

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

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

26 October 2021

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

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

Introduction

1. Since its establishment in June 1995, the **International Association of Prosecutors (IAP)** has strived to improve and strengthen international cooperation between prosecutors by supporting the pace and efficiency in which essential information and data are exchanged. The IAP has demonstrated a strong commitment to setting and raising the standards of professional conduct and ethics for prosecutors worldwide and promoting the rule of law, fairness, impartiality, and respect for human rights. Today, the IAP brings networking, support and education to more than 350,000 prosecutors in 177 countries and territories around the world.
2. To safeguard the role of the prosecutor and his/her role as a legal officer, the IAP actively advocates for the functional independence of prosecutors. Through its worldwide program for Prosecutors in Difficulty, the IAP monitors threats to the safety and security of prosecutors and develops practical strategies to respond to such threats. Through this important work on behalf of prosecutors, the IAP fully recognizes the risks of talking truth to power, particularly in the context of cases of corruption and public wrongdoing.
3. Building on the 1990 UN Guidelines on the Role of Prosecutors, the **IAP Standards of Professional Responsibility and Statement of the**

Essential Duties and Rights of Prosecutors (“the Standards”) adopted by the IAP in 1999, serve as the world’s leading statement on the professional standards of prosecutors and prosecution authorities.

4. The IAP grows and maintains a worldwide community for prosecutors, to share experience and challenges in a trusting and secure professional environment. Through the annual conference, regional meetings, training, and workshops, the IAP routinely brings together frontline prosecutors, associations of prosecutors and heads of prosecution services.

Discussion

5. Since 2006, over 1,200 journalists have been killed around the world, with an impunity rate of 87% according to UNESCO’s data. In addition, journalists are subjected to countless other threats, ranging from kidnapping, torture and other physical attacks to harassment, particularly in the digital sphere. Threats of violence and attacks against journalists contribute to a climate of fear for media professionals, impeding the free circulation of information, opinions and ideas for all citizens.
6. In response to this alarming trend, it is essential to raise the knowledge and capacities of judicial actors, and particularly prosecutors, on the need to investigate and prosecute crimes and attacks against journalists. Indeed, as those responsible for initiating prosecutions and often supervising criminal investigations, public prosecutors have a crucial role to play in protecting journalists who are often threatened or attacked for their work, particularly when they investigate on corruption issues and public wrongdoings.
7. In this context, the IAP signed an agreement with UNESCO in 2020, to cooperate on addressing the issue of impunity for crimes against journalists. Since then, the IAP and UNESCO have jointly developed **Guidelines for Prosecutors on Cases of Crimes against Journalists**, which identify key elements to consider in the decision-making process when an alleged crime is committed against a journalist and propose a series of elements to consider when proceeding with the investigation and prosecution of such cases as well as emphasizing the importance of protection of journalistic sources.
8. Available in 16 different languages (with further translations planned), these Guidelines will serve as the foundation of an online global training course developed by the IAP and UNESCO to build the knowledge and capacities of prosecutors on investigating and prosecuting crimes against journalists, thereby strengthening the respect for the rule of law and freedom of expression globally. The course will be launched in 2022. In addition, a thematic Special Interest Group session on “Investigating and prosecuting

crimes and attacks against journalists and fostering the safety of journalist” will be held at the IAP’s 27th Annual Conference in Tbilisi, Georgia in September 2022.

Conclusions

9. An integral part of the international community’s efforts to end the impunity of those who attack journalists is bringing the perpetrators to justice and holding them accountable for their actions in accordance with the rule of law and human rights. As those responsible for initiating prosecutions and, in some cases, supervising criminal investigations, independent public prosecutors have a crucial role to play in protecting journalists and in ensuring that crimes and attacks against them do not go unpunished.
10. When conducting, supervising or providing advisory assistance to an investigation in relation to an alleged crime committed against a journalist, prosecutors should initiate or recommend a contextual analysis of the nexus between the alleged crime and the media activities, past and present, of the victim.
11. All crimes against journalists should be prosecuted when both the sufficiency of the evidence and public interest standards are met. Prosecutors should bear in mind the possibility of enhanced or escalating offences. The public interest may render inappropriate the implementation of non-prosecution resolutions such as nonjudicial treatment or civil diversion measures.
12. Journalistic sources are confidential and should be treated as such at every stage of the investigation and judicial proceedings. Prosecutors must ensure the protection of confidential data that may lead to the identification of a source in situations where journalistic sources could be revealed by means of investigation or during the proceedings.
13. Crimes against journalists often have a transnational dimension requiring the sharing of information between states, facilitated by international judicial co-operation. Prosecutors should take practical steps to make international co-operation through multi-lateral and bi-lateral agreements and other arrangements effective.
14. Raising awareness through prosecutorial training will build capacity and facilitate an important step towards fighting against impunity. Prosecution services should develop or offer curricula which include material relevant to the safety of journalists, protection of journalistic sources and fundamental rights.

Annexes to be submitted as additional evidence to the judges of the People's Tribunal:

1. IAP/UNESCO Guidelines for Prosecutors on Cases of Crimes against Journalists

Gary Balch

General Counsel

International Association of Prosecutors

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