

MLDI

Media Legal
Defence Initiative

Journalist Impact Survey 2019

Key Findings

Report prepared in February 2020 by
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Learning Officer

Background and methodology

- MLDI issues an annual Journalist Impact Survey as part of its Monitoring, Evaluation and Learning strategy. The 2019 survey is the third survey issued since the survey launch in 2017.
- The survey questions are designed to understand the quality of MLDI's legal and financial support to journalists in addition to gaining a greater appreciation of the role of legal defence in ensuring journalists can continue to report, which informs MLDI's future case work. The survey therefore allows MLDI to test its theory of change: access to legal defence enables journalists to continue reporting and holding governments and authorities to account for the public.
- Questions were consistent with those asked in the previous two versions to allow for comparability and analysis of trends.
- In 2019, the survey was sent to all journalists whose cases had closed in 2018 and 2019. Journalists whose contact details were missing and who were unavailable to be contacted were not contacted.*
- The survey was sent to a total of 73 journalists and was translated in Spanish and Russian. 23 responses were received (32% response rate). One response was from a lawyer so was removed from the analysis. The total figure of 22 responses is lower than in 2018 when the survey was also sent to journalists supported to MLDI's funded partners but equal to 2017.

*For example, because they were still imprisoned or for security concerns



149

MLDI cases closed in 2018 and 2019



73

Journalists contacted, removing those with no contact details, in detention or who had multiple cases

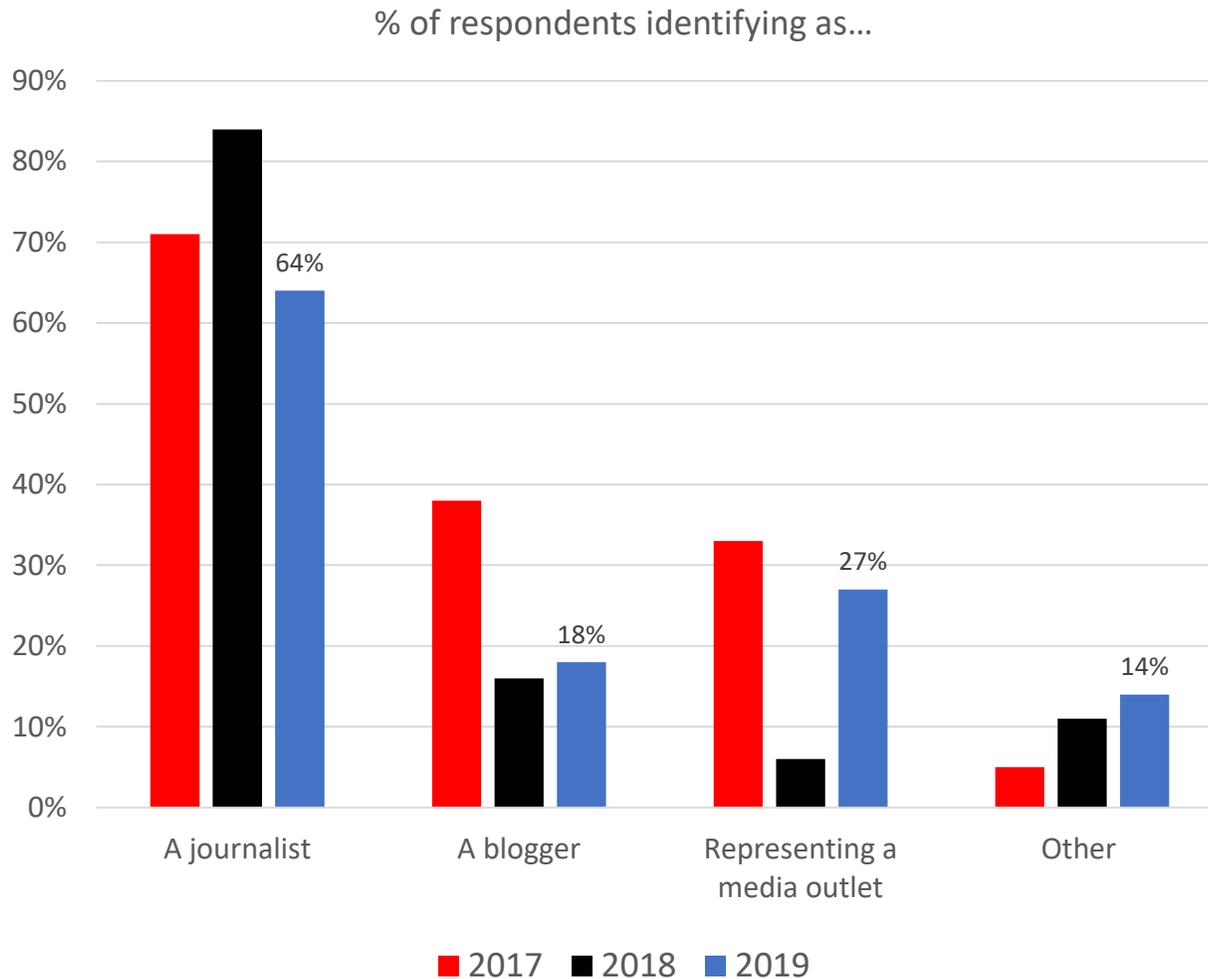


22

Journalists responded to survey during January 2020

MLDI sends the survey to journalists supported by funded partners every other year to compare findings with journalists directly supported by MLDI and provide a broader sample. In 2019, no responses were received to the Russian language survey whilst there was a 32% and 75% response rate to the English and Spanish surveys respectively.

Respondent profiles - occupation

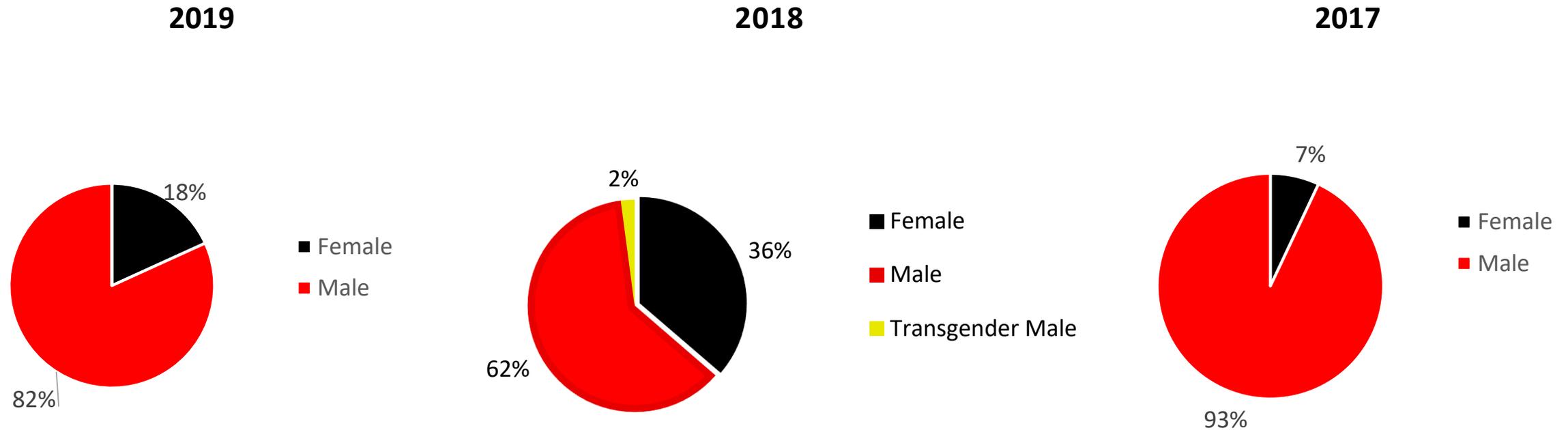


Respondents can select more than one option

In 2019, the proportion of respondents identifying as journalists was lower than in the previous two rounds of surveys (at 64%), however there was a slight increase in respondents identifying as 'other', including media NGO activists or staff and union representatives (14%).

Figures represent the percentage of respondents who selected each option, and two respondents selected more than one option. Figures should be treated with caution as more than twice the number of responses were received in 2018 (55) compared with 2017 and 2019 (22) due to inclusion of partner supported journalists.

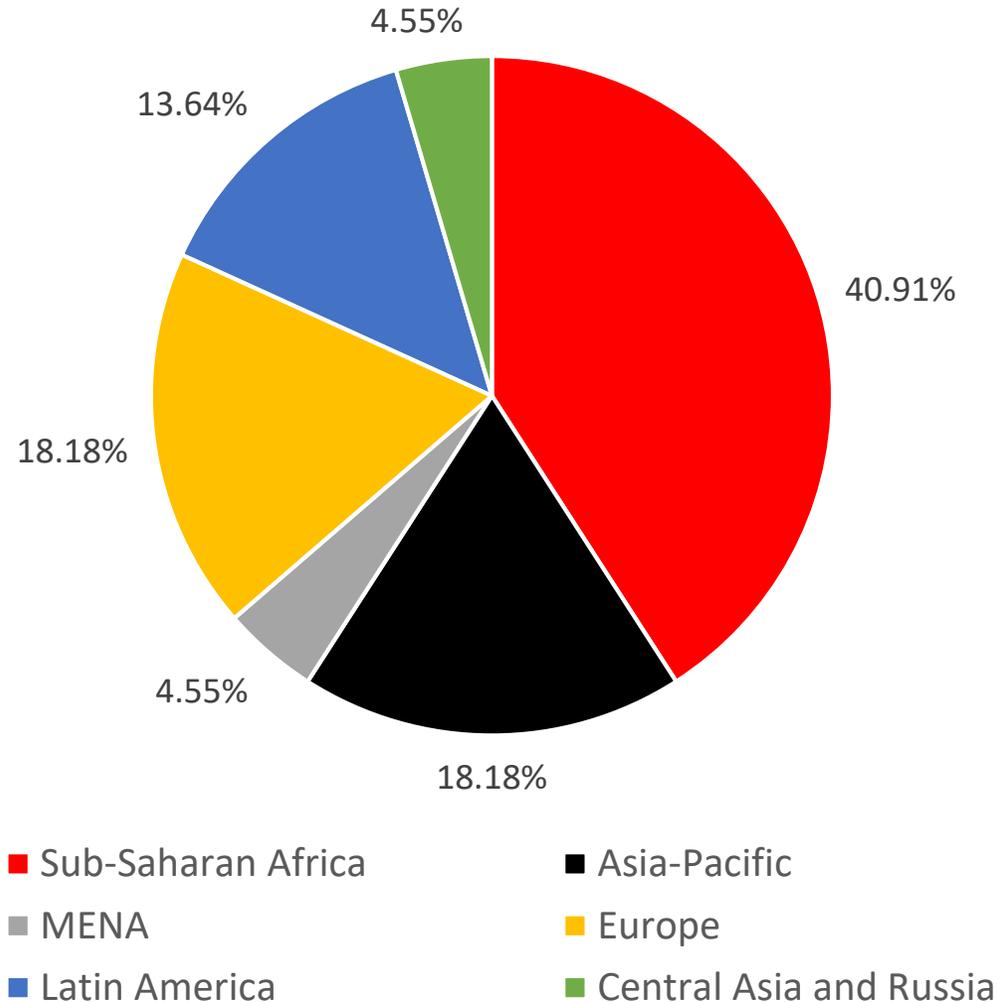
Respondent profiles – gender



The proportion of female journalists increased slightly in 2019 compared to the most comparable sample, in 2017, from 7% to 18%. The higher proportion of women journalists in 2018 is due to greater sample size with inclusion of journalists supported by funded partners.

18% of female journalists is slightly higher than our overall proportion of female journalists whose cases had closed in 2018 and 2019, which is estimated at 10%.

Respondent profiles – region



The highest number of respondents is from Sub-Saharan Africa (40.9%), which is consistent with the 2017 survey.

We cannot compare with the 2018 results as easily due to the inclusion of partner supported journalists, which skewed the results toward Europe and Central Asia and Russia where most of the partners were located.

Given that MLDI received a very small proportion of responses from Russian and Azeri journalists in 2019, despite the fact these made up a high proportion of closed cases, greater consideration should be given in the next survey to how to include these journalists' responses – perhaps by offering Skype interviews as opposed to a survey sent via email.

Respondent profiles – case type

We asked survey respondents to select the type of case, court and content of the publication related to their case. The key trends from 2019 include:



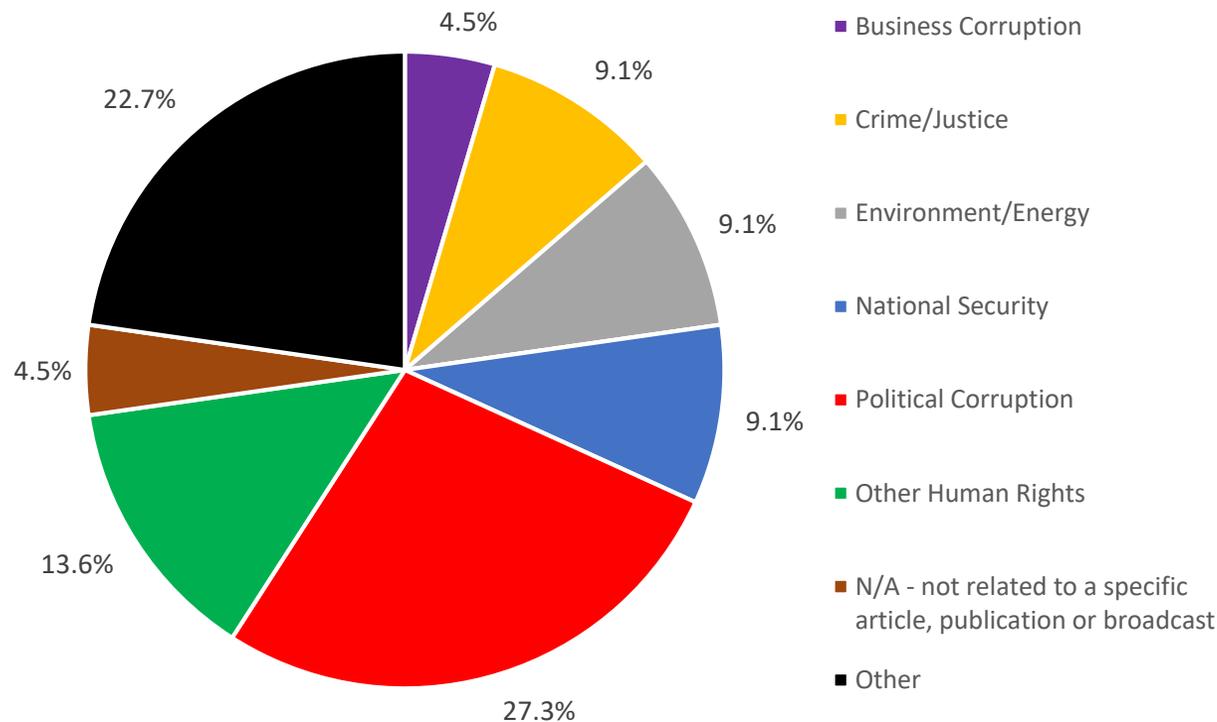
Civil and criminal defamation were the most common type of cases reported by survey respondents, with 22% of respondents reporting they received support for a civil defamation case and 19.5% for criminal defamation case. In 2017, both civil and criminal defamation cases were most common, whilst in 2018 they were behind access to information. In 2019, cases of harassment or bodily harm were third most common. The high proportion of civil and criminal defamation cases mirrors the proportion of these cases in all our closed cases in 2018 and 2019.

68% of respondents cases were at domestic courts. There were two cases from the European Court of Human Rights and one case from the ECOWAS Court. Journalists whose cases progress to regional courts are more likely to have received substantive support from MLDI's lawyers. In future versions of the survey MLDI will ensure that respondents whose case was at regional court are contacted as well in order to receive a representative sample of responses more accurately reflecting our breadth of support.

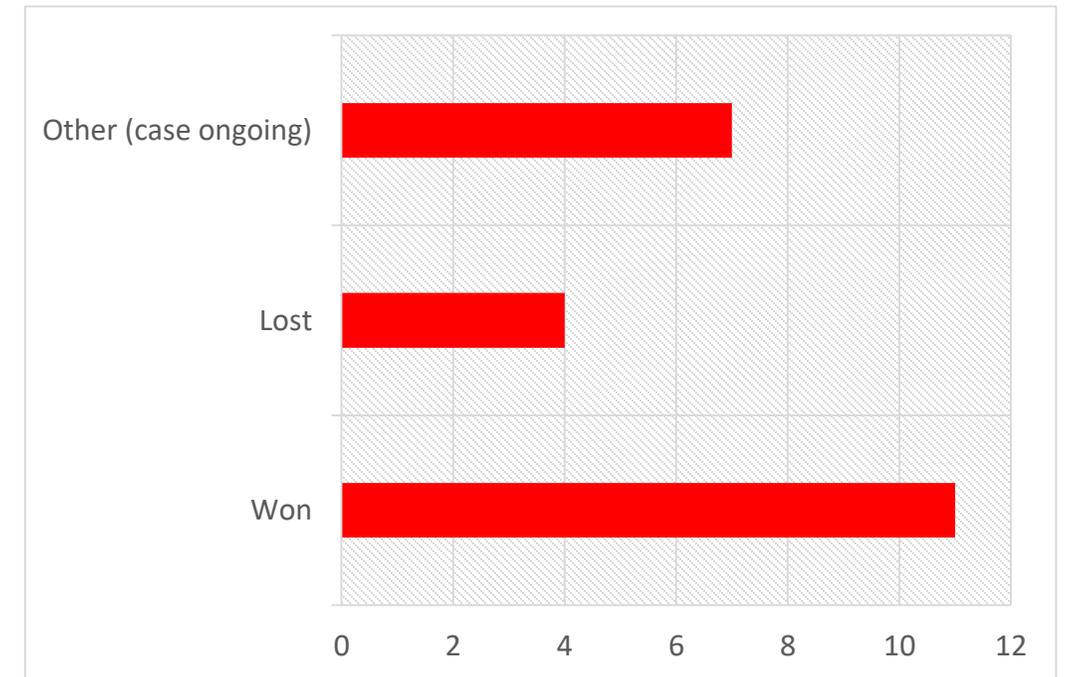


Respondent profiles – journalistic issue and outcomes

Journalists reporting on corruption formed the biggest proportion of respondents after the 'other' category, which included tribalism, illicit government relationships and migration. Political corruption consistently remains the top issue journalists report on and face legal action for, continuing the trend from 2017 and 2018.

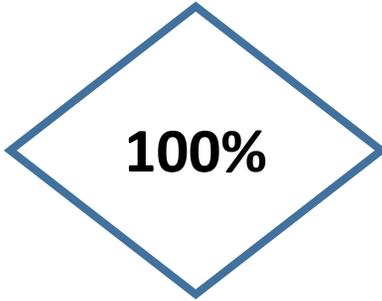


11 out of the 14 cases closed were won* (73% of cases closed). This represents a drop from 81% compared with figures from the 2018 survey, but is consistent with MLDP's success rate as a whole for all cases closed in 2019. Even though the survey was sent to journalists who had a case closed in the past two years, the same journalist may also currently have an ongoing case, hence why seven respondents selected this option.

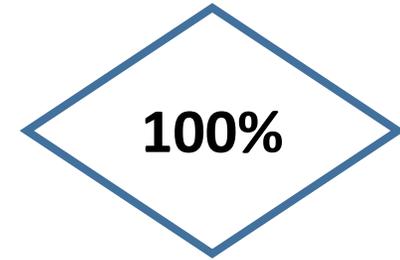


*excluding cases where the plaintiff withdrew

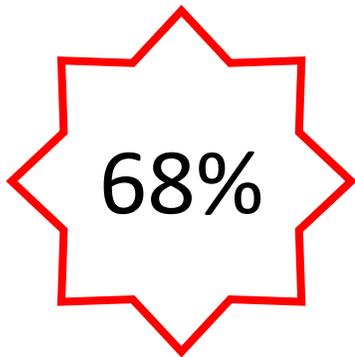
2019 Headline Impact Statistics



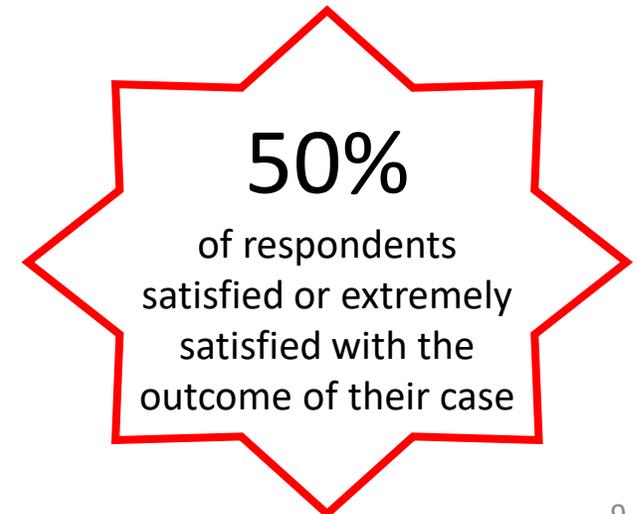
Would recommend
MLDI's support to
a journalist facing
legal action



Continued to report and practice
journalism following the
conclusion of their case

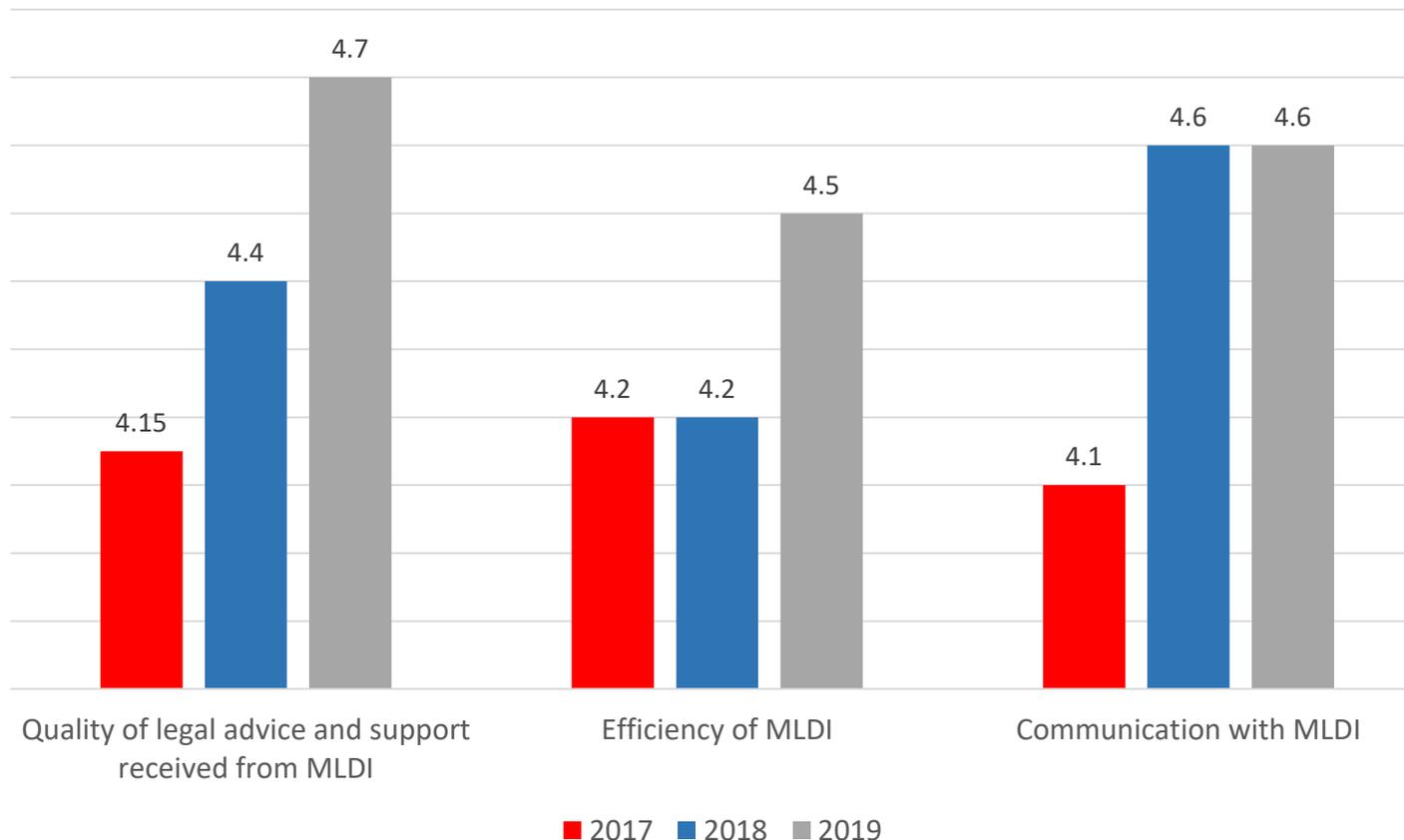


Of respondents
believe their case will
have a positive impact
on freedom of
expression in their
country



MLDI's support

Respondents were asked to rank the quality and efficiency of MLDI's support and communication on a scale of 1-5 (whereby 1 is the worst and 5 is the best). The results below display the average answer between 2017 and 2019 surveys:



The results demonstrate a continued improvement in MLDI's beneficiary responses to our legal services from 2017 to 2019.* In 2019, 22 respondents rated the quality of MLDI's support and communication with MLDI as 4 or 5, whilst just one respondent rated the efficiency of MLDI's support at 3.

The survey also asked how respondents heard of MLDI, with the most frequent response (50%) being that they were recommended to apply for support. This is consistent with the 2017 results, however the proportion selecting that they trusted MLDI's expertise dropped from 38% in 2017 and 58% in 2018 to 32% in 2019 results.

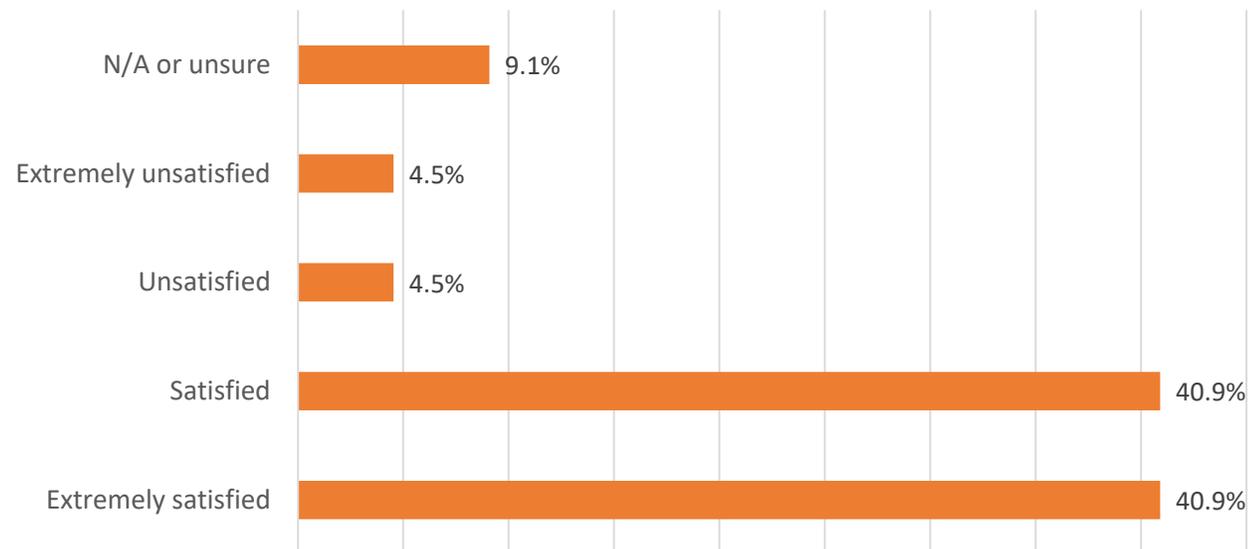
*as previously indicated, 2018 results also include partner-supported journalists

Case and lawyer satisfaction rates



Satisfied or extremely satisfied with the outcome of their case. Of the 8 respondents (36%)* who were unsatisfied or extremely unsatisfied with the outcome of their case:

- All still said they would recommend MLDI's support
- One said that MLDI could consider setting up regional offices or personnel in country to assist with face-to-face legal support
- Three said they had made changes to their journalism practice in an attempt to avoid further litigation, or had become more wary of facing legal action



< Lawyer satisfaction rates show that just 9% of respondents in 2019 were unsatisfied with their lawyer. This is an improvement from 2017 when 15% were unsatisfied, however in 2018 no respondents were dissatisfied (also included partners so MLDI may not have worked with the lawyer).

*13.6% answered N/A or unsure

‘What three words would you use to describe MLDI’s support?’

“““

Credible, supportive, accessible

“““

Press freedom guardians

“““

Keeping people informed!

“““

Expertise, commitment, professionalism

‘What do you think would have happened if MLDI was unable to support your case?’

Financial burden

6 respondents (22%) said they would have been unable to afford to pay for a lawyer or would have been forced to pay defamation damages as part of their case.

Negative impacts for press freedom context

3 respondents (14%) suggested that without MLDI, the situation for press freedom would deteriorate. One argued ‘the harassment against journalists would have continued. Fortunately [following MLDI’s support] this has changed the trend, perpetrators think it is risky to continue harassing journalists’.

Injustice and persecution

Without MLDI’s support, I would have remained in jail or faced even longer jail sentences –
Mohamed Yusuf,
Somalia

My appeal to the Human Rights Court would not have been good enough without MLDI, it would have been a much worse outcome



Improvements to MLDI's support

Noteworthy recommendations included:

“““

Maybe [MLDI] could set up offices

locally in order to appreciate the level of abuse that journalists endure when carrying out the duties ... and appoint good senior lawyers in several countries

“““

I wish you could simplify the procedures for reimbursement or for paying the lawyer directly...
A tad bureaucratic - could the system of documentation be simplified ?”

“““

More publicity on cases to create international awareness

“““

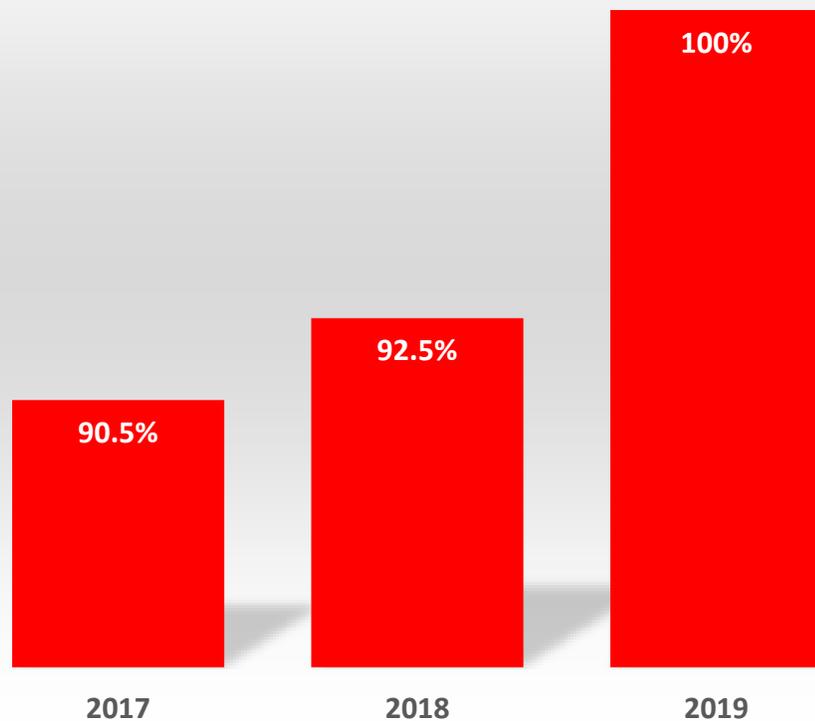
I think it could not be any better. Of course our lawyers were not happy that you were asking a lot of questions but to me that was necessary

“““

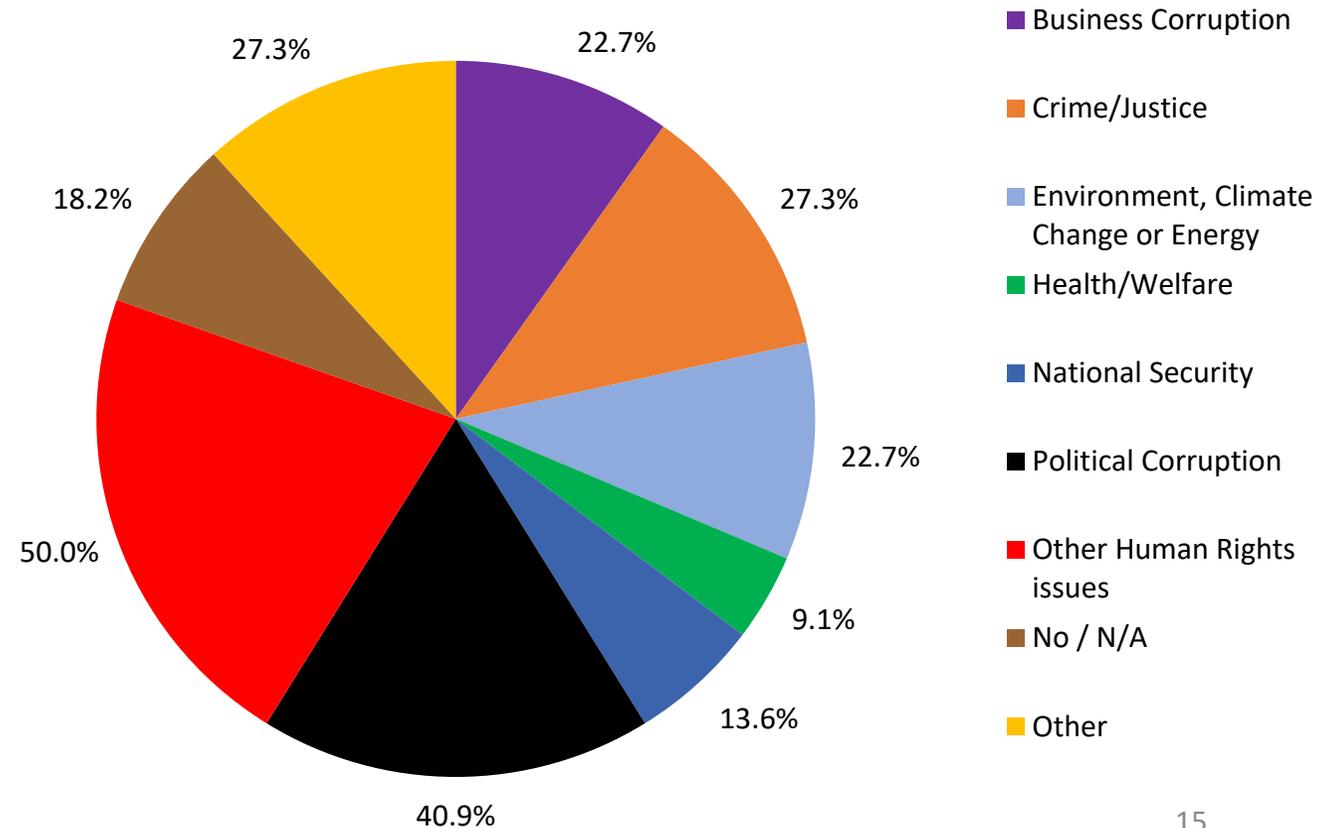
Needed more funds allocated to the case and flexibility on the budget

Impact of the case on journalist's ability to continue reporting

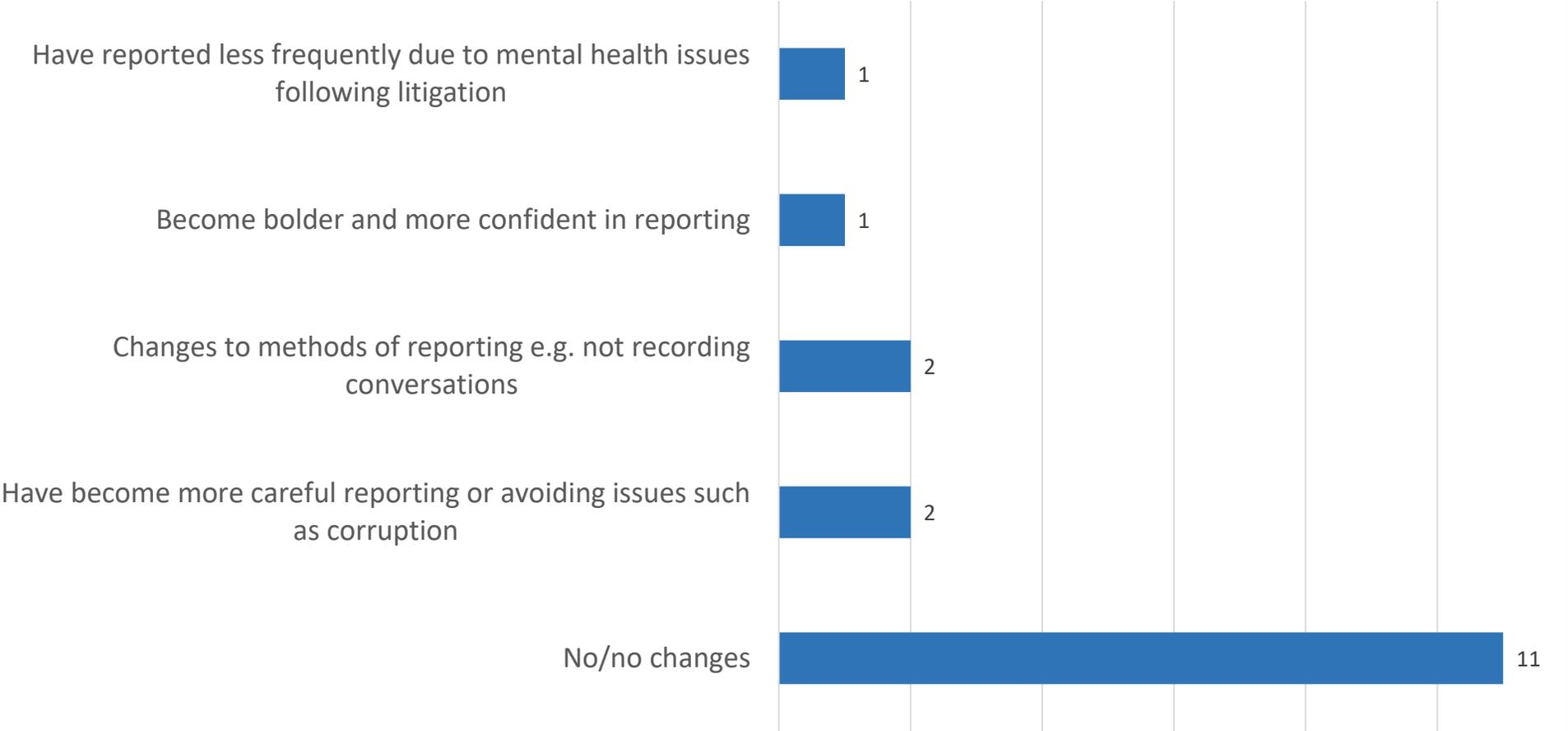
% of respondents reporting they are able to continue practising journalism after their case



Respondents were also asked what issues they have continued reporting on following their case:



‘As a result of the legal action you faced, have you changed your journalism in any way?’



‘What has prevented you from practising journalism following legal proceedings against you?’

“

We have not stopped practising journalism but frequent defence against lawsuits is crippling us more especially in light of dwindling newspaper revenues

“

Very difficult to get editors to accept my work...I touched on ‘divided’ subjects, one that could possibly be troublesome for their publications

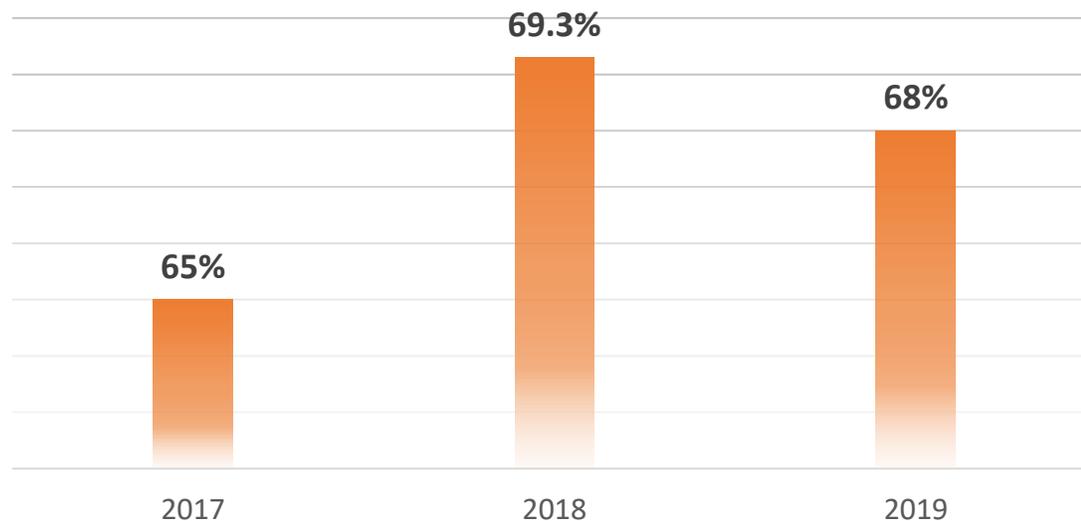
“

I feel less safe, less protected and don’t have financial conditions to keep on working as easily on my reporting

The wider context

Respondents were asked about the impact of their case on the wider press freedom environment on their country and the barriers to a free press more broadly.

% OF RESPONDENTS REPORTING THEIR CASE HAD A POSITIVE IMPACT ON PRESS FREEDOM IN THEIR COUNTRY



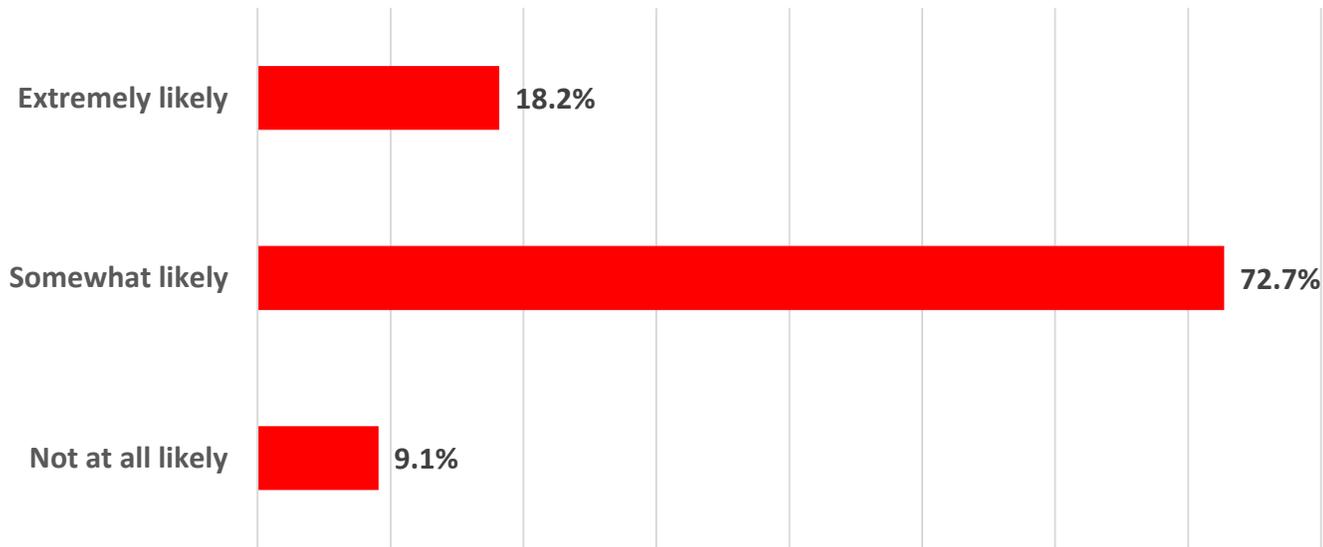
The key themes emerging for those who reported their case had a positive impact include:

- Change in public attitudes towards journalism and an increasing recognition of the importance of a free media
- Encouraging other journalists to seek assistance for cases against them rather than giving in to court demands
- Case served as a way to tackle impunity and improve accountability for those in public office
- Positive international attention amplified impact of case
- Making governments and domestic courts consider regional human rights court judgments and rethink their legislation and policy platforms

Negative impact from respondents included journalists being deterred from critical reporting and the case creating a 'chilling effect' for journalists in the country. All respondents who selected negative or no impact were from Eastern Europe and Asia, reflecting the more repressive environments for free media in these regions.

The wider context - continued

How likely do you think it is that your journalistic activity will result in more legal challenges in the future?



Regional breakdown of those who reported they were extremely likely or somewhat likely to face more legal challenges following their case:

Europe	15%
Central Asia and Russia	5%
Sub-Saharan Africa	40%
Americas	15%
Asia Pacific	25%

Despite the majority of journalists believing their case had a positive impact of freedom of expression, only 9.1% indicated they are not at all likely to face more legal challenges in the future for their reporting, reflecting the continued repressive environment for independent media in many of the regions MLDI works in and respondents are from. Respondents from Sub-Saharan Africa were most likely to report that they were extremely likely or somewhat likely to face more legal challenges as the table indicates, however these figures should be treated with caution as we received the highest overall number of responses from this region.

‘What are the biggest legal challenges facing journalists in your country and what are the other types of challenges?’

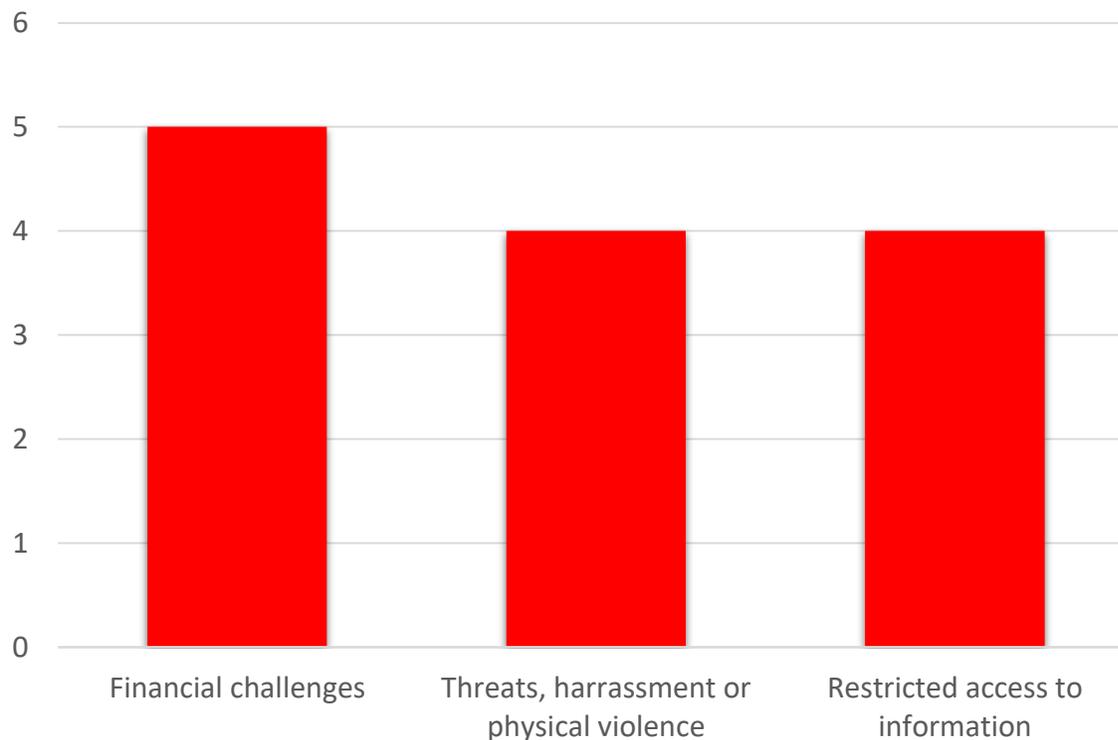
Responses on legal challenges include:

- Draconian laws such as sedition and anti-terrorism
- False news cases
- Requests for removing content/blocking articles
- Slow investigations into attacks against journalists
- Judiciary not attentive to press freedom

It is clear that the arsenal of legal restrictions against media continues to grow and governments are finding new ways to restrict the press, including by removing website content and blocking articles.

One respondent also commented that journalists need more education around the legal threats and how they can avoid lawsuits from their reporting, something which MLDI should consider offering or partnering with organisations on.

Most frequently cited other challenges facing journalists



Impact themes and learnings

In 2019, the impact themes remain similar to previous versions of our Impact Survey. It is clear that MLDI's support continues to provide:



ECONOMIC RELIEF

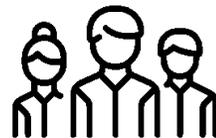
A high proportion of respondents reported they wouldn't have been able to afford legal fees or would have been forced to pay damages without MLDI's support



ACCESS TO JUSTICE AND IMPROVED CASE OUTCOMES

100% recommendation rate for MLDI's services, a high satisfaction level with our legal defence and attributing positive outcomes to MLDI's support shows the value of our work

IMPACT ON THE JOURNALISTIC COMMUNITY



Many journalists cite the role of MLDI's support in drawing attention to their case and improving public perception of the importance of a free media



ENDING IMPUNITY AND ALLOWING JOURNALISTS TO CONTINUE TO HOLD PUBLIC OFFICIALS TO ACCOUNT

Several journalists also cited the importance of their case in ending impunity for public officials who have abused their positions of power and allowing journalists to continue to report critically on corruption. Whilst 100% of respondents this year said they continued to report, six journalists also said they had changed their practice in some way and 18% said they thought it extremely likely they would face legal action again, so this impact is mixed



Almost all journalists in the field won't write about the man who charged me with defamation, so it's definitely had a chilling effect. However in saying that, [MLDI's support] brought much attention to the case, so it's unlikely he will sue me again It's a double-edged sword.

Keya Acharya - India

Without MLDI's support we would have been unable to pay the defamation damages and legal costs of the complaint. Following the case, more journalists have been able to write about police corruption by senior officers without fear. After my case, the police officer in question eventually resigned from her post in frustration at being transferred away from where she used to carry out corrupt activities

Nkulumani Mlambo - Zimbabwe



Key recommendations

For future iterations of the survey and for further research purposes, the following recommendations emerge:

- For the new strategy implementation, MLDI should continue to review its Theory of Change for emergency defence and strategic litigation, ensuring that all assumptions are tested and links between activities and outcomes are realised in practice.
- MLDI should consider adding additional questions or following up with journalists who received substantive support from the legal team rather than just legal fees covered, to understand the value of this support in improving case outcomes and the journalist's ability to report.
- MLDI should follow up with journalists from regions where the threat of legal abuse against independent media is more pronounced, such as in Central Asia and Russia and Latin America. The low amount of respondents from these two regions warrants further investigations and comparisons with other regions, to investigate if differing threats and challenges are present.
- The continued low representation of female journalists in this survey (as reflected in the wider number of cases supported by MLDI) suggests we should continue to research how gender and identity affects litigation rates against journalists. This could either be asked directly in the survey or we could identify journalists facing litigation due to their identity e.g. women journalists and sexual minorities and conduct interviews and focus groups with them to ascertain the specific risks for their communities, or barriers to requesting legal support from MLDI we could address.
- Continue to send the survey to partner-supported journalists on a bi-annual basis, and compare responses to MLDI supported journalists and analyse disparity.
- MLDI should consider implementing recommendations from the survey and follow up with journalists on specific recommendations, including transparency around the budget for cases, administrative processes, suggestions for MLDI lawyers in country and training for journalists.