

ARTICLE<sup>19</sup>

# Ending Impunity

Acting on UN Standards on  
the Safety of Journalists

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# Introduction

Attacks against journalists and media workers, and impunity for these violations and abuses, are one of the greatest challenges to freedom of expression worldwide.

Such attacks are deliberate attempts to obstruct the free flow of information within our societies. The silencing of journalists – in particular those uncovering stories of political corruption, abuses by the state or powerful private companies, and reporting on armed conflicts, protests and social movements – deprives the public of their right to know, and undermines the mechanisms of democratic accountability.

Between 2006 and 2017, 1010 killings of journalists were recorded by UNESCO.<sup>1</sup> Just in 2018, 99 journalists, bloggers and media workers were murdered in relation to their work.<sup>2</sup> These lethal attacks represent only the tip of the iceberg: many more journalists are the targets of often overlapping threats, including torture, enforced disappearance, arbitrary arrest, detention, assault, digital attacks, intimidation and harassment, perpetrated by State and non-State actors.

In the digital age, surveillance, attempts to undermine the protection of sources and attacks on anonymity and encryption all increase the scale of the threat. For journalists and media workers from marginalised groups, who experience multiple and intersecting forms of discrimination, the risks are particularly high. For every journalist attacked, detained, or killed, countless more are intimidated into self-censorship.

A prevailing culture of impunity for threats to the safety of journalists fuels their repetition. A failure of justice emboldens perpetrators and undermines journalists' trust in the political will to guarantee their effective protection.

Since 2012, the international community has increasingly sought to shine a spotlight on this issue, setting out an ambitious global agenda for States to act on the safety of journalists through a series of resolutions adopted at the UN Human Rights Council, UN General Assembly, and UN Security Council.

UN Resolutions on the Safety of Journalists call on all States to effectively enhance the safety of journalists and break the cycle of impunity through targeted action on three interconnected fronts: prevention, protection, and remedy.

# International Human Rights and International Humanitarian Law

International human rights law contains numerous binding obligations that underpin UN resolutions on the safety of journalists, and are often directly referred to as the basis for those resolutions.

## The International Covenant on Civil and Political Rights

The International Covenant on Civil and Political Rights (ICCPR) contains a number of obligations relevant to the safety of journalists.

These include a number of absolute rights which cannot be subject to limitation, including the right to life (Article 6), the freedom from torture (Article 7), and the right to equality and non-discrimination (Article 2) and equal protection of the law (Article 26). States are also obliged to guarantee individuals' freedom from arbitrary detention (Article 9) and ensure the right to a fair trial (Article 14).

### *The right to freedom of opinion and expression*

Article 19(2) of the ICCPR requires States to guarantee to all persons the freedom to seek, receive, or impart information or ideas of any kind, regardless of frontiers, and through any media of a person's choice, including online.

While the scope of this right is broad, it is not absolute. Article 19(3) provides for its restriction in limited circumstances. States must show that any restriction satisfies a strict three-part test:

1. **Provided by law** – the restriction must be based on a precisely drafted law, and be accessible, to enable individuals to modify their conduct accordingly;
2. **In pursuit of a legitimate aim** – meaning the restriction must have the purpose of protecting the rights or reputations of others, or for protecting public health or morals, national security, or public order.
3. **Necessary and proportionate** – the measure must be necessary in a democratic society, and be the least restrictive means of achieving a legitimate aim.

All threats to the safety of journalists engage the right to freedom of expression, both for the journalist that is directly affected, for other journalists who may be intimidated from the exercise of their rights, and for the public, who are deprived information that journalists otherwise would be providing.

## *The right to privacy*

Article 17(1) of the ICCPR requires States to guarantee to all persons' freedom from arbitrary or unlawful interference with his privacy, family, home or correspondence, and to protect individuals against such attacks through the protection of law.

This is particularly important in the context of protecting journalists' private communications, their access to and use of anonymity and encryption tools, and their ability to keep the identity of their sources confidential.

## *Human Rights Committee jurisprudence*

The UN Human Rights Committee is the international treaty body responsible for providing guidance on States' obligations under the ICCPR, and monitoring States' compliance with those obligations. Not to be confused with the Human Rights Council, which is an intergovernmental political body, the Human Rights Committee is quasi-judicial body constituted of 18 independent human rights experts, who are elected by States parties for four year terms.

In 2011, the Human Rights Committee adopted General Comment No. 34 on the freedoms of opinion and expression.<sup>3</sup> It provides additional guidance on the contours of States' obligations to protect the freedom of expression rights of journalists, including by:

- Describing "journalism" as a function shared by a wide range of actors, including bloggers and others who self-publish information online or offline, avoiding a restrictive or formal definition of "who" deserves protection as a journalist, and making clear that schemes for registering or licensing of journalists are incompatible with States' obligations.<sup>4</sup>
- Emphasising that attacks against individuals for their expression, including "arbitrary arrest, torture, threats to life and killing", are never compatible with the Covenant, and, noting that journalists are the frequent targets of such attacks, the General Comment clarifies that States must vigorously investigate attacks in a timely fashion, prosecute perpetrators, and provide redress to victims, or, in the case of killings, their representatives.<sup>5</sup>
- Stressing that overbroad national security laws, including counter-terrorism laws, must not be misused to prosecute journalists who share information that is in the public interest and does not harm national security, including in relation to reporting on terrorism.<sup>6</sup>
- Reinforcing that media outlets, publishers, and journalists must not be penalised for criticism of the government, or its policies, and that public figures, including politicians and heads of state, should not be accorded heightened protection for their reputations.<sup>7</sup>

- Making clear that restrictions on journalists' freedom of movement, whether to prevent their travel internally, including to conflict zones, outside the country or to prevent their entry into a country as foreign journalists, are incompatible with international human rights law.<sup>8</sup>
- Reinforcing the principle that States must respect the principle of the "limited journalistic privilege not to disclose information sources."<sup>9</sup>

In 2018, the Human Rights Committee adopted General Comment No. 36 on the right to life.<sup>10</sup> The Committee clearly sets out that States must take urgent and effective, special measures to protect the rights of persons at particular risk of threats to their lives – including journalists – as a result of either specific threats or known patterns of violence.<sup>11</sup> Victims must also be provided with effective remedies, including through independent, impartial, prompt, thorough, effective, credible and transparent investigations into killings, aimed at holding both the direct perpetrators and masterminds to account.

## International Convention on the Protection of All Persons from Enforced Disappearance

Enforced disappearances of journalists in reprisal for their work remains troublingly widespread globally.

The International Convention on the Protection of All Persons from Enforced Disappearance (CED)<sup>12</sup> sets out specific obligations for States in relation to enforced disappearance, which is defined as the abduction, arrest, detention, or other form of deprivation of liberty of any individual by agents of the State, or persons acting with the State's "authorisation, acquiescence, or support", followed by the "refusal to acknowledge either the deprivation of liberty, or the concealment of the fate or whereabouts of the disappeared person", so as to deny them the protection of law.

States that have ratified the CED are obligated to effectively and impartially investigate cases of enforced disappearance, bring those responsible to justice (Article 3), ensure the relatives of those disappeared are provided with information about their fate (Article 18), and provide access to remedies (Article 24). The CED prohibits the use of secret detention in all circumstances, and requires States to respect minimum standards in relation the deprivation of liberty (Article 17) to safeguard against abuses.

## International Humanitarian Law

International Humanitarian Law, which governs the law of armed conflict, prohibits parties to the conflict from intentionally attacking civilians, and civilian targets.

Journalists, media professionals and associated personnel are specifically protected by IHL as civilians, provided they take no action adverse to this status.<sup>13</sup> This means that any deliberate attack against a journalist by a party engaged in an armed conflict constitutes a war crime, and those responsible must be brought to account. Intentional attacks against media equipment and installations – where they are not designated military targets – are also prohibited. War correspondents – journalists who are formally accredited to accompany armed forces – have the right to prisoner of war status in the event of their capture.<sup>14</sup>

The Security Council has reaffirmed these obligations through its own resolutions on the protection of journalists in armed conflict.<sup>15</sup>



# UN Standards on the Safety of Journalists

## Who sets UN Standards on the Safety of Journalists?

### *UN Human Rights Council*

The UN Human Rights Council (UNHRC) is the UN's highest political body with the sole responsibility for promoting and protecting human rights. Its membership is elected by the General Assembly of the United Nations, and comprises 47 Member States elected on three year terms, with representation across regional groups.<sup>16</sup> The UNHRC meets three times a year - in March, June, and September - to monitor and take action on the most pressing human rights concerns. All UN Member States are able to participate in these sessions, but only members of the UNHRC have voting rights.

Since 2012, resolutions on the Safety of Journalists have been considered at the UNHRC every two years, under the leadership of a cross-regional group of States: Austria, Brazil, France, Greece, Morocco, Qatar, and Tunisia.

### *UN General Assembly*

The UN General Assembly (UNGA) is the main political decision-making body of the UN, and the only body in which all UN Member States have equal representation of one member, one vote. Issues relating to human rights are considered by UNGA's Third Committee on social, humanitarian, and cultural affairs, which meets on an annual basis from early October into November.

### **Are UN resolutions on Safety of Journalists legally binding?**

Resolutions adopted at the UNHRC, UNGA, and UNSC are rooted in States' international human rights law obligations.

While UN resolutions on the safety of journalists are not directly binding on States, they represent a strong political commitment by States to take action in line with their binding international human rights law obligations and carry significant normative weight.

The authority of these resolutions is strengthened by the broad and cross-regional support they have received from States. All resolutions on the safety of journalists have been passed by consensus, meaning they were adopted without a vote.

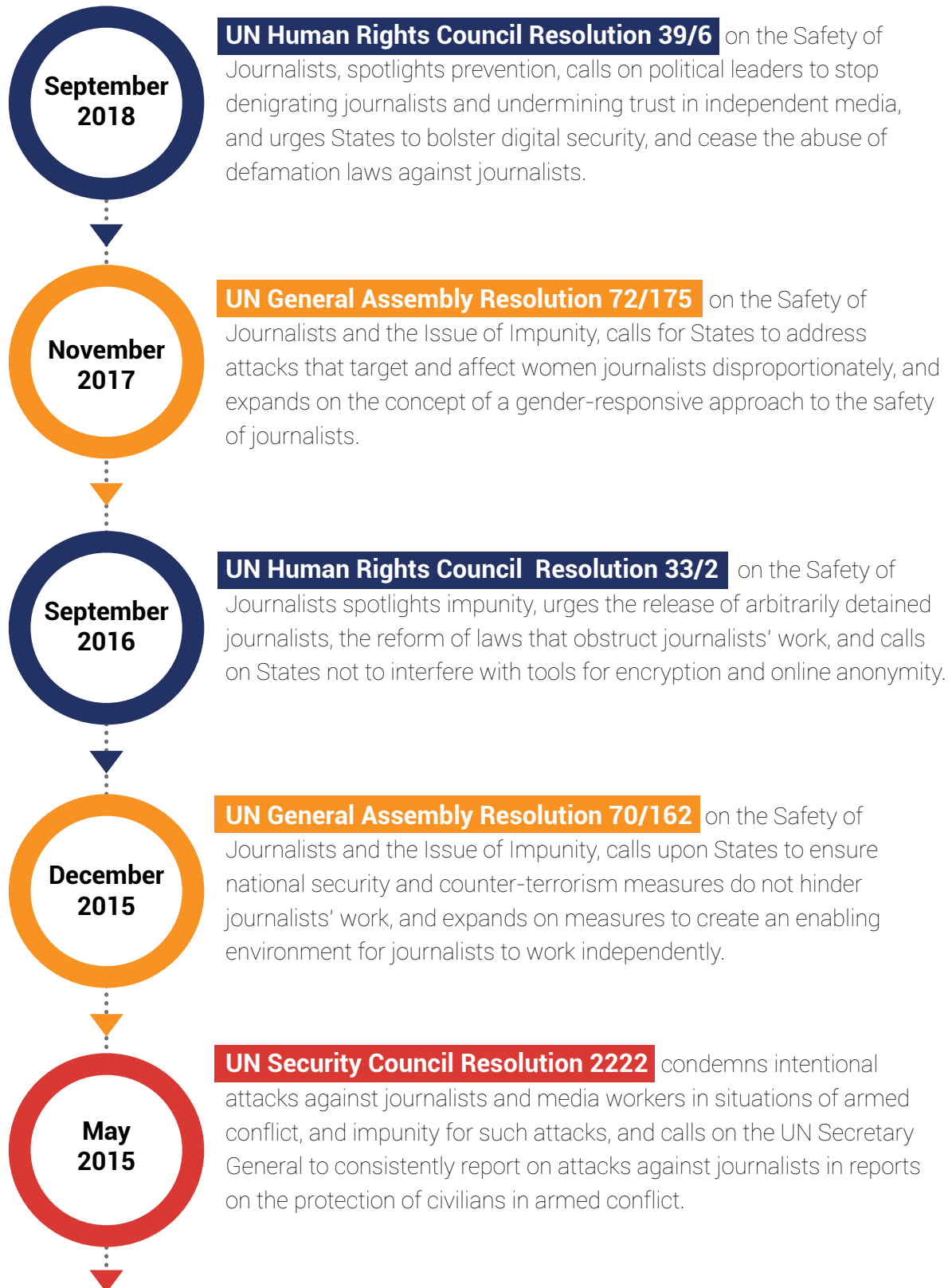
Resolutions on the Safety of Journalists are currently considered at the Third Committee every two years, under the leadership of Greece, Argentina, Austria, Costa Rica, France, and Tunisia.

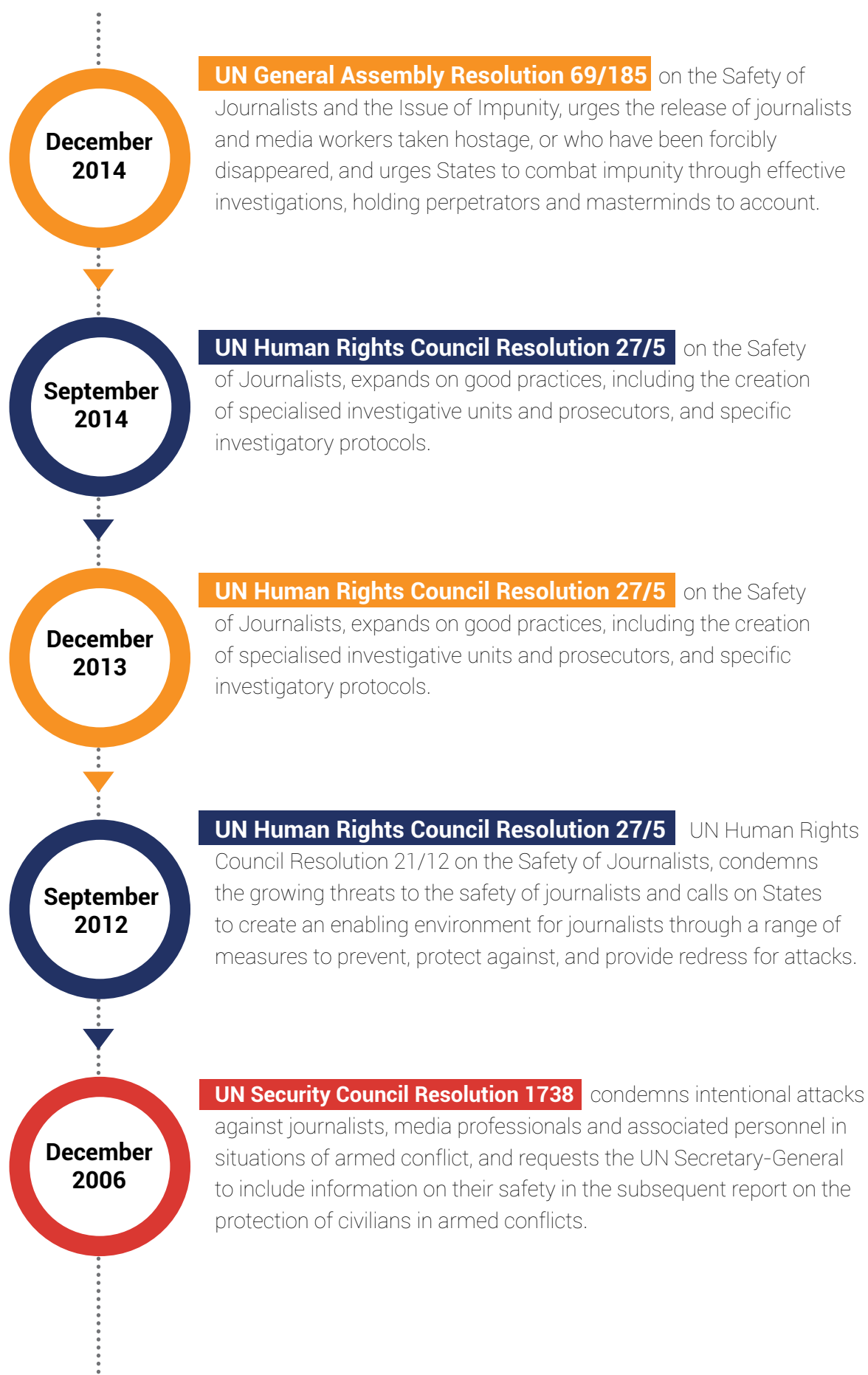
### *UN Security Council*

The UN Security Council (UNSC) is responsible for the maintenance of international peace and security. The UNSC is comprised of five permanent members – China, France, the Russian Federation, the United Kingdom, and the United States of America – and ten non-permanent members elected on two-year terms by the UNGA.<sup>17</sup> Resolutions issued by the UN Security Council carry significant normative weight, and resolutions adopted under Chapter 7 of the UN Charter are considered binding.

Resolutions on the safety of journalists are considered on an ad hoc basis by the UNSC.

# 10 UN Resolutions on the Safety of Journalists: A Timeline





# Mapping State Support for the Safety of Journalists

In part, UN resolutions on the safety of journalists derive their significance from the broad, cross-regional support they have received from States. The map overleaf captures the breadth of this support, as demonstrated by States' co-sponsorship of the last four resolutions to be adopted at the UNGA and the UNHRC. The full list of co-sponsors of these four resolutions can be found in the annexe.



# Understanding the Threats to the Safety of Journalists

Through the resolutions at the UNHRC and UNGA, States have increasingly recognised the need to take a holistic approach to enhancing the safety of journalists, addressing the range of interconnected, and often overlapping, threats, whether of a physical, legal, political, technological, or economic nature:

## ATTACKS

AGAINST JOURNALISTS'  
FAMILY MEMBERS

ATTACKS ON AND FORCED  
**CLOSURE OF OFFICES**  
AND MEDIA OUTLETS

**ARBITRARY  
DETENTION**  
AND ARBITRARY  
ARREST

INTIMIDATION AND  
**HARASSMENT**

ENFORCED  
**DISAPPEARANCE**  
**KIDNAPPING**  
**HOSTAGE-TAKING**

ATTACKS ON THE  
**CONFIDENTIALITY**  
OF JOURNALISTS' SOURCES

UNLAWFUL / ARBITRARY  
**SURVEILLANCE AND**  
**INTERCEPTION**  
OF COMMUNICATIONS

**KILLING**  
AND OTHER FORMS  
OF VIOLENCE  
(INCLUDING SEXUAL AND  
GENDER-BASED VIOLENCE)

**EXPULSION**  
(EXILE)

**MISUSE OF  
NATIONAL LAWS**  
TO TARGET JOURNALISTS

**TORTURE**

INTENTIONAL  
**DISRUPTION**  
**OF ACCESS TO**  
**INFORMATION**  
ONLINE

UNDERMINING  
**DIGITAL SECURITY**  
(INCLUDING ANONYMITY  
AND ENCRYPTION)

**SMEAR**  
CAMPAIGNS



The resolutions have highlighted the gender-specific threats faced by women journalists, including sexual and gender-based violence and discrimination, intimidation and harassment, online and offline.<sup>18</sup>

The resolutions recognise heightened risks for journalists in the context of election periods,<sup>19</sup> and when covering protests,<sup>20</sup> and armed conflicts.<sup>21</sup>

The resolutions have highlighted the growing threat posed by unlawful surveillance, and interference in the right to privacy, including government-sponsored hacking.<sup>22</sup>

Public officials and political leaders who denigrate and threaten the media, and undermine its credibility are also acknowledged as exacerbating journalists' risks of facing other types of attack.<sup>23</sup>

Though the resolutions are clear that state actors are often directly responsible for or implicated in attacks on journalists, they also recognise that other powerful non-state actors, including terrorist groups and criminal organisations,<sup>24</sup> are also perpetrators. States are obligated, to seek to prevent, protect against, and provide remedies to the victims, or their representatives, whether attacks are perpetrated by state or non-state actors.<sup>25</sup>

The resolutions highlight that the masterminds who order attacks often evade justice. They identify that impunity for human rights violations and abuses compounds threats and contributes to their recurrence.

### Who is a journalist?

International human rights law does not define who a journalist is, and nor do UN Resolutions on this topic. This avoids unnecessarily limiting the scope of the commitments it contains.

The Human Rights Committee has described journalism as a function: it can be undertaken by a professional working full-time for a print newspaper, or by a blogger publishing their own content online.<sup>26</sup> It covers anyone regularly engaged in the collection and dissemination of information to the public - regardless of whether they are formally recognised as a "journalist" by their government.





## **In focus:** **Unpacking Gender-Responsive Approaches to the Safety of Journalists**

Since 2012, the resolutions adopted at both the UNHRC and UNGA have progressively highlighted the need to address the **specific threats** faced by women journalists, and take a gender-responsive approach to measures addressing the safety of journalists – ensuring responses to improving journalists' safety fully reflect, and are tailored towards addressing, the specific risks and threats women journalists experience.<sup>27</sup>

Understanding the different types of threats that face women journalists, and how certain threats may be experienced differently by women journalists, as compared to their male counterparts, is essential to developing comprehensive, tailored measures to prevent, protect against, and remedy attacks on the safety of journalists.

The term 'gender-specific threats' against women journalists may include:

**Threats or attacks that are targeted against women journalists in reprisal for their journalistic work, that:**

- **Are bias motivated**, meaning threats or attacks where the perpetrator was motivated wholly or in part by the mere fact of a journalist being a woman. This might include threats and attacks against women journalists in response to the substance of their journalistic work: women whose reporting beats are typically perceived as more masculine or in the male domain, such as sport, technology, and politics, for example, receive particularly high levels of abuse.<sup>28</sup> Attacks may also be in response to the mere fact of women working as journalists, being in the public eye and contributing to public debates, where this challenges perceived gender roles or stereotypes;
- **Affect women journalists disproportionately or in a specific way**, meaning the type of threats or attacks that either in their frequency, severity, or their impact, affect the safety of women journalists to a greater degree than their male counterparts. This may include acts or threats of gender-based violence, including sexual violence, the risks of which are increased in the context of reporting on armed-conflicts, civil unrest, and large-scale public

events, such as protests, or when in detention or captivity. It also includes certain forms of harassment and privacy violations, such as stalking, online harassment campaigns, targeted smear campaigns, both online and offline. Indirect threats against women journalists in reprisal for their work, through threats and attacks against their families, and in particular their children, are also more common.

**Threats or attacks women journalists are exposed to as women through the course of carrying out their work. This would include, for example:**

- Harassment, acts or threats of physical or sexual violence, including sexual harassment – in the workplace or when on assignment – whether perpetrated by strangers, colleagues, sources and subjects, or support staff such as translators, and fixers.
- Attacks, harassment or threats perpetrated against women journalists, to which some women may be more exposed due to their gender, and visibility in the public sphere. This may include stalking or harassment, disconnected to their journalistic work.

An attack against a woman journalist may contain a combination of these elements. While not all attacks against women journalists will necessarily have a gender dimension, taking a gender-responsive approach to tackling all threats to the safety of journalists remains essential.

## **Situating Gender-Specific Threats in a Context Of Structural and Institutional Discrimination**

The way in which gender-specific threats are used to silence women journalists cannot be separated from the contexts of structural discrimination in which they occur. Socially and culturally ingrained prejudice against women creates environments that enable threats to proliferate, and can make the impact of those threats distinct or more severe than if they were targeted at a male journalist

In particular, reactions to the expression of women journalists are often more hostile, with perpetrators commonly seeking to “shame” or stigmatise them for challenging gender stereotypes, to discredit, marginalise or ostracise them in public debates, and even to incite violence against them. When faced with threats, women may face additional pressures from their families, communities, law enforcement, or employers to withdraw from the public sphere as a self-protection measure.

Certain types of online attacks are both disproportionately targeted against women journalists and have particular gendered impacts, for example. This includes doxing, privacy violations – including the non-consensual sharing of intimate or private images – stalking, and threats of sexual violence. Online attacks can have serious impacts in themselves, and are frequently designed to have tangible offline consequences, but are also often a continuation of or precursor to offline attacks. Many online attacks explicitly include threats of offline violence, and such threats may have a more severe impact on women's sense of personal security and vulnerability than it would on their male counterparts. For example, online rape threats against women may be experienced as a more credible and tangible offline threat, in part due to their prior lived experiences and the prevalence of gender-based violence within societies.

Structural discrimination also limits women journalists' access to prevention and protection measures, both from the State and from their employer, as well as access to effective remedies.



**Legal discrimination** often exposes women to protection gaps, in particular where there is no provision for, or there are formal barriers to, accessing redress for threats against them. This may include the absence of workplace protections against discrimination and harassment, and in particular sexual harassment.



**Structural and institutionalised discrimination** against women creates additional barriers to protection and access to remedies. Among a variety of factors, this includes discriminatory attitudes that discourage women from reporting gender-based violence and sexual violence to the authorities, or their employers, and seeking support; the lack of gender-responsive risk-assessment protocols, and protection measures; the tendency for law enforcement authorities or employers to downplay or ignore the seriousness of attacks against women, online and offline, fail to start or exhaustively investigate, or consider women's journalistic work as a motive behind attacks; and the typically low rates of successful prosecutions for gender-based violence against women, in particular sexual violence.

This context contributes to the under-reporting of attacks by women journalists, the resulting denial of effective prevention, protection and prosecution measures, and a climate of impunity. It may also contribute to women journalists' resort to

self-censorship as a form of self-protection, ranging from the deactivation of their social media accounts, the use of professional pseudonyms, withdrawing from the profession entirely, or switching their reporting beat.

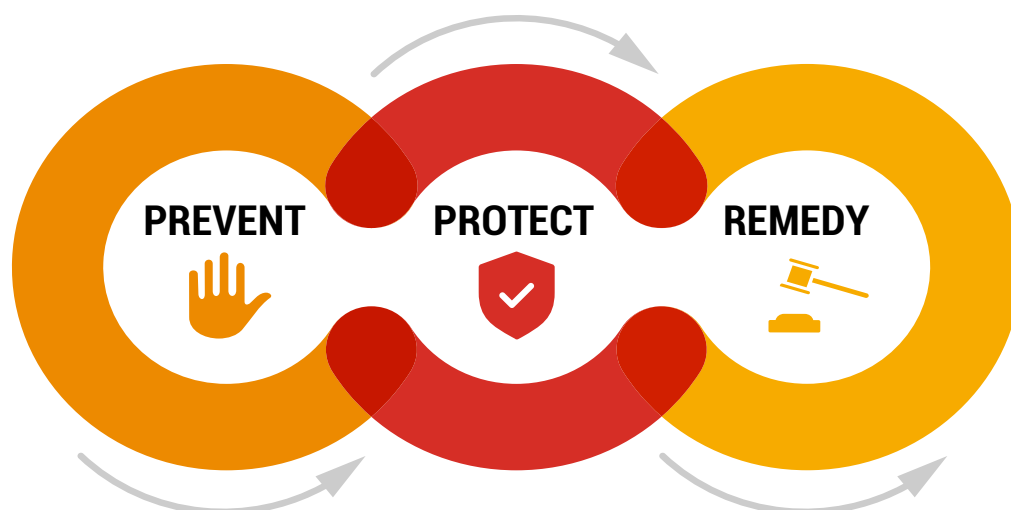
## Tackling Multiple and Intersecting Forms of Discrimination



UN resolutions commit States to address the safety of *all* journalists. In order to effectively implement their human rights obligations and commitments, States need to be attentive to the differential risks and barriers faced by women journalists who experience multiple and intersecting forms of discrimination, including for example LBT women, and women from minority ethnic, or religion or belief groups, or rural or indigenous communities. They should therefore take into consideration the specific circumstances and needs of diverse women, and ensure their effective participation in initiatives to address the safety of journalists, as part of a holistic and intersectional approach to prevention, protection and remedy.

# Implementing UN Resolutions on the Safety of Journalists

UN Resolutions on the safety of journalists commit States, based on their existing international human rights law obligations, to act on three fronts: prevent – protect – remedy.



## 1. Prevent

### *Create and maintain an enabling environment for journalists*

States must increase and accelerate their efforts to protect the right to freedom of expression in law, policy, and practice, in order to ensure a safe and enabling environment for journalists to carry out their work independently and without undue interference.<sup>29</sup>

### *Refrain from denigrating journalists and undermining trust in the media*

Political leaders, public officials, and the authorities must not denigrate, intimidate, or threaten the media, including individual journalists or specific media outlets, since such practices increase the risks of attacks against journalists, and undermines trust in the credibility of journalists as well as respect for the importance of independent journalism.<sup>32</sup>

### *Ensure national laws do not interfere with journalists' independence or obstruct their work*

States must ensure that national laws are reviewed and, where necessary, reformed to bring them into compliance with international human rights law.<sup>33</sup>

Specifically, States must ensure laws on national security, public order and counter-terrorism are in line with international human rights laws and are not misused against journalists.<sup>34</sup> Defamation and libel laws must not be used to interfere with journalists' mission of informing the public, in particular through criminal sanctions, and should where necessary be revised or repealed.<sup>35</sup>

### **What are good practices on safety of journalists?**

The resolutions highlight various UN reports identifying good practices on the safety of journalists, including from the UN Secretary General, the UN special rapporteurs on freedom of expression and on executions, and from OHCHR.<sup>30</sup>

*UNESCO also has extensive resources on good practices.*<sup>31</sup>

### **Why anonymity and encryption?**

Unless people have trust in the security of their technology, they will not express themselves freely through it.

The UN Special Rapporteur on freedom of expression has unpacked in detail why States should give robust protections to anonymity and encryption.<sup>40</sup>

### **Release arbitrarily arrested or detained journalists**

States must stop abusing legal frameworks to arbitrarily arrest or detain journalists, and immediately and unconditionally release those in detention.<sup>36</sup> Journalists aren't safe if they face the threat of imprisonment for their reporting, and the risk of torture, which includes sexual and gender-based violence, while in detention. They must also secure the release of journalists taken hostage or subject to enforced disappearance.<sup>37</sup>

### **Allow encryption and anonymity**

States must not interfere with digital security technologies, including tools for anonymity and encryption, which are vital to secure journalists' communications and protect the confidentiality of sources.<sup>38</sup> States must also refrain from unlawful and arbitrary surveillance techniques, including through hacking.<sup>39</sup>

### *Do not spy on journalists or intercept their communications*

Surveillance and the interception of communications must comply with states' international human rights law obligations on the rights to privacy and to freedom of expression. This means that surveillance or interception should not target journalists in a way that is unlawful or arbitrary.<sup>41</sup>

### *Protect journalists' confidential sources*

The confidentiality of journalists' sources must be protected in law and in practice, and subject only to clearly defined exceptions set out in national law, applied only with judicial authorisation and in compliance with international human rights law.<sup>42</sup>

### *Do not prevent or disrupt access to information online*

States must cease and refrain from measures to prevent or disrupt access to the Internet, or unlawfully or arbitrarily block or take down specific media websites, including through measures such as denial of service attacks.<sup>45</sup> Blocking access to the Internet and to specific websites can expose journalists to additional dangers, forcing them to resort to alternative and riskier means of seeking access to, and sharing, information, while also denying the public access to important information, in particular during times of crisis.

#### **Why source protection?**

When journalists can offer potential sources confidentiality, people feel safer coming forward with important information. Source protection maximises the public's right to know, ensuring wrongdoing doesn't remain in the dark.

The UN Special Rapporteur on freedom of expression has explained in detail the strict requirements any exception to this principle must meet.<sup>43</sup> UNESCO has also outlined the changing landscape of source protection in the digital age.<sup>44</sup>

**“The same rights that people have offline must be protected online”<sup>46</sup>**

This principle is particularly significant for journalists, especially for those who publish online, including bloggers.

Resolutions on the safety of journalists have elaborated on this, to make clear that Internet shutdowns, hacking to undermine secure communications, and blocking of news websites, all violate States’ international human rights law obligations.

***Protect journalists in armed conflicts as civilians***

Journalists must be recognised and protected as civilians in armed conflicts, as long as they take no action adverse to their civilian status, under international humanitarian law.<sup>47</sup>

***Protect media outlets against attack and forced closure***

The safety of journalists is compromised where their offices are physically attacked, or where the organisations within which they work are forced to close (for example, a court order forcing a media outlet to cease operations, or an online media website to shut down).<sup>48</sup>

**The Joint Declaration on Media Independence and Diversity in the Digital Age**

In 2018, the four international and regional mandates on freedom of expression clearly set out the importance of media independence, pluralism and diversity.<sup>49</sup>

It identifies numerous practical responses to contemporary physical, legal, political, technological, and economic threats facing media freedom.



## 2. Protect

### *Publicly, unequivocally, and systematically condemn violence and attacks*

States must respond to all attacks against journalists, including gender-based attacks, by making clear and public statements that such acts are reprehensible and that perpetrators will be held accountable.<sup>50</sup> Silence from authorities may signal tacit endorsement of violence against journalists and embolden perpetrators.

### *Establish early warning and rapid response mechanisms*

Journalists who are threatened should have immediate access to competent authorities (for example, to appropriate law enforcement authorities or specialised protection mechanisms), and to concrete protection measures.<sup>51</sup> To be effective, protection mechanisms should be responsive to the particular circumstances and identity of individuals at-risk, and must take a holistic approach to protection, identifying and comprehensively addressing the range of threats – physical, digital, legal, political, and economic – facing journalists and their families.

### *Protect journalists covering protests and elections*

Journalists and media workers have an important and specific role in the context of protests and elections, in observing, recording and informing the public – including on any human rights violations or abuses.<sup>52</sup> They can be vulnerable to attack, including from the use of force by authorities, targeted harassment and intimidation, and arbitrary arrest. Specific efforts are needed to protect journalists in these contexts, including from gender-based and sexual violence during protests.

#### **HRC guidance on protests and elections**

The UN Special Rapporteur on freedom of expression has addressed media freedom in the context of elections, noting the increase in attacks against journalists in this period.<sup>53</sup>

In HRC Resolution 38/11 (2018),<sup>54</sup> States made commitments to protect journalists in protests, building on recommendations from the UN Special Rapporteurs on freedom of peaceful assembly and on extrajudicial executions on the management of assemblies.<sup>55</sup>

### *Recognise the role of media organisations in advancing safety*

Media organisations' own initiatives to advance the safety of journalists should be recognised and encouraged. Such initiatives include trainings on safety, risk-awareness, digital security, and self-protection, and the provision of protective equipment and insurance, tailored to individuals' circumstances and needs.<sup>56</sup> Protections should be in place against workplace harassment and discrimination, including on the basis of sex and gender to ensure women are able to enter and remain in the profession.<sup>57</sup> Importantly, media organisations should not withhold assignments from reporters solely on the basis of their gender and identity-based perceptions of a journalist's risk profile.

### *Regularly monitor and report on attacks against journalists*

The establishment of mechanisms to gather qualitative and quantitative information on threats and attacks against journalists is crucial to ensure prevention and protection efforts are well informed and properly targeted, and that effective remedies are available to all.<sup>58</sup> Data collection must be disaggregated, including on the basis of gender, and should inform further research into the prevalence of gender-specific threats, and potential reasons for under-reporting.

## **3. Remedy**

### *Adopt strategies to combat impunity*

States should develop and implement strategies to combat pervasive impunity for crimes against journalists based on good practices, integrating all aspects of the Prevent, Protect and Remedy framework, and ensuring a consistent gender-sensitive approach.<sup>59</sup>

### *Investigate*

States must ensure accountability for all violence, threats and attacks against journalists through impartial, prompt, thorough, independent and effective investigations.<sup>60</sup> Special investigative units on crimes against journalists should be created, and appropriately resourced, and specific investigation protocols adopted, capable of effectively investigating all attacks against journalists, whether online or offline.<sup>61</sup> Gender-sensitive investigative protocols should be implemented, to encourage reporting and ensure effective investigations into gender-specific attacks.<sup>62</sup>

## Prosecute

States must bring perpetrators of crimes against journalists to justice, including those who command, conspire to commit, aid and abet, or cover up such crimes.<sup>63</sup> This requires the appointment of specialised prosecutors and the adoption of specific prosecution protocols for crimes against journalists, as well as tailored gender-responsive protocols.<sup>64</sup> Capacity building and training – including on taking a gender-responsive approach – for investigators, prosecutors and the judiciary are also important, in this regard.<sup>65</sup>

## Remedy

States must ensure victims of crimes against journalists and their families have access to appropriate remedies (for example, compensation or socio-economic support, emergency and long-term physical and psychosocial healthcare).<sup>66</sup> Recognising that pursuing judicial remedies may not always be the priority or preference of journalists who have experienced violations or abuse, in particular for survivors of sexual violence, access to such remedies should not be contingent on the filing of criminal complaints.

## Political will and adequate resources

States must reinvigorate their efforts to effectively implement the international human rights framework on the safety of journalists. Enforcement mechanisms must have the capacity to systematically pay attention to the issue. This requires dedicating the financial, technical and human resources necessary to investigate, prosecute, punish, and remedy attacks of all kinds, including gender-specific attacks.

## Train key stakeholders

Judges, law enforcement, and the military should be trained on states' international legal obligations and commitments on the safety of journalists. These should explicitly address gender-specific threats to women journalists to ensure these are taken seriously and to tackle any institutionalised discrimination.

### The Joint Declaration on Crimes against Freedom of Expression

In 2012, the four international and regional mandates on freedom of expression gave detailed guidance on what independent and effective investigations should look like, including that:<sup>67</sup>

- **Independence** requires investigating authorities to be entirely independent from any individual or public body implicated in the crime.
- **Effectiveness** requires establishing a connection between a perpetrator's motive and the journalists' work early on, and looking to hold instigators as well as direct perpetrators accountable.

# Driving Implementation through the UN System

The UN, as the world's largest inter-governmental organisation, is an important venue to hold States to account and ensure they are taking action on their human rights obligations and commitments related to the safety of journalists.

For freedom of expression advocates, it is important to know how parts of the UN system, in particular its human rights mechanisms, can be leveraged to encourage States to turn promises on the international stage into national action and change.

## UN Mechanisms Promoting the Safety of Journalists

### *UN Secretary General*

The UN Secretary General has been tasked through various UN resolutions to prepare reports on the Safety of Journalists. This has included a report on the safety of women journalists,<sup>68</sup> which sets out how to strengthen gender-sensitive approaches to journalists' safety, as well as a series of reports on the implementation of UNGA resolutions on the safety of journalists and the issue of impunity.<sup>69</sup> The Secretary General has also been tasked with consistently reporting on the protection of journalists in armed conflict, in its reports on the protection of civilians.<sup>70</sup> The preparation of these reports relies on information submitted both by States and other stakeholders, including civil society.

### *UNESCO*

UNESCO is the lead UN agency on the safety of journalists, implementing the UN Plan of Action on the Safety of Journalists and the Issue of Impunity in various countries.<sup>71</sup> First adopted in 2012, the Plan of Action provides a framework for coordinated multi-stakeholder action to create a more enabling environment for journalists to carry out their work. The Journalists' Safety Indicators, a tool within the Plan of Action which allow for the measurement of journalists' safety at national level across different markers, are a particularly useful research instrument.<sup>72</sup>

UNESCO publishes verified information on murders of journalists, which is compiled in the Director-General's report on safety of journalists and the danger of impunity, published every two years.<sup>73</sup> Annual updates also feature in the World Trends on Freedom of Expression and Media Development reports.<sup>74</sup> As part of an important monitoring and follow-up mechanism, States are invited to provide information on the status of judicial enquiries into killings to UNESCO's

International Programme for the Development of Communication (IPDC).<sup>75</sup> Though the rate of responses has improved in recent years, they remain low. Responses by States, published only on a voluntary basis, can be found in online on the UNESCO observatory of killed journalists.<sup>76</sup>

UNESCO's General Conference has issued two relevant resolutions on the safety of journalists. Resolution 29 (1997) invites the Director-General to condemn killings of, and any physical violence against journalists, and calls on States to address impunity for crimes committed against them. A second resolution, passed in 2017, encourages States to implement the UN Plan of Action on the Safety of Journalists and establish national safety mechanisms.<sup>77</sup> The IPDC also issues decisions that are relevant to the safety of journalists.<sup>78</sup>

UN resolutions invite States to cooperate with UNESCO in raising awareness of the UN Plan of Action, and also stresses the importance of States responding to requests for information on the status of judicial enquiries into killings.

### *Special Procedures and the Office of the High Commissioner for Human Rights*

The UNHRC appoints a range of independent experts, known as "Special Procedures" (Special Rapporteurs, Independent Experts, and Working Groups), to report and advise on specific human rights issues from a thematic or country perspective.<sup>79</sup> These independent experts are supported by, but independent from, the Office of the High Commissioner for Human Rights (OHCHR).

The UN Special Rapporteur on freedom of opinion and expression is tasked with protecting and promoting the right to freedom of expression, including for journalists, through:

- Receiving individual communications from civil society organisations, governments or other parties on alleged human rights violations and abuses, including on the safety of journalists.<sup>80</sup> Any person or organisation can submit communications to the Special Rapporteur, who will then seek answers and action from States.<sup>81</sup> States' responses to these communications can be searched online, providing a useful tool for follow-up by civil society.<sup>82</sup>
- Conducting fact-finding country missions, during which they meet national civil society and activists.<sup>83</sup>
- Annual reports making recommendations to States on emerging and persistent threats to freedom of expression, many directly relevant to the safety of journalists.<sup>84</sup>

Other relevant thematic special procedures, who often work jointly with the Special Rapporteur on freedom of expression, include the Special Rapporteurs on extrajudicial executions, on human rights defenders, on countering terrorism, and on violence against women, as well as the Working Groups on enforced disappearance, on discrimination against women, and on arbitrary detention. Country-specific special procedures, including Special Rapporteurs, Independent Experts, Commissions of Inquiry, and Fact-Finding Missions, routinely raise concerns on the safety of journalists.

In an important move towards bolstering accountability for attacks against journalists, the UN Special Rapporteur on extrajudicial executions has led an international human rights inquiry into the targeted killing of the journalist Jamal Khashoggi, within the terms of the mandate established by the HRC, finding the State of Saudi Arabia responsible.<sup>85</sup>

Individual complaints can be sent to all of these Special Procedures, whether thematic or country specific, through the OHCHR submissions platform.<sup>86</sup>

In addition to supporting UN Special Procedures, OHCHR also works directly on the safety of journalists, compiling relevant thematic and country-specific reports when the Human Rights Council requests it.<sup>87</sup> It also engages in various capacity building projects at the national and regional levels through its field presences, often in conjunction with UNESCO and regional human rights mechanisms.

### *Universal Periodic Review*

Every five years, the human rights records of all UN Member States are scrutinised through the Universal Periodic Review (UPR) mechanism of the HRC.<sup>88</sup> The third cycle of reviews began in 2017, and many States' progress on the safety of journalists will be assessed against recommendations they accepted from other States during their previous reviews.

Between UPR cycles, States should be working to implement the recommendations they have accepted collaboratively with all stakeholders. For many States, this includes recommendations on the safety of journalists. Interested civil society should leverage these recommendations to initiate or advance national advocacy efforts on the safety of journalists, monitor their implementation, and seek to engage with recommending States on progress.

Prior to the review itself, civil society can submit information on the safety of journalists to the OHCHR.<sup>89</sup> Civil society can also lobby States ahead of the UPR to make relevant recommendations. Recommendations are made more powerful if they can be connected to the commitments that States have made on the international stage, including in UN resolutions.

## *2030 Agenda for Sustainable Development*

Goal 16 of the 2030 Agenda for Sustainable Development (the SDGs) is to “promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels.”<sup>90</sup>

The SDGs recognise ensuring public access to information and reducing violence as a target for measuring the implementation of Goal 16. The number of verified killings, kidnapping, enforced disappearance, arbitrary detention and torture of journalists and media workers is an indicator of States' progress on the SDGs (indicator 16.10.1).<sup>91</sup>

Monitoring and follow-up on the SDGs takes a number of forms.

Within the UN system, OHCHR is responsible for coordination the collection of data on information related to journalists, in close coordination with UNESCO. Data from across the UN system, including information collected by OHCHR and UNESCO on 16.10.1, is collected by the Department of Economic and Social Affairs (UNDESA). UNDESA contributes data to the Secretary General's annual reports on Sustainable Development.

UN resolutions on the safety of journalists encourage States to expressly recognise the important connection between the safety of journalists and the SDGs by expressly integrating action on the safety of journalists into national development frameworks. States should also (i) ensure that national data collection is fed into the monitoring of UN mechanisms, and (ii) self-report on their own progress against indicator 16.10.1 as part of their Voluntary National Reviews (VNRs) at the High Level Political Forum for Sustainable Development (HLPF).<sup>92</sup> They should engage all relevant stakeholders in this exercise, to ensure that data reported into the UN system is accurate and reliable.

## *UN treaty bodies*

Treaty bodies are tasked with measuring the progress of states parties' implementation of international human rights treaties. They assess States' own reports on their implementation efforts, reviewing these alongside supplementary information that can be submitted by civil society organisations ahead of State reviews. Civil society is also able to meet with treaty body members directly ahead of State reviews to raise concerns about journalists' safety. As an outcome of the review, the treaty body prepares a report of 'concluding observations', which contain their recommendations to States to ensure the full implementation of their obligations.



Where the respective treaty gives them the competence to do so, and where States have accepted individual complaints' procedures, treaty bodies can also receive and make decisions on individual complaints regarding violations of States' treaty obligations, and order remedies where violations are upheld.<sup>93</sup>

These periodic reports and individual complaints provide an opportunity to raise violations and abuses of journalists' rights. The most relevant treaty bodies in this respect are:

- The UN Human Rights Committee
- The UN Committee Against Torture
- The UN Committee on Elimination of Discrimination against Women
- The UN Committee on Enforced Disappearances

## UN Cooperation with Regional Human Rights Mechanisms

At regional level, a number of intergovernmental organisations, and human rights mechanisms, contribute towards promoting the safety of journalists.<sup>94</sup>

Individual communications can be raised with regional freedom of expression mandates: the OSCE representative on Freedom of the Media,<sup>95</sup> the Special Rapporteur on Freedom of Expression of the Inter-American Commission,<sup>96</sup> and the Special Rapporteur on Freedom of Expression and Access to Information of the African Commission on Human and People's Rights.<sup>97</sup> There are no equivalent mechanisms for other regions, such as Asia and the Middle East.

In particular, regional freedom of expression mandates have collaborated with the UN Special Rapporteur on freedom of opinion and expression, most notably on the issuing of Joint Declarations, many of which have addressed the safety of journalists.<sup>98</sup>

## Enhancing UN Coordination

UN resolutions on the safety of journalists stress the need to ensure better cooperation with and coordination between the various human rights mechanisms and UN agencies working to enhance safety of journalists.

In August 2017, UNESCO and OHCHR led a consultation on strengthening the implementation of the UN Plan of Action on the safety of journalists, which has led to the Secretary General appointing a designated official in the Executive Office on safety of journalists, and re-establishing a network of focal points across the UN system for enhancing coordination.<sup>99</sup> Nevertheless, there are challenges to coordination and adequate resourcing that persist, and developing a UN-wide methodology to collect information for evaluating the system's effectiveness is essential.



# Enhancing States' Compliance with Existing UN Commitments

In spite of the adoption of 10 UN resolutions on the safety of journalists since 2006, and the establishment of numerous mechanisms for monitoring implementation of States' commitments at the international level, the risks facing journalists and media workers have not subsided and, in many contexts, are on the increase.

The international community must ensure that States that require technical assistance to meet their international human rights law obligations and commitments on the safety of journalists are encouraged to seek it, and that those mechanisms are sufficiently resourced to provide meaningful assistance. Making resources available to organisations working to enhance media freedom, protect journalists from attacks, and ensure their access to remedies, is also essential.

At the same time, the international community must respond more effectively to States who repeatedly or flagrantly violate their human rights obligations and commitments related to the safety of journalists. Civil society organisations should encourage States to speak out at the UN – individually and collectively – to raise the costs for States that violate the rights of journalists or fail to prevent abuses against them. States must be pushed to condemn systemic challenges in country situations of concern, as well as to call for answers and targeted action in response to individual attacks, in particular in cases that remain in impunity. They should work collectively to ensure accountability in these situations, regardless of the political power of the State in which the violation or abuse has occurred.

A crucial element in holding all States to account for the implementation of their commitments on the safety of journalists, is ensuring information about these commitments is proactively disseminated to national stakeholders, including civil society and the media. These constituencies, and the wider public, have a right to know in detail what their governments have committed to, so that they can use all national, regional and international means at their disposal to ensure those commitments are translated into meaningful changes to domestic law, policy and practice. Where States are failing to do this, civil society organisations and the media play an important role in raising awareness.

States should also, at minimum, ensure they are reporting on the implementation of their commitments on the Safety of Journalists, including by responding systematically to communications on the safety of journalists by UN Special Rapporteurs, and requests for input by the OHCHR and UNESCO, and by systematically submitting data for the monitoring of SDG 16.10.1.

# Strengthening the UN's Institutional Response

Against a backdrop of escalating threats to the safety of journalists, UN Member States and the UN must commit to strengthening the UN's institutional response to attacks threats to the safety of journalists. The proposed changes put forward by the Special Rapporteur on extrajudicial executions, as part of the conclusions and recommendations of her investigation into the killing of Jamal Khashoggi are essential towards ensuring accountability for crimes against journalists.<sup>100</sup> Her recommendations for institutional strengthening include, *inter alia*, to:

- Recognise the competency and importance of the UN Secretary-General to initiate criminal investigations to pursue accountability for perpetrators of killings of journalists, without requiring authorisation of a State or UN political entity;
- Recognise the competency and importance of the UN Security Council to convene Arria-formula meetings to consider the implications for peace and stability of the extraterritorial targeting of journalists;
- Fully equip UN country teams to implement the UN Plan of Action on the Safety of Journalists and the Issue of Impunity;
- Establish a Standing Instrument for the Criminal Investigation into Allegations of Targeted Killing, or other acts of violence against journalists, human rights defenders or others targeted because of their peaceful activities or expression, supported by a secretariat, based on the model of the International Impartial and Independent Mechanism (IIIM) or the Secretary General's Mechanism for Investigation of Alleged Use of Chemical and Biological Weapons;
- Establish, through the UNHRC, a Special Procedures Task-Force to undertake rapid response missions in response to attacks against journalists, human rights defenders, or other individuals targeted for the peaceful expression of their opinion; and
- Develop through UN standard-setting mechanisms a Protocol on the Investigation and Responses to Threats and Risks to guide and strengthen the institutional capacity of national and local authorities.

Civil society organisations must press UN Member States and the UN to take forward these recommendations, to fulfil the promise to increase and accelerate their efforts to ensure a safe and enabling environment for journalists to carry out their work independently and without undue interference.

# **Annexe: UN Member States' Co-sponsorship of UNGA and UNHRC Resolutions on the Safety of Journalists**

**The following UN Member States expressed their support for HRC Resolution 39/6, as co-sponsors:**

Afghanistan, Albania, Algeria, Andorra, Angola, Argentina, Armenia, Australia, Austria, Belgium, Bosnia and Herzegovina, Botswana, Brazil, Bulgaria, Canada, Chile, Colombia, Costa Rica, Croatia, Cyprus, Czech Republic, Denmark, Ecuador, Egypt, El Salvador, Estonia, Finland, North Macedonia, France, Georgia, Germany, Ghana, Greece, Haiti, Honduras, Hungary, Iceland, Ireland, Italy, Japan, Kenya, Latvia, Lebanon, Liechtenstein, Lithuania, Luxembourg, Malaysia, Maldives, Mali, Malta, Mexico, Monaco, Mongolia, Montenegro, Morocco, Netherlands, New Zealand, Norway, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Republic of Moldova, Romania, San Marino, Serbia, Slovakia, Slovenia, Spain, Sri Lanka, Sudan, State of Palestine, Sweden, Switzerland, Tunisia, Ukraine, United Kingdom of Great Britain and Northern Ireland, Uruguay, Yemen.

**The following UN Member States expressed their support for GA Resolution 72/175, as cosponsors:**

Albania, Andorra, Antigua and Barbuda, Argentina, Armenia, Australia, Austria, Belgium, Belize, Bosnia and Herzegovina, Brazil, Bulgaria, Burkina Faso, Cape Verde, Canada, Central African Republic, Chile, Costa Rica, Cote d'Ivoire, Croatia, Cyprus, Czech Republic, Denmark, Dominican Republic, Egypt, El Salvador, Estonia, Finland, North Macedonia, France, Georgia, Germany, Ghana, Greece, Guatemala, Haiti, Honduras, Hungary, Iceland, Ireland, Israel, Italy, Japan, Jordan, Kiribati, Latvia, Lebanon, Lesotho, Liberia, Libya, Liechtenstein, Lithuania, Luxembourg, Maldives, Mali, Malta, Mexico, Monaco, Mongolia, Montenegro, Morocco, Netherlands, Niger, Nigeria, Norway, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Republic of Moldova, Romania, San Marino, Serbia, Slovakia, Slovenia, Spain, Sri Lanka, Sweden, Switzerland, Tunisia, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Vanuatu.

**The following States expressed their support for HRC Resolution 33/2, as cosponsors:**

Albania, Algeria, Andorra, Angola, Argentina, Armenia, Australia, Austria, Belgium, Benin, Bosnia and Herzegovina, Botswana, Brazil, Bulgaria, Burkina Faso, Canada, Central African Republic, Chile, Colombia, Congo, Costa Rica, Cote d'Ivoire, Croatia, Cyprus, Czech Republic, Denmark, Djibouti, Egypt, Estonia, Finland, North Macedonia, France, Georgia, Germany, Ghana, Greece, Guatemala, Honduras, Hungary, Iceland, Ireland, Israel, Italy, Japan, Kazakhstan, Kenya, Latvia, Lebanon, Liechtenstein, Lithuania, Luxembourg, Madagascar, Maldives, Mali, Malta, Mexico, Monaco, Mongolia, Montenegro, Morocco, Netherlands, New Zealand, Norway, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Senegal, Serbia, Slovakia, Slovenia, Spain, Sudan, State of Palestine, Sweden, Switzerland, Timor-Leste, Togo, Tunisia, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Yemen.

**The following UN Member States expressed their support for GA Resolution 70/162, as cosponsors:**

Albania, Andorra, Argentina, Armenia, Australia, Austria, Belgium, Benin, Bosnia and Herzegovina, Brazil, Bulgaria, Burkina Faso, Cape Verde, Canada, Central African Republic, Chile, Colombia, Costa Rica, Croatia, Cyprus, Czech Republic, Denmark, Egypt, El Salvador, Estonia, Finland, North Macedonia, France, Georgia, Germany, Ghana, Greece, Guatemala, Guinea, Guinea Bissau, Honduras, Hungary, Iceland, Ireland, Israel, Italy, Japan, Jordan, Latvia, Lebanon, Lesotho, Liberia, Libya, Liechtenstein, Lithuania, Luxembourg, Mali, Malta, Mexico, Monaco, Mongolia, Montenegro, Morocco, Netherlands, New Zealand, Norway, Panama, Paraguay, Peru, Poland, Portugal, Qatar, Republic of Korea, Republic of Moldova, Romania, San Marino, Serbia, Slovakia, Slovenia, Spain, Sri Lanka, Sweden, Switzerland, Tunisia, Ukraine, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay.

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