



An Uphill Battle:

from impunity to justice for journalist murders

A Report on Impunity on the occasion of the International Day to End Impunity for Crimes against Journalists 2022



About

Abstract

For this report we analyzed hundreds of cases of journalists who were murdered in reprisal for their work. What stands out is their courage to report misdemeanor by those in power despite the clear and often well-known risks this entails for them. What stands out as well is the lack of capacity in so many countries across the world to better their record when it comes to journalist murders. This is tied to the fact that addressing impunity requires addressing systemic failures. As murders of journalists often reveal informal power structures, solving a murder entails more than implementing an independent and thorough investigation. The collusion of power, especially between organized crime and political actors, seems to be one of the main challenges to improving the record on impunity. This is clearly illustrated by the consequences of the investigation into the murder of young Slovak investigative journalist Ján Kuciak. The investigation - aided by journalistic research - exposed a network of corrupt people in power involved in the killing, leading to the arrest of numerous judges, prosecutors and high-ranking police officials. In this paper, we conclude that we see merit in changing our narrative: instead of focusing so much on the cyclical effects of impunity, we should focus our discussions and efforts on ways in which we can address the root causes of journalist murders. We believe this can set much needed change in motion. To this end, we have identified several avenues to justice in this report. There is no silver bullet to solve the complex issue of impunity, but there are common threads in the cases that have been solved, which we believe we should take as a starting point.

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About Free Press Unlimited

Free Press Unlimited is a not-for-profit, non-governmental organization based in Amsterdam, the Netherlands. Free Press Unlimited helps local journalists in conflict areas to provide their audience with independent news and reliable information. The information that people need to survive and give shape to their own future.

About A Safer World for the Truth

This report was written by the 'A Safer World for the Truth'-team at Free Press Unlimited. A Safer World for the Truth works towards the pursuit of justice for crimes committed against journalists. The project consists of a series of investigations into cases where a journalist was murdered for doing his/her job. These investigations reveal new facts and information around the killings, paving the way for pursuing justice. A Safer World for the Truth is a collaborative initiative of Free Press Unlimited, the Committee to Protect Journalists and Reporters without Borders.

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Executive Summary

In spite of a small but hopeful decline, it is hard to overstate the worldwide problem of targeted journalist murders. The Committee to Protect Journalists tallies 1448 of such murders since 1992. These murders constitute an attack on an individual, and undermine the functioning of our societies, not least because of their effect on people's access to information and on the room for free public debate. To add insult to injury, the figure that 8 out of 10 of such murders result in impunity is by now a well known fact within the press freedom community. These impunity figures look even grimmer when it is considered that in less than 5% of cases globally, both the material perpetrator and the mastermind are caught.

This report was written against the backdrop of the need to better understand the dynamics of impunity and the factors that contribute to solving cases of journalist murders on the domestic level. Although cases of full justice are scarce, they demonstrate that justice can be achieved. This begs the question how such achievements can be brought about more often. In spite of the urgency of this question, a systemic understanding of the dynamics of impunity has been lacking so far. Solving these murders is a complex challenge that is influenced by many factors, including the case specific complexities, the societal and political context and the functioning of the different layers of the justice system. Laying out the avenues to justice therefore requires an understanding of local complexities and of the recurring patterns in the cases that lead to justice. It is the ambition of this report to identify these avenues.

In this report we use a multi-layered approach to arrive at the identification of avenues to justice. Importantly, in order to guarantee the pertinence of these avenues, we start with an assessment of the factors that contribute to the risks for journalist being murdered, and of the factors that increase the risks of impunity to follow. In order to fight impunity with concrete tools, we hold, it is imperative to understand its foundations. The CPJ database on journalist killings, investigations into cold cases of journalist murders by A Safer World for the Truth, and conversations with colleague experts in the field constitute our main sources of data to make this assessment.

As a result of our analysis we present multiple findings. An important finding is that hybrid regimes - combining both democratic and undemocratic elements - constitute the most murderous context for journalists, with impunity also being rampant in these context. Organized crime and power abusing local officials pose the most lethal danger to journalists. These actors often thrive on the back of a crippled rule of law, which is typical for hybrid regimes. As we find little evidence for a self-fueling 'cycle of impunity,' we find that the causes of journalist murder and impunity are conflated. Both impunity and the risk of murder have similar underlying causes - predominantly the disfunctioning of the rule of law, which however in hybrid regimes highly differs per location. Concretely, this means that the culprits of journalist murders can sometimes hold such positions of power that they can cause impunity by subsequently being able to sabotage the investigation.

Taking the specific context that provides for lethal risks for journalists into consideration, we analyzed the effectiveness of multiple avenues to justice. We find that activating certain segments of the legal system can increase the likelihood of justice. Based on a statistical analysis, we find that the interference of central judicial or prosecutorial actors in a murder case can increase the likelihood of justice. The fact that central actors are specialized and located further away from the murder scene contribute to a higher degree of independence of the investigation. Many of the countries that experience high levels of journalist killings are large, wherein local judicial and executive institutions are often weaker and poorly insulated against outside influence.

Although important, the interference of central legal actors is rarely a silver bullet to justice. Public pressure created by colleagues or relatives of the murdered journalist, monitoring by civil society, and persistent media attention contribute to the probabilities of justice by making it harder for authorities not to act. In addition, we find that dialogue and knowledge-sharing among legal actors can also have a positive impact. Generally, the avenues that we present work better in concert and can even be mutually reinforcing. For example, public pressure can help to put the case under the attention of central actors.

With this report we hope to have contributed to a new and fundamental approach to addressing impunity for crimes against journalists. One that is focused on developing our thinking on how to achieve justice, while taking the causes of impunity into consideration. We believe that with this report we have identified several strategies that can set the wheels of justice in motion. We will continue to deepen our thinking in this direction and hope many in this sector will join us.

1. Introduction to impunity for journalist murders

On the morning of 24 January 2011, Filipino radio-journalist Gerry Ortega was shot and killed in Puerto Princesa City, leaving behind his wife and two daughters. It was an event that sent shockwaves through an already distressed community of critical journalists in the country. In the weeks that followed Ortega's murder, all members of the hit squad were arrested and subsequently confessed to the murder. However, the alleged mastermind of the murder, the former governor of Palawan Joel T. Reyes managed to escape justice for more than a decade. Even though Reyes had clear motives to murder Gerry Ortega, and the middleman - who became a state witness - in the murder implicated him as the mastermind, Reyes was able to frustrate the legal proceedings for over a decade because of the power he continued to wield over local authorities.

The conviction of the hit team that executed Ortega's murder gave the legal process the status of relatively successful. Given the fact that the material authors were convicted but the alleged mastermind was not, the Committee to Protect Journalists (CPJ) classifies the case as a case of 'partial impunity'. Partially successful or not, the consequences of the alleged mastermind escaping justice have been dire. Reyes continued to wield influence over public officials in Palawan, by not being arrested in spite of a standing arrest warrant. He even ran for governor in May 2022. Before that, Edrad, the middleman and state witness in the Ortega murder, survived an attack by unidentified gunmen at his house in August 2021. An 'A Safer World For The Truth' (ASWFTT) investigator spoke to the middleman about the incident in that same month. The middleman elaborated on a visit from a police official - who claimed he was sent by Joel T. Reyes - who pressured him to retract the testimony in which Edrad implicated Joel T. Reyes. This happened a few weeks before the attack against Edrad.¹ Continuing his abuse of power, Reyes did exactly what Gerry Ortega criticized him for before his murder. For the family of Gerry Ortega, partial impunity has been equivalent to the denial of justice. They continue their campaign for justice, which makes them vulnerable to repercussions by those who try to prevent this.

The case of Gerry Ortega is an emblematic case in many respects. While crossfire killings or killings that result from a *priori* dangerous assignments are still common too, the majority of journalist killings (932 out of 1448 reported by CPJ) are murders.² Most of these murders - just like the case of Gerry Ortega - are premeditated and conducted by an opaque conspiracy of intellectual authors (masterminds) and material authors (gunmen, middlemen, lookouts, suppliers).³ The case of Gerry Ortega illustrates that while the prosecution of the mastermind can be extremely challenging in such conditions, it is the only way to achieve justice. Improving records of prosecuting the masterminds of journalist murders is thereby an essential task. When this fails, justice remains fictive for relatives, and masterminds remain free to silence journalists, witnesses, and families. Furthermore, others in similar positions of power are emboldened to do the same.

By now, most people within the press freedom community are familiar with the figure of 8 out of 10 journalist murders resulting in impunity.⁴ These impunity figures look even grimmer when it is considered that in less than 5% of cases globally, both the material perpetrator and the mastermind are caught.⁵ At the same time, the fact that some journalist murders are solved even a decade after they occurred provides hope.

1 A Safer World for the Truth. 2022. The murder of Gerry Ortega: Justice delayed; justice denied. https://elefantmedia.b-cdn.net/aswftt/ASWFTT_report04_ENG_final.pdf?mtime=20220225174610&focal=none.

2 These figures are based on CPJ-data: <https://cpj.org/data/killed/>.

3 Hughes, S., & Vorobyeva, Y. (2019). Explaining the killing of journalists in the contemporary era: The importance of hybrid regimes and subnational variations. *Journalism*, 22(8), 6

4 CPJ. 2021. Impunity Index 2021. <https://cpj.org/reports/2021/10/killers-of-journalists-still-get-away-with-murder>

5 These figures are based on CPJ-data: <https://cpj.org/data/killed/>.

When new evidence emerges - provided there is continued public attention for a case - or when a shift in (political) power takes place, justice can prevail. Although cases of full justice are scarce, they demonstrate that justice can be achieved. This begs the question how such achievements can be repeated. Despite the urgency of this question, a systemic understanding of the dynamics of impunity has been lacking so far.

This report was written against the backdrop of the need among press freedom organizations, scholars, activists, and journalists to better understand the factors that contribute to solving journalist murders. Solving these murders is a complex challenge that is influenced by many factors, including the case specific complexities of the societal and political context, and the functioning of the different layers of the justice system. Hence, there are multiple roads that can lead to impunity or justice. This report aims to unpack the effectiveness of different pathways to justice by taking a deep-dive into the available data on journalist murders and impunity, and drawing upon the investigations conducted by A Safer World for the Truth in a myriad of countries. Drawing on temporal, cross-sectional, and specific data, we aim to unearth the general factors that cause impunity, and can bring about justice in this report. We thereby focus on the domestic level, as international responses to impunity deserve a separate discussion.

This report consists of three consecutive building blocks. In chapter 2, we analyze the contextual factors that affect the risks for journalists of being murdered. In chapter 3, we analyze both the causes and the effects of impunity. Based on an extensive analysis of CPJ-data and a reflection on cold case investigations conducted by A Safer World for the Truth, we find that hybrid regimes - which combine both democratic and authoritarian institutions - are currently the most murderous regimes in the world for journalists. Yet, despite the fact that impunity is rampant in hybrid regimes, we also demonstrate that they provide hopeful opportunities for improvement. In chapter 4, we unpack some of the most promising avenues to justice for journalist murders. As we argue in this report that both the issue of journalist murders and the issue of impunity have entangled roots, we elaborate on some of the structural avenues to justice that can address the root causes of both issues.

2. Understanding journalist murders

Over the past decade, global press freedom organizations have emphasized the cyclical effect of impunity, whereby impunity in journalist murders provokes repetition. The silver lining of the so-called 'cycle of impunity' is that combating impunity may prevent journalist murders by raising the political costs for perpetrators. As a result, the primary focus of actors in our field has been on measures to address impunity. While combating impunity is an important effort in its own right, this approach risks overlooking the main structural factors that lead to repeated murders of journalists, separate from the presumed causal relationship between impunity and murders. As a nuance to this approach, we believe that understanding the structural factors that augment lethal risks for journalists is of equal importance. Ultimately, preventing journalist murders also prevents impunity. The upcoming sections deal with the global trends in journalist murders and the factors that enhance lethal risks for journalists.

Global trends

The CPJ-dataset that was used for this analysis identifies three main groups of perpetrators, which are responsible for 90 percent of journalist murders. In 42 percent of murders the perpetrators are part of political groups,⁶ in 30 percent of the cases the perpetrators are government officials (including military personnel)⁷ and in 18 percent of murders the perpetrators are part of criminal groups.⁸

Murders by Source

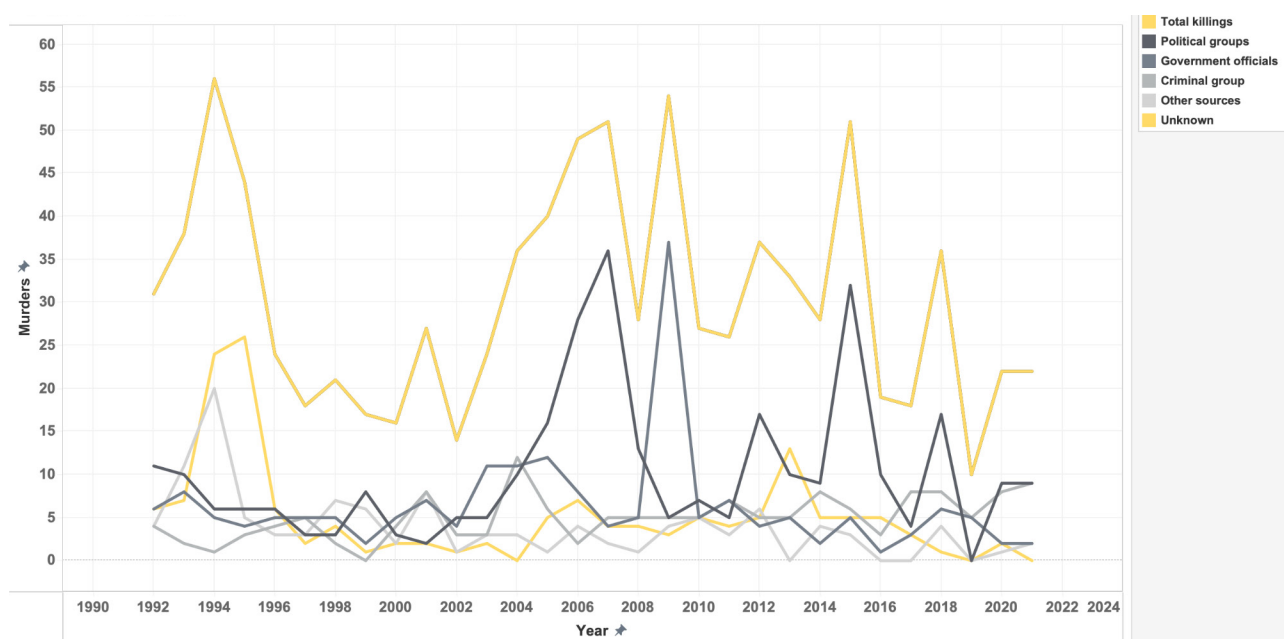


Figure 1

6 CPJ defines this group as: 'anti-government parties or combatants, including insurgents and terrorists.' For more elaboration on CPJ's methodology see: Committee to Protect Journalists. 2022. Methodology. <https://cpj.org/data-methodology/>.

7 CPJ defines government officials as 'civilian government officials, including police. Military officials are defined as: 'members of the government's military.' Committee to Protect Journalists. 2022. Methodology. <https://cpj.org/data-methodology/>.

8 Criminal groups are defined by CPJ as 'criminals or members of criminal gangs, including drug traffickers.' Committee to Protect Journalists. 2022. Methodology. <https://cpj.org/data-methodology/>.

Analyzing journalist murders between 1992 and 2021, we make four main observations. First, there are very high year-on-year variations with lows of 10 killings in 2019 and 14 in 2002 compared to highs of 56 killings in 1994, 54 killings in 2009 and 51 killings in 2015. Second, based on an analysis of three 10-year periods (1992-2001, 2002-2011, 2012-2021), journalist murders increased in the period 2002-2011, and slightly decreased in the decade after. Third, this general decrease is mostly caused by the decrease in murders committed by government officials. As figure 1 demonstrates 'only' 47 murders with government officials as the suspected source of fire were recorded between 2012-2021, compared to 101 cases recorded in the previous decade.

This is in contrast with the number of murders by political groups and criminal groups, which has remained relatively stable. Partly, this decrease can be explained by the fact that in the previous decade - in 2009 - the Magindanao massacre took place, which accounts for 30 murders committed by public officials. A positive - although only partially valid - explanation of this trend would be to point towards the potential effect of the increased attention to the issue on the international level with the first UN resolution on the Safety of Journalists adopted by the Human Rights Council in 2012,⁹ implying that this norm setting trickled down to government officials in the countries concerned. Another plausible explanation based on the data gathered by UNESCO is that we see a peak in imprisonments from 2016 onwards.¹⁰ This peak may be the effect of a trend of increasing autocratization which has enabled governments to use imprisonment to silence journalists instead of having to kill them for this purpose.¹¹

Our fourth observation is that peaks of journalist murders have partly shifted. According to the 10-year trends, the most murderous countries between 1992 and 2001 were Algeria (58 murders) and Colombia (28 murders), followed by Russia, Turkey and Rwanda (all 16 murders). Between 2002 and 2011, Iraq was the frontrunner (93 murders), followed by the Philippines (61 murders), Pakistan (20), Mexico and Russia (17). In the last decade from 2012 and 2021, the countries with the most journalists murdered were Mexico (32 murders), Somalia (29 murders), Syria (23), Brazil (20), Iraq (18), Afghanistan (17), and the Philippines (16).

In the first two decades the frontrunners were primarily countries in conflict, with the civil war in Algeria (1991-2002) taking the lives of many journalists, among which 58 have been recorded as targeted murders by CPJ.¹² Algerian journalists were caught between Islamist militants and government forces, who were both determined to control the narrative, which led some to say: "journalists have no allies in Algeria."¹³

In the second decade Iraq was the country with the most murdered journalists, with a staggering amount of 93 murdered journalists in 10 years alone. The total number of journalists killed in Iraq from the US-led invasion in 2003 to the end of the war in 2011 is at least 150, of which - disturbingly - the majority were targeted killings instead of deaths resulting from dangerous assignments or crossfire. A significant majority of these murders was committed by Iraqi political groups. In addition, on 8 April 2003, the United States bombed the Al Jazeera headquarters in Baghdad, killing journalist Tareq Ayoub. On that same day the Palestine Hotel was targeted - which was home to more than 100 unembedded international journalists that were covering the war from Baghdad at the time.^{14,15} Reporters Without Borders' (RSF) head of the MENA desk, Soazig Dollet, said at the time: "The media were not welcome by the US military, [t]hat is really obvious."¹⁶

9 UN Human Rights Council. 2012. A/HRC/RES/21/12. <https://www.ohchr.org/en/safety-of-journalists/resolutions>

10 UNESCO. 2022. Threats that silence: Trends in the safety of journalists. <https://www.unesco.org/reports/world-media-trends/2021/en/safety-journalists>.

11 See also: Stier, S. (2015) Democracy, autocracy and the news: the impact of regime type on media freedom, *Democratization*, 22(7), 1273-1295

12 CPJ. 1999. 58 Journalists Murdered in Algeria Since 1993. <https://cpj.org/1999/01/58-journalists-murdered-in-algeria-since-1993/>

13 Gidron, A. (1996). The Plight of Algerian Journalists: Editor's Note. <https://www.nybooks.com/articles/1996/10/03/the-plight-of-algerian-journalists/>

14 Al Jazeera. 2013. Iraq: The deadliest war for journalists. <https://www.aljazeera.com/news/2013/4/11/iraq-the-deadliest-war-for-journalists>

15 These events are labeled in the CPJ-data as 'crossfire' deaths and not as murder.

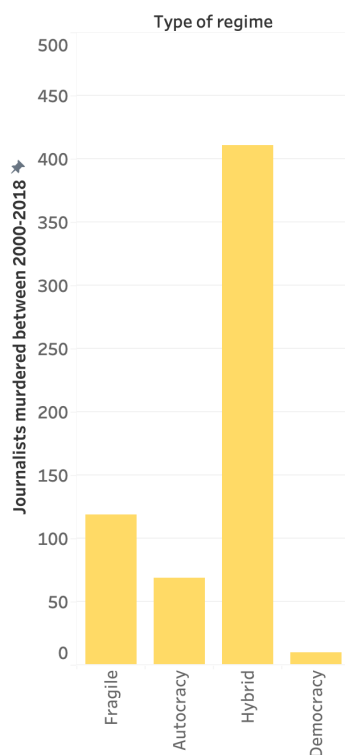
16 Al Jazeera. 2013. Iraq: The deadliest war for journalists. <https://www.aljazeera.com/news/2013/4/11/iraq-the-deadliest-war-for-journalists>

In the previous decade (2012-2021), conflict situations have not constituted the most murderous context for journalist murders.¹⁷ Instead, Mexico was the country with the highest number of journalist murders of the last decade. There, journalists have been in the firing line of both corrupt local officials and organized crime groups. Similar dynamics can be identified in the Philippines and Brazil during the same period. The next paragraphs zoom in on the context that has accounted for so many journalist murders in the past decade.

Location matters

A journalist murder only has one causal explanation, which is the willingness of a certain actor to silence a certain journalist in prevention of, or reprisal for, the publishing of compromising information. However, there are certain systematic factors that can affect the probability of such actors to resort to the murder of a journalist. To identify opportunities for justice, it is crucial to also lay bare these systematic factors. The following sections elaborate on these factors.

Journalist murders across regimes



Regimes and murder

A first important contextual factor is the type of regime that governs the country a journalist works in. In the post-Cold War era, the time-period for which CPJ has tallied data on journalist murders (1992 - present), countries in conflict are still a dangerous context for journalists. As figure 2 demonstrates, fragile states, states that have lost *de facto* control over their territories, still account for a sizable portion of journalist murders.¹⁸ But recent research has convincingly shown that journalists are most vulnerable to murder in hybrid regimes; countries where democratic institutions are combined with illiberal practices.¹⁹ The post-Cold War world has been marked by the proliferation of these political regimes.²⁰ The main explanation for the lethal danger in these contexts is that they provide journalists with the *de jure* freedom to do their work, while the political costs for criminal groups and local public officials to murder journalists are relatively low.²¹

Figure 2

- 17 This comes out of the CPJ-data but has also been extensively highlighted in the scholarly literature on journalist safety. For the increasing danger for journalists in hybrid regimes, see: Hughes, S., & Vorobyeva, Y. (2019). Explaining the killing of journalists in the contemporary era: The importance of hybrid regimes and subnational variations. *Journalism*, 22(8), 1873-1891; Cottle, S., Sambrook, R., & Mosdell, N. (2016). *Reporting dangerously: Journalist killings, intimidation and security*. London, United Kingdom: Palgrave Macmillan.
- 18 The category 'fragile' in this figure combines the scores -66 (occupied states) and -77 (failed states) out of the Polity V-dataset. Iraq for example is coded as an occupied state for the period 2003-2011, and Somalia is coded as a failed state in the period 2005 -2011. Thereby, those States that find themselves under occupation as a result of international armed conflict - and States that have little effective control over much of its territory as a result of civil conflict - fall into this category.
- 19 Asal, Victor et al. (2016). Killing the Messenger: Regime Type as a Determinant of Journalist Killing, 1992–2008. *Foreign Policy Analysis*, 14, 24-43; Hughes, S., & Vorobyeva, Y. (2019). Explaining the killing of journalists in the contemporary era: The importance of hybrid regimes and subnational variations. *Journalism*, 22(8), 1873-1891; Solis, J. A. (2021). The Press-safety Paradox of Democracies: Regime-type Duration and Journalist Killings. *Foreign Policy Analysis*, 17(1)
- 20 Levitsky, S., & Way, L. A. (2002). Elections without democracy: The rise of competitive authoritarianism. *Journal of democracy*, 13(2), 51-65.
- 21 Hughes, S., & Vorobyeva, Y. (2019). Explaining the killing of journalists in the contemporary era: The importance of hybrid regimes and subnational variations. *Journalism*, 22(8), 1887

In hybrid regimes, power holders lack the formal means to silence journalists, which explains why journalist murders in closed authoritarian regimes are comparatively rare. In such contexts, other means such as imprisonment or censorship can be used to silence and disincentivize journalists.²² This is evidenced by the lack of countries where journalists murders and imprisonment overlap (see figure 3), and the fact that figures of journalist murders and journalist imprisonments have been moving in opposite directions over the past decade.²³

Murders vs Imprisonments

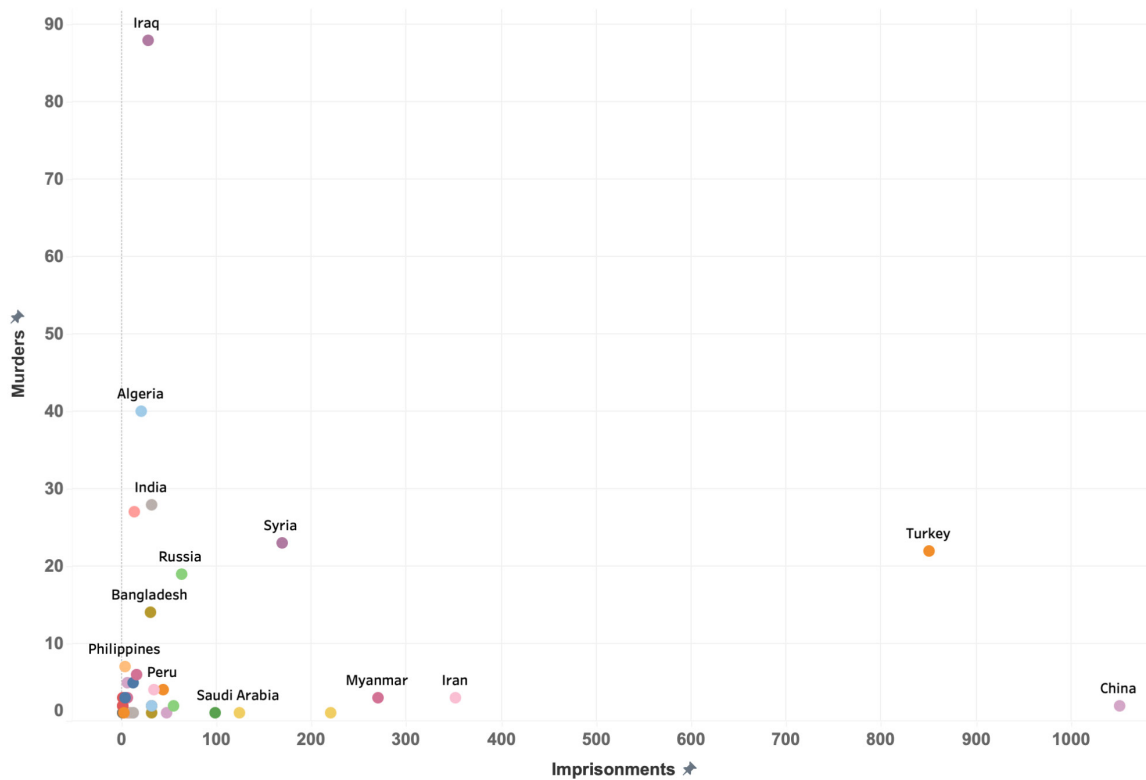


Figure 3 - The relationship between murder and imprisonments

In autocracies, the need to silence journalists by murdering them is low. This should serve as a caution to applauding declining figures of journalist murders in the current global context of democratic backsliding. In such instances, murder might be replaced with other practices of silencing critical voices.

Murder beneath the nation state: war, crime and politics

In conjunction with regime type, it matters where a journalist is located within a country and what they write about. Countries that experience high-levels of targeting contain geographically clustered problems that cause risks for journalists.²⁴ The three most prominent structural factors are: 1) local authoritarianism, 2) organized crime, and 3) civil war or civil conflict.

22 Stier, S. (2015). Democracy, autocracy and the news: the impact of regime type on media freedom, *Democratization*, 22(7), 1273-1295; See also Tanneberg, D. (2020). *The Politics of Repression under Authoritarian Rule*. Springer.

23 UNESCO. 2022. *Threats that silence: Trends in the safety of journalists*. <https://www.unesco.org/reports/world-media-trends/2021/en/safety-journalists>.

24 Previous research has, for example, demonstrated this in the case of Mexico. See Brambila, J.A. (2017). Forced Silence: Determinants of Journalist Killings in Mexico's States 2010-2015. *Journal of Information Policy* (7), 297-327; Hughes, S. & Marquez-Ramirez, M. (2018). Local-Level Authoritarianism, Democratic Normative Aspirations, and Antipress Harassment: Predictors of Threats to Journalists in Mexico. *The International Journal of Press/Politics*, 23(4), 539-560

In fragile states, journalists evidently run more risk of being harmed in crossfire close to the frontline.²⁵ But what has received far less attention, is that this proximity to the frontline can also affect a journalist's risk of being targeted with murder. In the Central African Republic, an investigation done by A Safer World for the Truth shows that there has been a pattern of journalists being targeted with threats and murder when they reported about military progress and human rights violations by the Séléka rebels in the Central African Republic.²⁶ In Syria, both government forces and ISIS have systematically targeted journalists with murder.²⁷ In 2012, journalists Marie Colvin and Rémi Ochlik were deliberately targeted with artillery strikes by Syrian government forces.²⁸ The proximity of these journalists to the frontline initially gave the Syrian government the opportunity to dismiss the event as a crossfire incident.²⁹ Such targeted murders signal that even in fragile states - where all accountability mechanisms seem to have evaporated - the quest for legitimacy by political groups can pose a serious risk to the lives of journalists close to the frontline.

In hybrid regimes, a journalist's location is equally important when it comes to safety, primarily because local authoritarianism and organized crime activity cluster regionally. Existing research has shown that in many hybrid regimes, especially large ones, the effective enforcement of the rule of law does not permeate each region to the same degree.³⁰ As a result, local authoritarian rulers and organized crime groups can thrive on the back of a crippled rule of law in certain regions.^{31,32} The presence of organized crime groups and local authoritarian rulers - like governor Joel T. Reyes in the case of Gerry Ortega - within specific regions has been identified as one of the most prominent causes of journalist killings globally.^{33,34,35}

Just as authoritarianism can be local, organized crime activity and rivalry often are as well. The logic that leads organized crime groups to target journalists is that incriminating coverage can direct the attention of law enforcement towards these groups.³⁶

The CPJ data³⁷ on journalist murders shows how lethal danger for journalists can vary within countries. In Mexico - a country with extreme levels of journalist murders - we looked at subnational data on journalist murders and found that journalists generally seem to be less safe further away from the capital (see figure 4A). Also, the actual type of perpetrator clusters regionally with certain regions being plagued with journalist murders committed by organized crime groups and other regions by murders committed by public officials (See figure 4B).

25 Cottle, S., Sambrook, R., & Mosdell, N. (2016). *Reporting dangerously: Journalist killings, intimidation and security*. London: Palgrave Macmillan.

26 A Safer World for the Truth (2022). *Remembering Elisabeth Blanche Olofio*. Retrieved from: https://elefantmedia.b-cdn.net/aswftt/ASWFTT_report03_ENG_final.pdf?mtime=20220126194318&focal=none

27 Syria Justice and Accountability Centre. 2029. *Journalists in Syria deserve protection and justice*. <https://syriaaccountability.org/journalists-in-syria-deserve-protection-and-justice/>

28 Washington Post. 2016. *War reporter Marie Colvin was tracked, targeted and killed by Assad's forces, family says*. https://www.washingtonpost.com/world/national-security/war-reporter-marie-colvin-was-tracked-targeted-and-killed-by-assads-forces-family-says/2016/07/09/62968844-453a-11e6-88d0-6adee48be8bc_story.html

29 The New York Times. 2012. *Two Western Journalists Killed in Syria Shelling*. <https://www.nytimes.com/2012/02/23/world/middleeast/marie-colvin-and-remi-ochlik-journalists-killed-in-syria.html>

30 O'Donnell, G. (1993). *On the state, democratization and some conceptual problems: A Latin American view with glances at some postcommunist countries*. *World Development*, 21(8), 1355-1369.

31 Trejo, G., & Ley, S. (2020). *Votes, drugs, and violence: The political logic of criminal wars in Mexico*. Cambridge University Press.

32 Schedler, A. (2014). *The criminal subversion of Mexican democracy*. *Journal of Democracy*, 25(1), 5-18.

33 Hughes, S., & Vorobyeva, Y. (2019). *Explaining the killing of journalists in the contemporary era: The importance of hybrid regimes and subnational variations*. *Journalism*, 22(8), 1873-1891.

34 Bartman, J. M. (2018). *Murder in Mexico: are journalists victims of general violence or targeted political violence?*. *Democratization*, 25(7), 1093-1113.

35 Holland, B. E., & Rios, V. (2017). *Informally governing information: How criminal rivalry leads to violence against the press in Mexico*. *Journal of Conflict Resolution*, 61(5), 1095-1119.

36 Holland, B. E., & Rios, V. (2015). *Informally Governing Information: How Criminal Rivalry Leads to Violence against the Press in Mexico*. *Journal of Conflict Resolution*, 61(5), 1095-1119. doi:10.1177/0022002715600756

37 This data was complemented with state level information in order to facilitate a subnational analysis.

A. Murder of Journalist in Mexico, by State



B. Cluster of States by Government, Criminal group, Impunity, Partial Impunity, Justice



Figure 4. Figure 4A shows the murder count of Mexican journalists per state. The map underscores the relative vulnerability of journalists in Mexico outside of the center. The darker, the more journalists are murdered. Figure 4B is a cluster map that combines the variables ‘source of fire’ (public official or criminal group) and ‘impunity’ (justice, partial impunity, complete impunity). The cluster map divides Mexico into three categories of states with the least amount of internal data variation within each category. Yellow states are states with high levels of journalist murders by criminal groups, where there are relatively high levels of partial justice. Light-grey states combine relatively low levels of journalist murders with high levels of impunity. Dark gray states combine high levels of targeting by public officials and high levels of impunity. Overall, this figure demonstrates that geography also matters when it comes to impunity and the type of perpetrators journalists are vulnerable to.

While in Mexico the murder of journalists seems to cluster regionally, with extreme numbers of journalist murders in the northern region and around Oaxaca, in the Philippines, the incidence of journalist murders is much more dispersed. There, in most states the count stands at one or two journalist murders. In Mexico, there are states where violence perpetrated by criminal groups and government officials overlaps (the yellow red states), this is not the case in the Philippines. In only three out of 81 provinces in the Philippines, murders by both government actors and criminal groups have occurred (See figure 5). In all other states journalist murders are either committed by government actors or by criminal groups.

Cluster of provinces of Murder, Government officials and Criminal groups

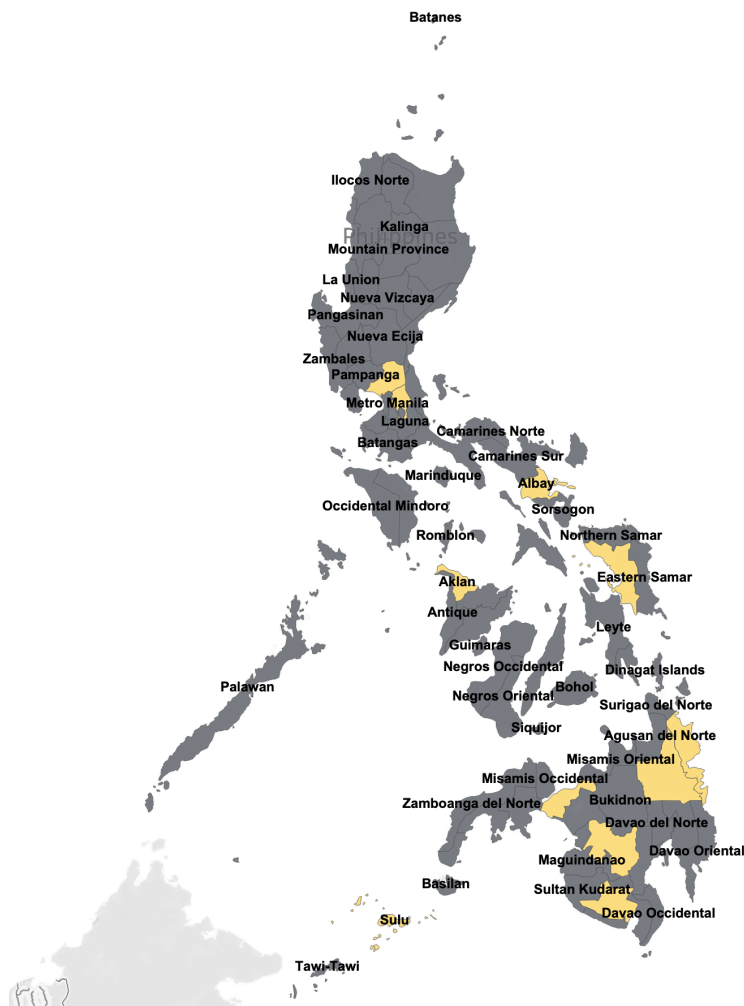


Figure 5. A state-level cluster map of the Philippines, that combines the number of murders, the number of murders committed by government groups, and the number of murders committed by criminal groups.

3. Dynamics of Impunity

Unfortunately, the large majority of journalist murders is followed by impunity. In 95% of cases globally, 878 out of the 925 cases of journalist murders documented by CPJ, there is either partial or complete impunity. When we differentiate between complete impunity cases and partial impunity cases, we have a complete impunity rate of almost 80% and a bit over 15% of cases where the material perpetrator is caught but the mastermind is not.³⁸ When we look at what partial impunity means in practice for the colleagues and relatives of a murdered journalist, it seems that in many cases they are still left with a sense of injustice and uncertainty. This is illustrated by the case of Mexican journalist José Armando Rodríguez Carreón who was murdered in 2008. The case is listed as a partial impunity case following the conviction of an accomplice.³⁹ His colleague explained to CPJ: “We feel that there has still not been full justice. The sentence is only for an accomplice in this killing... Many aspects of the investigation are still opaque. There is too much uncertainty, above all because, many years ago, the lawyer of the man now sentenced said that they had tortured him, which caused us a great deal of distress.” Furthermore, the fact that a mastermind in a position of power remains in that position after the murder, makes the colleagues and family members vulnerable to intimidation or violence intended to stop them from continuing to seek justice, as the case of Gerry Ortega illustrates.

In 2013, the United Nations General Assembly put the issue of impunity on the agenda by describing the absence of justice for victims as “one of the main challenges to strengthening the protection of journalists”.⁴⁰ In 2014, the Committee to Protect Journalists wrote an alarming report about impunity in which it stated that impunity is self-fueling and results in the repetition of violence.⁴¹ Since 2014 impunity has remained the norm, highlighting the need to better understand this phenomenon. Can we identify the effects of impunity and justice? And can we identify its causes? The following sections deal with these questions.

The effects of impunity on the safety of journalists

Over the past decades, impunity has become almost synonymous with journalist murders. Partly as a result of this ubiquity, and a lack of precise data, it is challenging to examine the isolated effects of impunity separate from the effect of the murder. Whether there is a self-fueling ‘cycle of impunity’ or whether both murder and impunity are a corollary of the same phenomenon, such as rampant collusion between public officials and organized crime, has remained largely unaddressed so far.

Figure 6 depicts how impunity is almost synonymous with journalist murders. There are no examples of countries with high numbers of journalist murders and low levels of impunity, which limits our ability to draw lessons from countries that are plagued with journalist murders but manage to solve them. Still, there are countries that have been able to provide relatively promising levels of justice. Brazil is the most typical case in that regard. For this reason, chapter 4 zooms in on the question how Brazil has managed to achieve this.

38 CPJ. 2021. Impunity Index 2021. <https://cpj.org/reports/2021/10/killers-of-journalists-still-get-away-with-murder/>

39 See <https://cpj.org/data/people/jose-armando-rodriguez-carreon/>

40 United Nations General Assembly. 2013. A/RES/68/163. <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N13/449/23/PDF/N1344923.pdf?OpenElement>

41 CPJ. 2014. The Road to Justice: Breaking the Cycle of Impunity in the Killing of Journalists. https://cpj.org/wp-content/uploads/2014/10/road_to_justice2014-english.pdf

Correlation between the percentage of (at least partially) solved cases and the number of murders

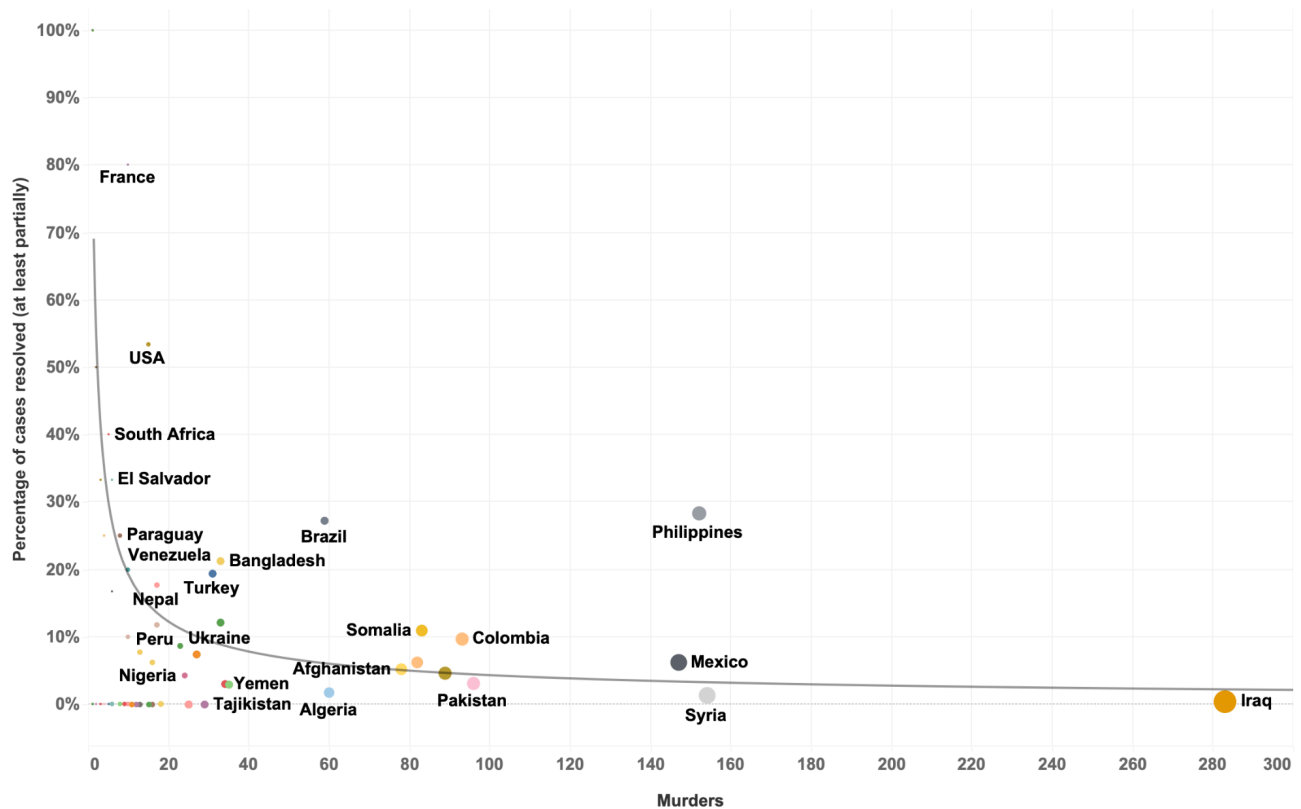


Figure 6. The relationship between murder cases and justice (combining partial and complete justice) on the global level, based on CPJ-data. The Philippines is an outlier because of the Maguindanao massacre, whereby 30 journalist murders resulted in partial justice. This rather constitutes one event rather than 30 and relativizes the Philippines' outlier status.

Analysing historical trends of journalist murders and impunity provides some insight in the effect of impunity on journalist murders. Most importantly, the trends - shown in Figure 7 - do highlight that years of relative justice did not prevent an increase of murders. In Brazil for example, the period of relative justice in 2001-2007 was followed by an increasing number of murders in the period afterwards. More generally, figure 7 shows that in spite of fluctuating levels of impunity, journalist murders have steadily risen in the most murderous countries for journalists.

The notion that murder takes place rather independently from impunity is further supported by the state-level analysis provided in section 2. When we look at the state-level, for example in Mexico (figure 5) and the Philippines (figure 6), there are states with low incidence of journalist murders and high levels of impunity, such as the group of orange states. Also, there is a cluster of (blue) states where impunity is relatively low but incidence is high. These observations highlight that impunity is not by definition what triggers an escalation of journalist murders. While this does not imply that impunity cannot have a negative impact, which it undeniably has in many respects, it does show that journalist murders can mostly be explained by other, external factors.

Cumulated impunity by country: Total unsolved cases/Total murders

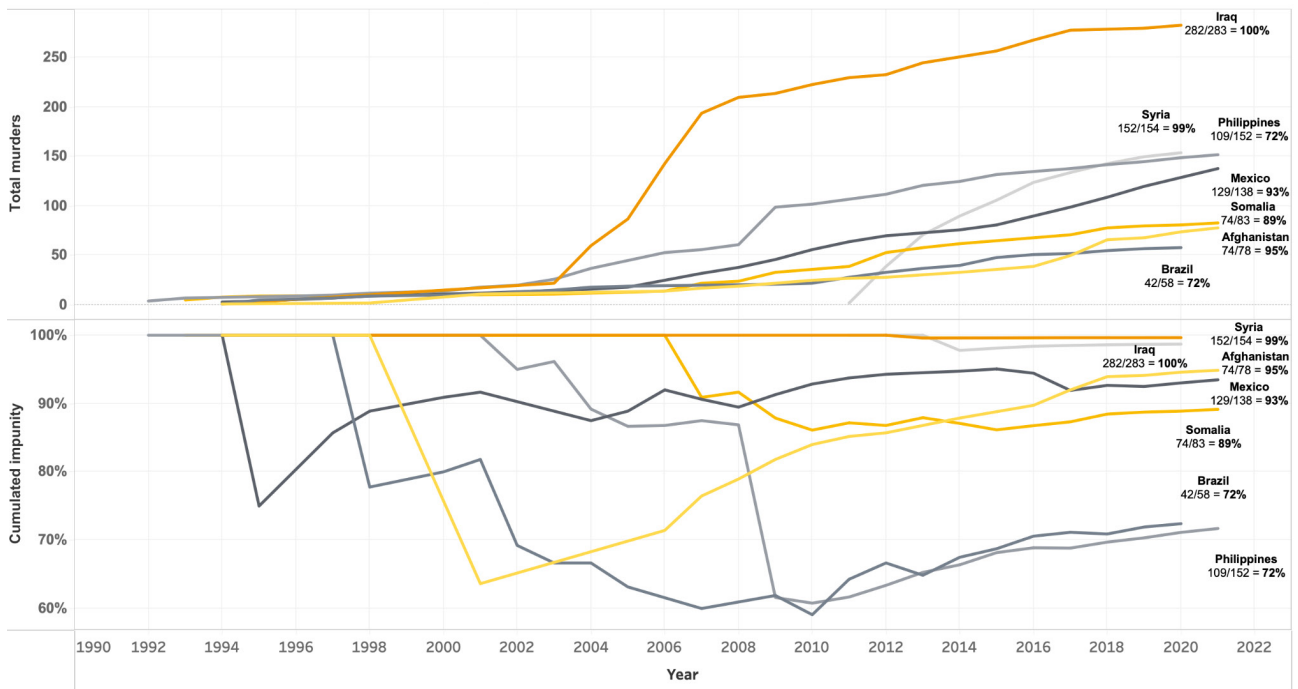


Figure 7. The top of this figure depicts the cumulative number of journalist murders in the 5 most murderous countries for journalists in the period 1992-2022. The bottom figure shows the impunity rate. Changes in impunity rates as a result of achieving partial or full justice do not go hand in hand with the steepness of the lines.

Murder and impunity in Pakistan; rooted in the same soil

The investigation by A Safer World for the Truth into the murder of Zubair Mujahid shows on a granular level how murder and impunity are rooted in the same soil and that the agents of murder and impunity can directly overlap. In this specific case, the suspected mastermind and the source of impunity are part of the same institution.

Zubair Mujahid was a journalist from the province of Sindh (Pakistan), who did not shy away from covering politically sensitive topics. He wrote about local crime and corruption in his column 'Crime and Punishment' (Jurm o Saza) for the *Daily Jang*. He exposed corruption and human rights abuses, such as torture, committed by the local police station of Mirpurkhas. On 23 November 2007, Zubair was shot while he was sitting on the back of his colleague's motorcycle, driving home after a long work day.

The investigation into the murder of Zubair Mujahid was conducted by the same Mirpurkhas police station, and bore no results. Our investigation, which included an analysis of the official case files, concluded that grave errors were made during the official investigation, preventing any possibility of justice. As a result of our investigation, the son of Zubair Mujahid, together with his lawyers, filed a Constitutional Petition at the High Court of Sindh in which he requested the Court to reopen the investigation.

More than anything else, the case of Zubair Mujahid epitomizes how murder and impunity are often rooted in the same soil. Both the murder of journalists and impunity thrive by a crippled rule of law, which allows for local officials to abuse their power. In the case of Zubair Mujahid, the investigation into the murder was conducted by the police department of which high level police officers had threatened to silence Zubair prior to his murder. In this light, it is hardly surprising that the A Safer World for the Truth investigation found that the official police investigation into the murder was actively sabotaged.⁴²

As previously mentioned, it is challenging to unravel the precise effect - or the lack thereof - of impunity because of the many factors that influence both the environment in which murders can take place as well as the environment in which murders can be solved. Thorough analysis - that includes a complex analysis of how murderers of journalists are affected by previous instances of impunity - would bolster such knowledge. However, on the basis of the data that was presented above, we call for caution when it comes to the treatment of impunity as something cyclical rather than an event of injustice that stands on itself. We believe that too strong of a focus on the concept of the cycle of impunity can discourage a focus on the root causes of murders themselves, which is where we need to start if we want to improve impunity rates. Focusing on staggering impunity rates up till now has not gotten us in a position to effectively tackle the complex issues that lie behind journalist murders. More emphasis on these questions might lead to better results and potentially even to interventions which set the wheels of justice into motion.

42 The full report can be found at: A Safer World for the Truth. 2021. Breaking the Silence: An Investigation into the Murder of Zubair Mujahid. <https://www.saferworldforthetruth.com/fr/investigations/zubair-mujahid>

The causes of impunity

Even though impunity is the norm in cases of journalist murders, impunity can present itself in different ways. Yet, on the global level, there are certain factors that affect the overall chances of achieving justice after a journalist murder. Understanding those factors can ultimately help to further the perspective of justice in future cases of journalist murders. First of all, just as for murder, location matters when it comes to impunity.

Impunity and regimes

Figure 8 shows that levels of impunity strongly vary across the types of political regimes. Unsurprisingly, the chances of justice in autocracies and fragile states are lowest, with an impunity rate of 90 percent. While journalists are not often murdered in autocracies, the chances of achieving justice when they are, are extremely slim. Fragile states account for more journalist murders - apart from the higher number of crossfire and dangerous assignment killings - and have an equal level of impunity. Iraq, for example, only has two cases since the start of the 2003-war in which partial impunity was achieved. But an important nuance is that in both cases, the murdered journalists were U.S. citizens: James Foley and Steven Sotloff.

Percentage of journalist murders with impunity across regimes

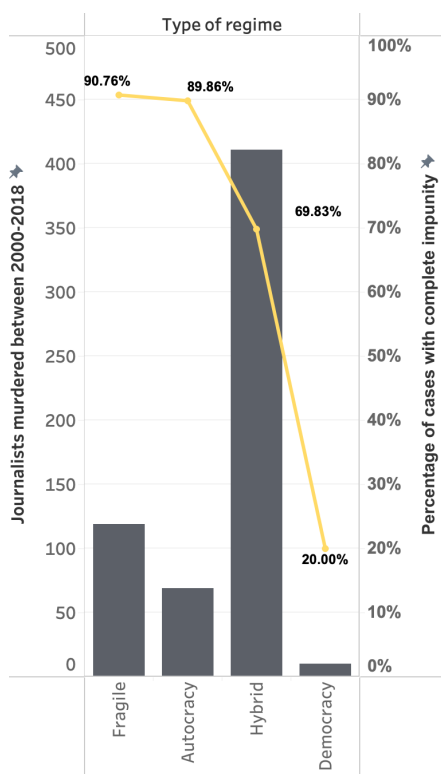


Figure 8. Percentage of journalist murders with impunity across regimes. The figure is based on CPJ murder data and Polity V data. The line depicts the number of murders across regime type.

In democracies, where only a fraction of the total number of journalist murders takes place, impunity is also low. However, in hybrid regimes, where the vast majority of murders have been committed over the past decade, impunity is rife but not as extreme as in autocracies. Whereas the unclear boundaries of the rule of law in hybrid regimes make them dangerous environments for journalists, the fact that the rule of law is crippled instead of absent provides some opportunity of justice. As set out above however, this still mostly concerns partial justice whereby the masterminds escape.

Perpetrators and impunity

Apart from regime type, we also explored how possibilities for justice seem to relate to the actor that is behind the murder. First of all, out of the three largest groups of perpetrators (government officials, criminal groups and political groups), the opportunities for justice are lowest when murders are committed by political groups. Out of the 303 murders in that category, only 43 were solved (14 percent). This is substantially lower than for murders committed by criminal groups and government officials. The most plausible explanation for the difference in opportunities for justice between political groups on the one hand and criminal groups and public officials on the other, is that these opportunities result from contextual factors. Journalist murders committed by criminal groups and government officials thrive in a context of hybrid regimes, while violent political groups connect to a context of fragile regimes.

Correlation between Cases with partial or full justice and Murders by source

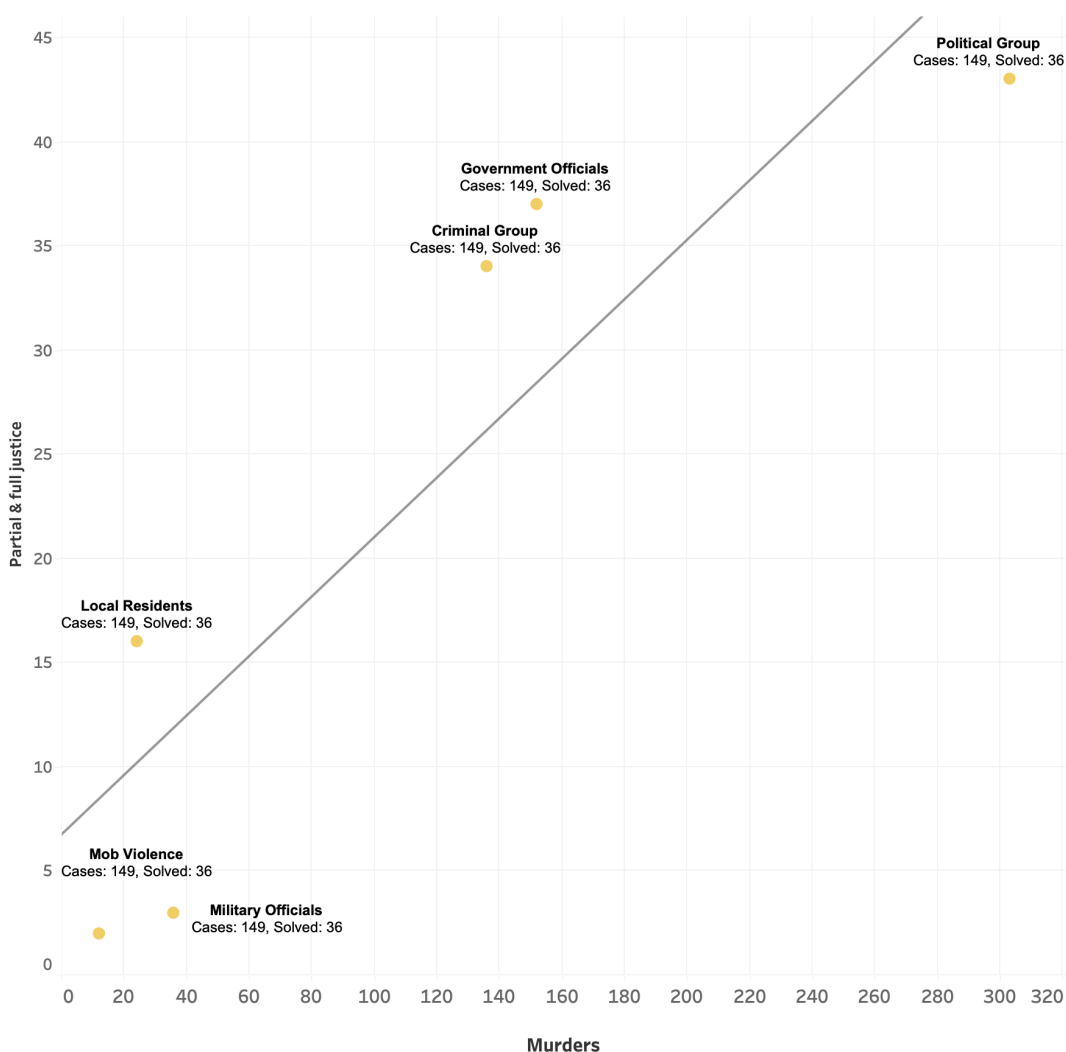


Figure 9. No impunity (partial and full justice) as a proportion of all murders, per category of suspected source of fire. The Maguindanao massacre in the Philippines is taken as one event in this graph.

Second of all - on the global level - impunity is as rampant for murders that are committed by government officials as for those committed by criminal groups. While it may be intuitive to assume that impunity is far more persistent when public officials are the expected culprits, as they are in comparison to criminal groups generally in a better position to influence the executive and judicial institutions on which justice depends, this does not seem to be the case. As figure 9 shows, 66 of 182 (36 percent) of CPJ's reported journalist murders perpetrated by public officials resulted in partial or complete justice. However, it has to be taken into consideration that 30 of the 66 partially solved murders perpetrated by public officials correspond to one event - the Maguindanao Massacre in the Philippines - during which 30 journalists were murdered and partial justice was achieved according to CPJ.⁴³ When we include this event as one case, only 20 percent of journalist murders perpetrated by public officials has resulted in partial or full justice. This level of impunity is similar to the level of impunity for journalist murders committed by organized crime groups, of which 34 out of 136 cases (25 percent) have resulted in partial or complete justice. Thus, murders committed by criminal groups and public officials seem to follow a similar pattern of impunity. This further supports the notion that these groups operate in close proximity - and sometimes overlap - in countries where journalists are at risk.⁴⁴ Especially in hybrid regimes, government institutions - especially local ones - can be subverted by organized crime groups to the degree that the division between these groups becomes nearly fictive. In that light, the similarities in impunity patterns make more sense.

The relationship between opportunities for justice and type of perpetrator can also vary per country. If we focus on the seven cases of full justice in Mexico and Brazil (cases in which both the perpetrator(s) and the mastermind(s) were sentenced), it stands out that in 6 out of the 7 cases, those found guilty are either a private citizen or members of a criminal group. In less than 1 out of 10 of the cases that result in full justice, the perpetrator is a government official. Conversely, chances for partial impunity grow substantially when the perpetrator is a government official. More than one third of murders committed by government officials resulted in partial impunity, in comparison to approximately only one out of 10 murders by criminal groups. A logical explanation for this is that catching the material perpetrator superficially satisfies the need for justice, while keeping the responsible government official remains out of range, thereby avoiding repercussions on the political level.

43 CPJ. 2019. In the Philippines, convictions finally achieved for Maguindanao massacre. <https://cpj.org/2019/12/philippines-convictions-maguindanao-massacre-ampatuan-journalists>

44 Carey, S. C., & Gohdes, A. R. (2021). Understanding journalist killings. *The Journal of Politics*, 83(4), 1216-1228.

4. Avenues to justice

Although it is tempting to present a list of requirements to successfully address impunity, we do not believe that this will result in a one-size-fits-all solution, given the divergent countries and contexts in which journalists are murdered. Nevertheless, we are convinced that there are common avenues to justice. We conclude this on the basis of our data analysis, which shows that the mix of democratic institutions and illiberal tendencies that makes hybrid countries so dangerous for journalists, also harbors the potential for justice. Several concrete avenues to justice underline the enduring possibility of triggering accountability - for example through institutions less affected by the poor state of the rule of law. While the implementation of these avenues differs across countries, we believe that the following data and case studies can offer valuable information for actors in this field engaged in justice initiatives for cases of murdered journalists.

Activating the segments of the legal system committed to upholding the rule of law

The fact that the rule of law is not absent, but flawed and unequally distributed in hybrid contexts offers clear opportunities for justice. Cases in which (complete) justice was achieved demonstrate the strategic use, or activation, of those legal institutions that remain competent, willing and/or committed to democratic norms and standards. These cases also illustrate that such institutions may be activated in different ways.

The following paragraphs describe several of those strategies, starting with the way in which central and specialized institutions can be used to circumvent local corruption and power abuse. In those cases, competent institutions without ties to the local causes of impunity are given control over, or incentivized to wield influence over specific cases. Secondly, competent but unwilling institutions may be activated through the use of public pressure. We elaborate on the effectiveness of mobilizing the public in the section below, and discuss the role civil society investigations can play in this regard. Lastly, justice may be set in motion by supporting institutions able to take decisive action - among others by contributing to the documentation of these crimes and the promotion of dialogue and knowledge-sharing among legal actors. In the following section, we unpack these avenues to justice.

The potential of central involvement

One of the most important avenues to justice responds to the finding that, in addition to 'hybridity' being dangerous for journalists, it has been shown that hybrid countries with high numbers of journalist killings are often large and decentralized. In such contexts, local authoritarian pockets foster a murderous context for journalists.⁴⁵ Examples of such contexts are Mexico, India, Brazil, and the Philippines, where the rule of law does not trickle down to each region in the same way. As described above, this enables impunity or partial impunity, for example because local law enforcement risks professional repercussions or threats when pursuing not only the material perpetrators, but also the powerful masterminds. While scholarship has thus already shown how the absence of central state authority can create a dangerous context for journalists, the question remains whether central state involvement affects the likelihood of justice.

There are multiple reasons to hypothesize that this is the case. Perhaps the most important one is that central institutions are generally harder to influence.⁴⁶ Central involvement can therefore insulate a case against influence by local actors and increase the possibilities of an impartial and thereby effective investigation.⁴⁷

45 Hughes, S., & Vorobyeva, Y. (2021). Explaining the killing of journalists in the contemporary era: The importance of hybrid regimes and subnational variations. *Journalism*, 22(8), 1873-1891.

46 Ingram, M. C. (2015). *Crafting courts in new democracies: The politics of subnational judicial reform in Brazil and Mexico*. Cambridge University Press.

47 Aguilar Jr, F. V., Mendoza, M. P., & Candelaria, A. L. K. (2014). Keeping the state at bay: The killing of journalists in the Philippines, 1998-2012. *Critical Asian Studies*, 46(4), 649-677.

Most examples of central intervention are not only implemented to distance a case from local interference with an independent investigation, but also to benefit from the expertise and resources of specialized agencies. One of the most prevalent examples of central intervention therefore concerns the establishment of a Special Prosecutor’s Office for Murders of Journalists or the training of specialized prosecutors.⁴⁸ These offices may either fully assume jurisdiction over a case, or support a running investigation at the local level. If successful, such an office can address multiple obstacles to justice in decentralized hybrid regimes. Its specific expertise should prevent common failures in investigations of murders of journalists, such as the lack of recognition of the link between the murder and the journalist’s work. Special Prosecutor’s units can also play a role in coordinating action across government actors.⁴⁹ This policy option has been implemented in several countries, including Mexico, Colombia, Guatemala, Iraq, Ukraine, Honduras and Somalia.⁵⁰

To assess the effect of central intervention, we complemented the CPJ-data on impunity with a variable on central intervention for three countries that have witnessed extraordinary numbers of journalist murders in the past decades: Brazil, Mexico, and the Philippines. We coded central intervention as one or more investigative actions taken by a federal or central institution.

Central intervention and justice

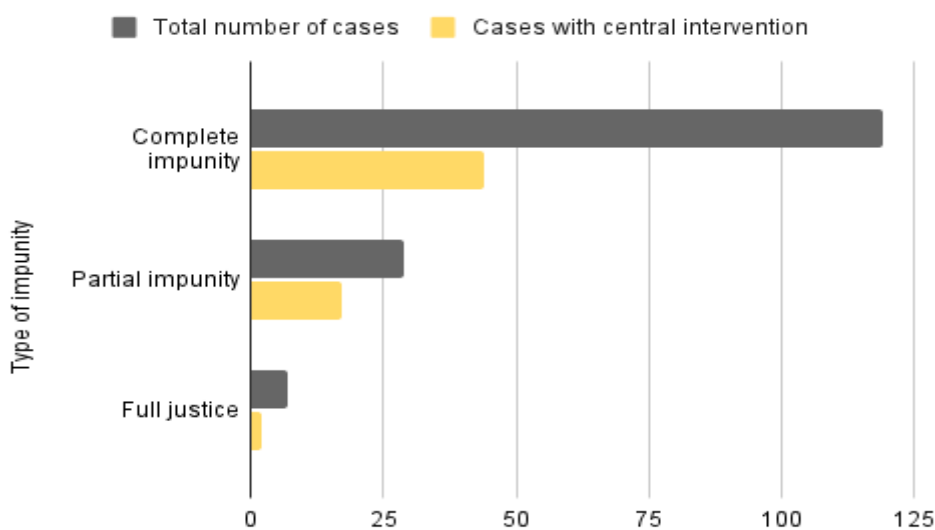


Figure 10. The association between central intervention and justice.

Figure 10 demonstrates that for Brazil, Mexico, and the Philippines combined, central intervention matters. At the same time, the figure clearly shows that central intervention is not a guarantee for justice given the number of cases that still results in complete impunity. However, in cases in which there has been a certain level of justice, acts of central intervention are more common. This difference is most prominent for the step from complete impunity to partial justice. The probability of reaching partial impunity without central intervention is 38 percent,

48 UNESCO. 2015. Prevent and Punish: In search of solutions to fight violence against journalists. P. 17. https://en.unesco.org/sites/default/files/prevent-and-punish_bertoni.pdf

49 United Nations High Commissioner for Human Rights. 2013. The Safety of Journalists. A/HRC/24/23. par. 56

50 UNESCO. 2019. Intensified Attacks, New Defences. P. 24. <https://unesdoc.unesco.org/ark:/48223/pf0000371487>; UNESCO. 2015. Prevent and Punish: In search of solutions to fight violence against journalists. https://en.unesco.org/sites/default/files/prevent-and-punish_bertoni.pdf; AA. 9 September 2020. Somalia moves to prosecute crimes against journalists. <https://www.aa.com.tr/en/africa/somalia-moves-to-prosecute-crimes-against-journalists/1968032>

while this is 62 percent when some level of central intervention has taken place. To see whether the association between central intervention and justice is statistically significant, a chi-square test of statistical independence was performed. Interestingly, when all three levels of justice are combined, the difference between central intervention and no central intervention is not significant. However, the difference between central intervention and no central intervention is statistically significant for the difference between complete and partial impunity.⁵¹ To conclude, there is evidence that in countries with a mix of democratic and undemocratic institutions, where a large number of journalist murders take place, central intervention is helpful to reach partial justice.

The value of specialized investigative forces has also been acknowledged in the 2020 Human Rights Council resolution on safety of journalists which includes a call upon States: *“(c) To develop and implement strategies for combating impunity for attacks and violence against journalists, including by, inter alia, (i) creating special investigative units or independent commissions, (ii) appointing a specialized prosecutor, and (iii) adopting specific protocols and methods of investigation and prosecution”*;⁵²

This added value in practice is also confirmed by Brazilian lawyer Diogo Flora, who undertook a study on impunity for journalist murders in Brazil: *“A factor of great importance was the participation of special bodies still in the investigative phase. Specialized homicide stations or inter-agency working groups are important because they reduce the risk of investigations being manipulated and offer better resources for police work.”* To capitalize on this avenue to justice, it therefore seems opportune to strengthen the capacity of specialized (central) investigative forces in countries with high impunity rates. For instance, by training national investigative forces on the international standards for investigation as set forth in the Minnesota Protocol.

Moreover, several other measures may increase the effectiveness of central involvement. Examples include the implementation and expansion of protection programs for journalists, as well as witnesses, lawyers and state officials involved in trials concerning murders of journalists.⁵³ Similarly, the promotion of nationwide guidelines for these cases helps ensure that specialized knowledge about murders of journalists trickles down to regional law enforcement.⁵⁴

Renata Neder, CPJ’s Brazil correspondent, adds that specialized homicide departments on state level seem to be less affected by corruption. However, she does note that the fact that a case is taken up by a specialized homicide department is not a guarantee for an independent, thorough and transparent investigation. It depends highly on the person responsible for investigating the case and on the perpetrator’s potential reach and influence. GAECO, the Brazilian central taskforce to investigate organized crime, does have a strong reputation for implementing independent and effective investigations.

Examples from Mexico and Colombia also underline the importance of the effective implementation of central involvement by ensuring sufficient resources, access to all information related to the local investigation, and support from other central government actors.⁵⁵ Moreover, as legal coordinator Raissa Carrillo from FLIP Colombia stressed, central authorities should properly consider their involvement to avoid the loss of evidence and issues around the preservation of witness testimony.

51 Technically, with a chi-squared test the null hypothesis is tested. The null hypothesis holds that the observed difference- in this case between intervention and no intervention - is due to chance alone. For the relationship between central interference and achieving partial justice, the null hypothesis can be rejected. This significance was observed on a 0.1 α -level. This means that there is less than 10 percent chance that the null-hypothesis was unjustly rejected and the difference between impunity and partial justice was the result of coincidence.

52 A/HRC/RES/45/1, adopted by the Human Rights Council on 6 October 2020, available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G20/260/18/PDF/G2026018.pdf?OpenElement>

53 UNESCO. 2019. Intensified Attacks, New Defences. p. 22. <https://unesdoc.unesco.org/ark:/48223/pf0000371487>

54 See for example the prosecutorial guidelines developed by UNESCO and the IAP for crimes committed against journalists (2021): <https://unesdoc.unesco.org/ark:/48223/pf0000375138>

55 CPJ. 2014. The Road to Justice: Breaking the Cycle of Impunity in the Killing of Journalists. p. 26. https://cpj.org/wp-content/uploads/2014/10/road_to_justice2014-english.pdf; Rely, J.E. & C.G. de Bustamante. (2017). Global and Domestic Networks Advancing Prospects for Institutional and Social Change: The Collective Action Response to Violence Against Journalists. *Journalism & Communication*, 19(2), p. 125



A protest in Buenos Aires. The banner reads: 'do not forget Cabezas'. Photo credits: Télam Agencia Nacional de Noticias

Public Pressure

During our investigations into cold cases of journalist murders, A Safer World for the Truth experienced that local press freedom organizations, lawyers, and other stakeholders systematically highlight the need for publicity and public pressure. Through their experience and by looking at emblematic cases, it can be clearly observed that public pressure or public outcry can make a decisive difference in achieving justice. It is hard to predict an exact formula for when public pressure is effective in triggering justice. For example, the level of societal outrage may depend on the frequency with which journalists are murdered in the country in question, or the degree to which a slain journalist was well known. Nevertheless, several key cases clearly show how public pressure can act as a powerful avenue to justice. The following sections illustrate several of the ways in which public pressure has been used to activate those state institutions and actors who are able to hold perpetrators to account, but failed to do so without public pressure and exposure.

One case where public pressure seemed to have made a decisive difference is the 1977 case of Argentinian journalist José Luis Cabezas, a photographer for the news magazine Noticias. Cabezas was one of the first photojournalists to take a picture of Alfredo Yabrán, a well-known and reclusive tycoon described as the head of the Argentine mafia. Cabezas' brutal murder evoked memories of killings in Argentina's "dirty war" of the 1980s and outraged citizens, who took to the streets in protest and pressured the government for a thorough investigation. Every day, the news bulletin closed with the message "no se olviden de Cabezas" ("do not forget Cabezas"). The Justice Minister Elijio Jassan had to resign after it became known that he had received phone calls from Yabrán and had made phone calls to Yabrán's bodyguards the day after Cabezas' murder. Numerous arrests have been made in connection with the murder resulting in the conviction of all perpetrators.⁵⁶

56 CPJ. José Luis Cabezas. <https://cpj.org/tags/joseluiscazas/>

A more recent case where public pressure proved effective is the murder of Ján Kuciak in Slovakia on 21 February 2018. As the murder of Ján and his fiancée was the first murder of a journalist in Slovakia since the country's independence and the shock in society was immense. As a result, thousands of people took to the streets in protests; the biggest since the end of communism.⁵⁷ These large scale protests and the European Union's and international community's response resulted in the resignation of prime minister Robert Fico and several others, such as Interior Minister Robert Kaliňák and Police President Gašpar. Ján's colleague Martin Turček told us at an FPU event in November 2018 that he thought that the international pressure on the case created a clear incentive for law enforcement to implement a proper investigation. Turček said that he believed that because of this, no one would dare to kill a journalist again in Slovakia.⁵⁸

The added value of media coverage is also underlined by Brazilian lawyer Diogo Flora who, when asked for his take on avenues to justice, said: "Another interesting thing is that, in the cases analyzed, whenever the media actively interfered in denouncing the attacks and in demanding a resolution from the authorities, this intervention was positive. [...] Due to this media pressure, their presence continues to be important as a way of discouraging new crimes from being committed."

Furthermore, in the judgement by the People's Tribunal on the Murder of Journalists - a grassroots justice initiative by FPU, RSF and CPJ - a recommendation is included on the need for building a community to address impunity effectively: "The Tribunal takes the view that the highly developed framework of laws and mechanisms, international, regional and state, for the protection of journalists is in general lacking one necessary element: the people. [...] This will require the development of a larger and more comprehensive alliance of those in the information- communication sector linking to a movement to protect journalists and to extend the space for free expression with other movements for freedom and justice."⁵⁹ This alliance of actors could work on convincing the public of the urgency of addressing impunity for journalist murders because it affects their access to information and vital functions of the state, such as the functioning of the rule of law. Without sustained pressure it is unlikely that structural changes will be implemented to ensure journalists are safe to do their work and keep society informed.

Another important added value of public attention to a case is that it can help fast track a case. For instance, based on the new evidence we found in the process of our investigation into Zubair Mujahid's murder, we have been trying to get his case reopened via the High Court of Sindh. To get the court to prioritize this case it is essential to garner public attention to the importance of reopening the case. Judges and prosecutors are independent but they do not operate in a vacuum. This is also illustrated by the potential represented by increased dialogue between journalists on the one hand, and judges and prosecutors on the other.

Dialogue between journalists and judges and prosecutors

To create more awareness among judicial actors of the importance of taking up cases of attacks and murders on journalists, facilitating a dialogue between judicial actors and journalists has proven to be useful. In some countries there may be animosity between these two groups, but in others it might just be a lack of awareness on the fact that because murders on journalists are attacks on democracy and therefore affect us all, priority should be given to address these cases. On the other hand, journalists also have a role to play in amplifying the impact of the work of judicial actors in this regard, covering these cases and the decisions and the consequences thereof. Especially with the steep rise of legal intimidation of journalists and the introduction of many harmful laws across the globe, there is a plea to be made that facilitating a dialogue between judicial actors and journalists on a larger scale is essential for the protection of journalists.

57 OCCRP. 2022. Four years after journalist's murder, Slovakia has changed. <https://www.occrp.org/en/a-journalists-undying-legacy/four-years-after-journalists-murder-slovakia-has-changed>; People's Tribunal on the Murder of Journalists. Testimony Pavla Holcova on 2 November 2021. <https://ptmurderofjournalists.org/witness-testimonies/>

58 Free Press Unlimited. 2018. The murder of Ján Kuciak and freedom of the press in Slovakia. https://kq.freepressunlimited.org/wp-content/uploads/2021/05/the-murder-of-jan-kuciak-and-freedom-of-the-press-in-slovakia_2018.pdf

59 Permanent Peoples' Tribunal. 2022. Full judgment People's Tribunal on the Murder of Journalists. <https://ptmurderofjournalists.org/documentation/>

UNESCO has worked since 2014 on increasing the awareness and knowledge of judicial actors on freedom of expression through the judges initiative.⁶⁰ Other actors such as civil society organizations could also play a role in bridging the gap between the two sectors to improve the legal protection of journalists.

Civil society investigations

Can investigations by civil society actors contribute to justice? To fight impunity, A Safer World for the Truth has conducted cold case investigations over the past three years. Even though this particular avenue is still in its infancy, the last years have provided lessons learned. Overall, the investigations have resulted in some tangible progress. However, the push for justice needs a sustained, multi-year commitment.

The first finding as a result of the investigations is that - generally - hybrid regimes constitute the most optimal contexts to add value with cold case investigations. While in autocratic regimes journalist murders are scarce, journalist murders in democracies often lead to justice. The room for improvement is therefore largest in hybrid regimes and fragile states. But the investigations also showed that the routes to justice are different in these two contexts.

A Safer World for the Truth has conducted an investigation in the Central African Republic (CAR), which underscored the challenges working on possibilities for justice with a cold case investigation in a textbook example of a fragile state. The investigation into the murder of Elisabeth Blanche Olofio (2013) - a radio journalist from the Central African Republic who reported about the advance of the Séléka rebels - resulted in convincing findings that Séléka-members had perpetrated the murder.⁶¹ However, in spite of these findings, the possibilities of filing a criminal complaint against members of Séléka remained futile due to the breakdown of CAR's justice system, the large number of uninvestigated crimes, and the fact that the government is at war with the (ex-)Séléka rebels. A defining feature of fragile regimes is that institutional avenues to justice are extremely limited, something that is not easily changed by a cold case investigation. Still, by no means should the careful documentation of witness testimonies be considered a wild goose chase, as future institutional changes might facilitate new opportunities for justice. Increased institutional capacity, turnover, and peace talks, can change these possibilities for the better. In the case of Elisabeth Olofio for example, the fact that the CAR Special Criminal Court recently became fully operational, may provide new avenues to secure the prosecution of the perpetrators.

The cold case investigations that were conducted in hybrid regimes bore more direct results. In Pakistan, our investigation into the murder of Pakistani journalist Zubair Mujahid led to the conclusion that the official investigation was erroneous and ineffective. The people who had the motive to murder Zubair Mujahid were never treated as persons of interest.⁶² As a result of the investigation, the family of Zubair Mujahid - together with their lawyers - filed a petition at the High Court of Sindh to reopen the investigation. The Safer World for the Truth investigation was used as an annex to the petition. Simultaneously, our investigation into the murder of Mexican journalist Regina Martínez Pérez was used to lobby at the Federal level for the attraction of the case by federal prosecutors (FEADLE).⁶³ In similar vein, our investigation into the murder of Gerry Ortega in the Philippines led to a concerted effort by a Safer World for the Truth and Philippine civil society organizations to advocate for the arrest of the alleged perpetrator. In this case, the lobby efforts were aimed at the Presidential Task force on Media Security and the Department of Justice. What these hybrid countries have in common is that there are institutional opportunities available to pursue justice.

60 UNESCO. 2022. AI and the Rule of Law: Capacity Building for Judicial Systems. <https://www.unesco.org/en/artificial-intelligence/rule-law/mooc-judges>

61 A Safer World for the Truth (2022). Telling the Story: Remembering Elisabeth Blanche Olofio. https://elefantmedia.b-cdn.net/aswfft/ASWFFT_report03_ENG_final.pdf?mtime=20220126194318&focal=none.

62 A Safer World for the Truth (2022). Telling the Story: Remembering Elisabeth Blanche Olofio. https://elefantmedia.b-cdn.net/aswfft/ASWFFT_report03_ENG_final.pdf?mtime=20220126194318&focal=none.

63 A Safer World for the Truth (2021) The murder of Regina Martínez Pérez, An opportunity for Justice. https://elefantmedia.b-cdn.net/aswfft/ASWFFT_report01_march15_digital.pdf?mtime=20210315095406&focal=none

5. Taking stock and moving forward

This report started with a dire message: journalist murders are rampant, especially in formally democratic countries. To add insult to injury, impunity is the norm in such cases and the instances of justice do not seem to automatically result in a less lethal environment for journalists. However, a silver lining is that the contexts that are inherently dangerous for journalists also embody important opportunities for improvement. Hybrid regimes suffer from a crippled infrastructure of accountability, but not a completely evaporated one.

Against the backdrop of this issue, this report has formulated avenues to justice that are relevant for these hybrid contexts. We thereby focused on the improvement of structural factors which can in turn also positively affect the safety of journalists. None of these avenues offer full solutions, but based on our findings we are convinced that they increase the likelihood of justice. Generally, these avenues work better in concert and can even be mutually reinforcing. This is illustrated by the murder of Nepali journalist Dekendra Raj Thapa, which was solved as a result of both positive political change at the federal level, in conjunction with strong civil society advocacy efforts and media attention. This mix of developments and actions taken has had a positive impact on other cases in Nepal as well.

Taranath Dahal - Chief Executive of the Nepalese Freedom Forum - illustrated that the political tailwind has resulted from the new (2015) Constitution of Nepal which has implemented multiple human rights treaties and allows Nepal's civil courts to open investigations on its own initiative. According to him, this power has been accompanied by a strong normative commitment towards human rights by the judges of these courts. Within this context, human rights organizations like Freedom Forum haven been fiercely advocating for a prioritization of investigating journalist murders, even cases like Dekendra Raj Thapa - who was murdered by Maoist cadres in 2004.

Nepal provides some concrete lessons about how the avenues to justice that we unpacked in this report can interact. Moreover, it is a hopeful reminder that in spite of the fact that fighting impunity is an uphill battle, impunity can be transformed into justice. We believe there are many more cases across the world that we can learn from. In this spirit, we call upon our colleagues and partners globally to collaborate in applying these strategies to attain justice in the many cases of murdered journalists still unsolved. Together we can make important steps to deepen our knowledge and experience in creating justice in the decade to come. Together, towards A Safer World for the Truth.

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