Annual Report
2021
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"I was filled with deep gratitude for all the help that I received at a very difficult time in my life. I wanted to tell you how that help served as a ventilator for my career. If not for Media Defence and your timely and proactive help, I might not be able to do so much of the work. Please accept my sincere, heartfelt gratitude."

Indian Journalist
In 2020 Media Defence launched a new five year strategy. This ambitious plan to grow the organisation is necessary in order to meet the increasing demand for its critical services, continuing to provide practical and effective legal support to journalists and independent media. The plan was launched at a time when the world was experiencing increased polarisation of political life in Western democracies, with journalists and media being widely maligned and undermined.

Now, at the start of 2022 – in year three of our strategy – there is a war in Ukraine, where at least 18 journalists have been killed while reporting on the conflict. The autocratic regime in Russia has introduced a drastic series of laws that has led to the complete suppression of independent journalism, with many journalists forced to flee the country out of fear for their safety. We are bearing witness to the consequences of those in power turning a blind eye. We must not ignore the dampening down of freedoms, but rather act when those who seek to hold power to account are silenced through intimidation and threats. The heroic bravery of those journalists in Ukraine who are reporting on Russian atrocities is a pattern that is repeated throughout the world. Media Defence witnesses such examples of courage and tenacity through its work in dozens of countries with hundreds of journalists. The fundamental importance of that work, the degree to which it underpins freedom and safety in society, has never been thrown into such sharp relief. In response, we have done more to protect journalists than ever before.

When writing our strategy in 2019, we could never have envisaged the global events that were to come. However, from successfully intervening in a challenge to the UK government for detaining a journalist in Pal v United Kingdom, to fighting impunity for violence against journalists in Colombia, 2021 has been a year in which the team at Media Defence has done more than ever before to protect journalists and independent media. One worrying trend has been an increase in intimidation and threats directed at local lawyers representing journalists, as those in power seek to isolate and intimidate not only those who challenge them, but those who would defend their right to do so.

When writing our strategy in 2019, we could never have envisaged the global events that were to come. However, from successfully intervening in a challenge to the UK government for detaining a journalist in Pal v United Kingdom, to fighting impunity for violence against journalists in Colombia, 2021 has been a year in which the team at Media Defence has done more than ever before to protect journalists and independent media. One worrying trend has been an increase in intimidation and threats directed at local lawyers representing journalists, as those in power seek to isolate and intimidate not only those who challenge them, but those who would defend their right to do so. This trend demonstrates just how powerful a free media can be, and why it is so feared by those who do not wish to be held to account.

As I reflect on the challenges and achievements of Media Defence during the past year, and the sobering statistics on the mounting threats to independent media, it is nonetheless with hope that I look towards the future. Hope that a corner has been turned, and that there is real momentum behind freedom of expression and freedom of the media.
From our CEO: Alinda Vermeer

"We are inspired by the stories of those we help: journalists that continue their critical work in the face of great personal and professional risk."

Alinda Vermeer
CEO

With the pandemic accelerating the decline in media freedom, journalists faced challenging and dangerous circumstances around the world, and the need for legal support to the media continued to grow.

In response to their journalistic work, journalists were confronted with abusive lawsuits, false accusations, smear campaigns and an increasingly unsafe environment, both on and offline. Media Defence exists to provide legal help to journalists and independent media who are under threat for their reporting, so they can continue to report on issues of public interest, holding power to account. In these extraordinarily challenging times, we are inspired by the stories of those we help: journalists that continue their critical work in the face of great personal and professional risk.

In 2020, we started supporting João Paulo Cuenca, a Brazilian writer and journalist, who is facing what seems to be a coordinated offensive by 143 pastors from the evangelical organisation Universal Church of God’s Kingdom who initiated individual claims for compensation from him in every state of Brazil except the one in which he lives. Out of the 143 lawsuits launched against him, 86 have either been successfully defended or dismissed. Cuenca is hoping to produce and record a documentary about the ordeal, opening up a dialogue with those pastors who launched lawsuits to better understand their point of view.

Catalina Ruiz Navarro and Matilde de los Milagros Londoño, journalists and founders of feminist news outlet Las Volcánicas, investigated allegations of sexual harassment by the prominent Colombian film maker Ciro Guerra. Guerra started a series of intimidating legal actions against them that could result in them being ordered to pay $1 million in damages and spending up to seven years in prison. We started supporting Ruiz Navarro and Londoño in 2021. They were ordered to provide further evidence regarding the allegations, which only strengthened their case. Las Volcánicas continue their journalistic work; in addition to reporting on the legal cases against them, they continue to expose cases of sexual harassment by politicians, academics, prominent lawyers and physicians.

These are only two examples of the courage and resilience of those we support.

We started 2022 supporting journalists and independent media across 61 countries in 466 active cases. 80% of the journalists we support report that our legal support enables them to continue their journalistic work.

As we expect the downward trend to continue, we will continue expanding our work in 2022, ensuring that more journalists have access to high quality legal support free of charge so they can continue to report. We will strategically select over 50 cases that have the potential to improve the climate within which the media operate. Obtaining redress for journalists who have become victims of violence is our priority. After the Russian invasion of Ukraine in February 2022, we are working closely with local partners to ensure that journalists in Ukraine have access to pro bono legal support. We will increase the support we offer to local organisations in countries where the need is the highest and we will expand our training programme for lawyers from sub-Saharan Africa into Latin America and South Asia.

All of this is made possible by the courageous journalists and lawyers we have worked with, the generous support of our donors and pro bono lawyers, and the dedication of our trustees and our resilient team, who have worked tirelessly to deliver this much needed support.
We support journalists who hold power to account by working to ensure the legal protection and defence of journalists and independent media so they can report on issues of public interest.

We do this by providing legal assistance to journalists, citizen journalists and independent media through an emergency defence fund, by taking strategic cases to challenge unjust laws and protect freedom of expression, and through developing a worldwide network of partners and specialists to provide legal defence, which we support through grantmaking, training and information sharing.

We are unique in what we do. To date, we are the only organisation in the world solely focused on providing this crucial help to journalists.

We provide legal help to journalists, citizen journalists and independent media across the world, in the belief that a free press is essential in realising the right to freedom of expression.
The COVID-19 pandemic has accelerated the decline in media freedom that informed our 2020-2024 strategy. More and more journalists are facing legal threats alone, without the protection of resourced media houses. They will not be able to continue their critical work of informing the public without access to effective legal representation. That is why we are scaling up our support and magnifying our impact.

Our overall goal is to enable independent media to hold power to account by reporting on matters of public interest, free from abusive legal action. Five key strategic and enabling goals drive our work in this period.

**Strategic goals**
- Journalists in need have access to free emergency legal assistance.
- The legal climate for press freedom worldwide is improved.
- Specialist, free legal defence for media is available globally from well informed legal practitioners and partners, able to defend individual journalists and take strategic cases to protect and extend freedom of expression.

**Enabling goals**
- Strengthened internal capacity to meet the global legal challenge to journalists’ ability to work on issues of public interest.
- Through the strategic communication of our work and that of our partners, Media Defence is recognised globally as a centre of expertise in legal defence of press freedom.

Despite the challenges posed by the pandemic, we have made strong progress towards achieving our goals in 2021. The total number of cases we are supporting continues to grow and we are on track to support at least 100 new emergency defence cases per year by 2024. We are already exceeding our 2024 target of undertaking 40 strategic cases per year, supporting 53 cases in 2021. We have deepened our support to our partners and have facilitated cross-partner learning, sharing best practices and strengthening legal advocacy across the world.

This has been underpinned by organisational growth, leveraging relationships with new and existing funders to build our income. We have broadened our communications, reaching more journalists, media defence lawyers and potential partners through our growing social media channels, as well as through a new quarterly newsletter and regular webinars. Finally, we launched our Training Hub in 2021, making our online legal resources more accessible to media lawyers defending digital rights.

To ensure we are working in the most responsive way, we are continually monitoring our work and learning how to improve. This involves tracking key performance indicators, evaluating our partnerships, and regularly reviewing the holistic impact of our strategic litigation.
World Overview

In 2021, we supported 466 cases in 61 countries.

Throughout the year we also worked with 19 partner organisations in 17 countries where the need for legal support is the highest. Our support enabled them to litigate at least 350 cases.

Over 200 lawyers from 15 countries benefitted from our training programme, enabling them to provide high quality legal defence to independent media.
We supported journalists and media outlets in 124 new cases in 2021. A record 53 of these cases are strategic, which means these cases have the potential to improve the environment in which the media operates. As litigation can be enduring, these new cases only form a small part of our overall caseload. In total, our team worked on 466 cases during the year across 61 countries. This represents an increase from 2020 when we worked on 443 cases during the year in 63 countries.

We identified a number of trends and new developments that hamper journalists’ ability to gather information or report, and we countered these at national, regional, and international courts. Our strategic litigation included challenging the Nigerian government’s ban on Twitter, filing an intervention before the European Court of Human Rights to better protect whistle-blowers, and pursuing those who have used spyware to target journalists. Cases also became increasingly complex, straying away from the traditional use of defamation laws, and instead leveraging GDPR, privacy and financial laws to silence critical voices.

Over the past few years, the environment in which we are working has continued to worsen and this is reflected in our work. Cases that came to an end in 2021 had an overall success rate of 57%, which is lower than we have seen in previous years. This is in part due to a rise in the number of cases in countries deemed “not free” by Freedom House, with 41% of the cases that closed originating from a country where independence of the judiciary is limited. Where possible, we took these cases to a regional or international human rights forum, where our success rate was 88%.

We worked with 19 funded partners throughout the year, which enabled these partners to provide high quality legal support to media in countries where the need is the highest. A record number of 153 lawyers were trained to provide better legal support to the media. We launched a Training Hub, where lawyers can access all our training materials and resources on one easy-to-use site.

We improved our ability to meet the growing need for our support in 2021 by welcoming five new members of staff and relocating to new offices in London. We increased our income as well as our reach, for instance by hosting webinars and publishing a quarterly newsletter.

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Highlights of the Year

Journalists faced increasingly challenging and dangerous circumstances around the world, and the need for legal support to the media continued to grow in 2021.

466 124
Total number of cases supported New cases in 2021

71 53
New emergency defence cases New strategic cases

24 57%
Pro bono cases Case success rate

15 207
New partner grants approved Lawyers trained

39
Sponsored participants at virtual international networking events
We provide emergency defence to journalists and media outlets facing complex and costly lawsuits and other forms of legal intimidation as a result of their reporting. Through grants and pro bono legal support, we ensure that journalists are able to fight back against efforts to silence them.

Emergency Defence

71
Number of new emergency defence cases

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<tr>
<th>Most represented countries:</th>
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<tbody>
<tr>
<td>Cameroon</td>
<td>8</td>
</tr>
<tr>
<td>India</td>
<td>6</td>
</tr>
<tr>
<td>Peru</td>
<td>6</td>
</tr>
<tr>
<td>Turkey</td>
<td>5</td>
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<tr>
<td>North Macedonia</td>
<td>4</td>
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<tr>
<td>Bangladesh</td>
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<tr>
<td>Germany</td>
<td>3</td>
</tr>
<tr>
<td>Kenya</td>
<td>3</td>
</tr>
<tr>
<td>Poland</td>
<td>3</td>
</tr>
<tr>
<td>Rwanda</td>
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272
Total active emergency cases

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<th>Most cases by type:</th>
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<tr>
<td>Criminal defamation</td>
<td>17</td>
</tr>
<tr>
<td>Other criminal</td>
<td>14</td>
</tr>
<tr>
<td>Civil defamation</td>
<td>2</td>
</tr>
<tr>
<td>Other civil</td>
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<tr>
<td>Constitutional challenge</td>
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<td>Access to information</td>
<td>3</td>
</tr>
<tr>
<td>Physical reporting restrictions</td>
<td>3</td>
</tr>
<tr>
<td>Religious based legislation</td>
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Emergency Defence

Case Study: João Paulo Cuenca

In 2020, we started supporting the legal defence of Brazilian writer and journalist João Paulo Cuenca in over 140 lawsuits filed against him, following a satirical tweet he shared. This coordinated campaign is not only an example of the legal harassment faced by journalists in Brazil, but emblematic of the global trend to use SLAPPs to silence critical voices.

However, with adequate legal support, these challenges can be overcome. In 2021, 80 of these cases came to an end, and not one was lost.

In addition, separate from the legal defence in court by Cuenca’s lawyers, the Brazilian Press Association (Associação Brasileira de Imprensa, ABI) filed a complaint about the judicial harassment against him to the Office of the Federal Public Prosecutor. The Federal Public Prosecutor opened an investigation and petitioned the National Justice Council (Conselho Nacional de Justiça, CNJ) about the issue, requesting an Order recommending how judges and prosecutors should treat lawsuits with the same characteristics as those filed against Cuenca. The CNJ decided to issue a Normative Act on “predatory judicialisation that can lead to the restriction of defence and the limitation of freedom of expression”. This norm classifies ‘predatory judicialisation’ as the mass filing of lawsuits with a similar request and cause, inhibiting the defendant’s full freedom of expression.

In the recommendation, the CNJ guides the courts to adopt certain measures aimed at redressing the power imbalance in such cases, such as grouping lawsuits or considering the extent to which there is bad faith on the part of the plaintiffs. The norm also allows the CNJ, upon request, to oversee the processing of such cases. Moreover, it suggests concrete measures necessary to avoid the chilling effect resulting from predatory judicialisation. This is a welcome development, which will help counter the growing abuse of the courts in Brazil.

Case Study: Tsi Conrad

Tsi Conrad is a prominent investigative journalist and blogger in Cameroon, who we have been supporting since 2019. Prior to his arrest and detention, Conrad was based in Bamenda, the capital of Cameroon’s Anglophone region, and would regularly report on the protests in the region.

On 8 December 2016, Conrad was arrested in Bamenda while filming a protest held by the ruling political party, the Cameroon People’s Democratic Movement (CPDM). He was arrested at gunpoint, his camera was destroyed, and he was taken into custody by the police. Conrad was held in pre-trial detention until May 2018 when he was convicted under anti-terrorism laws and sentenced to 15 years in prison by Yaounde Military Tribunal. In September 2019, following his involvement in a protest over the conditions in Kondengui prison, he was convicted of a criminal offence and sentenced to a further 18 months in prison. On 19 August 2021, the Court of Appeal upheld the judgment of the Military Tribunal but dismissed charges of terrorism and rebellion. It however did not modify Conrad’s sentence.

Conrad’s case highlights how difficult the situation in Cameroon is for independent journalists. Journalists reporting on the Anglophone crisis have been systematically targeted by anti-terrorism and national security legislation to deter them from reporting. Like Conrad, they have been held for lengthy periods in pre-trial detention, often without access to a lawyer. While Cameroon has two official languages (French and English) those coming from Anglophone regions report continual discrimination and marginalisation in their daily activities, including being excluded from civil service positions and public sector jobs.

We represented Conrad before the UN Working Group on Arbitrary Detention (UNWGAD). In September 2021, UNGWAD published an Opinion holding Cameroon responsible for unlawfully detaining Conrad, and recommending that he be released immediately. We continue to support Conrad. An appeal has been lodged at the Supreme Court and is currently pending.
Emergency Defence: Trends

Judicial Harassment and SLAPPs

We continue to see a very high number of journalists becoming victims of abuse of legal systems. They may for instance be prosecuted on the basis of meritless accusations (also known as judicial harassment or ‘lawfare’), such as tax evasion. These cases often go hand in hand with a smear campaign to discredit them and their journalistic work.

Strategic lawsuits against public participation (SLAPPs) also continue to pose a significant threat to journalists across the world who report on the wealthy and powerful. SLAPP claimants are not typically concerned with whether their case is successful or not. Instead, the aim of such lawsuits is to shut down critical speech by intimidating the defendant and draining them of time, money and resources that would otherwise have been used for further reporting. This strategy is highly effective in creating a chilling effect not just on the defendant journalist or media outlet but on journalism in general.

The cases we are supporting are becoming increasingly complex and time-consuming, moving away from traditional defamation and libel laws, and instead abusing data protection and privacy legislation to silence critical voices.

Right to be Forgotten

We also observed a rise in the abuse of the “right to be forgotten”. Otherwise known as the right to erasure or the right to be delisted, it allows for individuals to request that information about themselves be removed from search engines results. The Court of Justice of the European Union and the subsequent GDPR legislation established that this “right” specifically applies to data that appears to be “inadequate, irrelevant or no longer relevant, or excessive in relation to those purposes”. Despite this definition, a number of powerful actors are using the legislation to censor critical reporting, such as by removing satirical cartoons or evidence of convictions (for instance in the case of Biancardi v Italy, in which the European Court of Human Rights issued a disappointing decision). We have filed an intervention in a case before the Grand Chamber of the European Court, encouraging the Court to set a strong precedent that limits the use of the right to be forgotten, preventing it from being used as a tool to censor public interest reporting or to block access to information.

False News and Cybercrime Legislation

A further challenge to independent journalism comes from state efforts to control online information. Given the particularly harsh and repressive environment for traditional media in many states, the internet is often the last remaining platform for free and independent speech.

Several governments have devised heavy-handed legislation against false news to clamp down on dissent. Dozens of countries passed new laws against “online misinformation” or “fake information” following the outbreak of COVID-19, including Russia, South Africa, Greece and Malaysia. We defended a number of journalists facing accusations of spreading false news in 2021, including in Bangladesh, Rwanda, Cameroon and Poland. Where possible, we challenge these laws at a national and regional level through strategic litigation.

The same pattern is developing with cybercrime laws: while the rapid and steady rise in cybercrimes is cause for concern, cybercrime legislation is also being used to limit freedom of speech. Governments are implementing overbroad and aggressive cybercrime measures that threaten, rather than protect, citizens’ rights.

Journalists increasingly find themselves without the protection of resourced media houses and are unable to cover the costs of complex and enduring cases themselves.

Without journalist support organisations such as Media Defence, journalists under threat would need to self-censor, thus depriving citizens around the world of crucial public interest reporting.

As the first line of defence for journalists and small media outlets, we are in a strong position to identify the kinds of threats they face.
Strategic Litigation

We litigate strategic cases in courts around the world to challenge unjust laws and defend freedom of expression and press freedom.

We undertake strategic litigation to improve the legal environment in which the media operates. We focus on cases that have the potential to have a meaningful impact, covering a range of issues including online speech, privacy and surveillance, the misuse of criminal laws, arbitrary detention, and violence and impunity.

Website blocking

We are seeing a number of states engaging in website blocking, particularly in Russia, Azerbaijan, Turkey and several African countries. States are limiting the information that their citizens can access by preventing users from visiting particular websites and domain name extensions. States will typically justify these blocks by citing the websites as a source of false news, or spreading and promoting terrorist propaganda.

Examples of blocked websites range from pro-Kurdish outlets in Turkey, to opposition party websites in Azerbaijan. Increasingly, governments are also targeting social media platforms. In June 2021, we filed an application to the Economic Community of West African States Court of Justice on behalf of nine applicants, challenging the suspension of Twitter in Nigeria. The ban came shortly after the platform deleted a tweet posted by the Nigerian President, Muhammadu Buhari, which was said to contravene Twitter’s ‘abusive behaviour’ rules. We filed this application with Nigerian lawyer, Mojirayo Ogunlana Nkanga and we are expecting the Court to hand down judgment in Summer 2022.

Spyware

Encryption is a critical tool in the defence of freedom of expression online, allowing journalists, lawyers, human rights activists and citizens to communicate securely. Precisely because it is such an effective tool, governments and law enforcement are increasingly seeking to access these private communications, ostensibly to prevent crime.

Thousands of journalists, politicians and activists around the world were targeted last year with Pegasus, a spy software designed by an Israeli surveillance firm. We are working with a number of other civil society organisations and media lawyers to compile evidence to support victims in Azerbaijan to Togo.

Sources/Whistle-blowers

The protection of journalistic sources is central to the ability of journalists to properly investigate stories, as well as for the safety of individuals and whistle-blowers who provide information. Yet there has been a continuing trend of governments and powerful actors seeking not only to uncover sources or retrieve newsgathering material, but to silence them through harassment or prosecution.

Investigative journalism depends on whistle-blowers uncovering corruption and incompetence, and we will continue to fight to protect these vital sources of public interest information.

Coalition Against Online Violence

As part of a wide coalition of organisations, we have been working to combat the rise in online violence against journalists. Rather than physically attacking or detaining journalists, which can attract international condemnation, powerful actors or politically engaged fringe-groups are instead turning to online harassment and threats. By making journalists fear for their lives or their families’ safety, harassers can silence their work completely. Moreover, this tactic is particularly directed at women, stifling free expression, threatening livelihoods, and undermining the plurality of voices. We are building up a body of case law that we can leverage to improve legislation and combat impunity, helping to protect women journalists around the world.
Protecting Journalists’ Newsgathering Activities

Santiago O’Donnell is an Argentinian investigative journalist, author and editor of international news at newspaper Página 12. In October 2020 O’Donnell published a controversial book (“Hermano”) detailing the rise of Mauricio Macri to the presidency. The book was based on research and recorded interviews with the former president’s brother, Mariano.

On 7 December 2021 the 6th civil court of Buenos Aires ordered Santiago O’Donnell to hand over copies of the recordings of his meetings with Mariano Macri between January and August 2020. O’Donnell’s lawyers had appealed the order from the 6th civil court to the High Court, the appeal was denied in November 2021.

O’Donnell’s legal team filed a range of briefs, including a rare appeal to the Supreme Court. In early 2022, the Supreme Court admitted this appeal and suspended the first instance court order. The case will now be considered by the Supreme Court and we hope a positive decision will be adopted.

International law recognises that the techniques and methods of reporting are matters for journalists to determine. This case puts these fundamental principles of journalism at risk. Reactions in Argentina have been very positive and widespread, however, with all the main newspapers reporting on the decision.

War Reporting

In March 2021, we filed a case at the European Court of Human Rights along with Shushan Doydoyan, an Armenian lawyer and president of the Freedom of Information Centre. The case was filed on behalf of four Armenian citizens, following the bombing of the town of Martuni by Azerbaijani forces during the armed conflict in Nagorno-Karabakh in October 2020. The applicants – three journalists who were injured and the brother of a journalist fixer who was killed – allege that, because of this attack, their rights under the European Convention on Human Rights (ECHR) were violated by Azerbaijan.

The bombing took place on 1 October 2020 when the centre of Martuni was hit by around 40 missiles over a short period. Four people were killed, and several others were seriously injured. Later that day the Azerbaijani government, referring to the bombing, accused Armenia of endangering the lives of journalists and violating international law. However, attacks on journalists by Azerbaijani armed forces were a regular occurrence over the course of this conflict. Many journalists reported being harassed and threatened by Azerbaijani armed forces while trying to carry out their journalistic work, while trying to report on the conflict.

The applicants’ case is that their right to life and right to freedom of expression were violated by Azerbaijan when they bombed Martuni. These rights are protected by Article 2 and Article 10 of the ECHR.

The case is important because it concerns the rights and protections journalists are entitled to while reporting on armed conflicts. The attack prevented journalists from carrying out their work and was just one part of a number of attacks on the media by Azerbaijan during the conflict. It is hoped that the case will demonstrate that proper protections should be afforded to journalists reporting on armed conflicts so that the quality and independence of the information they are able to provide is not compromised.
Local Legal Capacity Building

We build local legal capacity to defend journalists through training of lawyers and by supporting local legal centres. With our funding and practical support, our partners can help journalists more quickly and with the benefit of local expertise in countries where the need for our support is very high.

### Working with Partners

In 2021, we worked in partnership with 19 organisations operating in Europe, Latin America, Africa and Asia. Our support enabled our partners to litigate at least 350 cases across a range of freedom of expression issues, nationally and internationally. In addition to financial support, we provided additional legal support in ten cases taken by partner organisations.

In Europe, we supported organisations working on pressing issues for media freedom, particularly the pervasive use of SLAPPs. Organisations like the Helsinki Foundation for Human Rights in Poland, the Human Rights Platform in Ukraine, Ossigeno per L’Informazione in Italy and the Hungarian Civil Liberties Union worked on several of these cases whereby powerful individuals file vexatious lawsuits with the purpose of intimidating the media. In Turkey, organisations like the Foundation for Legal and Social Studies and the Media and Law Studies Association defended journalists facing charges of incitement or terrorism for their reporting critical of the government.

In Latin America we continued to support the Foundation for Press Freedom (FLIP) in Colombia, who obtained a landmark judgment in the case of Jineth Bedoya at the Inter-American Court of Human Rights. We also launched a partnership with the Brazilian Association of Investigative Journalism for the creation of a legal defence centre aimed at providing legal support to journalists in remote areas of Brazil.

Throughout the year, we awarded 14 new partner grants. Delays in securing funding for this area of our work meant that four additional grants became available to partner organisations in sub-Saharan Africa towards the end of 2021, with the selection process for these partners still ongoing at the close of the year. Another grant was still pending approval by our donor.

### Training of Lawyers

Due to the ongoing pandemic and uncertainty around delivering trainings in person, we continued our training programme virtually in 2021. We trained a total of 54 lawyers through litigation surgeries and peer learning events. This included a training of trainers, a Francophone West and Central Africa Litigation Surgery and a peer-to-peer learning event.

We further strengthened the sustainability of our training programme by inviting alumni of our litigation surgeries in sub-Saharan Africa to hold litigation surgeries for lawyers in their respective countries following the training of trainers’ workshop. Training alumni held seven litigation surgeries in five countries (Democratic Republic of Congo, Kenya, Ethiopia, Nigeria and Malawi), training 153 lawyers in total. These litigation surgeries were conducted in English, Amharic and French.

In light of the ongoing pandemic and uncertainty around delivering trainings in person, a major focus of 2021 was to bolster the sustainability of our trainings by making our training materials accessible online in both English and French and by launching our Training Hub. This Hub has been designed to cover key themes related to freedom of expression online with the aim of lawyers using it as a reference when litigating cases. These materials are designed both for lawyers who have participated in a training, but also as a resource centre for lawyers who have not yet attended a training with us. In 2021, our resources were accessed over 30,000 times by lawyers building their knowledge of media and digital rights topics.

The Training Hub currently focuses on freedom of expression online, with a particular emphasis on cases in sub-Saharan Africa. In the coming years, we will be expanding this by adding a wider range of topics and regions.

### Key Statistics

- **15** New partner grants approved
- **14** New partners funded
- **350** Cases litigated by partners
- **2** Litigation surgeries
- **1** Peer-to-peer training event
- **207** Lawyers trained
Working with Partners: The Case of Jineth Bedoya

In August 2021, the Inter-American Court of Human Rights issued a landmark judgment in the case of Jineth Bedoya Lima v Colombia. Jineth Bedoya is a well-known investigative journalist in Colombia. In May 2000, she visited the infamous Modelo prison in Bogotá to interview a prisoner. Before she reached the prison, however, she was abducted, sexually assaulted, and subsequently released hundreds of kilometres away from the city. Ms Bedoya brought a legal case because the government failed to carry out a serious investigation to establish what had happened, and how it was allowed to happen.

With our financial support, Colombia’s FLIP is representing Bedoya. When the case reached the Inter-American Court, we filed an amicus curiae brief highlighting the international human rights standards that apply in contexts of violence against journalists, specifically women journalists. This includes the State’s duty to provide particular protection to women journalists, especially given how gendered sexual violence creates a chilling effect on freedom of expression.

In an important win for Bedoya, the Court considered that the sexual violence perpetrated against her was aimed at punishing, silencing and intimidating her because of her journalistic activities. The Court concluded that the abduction and sexual assault amounted to torture, and that the attack was perpetrated with the acquiescence of State agents. The Court held that States must implement an adequate framework to mitigate risks and strengthen institutions that are tasked with combating violence against women. In particular, the Court ordered the Colombian Government to set up a fund to implement programs to prevent, protect and assist women journalists who are victims of gendered violence, and to guarantee the safety of women journalists in the context of their work.
Digital Rights Advocates:
Mojirayo Ogunlana-Nkanga

Mojirayo Ogunlana-Nkanga is a prolific human rights lawyer working in Nigeria. She successfully applied to attend the 2018 Media Defence West Africa Litigation Surgery, funded as part of our Digital Rights Advocates Project (DRAP).

Last year, Mojirayo also attended our Training of Trainers event, and received a grant to organise her own litigation surgery in Nigeria. Since then she has worked on several major cases with Media Defence including the Twitter ban case in Nigeria, and cases relating to internet shutdowns in Togo and Guinea. She specialises in defending journalists and gender rights, and is currently the General Secretary of the Abuja branch of the International Federation of Women Lawyers (FIDA).

What impact has the relationship with us had on your work?
Defending the media is something I’m passionate about so to find an organisation which makes it seamless and offers support all the time is great. A lot of journalists that come to me do not even have money to fund their legal defence, so with Media Defence there, it has been very good. It has also opened the horizons of digital rights and allowed us to identify new and emerging issues. It’s been a wonderful ride, really.

How did you find the training of trainers through Media Defence?
I’ve never seen a time that I’ve joined a Media Defence training and it has not been useful. There’s always something new to learn. Media Defence is actively partnering with lawyers and litigating cases, which makes it easier for you to understand a particular topic. Rather than the topic being abstract, they can show you the case and how it was applied and it becomes more alive. After the Training of Trainers, I enjoyed putting the segment about presentation skills into practice. I used those notes when I was organising my own litigation surgery. I really took a lot away and it worked: it was a successful litigation surgery.

What’s the long-term impact of the litigation surgeries?
The participants stay in touch. We do not yet collaborate in court litigation, but we will if possible. All of us share knowledge, information and resources. We have a community, and sometimes we come in and give opinions on a particular matter which might have been filed elsewhere. With whatever we’re doing individually, we’ve gotten to the point where we can invite each other to our individual projects. Another member of the DRAP network invited me to be a facilitator. So that’s another way we work together. Then, when I was running my own digital rights litigation surgery, I invited two of the other training alumni to be facilitators.

What are the biggest issues you see facing freedom of expression in Nigeria right now?
The Nigerian government itself. There are a lot of governments all over the world having issues with freedom of expression; no government wants to hear you tell them what they’re doing is not right. But when you have a government that can be brazen enough to shut down Twitter for more than 200 days and not care, it is really bad. When the judgment is about to be given, the court adjourns the case every time. It makes me worry that the government is more powerful than the people themselves that are supposed to be the power. This is where my main challenge is.

Do you worry about your safety when you speak out against them?
Yes, I do have moments when I’m worried. Of course I believe that Media Defence has always put me through the right networks; that they can always find a safe place for me. But I will not be frightened. If we can’t keep it up, then what will disenfranchised people do? We have to just be strong and keep pushing and doing the best we can. Even at the cost of thinking about our lives.

Anything else you would like to do?
My journey with Media Defence has shaped me in so many ways: empowering me by understanding the changing nature of legal practice and for example the infusion of technology into law, as well as immersive learning from others as I am always looking for opportunities to collaborate and my colleagues are really inspiring.
Russia’s Foreign Agent Law

Beyond this, she is an expert for the Council of Europe working group, Board member of European Centre for Press and Media Freedom, and the only Russian lawyer to receive an International Bar Association Human Rights Award for her outstanding contribution to human rights. Recently, the Russian government labelled her not once, but twice, as a “foreign agent”.

Russia’s Foreign Agent Law

Adopted in 2012, Russia’s “foreign agent” law has changed how the government silences dissent. Alongside their traditional methods – defamation lawsuits, violence, assassination – authorities can leverage this legislative extension of its anti-West propaganda to control critical voices. Under the repressive law, any individual or organisation that receives funds from abroad can be designated a “foreign agent”, even if they are not acting on the orders of any foreign entity.

The phrase “foreign agent” in Russian (иностранный агент) has strong associations with cold war-era espionage and treason. Amongst those the government have labelled are NGOs, journalists, LGBTQIA+ activists and human rights defenders. Arapova was the first lawyer to be designated as such.

Authorities harass those designated as “foreign agents”, with police raiding their homes and administering fines. Recent amendments mean foreign agent NGOs will soon be unable to hold events without the Ministry of Justice’s approval. There is also the risk that, in applying for that approval, a procedural error results in closure. Radio Free Europe/Radio Liberty has been a particular target. Roskomnadzor has fined the outlet more than $3 million since January, frozen its bank accounts and inspected its offices multiple times.

The impact

For Arapova, the repercussions are onerous and they have only just begun. For example, on every social media post and at every public lecture, she must include a 24-word disclaimer about her status. Arapova suggests that in the near future, this opening disclaimer “will be seen by readers as being as normal as ‘hello’”. A week after she gained “foreign agent” status, she was no longer able to teach the university course in legal regulation of journalism and the internet that she had taught for 12 years. She is also obliged to submit reports on her income and expenses – a requirement she is appealing before the courts on the grounds that it’s intrusive and a breach of her privacy.

As an individual, the penalty for non-compliance can be up to either two or five years’ imprisonment, depending on the type of foreign agent status. To avoid criminal liability, Arapova encourages those with foreign agent status to meet all the requirements set out for them.

This doesn’t mean, however, that those targeted shouldn’t fight back. Journalists and human rights defenders are challenging the Ministry of Justice’s decision to label them a foreign agent. They can also challenge the decision to include their name on the corresponding register. Just because it is de jure possible under Russian law doesn’t mean that it meets international human rights standards. For those who do challenge the decision, they should expect a long fight all the way to the European Court of Human Rights.
Media Defence’s in-house lawyers frequently provide pro bono support to lawyers representing the journalists we support in local courts. We carried out our first Lawyer Impact Survey to assess the impact of our support to lawyers through our emergency defence and strategic litigation programmes. The aim of the survey was to understand the quality, efficiency and quantity of Media Defence’s legal support, the impact of the support on case outcomes, as well as to understand other relevant issues that affect journalism, such as the pandemic.

We found that:

- 100% of respondents recognised that Media Defence added value to their case;
- 94% of respondents would recommend our legal support to other lawyers;
- 90% of respondents were satisfied or extremely satisfied with the quality of legal support;
- 88% of respondents felt more confident in their skills and ability in litigating freedom of expression cases; and
- 88% felt more likely to take on cases relating to the defence of journalism and media.

The full report can be read here.

We will continue sharing the survey on a monthly basis, as well as carrying out additional in-depth qualitative interviews.
Impact Monitoring

2021 Journalist Impact Survey

“If I didn’t have Media Defence’s support, even this form I am filling out here would not have been completed; I would have been in prison by now...”

- 100% of respondents would recommend our support to other journalists facing legal action.
- 84% of respondents have continued to practice journalism since the conclusion of their case.
- 78% of respondents were satisfied or extremely satisfied with the lawyer who handled their case.
- 68% of respondents were satisfied or extremely satisfied with the outcome of their case.

Each year, we reach out to journalists, our primary beneficiaries, through our Journalist Impact Survey. This is an opportunity to take stock of the legal issues they face in the context of their journalistic work and to assess the impact of our work. We are proud that 100% of respondents would recommend our support to other journalists and pleased that 84% continue to practice journalism. Over half of this year’s respondents also felt that their case had a wider impact in their region.

However, with the global decline of media freedom accelerated by the pandemic, journalists continue to operate in a more difficult environment than ever. For instance, the case success rate decreased for the second year in a row. Journalists most frequently found themselves facing legal action over their reporting on political corruption. 84% of respondents believe they will continue to face legal action as a result of their work.
In 2021, we received total incoming resources of £2 million, of which £355k were donated services.

Due to the lower level of donated services and unrestricted funds, our overall income decreased by 25%, but financial donations increased by 5%.

64% of the incoming resources were restricted to either a region or a theme. 36% of funding was unrestricted. Donated services constituted 26% of the restricted incoming resources, compared to 63% in 2020.

We closed the year with a net surplus of £100,781 and maintained a similar liquidity ratio of 2:1 as in 2020. At the end of 2021, we carried forward £940,332, of which £339,339 were restricted funds (funding with a thematic and/or regional restriction) and £600,983 were unrestricted funds (£357,000 of designated reserves and £243,483 of donor funds carried forward for ongoing activities).

Our spending

Income

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<thead>
<tr>
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<th>2020</th>
<th>2021</th>
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<tbody>
<tr>
<td>£ million</td>
<td></td>
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<tr>
<td>Donated services</td>
<td>1.8</td>
<td>1.5</td>
</tr>
<tr>
<td>Funding</td>
<td>1.2</td>
<td>1.5</td>
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Even though pro bono legal support continues to play an important part in enabling the delivery of activities, financial donations form a higher portion of incoming resources in 2021, with Trusts and Foundations continuing to be the main source of our funding.

We continue to diversify our funding sources, however.

Expenditure

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<th>2021</th>
<th>2020</th>
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<tr>
<td>£ million</td>
<td></td>
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<tr>
<td>Decrease in expenditure compared to 2020</td>
<td>28%</td>
<td>58.23%</td>
</tr>
<tr>
<td>Grants approved in 2021</td>
<td>15</td>
<td>16.97%</td>
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<tr>
<td>Grants approved in 2020</td>
<td>14</td>
<td>12.90%</td>
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</table>

The decrease in donated services contributed to the decrease in our expenditure. Overall, there is an almost equitable spend between Emergency Defence, Strategic Litigation and Grants to partner organisations.

The below shows the split during 2021 of expenditure between each of our charitable activities.

Our total support cost in 2021 was £308,486, compared to £373,695 in 2020, representing 15% of our total expenditure (compared to 13% in 2020). 6% of our total expenditure was spent on raising funds, which reflects that 2021 was the first year in which we had a fully staffed development team in place and the subsequent increase in fundraising activity, including donor reporting.

Overall Picture

<table>
<thead>
<tr>
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<th>£940,332</th>
<th>£339,339</th>
<th>£600,983</th>
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<tr>
<td>Total funds carried forward at the end of 2020</td>
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<tr>
<td>Restricted funds</td>
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<td>Unrestricted funds</td>
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We would like to thank our partners, funders and anonymous donors for their contribution to our work in 2021:
Together, we can defend independent media across the world.
If you would like to make a donation to our work, please contact Dorothee Archambault:
dorothee.archambault@mediadefence.org