

Civil Society at the Helm

How CSOs can fight impunity for journalist murders through investigation-based advocacy strategies

About

Authors: Jos Midas Bartman, Evelien Wijkstra, Jasmijn de Zeeuw, Jules Swinkels.

For questions please contact the corresponding authors at bartman@freepressunlimited.org

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 in collaboration with the Committee to Protect Journalists and Reporters without Borders.

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1. Introduction

What can civil society organizations do when journalists are murdered and authorities fail to pursue the perpetrators? Four years ago, **Free Press Unlimited** (FPU) started an experimental project, 'A Safer World for the Truth', in collaboration with the Committee to Protect Journalists (CPJ) and Reporters Without Borders (RSF) to formulate an answer to this question. Our strategy: investigating cold cases of journalist murders to obtain the strong information position required to successfully advocate for justice. To make these investigation-based advocacy strategies work, this project brings together legal experts, human rights investigators, activists and investigative journalists all over the world. In the past years, we regularly encountered skepticism with regards to addressing impunity through CSO-led investigations. How can you achieve change in a terrain dominated by state actors and legal complexities, namely the prosecution of organized crimes? Our experiences in this project have shown us that beyond the letter of the law - according to which CSOs play no role in the prosecution of such crimes - there are strong windows of opportunities to contribute to justice. This report shines light on these opportunities, discusses the challenges we encountered, and shares examples from other CSOs and movements working towards justice as well.

Our approach relies on a convergence of forces: the persistence and long-term engagement of CSOs; the thoroughness and technical knowledge of lawyers; and the investigative and storytelling skills of journalists. Their role as non-state actors needs little elaboration given the consistent failure of states to end impunity - the impunity rate for journalist murders has been notoriously rampant (between 80 and 90 percent) for over two decades.¹ Of these three actors, CSOs have had a particularly visible role in the pursuit of justice for journalist murders.² CSOs have successfully lobbied governments, conducted advocacy campaigns for individual cases and filed cases at international courts. Moreover, they have demonstrated how important their investigative efforts can be. A key example is the killing of *Al Jazeera* journalist Shireen Abu Akleh, who was struck and killed by an Israeli bullet on 11 May 2022. Research group *Forensic Architecture* investigated the incident and found evidence that implicated Israeli military forces.³ The uncovered evidence was subsequently used by the family of Shireen in their submission of a formal complaint at the International Criminal Court (ICC).⁴

Similarly, investigative journalists have uncovered crucial findings in cases of journalist murders, such as the killing of Maltese journalist Daphne Caruana Galizia.⁵ With their reporting, journalists have been instrumental in provoking the public outrage that is needed to push authorities into action.⁶ They are excellent at exposing wrongdoing and reaching a wide audience, but typically do not have the mandate to advocate for a case in the long-term. For accountability to materialize, collaboration

1 For an analysis of this dynamic, see: Free Press Unlimited. 2022. An Uphill Battle: from impunity to justice for journalist murders. https://www.freepressunlimited.org/sites/default/files/documents/FPU_Impunity%20report_2022_0.pdf

2 For an overview of these cases, see the CPJ-database, accessible via <https://cpj.org/data/>.

3 Forensic Architecture. 2022. Shireen Abu Akleh; The targeted killing of a journalist. <https://forensic-architecture.org/investigation/shireen-abu-akleh-the-targeted-killing-of-a-journalist>

4 RSF. 2022. Shireen Abu Akleh's murder: RSF alongside Al Jazeera to support its complaint before the ICC. <https://rsf.org/en/shireen-abu-akleh-s-murder-rsf-alongside-al-jazeera-support-its-complaint-icc>

5 See e.g. the reporting of the Times of Malta: <https://timesofmalta.com/articles/view/new-evidence-links-former-police-officer-to-daphne-murder-leaks.868804>

6 See for examples: Free Press Unlimited. 2022. An Uphill Battle: from impunity to justice for journalist murders. https://www.freepressunlimited.org/sites/default/files/documents/FPU_Impunity%20report_2022_0.pdf, p. 25-26

with other actors such as CSOs, activists and lawyers, is decisive.⁷ Their involvement in the fight for justice for their colleagues is self-evident, but to get to justice, their findings require the convening power and mandate of CSOs, and the expertise and power of lawyers.

In our investigations for A Safer World for the Truth (some of which can be found [here](#)),⁸ we experienced the power of involving all of these actors from the start of our investigations first hand and made it the cornerstone of our approach. Working in a variety of countries, A Safer World for the Truth, consisting of an Amsterdam-based team and multiple investigative teams across the globe, investigated cold cases of journalist murders, and engaged in evidence-based advocacy and litigation. The project has for a large part been uncharted territory - at least to date, no handbook to reinvigorate cold cases of journalist murders exists.

This is a first attempt to document and share knowledge we gathered together with, and thanks to, our local and international partners including journalists, family members, legal partners and civil society organizations, who already built expertise in the reinvigoration of journalist murders. Written primarily for civil society organizations, this report outlines how advocacy strategies can be used to go from investigative findings about a journalist murder towards (steps to) justice. We hope this report will also lead to responses from the wider press freedom community, legal actors, and everyone interested in achieving change in this complex setting. In order to keep this document useful for a wide variety of actors, this document reviews four main strategies that civil society organizations have at their disposal to counter impunity using investigations. Rather than being exhaustive, this report looks at how and when these tools can best be used towards which actors, and provides an assessment of their costs and benefits. Chapter 2 contains a brief framework to introduce investigation-based advocacy, elaborated on using concrete examples in chapters 3 and 4, which respectively introduce conciliatory and confrontational strategies.

7 Lublinski et al. 2015. Triggering change – How investigative journalists in Sub-Saharan Africa contribute to solving problems in society. Access via: <https://kq.freepressunlimited.org/wp-content/uploads/2020/05/Spurk1.pdf>

8 See: <https://www.saferworldfortheworld.com/investigations.html>

2. **A framework** for investigation-based advocacy strategies

Reinvigorating cases of journalist murders is a complex undertaking. Generally speaking, new evidence generates new opportunities for justice. However, the relationship between evidence and reinvigoration is not always straightforward. In the A Safer World for the Truth-project, we have dealt with cases in which we collected strong new evidence about the murder, but were not able to transform these findings into an adequate opportunity for justice. Vice versa, we have conducted investigations that resulted in relatively weaker findings, but led to much more effect on the reinvigoration of the case.

For CSOs, who do not have a formal investigative mandate, the effect of investigative findings is always mediated by advocacy strategies. This evidence can improve the ability to collaborate with authorities, exert pressure on them, or catalyze legal strategies. Based on our own efforts - and those of our partners - over the past three years, we identify a range of variables that play a role in shaping the success of evidence-based advocacy strategies for CSOs: 1) Their information position; 2) Institutionalized commitment of the authorities; 3) The degree of mutual trust between the CSOs and the authority in question; 4) Access to networks and key actors; 5) Level of public outrage provoked by the murder; 6) Functioning of accountability mechanisms:

1) The information position of CSOs

Investigation-based advocacy strategies rely for a large part on the ability to acquire a strong information position. Throughout our work, we experienced how unearthing new evidence created a better information position vis-a-vis the authorities, which was critical in opening avenues for advocacy with these authorities. By evidence we mean rigorously collected data. These can be witness testimonies that shed new light on a murder case or on, for example, efforts by the police to sabotage the investigation. Evidence can also be more contextual and systematic, e.g. a systematic review of how and why certain institutions are failing to solve journalist murders, but should bring something new to the table.

2) Institutionalized commitment of the authorities

When setting out investigations-based advocacy strategies, it matters what the *de facto* commitment of authorities to end impunity is. Simply put: is there an institution you can address your information to? Are they likely to pick up the phone and listen to your findings? Institutionalized commitment comes in different forms and shapes: specialized or dedicated prosecutors, assigned (investigative) bodies, official priority for murders of journalists, and specific laws such as those federalizing crimes against journalists. This variable relies on both the capacity and the political willingness there is in a given context to combat impunity in cases of journalist murders.

3) The degree of mutual trust between the CSOs and the authority in question;

Connected to the institutionalized commitment of the authorities, it matters whether key decision-makers are perceived as trustworthy. Trustworthy here refers to the degree of will to cooperate, be transparent, and the perceived will to follow through on commitments. In some contexts, trustworthiness can sharply

contrast with the institutionalized commitment to justice: in countries with official policies about the protection of journalists you may be confronted with specific prosecutors who prove untrustworthy, while it is also possible to find trustworthy allies in extremely low-capacity contexts.

4) Access to networks and key actors;

It is not a given that CSOs have access to key actors and networks, which can prevent them from adopting certain investigation-based advocacy strategies. In general, the chance of successful advocacy - specifically strategies that we refer to as 'conciliatory strategies' in the remainder of this report - increases when you are a 'vested' CSO, instead of a newcomer on the block,⁹ and when you work in strong coalitions rather than alone.¹⁰ This increases a CSO's legitimacy and credibility.

5) Level of public outrage

Which investigations-based advocacy strategies are needed partly depends on the degree to which a specific journalist murder has caused strong public outrage. Levels of public outrage roughly depend on two factors: the status of the victim and the rarity of journalist murders in a given context. Most journalists who were murdered in 2022, for example, were local and nationally lesser-known journalists away from the political center.¹¹ Their murders are, regrettably, not met with the same kind of public outrage as murders of nationally known journalists, such as the murders of Daphne Caruana Galizia in Malta, Gauri Lankesh in India or Javier Valdez in Mexico. In contexts where journalist murders are rare, shock levels can also be expected to be high. A case in point is the murder of Ján Kuciak in Slovakia which resulted in large crowds taking to the streets to demand justice.¹²

6) Functioning of accountability mechanisms;

For the development of investigation-based advocacy strategies, it matters in general whether authorities perceive publication of findings about the case as a threat to their position. In other words: the extent to which they expect to be punished for their misconduct or inaction. Such accountability mechanisms come in different shapes: via elections, institutional checks and balances (e.g. the judiciary, parliamentary review, or specific oversight authorities), or the media. In certain contexts, authorities are virtually immune to any of these accountability mechanisms. Negative media attention does not lead to a shock effect in these contexts because the public is saturated with similar stories or has become cynical about political responses to scandals.¹³

A very negative or positive score on any of these variables can drastically affect the efficacy of certain evidence-based advocacy strategies. There are two overarching factors that have a profound effect on the interaction of these variables: regime type and state capacity. To provide an example of the above: it is hard to fathom a country with very low state capacity and the strong judicial infrastructure needed to follow up on commitments in cases of journalist murders. This is likely to render a public media campaign to urge authorities to reinvestigate a specific murder case ineffective. Using such pressure tools to

9 Sloof, R. (1998). Lobbying or Pressure? https://link.springer.com/chapter/10.1007/978-1-4757-5307-3_5.

10 Alexander, J., Elias, M. V. & Hernández, M. G. (2023). CSO Advocacy and Managing Risk in Hybrid Regimes: An Exploration of Human Rights Organizations in Colombia. <https://link.springer.com/article/10.1007/s11266-023-00601-y>.

11 Jennifer Dunham, CPJ Deputy Editorial Director (January 2023). Deadly year for journalists as killings rose sharply in 2022. <https://cpj.org/reports/2023/01/deadly-year-for-journalists-as-killings-rose-sharply-in-2022/>.

12 Committee to Protect Journalists. 2018. *Ján Kuciak*. <https://cpj.org/data/people/jan-kuciak/>.

13 Hoffman, A. M. & Kaire, J. (2020). Comfortably Numb: Effects of Prolonged Media Coverage. *Journal of Conflict Resolution*, pp. 1-27.

influence the authorities has limited effect, since the authorities simply do not have the capacity to act upon certain demands. A conciliatory institutional approach - where you for instance work to provide evidence to an understaffed and underfunded hybrid court - does provide an opportunity for justice. In an authoritarian context, a conciliatory attitude towards the authorities might not be very effective either, as the institutional commitment to combat impunity is generally low in such contexts.

Figure 1. Evidence-based advocacy strategies

| | | Positioning vis-a-vis the authorities | |
|---------------------|---------------------|---|---|
| | | Conciliatory | Confrontational |
| Level of engagement | Institutional | <ul style="list-style-type: none"> • Relationship-based advocacy • Capacity building • Advising and providing expertise | <ul style="list-style-type: none"> • Litigation • Strategic advocacy and pressure lobbying |
| | Extra-institutional | <ul style="list-style-type: none"> • Coalition-building with other CSOs • Task Force for Investigation of Crimes against Journalists • Mediating intervention of international actors such as Interpol | <ul style="list-style-type: none"> • Strategic publishing of investigative findings • People’s tribunals • Media campaigning • Activism • Naming & shaming |

Figure 1 provides an overview of the four different investigation-based strategies we distinguish in this report, based on the positioning of CSOs vis-a-vis the authorities and the level of engagement: Conciliatory institutional, conciliatory extra-institutional, confrontational institutional, and confrontational extra-institutional strategies. With authorities we refer to the domestic actors who can, within their own mandate, directly wield influence over the case and/or the broader issue of impunity for crimes against journalists at the national level. With institutional strategies, we refer to strategies that are directly targeted at these actors, while extra-institutional strategies do not use formal decision-making channels but operate outside them. With confrontational strategies we refer to strategies that involve openly confronting the authorities, either through coercive power (raising the costs of inaction) and/or by inducing reputational damage. Conciliatory strategies are aimed at raising the possibilities of - and sometimes rewards for - action through building constructive relationships, dialogue, and state capacity.

Naturally, different strategies are preferred in different contexts. However, within the given opportunities, the A Safer World for the Truth-project has used conciliatory institutional approaches as much as possible when considered effective. We changed strategy only when this approach was not possible or did not achieve sufficient progress, as we have found that these strategies yield the most durable results, with the biggest opportunity for spill-over to other cases of journalist murders. In order to clearly reflect on these strategies, we discuss these strategies in isolation, noting that in reality certain strategies are part of a larger civil society effort to achieve justice.

Using the variables outlined above, the upcoming paragraphs further deal with two main questions:

- 1) Under which conditions do these strategies become effective tools for justice in cases of journalist murders?
- 2) What are examples of such strategies?

3. When states cooperate: Conciliatory strategies

3.1 Conciliatory institutional strategies



Source: Bia Barbosa, RSF

Brazil's new National Observatory of Violence against Journalists, a justice ministry offshoot that will monitor violence against journalists and propose policies for preventing such violence, is the result of a conciliatory institutional strategy by several CSOs, including our partner Reporters Without Borders (RSF). Press freedom organization will participate in the Observatory's working meetings every two months, which will be attended by representatives of the security forces, the National Council of Justice and the National Council of the Public Prosecutor's Office, among others. The Observatory is a prime example of how CSOs can work together in high-trust relations with domestic state institutions to tackle shared issues and concerns.

Definition

Conciliatory institutional strategies are high trust-level strategies which rely on relational interaction with domestic state institutions. With regards to evidence-based advocacy strategies in cases of journalist murders, it includes sharing investigative findings, and leads with the authorities, engaging in advocacy building on these findings.

Examples

During the implementation of the A Safer World for the Truth-project, we have used this strategy successfully on multiple occasions. Together with our partners in Brazil, during our investigation into

the murder of Pedro Palma,¹⁴ we managed to build meaningful trust-relationships with prosecutors and police officers, which enabled us to get access to the case files of the investigation. These files had been withheld from the family for ten years. This relationship also allowed us to engage in relationship-based advocacy: receiving regular updates from prosecutors of the public ministry, being able to suggest investigative acts (which prosecutors complied with), and lobbying for prioritization.

Throughout our project we engaged in a plethora of actions as part of conciliatory strategies. In Brazil, we engaged with the Observatory of Violence Against Journalists and Communicators, which was established after Lula's Presidential victory in January 2023 under the Ministry of Justice and Public Security.¹⁵ At the Observatory, we used our findings in the murder of Pedro Palma to lobby for standardized guidelines in investigating journalist murders. In Kenya we have engaged continuously with the Office of the Director of Public Prosecutions (ODPP) and the Independent Police Oversight Authority (IPOA) to spur the investigation into the murder of a Kenyan journalist. Using our network, we were able to have certain leads investigated and gain a seat at the table with both these institutional actors. In Mexico we submitted evidence, including unique witness testimonies, to a specialized federal prosecutor in four murder cases, thereby assisting authorities with concrete pieces of evidence to achieve progress in a case that was considered cold until we started our investigation.

Our investigation into the murder of Elisabeth Blanche Olofio in the Central African Republic (CAR) shows that legal action can also be part of a conciliatory approach. While the CAR's legal system is largely ineffective - in the whole of 2019, only 20 criminal cases were concluded throughout the whole country - the hybrid Special Criminal Court (SCC) of the CAR offered an opportunity for collaboration.¹⁶ We shared our findings with a prosecuting authority from the SCC who recommended us to submit a complaint at the SCC through a CAR-based lawyer representing the family. The official specifically noted that they welcome well-investigated CSO efforts to complement the SCC's own investigative capacity, highlighting susceptibility on the part of institutions to work on the basis of CSO-collected evidence.

In Mexico, we submitted evidence, including unique witness testimonies, to a specialized federal prosecutor in Mexico in four murder cases. In March 2023, following lobbying by family members, the federal prosecutor publicly agreed to review the combined case file together with 11 other murder cases from the state of Veracruz. In the Philippines we lobbied key legal actors using findings from our investigations, leading to the reinstatement of an arrest warrant in 2022 against the intellectual author of the murder.

Context & conditions

The three main factors that have underpinned conciliatory institutional strategies were the institutionalized commitment of the authorities to tackle impunity, the access to key actors and the relative trust between these actors and us. To start with the first factor, in Brazil our investigation into the murder of Pedro Palma laid bare transparency issues and chain of custody violations, but was far from botched and revealed some degree of commitment to make progress in the case.¹⁷ In the case of an investigation into the murder of a Kenyan journalist, we suspected police involvement in the murder. The presence of IPOA, which is mandated to investigate police misconduct, represented an institutional commitment to tackle impunity.¹⁸

14 A Safer World for the Truth (2022). *The Case for Transparency : Opportunities for Justice in the Case of Pedro Palma and Beyond*. https://elefantmedia.b-cdn.net/aswftt/ASWFTT_report_30march_ENG.pdf.

15 Reporters Without Borders. 2023. *RSF helps create Observatory of Violence against Journalists in Brazil*. <https://rsf.org/en/rsf-helps-create-observatory-violence-against-journalists-brazil>.

16 A Safer World for the Truth (2022). *Telling the Story: Remembering Elisabeth Blanche Olofio*. <https://www.saferworldforhetruth.com/investigations/elisabeth-blanche-olofio>; Amnesty International (22 October 2020). *Central African Republic: While many 'people are hungry for trials' some warlords walk free*. <https://www.amnesty.org/en/latest/news/2020/10/central-african-republic-many-people-hungry-for-trials/>.

17 A Safer World for the Truth (2022). *The Case for Transparency : Opportunities for Justice in the Case of Pedro Palma and Beyond*. https://elefantmedia.b-cdn.net/aswftt/ASWFTT_report_30march_ENG.pdf.

18 Independent Police Oversight Authority. 2023. *The IPOA Act Mandates the Authority to Undertake the Following Key Actions*. <https://www.ipoa.go.ke/ipoa-profile/>.

With regards to trust in these institutions, our lawyer in the Kenyan case was convinced that talks with IPOA, in which we highlighted certain failures in the investigation, could lead to new investigative action. Our lawyers in Brazil were convinced that talks with a prosecutor of the *Grupo de Atuação Especial de Combate ao Crime Organizado* (Gaeco), a section of the Public Ministry that is equipped to prosecute complex cases of organized crime,¹⁹ could bear fruit. In both cases, this increased our initial trust in conciliatory talks with the authorities. This trust was further bolstered by the fact that in both cases, the authorities were willing to follow up on certain investigative leads that we proposed. In terms of access to these institutions, our lawyers were crucial. However, in both instances our lawyers also indicated that the effectiveness of our meetings were also the result of our status as an international organization.

The information positions of CSOs are also relevant for conciliatory institutional approaches. Trust in certain institutions also means trust in the fact that they can follow up on certain information. Thereby, more concrete evidence and leads can provide these institutions opportunities to engage in concrete actions. The level of shock and the existing accountability mechanisms are less relevant, since they presuppose a level of distrust by which these institutions can be held accountable for inaction, either by other institutions or indirectly via the public.

An important note that is especially relevant for conciliatory institutional strategies, is that trust does not equal effectiveness immediately. The investigation into the murder of Pedro Palma was also handled by a specialized homicide department and the federal Public Ministry. This also gave us an opportunity to lobby on different fronts and look for the most trusted partner. Ultimately, it turned out that lobbying at the local police level was decisive in getting access to case files and lobbying at the Public Ministry was the most effective way to get the authorization for the pursuit of certain investigative leads. Having knowledge of different pressure points and having access to different administrative levels is thereby important. In our case, participating as an international organization was also crucial to gain access to certain authorities?

19 Ministério Público Federal. 2023. GAECO. <https://www.mpf.mp.br/atuacao-tematica/gaeco>

3.2 Conciliatory extra-institutional strategies



Our local partners organized a press conference on the murder of Pakistani journalist Zubair Mujahid which was attended by several high-ranking political figures, including the Chief Minister of Sindh and his most important advisor Murtaza Wahab, as well as the spokesperson of the Prime Minister, Fahd Husain (picture above). During the event, Mr Husain publicly acknowledged that the case of Zubair Mujahid deserves a fresh investigation, and the A Safer World for the Truth-coalition has requested the Prime Minister to raise a judicial commission that can oversee this reinvestigation. This event and the subsequent creation of the Task Force on Journalist Murders were an important part of our conciliatory extra-institutional strategy.

Definition

Conciliatory extra-institutional strategies also target domestic state actors, but do so indirectly and outside formal-decision making procedures. These strategies require mediation by actors from another state, international organizations and/or individuals with great political or symbolic influence on the target state.

Examples

In Pakistan, we used this strategy during our investigation of the case of Zubair Mujahid, which was presented during a symposium about impunity for crimes against journalists. We invited several key state actors as well as influential individuals to the symposium such as well-known journalist Hamid Mir, who participated online. Their presence significantly raised the profile of, and attention for, our findings. At this event, the spokesperson of Pakistan's prime minister vouched his support for a reinvestigation of the case.²⁰ In order to gain more strategic benefits from the existing yet fragmented extra-institutional networks, we initiated the establishment of a Pakistan Taskforce against Impunity with local partners. The Task Force consists of a roster of experts - that can provide expert input during investigations into

²⁰ See: Free Press Unlimited (12 December 2022). Symposium: Ending Impunity for Crimes against Journalists. <https://www.freepressunlimited.org/en/current/symposium>

journalist murders - and civil society actors such as press clubs, bar associations, former politicians, judges and journalists. The goal of the task force is to unify existing relevant actors who can speak with a united voice towards the authorities in cases of journalist murders, whereby investigations are monitored and expert input can be delivered during investigations.

External (specialized) institutions can also be instrumental in mediating with states on capacity issues. When findings of a cold case investigation point at the need for specialized expertise, the development of a special investigative protocol or need for an independent reinvestigation, actors like Europol, Interpol or foreign police services can open the path to reinvestigation. For example, Interpol deploys Investigative Support Teams on the request of state authorities to expedite crime investigations.²¹ Their formal mandate and powers enable enforceable investigative action and cooperation with the state in question that cannot be conducted by CSOs and journalists alone.

These are typically conciliatory collaborations, as states need to request or consent to their support or intervention (e.g. in the case of engagement by Europol and Interpol).²² CSOs and journalists can stimulate this by lobbying the state in question to seek external intervention or by collaborating with the intervening institutions.²³ Well-known cases of investigations of murders of journalists in which Europol intervened are those of Maltese journalist Daphne Caruana Galizia and Slovak journalist Ján Kuciak.²⁴ In the case of Kuciak, pressure on the Slovak government to request the intervention by Europol was heightened by a public call from members of the European Parliament and European Commissioner Julian King.²⁵

Lastly, an example of a long-term approach could be requesting UNESCO to mediate by offering police training on investigating crimes against journalists.²⁶ This can be an outcome of an investigation of a journalist murder, as demonstrated in the cases of Brazilian journalist Pedro Palma and Greek reporter Sokratis Giolias, where we found that police tend to repeat the same mistakes during investigations into this specific crime.²⁷

Context & conditions

These strategies worked best in medium trust contexts: when there was openness from authorities to our findings, but the message is best delivered by someone else. These are contexts in which states have, to some extent, committed to justice in cases of journalist murders, but access to crucial state actors is frail and dependent on political developments (e.g. Pakistan, which has signed the UN Plan of Action on the Safety of Journalists, but lacks institutional commitments such as a special protocol or prosecutor). Here, 'intermediaries' can unlock key networks and actors because they carry stronger legitimacy due to their state affiliation or specific expertise, a better relationship with the targeted state authority, or can offer something we cannot (e.g. police assistance). In other words, the trust level between them and the state authorities we want to target is higher, increasing the likelihood of success. Other relevant contexts are those in which institutionalized commitment differs between various political levels: in Pakistan, the case of Zubair Mujahid was stuck at the local level, while political will at the central level could be mobilized.²⁸

21 Interpol. *Investigative Support Teams*. https://www.interpol.int/content/download/632/file/IST_ProjectSheet_2018-01_EN_LR.pdf

22 Constitution of the ICPO-INTERPOL. <https://www.interpol.int/content/download/590/file/01%20E%20CONSTITUTION%2011%202021.pdf>

23 This can be done publicly as well (closer to a confrontational approach), see e.g. <https://rsf.org/en/greek-crime-reporter-s-murder-do-authorities-have-something-hide>.

24 Guardian (27 April 2018). Europol warns of hurdles in Daphne Caruana Galizia case. <https://www.theguardian.com/world/2018/apr/27/europol-warns-of-hurdles-in-daphne-caruana-galizia-case>; the Slovak Spectator (6 February 2020). IT experts testified on Threema, Kočner had many questions <https://spectator.sme.sk/c/22319713/kuciak-murder-trial-europol-expert-brought-to-court.htm>.

25 European Parliament on the murder of Slovak journalist Ján Kuciak: <https://www.europarl.europa.eu/news/en/press-room/20180309IPR99421/murder-of-jan-kuciak-meps-urge-eu-investigation-actions-to-protect-journalists>.

26 UNESCO. Training security forces and the judiciary on freedom of expression. See: <https://www.unesco.org/en/freedom-expression-rule-law/training-security-forces-judiciary>

27 A Safer World for the Truth (2023). *The Case for Transparency: Opportunities for Justice in the Case of Pedro Palma and Beyond*. <https://www.saferworldforthetruth.com/investigations/pedro-palma>; A Safer World for the Truth. Impunity in Europe: the Uninvestigated Murder of Greek Journalist Sokratis Giolias (2023). <https://www.saferworldforthetruth.com/investigations/sokratis-giolias>;

28 On the strategy of central intervention, see: Free Press Unlimited. 2022. 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. https://www.freepressunlimited.org/sites/default/files/documents/FPU_Impunity%20report_2022_0.pdf

The involvement of a respected, external authority increases the costs of non-action for the state. At the same, the assistance or expertise offered lowers the threshold for the state to take action in the case at hand.

Three conditions determine the success of this strategy. Firstly, there must be receptiveness to the message among the state authorities able to influence the progress in the case. This can be determined by precedents; is the state in question susceptible to, e.g. intervention by actors in regional organizations (see e.g. EU Commissioner Vera Jourova's public commitment to monitoring the investigation of the murder of Daphne Caruana Galizia),²⁹ have judicial actors proven open to mediation by peers from other countries and/or is the state a member of international fora such as the Media Freedom Coalition that could provide an entrypoint. Secondly, a suitable intermediary must be available. The benefit of these strategies vis-a-vis institutional conciliatory approaches is the distance it creates between the CSO and the targeted state authority, which preserves both parties' credibility and limits the risk of damage when the strategy is unsuccessful.³⁰ This is only effective when the intermediary's objectives on the case are aligned with ours, and when a good relationship exists.

Lastly, the intermediary has to play a facilitating role, but the strategy must include a pathway for CSOs to remain involved and eventually join the table. One-off engagements are unlikely to result in sustainable progress on the case, and intermediaries typically lack sufficient incentive to actively follow the case.

29 Massimo Costa (7 October 2019). 'I will keep my promises to Caruana Galizia family' - Vera Jourova. https://www.maltatoday.com.mt/news/national/97904/i_will_keep_my_promises_to_caruana_galizia_family__vera_jourova.

30 See Van Wessel et al. 2019. Government and civil society organizations: Close but comfortable? Lessons from creating the Dutch "Strategic Partnerships for Lobby and Advocacy". <https://onlinelibrary.wiley.com/doi/full/10.1111/dpr.12453>

4. Speaking truth to power: Confrontational strategies

4.1 Confrontational institutional strategies



Based on our findings into the investigation of the murder of Pakistani journalist Zubair Mujahid, who is pictured here, we petitioned the High Court of Sindh to reinvestigate his murder.

Definition

Confrontational strategies use coercive or *name and shame*-tactics to move domestic state actors into action following their negligence or wrongdoing in the case of (the investigation of) a journalist murder. Confrontational institutional strategies are directly targeted at domestic state actors within formal decision-making proceedings. Therefore, they typically involve litigation, or (threats of) direct actions in meetings with government representatives. All other confrontational strategies, such as public campaigns, are typically extra-institutional.

Examples

To date, we only applied these strategies in the Safer World for the Truth-investigations by initiating legal action. In Pakistan, we realized that requesting reinvestigation at the local police office would not result in an adequate outcome, as our investigation showed their role in sabotaging the original investigation. Therefore, a confrontational legal strategy that could yield independent and binding results was sought: requesting a reinvestigation via the High Court of Sindh. These proceedings are ongoing, but because of an interim change of the composition of the bench of the Court, we halted our petition as a positive decision became unlikely. This process will be reinstated, but this development highlights the potential long-term duration of confrontational legal strategies which can pose a challenge for CSOs.

Another legal option is participating in criminal proceedings as a private prosecuting party, as is possible in for example Brazil.³¹ This enables private parties, in this case family members represented by lawyers

31 Provision n° 188/2018 from the Brazilian Bar Association

and/or CSOs, to directly add evidence in the legal proceedings against the suspected perpetrators of the crime. While requiring resources and time, it can be a suitable confrontational strategy when there are serious risks that the public prosecutor will not present all available evidence or the investigation is otherwise obstructed by law enforcement authorities.

A legal route that we have not used in our Safer World-cases yet, is the pursuit of justice in courts at the regional or international level. Key avenues for cases involving a journalist murder are the European Court of Human Rights, the Inter-American Court of Human Rights, the African Court of Human and Peoples' Rights and the ECOWAS Court of Justice.³² If the case in question meets the criteria of one of the international crimes included in the Statute of Rome, filing a complaint at the International Criminal Court is another possibility.³³ Previously, such complaints have been filed in the cases of Afghan journalist Yama Siawash and Palestinian journalist Shireen Abu Akleh.³⁴ This is a long-term confrontational institutional strategy, as these legal mechanisms require exhaustion of domestic remedies in most cases.³⁵ For results in the shorter term it could be useful to pursue this strategy as well, because initiating a case can put significant public pressure on a State which has accepted the jurisdiction of the Court.

Lastly, confrontational institutional strategies can function as one step before escalating to a confrontational extra-institutional strategy (such as a public naming and shaming-campaign). In this scenario, it can be strategic to hold off on publication of the findings from the investigation of the case, and use this as leverage in meetings with domestic state actors. If the findings are sufficiently incriminating or otherwise threatening to their position, this can add the pressure required to move them into action on the case. If they still do not follow through, you retain the possibility of publishing the findings.

Context & conditions

If they succeed, confrontational institutional approaches can deliver stronger and more binding results than conciliatory approaches, but they are not without risk. Litigation outcomes are unpredictable, and can, in some countries, also be influenced by weaknesses in the judiciary. Moreover, the (long-term) success of direct threats requires credibility - you need to be willing and able to follow through on the threat. If the situation is not ripe for this type of confrontational action, it can be hard to go back to more conciliatory approaches, especially if you antagonize specific institutional actors in the process.

We find that the following variables determine whether a confrontational institutional approach can be successful. Firstly, these strategies typically require a strong information position. Particularly when legal action is aimed at enforcing a reinvestigation through the court, the evidence collected should reveal new facts about the case, collected in line with legal standards.³⁶ Legal action aimed at accountability also needs to be attributable to specific individuals and/or institutions. If the investigation has mostly brought systemic failures or capacity issues to light, conciliatory strategies are typically more suitable.

32 See case law from the IACtHR (Inter-American Court of Human Rights. *Carvajal Carvajal et al. v. Colombia*. Judgment of 13 March 2018; Inter-American Court of Human Rights. *Manuel Cepeda Vargas v. Colombia*. Judgment of May 26, 2010. Series C No.213; African Court of Human and Peoples' Rights, *Beneficiaries of Late Norbert Zongo, Abdoulaye Nikiema alias Ablassé, Ernest Zongo and Blaise Ilboudo & the Burkinabè Human and Peoples' Rights Movement v Burkina Faso*, Appl. No. 013/2011, Judgment, 28 March 2014; ECOWAS Court of Justice, *Deyda Hydara Jr. and Others v. The Gambia*, Case No. ECW/CCJ/APP/30/11 (2014)

33 Victims can file a complaint with the Office of the Prosecutor, who is authorized to initiate an investigation in accordance with the Rome Statute of the International Criminal Court, <https://www.icc-cpi.int/sites/default/files/RS-Eng.pdf>

34 Bethan McKernan (2022). Shireen Abu Akleh: Al Jazeera submits new evidence to ICC. <https://www.theguardian.com/world/2022/dec/06/shireen-abu-akleh-al-jazeera-submits-new-evidence-to-icc>.

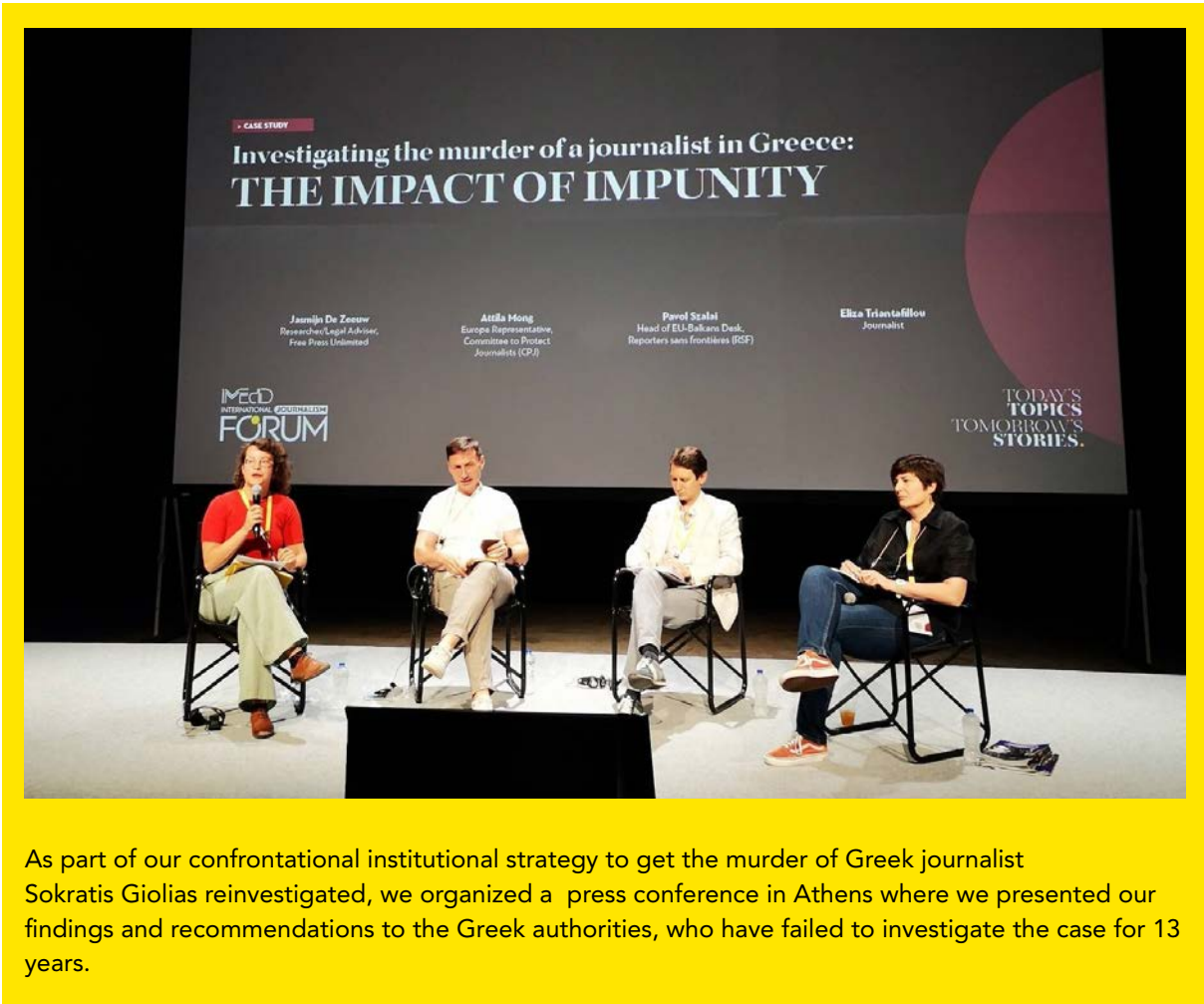
35 See for an overview: <https://ijrcenter.org/exhaustion-of-domestic-remedies/#:~:text=The%20term%20E2%80%9Cexhaustion%20of%20domestic,complaint%20to%20the%20international%20level>.

36 Several guidelines exist for CSOs who engage in collecting evidence of grave human rights violations and crimes, including: PILPG. 2016. *Handbook on Civil Society Documentation of Serious Human Rights Violations*. https://www.vu.nl/nl/Images/PILPG_Handbook_on_Civil_Society_Documentation_of_Serious_Human_Rights_Violations_Sept_2016_tcm289-785328.pdf

Secondly, these strategies require specific types of access. For legal action to lead to useful results, CSOs need to be able to commit to the case long-term, or seek coalition partners who can. Moreover, threats issued directly at state actors require medium-trust situations. This strategy works best in scenarios when your conversation partner is responsible for the case by mandate, but not by their own wrongdoing. For example, issuing a threat to publicize about a local police force’s role in the murder of the journalist in a meeting with the national head of police can add sufficient pressure to this official to intervene, while enabling them to prevent loss of face for themselves.

Lastly, confrontational institutional strategies, and in particular litigation, require consequences for the authorities in case of non-compliance. Legal action only makes sense if a negative decision by the judiciary is either likely to be implemented by the authorities, or if ignoring the judgment would lead to substantial public outrage and backlash. In other words, your threat or legal action needs to realistically increase the costs of inaction for the state in question. This can be estimated based on precedent, or tested by slowly escalating this approach, e.g. by first releasing part of the incriminating evidence to demonstrate that the public can be mobilized for the case at hand.

4.2 Confrontational extra-institutional strategies



Definition

Confrontational extra-institutional strategies indirectly target domestic state actors by exposing injustices or wrongdoings, thereby adding pressure on state actors to act. This is usually done by mobilizing public outrage, and/or by incentivizing international actors or (other) central government actors to intervene.

Examples

In the cases of Pakistani journalist Zubair Mujahid, Central African journalist Elisabeth Blanche Olofio, and Greek journalist Sokratis Giolias we organized public events to present our findings and recommendations.³⁷ In the Philippines, our investigation was used in a public campaign against former Palawan governor Joel T. Reyes after we presented serious allegations that he ordered the murder.³⁸ In 2021, it became known that Reyes was running for governor once again in the 2022 gubernatorial elections. Our findings were used by the Ortega family, and local press freedom organizations and the Philippines' Union of Journalists (NUJP) to initiate a public media campaign against Ortega, which contributed to him not only losing the elections, but also to his retroactive disqualification from the elections by the Commission on Elections (Comelec).³⁹

One of the confrontational extra-institutional strategies we initiated was the *People's Tribunal on the Murder of Journalists*, which took place between November 2021 and September 2022.⁴⁰ To demonstrate that pursuing justice for journalist murders in court is possible, and to expose states who fail to do so, we organized five hearings in a formal court setting.. Over fifty witnesses testified in three main case hearings and one overview hearing. Case files were compiled and publicly presented by the Prosecutor of the Tribunal in the cases of Mexican journalist Miguel Ángel López Velasco, Sri Lankan journalist Lasantha Wickrematunge, and Syrian journalist Nabil Al-Sharbaji.⁴¹ On the one hand, the Tribunal served as a form of alternative justice, paying tribute to journalists who have lost their lives and providing a platform to their families, colleagues and friends who have not been able to testify in a formal court of law. On the other hand, the Tribunal was a form of public *naming & shaming*, using the model of a court hearing to legitimize its findings and draw attention to the evidence collected.

37 See also the documentary that was made in Pakistan about the murder of Zubair Mujahid: <https://www.youtube.com/watch?v=2VHZ8ArUCfw&list=PLtUs42nCDjcmsxfzqjJBeusUYdUHW0oQH&index=4&t=3s>

38 A Safer World for the Truth (2022) The murder of Gerry Ortega: Justice delayed; justice denied. <https://www.saferworldforthetruth.com/investigations/gerry-ortega>.

39 Dwight de Leon (January 2023). Comelec disqualifies defeated 2022 Palawan gubernatorial bet Joel Reyes. <https://www.rappler.com/nation/luzon/comelec-disqualifies-2022-palawan-gubernatorial-bet-joel-reyes/>.

40 See for all materials and hearings: <https://ptmurderofjournalists.org/>.

41 For all documentation of the Tribunal: <https://ptmurderofjournalists.org/documentation/>



Family members and colleagues of journalists murdered in reprisal for their work, at the closing hearing of the People's Tribunal on the Murder of Journalists on 19 September 2022.

The Tribunal attracted attention from (international) press, state representatives and international organizations, and received appreciative feedback from family members and colleagues of murdered journalists. The evidence collected was shared with several formal bodies, including the OHCHR Investigation on Sri Lanka and the Federal Prosecutor for crimes against journalists in Mexico, FEADLE. Its testimonies and findings have been recorded in a formal judgment presented by the Permanent Peoples' Tribunal.⁴²

Protest is one of the most successful and visible forms of confrontational extra-institutional action. Well-known examples in cases of journalist murders occurred in Malta, Slovakia and Argentina. For example, in the case of the murder of Slovak journalist Ján Kuciak and his fiancée Martina Kušnírová, who were assassinated because of Kuciak's high level corruption investigations, mass protests erupted, the biggest since the Velvet Revolution which toppled communism in Czechoslovakia.⁴³ Over 60.000 citizens took to the streets, resulting in the fall of the government two weeks later.⁴⁴ On their own, these strategies are not automatically effective in the long-term, but they can be important factors for the authorities to weigh in their immediate response to these crimes. A strong example of a public campaign that mobilized public support several years after the murder, is the video of Mexican reporter Javier Valdez, created using deep fake technology three years after the murder.⁴⁵

Conditions & context

In societies where journalist murders occur regularly, findings have to be sufficiently novel and/or shocking to trigger a public response and/or an immediate response by authorities. The information should be such

42 Permanent Peoples' Tribunal. Judgment on Impunity for the Systematic Murder of Journalists (2023). <https://permanentpeopletribunal.org/the-permanent-peoples-tribunal-judgment-on-impunity-for-the-systematic-murder-of-journalists/?lang=en>

43 The Guardian (2018) Death of investigative journalist sparks mass protests in Slovakia. <https://www.theguardian.com/world/2018/mar/09/death-of-investigative-journalist-sparks-mass-protests-in-slovakia>.

44 Balkan Insight (5 August 2020). Jan Kuciak: A Murder that Changed Slovakia. <https://balkaninsight.com/2020/08/05/jan-kuciak-a-murder-that-changed-slovakia/>

45 Aldia News. 2022. 'Clarify this crime': Mexican journalist resurrected with artificial intelligence. <https://aldianews.com/en/culture/heritage-and-history/mexico-seguimos-hablando>

that authorities are no longer able to ignore the issue. Whether this mechanism functions, also depends on the level of media attention you are able to attract with the findings. Typically, and unfortunately, well-known or nationally operating journalists are more likely to draw this type of attention. The degree to which you need unique or compromising information may therefore be higher if the strategy aims to address impunity in the case of a lesser known journalist. Also, negative media attention has more effect against the backdrop of other functioning mechanisms; during upcoming elections, authorities are likely to be more vulnerable to negative publicity.⁴⁶

Moreover, these strategies are typically employed in low-trust situations, where no fruitful outcome is expected from conciliatory dialogue with government actors. For example, our findings in the investigation of a journalist murder in the Kurdish Region of Iraq pointed to direct involvement of the ruling Barzani family in the murder.⁴⁷ Working with Kurdish authorities was therefore out of the question. Similarly, the institutionalized commitment to prosecution of journalist murders is typically low in these situations. However, these strategies can also be aimed at, or have the side goal of, providing backing to individual actors in the justice system who are willing and able to pursue justice. Raising the public attention and profile of the case can help those actors (e.g. individual prosecutors or judges) withstand pressure from other government actors aiming to obstruct the proceedings.

Lastly, these strategies require some degree of functioning accountability mechanisms: authorities need to have something to lose following increased public and international pressure.⁴⁸ Depending on the source of this pressure, the strategy (e.g. its audience or form) can be adapted to heighten the costs of inaction for the authority in question.⁴⁹ For example, states who have ratified binding international mechanisms may face more threat from those mechanisms than their domestic electorate. These solutions require broad diplomatic support and generally take time to implement.

46 Gamboa, L. (2023). How Oppositions Fight back. *Journal of Democracy*, 34:3, pp. 90-104.

47 A Safer World for the Truth. (2022). The Assassination of Sardasht Osman: Debunking the Official Story. <https://www.saferworldfortheworld.com/investigations/sardasht-osman>

48 Innovation for Change. Analyzing the Political Space and Its Impact on Your Advocacy Strategy. <https://advocacy.knowledgesouk.org/analyzing-the-political-space-and-its-impact-on-your-advocacy-strategy/>

49 See for example: Oxfam's 'Behind the Brand' campaign, through which the organization consistently exerts pressure on major food corporations by exposing their supply chains. <https://www.behindthebrands.org/>.

5. Conclusion: collaborating on a Safer World for the Truth

“When finally I am killed, it will be the government that kills me. I hope my assassination will be seen not as a defeat of freedom but an inspiration for those who survive to step up their efforts.”

- Sri Lankan journalist Lasantha Wickrematunge in a letter written before his assassination on 8 January 2009

As many organizations, activists and relatives all over the world have experienced, getting justice for journalist murders resembles fighting a multi-headed beast. Long judicial processes, complex structural problems, and powerful adversaries turn the path to justice into a long road with many obstacles and challenges. But, above all, it is a fight worth fighting. We owe it to the memory of people like Lasantha, Daphne, Pedro, Gerry, Zubair, Elisabeth and many others, who did not bow down to pressure and defeat. Who recognized that if they would stop writing, their audiences would not never get to know the truth. Their colleagues deserve a Safer World for the Truth.

Efforts to advocate for justice in a case of a journalist murder have been ongoing across the world for many years, and the approach we have outlined in this report - *investigation-based advocacy strategies* - should be seen as part of a wider civil society effort to achieve justice. This report has shared some of the tools we have learned from, and developed together with our partners, in hopes that they may inspire others who seek to find answers in a (cold) case of a journalist murder, and want to leverage states into action. Of course, in practice, we applied many of the described strategies in tandem, or escalated slowly from conciliatory to confrontational. In the cases we worked on to date, we have found that it seems preferable to start with conciliatory institutional approaches when possible. We changed strategy only when this approach was no longer possible - for example, when authorities did not follow through on their commitments - or did not achieve sufficient progress, because we experienced that these strategies yield the most durable results, with the biggest opportunity for spill-over to other cases of journalist murders.

Most importantly, our strongest initiatives were those on which multiple actors converged and worked together. We strongly support and recommend initiatives such as the Task Force on Journalist Murders in Pakistan, or the international initiative to start a global Task Force with dedicated experts able to lend capacity and expertise when and where journalist murders occur.⁵⁰ These approaches ensure that efforts to end impunity are concrete, durable and consistent. If executed well, they can be an important display of solidarity with families, journalists and organizations all over the world seeking justice in vulnerable positions.

⁵⁰ See the proposal by the High Level Panel of Legal Experts on Media Freedom in their report on 'Advice on Promoting More Effective Investigations into Abuses Against Journalists'. 2020. <https://www.ibanet.org/MediaHandler?id=5A00CE8E-0D66-41E2-A04A-FFCC36F8C67D> and the amendment in the parliament of the Netherlands, calling for the establishment of a rapid investigative task force, deployable following the murder of a journalist: <https://www.tweedekamer.nl/kamerstukken/moties/detail?id=2022Z20056&did=2022D43038>.



Family members, colleagues, and representatives of international organizations engaged in the fight to end impunity. Closing hearing of the People's Tribunal on the Murder of Journalists.

Free Press Unlimited

Weesperstraat 3

1018 DN Amsterdam

The Netherlands

T +31 20 800 0400

info@freepressunlimited.org

www.freepressunlimited.org