



Concept Note

Ending Impunity for Crimes against Journalists

Commemoration conference on the occasion of International Day Against Impunity for Crimes Against Journalists

San José, Costa Rica

I. Overview

What? Commemoration Event as part of the build up towards the International Day Against Impunity for Crimes Against Journalists, 2 November, 2015

When? 9-10 October 2015

Where? Auditorium of the Inter-American Court for Human Rights, San José, Costa Rica.

Who? Inter-American Court of Human Rights is UNESCO's main partner, also with:

- Special Rapporteur for Freedom of Expression, Inter-American Commission on Human Rights of Organization of American States
- and
- Article 19;
- Centre for Freedom of the Media (CFOM), University of Sheffield;
- Center for Justice and International Law (CEJIL);
- Committee to Protect Journalists (CPJ);
- Costa Rican National Commission for UNESCO;
- European Lawyers' Union (UAE);
- Freedom House;
- Global Freedom of Expression and Information, Columbia University;
- Inter American Press Association (IAPA/SIP);
- Inter-American Human Rights Court;
- International Association of Broadcasting (IAB/AIR);
- International Association of Lawyers (UIA);
- International Center for the Promotion of Human Rights (CIPDH);
- International Federation of Journalists (IFJ/FIP)
- International Freedom of Expression Exchange (IFEX);
- Media Legal Defense Initiative (MLDI);
- Office of the High Commissioner on Human Rights Panamá (OHCHR Panamá)
- Open Society Foundations (OSF)
- World Association of Newspapers and News Publishers (WAN-IFRA)

Why? Impunity towards crimes against journalists is considered one of the main factors fuelling the cycle of violent crime against the exercise of freedom of expression and human rights more broadly. The operators of judicial systems (judges, prosecutors, lawyers, investigative police) are crucial to address the issue of impunity. Deepening and sharing experience and jurisprudence of International Courts, as well as national references in regard to High Courts, can be an important tool in fighting impunity. It is also important to raise knowledge about international standards and international law. Holding the event 9-10 October, two weeks before the 2 November, provides an advance global and regional signal about the imminent International Day Against Impunity for Crimes Against Journalists. It will also prepare for activity on the actual day when the outcomes will be widely circulated, and there will be the launch of an online discussion and an online course involving the constituency.

How? Judicial systems are complex structures with multiple stakeholders. Therefore, sustainable processes of awareness rising, peer-to-peer discussions, knowledge sharing and capacity building are needed to support actors in these systems to understand and act to end impunity and enforce the rule of law in the cases of attacks against journalists. The role of jurisprudence coming from International Courts is especially relevant within this context, that's why it is particular relevant to hold this kind of meeting in partnership with bodies like the Inter-American Court of Human Rights.

II. Background Rationale

The United Nations General Assembly adopted [Resolution A/RES/68/163](#) at its 68th session in 2013, which proclaimed 2 November as the '*International Day to End Impunity for Crimes against Journalists*' (IDEI). The Resolution urged Member States to implement **definite measures** countering the present culture of impunity. The date was chosen in commemoration of the assassination of two French journalists in Mali on 2 November 2013. UNESCO is mandated in the Resolution to lead the observation of the Day.

This landmark resolution **condemns all attacks and violence against journalists and media workers**. It also urges Member States to do their utmost to prevent violence against journalists and media workers, to ensure accountability, **bring to justice perpetrators of crimes against journalists and media workers**, and ensure that victims have access to appropriate remedies. It further calls upon States to promote a safe and enabling environment for journalists to perform their work independently and without undue interference.

The focus on impunity of this resolution stems from the worrying situation that over the past decade, more than 700 journalists have been killed for bringing news and information to the public. In 2012 alone, the UNESCO Director-General condemned the killing of 123 journalists, media workers, and social media producers of public interest journalism. In 2013, the figure decreased slightly to 91, but still represented the second deadliest year for journalists.

These figures do not include the many more journalists who on a daily basis suffer from non-fatal attacks, including harassment or violence against them and/or their relatives, torture, enforced disappearances, arbitrary detention,

intimidation and harassment in both conflict and non-conflict situations. Furthermore, there are specific risks faced by women journalists including sexual attacks.

Worryingly, **only one in ten cases of killings of media workers over the past decade has led to a conviction**. This impunity emboldens the perpetrators of the crimes and at the same time has a chilling effect on society including journalists themselves. Impunity breeds impunity and feeds into a vicious cycle. The public draw the inference that it is not safe to exercise their rights because state protection is lacking.

According to the 2014 UNESCO Director-General's Report on the Safety of Journalists and the Danger of Impunity, **less than six percent of the 593 cases of killings of journalists from 2006-2013 have been resolved**. A quarter of these cases are considered as "ongoing" referring to their continued investigations over the various stages of the judicial system. In 60 percent of the cases, **no information on the judicial process** was made available to UNESCO notwithstanding the Director-General's requests for such. This lack of information may reflect upon the awareness and capacity of a judicial system to monitor and track these cases.

When attacks on journalists remain unpunished, a very negative message is sent that reporting the "embarrassing truth" or "unwanted opinions" will endanger reporters and the ordinary people who are their sources. Furthermore, society loses confidence in its **own judicial system**, which is meant to protect everyone from attacks on their rights. Perpetrators of crimes against journalists and others are emboldened when they realize they can attack their targets without ever facing justice.

As recognised by the UN Security Council in its Resolution 2222 of 27 May 2015, "impunity for crimes committed against journalists, media professionals and associated personnel in armed conflict remains a significant challenge to their protection and that ensuring accountability for crimes committed against them is a key element in preventing future attack".

In the Resolution, the Security Council further emphasised that it is "the responsibility of States to comply with the relevant obligations under international law to end impunity and to prosecute those responsible for serious violations of international humanitarian law."

Society as a whole suffers from impunity. The kind of news that gets "silenced" is exactly the kind that the public needs to know. Information is quintessential in order to make the best decisions in their lives, be it economic, social or political. This access to reliable and quality information is the very cornerstone of democracy, good governance, and effective institutions.

It is in recognition of such far-reaching consequences of impunity, especially of crimes against journalists, that the UN declared 2 November as

the *International Day to End Impunity for Crimes against Journalists (IDEI)*. Further details on this day can be found at the UNESCO website [here](#).

IDEI, and the build-up to this day, provides a **strategic opportunity** to all stakeholders to focus public attention on the importance of ending impunity for crimes against journalists. It also opens new possibilities to draw in constituencies whose primary interests may be other than the safety of journalists. Of particular relevance to this concept note is the opportunity, given the symbolic significance of journalists to the wider issue of impunity and justice, to interact with all those who work in the rule of law system.

Others who are concerned with public participation and citizen's rights to speak out on various issues such as corruption or domestic violence will also share an interest in the resolution on combating impunity of attacks on journalists, who by definition are actors in the public eye, and whose situation sends a signal to society at large.

The IDEI takes place within the wider context of **the UN Plan of Action on the Safety of Journalists and the Issue of Impunity**, which has been endorsed by the UN Chief Executives Board and appreciated by the UN General Assembly. The **Paris Declaration of the 2014 World Press Freedom Day conference** held at UNESCO Headquarters states: "The continuing high level of killings of journalists calls for intensified action by international organizations, governments, media and other actors to give heightened attention to strengthening the safety of journalists and to bringing their killers to justice." In particular, it calls on all actors to support the UN Plan of Action with complementary or joint actions, and to enhance cooperation with each other." The IDEI is a major opportunity to advance the UN Plan.

Adding to the impetus around the Day, the international coalition of free expression organisations, IFEX, organises an annual campaign of general awareness raising, which starts on 2 November and culminates on 23rd. The envisioned focus of this UNESCO-initiated conference, on engaging the judicial power, complements this wider (and subsequent) work by civil society groups.

Last year, marking the first instance of this new day on the international calendar, the UN officially marked the occasion with a global commemoration in Strasbourg, France. This was in partnership with the **European Court of Human Rights**, and included participation of the Inter-American Court of Human Rights. There was also an event at the UN General Assembly as well as in a number of other places.

This year, UNESCO's intention is to signal, in advance, the continued importance of this important Day, with a co-commemoration at the Inter-American Court of Human Rights.

This 2015 conference will therefore build on the 2014 experience. It is part of a longer term strategy whereby UNESCO uses its good offices and track record to bring relevant stakeholders together. In 2016, the co-operation with judicial actors in combatting impunity will keep its momentum, with an event that will be held in a

different world region that year. In this way, there is a clear vision for sustaining the activities beyond 2015.

A draft programme for the proceedings has been developed, covering all relevant aspects (see below). The deliberations will be transmitted live online, with complimentary social media coverage, and a conference report summarising the outcomes will be released on 2 November. This co-commemoration event will also help prepare for the launch on 2 November of two online activities in the Latin American Region: an online discussion about the Day, and the commencement of registration, in three Latin American countries, of the Massive Open Online Course (MOOC) on freedom of expression, tailored for the judicial community, which was successfully piloted with the Supreme Court of Mexico in 2014.

III. Content focus: The Role of the Judiciary Systems and the International Courts of Human Rights

To elaborate on the points made above, the safety of journalists and the struggle against impunity for their killers are essential to preserve the fundamental right to freedom of expression, guaranteed by Article 19 of the *Universal Declaration of Human Rights*. Freedom of expression is an individual right, for which no one should be killed, but it is also a collective right, which empowers populations through facilitating dialogue, participation and democracy, and thereby makes autonomous and sustainable development possible.

This cannot be done without the strengthening of the Rule of Law, for which it is crucial a qualified involvement of the Judiciary Power and all operators of the system of justice. The implementation strategy derived of the UN Plan of Action makes this point very clear, when it underlines as an expected result of the Plan:

“Member States are advised on the implementation of existing international standards at national level and on the development of journalist safety mechanisms, as well as supported in regard to the sharing of good practices and capacity-building among various actors, including the criminal justice chain, to promote a safe environment for journalists at national level”

This is not only true for national judiciary systems. Three International Courts of Human Rights actively work for the protection of journalists by reinforcing and promoting Freedom of Expression and Freedom of Information by putting into effect the Conventions and Charters of Human Rights pertaining to their regions; these Courts are the African Court on Human and People’s Rights, the Inter American Court of Human Rights, and the European Court of Human Rights. All three institutions have well known cases where rulings were issued relating to fighting impunity of attacks on journalists, and this jurisprudence is valuable to share and discuss. The three examples show how courts can send a strong signal about a matter of key public concern.

In summing up, an attack on journalists is also an attack against the right that people have to seek and receive information; therefore, it is an attack on both the rule of law and on democracy.

This situation can be countered by fostering both national and international judiciary capacities for the promotion of Freedom of Expression and Freedom of Information. This requires a set of different strategies, among which are: a) capacity building; b) peer-to-peer dialogue; c) comparative law studies; d) knowledge sharing on jurisprudence; e) knowledge sharing on international standards.

As can be seen, by gathering regional and local judiciary systems, journalists and academia, the commemoration of the International Day, is an important moment to strengthen dialogue. It advances understanding about the required key roles, and helps to identify tasks to promote an effective implementation of strategies for improving the protection of journalists and for eliminating impunity for the crimes committed against them.

IV. Outcomes and impact

This conference will produce the following results:

1. Ensure continued momentum around the opportunity of the recently proclaimed IDEI, and contribute to the build-up of activities on this day;
2. Continue the dialogue and sharing of good practices among judicial actors internationally, as started in Strasbourg in 2014;
3. Highlight to judicial actors in general the particular importance of journalists to the wider quest for ending violent crimes and strengthening the rule of law, in line with the draft Sustainable Development Goal number 16 (Promote peaceful and inclusive societies for sustainable development, provide access to justice for all);
4. Provide a platform for Latin American actors to exchange experiences with each other and with counterparts from abroad, on combatting impunity – thereby building understanding and capacity;
5. Publicity on the issues, with increased awareness raising, and a quality concept note along with a conference report on the outcomes, that are circulated amongst key stakeholders.

V. Agenda

Day 1: Friday, 9 October

08h-09h – Participants registration

Session 1

09h-10h – Opening: Protocol ceremony: Esteban Montanar, IACHR

- Pilar Álvarez, UNESCO Director and Representative, Costa Rica
- Zarela Villanueva, President of Supreme Court of Costa Rica
- Alejandro Solano Ortiz, Deputy Minister of Foreign Affairs, Ministry of Foreign Affairs of Costa Rica
- Humberto Sierra Porto, President, Inter-American Court of Human Rights, Costa Rica

Session 2

10h-11h30 – Keynote Speakers: The role of the Judiciary Power in Protecting and Promoting Freedom of Expression

Moderator: Lorena Pinto, UNESCO Chair Human Rights, University La Salle, Costa Rica

- Claudio Grossman, President of the Inter-American Institute of Human Rights, Costa Rica, and Dean of American University Washington College of Law, USA (video session)
- Diego García Sayán, Judge, Inter-American Court of Human Rights (IACHR), Costa Rica
- Edison Lanza, Special Rapporteur on Freedom of Expression, OAS, Washington D.C.

11h30 – 11h45 Coffee Break

Session 3

11h45-13.00 Problem diagnosis: the dimensions of violence against journalists and the issue of impunity.

This session will contextualize the issue in terms of international standards and UN resolutions on the subject of impunity, and why the case of journalists in particular is of special concern – including in the Sustainable Development Agenda. The session will analyze causes and trends in combating impunity.

Moderator: José Luis Saca, Vice-President, International Association of Broadcasting (IAB/AIR), Uruguay

- Sylvie Coudray, UNESCO
- Joel Simon, Committee to Protect Journalists (CPJ), USA
- Emmanuel Combié, Reporter without Borders RSF, Brazil
- Germán Rey Beltrán, The Gabriel García Márquez New Iberoamerican Journalism Foundation, Colombia
- Daniela Pastrana, Independent Journalist, Periodistas de a Pie, Mexico
- Roberto Rock, Vice-President, Commission against impunity, Inter-American Press Association (IAPA)

13h00 – 14h30 LUNCH

Session 4

14h30–16h30 Case law of regional and universal human rights protection bodies

In this session information will be shared about cases involving freedom of expression, and the human rights standards set out by international human rights regional courts, and by the universal human rights protection system.

Moderator: William Horsley, Centre for Freedom of the Media (CFOM), University of Sheffield

- Fitzgerald Haney, American Ambassador in Costa Rica
- Roberto F. Caldas, Judge, Inter-American Court of Human Rights, Costa Rica
- Augustino Ramadhani, President, African Court of Human and Peoples' Rights, Arusha
- Lena White Curling, Assessor at Presidency, Supreme Court of Costa Rica
- Victor Manuel Rodriguez-Rescia, Costa Rica, member UN Human Rights Committee UNHRC
- Andris Mellakauls, Steering Committee on Media and Information Society, Council of Europe

16h30-16h45 Coffee Break

Session 5

16h45-18h15 The importance of comparative legal studies and knowledge sharing on jurisprudence.

This session will interrogate how jurisprudence on impunity may be relevant to different situations, and how legal information relevant to the subject can be better

shared. It will review different legal regimes which provide particular penalties for crimes against journalists and other human rights defenders.

Moderator: Ona Flores, Senior Attorney/Human Rights Specialist, Office of the Special Rapporteur for Freedom of Expression, Washington D.C.

- Toby Mendel, Center for Law and Democracy, Canada
- Athar Minallah, Justice, Islamabad High Court, Pakistan
- NN, Global Freedom of Expression and Information, Columbia University, USA
- Marcia Aguiluz, Director, Program for Central America and México, Center for Justice and International Law (CEJIL)

END OF DAY ONE

20h-22h Welcome Reception (Radisson Hotel)

Day 2: Saturday, 10 October

Session 6

09h-10h30 Successful cases in ending impunity

Although the resolution rate of cases is very low, there are specific instances that may represent good practice. Issues to be considered, however, are whether justice is timely and transparent, and whether not just the trigger-men but also the commissioning agents of an attack are brought to book. Further, if cases are to be resolved, resources need to be mobilized, which depends on public opinion and on the positions of public officials and representative bodies such as the OAS Permanent Council and the Committee of Ministers of Europe. The role of these organs in relation to end impunity is significant, and can strengthen the rule of law in regard to attacks on journalists.

Moderator: Ernest Sagaga, Human Rights and Safety Officer, International Federation of Journalists (IFJ), Brussels

- Baltasar Garzón, President, International Centre for Human Rights Promotion (CIPDH), UNESCO Center II, Spanish Judge
- João Bosco, Federal Prosecutor Office, Brazil
- Luis Eduardo Montealegre, Attorney General of Colombia
- Mohammed Ayat, Marocco, former staff at UNICTR Rwanda
- NN, Global Freedom of Expression and Information, Columbia University, USA

10h30 – 10h45 Coffee Break

Session 7

10h45 – 12h45 The importance of capacity building for judges.

This session will examine what areas of capacity could be strengthened, for what judicial and other actors (such as prosecutors and police), and through what mechanisms (workshops, online courses, judicial college curriculum, etc).

Moderator: José Thompson, Executive Director, Inter-American Institute for Human Rights, Costa Rica

- Ileana Guillén Rodríguez, Director, School of Judges in Costa Rica and Centre for Capacity Building of Judges in Central America
- José Maria Costa, Justice, The Supreme Court of Paraguay
- Vivene Harris, Justice, The Supreme Court of Jamaica
- Guilherme Canela, Regional Adviser for Communication and Information, UNESCO Montevideo

12h45 - 14h00 Lunch

Session 8

14h00-15h30 Presentation of the Experience of Civil Society Organizations with the Fight against Impunity for Crimes against Journalist

Civil society groups, for example from Mexico, Colombia, Brazil and Guatemala, will discuss their role in awareness raising and their work in strengthening the effectiveness of mechanisms to protect journalists and to end impunity.

Moderator: Giancarlo Summa, UN Department of Public Information (DPI), Rio de Janeiro, Brazil

- Marcelo Träsel, Director, Brazilian Association of Investigative Journalism, (ABRAJI), Brazil
- Darío Ramírez, Director, Article 19, Mexico and Central America
- Mariclaire Acosta, Director, Freedom House México
- Adriana Arce, Internacional UNESCO Centre for the Promotion of Human Rights, CIPDH, Argentina
- Pedro Vaca, Director Ejecutivo, Foundation for Press Freedom (FLIP), Colombia
- Sahar Habib Ghazi, Pakistan, Global Voices
- Sonali Samerasingh, former journalist and editor in exile, Sri Lanka

15h30-16h00 Coffee Break

Session 9

16h00-17h00 Wrap-up, Recommendations and Conclusions

Protocol ceremony: Esteban Montanar, IACHR

- Pilar Álvarez, UNESCO Director and Representative, San José
- Edison Lanza, OAS Special Rapporteur for Freedom of Expression, Washington D.C.
- Roberto F. Caldas, Judge, Inter-American Court of Human Rights