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Guidelines on strengthening the protection of journalists working in armed conflicts

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Guidelines on strengthening the protection of journalists working in armed conflicts

I. Introduction

1. Whether in times of peace or war, journalism is a dangerous profession. The safety of journalists has suffered particularly in the context of increasing armed conflicts and insecurity, and growing disregard for international law from a variety of actors.[1] In recent years, as the number of armed conflicts has surged, so have targeted attacks and threats against journalists.[2]

2. Despite the personal risks and challenges, journalists continue to show extraordinary courage in armed conflicts around the world, documenting, reporting, exposing gross violations of international law, fulfilling the public's right to know, promoting the search for truth and justice, and enabling much-needed public debate for political action. The societal value of journalism in these contexts cannot be overstated.

3. The vital role of the media in keeping the public informed on conflict situations and the heightened risks to journalists make it imperative to strengthen the protection and safety of journalists working in conflict zones. With that objective in mind, the Special Rapporteur has developed a set of guidelines based on international law, State practice, and the lived experience of journalists.

4. The Guidelines for the Protection of Journalists in Armed Conflicts highlight the concurrent application of international human rights law (IHRL) and international humanitarian law (IHL) in conflict situations to enhance the protection of journalists. The Guidelines are preceded by a review of the threats and challenges faced by journalists and accompanied by commentary that explains the normative framework and the lessons drawn from the lived experience of journalists.

5. The Special Rapporteur believes that clear articulation and analysis of the international legal standards applicable to journalists in armed conflict can strengthen the efforts to protect journalists and tackle impunity for crimes against journalists. The Guidelines may also help to garner public support, contribute to advocacy by civil society, and stimulate the political will of States and other key stakeholders to address this critical issue.

6. The Guidelines draw on research, reports and other work of the Special Rapporteur, and her consultations with legal experts, civil society, international organizations, and media organizations, as well as the testimony of journalists and media workers with direct experience of ongoing armed conflicts in different regions of the world. The Special Rapporteur wishes to thank all those who have contributed to the document.[3]

7. This document is being presented as an Addendum to the report of the Special Rapporteur for the 62nd session of the Human Rights Council. The Special Rapporteur sees the guidelines as a "living document" open to revision in light of experiences so as to ensure its effective application and usefulness for practitioners, policymakers, and journalists.

II. Understanding the context and harms suffered by journalists

8. Armed conflicts are inherently dangerous for all civilians. Journalists are especially vulnerable in such contexts for two key reasons: the prominent role they play in exposing violations committed by parties to the armed conflict, and the widespread impunity enjoyed by parties to the armed conflict and other perpetrators for crimes committed against journalists.

[1] ICRC, "Humanitarian Outlook 2026: A world succumbing to war", https://www.icrc.org/en/article/humanitarian-outlook-2026.

[2] The term "journalist" is used in this report to describe both journalists and media workers.

[3] The Special Rapporteur wishes to especially thank Dr. Sally Alexandra Longworth for her support.

9. While the public watchdog role of journalists exposes them to threats and attacks in many situations, the risks are especially acute in times of war because the parties to the conflict have a heightened interest in controlling the narrative and the information spaces to advance their objectives. Although information manipulation has long been used as a military strategy, digital technology has radically expanded the possibilities for States and non-State actors to launch information operations, conduct psychological warfare, and create and amplify disinformation campaigns faster, further, and with broader and devastating impact within and beyond the arena of armed conflict. When journalists collect and provide information to the public that contradicts or challenges the military's narrative and control of the information sphere, they become targets of hostility, censorship, and violent attacks.

10. The second factor that endangers journalists is the prevailing impunity. Less than two out of ten killings of journalists are ever investigated and prosecuted globally, and even fewer in the context of armed conflicts.[4] The culture of impunity breeds contempt for the rule of law and encourages further attacks on journalists.

11. Recent years have seen a sharp increase in the number of journalists and media workers killed in conflict-affected countries.[5] In 2024, more than 60% of all recorded killings of journalists took place in war-torn countries, the highest percentage in more than ten years.[6] In 2025, 60 of the 93 journalists killed that year were in conflict zones.[7]

12. Increasingly, States justify the killing of journalists with claims that the latter were directly participating in hostilities and were therefore no longer protected under IHL. Ambiguities in legal definitions of what constitutes "direct participation in hostilities" have been used to mask the unlawful killing of journalists by parties to the armed conflict. States often fail to provide evidence to substantiate the claims of such direct participation by journalists, and increasingly use digital technologies to actively spread false narratives about their activities.

13. Journalists are also susceptible to surveillance, arrest, and detention in armed conflict situations. In detention, many journalists have faced torture, cruel, inhuman, and degrading treatment, enforced disappearances, and death.

14. The dangers go beyond physical violence. Many journalists are subjected to smear campaigns, doxing, online and offline threats, and harassment to intimidate them and discredit their reporting. Disinformation and online threats are often used to create an environment that legitimizes violence against journalists. These threats increasingly have a cross-border dimension, either emanating from abroad against journalists in conflict zones or targeting journalists in exile from conflict zones.

15. Journalists may face specific risks because of their gender, religion, ethnicity, national origin, or other discriminatory factors. Journalists may also be targeted because of the nature of their work or their use of technology. For instance, the use of unmanned aerial vehicles ("UAVs") for aerial photography has made war photographers particularly vulnerable to attacks against their persons and equipment.

16. Local journalists, who are vital to the information chain flowing from the conflict area to the outside world, are often more vulnerable to threats from the parties to the conflict. This may be due to their connection with the local community or perceived political views. Local and freelance journalists often work in less structured employment arrangements with media companies, and may not have access to training, security measures, insurance, or other

[4] UNESCO Observatory of Killed Journalists, 2026, https://www.unesco.org/en/safety-journalists/observatory; UNESCO, "Journalists at the frontlines of crises and emergencies: Highlights of the UNESCO Director-General's Report on the Safety of Journalists and the Danger of Impunity 2024", 2024, https://unesdoc.unesco.org/ark:/48223/pf0000391763.

[5] Ibid.

[6] UNESCO, "Journalists killed in 2024: a heavy death toll in conflict zones for the second year running", 12 December 2024.

[7] UNESCO, "UNESCO warns of serious decline in freedom of expression and safety of journalists worldwide", 12 December 2025, https://www.unesco.org/en/articles/new-report-unesco-warns-serious-decline-freedom-expression-and-safety-journalists-worldwide.

resources essential for their safety. This places them at significant personal risk in carrying out their professional activities.

17. Buildings from which journalists operate, as well as the equipment they use, are often targeted and destroyed. Parties to the armed conflict have seized journalists' equipment and materials during searches of individuals and office buildings. Such actions hamper the ability of journalists to carry out their professional activities and can also compromise the confidentiality, safety, and security of sources. Equipment used by journalists has been destroyed based on an apparent presumption that they meet the criteria for a military objective. As with claims of direct participation in hostilities, parties to the armed conflict rarely provide sufficient information to assess the legality of the destruction of journalists' infrastructure or equipment.

18. Accreditation has been used by the parties to the armed conflict as a means to restrict access of the media to areas of hostilities, significantly curtailing the journalists' ability to gather information. Those who refuse to be accredited may face greater personal risks or may even be prohibited from carrying out their work.

19. Both State and non-State parties to the conflict routinely impose direct and indirect censorship measures on the activities of journalists in the areas under their control. Examples include bans or restrictions on all or groups of journalists from being able to enter, leave, or move freely in an area or report on certain topics. Parties to armed conflict often demand reports to be approved before they can be published or ban the use of specific words. Overly broad criminal legislation is also used to silence critical reporting. Surveillance of journalists is a further means of indirect censorship and discourages sources from sharing information with journalists.

20. Parties to the armed conflict also frequently block access to telecommunications, news, and radio broadcasting and other information sources, making it harder for journalists to access information or report to the public.

III. Legal framework applicable to the protection of journalists in armed conflicts

21. International human rights law (IHRL) and international humanitarian law (IHL) are the two main bodies of law relevant to the protection of journalists in armed conflict. Their concurrent application during armed conflicts is well recognized in treaties and jurisprudence,[8] though weakened in practice by the lack of political will to uphold international law in these contexts.[9]

22. Both legal regimes protect journalists and the function of journalism during situations of armed conflict. However, there are important differences in the scope of the application and substance of the two regimes, which, better understood and upheld concurrently, could improve the legal protection in armed conflicts.

23. While the right to freedom of expression, established under international human rights law, is applicable at all times, international humanitarian law provides complementary protection to journalists exercising this right as civilians during armed conflict. Furthermore, while international human rights law places direct obligations on States, and only indirectly on non-State actors, under international humanitarian law, non-state parties to a non-international conflict are directly bound to protect civilians under treaty and customary law.

[8] See, for example, Convention on the Rights of the Child 1990 (CRC), 1577 UNTS 3, Article 38; Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict 2000, 2173 UNTS 222; International Convention for the Protection of All Persons from Enforced Disappearance 2006, 2716 UNTS 3, preamble para. 3, Articles 16 and 43; API, Article 72; and APII, preamble para. 2; International Court of Justice (ICJ), Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, 2004 and 2024; ICJ, Armed Activities on the Territory of the Congo (Democratic Republic of the Congo v. Uganda), 2005 and 2022.

[9] See, for example, A/HRC/60/CRP.7, paras 20, 22; A/HRC/58/67, paras. 9, 13, 15, 16; A/79/232, paras 2, 42.l.

24. The territorial scope of the two bodies of law also differs. International human rights law applies within a State's jurisdiction, which is primarily territorial but can apply extra-territorially only in exceptional circumstances. Under international humanitarian law, protection obligations apply to the population under the jurisdiction or control of the party to the conflict, regardless of where the party is operating.

25. These important differences in the personal, territorial, and material scope of application of the two fields of law must be taken into consideration when both apply at the same time. What obligations apply to whom, when, and where can change very quickly in situations of armed conflict. It is therefore essential to understand the requirements under both bodies of law to ensure the full protection to which journalists are entitled in armed conflicts. As both are concurrently applicable, the interpretation of the obligations under each field must be interpreted in light of the requirements of the other.[10]

26. The Guidelines draw heavily on both fields of law to strengthen the protection and safety of journalists and ensure accountability for crimes against journalists.

IV. Guidelines on the protection of journalists working in armed conflicts

A. Scope of protection of journalists in armed conflict

1. Journalism is a function shared by a wide range of actors, including professional full-time reporters and analysts, as well as bloggers and others who engage in forms of self-publication in print, on the internet or elsewhere[11]

Commentary

27. Journalists engage regularly and professionally in the collection, processing, analysis, and dissemination of information to the public. In these guidelines, the term journalist also includes media workers and support staff.

2. During armed conflicts, States are obliged to respect and protect journalists in armed conflicts in accordance with both IHRL and IHL. This includes negative obligations not to harm journalists or impede their work, and positive obligations to protect them from being attacked or harmed by other State or non-State actors, as well as to take measures that allow them to carry out their journalistic functions safely

Commentary

28. Under international human rights law, journalists enjoy their right to freedom of expression, which includes the right to seek, receive, and impart information and ideas of all kinds, regardless of frontiers and through any media of their choice.[12] This right applies at all times, including armed conflicts, subject only to restrictions, prohibition and derogation in accordance with international human rights law.

29. International humanitarian law provides complementary protection to journalists carrying out their professional activities in armed conflict areas as civilians, addressing the specific risks of harm resulting from the armed conflict.[13] By doing so, it also protects the

[10] VCLT, Article 31(3)(c). See further Articles 31(1) and (2).

[11] UN Human Rights Committee, General Comment 34, para 44; A/HRC/20/17, 4 June 2012, para. 4; ECtHR, Fedchenko v. Russia (No. 3), Application 7972/09, Judgment, 2 October 2018, para. 39; and IACtHR, Compulsory Membership in an Association for the Practice of Journalism, Advisory Opinion 1985, paras. 71–72.

[12] Article 19, International Covenant on Civil and Political Rights.

[13] Further protections are provided under Article 4A (4) GCIII to journalists accompanying the armed forces who are detained by the opposing party. Additional protections under IHL regarding journalists also include Article 70 GCIV, Article 31 GCIV and the prohibition of adverse distinction based on political or other opinion.

function of journalism. However, unlike medical personnel, journalists are not afforded special protection in this role. Rather, parties to the conflict implement this obligation with reference to their obligations to protect civilians.

30. The obligation to respect journalists under international humanitarian law involves an obligation not to harm them, and, by deduction, not to hinder them from carrying out their professional functions.

31. While the obligation to protect under international human rights law relates to interferences with the human rights of the individual, the obligation to protect under IHL requires positive measures to prevent others from causing harm, and to protect against harms arising from the specific vulnerability related to the situation of armed conflict. The obligations under international humanitarian law thus take into account the risks to journalists in being close to the conduct of hostilities and require parties to take measures to address the specific protection needs that arise from that proximity.

32. The killing, injury, torture, or mistreatment of a journalist in a situation of armed conflict may amount to violations of both international human rights and international humanitarian law, and potentially an international crime.[14]

33. Measures to discredit, denigrate, and delegitimize the work of journalists online and offline threaten the safety of journalists, violate the obligations to respect and protect journalists under international human rights law, and may also amount to a violation of international humanitarian law.

3. Journalists only lose their protection as civilians under international humanitarian law if they directly participate in the hostilities. Journalistic activities do not constitute direct participation in hostilities

Commentary

34. According to generally accepted criteria, direct participation in hostilities (DPH) requires that:

(a) The act must be likely to adversely affect the military operations or military capacity of a party to an armed conflict or, alternatively, to inflict death, injury, or destruction on persons or objects protected against direct attack (threshold of harm);

(b) There must be a direct causal link between the act and the harm likely to result either from the act or from a coordinated military operation of which that act constitutes an integral part (direct causation); and

(c) The act must be specifically designed to directly cause the threshold of harm in support of a party to the conflict and to the detriment of another (belligerent nexus).[15]

35. The work of journalists rarely meets the required threshold of harm.[16] Even media activities supporting the general war effort or promoting political propaganda do not have a sufficient direct causal effect on the conduct of hostilities. Disseminating propaganda, or fake or misleading information does not amount in itself to direct participation in hostilities.

36. Determining what constitutes direct participation in hostilities must be carried out on a case-by-case basis using clear and objective criteria. Merely being present in an area or in the company of the opposing forces is not enough. In any case of doubt, there is a presumption in favour of civilian status.[17]

[14] See, for example, GCIII, Article 130; GCIV, Article 147; API, Article 85; ICC Statute, Article 8(2)(a)(i)–(iii) and Article 8(2)(c)(i) and (ii), and Henckaerts and Doswald-Beck, Customary International Humanitarian Law, Volume I: Rules, 2005, Rules 89–1. See further section Protection Against Attacks below.

[15] ICRC, DPH Guidance, 2009, 46; Henckaerts and Doswald-Beck, *Customary International Humanitarian Law, Volume I: Rules*, 2005, Rule 6; Nils Melzer, "Interpretive Guidance on the Notion of Direct Participation in Hostilities under International Humanitarian Law", ICRC, 2009.

[16] See examples listed in ICRC, DPH Guidance, 2009, 48.

[17] API, Article 50(1).

37. Describing or determining a journalist to be directly participating in hostilities without sufficient evidence is a breach of international humanitarian law. Parties to armed conflicts must not disseminate claims that journalists are directly participating without clear and sufficient evidence.

38. Parties to armed conflicts must ensure their policies, training, guidance, operational documents, and procedures clearly distinguish the activities of journalism from direct participation in hostilities and emphasize the presumption in favour of civilian status.

39. Training, guidance, and procedures should be provided to journalists on what defensive measures they may take to protect their own lives that do not constitute direct participation in hostilities.

4. Journalism must not be confused or conflated with espionage

Commentary

40. International humanitarian law defines espionage as gathering or attempting to gather information of military value within the territory controlled by the adverse party through acts carried out on false pretences or clandestinely with the intention of communicating it to the opposing party.[18] Journalism, on the other hand, is the gathering and imparting of information to the public. Reporting on matters related to the armed conflict does not amount to espionage unless it is done with the intention to share it with the opposing party to the detriment of the other party. Accusations of espionage against journalists must be thoroughly investigated with full due process.

5. "PRESS" markings on vehicles, clothing, or equipment, and press identity cards are practical means of identifying journalists. Whether or not journalists choose to identify themselves with "PRESS" markings, they are protected as civilians under international humanitarian law. In any case of doubt, parties to the conflict must respect the presumption of civilian status of journalists

Commentary

41. In some situations, press markings have increased the risk of journalists being targeted, due to the lack of respect for international law in armed conflict. It is important therefore for journalists to make their own security assessment and choose whether or not to wear these markings. Not wearing "PRESS" markings does not deprive journalists of the protection of international law. States should make special efforts to improve the protection of journalists wearing identifying markings, including through training and operational guidance to military personnel.

6. Journalists who accompany or are accredited by the armed forces of a party to the conflict remain protected as civilians

Commentary

42. Accreditation by one or the other parties is not a requirement for the protection of journalists under international human rights law or for their general protection under IHL.[19] Any general requirement of accreditation or licensing is incompatible with international human rights.[20]

43. The granting of accreditation should not be used as a means to manipulate the information sphere or to censor journalists by threatening to withhold accreditation. States must ensure transparency and procedural guarantees in decisions regarding the accreditation or permission of journalists to accompany the armed forces.

[18] Hague Regulations (IV) 1907, Article 29(1) and API, Article 46.
[19] Note: accreditation is a requirement to be protected under GCIII, Article 4A(4).
[20] UN Human Rights Committee, General comment No. 34, para. 44.

7. Media facilities, equipment, and other objects relevant to the professional activities of journalists are protected as civilian objects under IHL and must not be attacked. In case of doubt, such objects should be presumed to be civilian

Commentary

44. If a civilian object is used to make an effective contribution to military action by a party to the conflict, the object or facility may lose its protection and be subject to attack, provided that all other rules applicable to targeting the object are upheld.[21]

45. States should put in place guidance on the use of unmanned aerial vehicles (UAVs) in armed conflict. Sufficient guidance must be included in training and operations to ensure the safe and lawful use of UAVs by the military, as well as by journalists and other civilians.

B. Detention of journalists

1. Journalists must not be detained solely for carrying out their professional activities[22]

Commentary

46. Journalists are entitled to their right to freedom of expression under international human rights law at all times.

47. Furthermore, in situations of occupation, journalists are generally protected persons under GCIV. As such, they cannot be arrested, prosecuted, or convicted by the Occupying Power for acts committed or for opinions expressed before the occupation, or during a temporary interruption thereof, except for breaches of the laws and customs of war,[23] and must be treated in accordance with the requirements under GCIV and API.

2. Journalists detained, captured, or otherwise in the power of the opposing party are entitled to the standards relating to detention and fair trial under international human rights law, as well as the fundamental guarantees recognized in international humanitarian law. Under certain conditions, they may benefit from more favourable treatment under international humanitarian law[24]

3. In international armed conflicts, journalists authorized to accompany the armed forces who fall into the hands of the adverse party are entitled to prisoners of war status[25]

Commentary

48. Consideration should be given and appropriate guidance issued as to whether journalists detained whilst accompanying the armed forces should be detained or released.[26]

[21] API, Article 52(2). Military objectives are limited to those objects which by their nature, location, purpose or use make an effective contribution to military action and whose total or partial destruction, capture or neutralization, in the circumstances ruling at the time, offers a definite military advantage.

[22] The term detention includes measures such as internment and assigned residence as provided for in the Fourth Geneva Convention.

[23] GCIV, Article 70.

[24] See, for example, GCIII, Articles 12–121, and GCIV, Articles 64–146.

[25] Article 4A(4) GCIII. This protection is additional to the protection under Article 79(1).

[26] See further ICRC Commentary to GCIII, 2020, Article 4, para. 1060.

C. Limitations on freedom of expression during armed conflict

1. States must ensure that any measures limiting or derogating from the right to freedom of expression in armed conflict meet the requirements of international human rights law. States must refrain from adopting vaguely defined criminal offences, including counter-terrorism offences, which unlawfully restrict freedom of expression[27]

Commentary

49. Restrictions on freedom of expression are directly relevant to the work of journalists. Under international human rights law, freedom of expression may be restricted through measures that are precisely and clearly defined by law, and strictly necessary and proportionate to protect the rights and reputations of others, national security, public order, public health, or public morals.[28] Such restrictions must always be construed narrowly, as States are obliged, even in situations of armed conflict, to facilitate an enabling environment for freedom of expression, including media freedom. Vaguely defined speech-related criminal offences give excessive discretion to the authorities and can lead to harassment, censorship, or prosecution of journalists.

50. Certain human rights treaties allow States to derogate from freedom of expression during a state of emergency. Derogating measures must be time-limited, proportionate, non-discriminatory, and adopted only to the extent strictly necessary to meet the exigencies of the situation. Derogation cannot be used to extinguish the right to freedom of expression itself, and the derogating measures must comply with other international legal obligations, including international humanitarian law.

2. States must ensure that online and offline surveillance measures, as well as surveillance of open sources during armed conflict, are fully compliant with the applicable international legal standards

Commentary

51. Surveillance is a major impediment to journalistic work. As with freedom of expression, the right to privacy continues to apply in armed conflict.[29]. The right to privacy may be limited and individuals lawfully surveyed if done in accordance with the three-part test of lawfulness, legitimate objective, necessity, and proportionality. This requires a balance between any need for surveillance, the rights of the individual, the protection of journalism and journalistic sources, and the public's right to access journalistic materials. There must be adequate and effective safeguards against abuse of surveillance, including independent or judicial oversight of surveillance.[30] These requirements remain relevant during armed conflicts.

3. States must respect the confidentiality of journalists' sources, including whistle-blowers, during armed conflict

Commentary

52. The confidentiality of journalists' sources and whistle-blowers plays an important function in not only upholding international human rights obligations, but also the obligations to respect and ensure respect for international humanitarian law during armed conflict. Those exercising State authority, including members of the armed forces, have a duty to disclose

[27] ICCPR, Article 19 (3); UN Human Rights Committee, General comment No. 34, paras. 21–49.
[28] Article 19(3), ICCPR.
[29] See Mary Ellen O'Connell, Data Privacy Rights: The Same in War and Peace' in Russell Buchan and Ann Väljat (eds.), *The Rights to Privacy and Data Protection in Times of Armed Conflict* CCDCOE, 2022, 12–28.
[30] A/HRC/41/35.

serious violations of international law, and States must ensure that conditions and procedures are in place to allow them to disclose without fear of reprisal, threats, or harassment.[31]

D. Media's access to conflict zones and the public's access to information in armed conflict

1. Journalists must be allowed access to the area of hostilities. Any restriction on access should be narrowly construed in line with the international legal requirements. There must be no requirement for accreditation for a journalist to access the area of hostilities

Commentary

53. Both international human rights law and international humanitarian law recognize that journalists must be able to carry out their professional activities in the areas of armed conflict and must be protected while doing so.[32] Their right to access conflict zones must therefore only be restricted in line with the requirements under international human rights law and international humanitarian law, as applicable to the specific circumstances.

2. Large-scale internet shutdowns are a disproportionate, unlawful limitation of freedom of expression under international human rights law, including during armed conflicts. Any restriction of the Internet must be temporary and limited in line with the requirements set out in international law

Commentary

54. Blocking access to the internet and other information and communication technology (ICT) constitutes a grave interference with the right to freedom of expression and the right to information, with detrimental and disproportionate effects on the civilian population, and on the professional activities of journalists.[33] Wherever possible, in case of limitations on the Internet, States should consider mitigation measures to ensure that journalists are able to carry out their work.

3. States must ensure the right to information during armed conflict by proactively putting out clear and accurate information in the public domain for the benefit of media and civilians, and make every effort to create a conducive environment for independent, diverse, and pluralistic media

Commentary

55. The right to information is a survival right during armed conflicts.[34] Access to diverse and verifiable sources of information is vital for the survival of civilians and particularly significant in times of armed conflict when disinformation and misinformation tend to run high. States should contribute to an enabling environment for independent media that ensures protection and access to resources, including through international cooperation.

[31] A/70/361, paras. 14–50; GCI-IV, Common Article 1; and API, Articles 85 and 87.

[32] API, Article 79; Henckaerts and Doswald-Beck, Customary International Humanitarian Law, Volume I: Rules, 2005, Rule 34 (Journalists); UN Human Rights Committee, General Comment 34, para 45.

[33] See, for example, ECtHR, Cengiz and Others v. Turkey, Applications nos. 48226/10 and 14027/11, Judgment, 1 December 2015; and ECtHR, OOO Flavus and Othes v. Russia, Application no. 12468/15 and others, Judgment, 23 June 2020. See also IACHR, "Standards for a Free, Open, and Inclusive Internet", 2017, para. 33.

[34] A/77/288, paras. 5 and 102.

E. Ensuring accountability for crimes against journalists

1. Parties to the armed conflict must carry out prompt, thorough, effective, independent, impartial, and transparent investigation of all attacks on journalists, determine responsibility for the attack, ascertain whether it constitutes a violation of international law, and whether the attack was connected to the victim's journalistic function. If evidence of criminal wrongdoing is found, those responsible should be prosecuted. Where criminal responsibility is established, perpetrators must be punished, the violations remedied, and the victims or their families must receive reparations

Commentary

56. Investigations into the injury, killing, or other mistreatment of journalists and media workers must ascertain if the crime was connected with their professional activities. The victim's identity as a journalist is a relevant factor in such crimes.[35] The cumulation of violations against journalists is indicative of attacks not only being tolerated, but being planned and ordered.

57. Violations of freedom of expression and the rights and protections of journalists are often indicative of wider violations of IHRL and IHL in armed conflict, including the commission of war crimes, crimes against humanity, and genocide. Crimes may have been committed against journalists to prevent information about further violations of international human rights and international humanitarian law from being revealed. Journalists may have been prevented from accessing certain locations, or their equipment may have been destroyed for similar reasons. Thus, investigations not only into attacks against journalists but also into violations of their right to freedom of expression can contribute to accountability for other serious crimes.

58. In addition to direct perpetrators, those in command must also be disciplined or prosecuted where appropriate. Commanders may be individually criminally responsible either directly or through the failure to implement their duty as commanders under international law.[36] Commanders are responsible under international humanitarian law for ensuring that forces under their command are aware of their legal obligations, and for taking measures to prevent and, where necessary, report to competent authorities breaches by those under their command or control.[37]

2. Appropriate policies, procedures, and guidelines should be developed for the investigation of crimes committed against journalists and media workers

Commentary:

59. Strategies dedicated to the investigation of crimes against journalists include creating special investigative units or independent commissions and prosecutor services, specific protocols, and methods of investigation and prosecution for such crimes.

[35] See, for example, ECtHR, Gongadze v. Ukraine, Application no. 34056/02, Judgment, 8 November 2005, para. 168.

[36] API, Article 86; Henckaerts and Doswald-Beck, Customary International Humanitarian Law, Volume I: Rules, 2005, Rules 152 (Command Responsibility for Orders to Commit War Crimes) and 153 (Command Responsibility for Failure to Prevent , Repress or Report War Crimes). See further ICC Statute Articles 25(3) and 28.

[37] API, Article 87(1) and (2).

3. States should include in their criminal law and procedure that it is an aggravating factor when journalists become victims of serious crimes, including international crimes, because of their professional activities as journalists

4. States should ensure that domestic legislation enables the exercise of universal jurisdiction for all international crimes, including those committed against journalists

Commentary

60. States are obliged to investigate allegations of international crimes committed by individuals within their jurisdiction and prosecute, if appropriate.[38] They may include national or foreign citizens or members of their own or other States' armed forces who are at any given moment under their jurisdiction, relating to crimes allegedly committed on their territory or overseas. Incorporating international crimes into domestic criminal law also enables other States to prosecute individuals for such crimes under universal jurisdiction.[39]

5. Measures to cooperate and provide mutual legal assistance to facilitate the investigation and potential prosecution of crimes against journalists in armed conflicts should be strengthened and developed

Commentary

61. In addition to the obligation of the State where the violation takes place to investigate, the State from which the journalist is a national, or resides or in which the news medium they are working for is located, also has an obligation to ensure that the violations are investigated. States are obliged to afford one another the greatest measure of assistance in connection with criminal proceedings brought in respect of grave breaches of international humanitarian law.[40]

6. When States are unable or unwilling to carry out investigations into crimes against journalists, international investigative mechanisms and fact-finding missions should fill the justice gap or complement national mechanisms to address impunity. States should facilitate international investigations and fact-finding missions and give them access to territory under their jurisdiction

Commentary

62. The main barrier to addressing impunity for crimes against journalists is often the lack of political will of the parties to the armed conflict. Mutual assistance and cooperation facilitated through international investigations and fact-finding can contribute to increasing international accountability for crimes committed in armed conflicts.

63. Such mechanisms can be established by the UN Human Rights Council, or existing human rights investigative bodies can be empowered and resourced to carry out such investigations. Consideration should also be given to including in the mandates of all human rights investigatory or fact-finding missions the possibility of investigating the safety and protection of journalists.

64. The International Humanitarian Fact-Finding Commission established under Article 90 API is also a body that can assist in addressing serious violations of international humanitarian law committed against journalists.[41]

[38] GCI-IV, CA1; GCI, Article 49; GCII, Article 50; GCIII, Article 129; GCIV, Article 146. See also Genocide Convention, Article VI; Convention against Torture, Article 7.

[39] Henckaerts and Doswald-Beck, Customary International Humanitarian Law, Volume I: Rules, 2005, Rule 157 (Jurisdiction over War Crimes).

[40] Article 88 API. See also Henckaerts and Doswald-Beck, Customary International Humanitarian Law, Volume I: Rules, 2005, Rule 161 (International Cooperation in Criminal Proceedings).

[41] https://www.ihffc.org/.

F. Prevention and preparedness

1. All States must work with journalists, their representative bodies, media companies, and civil society as well as their military and other relevant government bodies to ensure that appropriate preventative and preparedness measures are taken for the safety of journalists in case of armed conflicts. States must ensure training of and coordination between relevant governmental authorities (e.g., military, police, civil defence forces, and prosecutors), establish protocols for communication and exchange of information, and ensure that standard operating procedures, training, guidance, and other relevant operational documents are in place

Commentary

65. Preventative and preparedness measures should be developed and operationalized through policy, procedures, guidelines, and training. Most measures will need to be in place before the outbreak of conflict, and may need to be adapted as new risks and threats to the protection of journalists arise during an armed conflict.[42] Developing or reviewing existing national action plans and coordinating efforts through national focal points and committees are also helpful.

66. States, working closely with the relevant media organizations and journalists, should develop early warning and rapid response mechanisms, information gathering tools about threats and attacks against journalists, and specialized investigation and prosecution services.

67. Other examples of preventative measures include hotlines and contact points, gender-sensitive and context-appropriate protective equipment, emergency evacuation points, and establishing relocation and other protection programmes. Measures to mitigate violations include medical care, psychological support, legal services, and assistance in relocating journalists and their families.

2. Militaries should ensure that operational documents incorporate a protection and prevention perspective in relation to journalists. In addition, military personnel should be trained, and procedures and mechanisms put in place to ensure the protection of journalists by the military, where appropriate. Military manuals should be updated with specific guidance on the protection of journalists

Commentary

68. Militaries should be aware that journalists are likely to be operating in areas of hostilities. Training and guidance should be in place to ensure militaries understand the role and activities of journalists and can determine what is and what is not protected under international human rights law as well as international humanitarian law. Guidance on the protection of journalists should also include guidance on conduct at checkpoints, searches, press markings, and confiscation limits.

3. States should cooperate with civil society to carry out awareness-raising programs among the general public, as well as within government, about the importance of media and the protection of journalism in armed conflicts

Commentary

69. In this context, the relevant UN bodies, States, and other actors should consider the important role of journalism in their humanitarian strategies, protection of civilian mandates, and in supporting processes aimed at bringing an end to the hostilities.

[42] See, for example, GCI, Article 47; GCII, Article 48; GCIII, Article 127; GCIV, Article 144; API, Article 83; APII, Article 19.

4. All States should contribute to the creation and maintenance of an enabling environment for journalists and media workers working in armed conflict, including through international cooperation to ensure independent media and local journalists have access to resources

Commentary

70. As a lack of resources leads journalists to take greater risks to continue their profession, ensuring access to resources is an important component of the protection and safety of journalists. Access to resources includes not only financial but also material and human resources essential to carry out the journalistic activities. Resources are needed both to carry out activities as well as to replace or repair damage and destruction to equipment and properties, and to cover insurance. Resources must be context-specific and made available on a non-discriminatory basis, to address the needs and maintain the independence of journalists in the given situation.

G. The responsibilities of companies regarding the protection of journalists in armed conflict

1. All companies must conduct their operations in ways that avoid causing or contributing to violations of freedom of expression in armed conflict, or compromising the safety of journalists. Measures to prevent or mitigate such impact include adopting policies to guide their operations, carrying out human rights due diligence, and providing processes for remediation of adverse human rights impacts. Companies operating in conflict situations should exercise heightened due diligence, with sufficient resources for the risks of the operational context

2. Media companies employing or working with journalists in areas of armed conflict have a duty to ensure the journalists have appropriate training, professional and protective equipment, and access to resources, including insurance. Particular care should be given to those who are at greater risk because of gender, ethnicity, religious or other characteristics, or because of job insecurity. States should work with companies to strengthen their capability to better fulfil this duty of care

Commentary

71. Media companies, ICT companies, and insurance companies are amongst those most involved in ensuring the safety of journalists in armed conflict situations. As such, the operations of a company may give rise to legal responsibilities under domestic or international law connected with the armed conflict. All those within the jurisdiction of a State in which there is an armed conflict must respect IHL.[43] Companies must ensure they carry out their activities in accordance with international human rights law, including by exercising due diligence and preventing or mitigating the potential adverse impacts on the safety and work of journalists.[44]

72. Digital platforms play a particularly important role, helping journalists to access and amplify information, but also as vectors of attacks against them. They can also play important roles in documenting evidence of attacks on journalists and violations of IHRL and IHL in real time. They should implement effective, transparent, and accountable measures to prevent the spread and amplification of manipulated information, harassment, and threats of violence towards journalists, including those based on gender and other discriminatory grounds, and provide effective channels for reporting such threats.

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[43] GCI-IV, Common Article 1.

[44] See further Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework 2011, endorsed by the Human Rights Council in Resolution 17/4 of 16 June 2011.