

ORGANISATION OF AMERICAN STATES

Answers to the key questions of the outline document

What is being done, in practical terms, by each organisation for the safety of journalists in hostile environments?

In general, the Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights works within its mandate in a variety of ways on the issue of violence against journalists.

Its general activities include:

- Issuing statements – such as press releases, reports, and opinions on specific cases of violence against journalists – through the daily monitoring of the state of freedom of expression in the region.
- Advising the IACHR in the evaluation of individual petitions in cases of violence against journalists;
- Participating actively in the hearings on freedom of expression, preparing the necessary reports and handling the corresponding interventions and follow-up.
- Working with the IACHR Protection Group to provide recommendations on the adoption of precautionary measures in the area of freedom of expression, including in cases of at-risk journalists.
- Preparing an annual report on the situation of freedom of expression in the hemisphere, including reporting on cases of attacks against journalists.
- Preparing thematic reports on the issue of violence against journalists, which include international standards and national practices on the issue.

Some examples of the specific activities of the Office of the Special Rapporteur on this matter include:

- The thematic report titled “Violence against Journalists and Media Workers: Inter-American Standards and National Practices on Prevention, Protection and Prosecution of Perpetrators”, which is attached in this email.
- The litigation of cases like the *Case of Vélez Restrepo and Family v. Colombia*, which can be accessed on the following link: http://www.corteidh.or.cr/docs/casos/articulos/seriec_248_ing%20.pdf
- Precautionary measures granted by the IACHR to protect the life and physical integrity of at-risk journalists (a total of 37 during the period from 2003 to 2013, which protect 213 journalists in an individual capacity as well as the workers of 6 media outlets).
- Participation in hearings before the IACHR that brings visibility to the issue of violence against journalists. For example, in March of this year the IACHR held a hearing on “Reports of Killings of Journalists and Impunity in Honduras” and on “Impunity for Violations of the Right to Freedom of Expression in the Americas” (both of which can be accessed on: <http://www.oas.org/es/cidh/multimedia/sesiones/150/default.asp>)

• Are there early warning mechanisms in place and are they fit for purpose and capable of triggering the necessary protective or remedial action?

Yes, the Inter-American Commission on Human Rights has a mechanism for precautionary measures. In serious and urgent situations, the Commission may, on its own initiative or at the request of a party, request that a State adopt precautionary measures to prevent irreparable harm to persons or to the subject matter of the proceedings in connection with a pending petition or case, as well as to persons under the jurisdiction of the State concerned, independently of any pending petition or case. The measures may be of a collective nature to prevent irreparable harm to persons due to their association with an organization, a group, or a community with identified or identifiable members.

• The question of impunity – what measures are in place to address the lack of investigation into attacks against journalists, and what can the Council of Europe add?

The Office of the Special Rapporteur addresses the issue of impunity within its mandate through the activities listed under question #1. The specific measures recommended by the Office of the Special Rapporteur on the issue of impunity can be found on the attached thematic report on violence against journalists (paragraphs 160 to 226 and 297).

• What are effective ways of protecting journalism? Electronic personal alarm systems, human / social shields and communities to protect journalists – how to apply and maximise impact and protection? (Example: Natalia Project)

The Office of the Special Rapporteur has highlighted the importance of the adoption of protection measures to at-risk journalists and the creation of specialized protection programs in situations in which violence against journalists and media workers is particularly widespread. In particular, it has stated that the measures adopted must be adequate to the individual circumstances of the person at risk, including the person's gender, the need or desire to continue carrying out the same professional activities, and the person's social and economic circumstances.

Furthermore, the Office of the Special Rapporteur has observed that in order for protection programs to be effective, special emphasis must be put on the importance of guaranteeing the financial resources and personnel required for the mechanism's adequate implementation; the need to ensure effective coordination among the entities responsible for the implementation of measures of prevention, protection and justice; the demand to define adequately the measures of protection included in the mechanism and the procedure for adopting them; the need to guarantee the effective participation of journalists, civil society and beneficiaries in the implementation and operation of the mechanism; and the benefits of seeking support from the international community for its operation. Other indispensable elements for the adequate implementation of specialized protection programs include a political commitment from States; an adequate definition of potential beneficiaries; a clear recognition of the grounds on which the potential beneficiary may seek protection; an adequate risk analysis that allows the State to determine the most effective way to comply with its obligation to protect, taking into account the circumstances specific to the particular context and allowing for the active participation of the beneficiary; the provision of appropriate and effective measures of protection that are specifically designed to protect both the life and the safety of the beneficiaries and allow them to continue with their professional activities; and the adoption of clear criteria and procedures for monitoring the danger facing the beneficiary.

The Office of the Special Rapporteur has also highlighted other measures that should be adopted by States in order to prevent violence against journalists, which include the obligations to adopt a public discourse that contributes to avoid violence against journalists; to instruct its security forces to respect the oversight role that the media performs; to respect the right of journalists to the confidentiality of their sources, notes and personal and professional files; and to collect and maintain precise statistics regarding violence against journalists, among other things. Furthermore, the Office of the Special Rapporteur has noted that States must carry out serious, impartial, and effective investigations of the murders, attacks, threats, and acts of intimidation committed against journalists and media workers, considering that the total lack of investigation, prosecution, arrest, trial and conviction of those responsible fosters the chronic repetition of human rights violations.

Finally, the Office of the Special Rapporteur has observed that other actors can play a crucial role in the protection of journalists who have received threats. Thus, for example, it is important that media organizations provide appropriate support to journalists, including security protocols and the training required to minimize the risks to their safety, including freelance journalists. Experience in the region also shows that solidarity and cooperation among media outlets can contribute significantly to journalist safety. The condemnation of the attacks by the media, their reporting on the facts, and their monitoring of the measures taken by the State to protect journalists and investigate attacks are fundamental for guaranteeing that the State complies with its obligations to prevent violence against communicators, put in place measures of protection, and combat impunity in the crimes committed. Likewise, this Office has noted that several NGOs and journalists' organizations do the crucial work of monitoring violence committed against the press in countries throughout the region, intervening in specific cases, and denouncing any shortcomings in the actions of States to guarantee the rights to life, personal integrity, and access to justice, judicial guarantees and freedom of expression. Civil society organizations can also play an important role by counseling journalists and media outlets so that they are able to access their States' preventative and protective mechanisms and the precautionary measures handed down by international bodies. This information can also be found on the attached thematic report on violence against journalists.

• What deeper problems are underlying the lack of safety for journalists, or is it a stand-alone issue?

The Office of the Special Rapporteur has found that violence against journalists in the region of the Americas is the result of a complex series of causes, and has identified several factors that contribute to this violence.

In general, in some cases this type of violence continues to be exercised by State actors, especially in the context of public safety operations and public demonstrations, or in cases involving allegations of corruption and illegality committed by local State officials.

Nevertheless, in recent years, the number and size of organized criminal groups has increased, including drug trafficking cartels and other organized criminal groups. These currently represent the main threat to the lives and personal integrity of journalists. This situation presents a series of challenges for the protection of journalists and media workers in the hemisphere. In some regions, State institutions are too weak to respond effectively to threats from organized crime. The weakness of State institutions leaves journalists without effective protection from attacks perpetrated by organized crime, resulting in self-censorship as an immediate consequence. A second challenge for protecting journalists from organized crime can be found in regions where

local institutions themselves are infiltrated or captured by criminal structures. In that context, journalists are threatened both by organized crime and by co-opted institutional officials, which places them in a serious situation of vulnerability. A third situation that presents an obstacle to protecting journalists from organized crime can be found when state officials fight organized crime through institutions that do not have adequate protocols or that act within a “war” mentality (friend or foe), in which critical media are identified as the enemy they are fighting. This information can also be found on the attached thematic report on violence against journalists.

Finally, the Office of the Special Rapporteur has noted that the high (and rising) levels of violence against journalists in the region can be explained at least in part by the impunity that the perpetrators of such violence have often enjoyed. Such impunity has been the rule rather than the exception with regard to violence against journalists in the Americas; the region has an alarming, lingering history of impunity with regard to crimes committed against journalists.

• How can protection be ensured for those who are not professional journalists but are communicating in the public interest, such as human rights defenders or whistle-blowers?

The Office of the Special Rapporteur works with a definition of the term “journalists” as understood from a functional perspective: journalists are those individuals who observe and describe events, document and analyze events, statements, policies, and any propositions that can affect society, with the purpose of systematizing such information and gathering facts and analyses to inform sectors of society or society as a whole. Such a definition of journalists includes all media workers and support staff, as well as community media workers and so-called “citizen journalists” when they momentarily play this role. Such definition also includes persons who might be using new communications media as a tool to reach the public, as well as opinion makers who are targeted for the exercise of their right to freedom of expression. As a consequence, the duties of States for the protection of journalists should also include all persons who fit the description of “journalist” under this definition.

Furthermore, as has been noted by the IACHR, States are also under a special obligation to protect at-risk human rights defenders, including through the adoption of specialized protection mechanisms. The IACHR’s Rapporteurship on Human Rights Defenders has issued a report on the situation of human rights defenders in the Americas, which can be accessed here: <http://www.oas.org/en/iachr/defenders/docs/pdf/defenders2011.pdf>. Other reports by the Rapporteurship can also be accessed through the following link: <http://www.oas.org/en/iachr/defenders/reports/thematic.asp>

On this note, this Office has noted that States must take into account that journalists and human rights defenders form two populations with certain distinct characteristics whose particular needs for protection must be taken into account when the protection program is designed and implemented, especially when the programs benefit both groups.

Finally, as has been observed by the Office of the Special Rapporteur, a person with a connection to the state who, having a legal obligation to keep certain information confidential, only discloses to the public information that she reasonably believe to prove the commission of human rights violations (“whistleblowers”) should not be subjected to legal, administrative or disciplinary sanctions as long as that person has acted in good faith, pursuant to international standards on the subject.

- How can an Internet-based platform contribute to establishing rapid response capacity? What conditions would have to be met for creating such a platform and ensuring such capacity?