

# AMICUS BRIEF - PEOPLE'S TRIBUNAL ON THE MURDER OF JOURNALISTS



Submission of International Media Support  
before the People's Tribunal on the Murder of Journalists as a third-party

2 November 2021

People's Tribunal on the Murder of Journalists  
Weesperstraat 3  
1018 DN Amsterdam

Re: Opening hearing People's Tribunal on the Murder of Journalists

## Introduction

1. This is a third-party submission by International Media Support (IMS), pursuant to Section 1, paragraph 16 of the indictment that has been formulated and presented to the Permanent People's Tribunal on the Murder of Journalists [*hereinafter* the Tribunal].
2. IMS is a global non-profit organisation working to promote public interest journalism, strengthen democracy, ensure development and reduce conflict. Our submission draws on our multi-year experience of media development assistance in over 30 countries across the four continents, and particularly on our work with more than 100 media partners across the globe to support the safety of journalists.
3. IMS holds that no single tool improves the increasingly hostile conditions in which many journalists and media workers operate. Rather, a multi-pronged and inter-connected approach is required that works to prevent the commission of crimes against journalists, protect journalists in the case crimes are committed and readily prosecute the perpetrators of crimes against journalists to hold them to account, in accordance with the UN Plan of Action on the Safety of Journalists and the Issue of Impunity.<sup>1</sup>
4. Following the indictment of the Independent Republic of Sri Lanka, the Syrian Arab Republic and the State of Mexico brought before the Tribunal for alleged human rights violations in the respective cases of murdered journalists, this submission will highlight a range of conditions that can lead to a path of impunity for these crimes.

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<sup>1</sup> See generally, UNESCO. (2012). *UN Plan of Action on the Safety of Journalists and the Issue of Impunity*. CI-12/CONF.202/6. [https://en.unesco.org/sites/default/files/un-plan-on-safety-journalists\\_en.pdf](https://en.unesco.org/sites/default/files/un-plan-on-safety-journalists_en.pdf). See also, IMS. (2017). *Defending Journalism: How national mechanisms can protect journalists and address the issue of impunity, a comparative analysis of practices in seven countries*. [https://www.mediasupport.org/wpcontent/uploads/2017/10/1\\_Journalist-Protection-Book-Digital-1.pdf](https://www.mediasupport.org/wpcontent/uploads/2017/10/1_Journalist-Protection-Book-Digital-1.pdf).

This communication provides the Tribunal with several circumstances that have allowed for the murders of journalists in reprisal for their work to continue unabated and without answer. The aim is to illustrate the systemic nature of the problem and shed light on the fact that the murders of journalists are not isolated incidents and there are circumstances relating to investigation and prosecution of crimes that reveal a global pattern of critical voices silenced.

5. Having regard for the unwillingness or inability of government authorities to guarantee journalists' safety, we respectfully urge the Tribunal to take these conditions relating to the investigation and prosecution of crimes into close account when assessing the allegations outlined against the respective States for the murders of journalists Lasantha Wickrematunge, Nabil Walid Al-Sharbaji and Miguel Ángel López Velasco.
6. The following lays forth an overview of structural weaknesses within investigatory and prosecutorial frameworks that can, in whole or in part, obstruct justice regardless of the political will of a State. IMS submits that there is a greater likelihood for impunity when combinations of these conditions are present at the time of, or shortly thereafter, the murder of a journalist:

#### **Circumstances relating to the investigation and prosecution of murders of journalists that can provide for impunity:**

7. **Disregard for threats, harassment or intimidation made on a journalist's life prior to their murder.** Threats to the livelihood of a journalist are a precursor to lethal violence. As revealed in a recent study, of 139 media professionals who were murdered in Latin America between 2001 and 2020, half of them had received threats related to their work.<sup>2</sup> Notably, whether threats predominantly occur offline or online, journalists may still stand in great danger. The murders of Maltese investigative journalist Daphne Caruana Galizia<sup>3</sup> and prominent Indian journalist Gauri Lankesh<sup>4</sup> in 2017, both of whom had been the targets of prolific, gendered online attacks before they were killed, stand as grave warnings of how online abuse can translate into fatal, offline violence. In contexts where threats against journalists are not taken seriously by authorities or relatedly when authorities fail to investigate the link between threats of violence and a journalist's work, chances of impunity increase.
8. **Weak system of checks and balances within branches of government.** After the assassination of Maltese investigative journalist Daphne Caruana Galizia, cited

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<sup>2</sup> Reporters Without Borders. (2021, 13 May). *2011-2020: A study of journalist murders in Latin America confirms the importance of strengthening protection policies*. <https://rsf.org/en/reports/2011-2020-study-journalist-murders-latin-america-confirms-importance-strengthening-protection>

<sup>3</sup> Garside, J. (2018, April 17). *Daphne Caruana Galizia: 'Malta has made me a scapegoat'*. <https://www.theguardian.com/world/2018/apr/17/daphne-caruana-galizia-malta-has-made-me-a-scapegoat>.

<sup>4</sup> Romig, R. (2019, March 14). *Railing Against India's Right-Wing Nationalism Was a Calling. It Was Also a Death Sentence*. <https://www.nytimes.com/2019/03/14/magazine/gauri-lankesh-murder-journalist.html>

above, the Parliamentary Assembly of the Council of Europe issued a resolution demanding its member state Malta set up an independent public inquiry. The resolution cited “extreme weakness of its [Malta’s] system of checks and balances” and called an in-depth investigation into those who could be “involved in or benefiting from the scandals exposed by Daphne Caruana Galizia and her colleagues”.<sup>5</sup> Concerns of impartiality have been raised by her family and freedom of expression advocates, who have gone through great lengths to uncover the path to impunity that was laid up through the highest ranks of government in Malta.<sup>6</sup> Furthermore, legal obstacles to investigation and punishment, such as amnesties and statutes of limitations are indicators one stands in a climate that is ripe for impunity.

**9. Lack of coordination between federal and local authorities during investigations.**

In contexts where law enforcement officials are unwilling to work together, there is greater probably for gaps to form in a chain of investigation, especially in complex cases that require careful consideration of a victim’s profession as motive for the crime. This unwillingness to cooperate can result in excessive spans of time between an attack on a journalist and the presence of first responders at the scene; crucial evidence in complex cases can be easily lost either intentionally or unintentionally. On the other hand, if there is coordination between both levels of authorities, this lends to a greater probability that the intellectual and material authors of the crime will both be held to account, in line with the “federalisation” model, as coined by former Special Rapporteur for Freedom of Expression of the Inter-American Commission of Human Rights Eduardo Bertoni.<sup>7</sup>

**10. Insufficient staffing and/or training of police units and prosecutors’ offices.** If the uniqueness and importance of the right to free press as a bedrock of democracy is not recognised or understood by those in roles to entrusted to protect this fundamental freedom, it is less likely that crimes against journalists will be thoroughly investigated. The provision of guidelines and training to ensure police and prosecutors appreciate the special position occupied by journalists and the unique and often gendered threats they face is key to holding perpetrators of crimes against journalists to account.<sup>8</sup> Lack of a special prosecutor’s office assigned to crimes

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<sup>5</sup> Witchel, E. (2020). *Shared Responsibility: Safeguarding press freedom in perilous times*. International Media Support, p. 67. <https://www.mediasupport.org/publication/shared-responsibility-safeguarding-press-freedom-in-perilous-times/>. See also: Parliamentary Assembly of the Council of Europe (2019b). *Resolution 2293 on Daphne Caruana Galizia’s assassination and the rule of law in Malta and beyond: ensuring that the whole truth emerges*. <https://pace.coe.int/en/files/28053>.

<sup>6</sup> Garside, *supra* note, 3.

<sup>7</sup> Bertoni, E. (2015, September). *Prevent and Punish: In search of solutions to fight violence against journalists*. UNESCO. [https://en.unesco.org/sites/default/files/prevent-and-punish\\_bertoni\\_0.pdf](https://en.unesco.org/sites/default/files/prevent-and-punish_bertoni_0.pdf). The “federalisation” approach allows federal or central government investigative bodies to step in following attacks on freedom of expression where local state authorities are viewed as weak or compromised.

<sup>8</sup> IMS. (2020). *Prospect for change in The Gambia: Collaborative support to combat impunity*, p. 40. <https://www.mediasupport.org/publication/prospect-for-change-in-the-gambia-collaborative-support-to-combat-impunity/>. See also: Deyda Hydara Jr. v The Gambia ECW/CCJ/APP/30/11, 10 June 2014; Amnesty International and Others v Sudan (1999) at para. 56; Mouvement Burkinabé des Droits de l’Homme et des Peuples v Burkina Faso (2001) at para. 42.

committed against freedom of express is also an indicator that perpetrators of crimes against journalists are more likely to not be held accountable, but it is not indicative. For instance, Mexico has taken special measures to combat impunity with its Special Prosecutor for Attention to Crimes Committed Against Freedom of Expression (FEADLE by its Spanish acronym), however its conviction rate has been minimal.<sup>9</sup> Notably, insufficient staffing and/or training is often due to underfunding, which similarly begets impunity.

11. **Deficient witness protection programmes.** In the Philippines, witnesses of murders of journalists have been murdered themselves or have died under questionable circumstances, which is a grave indicator of impunity.<sup>10</sup> If judicial officers, investigators, witnesses and victims' next-of-kin are not free from harassment and threats, suspicion of foul play should heighten.
12. **Absence of transparency during proceedings.** Closed-door hearings or court proceedings should also generally heighten suspicion. From one emblematic case like the murder of *Washington Post* colonist Jamal Khashoggi who was dismembered inside the Saudi embassy in Istanbul by state operatives in 2018 to another emblematic case, like that of Syrian victim in question Nabil Walid Al-Sharbaji, whose family was not allowed to attend his hearing nor was any public information about the hearing made available before he died in custody—the provision of information from that State is integral.

## CONCLUSION

13. This submission has provided an non-exhaustive overview of conditions where IMS has witnessed absolute or partial impunity for crimes against journalists upon the indictment of the Independent Republic of Sri Lanka, the Syrian Arab Republic and the State of Mexico for alleged human rights violations to be heard by the Permanent People's Tribunal on the Murder of Journalists.
14. IMS submits that the Tribunal has been presented with an important opportunity to make public record that impunity for murdered journalists is a crime that impacts society as a whole and societal patterns and trends can be identified to confirm the systemic nature of this crime on a global scale.
15. This amicus brief is respectfully submitted to the Tribunal on behalf of International Media Support.

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<sup>9</sup> Witchel, *supra* note, 5, pp. 63-64.

<sup>10</sup> Witchel, E. (2014). *When journalists are killed, witnesses may be next*. Committee to Protect Journalists. <https://cpj.org/2014/02/attacks-on-the-press-impunity-witnesses/>

*Annexes submitted as additional evidence to the judges of the People's Tribunal published by International Media Support:*

- [Shared responsibility: Safeguarding press freedom in perilous times](#) (2020) [hard copy already submitted]
- [Prospect for change in The Gambia: Collaborative support to combat impunity](#) (2020)
- [The safety of women journalists: Breaking the cycle of silence and violence](#) (2019)
- [Defending Journalism](#) (2017) [hard copy already submitted]

Yours sincerely,

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