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International Convention on the Safety and Independence of Journalists and Other Media Professionals

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The international community has grappled for some time with appalling attacks against journalists on account of their professional activities, and has an historic opportunity to take a stand. The initiative of the International Federation of Journalists recognises that the adoption of a group-specific treaty is essential in order to improve the safety and independence of media workers.

# The Convention would rectify a gap in international law: there are no binding norms establishing safeguards for journalists, even though they are differently situated from individuals who impart information or ideas infrequently and to small audiences. This is acknowledged in international case law, which depicts the press as “the watchdog of democracy” and reserves a special treatment to its exercise of freedom of expression, in terms of protection of sources and limits placed on defamation laws or restrictions on publication motivated by privacy or public order. Unlike citizen-witnesses sharing images on social media, journalists are involved in the circulation of information on a regular basis, have a wide impact on mass audiences, and their outputs are actively sought out by the public as credible sources; this routinely exposes them to the risk of attacks aimed at censoring unfavourable speech.

# Journalists’ position in times of war also differs from that of other civilians: they do not seek refuge away from conflict areas, as their mission is to report, and they are targeted by those wishing to prevent scrutiny over the conduct of hostilities. As recognised by the Security Council, the work of media professionals “puts them at specific risk of intimidation, harassment and violence in situations of armed conflict”.

## Moreover, general human rights instruments fail to reflect the systemic effect of attacks against journalists on society. Impunity for such attacks jeopardises the public’s right to information, diminishes democratic control, and has a chilling effect on everyone’s speech. Nevertheless, when a journalist’s rights are violated, there is no course of action open to members of the public or other journalists; only the direct victim is entitled to bring a complaint before a judicial or quasi-judicial body.

Against this background, the first advantage of the Convention is that it merges human rights and humanitarian law obligations relevant for journalists’ protection in one single, comprehensive, transparent text, accessible to non-jurists. The Convention systematises and details both binding and soft-law obligations currently fragmented in multiple instruments and the interpretative case-law of treaty-based bodies. It thus facilitates the understanding of international legal standards by domestic decision-makers and law-enforcement authorities, but also raises awareness amongst journalists and media organisations of their rights under international law.

The proposed text is partly based on existing treaties and other binding sources of law, such as the International Covenant on Civil and Political Rights, the Geneva Conventions and the Additional Protocols, UN Security Council resolutions; it further enshrines obligations set forth in pronouncements of international monitoring bodies (such as the views of the UN Human Rights Committee on individual communications and in General Comments); finally, it encompasses standards of conduct derived from recommendatory instruments, i.e. highly authoritative, but not technically binding, resolutions of UNESCO, the UN General Assembly, and the UN Human Rights Council.

Examples of provisions drawing on international jurisprudence and soft law include the following: the obligation to protect the confidentiality of journalistic sources; the obligation not to misuse national security to hinder the work of journalists through arbitrary detention (for example, for refusal to reveal sources); the positive obligation to deter attacks on journalists’ life, forced disappearances, violence and intimidation campaigns, whether by state agents or private actors, by adopting appropriate criminal legislation; the duty to conduct an effective investigation into crimes against journalists, capable of bringing the perpetrators to justice, including the moral authors of crimes; in the context of armed conflict, the obligation to treat media workers and facilities as civilian (therefore illegitimate targets), and to conduct military operations with due diligence so as to avoid disproportionate collateral damage.

The Convention incorporates few novel obligations, based on good practices recommended by the Office of the UN High Commissioner for Human Rights. One example is the obligation to establish, and adequately fund, an early warning and rapid response mechanism to address attacks against journalists.

The definition of media professionals as *persons regularly or professionally involved in the collection and dissemination of information via means of mass communication* is also based on international practice (reports of the UN Special rapporteur on extra-judicial killings, decisions of the Inter-American Court of Human Rights); importantly, the inclusion of support staff, such as cameramen, drivers, interpreters etc, in the definition, is also based on international jurisprudence and soft law (in particular, judgments of regional human rights courts, resolutions of the Committee of Ministers of the Council of Europe).

## The Convention proposes a dedicated enforcement mechanism: a body of independent experts, not State representatives (jurists who do not represent national interests and do not take instructions from governments); such committees were successfully set up under several UN conventions (Human Rights Committee, Committee Against Torture, on the Elimination of Discrimination against Women, etc).

## The Committee for the Safety of Journalists would have mandatory competence to receive individual complaints, conduct local inquiries and issue reasoned decisions. There would also be a procedure for the denunciation of systematic violations by persons other than the direct victims, in order to address the problem of self-censorship and to recognise the societal impact of attacks on the press. In addition, the Committee would have the power to request provisional measures between the filing of a complaint and the determination of its merits, to avoid irreparable damage to the victim.

## This mechanism would provide an expedited procedure in case of alleged violations and increase international supervision over journalists’ rights. The publicity of the Committee’s annual reports to the General Assembly would further incentivise compliance.

Group-specific treaties, with their monitoring mechanisms, have already proved necessary for categories at risk. Women, children, disabled persons, migrant workers are already protected as human beings under general human rights law; however, dedicated conventions were adopted following the factual observation that general instruments cannot adequately address the specific vulnerabilities of these categories.

A convention dedicated to the safety of journalists would make a momentous political statement. It would acknowledge journalists’ distinctiveness in terms of risks and assist national authorities in understanding their obligations by consolidating all legal sources in one treaty. Importantly, it would intensify international scrutiny over attacks against journalists and send a message that the international community does not condone such crimes, nor the practice of impunity.