



Expert Seminar on Legal and Economic Threats to the Safety of Journalists

Tuesday 25 April 2023, 10:00 – 13:00 CET and 15:00 – 18:00 CET

Interpretation available in all UN official languages

Room XX, Palais de Nations

and remote participation via Zoom

CONCEPT NOTE

I. INTRODUCTION

1. The Human Rights Council, in its resolution 51/9 on “The safety of journalists” of 6 October 2022, expressed concern about the deepening threats to media diversity and independence, attempts to silence journalists and media workers, and the rise of strategic lawsuits against public participation.¹ The Council called on States, where necessary, to revise and repeal defamation and libel laws to ensure compliance with States’ obligations under international human rights law. It also called on States to reduce the socioeconomic vulnerability of journalists and to address the financial viability of media organizations.²
2. In its operative paragraph 21 of the resolution 51/9, the Human Rights Council requested the High Commissioner for Human Rights to organize, before the fifty-fourth session of the Council, “a one-day expert seminar on legal and economic threats to the safety of journalists, in consultation with all relevant stakeholders, and to prepare a summary report thereon, and to submit it to the Council at its fifty-fifth session.”

II. BACKGROUND

3. The rise in threats to the safety of journalists worldwide includes legal and economic threats. Legal threats to the safety of journalists refer to the legal actions and abuse of the judicial system used to harass, intimidate and punish journalists. They include laws that are used to criminalize journalism, such as national security, anti-terrorism, sedition, criminal defamation, and lese-majesty laws; legal actions

¹ A/HRC/RES/51/9, preambular paragraphs 15, 23 and 24.

² *Ibid.*, operative paragraphs 11 h) and n).

such as strategic lawsuits against public participation (SLAPPs) initiated by either national authorities or private actors, including business enterprises; criminal or financial investigations and prosecutions as retaliation or intimidation; and disproportionate criminal penalties, including heavy fines and harsh prison sentences.

4. The UN Special Rapporteur on the right to freedom of opinion and expression, Ms. Irene Khan, has noted that the “weaponization of the law” against journalists is a major threat to media freedom. In her report on “Reinforcing media freedom and the safety of journalists in the digital age,” she observed that the arsenal of legal weapons used to punish journalists and suppress media freedom had broadened in the digital age to include criminal cyberlibel, cybersecurity and fake news laws.³
5. The United Nations Educational, Scientific and Cultural Organization (UNESCO) has addressed the issue of the “misuse” of the judicial system to attack freedom of expression. It has noted that the use of criminal defamation offences to restrict online expression has increased worldwide. There has also been a rise in practices such as abusive “forum shopping”⁴ and SLAPPs to silence critical voices and undermine scrutiny. In addition, expanded use of civil defamation often leads to disproportionate damages that have a chilling effect on journalists’ work.⁵
6. Economic threats to the safety of journalists, for their part, are linked to the precarious labour conditions of journalists and to the ongoing and deepening economic crisis of media viability. Economic threats cover a wide range of threats, from dismissals of journalists and excessive damages in civil defamation cases, to cuts in public funding and news outlet closures. The crisis of media viability has been exacerbated by the COVID-19 pandemic, leading to further job insecurity, pay cuts and delays, and worsening working conditions of journalists.⁶⁷ The Special Rapporteur on freedom of opinion and expression has stressed that media viability is a matter of human rights, and has warned that if independent public interest media cannot survive, journalists will be further imperilled.⁸
7. Beyond implications to the safety of journalists, legal and economic threats against them have far-reaching implications on the principles of transparency and

³ A/HRC/50/29, paras. 20 and 51.

⁴ “Forum shopping” or “libel tourism” has been defined as the practice of choosing the court in which to bring an action based on the prospect of the most favourable outcome, even when there is no or only a tenuous connection between the legal issues and the jurisdiction. See “Liability and jurisdictional issues in online defamation cases”, Council of Europe Study DGI (2019)04, September 2019.

⁵ “The ‘misuse’ of the judicial system to attack freedom of expression: trends, challenges and responses,” World Trends in Freedom of Expression and Media Development, UNESCO, 2022.

⁶ See report of the High Commissioner for Human Rights, A/HRC/49/40, paras. 21-22. See also “Finding the funds for journalism to thrive: policy options to support media viability”, World Trends in Freedom of Expression and Media Development, UNESCO, 2022.

⁷ “Finding the funds for journalism to thrive: policy options to support media viability”, World Trends in Freedom of Expression and Media Development, UNESCO, 2022.

⁸ A/HRC/50/29, para. 85.

accountability. These principles are, in turn, essential for the promotion and protection of human rights,⁹ as well as pluralism and democracy.

III. EXPERT SEMINAR

III. 1. Goal

8. The expert seminar will bring together States, relevant United Nations bodies, funds and programmes, including UNESCO and the International Labour Organization (ILO), regional organizations, human rights mechanisms, national human rights institutions, civil society organizations and coalitions, the private sector, and representatives of the media and academic institutions. Participation of experts with specific expertise on the safety of journalists and related legal and economic threats will be encouraged.
9. The seminar will be a platform for an in-depth discussion of the range and trends of legal and economic threats to the safety of journalists, and their impact on the enjoyment of human rights. The seminar will also seek to articulate measures that should be adopted by the international community, States, businesses, civil society organizations and others to better protect journalists from legal and economic threats. A particular focus will be on the gender-dimension of the safety of journalists.
10. As per the resolution 51/9, the Office of the High Commissioner for Human Rights will present a summary report of the expert seminar to the Human Rights Council at its 55th session, in February-March 2024.

III. 2. Methodology

11. In order to ensure the broadest participation of stakeholders, the expert seminar will be held in a hybrid format. Interpretation will be available in all UN official languages.
12. Experts with diverse backgrounds and perspectives will introduce the themes of the different sessions. A moderator will open the discussion for other participants representing States, international and regional organizations, civil society groups, businesses, and other relevant stakeholder groups.

III. 3. Sessions

13. The seminar is structured in four sessions. Each session will have one chair/moderator, and three to five panellists will deliver statements highlighting key

⁹ Human Rights Committee, General Comment No. 34, para. 3.

aspects of the topic of that session. This will be followed by a discussion of the issues raised by the panellists. The last part of each session will be devoted to comments and questions from all other participants, followed by brief closing remarks from the chair/moderator.

14. The first topic addressed will be legislation and legal trends affecting the safety of journalists. It will be followed by in-depth discussions of the ways legal and economic threats affect the safety of journalists and the enjoyment of human rights. The final discussion will seek to articulate ways forward, especially by identifying specific measures to protect journalists from legal and economic threats and ensure independent, free and pluralistic news media.
15. For more details on the sessions, see the following explanations:

Session 1: Overview of current legislation and legal trends affecting the safety of journalists

16. This session will set the scene by providing an overview of the legal landscape affecting the safety of journalists.
17. Session participants will touch upon questions such as the following:
 - What types of laws are being used to intimidate and punish journalists and suppress media freedom? What are the regional trends in this regard? What has been the impact of the COVID-19 pandemic? What are the common problems with these laws? How is the compliance of States and companies with relevant international standards?
 - What are the specific legal and economic threats to journalists in the digital age? What are the gaps of legal frameworks in this regard?
 - How are current legislation and legal threats affecting the safety of women journalists? What are the particularities of the gender dimension of the legal and economic threats to the safety of journalists?

Session 2: Legal threats, including strategic lawsuits against public participation (SLAPPs), and their impact on the safety of journalists

18. In this session, the participants will analyse and discuss in depth various ways in which legal threats affect the safety of journalists and the enjoyment of human rights. Questions considered will include, for example:
 - What are the legal threats that journalists face? What types of legal actions are being used against them? What are their objectives and their impact, including their financial impact, on journalists? What is their gender dimension?

- What is the role of the State and private sector in this area? What measures are being adopted by States, the private sector, including media organizations, and other stakeholders to address these threats and the abuse of the judicial system?

Session 3: Economic threats to the safety of journalists and their impact on media independence and pluralism

19. This session will identify the economic threats to the safety of journalists and their impact on the enjoyment of human rights. Aspects to discuss will include:

- What are the main economic challenges that threaten the work of the media and affect the safety of journalists?
- What is the gender dimension of the economic threats facing journalists? To what extent do existing gender inequalities in and through the news media increase vulnerability of women journalists to economic threats?

Session 4: The way forward: what can be done to address legal and economic threats to the safety of journalists?

20. Building on the analysis undertaken throughout the day, this session will examine which steps and measures should be adopted to ensure the protection of journalists from legal and economic threats. Among the questions to be discussed will be the following:

- Are there existing good practices, measures, mechanisms or models to look to for effective protection of journalists from legal and economic threats? What has and has not worked so far, and why?
- What are the specific recommendations to protect and promote the safety of journalists in the digital age and strengthen cooperation in this area? What type of measures must be adopted to counter the evolving ecosystem of threats and challenges to the safety of journalists and media freedom spawned by new technologies?
- How can specific legal and economic threats faced by women journalists be effectively tackled? Are there good practices that take a gender-responsive approach when addressing the safety of women journalists, including in the online sphere? How can the experiences and concerns of women journalists in this area be effectively addressed?
- What are the most important actors that can generate change towards effective protection of journalists? How can they be supported? Are there other opportunities for greater collaboration among various stakeholders and initiatives?