

STRENGTHENING THE ROLE OF THE JUDICIARY IN FOSTERING FREEDOM OF EXPRESSION AND THE SAFETY OF JOURNALISTS

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Organised by UNESCO and UN Country Team in Central Asia






JUDICIAL TRAINING ON FREEDOM OF EXPRESSION – FOCUS ON SAFETY OF JOURNALISTS


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1. Freedom of expression as a key-element of a democratic society

- ▶ Article 19 of the Universal Declaration of Human Rights:
“Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.”
- ▶ + **Article 19 of the ICCPR** (ratified by 113 States Parties):
 1. Everyone shall have the right to hold opinions without interference.
 2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.
 3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
 - (a) For respect of the rights or reputations of others;
 - (b) For the protection of national security or of public order (ordre public), or of public health or morals.

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- ▶ Also recognized at regional levels (Article 10 of the ECHR, Article 13 of the ACHR...)
 - ▶ Freedom of expression **is not an absolute right**
 - ▶ What is the regime of the right and what are States' obligations under Article 19 of the ICCPR?
 - Condition of legality = the domestic legislation must clarify the conditions of limitations of freedom of expression;
 - Conditions of legitimacy = the aims and purposes of the limitation must pursue a ***legitimate goal as enumerated by the Article 19 of the ICCPR*** (esp. in para. 3 of Article 19)
 - Condition of "necessity in a democratic society" = test of proportionality.

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- ▶ The HRCtee provided its interpretation of Article 19 of the ICCPR in the General Comment 34 (2011).
 - ▶ See esp. para. 2: Freedom of opinion and freedom of expression are indispensable conditions for the full development of the person. They are essential for any society.¹ They constitute the foundation stone for every free and democratic society. The two freedoms are closely related, with freedom of expression providing the vehicle for the exchange and development of opinions.
 - ▶ + para. 13 and f. on “freedom of media”: A free, uncensored and unhindered press or other media **is essential** in any society to ensure freedom of opinion and expression and the enjoyment of other Covenant rights. It constitutes one of the **cornerstones of a democratic society**.

2. Protection of journalists, their safety and their key role in the realization of democracy

- ▶ Why does “safety of journalists” matter?
- ▶ Why does “plurality of medias” matter?
- ▶ Why does “protection of journalist when covering a protest” matter? See also the General Comment No. 37 of the Human Rights Committee (2020) on Right to Peaceful Assembly
- ▶ Why does criminalization of journalists/medias’ activities worry international bodies?
- ▶ To what extent can a State use criminal law in order to sanction journalists? See for instance the Rabat Plan of Action on hate speech

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- ▶ Conclusion = Journalists, Human Rights defenders, social media workers, trade unions leaders as "watch dogs of democracy"

UNESCO Resources

- ▶ UN Human Rights Committee's General Comment No. 34 deals with the right to freedom of expression under the International Covenant on Civil and Political Rights ([RU](#), [EN](#))
- ▶ UN Plan of Action on the Safety of Journalists and the Issue of Impunity ([RU](#), [EN](#))
- ▶ Guidelines for prosecutors on crimes against journalists ([EN](#), [RU](#), [UZK](#))
- ▶ Manual Freedom of Expression and Public Order ([EN](#))
- ▶ Brochure "Freedom of Expression and Public Order: Fostering Relationships Between Security Forces and Journalists" ([RU](#), [EN](#))
- ▶ Rabat plan of action on issue of hate speech ([RU](#), [EN](#))
- ▶ Safety of journalists covering protests ([RU](#), [EN](#))
- ▶ Standards on media pluralism ([EN](#))
- ▶ Draft report on safety of journalists in Kazakhstan (RU)
- ▶ Video of training security forces in The Gambia ([EN](#))
- ▶ Short version of the video of training security forces in Tunisia ([EN](#))
- ▶ Long version of the video of training security forces in Tunisia ([EN](#))
- ▶ **Pandemic Crisis** Standards on access to information ([EN](#))