombia’s protection programme, which establishes a National Unit for Protection and offers physical protection for threatened journalists, potentially even including bodyguards and armoured cars.\textsuperscript{70} While these kind of physical protection actions are often important, strong national safety mechanisms should ideally be comprehensive and consider a range of preventative, protective and investigative measures. For guidance on establishing a safety mechanism, see Supporting Freedom of Expression: A Practical Guide to Developing Specialised Safety Mechanisms.\textsuperscript{71}

At the international level, the United Nations has developed a Plan of Action on the Safety of Journalists and the Issue of Impunity.\textsuperscript{72} The Plan of Action includes five core proposed actions for the UN: 1) strengthening UN mechanisms; 2) cooperating with Member States; 3) partnering with other organisations and institutions; 4) raising awareness; and 5) fostering safety initiatives. While most of the identified actions are focused at the United Nations level, the Plan of Action has created key infrastructure within the UN system which can support national level efforts to improve journalist safety. Similar plans of action can also be developed at the national level, either as a governmental effort or a civil society led initiative (see an example of the latter below).


\textsuperscript{70} For a discussion of this mechanism, see IMS, Defending Journalism (2017) (accessible at: https://www.mediasupport.org/publication/defending-journalism/?preview=true).


\textsuperscript{72} UNESCO and IPDC, UN Plan of Action on the Safety of Journalists and the Issue of Impunity (2012), CI-12/CONF.202/6.
UNESCO is the lead agency for coordinating implementation of the UN Plan of Action. As part of this work, UNESCO has developed a number of resources which are helpful at the national level combating violence against journalists. Some examples include a set of Journalists’ Safety Indicators for both the international and national level, and (with the International Association of Prosecutors) Guidelines for Prosecutors on Cases of Crimes against Journalists.

**Philippines: Developing a National Plan of Action**

The Philippines has one of the worst records in the world in terms of journalist safety, with 112 journalist deaths recorded by UNESCO since tracking started in 1993. In response, in 2019 a coalition of civil society groups and media organisations launched the Philippine Plan of Action on the Safety of Journalists. The Plan was developed following extensive multi-stakeholder consultations with media, government, civil society and other actors at both the national and local levels.

The Plan sets out a five-year implementation strategy, led again by a multi-stakeholder coalition developed out of the consultation process. Key action points proposed in the Plan include:

- Work to create an independent Press Council.
- Work to create journalist workers’ associations.
- A range of actions related to improving occupational, health and safety standards and laws for media workers.
- Institutionalise regular dialogues between state security forces and the media.
- Improve capacities for reporting on and responding to threats against journalists.
- Broaden journalist safety training.
- Develop a gender sensitivity programme for journalist.
- Set up systems for documenting attacks on female journalists.
- Develop protection programmes for university campus journalists.
- Review and reform criminal laws which endanger freedom of expression.
- Create a legal support mechanism for journalists.
- Develop knowledge products on relevant cultural and traditional practices.
- Increase public awareness about the role of the media.
- Strengthen the ability of teachers to teach about journalist safety in schools.
- Undertake a study to identify effective safety practices.

The Philippines has also had some government-led safety initiatives over the years, but this initiative is a good example of the range of actions a civil-society led coalition can undertake, even in the absence of clear government leadership.

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74 UNESCO and International Association of Prosecutors, ‘Guidelines for Prosecutors on Cases of Crimes against Journalists’ (2020) (accessible at: [https://unesdoc.unesco.org/ark:/48223/pf00000375138](https://unesdoc.unesco.org/ark:/48223/pf00000375138)).
CONCLUSION

The problem of violence against journalists, and impunity for such crimes, is a complex and pernicious one. In addition, the digital era has created significant new challenges and altered the forms of violence experienced by journalists, especially female journalists. On the other hand, international standards around safety of journalists are well-developed and significant international attention to the issue, such as within the United Nations, means a wide range of resources are now available to governments seeking to find ways to protect journalists better.

Lawyers looking to use litigation as a tool for addressing violence against journalists may consider cases where government actors themselves perpetuate violence. However, international standards also clearly place obligations on States to take action in response to violence against journalists committed by non-State actors. Litigation may therefore be an option for challenging government inaction in the face of such attacks.