



Chapter 1:

Protection of journalists from violence

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The right of journalists to carry out their work under safe conditions, without fear of being harassed, attacked, beaten or killed is of paramount importance for freedom of the press and freedom of expression.

Hrant Dink, a Turkish-Armenian journalist, was murdered in 2007. People began gathering where he was killed, in front of the Agos newspaper office, and did not leave the place for days. Flowers and candles covered the spot where he fell. The notes say: "Hrant Dink, we will never forget you. We strongly condemn this ugly attack." Photo © Hrant Dink Foundation.

Summary

Although the challenges and dangers that journalists face may differ from country to country, one sad fact holds true everywhere: their freedom to express themselves is questioned and challenged from many sides. Some of these challenges are blatant, others concealed; some of them use traditional methods to silence free speech and critical voices, some use new technologies to suppress and restrict the free flow of information and media pluralism; and far too many result in physical harassment and deadly violence against journalists.

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The aim of this chapter is to draw attention to the critical problems journalists face in their work – and to the responsibilities that we, as officials of international organisations, have to demand of the authorities, to ensure that journalists can work safely. Attempts to intimidate journalists are unfortunately very common. During the last five years close to 30 journalists were killed in the Organization for Security and Co-operation in Europe (OSCE) region¹ – and that number is far surpassed by those who were beaten up or whose lives were threatened.

The first section of this chapter describes the dangers of working as a journalist. The frequency with which journalists are harassed, attacked and murdered is a matter of grave concern. The threat of violence has become a form of censorship, which often goes unpunished. This section also discusses the danger of impunity: the blatant neglect of human rights when the authorities allow perpetrators to go unpunished. This sends a dangerous signal to society, and can lead to further violence.

1. The Organization for Security and Co-operation in Europe (OSCE) comprises 56 participating states over three continents – North America, Europe and Asia. See: www.osce.org.

The second section discusses the protection media professionals enjoy – or are meant to enjoy – under international humanitarian law. It also highlights the concern that, despite the several conventions that spell out everyone's right to freedom of expression, innumerable cases of violence with the aim of silencing journalists occur every year. Of the almost 30 murders of journalists in the OSCE region, successful prosecutions resulted in only about one tenth of cases. This casts serious doubts on the effectiveness of law enforcement bodies and the judiciary.

The third section focuses on what can be done to better protect journalists from violence. It requires strong commitment from governments, law enforcement agencies and legislators, as well as international organisations, civil society and journalists' organisations to secure progress in this area. The best results can be achieved if they work together.

Governments must understand why journalists need special attention. Violence against journalists is a crime against basic democratic values such as free expression and the right to information. Therefore governments need to commit themselves to treating such violence as crimes aimed at undermining public order and democratic governance. Appropriate amendments need to be introduced in criminal and civil laws. Governmental authorities, politicians and law enforcement agencies must treat these crimes with the full political, administrative and technical resources available to them so as to ensure the criminals involved, including those who ordered the crimes, do not escape justice.

There is no doubt that journalists ought to uphold the highest professional standards in order to defend the dignity of this noble profession. However, the level of professionalism employed must not be used as an argument by governments when discussing the safety of journalists or lack thereof. In too many regions, governments misconstrue the meaning of responsibility. It is often assumed that "responsible journalism" means "no criticism, no satire, no provocation, and no differing voices". This approach leads to self-censorship

and presents a double-edged sword, suppressing and silencing voices. Governments should nurture an environment in which their citizens live in a society where free speech is protected by laws in order to foster, not suppress, pluralistic media. If these and other basic conditions for a free society are not provided for, journalists and the media will always look for alternative ways to loudly and clearly voice their opinions to shed light on issues of importance to society.

The overall conclusion is that safety of the media and media professionals is a precondition for free media. Without safe working conditions, journalists cannot write freely. To defend the very important human rights of free media and free expression, authorities and organisations at all levels need to combine their efforts.

Introduction

Journalism is an important profession. It can be seen as a skill, a talent, even a passion in a way: a passion to tell the truth, to inform, to reach others, to communicate news using any means necessary. So why is this passion, this profession, so fiercely attacked, challenged and perceived as controversial?

Many journalists have risked their futures, have been beaten, harassed, imprisoned and too many have even made the ultimate sacrifice – of their lives – in the pursuit of telling a story, exposing the truth and acknowledging the right to be heard. Along with threats directed to freedom of speech and freedom of the media in general, today the freedom to be a journalist is also threatened.

We do not always appreciate the importance of the universal right to free expression and free speech until they are tampered with by state interference and control. Without the expression of ideas and opinions and their publication and distribution in the media, no society can develop effectively. As citizens we should protect our freedom of speech and freedom of the media to ensure that all other human rights are protected.

Too many nations around the world know that, like democracy, freedom of the media and freedom of speech do not come naturally, and cannot be taken for granted. They must be constantly justified, reaffirmed and strengthened.

Governments can play a crucial role in creating a safe environment for journalists. Free and independent media are the cornerstone of a vibrant democratic society. Democracy flourishes when journalists are free to seek out and question all members of the public, particularly government officials, whose jobs rely on the public's trust.

Violence against journalists

At present safety may be the biggest issue for press freedom. The Committee to Protect Journalists reports that since 1992, more than 100 journalists in the Council of Europe region² have been killed because of their line of work, and many, many more have been physically attacked or have received threats.

The high number of violent attacks against journalists is cause for deep concern. Equally alarming is the authorities' willingness to classify many of the murders as unrelated to the journalist's professional activities. We also see that critical speech is being punished more frequently, with questionable charges being brought against journalists. The impunity of the perpetrators and the responsible authorities' passivity in investigating and failing to publicly condemn these murders breeds further violence.

There are many other forms of harassment or intimidation besides physical violence and imprisonment that also have a threatening effect on journalists. With the heightened security concerns of the last decade, police and prosecutors have increasingly raided editorial offices and journalists' homes or seized their equipment, while searching for leaks that were perceived to be national security threats.

2. The Council of Europe covers virtually the entire European continent, with its 47 member states. See: www.coe.int.

An extreme form of censorship

Hardly a year goes by without journalists in the OSCE region paying with their lives for writing about issues that they know will put them in danger. We are also very familiar with the numerous beatings that take place, often causing horrific injuries.

Today, in the 21st century, it is dangerous to be a journalist, a photographer or a member of the media. It is dangerous to be a journalist and to have lunch with a source in a restaurant. It is dangerous to be a friend or neighbour of a journalist. It is dangerous to write about corruption. It is dangerous to investigate stories. In many parts of the world it is dangerous to be a monitor of our times and it is dangerous to be a human being who speaks his or her mind freely.

If murder is the most extreme form of censorship, it is not the only form being practised. Throughout the region, journalists are beaten on a regular basis. Moreover, their attackers are often not caught or punished. Imprisonment also remains a very common way to quash free speech throughout the OSCE region; journalists are often put behind bars for practising their craft, which often involves reporting on corruption and corrupt public officials. In Turkey alone, more than 60 journalists are in prison; the authorities insist that most of them are convicted of crimes not related to their professional activities.

No one should fear being jailed for exposing the truth. As long as journalists are afraid for their lives and the lives of their families while doing their job, we do not live in a free society.

Journalists continue to die, not only when covering events on the battlefield, but also, and more often so, in the course of their work, trying to shine light on the darker sides of society: corruption, financial abuse, drug trafficking, terrorism and ethnic conflict, among others.³ In 2009 in Vilnius, the OSCE Parliamentary Assembly also dealt with this problem, and passed a resolution on strengthening the

3. PACE Recommendation 1506 (2001). See: <http://assembly.coe.int/Main.asp?link=/Documents/AdoptedText/ta01/EREC1506.htm>.

OSCE's engagement on freedom of opinion and expression; it urged participating states to fully investigate criminal activities against journalists, particularly those aimed at intimidating journalists reporting independently, and to fully prosecute those responsible for these criminal activities.⁴

There are many journalists who stop writing critically on issues of importance. Often we do not know why. Apart from threats of physical harm, there are other, less visible forms of violence which can silence a journalist. There are countless situations where there are no bruises, no explosions and no lost lives; violence that creeps in more quietly, that is impossible to point out, is impossible to address directly. What can be done when a journalist stops writing because someone has asked if they knew where their son or daughter was at the time? Or if they want to see their family again?

This is psychological violence which results in trauma. Although less spoken about, it affects journalists every day. It can manifest itself in various ways, including intimidation, harassment or threats. You are intimidated for example if you are persistently followed by security agents, or if your home or editorial office is being watched, or if you are warned against doing something you have the right to do – such as writing an article that will expose wrongdoings in society. You can be harassed in person, over the phone, or in e-mails sent to you. All such cases have one thing in common – you do not know if, or when, these threats will become a reality. But they can make you fearful for your safety or for the safety of your loved ones.

Nations that do not allow independent media to examine the work, and wrongdoings, of officials who have a fiduciary duty to the public are harming their own development and prosperity. For this reason, in 1994 at the Budapest Summit of the Conference on Security and Co-operation in Europe, the participating states condemned “all attacks on and harassment of journalists”, and committed themselves

4. Resolution on Strengthening OSCE Engagement on Freedom of Opinion and Expression, adopted by the OSCE Parliamentary Assembly in Vilnius in July 2009.

to “endeavour to hold those directly responsible for such attacks and harassment accountable.”⁵

It is encouraging that as recently as December 2010, at the OSCE Summit in Astana, all 56 participating states confirmed that human rights and fundamental freedoms are inalienable, and underlined that their protection and promotion remain their primary responsibility. They reaffirmed categorically and irrevocably that the commitments undertaken in the field of the human dimension are matters of direct and legitimate concern to all participating states and do not belong exclusively to the internal affairs of the State concerned.⁶

Murders

While the commitment to protect freedom of the media is a noble goal, implementation has not been impressive so far. In the OSCE region, around 30 journalists are estimated to have been killed in the past five years alone – a number far surpassed by those who were beaten up or whose lives were threatened.

Of OSCE participating states, the Russian Federation is where most members of the media have been killed. The most publicised include Paul Klebnikov (*Forbes, Russia*), Anna Politkovskaya (*Novaya Gazeta*), Yury Shchekochikhin (*Novaya Gazeta*), Vladislav Listyev (*ORT*) and Dmitry Kholodov (*Moskovsky Komsomolets*). But let us also remember Ivan Safronov (*Kommersant*), Vyacheslav Yaroshenko (*Korrupsiya i Prestupnost*), Larisa Yudina (*Sovetskaya Kalmykiya Segodnya*), Magomed Yevolyev (*Ingushetiya.ru*), Nataya Skryl (*Nashe vremya*) and Valery Ivanov (*Tolyttinskoye obozrenoye*), among many others.

In Ukraine, more than 10 years after Georgiy Gongadze’s murder, the masterminds behind the crime are yet to be punished. However, it is commendable that there have been renewed efforts to investigate and punish all those involved. The authorities should consider all the evidence available to them and make sure they do their utmost to

5. See: www.osce.org/fom/31232, page 21.

6. See: www.osce.org/odihr/43677.

discover the truth about the circumstances of this murder and bring all those responsible for this horrible killing to justice. The Ukrainian Government is now faced with another test of its will: identifying and prosecuting those responsible for the August 2010 disappearance of Vasil Klymentyev, editor of *Novy Stil*.

We should also remember the murders (some of which remain unsolved) of Elmar Huseynov (*Monitor*) who was killed in Azerbaijan in 2005; Slavko Ćuruvija (*Dnevni Telegraph*) and Milan Pantić (*Vecernje Novosti*) who were murdered in Serbia in 1999 and 2001 respectively; and Ivo Pukanić (*Nacional*) and his marketing director, Niko Franjić, who were killed by a car bomb in Croatia in 2008.

In Turkey, too, there have been cases that must not be forgotten. The murder of Hrant Dink, a Turkish-Armenian journalist who was shot in 2007, has raised many questions. Shortly after the murder a 17-year-old was arrested and later convicted of the crime. While he confessed to pulling the trigger, it is suspected that the real instigators behind Dink's death are yet to be brought to justice.

These incidents represent just a small proportion of the most serious crimes committed against journalists, and shed light on the disturbing state of media freedom in many countries within the OSCE region.

Physical attacks

In the last year alone, there have been innumerable attempts to intimidate journalists in the OSCE region. In Belarus for instance, the post-election violence in December 2010 against members of the foreign and Belarusian press corps shocked the world. In November 2010 in the Russian Federation, Oleg Kashin of the daily *Kommersant* was brutally attacked in Moscow by unidentified individuals. In Bulgaria in February 2011 there was an explosion just outside the Sofia office of the *Galeria* weekly. During the same month poster-sized death notices were pasted around the town of Lazarevac, Serbia, listing the names of prominent B92 journalists. In July 2010, Teofil Pančić, a political columnist for the Serbian weekly *Vreme* known for his critical coverage of Serbian nationalists and sports hooligans, was physically attacked

in public. During July and August 2011, four delivery vehicles were set on fire in front of the office of the newspaper *Vijesti* in Podgorica, Montenegro. A total of three attacks against the *Vijesti* newspaper had occurred within two months, exerting a “chilling effect” on all journalists in Montenegro.

Two of the most prominent Turkish journalists to be harassed in this manner are Nedim Şener and Ahmet Şık. Both are facing criminal charges in a number of trials, and have been in pre-trial detention since March of this year in the well-known *Ergenekon* case.

In France, in January 2011, Michaël Szames (*France 24*) was allegedly the victim of a violent attack. The reporter filed a complaint with the police accusing eight security staff of the National Front Party of having beaten and insulted him as he was covering a party congress.

In the same month, there was a case in Spain where Fernando Santiago, President of the Press Association of Cadiz, was brutally attacked in response to a newspaper article about the use of public funds to rescue Delphi, a struggling automobile parts company.

Earlier in the year, Fabio Cosmo Colombo, a journalist for the Italian newspaper *Metropolis*, was attacked and left unconscious, while police allegedly looked on but did not intervene. Colombo was reporting on the death of a young man – later declared a suicide – when the attack took place.

Still, journalists across the OSCE region continue to carry out their jobs and to provide the public with the news necessary in a democratic society.

Impunity

Soon after the murder of Anna Politkovskaya, the suspected killer was identified. He fled the country and was only recently arrested in Chechnya. However, several others accused of involvement in the murder had been apprehended earlier. Two brothers and a former officer from the organised crime squad went on trial accused of having helped to organise the killing. The prosecution also alleged that

a serving officer from the FSB, the Russian intelligence service, had played a major part in planning Politkovskaya's assassination.

Three years after the murder, in February 2009, all four were acquitted and immediately released. The prosecution objected to the acquittals. Later the same year, the Russian Supreme Court upheld the prosecution's complaint and ordered a new trial, which is still pending. The suspected mastermind of Politkovskaya's murder, a former Interior Ministry official, was arrested in August this year. However, to date no one has been sentenced by a court for the murder.

Impunity has become a key word in understanding the state of the press in Europe. Impunity is the blatant neglect of human rights by the authorities, which allows the perpetrators to remain unpunished. Over the years we have witnessed the unwillingness of authorities to confirm that murders are related to journalistic activities. As a result, investigations are not swift, thorough or successful in many OSCE countries.

This sends a depressing message, not only to all those concerned with protecting free expression and media freedom. In aiming to intimidate investigative and political journalists, it sends a dangerous signal to society that it cannot rely on the courage of the press to report on the wrongdoings of the powers that be, to expose corruption and to change life for the better. This develops into a "vicious circle" when passive acceptance by the public authorities only leads to more bloodshed and less journalism. Such trends undermine security and co-operation in a nation; in the end they undermine security and co-operation in Europe.

Miklós Haraszti, my distinguished predecessor, recently said: "Impunity breeds further violence, and practically blesses the most brutal type of censorship without saying so."

Unfortunately, today's media in much of the OSCE area do not have much hope that the murders of their colleagues will result in swift and successful prosecutions. Most perpetrators of such crimes have not been brought to justice, which casts serious doubts on the effectiveness

of law enforcement bodies and of the judiciary. Very often this is not an issue relating to their competence and training, but rather of the willingness of the authorities to disclose the truth.

Of the almost 30 murders of journalists in the OSCE region since 2007, only one tenth were followed by the arrest of suspects and their successful prosecutions. No doubt there are many reasons for these failures, but whether it is prosecutorial passivity or lack of resources, this sends the wrong message to society and, equally important, to those who committed the crimes. This of course can lead to further violence and breeds an atmosphere of passive acceptance of these attacks.

Legal standards relating to the protection of journalism

Freedom of opinion and expression are acknowledged as human rights in international human rights law and in other international standards. These rights are enshrined in the Universal Declaration of Human Rights,⁷ the European Convention on Human Rights (ECHR),⁸ the Charter of Fundamental Rights of the European Union⁹ and in the International Covenant on Civil and Political Rights.¹⁰

7. Universal Declaration of Human Rights, Article 19:

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

8. European Convention on Human Rights, Article 10: Freedom of expression,

1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers.

9. Charter of Fundamental Rights of the European Union, Article 11: Freedom of expression and information, 1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers.

10. International Covenant on Civil and Political Rights, Article 19: 1. Everyone shall have the right to hold opinions without interference. 2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.