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Legal briefing note

Legal frameworks: The
nexus of gender-based
violence and media

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Background

This briefing note is designed to give readers a basic understanding of the key international and regional legal standards that apply in the context of gender-based violence and its nexus to media. The note is aimed at media practitioners who do not necessarily have a deep understanding of gender-based violence; it also aims to be of interest to and relevance for women's rights organisations and encourages collaboration between media actors and women's rights organisations to boost advocacy efforts to eliminate gender-based violence. The note does not constitute an exhaustive list of all international and regional frameworks that apply in the context of gender-based violence. Rather, it highlights the main frameworks that in some way or other mention the role of the media.

International Frameworks

The Beijing Declaration and Platform for Action

The Beijing Declaration and Platform for Action¹ is probably the legal framework that most clearly articulates the role of media in fighting violence against women. The declaration was adopted in 1995 at the UN's fourth World Conference. It aims to remove all obstacles to women's active participation in public and private life by ensuring women a fair and equal share in economic, social, cultural, and political decision-making. The declaration recognizes that action needs to be taken to "raise awareness of the responsibility of the media in promoting non-stereotyped images of women and men, as well as in eliminating patterns of media presentation that generate violence, and encourage those responsible for media content to establish professional guidelines and codes of conduct; also to raise awareness of the important role of the media in informing and educating people about the causes and effects of violence against women and in stimulating public debate on the topic."

The Beijing Declaration and Platform for Action is not legally binding. However, every five years, member states are asked to report voluntarily to the United Nations on progress they have made towards achieving the goals set out in the platform. Civil society organisations may also submit shadow reports.

Commission on the Status of Women

The Commission on the Status of Women (CSW) is the principal global intergovernmental body exclusively dedicated to the promotion of gender equality and the empowerment of women. The body is a functional commission of the Economic and Social Council (ECOSOC). Every year, representatives of member states gather at United Nations headquarters in New York to evaluate progress on gender equality, to identify challenges, set global standards and formulate concrete policies to promote gender equality and advancement of women worldwide. Progress and problems in the implementation of the 1995 Beijing Declaration and Platform for Action are discussed. The CSW is instrumental in promoting women's rights, documenting the reality of women's lives throughout the world, and shaping global standards on gender equality and the empowerment of women.

In 2018, the 62nd session of Commission on the Status of Women (CSW62) was held. In every session there is a priority theme and a review theme. The review theme for 2018 was "participation in and access of women to the media, and information and communications technologies and their impact on and use as an instrument for the advancement and empowerment of women". This theme was also a priority theme in the 47th session in 2017. A compilation of the relevant recommendations issued by the Committee on the Elimination of Discrimination against Women with relation to the 47th session was made in 2017.² In this document, the role of media with regards to violence was recognized and also that communication and information systems can stigmatize, denigrate and reify women and girls, including prompting violence against them, as well as reproducing gender models and stereotypes that discriminate and underestimate them. The important role media can play in achieving gender equality was also recognized.

¹ The United Nations (1995). The Beijing Declaration and Platform for Action https://www.un.org/en/events/pastevents/pdfs/Beijing_Declaration_and_Platform_for_Action.pdf

² <https://lac.unwomen.org/en/digiteca/publicaciones/2017/10/cedaw-ict>

Convention for the Elimination of all Forms of Discrimination Against Women

CEDAW (Convention for the Elimination of all Forms of Discrimination Against Women)³ is another relevant international framework to bear in mind. The Convention states that parties are legally obliged to eliminate all forms of discrimination against women and to ensure women's full development and advancement so they can exercise and enjoy their human rights and fundamental freedoms in the same way as men. The Convention has been ratified by one hundred and ninety of the UN's one hundred and ninety-five member states. CEDAW is binding on those states that have ratified it and has a monitoring body within the UN, the Committee on the Elimination of Discrimination against Women (the CEDAW Committee), which examines whether or not states are fulfilling their obligations. It is important to note that over fifty countries ratified the Convention, subject to certain declarations, reservations, and objections.

Member states must report every fourth year on how they have lived up to the articles of the Convention and what measures they have taken to implement it. CEDAW legally binds all States Parties to fulfill, protect, and respect women's human rights – this means that States are responsible for their own actions and also for eliminating discrimination perpetrated by private individuals and organisations. Regarding the role of the media, the general recommendations of CEDAW require that member states: “Initiate public education and information campaigns, including by mass media, targeted at stereotypes and prejudices that discourage women's involvement in politics and public life” (Gen. Rec. 23/3).

Overall, media has a role to mobilise public opinion and awareness of CEDAW and to fulfill their watchdog role and hold governments accountable. Cooperation and nexus could be established with women's rights organisations as they often produce shadow/alternative reports to the CEDAW committee and can provide expertise on CEDAW.

The United Nations Security Council Resolution 1325

The United Nations Security Council Resolution (UNSCR) 1325⁴ on Women, Peace and Security (WPS) points to the need to involve women media workers more in the coverage of peace processes. As men and women are affected differently by conflicts, and as different forms of violence take place against men and women during and after conflicts, this is a relevant international document. As of 2019, eighty-one member states had a National Action Plan (NAP) for UNSCR 1325. The author of this document analysed the NAPs and found that thirty-four mention the role of media.⁵ Hence, the NAPs can be used as an entry point when advocating for media's role in achieving the WPS agenda. For example, the Serbian NAP for the UN resolution 1325 (2017-2020)⁶ recommends that “Independent monitoring should continue to be performed by the public as a whole, which should be provided, through the media, with information on all stages and results of the implementation of the National Action Plan (2017-2020).”

Resolution 1325 is a decision under Chapter VI of the UN Charter. Consequently, there is no legal and/or economic sanction tied to the resolution. However, it sets important global norms and standards for the Women, Peace and Security agenda.

³ Convention on the Elimination of All Forms of Discrimination against Women (1979) <https://www.ohchr.org/Documents/ProfessionalInterest/cedaw.pdf>

⁴ The United Nations (2000). Resolution 1325 <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N00/720/18/PDF/N0072018.pdf?OpenElement>

⁵ All the National Action Plans (NAPs) can be found here: <http://peacewomen.org/member-states>

NAPs that mention the role of media: Spain 2017-2023 p.21; The Netherlands 2016-2019 p.31; Uganda 2008-X p.18, 36, 39; Rwanda 2018-2022 p.31; Liberia 2009-2013 p.20, 24, 32, 44; Guinea Bissau 2000-210 p.23; Serbia 2017-2020 p.8, 9, 13, 28; Sierra Leone 2010-2014 (media mentioned briefly); Italy 2016-2019 p.4, 19; Estonia 2015-2019 p.12; Democratic Republic of Congo 2019-2022; Ireland 2019-2024 p.43; 2011-2015 p.69, 73; USA 2016-X p.11; Gambia 2012 p.22, 33; Togo 2011-2015; Ghana 2012-204 p.25, 28; Germany 2017-2020 p.16, p.21; Macedonia 2013-2015; Kyrgyzstan 2013 p.2; Central African Republic 2014-2016; Indonesia 2014-2019, p.9, 23; Iraq 2014-018 p.11, 12; South Sudan 2015-2020 p.23, 71, 82; Afghanistan 2015-2022 p.9; Kenya 2016-2018 p.38; Ukraine 2016 p.11, 134; Niger 2017-2019; Jordan 218-2021 p.22, 36, 37, 39; Palestine 2017-2019 p.29, 31, 32; Czech Republic 2017-2020; Montenegro 2017-2018; Albania 2018-2020 p.13; Poland 2018-2021 p.27.

⁶ For example, https://www.peacewomen.org/sites/default/files/Serbia_NAP.pdf

International Conference on Population and Development

In 1994, the United Nations coordinated an International Conference on Population and Development (ICPD), which emphasized the fundamental role of women's interests in population matters and introduced the concepts of sexual and reproductive health and reproductive rights. In 2019, the Nairobi Summit was co-convened by the United Nations Population Fund (UNFPA) and the governments of Kenya and Denmark to commemorate the twenty-fifth anniversary of the International Conference on Population and Development (ICPD). The result was the Nairobi Statement on ICPD25 – Accelerating the Promise.⁷ Framed around the Summit's five themes - theme four being "Ending gender-based violence and harmful practices" - it contains twelve global commitments that serve as a point of departure for all other commitments made at the Summit. Whilst this document does not explicitly mention the role of media, it makes bold commitments to ending all maternal deaths, satisfying unmet needs for family planning, and eradicating gender-based violence and harmful practices against women and girls by 2030. The document also states that "Stigmas and taboos must be challenged and broken down, wherever they manifest, including in attitudes, laws, policies and institutions". Consequently, the statement can be utilised by both media and women's rights organisation to advocate for the elimination of violence against women.

United Nations Resolutions on the Safety of Journalists

Over the last decade, gender-based violence (GBV) has been increasing and is a daily danger to women journalists and media workers, who are subjected to intimidation, threats of rape, harassment of family, and sexual harassment in the newsroom and in the field.⁸ However, male journalists also suffer from sexual violence (an understudied topic)⁹ and, in many cases, from masculine norms that encourage them to take higher risks than women do when reporting on conflict. While UN resolutions on the safety of journalists are not directly binding, they represent a strong political commitment by member states to act on the binding obligations of international human rights law and do carry significant normative weight.¹⁰

UN resolution 72/175 on the Safety of Journalists

UN General Assembly Resolution 72/175 on the Safety of Journalists and the Issue of Impunity calls for member states to address attacks that target and affect women journalists disproportionately and expands on the concept of a gender-responsive approach to the safety of journalists.¹¹

UN resolution 33/2 on the Safety of Journalists

In September 2016, the Human Rights Council unanimously adopted resolution 33/2 on the safety of journalists, which condemns unequivocally any specific attacks on women journalists in the exercise of their work, including sexual and gender-based discrimination and violence, intimidation and harassment, online and offline, thus highlighting the need to address gender-specific threats faced by women journalists.¹²

UN resolution 38/7 on the promotion, protection and enjoyment of human rights on the Internet

In resolution 38/7 on the promotion, protection and enjoyment of human rights on the Internet, the Human Rights Council echoed resolution 33/2 in condemning online attacks on women, including sexual and gender-based violence and abuse of women, in particular where women journalists, media

⁷ Nairobi Statement on ICPD25 – Accelerating the Promise

<https://www.nairobisummiticpd.org/sites/default/files/Corrected%20Final%20copy%202nd%20June%202020%20UNFPA-NairobiSummitReport.pdf>

⁸ For example, Combating violence against women journalists - Report of the Special Rapporteur on violence against women, its causes and consequences

<https://undocs.org/en/A/HRC/44/52>

⁹ Høiby, M. (2016). Sexual Violence against Journalists in Conflict Zones. Gendered Practices and Cultures in the Newsroom in Berit von der Lippe & Rune Ottosen (eds.) *Gendering War and Conflict Reporting*. Göteborg: Nordicom.

¹⁰ *Ibid*

¹¹ Article 19 (2019) Ending Impunity. Acting on UN standards on the Safety of Journalists <https://www.article19.org/wp-content/uploads/2019/11/SOJ-Web.pdf>

¹² Human Rights Council (2020). Combating violence against women journalists - Report of the Special Rapporteur on violence against women, its causes and consequences. <https://undocs.org/en/A/HRC/44/52>

workers, public officials or others engaging in public debate are targeted, and called for gender-sensitive responses to the different forms of online discrimination.¹³

Un resolution 38/5 Accelerating efforts to eliminate violence against women and girls: preventing and responding to violence against women and girls in digital contexts

On 5 July, 2018, the Human Rights Council adopted resolution 38/5, which addresses discrimination and violence against women in digital contexts, including the impact on their freedom of expression (paras. 10 (g) and 11 (a)).¹⁴

The UN Plan of Action on the Safety of Journalists and the Issue of Impunity

In 2012, in collaboration with the Office of the United Nations High Commissioner for Human Rights, UNESCO developed The UN Plan of Action on the Safety of Journalists and the Issue of Impunity, stating that the protection of journalists should not be limited to those formally recognized as journalists but should include community media workers, citizen journalists and others who may use new media to reach their audience. Overall, the Plan of Action is relevant when discussing the media and GBV nexus.

The Sustainable Development Goals

The elimination of violence has been echoed in the proposed targets under Goal 5 (Gender equality) of the post-2015 Sustainable Development Goals (SDGs).¹⁵ Goal 16 (Peace, justice and strong institutions) and the targets indicator 16.10.1 address attacks against journalists and media workers. A holistic approach is needed when addressing the SDGs and the goals should, thereby, be viewed as interrelated. The gender-specific threats that journalists and media workers face can thus be understood through the SDGs. Whilst the 2030 agenda is non-legally binding, it marks the first time that nations have agreed on a comprehensive vision, with clear goals and targets, for the development of human civilization.

¹³ Ibid

¹⁴ Ibid

¹⁵ The United Nations (2015) The Sustainable Development Goals. <https://sustainabledevelopment.un.org/?menu=1300>

Regional Response

The Istanbul Convention

The Council of Europe is an organisation of European countries that seeks to protect democracy and human rights and to promote European unity by fostering cooperation on legal, cultural, and social issues.

The Council of Europe Convention on preventing and combating violence against women and domestic violence (the Istanbul Convention)¹⁶ is the first regional legally-binding instrument of its kind. Adopted in 2011 and enforced since 2014, the Istanbul Convention aims to combat all forms of violence against women, to take measures to prevent such violence, to protect victims, and to prosecute perpetrators.

For example, Article 17 requires the private sector and the media to elaborate and implement policies and to set guidelines and self-regulatory standards that prevent violence against women. Article 14 focuses on the educational system and mentions the role of the media.

It has been signed by all Council of Europe member States, except Azerbaijan and the Russian Federation, and ratified by thirty-four member states. Given that not all member states ratified the convention, it is important to advocate for its ratification.

Recommendations by the Council of Europe

Other international legal frameworks include the Council of Europe's Recommendation on gender equality and media. Recommendation Rec(2013)1 encourages media organisations to “adopt self-regulatory measures, internal code of conduct/ethics and internal supervision, and develop standards in media coverage that promote gender equality.” It also encourages third parties to “consistently defend gender equality by bringing their concerns to self-regulatory bodies”. Further, the recommendation invites media organisations to “adopt self-regulatory measures, internal codes of conduct/ethics and internal supervision, and develop standards in media coverage that promote gender equality, in order to promote a consistent internal policy and working conditions aimed at: equal access to, and representation (...); balanced participation of women and men in management (...); a non-stereotyped image, role and visibility of women and men.”

In 2016, the Committee of Ministers of the Council of Europe adopted a recommendation (CM/Rec(2016)4) on the protection of journalism and the safety of journalists and other media actors. In the resolution, the Committee recognizes that women journalists and other female media actors face specific gender-related dangers, including sexist, misogynist and degrading abuse, threats, intimidation, harassment and sexual aggression and violence, and that such violations are increasingly taking place online (para. 2).¹⁷

In 2017, a Recommendation was adopted by the Council of Europe's Committee of Ministers regarding gender equality in the audio-visual sector. In 2019, the Council of Europe adopted the first-ever internationally agreed definition of sexism as: “Any act, gesture, visual representation, spoken or written words, practice, or behaviour based upon the idea that a person or a group of persons is inferior because of their sex, which occurs in the public or private sphere, whether online or offline”.¹⁸

¹⁶ The Istanbul Convention (2011) <https://rm.coe.int/168046031c>

¹⁷ Human Rights Council (2020). Combating violence against women journalists - Report of the Special Rapporteur on violence against women, its causes and consequences. <https://undocs.org/en/A/HRC/44/52>

¹⁸ Recommendation CM/Rec(2019)1 <https://rm.coe.int/cm-rec-2019-1-on-preventing-and-combating-sexism/168094d894>

Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Belém do Pará Convention)

The Organization of American States (OAS) brings together all thirty-five independent states of the Americas and constitutes the main political, juridical, and social governmental forum in the Western Hemisphere. In addition, it has granted permanent observer status to sixty-nine states, as well as to the European Union (EU).

The Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women is the first legally-binding international treaty that criminalises all forms of violence against women, especially sexual violence. The treaty defines violence against women, establishes that women have the right to live free of violence and that violence against women constitutes a violation of human rights and fundamental freedoms. The role of media is mentioned under Article 8 (para. g) “...to encourage the communications media to develop appropriate media guidelines in order to contribute to the eradication of violence against women in all its forms, and to enhance respect for the dignity of women”.

Protocol to the African Charter on Human and People’s Rights on the Rights of Women in Africa

Adopted in July 2003, the Protocol to the African Charter on Human and People's Rights (ACHPR) on the Rights of Women in Africa is also known as The Maputo Protocol.¹⁹ This treaty instrument is binding on all countries that ratify it and went into effect in November 2005, after the minimum fifteen of the fifty-three African Union member countries ratified it. The role of media is included in Article 12 (Right to education and training) which mentions that state parties should take appropriate measures to “...eliminate all stereotypes in textbooks, syllabuses and the media, that perpetuate such discrimination”.

Declaration on the Elimination of Violence Against Women in the Association of Southeast Asian Nations region

In 2004, the Association of Southeast Asian Nations (ASEAN) adopted the Declaration on the Elimination of Violence Against Women in the ASEAN Region (DEVAW).²⁰ In the document, “discrimination against women and children in mass and social media” is acknowledged. In the ASEAN Regional Plan of Action on the Elimination of Violence against Women, the role of media is mentioned, for example, under Action 1: prevention, point 3: “Design, implement, and evaluate evidence-based and context-specific and cultural sensitive awareness-raising campaigns for changing social norms towards non-violence and respectful relationships, especially through making effective use of existing [people-oriented] media outlets and communication channels. The awareness-raising campaign to address violence against women could include the root causes of gender inequality, discriminatory norms, and other contributing factors, as well as the types of punishment for violators (national and regional levels).”

The role of media is also mentioned under point 6: “Develop and ensure gender responsive regulatory mechanisms, codes of conduct and/or guidelines for the media, journalists, advertising, animation and gaming industries to eliminate the glamorization and normalization of VAW, harmful gender stereotypes, and the objectification of women and girls in popular culture in mainstream and social media (national level).”

¹⁹The Protocol to the African Charter on Human and People's Rights (ACHPR) on the Rights of Women in Africa file:///C:/Users/elb/Downloads/achpr_instr_proto_women_eng.pdf
²⁰ Declaration on the Elimination of Violence Against Women in the ASEAN Region
https://www.ohchr.org/Documents/Issues/Women/WG/ASEANdeclarationVaW_violenceagainstchildren.pdf

Conclusion

All the international and legal frameworks outlined above demonstrate concrete entry points for collaboration between women's rights organisation and media for the elimination of gender-based violence.

Media can challenge stereotypes and patriarchal structure through gender-sensitive reporting and equality in the newsrooms. Women's rights organisations can provide expertise when media report on gender-based violence to ensure gender-sensitive coverage and gain a better understanding of legal frameworks. As media reports on gender-based violence, legal arguments can be utilised to raise awareness of the issue.

When states implement good practices, media has both a role and a responsibility to promote them. Women's rights organisations lobbying for the advancement of gender equality and elimination of violence against women would also benefit from media coverage.

Regarding the implementation of gender-related international and regional frameworks on gender-based violence, these merit extensive media coverage; media actors should see their own roles as part of good governance and thus strive to hold states accountable.