



Call for Consultants: Training Materials for Litigation Surgeries on Freedom of Expression in Latin America

Terms of Reference

1. Purpose of the consultancy contract

The purpose of the consultancy contract is to develop a set of summary modules on freedom of expression in Latin America for use in Media Defence's litigation surgeries.

2. Background

Media Defence's vision is a world where journalists no longer face legal challenges that threaten their ability to report freely and independently on issues of public interest, allowing citizens to be better informed, able to hold those in power to account.

One of Media Defence's core activities is the delivery of litigation surgeries to increase the knowledge, skills and confidence of lawyers to litigate freedom of expression cases at national and regional courts. These surgeries have a practical focus; the programme is tailored to case studies participants are asked to provide, which could be a case they are working on or a case they intend to pursue.

Having previously facilitated litigation surgeries in sub-Saharan Africa, Media Defence will now be organising its first litigation surgery in Latin America which therefore requires a new set of training materials relevant to the region. The training materials are designed for practicing lawyers and give an overview of key concepts and emerging trends in freedom of expression.

All Media Defence's training materials are on our [website](#) and licenced under the Creative Commons Attribution-Non Commercial 4.0 International Licence, see for instance the [Summary Modules and Advanced Modules on Digital Rights and Freedom of Expression Online](#) with a focus on sub-Saharan Africa.

3. Training Modules

Media Defence is looking to hire a consultant to add to Media Defence's [Summary Modules on Digital Rights and Freedom of Expression](#) where appropriate to focus on Latin America and draft additional modules on litigating cases of violence against journalists, the Inter-American system of human rights and UN mechanisms. The consultant may use any of the material in the training manuals and modules available on the website. The modules will then be translated into Spanish with both languages uploaded to the website.

4. Deliverables

The development of training modules on topics outlined below, which can be used to create a training manual tailored to the requirements of the litigation surgery participants. For Modules 1-9, the consultant should add in additional references to include relevant national and regional case law from Latin America, separating it from the material previously developed by Media Defence on sub-Saharan Africa.

Media Defence would like to receive the following:

(1) Additional material on Latin America to supplement the existing module:

Module 1: Key principles of international law and freedom of expression

Key principles of international law
The right to freedom of expression under international law
Who constitutes a journalist?
United Nations
African regional instruments

Module 2: Introduction to digital rights

What are digital rights?
What is an internet intermediary?
The borderless enjoyment of freedom of expression
The right to freedom of expression online

Module 3: Access to the internet

Is there a right to the internet under international law?
Interferences with access to the internet
What is an internet shutdown?
What is the blocking and filtering of content?
What is network neutrality?
Limitation of the right to freedom of expression
National security as a ground of justification
Intermediary liability

Module 4: Digital Privacy and Data Protection

The right to privacy
Data protection
'The right to be forgotten'
Encryption and anonymity on the internet
Government-led digital surveillance

Module 5 Defamation and reputation

NB this module was created for surgeries with a focus on digital rights. For Latin America it should also include "offline" defamation.

What is defamation?
Criminal defamation
Civil defamation
Can a true statement be defamatory?
The right to protection against attacks on reputation?
What is the right way to deal with defamation?
Types of defamatory material
Strategic Lawsuits Against Public Participation (SLAPP)
'Desacato' laws

Module 6: Hate speech

Who is internationally protected by "counter hate speech" provisions?
Was "hate speech" intended to incite?
Must violence or hatred actually result?
The danger of vagueness
Advocacy of genocide and Holocaust denial: a special case?
Religious defamation

Module 7: Cybercrimes

What is a cybercrime?
Types of cybercrimes
Trends in Latin America

Module 8: 'False news', misinformation and propaganda

What is 'false news'?
Misinformation, Disinformation and Mal-Information
Propaganda

Module 9: National security

The derogation process under international and regional human rights treaties
Limiting media freedom on grounds of national security
The scope of national security
Terrorism
Prescribed by law
Necessary in a democratic society
Prior restraint in national security cases (*NB prior restraint is not allowed in the Inter-American System*)

(2) Drafting three new modules:

Module 10: Violence against journalists

Government and public officials' duty to provide a favourable environment for freedom of expression
Physical attacks and violence against journalists
Online violence, such as abuse, trolling and smear campaigns
Protection of journalistic sources
Gender-based violence
Practical approaches

Module 11: Introduction to litigating freedom of expression in Latin America

General principles and introduction to freedom of expression litigation
Conventionality Control
Overview of the Inter-American Commission and Court
Overview of the positive obligations of the State for the protection of journalists

Module 12: Introduction to the UN mechanisms

Overview of UN mechanisms

(3) Adding to the existing glossary for the modules

(4) PowerPoint presentations for each module

5. Expected timeline

- 18 April 2021: Deadline for submission of proposal
- 9 May 2021: Successful proposal will begin
- 6 June 2021: First draft submitted for review by Media Defence's Legal Team
- 4 July 2021: Final submission

6. Expected profile

- At least two years' experience drafting resources on freedom of expression for practicing lawyers.
- Demonstrated knowledge of international/comparative law on the right to freedom of expression, digital rights, and internet freedom, with a particular focus on Latin America.
- Availability to provide the deliverables within the expected timeline.

7. How to apply

Please submit the following documents to hannah.stoate@mediadefence.org:

- A one-page proposal including key dates and timelines for the project.
- CV of those working on the project.
- Quotation/itemised budget in GBP (£).
- Example of relevant previous work undertaken.

If you have any questions, please contact hannah.stoate@mediadefence.org.