

Best practices for monitoring and documenting attacks on free expression in Latin America and the Caribbean

RECOMMENDED MINIMUM STANDARDS

August 2010

A publication of the IFEX-ALC ©

With the support of DFAIT



Government
of Canada

Gouvernement
du Canada

Canada

The information contained in this document may be reproduced, in part or in whole, so long as the relevant organisation or the IFEX-ALC is cited as the source of the work and the reproduction includes a reference to the original document.

Index

I. Introduction

II. Approaches to defending, protecting and promoting freedom of expression in Latin America and the Caribbean

II.1 Different approaches

II.2 Programme areas

II.2.1 Monitoring violations

II.2.2 Documenting cases

II.2.3 Verifying information

II.2.4 Issuing alerts

II.2.5 Providing support to the victim

II.2.6 Legal assistance and representation

II.2.7 Issuing reports

II.2.8 Missions

II.2.9 Training

II.2.10 Security concerns and risk analysis

III. Monitoring and documenting attacks on freedom of expression

III.1 A conceptual understanding of freedom of expression

III.2 Key definitions

III.2.1. The victim

III.2.2. Perpetrators of the attacks

III.3 Legal framework

III.4 Categorising violations

III.4.1. Classification of free expression violations

III.5 Monitoring

III.6 Investigation and analysis

III.7 Documenting cases

IV. Standard procedure for monitoring and documenting attacks on free expression

IV.1 Objectives and resources

IV.2 Suggested procedure

IV.2.1 Phase A: Monitoring violations

1) Step 1: Identify possible attacks on free expression

IV.2.2 Phase B: Investigation and analysis

- 2) Step 2: identify and contact sources of information
 - a. Contacting the victim, their family members and/or colleagues
 - b. Contacting secondary sources and putting the information into context
 - c. Using a questionnaire to collect data
- 3) Step 3: Evaluate the information

IV.2.3 Phase C: Documenting cases

- 4) Step 4: Organise the information
- 5) Step 5: Decide how the information will be used
 - a. Internal considerations
 - b. Deciding to publicise the information
- 6) Step 6: Set up criteria to ensure proper follow-up

Outline

Bibliography and online links

Annex 1: IFEX Clearing House Editorial Guidelines

Prologue

A number of diverse actors are dedicated to the task of promoting and protecting free expression in Latin America and the Caribbean. These nationally or internationally-based groups use a variety of tools and strategies to defend the right to free expression by working towards creating the conditions necessary for democratic gains in the region.

The IFEX-ALC is an alliance of 13 members of the International Freedom of Expression Exchange (IFEX), each of which is based in Latin America and the Caribbean (ALC). This document came about through a process of collective reflection inspired by the Alliance's Strategic Plan (2009-2014) one component of which seeks to build effective networks to improve the reporting of violations of right to freedom of expression to accomplish its mission which is "To promote and defend the right to freedom of expression through the permanent Alliance between organizations that promote this right in Latin America and the Caribbean. "Strengthening freedom of expression in Latin America and the Caribbean", aimed at identifying the **best practices** for monitoring and documenting violations of the right to free expression.

The first step in this process involves monitoring the state of free expression and identifying potential free expression violations. This may result in follow-up actions, aimed at promoting and protecting this right. Each member of the IFEX-ALC network approaches this process in its own way, according to local needs and parameters.

The aim of this project is to increase collaboration and coordination among the members of the IFEX-ALC, with the aim of giving more prominence to the issues in the region and the organisations' efforts to address these issues. This document outlines a standardised reporting mechanism for free expression violations by examining best practices in the region. One important factor to work towards is a more equal participation of men and women in the monitoring and documentation process carried out by the IFEX-ALC members. The document will also serve as a handy reference tool when informing others about the IFEX-ALC members' free expression work. It can then be made available to the general public, thus increasing transparency.

The document is the result of an extensive process of interviews and discussions with journalists' groups, free expression organisations and inter-governmental human rights groups. A number of primary documents were also reviewed.

We want to thank each member organisation of the IFEX-ALC for participating in the process:

- Associação Brasileira de Jornalismo Investigativo (Brazilian Association of Investigative Journalism, ABRAJI) – Brazil
- ARTICLE 19, Oficina para México y Centroamérica (ARTICLE 19 - Mexico & Central America)
- Association of Caribbean Media Workers (ACM) – Trinidad and Tobago
- Centro Nacional de Comunicación Social (National Center for Social Communication, CENCOS) – Mexico
- Centro de Periodismo y Ética Pública (Center for Journalism and Public Ethics, CEPET) – Mexico
- Centro de Reportes Informativos sobre Guatemala (Center of Informative Reports on Guatemala, CERIGUA) – Guatemala
- Comité por la Libre Expresión (Committee for Free Expression, C-Libre) – Honduras
- Foro de Periodismo Argentino (Argentine Journalism Forum, FOPEA) – Argentina
- Fundación para la Libertad de Prensa (Foundation for Press Freedom, FLIP) – Colombia
- Instituto Prensa y Sociedad (Institute for Press and Society, IPYS) – Peru
- Observatorio Latinoamericano para la Libertad de Expresión (Latin American Observatory for Freedom of Expression, OLA) – Peru
- Sindicato de Periodistas del Paraguay (Paraguayan Union of Journalists, SPP) – Paraguay
- Asociación Mundial de Radios Comunitarias (World Association of Community Radio Broadcasters,

AMARC)

Comments and contributions received from the following groups have also been very helpful: the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights (IACHR); Committee to Protect Journalists (CPJ); Freedom House; Rory Peck Trust Foundation; Reporters without Borders (RSF); and the office of the International Freedom of Expression Exchange (IFEX Clearing House), based in Toronto, Canada. Without a doubt, these organisations play a key role in support of national efforts in Latin America and the Caribbean. A very special thanks also goes to Catalina Botero, Carlos Lauría and Rafael Barca for the feedback they provided throughout this process. The Centro Nacional de Comunicación Social (CENCOS) and the Fundación para la Libertad de Prensa (FLIP) deserve a special mention because of all their efforts in support of this undertaking, by establishing a methodology and providing the analytical and conceptual framework. Thanks also go out to the Instituto Prensa y Sociedad (IPYS).

Finally, we have to mention that this document would not have been possible without the financial contribution of the Department of Foreign Affairs and International Trade (DFAIT) in Canada, whose commitment to this undertaking has been extremely valuable throughout the whole process.

I. Introduction

A number of diverse actors are dedicated to the task of promoting and protecting free expression in Latin America and the Caribbean. These nationally or internationally-based groups use a variety of tools and strategies to defend the right to free expression, a fundamental cornerstone to any democratic society.

Monitoring and documenting free expression violations leads to more comprehensive action. These two processes are the basis for the development of tools and strategies in defense of free expression. Some of these tools and strategies include: issuing alerts or special reports, going on fact-finding missions, special communiqués and denunciations of abuses.

The data gathered through the initial stages is key as it ensures that subsequent decisions are informed by accurate and detailed information. In turn, the work of international organisations is informed by that of the local groups, particularly when it comes to analysing free expression violations in the region.

On the origins of this publication

As already noted, the IFEX-ALC is an alliance of 13 members of the International Freedom of Expression Exchange (IFEX), each of which is based in Latin America and the Caribbean (ALC).

This document came about as a result of a process of collective reflection. It is presented here as part of the IFEX-ALC project "Strengthening freedom of expression in Latin America and the Caribbean". The project's goal is to build effective regional networks and in this way bolster the IFEX-ALC members' efforts to monitor and document attacks on free expression in the region.

The process involved a thorough review of the work being carried out in Latin America and the Caribbean, according to the identified needs of the IFEX-ALC alliance. Between November 2009 and January 2010, the authors assessed each organisation's current methodology and institutional capacity. Two different questionnaires – which are included in the Annex – were used to gather information from national, international and even inter-governmental institutions. The first questionnaire focused on the groups' methodologies and procedures in order to identify commonalities and differences in approaches to the work. A second questionnaire focused on the institutional capacity of each member of the IFEX-ALC. The responses to this questionnaire gave a good indication of the minimum resources required to do this work effectively.

On the structure of this document

The document is divided into two parts. The first section, "*Approaches to the defense, promotion and protection of freedom of expression in Latin America*", is a synthesis of the different approaches and strategies in the continent in defense of this right. It is based on the review of the IFEX-ALC members' work. The second section, entitled "*Monitoring and documenting attacks on freedom of expression*", suggests an approach that is based on certain free expression principles and a way to categorise attacks. It also takes a close look at the process of investigating cases and analysing if a violation has occurred.

This section points to four general directions for strengthening this work: a) the conceptual framework, which may be focused on press freedom or a broader human rights perspective, and which may include a gender focus; b) the organisations' human resources and financial assets; c) the social and political context in each country; and, d) security concerns and risk analysis.

In considering these guidelines, each organisation should take into account gender issues – specifically, how the violations have different effects on men and women journalists. Certain types of violations in particular, such as assassinations or sexual abuse, have gender implications.

To whom is this document addressed?

It is mainly addressed to the organisations who are members of the IFEX-ALC. The document represents a set of recommended minimum standards the IFEX-ALC groups should follow. It also seeks to bolster the organisations' current efforts vis a vis the defense, protection and promotion of free expression in the region.

It is also addressed to human rights organisations and groups that work on freedom of expression, as well as journalists' networks, media workers, editors and all those who have an interest in creating better conditions for the media and freedom of expression.

II. Approaches to defending, protecting and promoting freedom of expression in Latin America and the Caribbean

II.1 Different approaches

Civil society draws on a variety of methods and strategies to defend and promote freedom of expression. The most concerted efforts and advances in the region are linked to the defense of press freedom. A review of the work of the IFEX-ALC organisations¹ and other institutions with which we maintain a close relationship², suggests that the strategies are usually informed by one of *three main theoretical frameworks*:

- a) *Human rights*. The right to free expression is the core, but organisations also consider the right to press freedom and the State's responsibility to safeguard and promote human rights. This type of analysis should also include a gender perspective.
- b) *Press freedom*. Based on the idea that the right to impart information is a key element of the rights of the media and those in the media profession.
- c) *Journalistic inquiry*. When ascertaining the facts, the investigator must ask: who?, what?, where?, when?, how? and why?, again keeping in mind tenets of press freedom.

Investigators must also consider the national and international legal context and whether any legal guarantees have been violated.

Organisations draw on these theoretical frameworks to determine if a violation has occurred. This is the first step in a more lengthy process that may result in a campaign and advocacy strategy.

II.2 Programme areas

The members of the IFEX-ALC who are active in Latin America and the Caribbean carry out one or more of the activities outlined below, according to the country's needs and the group's approach.

The following descriptions are an indication of the wide diversity in responses to the problem at hand. We also consider the importance of each step.

II.2.1 Monitoring violations

This entails an ongoing review of the state of free expression in a country or region, and the actions of the authorities in promoting or hindering non-governmental or journalists' organisations who participated in the interview process indicated that they rely on:

¹ Associação Brasileira de Jornalismo Investigativo (Brazilian Association of Investigative Journalism, ABRAJI) – Brazil ARTICLE 19, Oficina para México y Centroamérica (Article 19 - Mexico & Central America); Association of Caribbean Media Workers (ACM) – Trinidad and Tobago ; Centro Nacional de Comunicación Social (National Center for Social Communication, CENCOS) – México ; Centro de Periodismo y Ética Pública (Center for Journalism and Public Ethics, CEPET) – México; Centro de Reportes Informativos sobre Guatemala (CERIGUA) – Guatemala ; Comité por la Libre Expresión (C-Libre) – Honduras ; Foro de Periodismo Argentino (FOPEA) – Argentina ; Fundación para la Libertad de Prensa (Foundation for Press Freedom, FLIP) – Colombia; Instituto Prensa y Sociedad (IPYS) Institute for Press and Society – Peru, Venezuela ; Observatorio Latinoamericano para la Libertad de Expresión (OLA) – Perú; Sindicato de Periodistas del Paraguay (Paraguayan Union of Journalists, SPP) – Paraguay ; Asociación Mundial de Radios Comunitarias (World Association of Community Radio Broadcasters, AMARC-ALC)

² Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights (IACHR), Committee to Protect Journalists (CPJ); Freedom House; Fundación Rory Peck Trust; Reporters without Borders(RSF).

- *Media reports.* Organisations will comb through the reports of local, national and international media for any stories on free expression violations.
- *Other non-governmental organisations.* Information provided by other human rights or free expression groups that are nationally or internationally-based.
- *Correspondents.* Networks of journalists or other individuals who are tasked with monitoring free expression violations in a certain area, region or country. In some cases, the correspondents are part of the organisation and may also be involved in the more extensive process of documenting cases and corroborating facts.
- *The victims or targets of the violations.* In many cases, those who are targeted directly denounce the attack to the organisations that monitor violations. In some cases, the monitoring organisations may also end up "providing assistance to the victim", in ways which will be further outlined below.

II.2.2 Documenting cases

During this step, which comes after the initial monitoring stage, organisations will carry out an investigation and confirm the facts. At minimum, the process will include the following elements:

- *Basic facts.* A questionnaire can be used to gather this information in a systematic way. The organisations can use this data to better understand the specificities of the case, and to compare and contrast it with previous incidents of a similar nature.
- *Case files.* A way to safeguard the most important information on each case. The file may include the incident details as well as photographs, videos, media reports, threatening notes sent to the victim, and other documentation that may be stored in a digital format.
- *Database.* An organisation tool used to systematise and classify the information in the case files. Organisations can use this database to generate statistical reports and measure certain parameters. Databases can also be used to more closely monitor high-risk areas. Certain indicators may for example help identify a region, municipality, province or country where attacks are on the rise.

II.2.3 Verifying information

A more in-depth investigation and analysis of the incident is carried out, taking into account the context, the seriousness of the violation and any detectable pattern of attacks in a specific region.

This process may depend on information gathered from primary or secondary sources or a combination of the two.³ It will usually include a fact-finding visit to the site of the incident. The authorities' response also has to be taken into account. A gender perspective may also be applicable.

This is a specialised activity that depends on a pre-existing knowledge of human rights and the state of freedom of expression and press freedom. During this process, the monitoring organisation may detect issues of concern, such as endemic problems with the legal structure, the lack of due process, or impunity. Certain exemplary cases may be identified and these can be used to affect change in the country's legal processes, legislation or government policy.

This investigative and verification process may also lead to lobbying or campaign actions.

³ This is outlined in further detail in section 3 of this document.

II.2.4 Issuing alerts

Alerts are issued by national and international organisations to draw attention to a certain violation of freedom of expression and/or the press in a specific region or country. The aim is to raise public awareness in the hope that the violation will not reoccur. Sometimes the alerts are used to drum up support around the world, by urging people to call on the authorities to provide protection to the victim. They are also used to inform inter-governmental institutions about certain issues vis a vis freedom of expression in a specific country.

The alerts often target the authorities by highlighting the State's responsibility in safeguarding freedom of expression, in accordance with the guarantees stipulated by local, national and/or international legislation or covenants the country in question may have ratified. (See Annex 1, IFEX Clearing House Editorial Guidelines).

When an organisation is deciding whether or not to issue an alert, it will take into account the potential risk to the victim. It is clear that publicising the case can put pressure on the authorities to respond. At the same time, this can put the victim at greater risk, even at the expense of his/her life. Any gender implications should also be factored in, as attacks against men or women may differ in nature and stem from different reasons.

II.2.5 Providing support to the victim

The organisation in question may provide some immediate support and protection for the individual(s) targeted in the attack, their family and/or coworkers. This could take the form of legal advice, legal representation, psychological support, ongoing assistance during a legal action or compensation claim, etc.

This task requires a sensitive and considerate approach, as well as an in-depth awareness of the situation and any potential risks. One has to consider the specific characteristics of the individual in question, such as gender, ethnicity, etc.

Organisations may not be able to provide this type of support because of financial limitations. Nevertheless, organisations that monitor violations and document attacks will inevitably come into contact with people whose rights have been violated. The individuals who are involved in this process must therefore be conscious of any security concerns and understand the implications of the monitoring process.

II.2.6. Legal assistance and representation

This activity may involve providing information on the relevant legal process and legislation, the rights of the individuals affected, or contact information for groups that can provide further assistance.

The organisation's attorneys may sometimes represent the targeted individual in court, before national and local judicial authorities or before inter-governmental human rights institutions.

While these tasks could have been included under section II.2.5., "How to support a victim", they are listed separately here because they are specialised activities that can only be carried out by someone with a certain degree of knowledge and expertise in the area.

II.2.7. Issuing reports

Reports provide a more in-depth analysis of the state of freedom of expression or the press in a country or a region. They may be focused on a specific theme or issue of concern.

Most of the organisations that were surveyed issue reports as part of their monitoring and documentation work. Reports can also be issued after the documentation and classification of certain cases, to analyse a piece of legislation, after a fact-finding mission to a region, etc. These reports tend to be more thematic and usually include a call for action by the authorities.

Organisations use reports to highlight the number of violations and any detectable trends such as increased risks or vulnerability, the alleged perpetrators of violations, high-risk regions, any positive developments, etc. The report may provide a general overview while also detailing the most representative or serious cases. Once again, it is important to include a gender perspective. Reports are usually issued annually, although some organisations choose to issue biannual or quarterly reports.

Reports are generally aimed at providing a systematic review of the state of freedom of expression, while also stressing what the authorities can do to address any outstanding issues.

II.2.8. Missions

Missions are visits to a specific region or country in order to evaluate the state of freedom of expression or the press. They are often comprised of experts and representatives of international or intergovernmental organisations who are specialised in this area.

The mission may have a specific focus or seek to gather firsthand information on particular cases that will in turn inform an overall analysis of the situation in the region or country. Mission participants may meet with or interview any of the following individuals: government officials; journalists at risk; journalists in general; representatives of guilds, federations, or associations; relatives of journalists who have been killed or are missing. Missions are also an opportunity to directly communicate with the authorities. A mission report will usually include specific demands, recommendations and calls for action.

Missions may come about as the result of an invitation by one or more local organisations, or they may be initiated by an international organisation, or a combination of the two. Mission participants have to take into account the skills and knowledge each individual brings to the table, the necessary human and financial resources, and the socio-political context. It is also important that mission participants have some credibility and are respected in the region or country they will be visiting. This will help open up spaces for dialogue and ensure that the mission recommendations will be taken seriously.

II.2.9. Training

This can include a broad range of workshops and instruction on a variety of topics linked to freedom of expression and the press. It may be focused on media-related themes such as: investigative journalism, ethics, human Rights, gender, reporting in dangerous situations, media tools, etc.

Alternatively, the training may be more closely related to monitoring and documenting attacks on journalists and freedom of expression. As such, it can include workshops on security and providing support for the targeted individual(s), risk analysis and safety precautions.

II.2.10. Security concerns and risk analysis

This activity looks closely at the vulnerability of the targeted individual and their family, as well as the risk to the organisations documenting attacks on free expression and press freedom. It goes without saying that the intent is to prevent any further attacks or incidents.

These concerns should be considered along every step of the process. Each and every activity, from monitoring and documentation, to issuing alerts, to providing legal assistance or taking part in

missions, must incorporate risk analysis and include safeguards to ensure the safety of not only the victims and their families, but also the organisation's staff.

An organisation's security strategy may involve any of the following: ongoing training; developing support and safety networks (made up of colleagues, individuals who can be trusted, national and international institutions and even the authorities); and even going as far as setting up "safe houses" where threatened individuals can temporarily seek refuge. Of course an effective security strategy depends on an organisation's knowledge, strengths and resources. Even though it is an essential aspect of the work and one that can even save journalists' lives, only a few of the organisations in the region have implemented such a strategy.

III.- Monitoring and documenting attacks on freedom of expression

This section looks at the process of monitoring and documenting violations in more detail. At the same time, it tries to understand the "phenomenon" of attacks on freedom of expression.

The process outlined below is based on a conceptual framework of human rights violations. We also examine the various phases and steps involved in the process and review the necessary tools that could then be applied to any context or situation.

III.1. A conceptual understanding of freedom of expression

Freedom of expression can be understood as part of the rights and freedoms to which all humans are entitled, under the concept of human rights. It is both an individual right and a collective one. It is a cornerstone of other fundamental rights and freedoms and essential in enabling democracy.

Violations of the right to freedom of expression span a wide range of attacks. For the purposes of this document, we focus, but are not limited to, attacks on press freedom, and the rights of journalists and the media.

The right to free expression is enshrined in various human rights agreements and conventions which are internationally recognised and which have been ratified by a number of governments.

For example, Article 19 of the *Universal Declaration on Human Rights* states: "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 International Covenant on Civil and Political Rights (ICCPR) stipulates: 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.

In the inter-American system, Article 13 on *Freedom of Thought of Expression of the American Convention on Human Rights*⁴ states: 1. Everyone has the right to freedom of thought and expression. This right includes freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing, in print, in the form of art, or through any other medium of one's choice.

In 2000, the *Inter-American Commission on Human Rights (IACHR)* approved the *Declaration of Principles on Freedom of Expression*. This declaration reaffirms and expands upon the definitions enshrined in Article 13 of the American Convention on Human Rights. It "arose out of recognition of the need for a legal framework to regulate the effective protection of freedom of expression in the hemisphere that would incorporate the principal doctrines set forth in different international instruments".⁵ The *Principles* provide an extensive definition of the right to free expression. As such, they should be used as the basis of monitoring, documenting and classifying free expression violations.

⁴ American Convention on Human Rights adopted during the inter-american specialised conference on human rights, in San José, Costa Rica. Held on 7-22 November 1969. AMERICAN CONVENTION ON HUMAN RIGHTS ("PACT OF SAN JOSE, COSTA RICA").

⁵ Inter-American Commission on Human Rights (IACHR), *Background and Interpretation of the Declaration of Principles*; <http://www.cidh.org/Relatoria/showarticle.asp?artID=132&IID=1>, reviewed on 9 June 2010. The Declaration was approved by the IACHR during its 108th regular session in October 2000.

Inter-American Declaration of Principles on Freedom of Expression

1. Freedom of expression in all its forms and manifestations is a fundamental and inalienable right of all individuals. Additionally, it is an indispensable requirement for the very existence of a democratic society.
2. Every person has the right to seek, receive and impart information and opinions freely under terms set forth in Article 13 of the American Convention on Human Rights. All people should be afforded equal opportunities to receive, seek and impart information by any means of communication without any discrimination for reasons of race, color, sex, language, religion, political or other opinions, national or social origin, economic status, birth or any other social condition.
3. Every person has the right to access to information about himself or herself or his/her assets expeditiously and not onerously, whether it be contained in databases or public or private registries, and if necessary to update it, correct it and/or amend it.
4. Access to information held by the state is a fundamental right of every individual. States have the obligation to guarantee the full exercise of this right. This principle allows only exceptional limitations that must be previously established by law in case of a real and imminent danger that threatens national security in democratic societies.
5. Prior censorship, direct or indirect interference in or pressure exerted upon any expression, opinion or information transmitted through any means of oral, written, artistic, visual or electronic communication must be prohibited by law. Restrictions to the free circulation of ideas and opinions, as well as the arbitrary imposition of information and the imposition of obstacles to the free flow of information violate the right to freedom of expression.
6. Every person has the right to communicate his/her views by any means and in any form. Compulsory membership or the requirements of a university degree for the practice of journalism constitute unlawful restrictions of freedom of expression. Journalistic activities must be guided by ethical conduct, which should in no case be imposed by the State.
7. Prior conditioning of expressions, such as truthfulness, timeliness or impartiality is incompatible with the right to freedom of expression recognized in international instruments.
8. Every social communicator has the right to keep his/her source of information, notes, personal and professional archives confidential.
9. The murder, kidnapping, intimidation of and/or threats to social communicators, as well as the material destruction of communications media violate the fundamental rights of individuals and strongly restrict freedom of expression. It is the duty of the state to prevent and investigate such occurrences, to punish their perpetrators and to ensure that victims receive due compensation.
10. .Privacy laws should not inhibit or restrict investigation and dissemination of information of public interest. The protection of a person's reputation should only be guaranteed through civil sanctions in those cases in which the person offended is a public official, a public person or a private person who has voluntarily become involved in matters of public interest. In addition, in these cases, it must be proven that in disseminating the news, the social communicator had the specific intent to inflict harm, was fully aware that false news was disseminated, or acted with gross negligence in efforts to determine the truth or falsity of such news.

11. .Public officials are subject to greater scrutiny by society. Laws that penalize offensive expressions directed at public officials, generally known as “*desacato laws*,” restrict freedom of expression and the right to information.
12. .Monopolies or oligopolies in the ownership and control of the communication media must be subject to anti-trust laws, as they conspire against democracy by limiting the plurality and diversity which ensure the full exercise of people’s right to information. In no case should such laws apply exclusively to the media. The concession of radio and television broadcast frequencies should take into account democratic criteria that provide equal opportunity of access for all individuals.
13. .The exercise of power and the use of public funds by the state, the granting of customs duty privileges, the arbitrary and discriminatory placement of official advertising and government loans; the concession of radio and television broadcast frequencies, among others, with the intent to put pressure on and punish or reward and provide privileges to social communicators and communications media because of the opinions they express threaten freedom of expression, and must be explicitly prohibited by law. The means of communication have the right to carry out their role in an independent manner. Direct or indirect pressures exerted upon journalists or other social communicators to stifle the dissemination of information are incompatible with freedom of expression.

Any actions that pose obstacles to or negatively impact on these *Principles* are a violation of freedom of expression since this document establishes the minimum standards necessary for the enjoyment of this right.

At the same time, it should be noted that not all attacks or threats against journalists, the media, human rights defenders or citizens are a violation of the *Declaration of Principles on Freedom of Expression*. In each case a link must be established between the attack or threat and freedom of expression or the press.

III.2. Key definitions

As such, let us consider the following definitions:

A violation of freedom of expression is any action or omission by the State or non-State actors that either directly or indirectly interferes with the free flow of ideas, opinions and information (based on the Declaration of Principles).

A free expression violation of a journalist or media professional is a physical, psychological or other type of attack, irregardless of the source, against an individual as the result of an expressed opinion or information that has been disseminated or will be disseminated in the future by a media outlet.

Under these definitions, we should also keep in mind the following:

III.2.1. The victim

The individuals who are targeted should in some way be involved with the media profession or the exercise of free expression. This broad definition encompasses journalists, photographers, editors and directors of media outlets, and others who work in communications, regardless of whether they

are paid or not, and whether they are connected to a business conglomerate, or alternative or community-based media.

We also have to consider all the other individuals who work for the media profession and who may not be journalists but who are involved in the editing, publishing and dissemination of information.

The media and communications field is subject to ongoing technological changes and new methods of expression are constantly emerging. As such, we should also consider the use of blogs, social networks and other such tools of “citizen journalism”. Moreover, the free expression of writers and artists can also come under attack, via restrictions placed on the distribution of their works.

Finally, there are cases of human rights defenders, trade unionists and other activists who are attacked for exercising their right to free expression.

III.2.2 Perpetrators of the attacks

Government officials, members of the security forces, or the army sometimes commit violations. Instead of fulfilling their duty to safeguard the right to free expression, they become the violating party.

The State should refrain from interfering with the exercise of the right to free expression and the press. Moreover, its role is to safeguard free expression and create the necessary conditions such that everyone can fully exercise this right. Sometimes the perpetrators are non-State actors who act with the implicit or explicit consent of the State. We refer to business people and commercial interests, political parties, certain organisations, etc.

We should also mention non-State actors who for one reason or another wish to restrict investigative reporting and the flow of information to protect their interests. Examples include groups linked to organised crime and drug trafficking, paramilitaries and other armed groups.

III.3. Legal framework

In order to properly analyse attacks on freedom of expression in each country, one has to consider the national and international legal framework.

As such, the organisations that are monitoring and documenting cases must take into account the existing government structure and the relevant government bodies. Since it is the State’s role to safeguard the right to free expression, one must ask how well the authorities are performing this duty.

A comparative analysis of different countries’ legal instruments can be very useful in highlighting any positive developments or advances.

National and international regulatory framework	
International	1.- Treaties, pacts or international human rights conventions that the country in question has ratified and that guarantee, promote or protect freedom of expression and the press
National	1.- The National Constitution and other legislation that guarantees freedom of expression and the press.
	2.- Government entities that are tasked with protecting freedom of

	expression and the press in the country.
--	--

III.4. Categorising violations

Some general definitions and guidelines are presented here. It is up to each organisation to then consider the specific situation in a country and the national legal framework vis a vis freedom of expression and the press. Similarly, only via the monitoring process can the seriousness of the attack or violation be determined. Please note that gender should also be taken into account.

We can begin by dividing violations into those that are direct and indirect:

<p>Direct attacks refers to attacks on one or more individual, impacting on their physical, financial or psychological well being or restricting their personal freedom – the attack is aimed at preventing the individual from accessing and disseminating information or freely expressing her/his ideas and opinions.</p> <p>Indirect attacks refers to restrictions imposed the right to freedom of expression. This often entails the arbitrary or discriminatory use of legislation to reward or punish journalists, media outlets, and other individuals who have expressed themselves.</p>
--

This does not suggest that one type of attack is more serious than the other. Rather it illustrates how legislation can be used to justify actions that in essence violate freedom of expression and the press. For example, a journalist may be physically assaulted in connection with one of her/his reports. On the other hand, she/he may also face a lengthy legal battle, based on defamation laws which continue to exist in many countries despite the recommendations of international human rights bodies. Another example is the shutting down of community-based radio stations either via direct force or by applying some legal justification, despite the fact that the action is discriminatory and contravenes international standards.

For the purposes of this document, the authors did not consider topics such as the concentration of media ownership or regulations that can indirectly impact on freedom of expression. However, the organisations intend to more closely examine these issues at some point in the near future.

A more detailed classification of violations follows. Each definition considers the link to the right to free expression and the press and the ideals espoused in the *Declaration on Principles on Freedom of Expression*:

III.4.1. Classification of free expression violations

This classification system examines different ways in which the right to free expression can be restricted or obstructed, with a particular emphasis on press freedom (See Section III.2.1. On the victims). Each of the definitions can be further adapted and expanded.

Direct attacks ⁶	
Threats	The violating party issues a direct or indirect threat, that may be verbal, written or in another form, aimed at silencing the victim. May result in self-censorship.

⁶ Based on the *Protocol for Documenting, Verifying and Following up on Attacks on Journalists* by ARTICLE 19 and CENCOS, published in November 2008.

Physical attacks	<p>Actions that result in physical harm to an individual.</p> <p>May also include damage to the equipment or offices of a media outlet or place of employment.</p>
Assassination	<p>Journalist or social communicator is killed because of his/her news coverage or commentary.</p>
Forced to flee or into exile	<p>Journalist is forced to temporarily leave a region or country because of a perceived threat linked to his/her profession.</p>
Disappearance	<p>Whereabouts of an individual are unknown. There may be evidence of violence.</p> <p><i>Forced disappearance</i></p> <p>According to international human rights law and an increasing number of national laws, this is defined as an action taken with the implicit or explicit consent or participation of the State, whether this is proven or presumed to be the case.⁷</p>
Detention	<p>An individual is arrested or detained in connection with the media profession or for exercising her/his right to free expression by, for example, issuing or planning to issue a damning report.</p> <p><i>Detentions under extraordinary circumstances⁸</i></p> <p>According to entities specialising in this area, this can take the form of:</p> <ol style="list-style-type: none"> 1. Cases where an individual is arbitrarily detained without any legal justification (for example, remains under detention even after she/he has completed the sentence or has been granted freedom under an amnesty, etc.); 2. Cases where the motive for the legal action or sentence is linked to the exercise of certain fundamental rights, such as free expression, enshrined in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. 3. Cases where the impartiality of the trial is put into question because there is no due process, or because national or international legal standards have been violated. 4. Cases in which the minimum standards for the treatment of prisoners are not met: e.g. the individual is deprived of medical attention, prison conditions result in a deterioration

⁷ Inter-American Convention on Forced Disappearance of Persons. Adopted at Belém do Pará, Brazil on 9 June 1994, during the twenty-fourth regular session of the General Assembly of the OAS.

⁸ The UN Working Group has adopted criteria to determine if a privation of liberty is arbitrary, Working Group on Arbitrary Detention, United Nations High Commissioner for Human Rights. See: <http://www2.ohchr.org/english/issues/detention/complaints.htm>

	<p>of the prisoner’s health, the person is moved to a remote detention facility, family visits are restricted, etc.</p> <p><i>Kidnapping</i></p> <p>This refers to incidents where the State is presumed to have not played a role. The International Covenant on Civil and Political Rights, the American Convention on Human Rights and other international legal instruments stipulate that each State must “adopt measures to protect the life, liberty, privacy, reputation and other fundamental rights of its citizens from common crime and organised criminal elements.”⁹.</p>
<p>Indirect attacks</p>	
<p>Legal harassment</p>	<p><i>Arbitrary legal actions for defamation or insult.</i> A news report or other publication results in legal action against a media outlet; aimed at discrediting the report or forcing the media outlet to resort to self-censorship.</p> <p>Concepts such as protecting one’s honour or integrity, national security and order, peace or the financial system are given preferential treatment in the courts over free expression.</p> <p>Closures of media outlets, such as radio stations, with insufficient legal justification. The assigning of radio signals to community-based media is plagued by political interference. Similarly, the authorities discriminate in the granting of information or the allocation of state advertising.</p> <p><i>Criminalisation.</i> Using penal laws to punish unauthorised media when less severe options, such as administrative sanctions, exist¹⁰</p>
<p>Intimidation and harassment</p>	<p>Actions that influence a media outlet’s editorial stance or news coverage and impact on the work of journalists, editors and media workers.</p> <p><i>Unfair dismissals</i></p> <p>Sometimes those who freely express themselves in their news reports are denied opportunities for advancement in their work, often as a result of pressure from the authorities or non-</p>

⁹ O’Donnell, Daniel, “Introduction to international human rights law”, Office in Colombia of the United Nations High Commissioner for Human Rights, Vol. I, Bogota, 2001, p. 84.

¹⁰ According to Article 13 of the American Convention on Human Rights, the right of expression may not be restricted by indirect methods or means (. . .). Criminal sanctions that stem from the expression of certain ideas can therefore be considered in certain cases as indirect methods of restricting freedom of expression. Such sanctions have an inhibitory effect and may result in self-censorship which, in essence, has the same result as direct censorship – in other words, the “information does not circulate”. Inter-American Court of Human Rights, Case of “Ricardo Canese vs. Paraguay”. Judgement of 31 August 2004.

	<p>State actors.</p> <p><i>Restrictions on access to information</i></p> <p>The violating party may deliberately withhold or conceal certain facts in order to hinder an investigation or coverage of a sensitive topic.</p> <p><i>Economic pressure</i></p> <p>The allocation of government or commercial advertising is used to reward or punish media outlets according to their editorial line.</p> <p>Authorities may also resort to the arbitrary use of fees and taxes.</p>
--	--

These are general guidelines for the monitoring and documentation of violations. It is expected that each organisation will further develop these classifications for its own database in accordance with its methodology and based on this model.

III.5. Monitoring

By **monitoring** we refer to the ongoing practice of maintaining a critical eye on the state of free expression in a country or region.

Monitoring is an investigative tool used by organisations to obtain certain information and to regularly or sporadically keep track of developments in the social, political and economic spheres.

The free expression and press freedom organisations referred to in this document monitor a number of factors that may have a positive or negative impact on free expression in a country or region.

Monitoring is the first step in a lengthy process that may include campaigns and advocacy on behalf of free expression. As such, it is important to include a gender analysis, by making a special effort to identify and uncover the types of attacks women journalists are subjected to.

Each organisation that monitors free expression violations should consider what type of information it can obtain from each of the following sources:

- *Media reports.* News stories from local, national and international media may contain data on attacks.
- *Non-governmental groups.* Reports or information from human rights groups, journalists' networks and associations, editors' and media owners' associations, etc.
- *Networks of correspondents.*¹¹ Some monitoring organisations develop such networks; the correspondents inform the groups about violations in a certain region or country and may also become involved in documenting and updating the case.

¹¹ A number of the organisations that were surveyed have networks of correspondents spread out over the countryside: Fundación para la Libertad de Prensa (FLIP) in Colombia; Foro de Periodismo Argentino (FOPEA) in Argentina; Instituto Prensa y Sociedad (IPYS) in Peru. Some of the groups have one correspondent for certain countries: eg. Committee to Protect Journalists (CPJ); Reporters without Borders (RSF) and Instituto Prensa y Sociedad (IPYS) which covers various countries in South America.

- *Victims*. Sometimes the individuals who were targeted report the attack to an organisation. In turn, the organisation in question may provide support to the victim, taking into account their safety and security.

- *Government officials*. Some government entities, depending on their mandate, do follow up on cases of attacks against free expression and can therefore provide some useful information.

These may include: representatives of the executive or legislative branches, independent institutions such as human rights commissions or the Ombudsman's Office, and in some cases, members of the police and military.

- *Inter-governmental human rights groups*. These groups are tasked with overseeing how different countries protect certain rights. They often issue declarations on a specific region as regards advances and limitations in the field of human rights.

Each organisation that monitors free expression violations should ensure that it has a broad network of contacts made up of representatives of non-governmental groups, the State, and the profession in question (eg. media profession). These contacts can be a useful source of first-hand information but also help corroborate facts or dismiss rumours. In all cases, the information must be verified.

This group of contacts can also be of assistance when there are concerns about safety, be that of the victim, their family and friends, or the organisation's staff and correspondents who are following up on the case.

Monitoring the state of free expression entails documenting positive and negative developments as regards this right in a country or region.

III.6. Investigation and analysis

The **investigation and analysis** phase of the process is an important one for identifying possible motives and determining if the incident is linked to the exercise of free expression.

Once a possible attack on free expression has been identified, the *investigative process* entails a more in-depth look at the case. By *analysing* the situation, the organisation in question can come up with certain hypotheses and conclusions. As such, the organisation should determine:

- Which free expression principle has been violated
- The legal framework and which law was violated
- The type of attack

The organisation should also consider:

- The context
- Possible causes
- Supposed violator(s)
- The appropriate response from the State

The *investigative* process uncovers additional information about each of the attacks than an organisation has identified. In turn, this allows the group to *analyse* the general situation in a specific region and identify any trends.

Finally, the *investigation* and *analysis* process is important because it may point to security concerns, thus allowing the organisation to take certain steps for its security and that of the victim as already mentioned.

III.7. Documenting cases

By **documentation** we refer to the systematic gathering and organising of the information on a case. Once potential attacks on free expression have been identified through the monitoring process, each organisation has to follow up by collecting physical and documentary evidence.

This step comes after the investigation and analysis phase.

Organisations may use a questionnaire in order to record the information in a systematic manner. At the same time, a file is created for each case. It is used to hold all supporting data such as: photographs, videos, media reports, and original copies of any legal complaints and threatening notes. The relevant incident details should be entered into a database which can later be accessed and used to generate statistical reports.

This process can help identify certain patterns (eg recurring attacks by the same violator or institution or in the same setting); point to high-risk areas; and ascertain any similarities between the victims of the violations.¹²

¹² *Protocol for Documenting, Verifying and Following up on Attacks on Journalists* by ARTICLE 19 and CENCOS, published in November 2008, p. 55.

IV. Standard procedure for monitoring and documenting attacks on free expression

IV.1. Objectives and resources

The organisation and the individuals involved in the monitoring and documentation process must always keep in mind what their intended goals are.

From the very beginning, the organisation must establish why it is monitoring and documenting attacks against journalists, media workers or media outlets. The goals should reflect the organisation's mandate and strengths.

Some possible objectives may be¹³: to provide assistance to the victims; to publicise the information and issue alerts; to identify trends; to use the information to affect change in public policy; to lobby and put pressure on the authorities; to get involved in litigation or obtain compensation for the victim.

As such, the organisation has to consider its resources and abilities, keeping in mind the following:

1.- Human Resources:

- How many people will be involved in the monitoring and documentation process?
- Do they have any experience with this process?
- Has a network of contacts been created?
- What about the organisation's legal expertise? Are any lawyers on staff? Could the organisation provide legal assistance? Could it share this expertise with other organisations?
- Does the organisation have any experience and skills in gender analysis?
- Can the organisation provide any psychological support? Are there any psychologists on staff?

2.- Assets:

- Consider the organisation's office space, vehicles, etc.
- Communications equipment (computers, access to the Internet, telephones, mobile phones, satellite phones, etc.)

3.- Financial resources:

- How much money does the organisation have in reserve and how many months of work would this cover?
- If this work is being carried out as part of a long-term project, how long is the project expected to last? What will it entail: eg. monitoring and documentation; publications; litigation; documenting attacks; lobbying, etc.?
- What other possible sources of funding have been identified so that the work can continue after the current project comes to an end?

Social standing:

¹³ See section 2 in this document: Approaches to the defense, promotion and protection of the right to free expression in Latin America.

- Is the organisation considered to be credible and reliable (by other non-governmental organisations, the authorities, inter-governmental groups, etc.)?
- Does the organisation have international contacts and is it a member of international alliances that support its efforts (e.g. non-governmental or inter-governmental organisations, journalists' associations, etc.)?

Once it has a clear sense of its strengths and limitations, an organisation can then develop a proper workplan, establishing what type of monitoring and documentation activities it will carry out, which topics will be covered and which ones will not.

IV.2. Suggested procedure

In continuation, we outline the various steps that an organisation should undertake to evaluate each attack on free expression that has been identified through the monitoring process. By referring to this guideline and identifying the relevant steps along way, the IFEX-ALC organisations can approach this work in a more systematic fashion. This approach also considers questions of gender and ethnicity, risk analysis and security concerns.

IV.2.1 Phase A: Monitoring violations

1) Step 1: Identify possible cases of attacks on free expression

Each organisation should establish the method it will use to obtain the initial data and identify cases that impact on freedom of expression and the press. A number of sources of information were noted in the section under *Monitoring*. The organisations should find that as the relationships with their contacts strengthen over time, it will become easier and easier to obtain firsthand information.

The organisations should also consider setting up a mechanism on their websites via which individuals can report on attacks.

IV.2.2. Phase B: Investigation and analysis

2) Step 2: Identify and contact sources of information

In each case, the first step is to establish which sources can verify the information and provide additional evidence so as to determine if a free expression or press freedom violation has occurred. In certain cases and contexts it is difficult to obtain this information firsthand; it is therefore important for the organisations to have other contacts with which they can exchange information and corroborate facts.

We differentiate between two types of sources:

- *Primary sources* such as the victims themselves, their family members and/or colleagues. The main facts of the case should come from primary sources.
- *Secondary sources* can fill in gaps or provide additional information on the general context. These include the media, local and international organisations, human rights groups and the authorities.

One has to consider the credibility and dependability of each source. At the same time, one has to review what information is missing and what data could be used as evidence.

This step consists of two parts – contacting primary sources and secondary sources. Each document an organisation receives or each of the interviews it carries out may provide a piece of the puzzle.

a. Contacting the victim, their family members and colleagues

Before contacting these individuals, the organisation should consider the best approach. As such, one should keep in mind the following:

- Determine who within the organisation should make contact. It may be important for example that a person of the same gender as the victim carry out the interview, as this can help break down barriers.
- Consider the potential risk to the victim and their family, especially in such serious cases as assassinations or disappearances.
- Locate the victim and consider if they are in a safe place.
- Consider any security concerns in the region and how accessible the area is.
- Identify the best way to communicate (by telephone, e-mail, a visit to the region, etc.).
- Establish ahead of time what type of information will be provided to the victim, their family members and/or colleagues about legal mechanisms, institutions that can assist them, how to file a complaint, etc. This will vary in each case and it is important to evaluate if the information will be relevant and useful.
- Ask the individual(s) in question for permission to use the information. Certain details, such as the names of those who are interviewed, cannot be publicised without prior authorisation.

The interview with the victim may be impacted by the aftereffects of the incident. To survive an attack on one's human rights is a traumatising experience. As a result, the testimony may not appear credible, or the person may conceal some information (although this does not mean that the person is lying). The victim may minimise or in contrast exaggerate the severity of the attack, and may have her/his own agenda. All this has to be taken into account when evaluating the information provided by the victim.

Throughout the conversation, the interviewer should remain empathetic and as objective as possible. In the short-term, talking about what happened can be a positive or cathartic experience for the victim. At the same time, the persons who are investigating a human rights violation may be emotionally affected by hearing the testimony. It is important that objectivity is maintained during the documentation process. It may also be necessary to seek help from colleagues and individuals specialised in dealing with the emotional aftermath of this process.

The victim's informed consent

- The victim and each other person who is contacted during this process must be made aware of how the information will be used.
- As well, they should be informed about the possible consequences of filing a complaint and publicising a case or remaining silent.
- No one can be quoted or named in a document without their consent.

b. Contacting secondary sources and putting the information into context

It is important to compare the information obtained from primary sources with the additional data secondary sources can provide. The sources should be as diverse as possible in terms of their political leanings, type of entity (civil society, the authorities, independent human rights groups, etc.), profile, profession, etc. The information provided by the authorities should be taken into account, even when government officials are suspected to be behind the violation.

Confidentiality should always be taken into account in each information exchange as it will often be necessary to protect the source's identity.

One is trying to establish if there is a link between the attack and the media profession or the exercise of the right to free expression. As such, understanding the social, political, economic and cultural context is key. These are some factors to keep in mind during the interviews:

- The correlation between different political forces
- The relevant social, economic and political factors
- The agenda of the local media outlets
- If a media outlet was targeted, what is its editorial stance
- Security concerns and any prior attacks against journalists or media outlets in the region

In addition, in order to incorporate a gender perspective, one should also consider the economic situation, any regional social and cultural conventions, and the local political situation.

c. Using a questionnaire to collect data

A standardised *questionnaire* can facilitate the gathering of information. At the same time, it can include open-ended questions. In each case, the organisation must determine what data it wants to collect and record. The organisation's focus should be taken into account. As well, one should consider the different ways in which technology is changing the way media outlets work.

I.- Basic information:

- **File number.**- According to the organisation's categorisation system
 - **Date.**- Date of the incident and/or the date when the violation was documented
 - **Source of information.**- Name and contact details
 - **Case summary.**- A review of the main points
 - **Name of the victim or media outlet.**- Complete name of the targeted individual, journalist or media outlet.
 - **Victim's gender.**- This is important as it will later enable the organisation to analyse the data with this focus or identify certain patterns.
 - **Contact information.**- How to contact the victim
 - **Location.**- Municipality, province or department, and country where the incident took place.
 - **Type of violation.**- Classify the violation according to the aforementioned definitions of direct and indirect attacks.
 - **What principle has been violated.**- This should become apparent during the investigative process (always keeping in mind the *Declaration of Principles on Freedom of Expression*)
 - **Alleged perpetrator .-** Who is believed to be behind the attack
- a) the authorities b) organised crime c) commercial interests d)political party e)an armed group g)**

other

- **Probable motive for the attack.**- Why was the person in question, eg. a journalist, targeted

a) for exercising their profession, b) because of a news report they (i) had published or (ii) were investigating, c) Other reason

II.- Additional information on the victim (journalist, media worker, media owner or director, media outlet)

a) If the target is a journalist, media worker or media director:

- **Journalistic focus.**- The person mainly reports on/works on:

a) Political issues, b) the police beat, c) legal matter, d) social issues and human rights, e) cultural issues, f) sports, g) the arts, h) general topics, g) international news, h) other, i) not applicable

-**The media outlet's coverage.**- What is the media outlet's distribution range

a) local, b) regional, c) provincial or state level, d) national, e) international, f) other

- **Type of contract:** Was the person working as

a) a staff journalist/media worker, b) freelance journalist, c) not applicable

II. b) If the target was a media outlet

- **Its coverage:** What is its distribution range

a) local, b) regional, c) provincial or state level, d) national, e) international

- **Type of media outlet**

a) press, b) news agency, c) radio station, d) television, e) online (blog, information site, social network, etc.)

- **Its orientation.**- Refers to the content of the information provided and the media outlet's link to civil society

a) commercial, b) community-based, c) alternative, d) other

III. Legal action

- **Criminal complaint:**

- **Case number:**

- **Was a complaint filed with any other authorities? Which ones:**

- **Number:**

IV. Context and assessment

- **Prior attacks:** Against the journalist or the media outlet

- **Context:** Any factors that may have led to the attack

- **Proof of the attack:** This may include documentation or other evidence

- **Assessment:** Internal analysis by the organisation as to the link between the attack and the right to freedom of expression or the press

3) Step 3: Evaluate the information

The organisations should document only those attacks where there is a probable link *between the incident and freedom of expression*. In other words, the information available on each case has to be evaluated so as to ascertain if the journalist was targeted because of his/her profession.

Of course it is not always possible to establish this link and various hypotheses may emerge as to the motive for the attack. As such, the case is *confirmed* only when there is enough information available to point to a direct link between the incident and the media profession; the motive or case is *unconfirmed* when there is insufficient evidence to ascertain this link with any certainty but nevertheless, the possibility that the attack was linked to press freedom cannot be dismissed.

We should not forget that it is the responsibility of the State to prevent and investigate all human rights violations and sanction those deemed responsible. The information gathered during the investigation process should be as detailed and precise as possible. This data may subsequently be used to file a complaint or to justify a request for protection from the authorities. Before this information is publicised, the organisation should be aware of any security concerns and ensure that the victim and his/her family members have provided their consent.

Finally, each organisation should rule out (and not include in its databases) any cases where the evidence suggests that the attack was *not* linked to freedom of expression.

IV.2.3 Phase C: Documenting cases

4) Step 4: Organising the information

At this point the organisation should draw on the tools it has developed for this process: namely, a *questionnaire* and a *database* for recording the data. This will help ensure that each case which has not been discarded (deemed to be unrelated to free expression) during the evaluation, can now be documented in a systematic fashion.¹⁴

a. Questionnaire

The questionnaire was already used to gather information during *Phase 2, investigation and analysis*. The responses to each question should now be entered into the database.

¹⁴ The organisations who are members of the IFEX-ALC and who maintain a database are: Fundación para la Libertad de Prensa, FLIP focused on Colombia; Centro Nacional de Comunicación Social, CENCOS, working in partnership with ARTICLE 19, focused on Mexico; Foro de Periodismo Argentino, FOPEA, focused on Argentina; the Instituto de Prensa y Sociedad (IPYS) which has information on Argentina, Brazil, Chile, Guatemala, Mexico, Paraguay; and finally CERIGUA, based in Guatemala.

b. Database

Databases allow us to store large amounts of information in a logical manner. Statistical reports can be generated and the data can be easily retrieved in the way that we want it. The results serve as the basis for: the drafting of reports (national, international, regional or thematic); the setting up of visits and missions; providing assistance to the victims; identifying high-risk areas; lobbying for changes in policy to address the issue, etc.

The incident details for each case should be easy to retrieve. At the same time, each organisation must protect sensitive information by setting up security filters and ensuring that only authorised individuals can access the database. This applies to the actual case files as well as all the information that is stored digitally.

A spreadsheet or a database programme may be all that is needed to record the information in a systematic way:

- *Spreadsheet*. Normally used by accountants for financial data but it can be used to generate graphs and charts. Organisations can use software such as Excel, part of the Microsoft Office package, for which there is a fee, or “free” software such as OpenOffice, which is readily available and has some of the same features.

- *Database*. Database management systems rely on a specific type of software and serve as the interface between the user, the data and specific applications. The user can retrieve the data in a simple and orderly fashion and use this information in various ways. Microsoft Office contains a database programme called Access. On the other hand, organisations can find “free” database software such as the Database under the open source OpenOffice.

Each organisation must ensure that sensitive data (which will vary from case to case) is stored in a secure database and guarded by a certain type of software so that only authorised individuals can access the information and it does not end up being used in a way that it was never intended to be. An organisation’s reputation and credibility can be seriously impacted if it mismanages the information or if other individuals are able to get their hands on sensitive information. More importantly, if certain details fall in the hands of the wrong people this can result in a serious security risk for the victims.

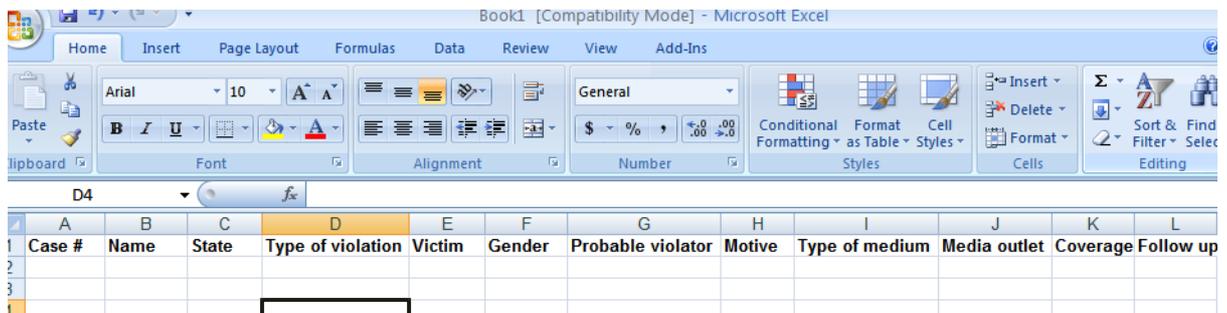
Organisations may choose to design and build, with the help of experts, a type of software that would address their specific security and data retrieval needs. Of course this can be a costly undertaking but in the long term it can really facilitate the documentation and data retrieval process.

This document recommends that each organisation use a *database* that best adapts to its specific security needs and allows it to easily retrieve data. The organisation should also set up a secure storage area for the case files which may contain additional materials, such as photographs, videos, media reports, original copies of complaints and threatening notes, etc. Each organisation should be able to easily generate statistical reports and quickly locate the relevant information when it needs to review a specific case.

The *database* should contain some of the following information¹⁵ according to the answers to the questionnaire:

Example:

¹⁵ This is based on a review of the information that the members of the IFEX-ALC include in their databases, it is a suggested guideline that can be adopted and further developed accordingly according to the mandate and needs of each organisation.



5) Step 5: Decide how the information will be used

a. Internal considerations

The decision must always take into account the perceived needs of the victims and their families, without of course discounting the organisation's criteria. The victim's safety must also be a consideration.

It is not necessary to publicise all of the information the organisation has gathered. The confidential nature of some details must be taken into account. Sometimes it is best if the case is not brought to the public's attention but is simply shared with other entities or trustworthy organisations that support free expression and are willing to assist in some way – e.g. by providing the victim with protection, legal assistance and advice, psychological support, etc. It goes without saying that this should only be undertaken with the victim's consent.

b. Deciding to publicise the information

The *documented* cases can be used in a number of ways to generate reports and analysis as already explained. As such, it is the organisation's ethical and professional responsibility to establish some clear criteria as to how it will publicise the information.

Organisations may choose to issue an alert or a press release. The goal may be to: raise public awareness about the incident both within the country and internationally; call for protective measures for the victim; urge the authorities to launch an investigation, etc.

It is very important that i) the information contained in the alert is accurate and ii) the sources of information are clearly identified. Whenever possible try to: quote government officials in the alert or press release; include an online link to official documents such as reports or court orders; refer to the applicable national laws and any relevant international legal instruments; and be upfront about any gaps in the information.

Before issuing an alert, an organisation must ask itself if it is putting the victim at risk and if the person has consented to having an alert circulated. To act otherwise can be detrimental to an organisation's credibility and undermine the effectiveness of this tool (See Annex I).

In addition to issuing alerts, organisations may choose to issue reports that refer to a number of different cases. Specific data may be presented alongside a more theoretical analysis of the situation. The organisation can use a report to highlight a pattern or issue of concern that it has been monitoring and issue a call for action by the authorities, journalists' groups, and inter-governmental or non-governmental entities.

Each report should include an explanation of the organisation's methodology. This is also applicable to a lesser extent for alerts and press releases. But for reports in particular, including this detail lends the organisation more credibility and promotes transparency.

6) Step 6: Set up criteria to ensure proper follow-up

Will an organisation devote resources to *following up* on cases? Once again, the answer will depend on the criteria the group establishes, taking into account its strengths and limitations. It is important that each organisation be clear about its commitment. Perhaps it will only be able to update certain cases - but which ones and under which circumstances? Another factor to consider is the organisation's goal – is it to keep in contact with the victim, to find out if another violation has taken place, to determine if the authorities have taken any action, or another reason.

By ensuring the *proper follow up* of a case, an organisation will become aware of any new significant information. This should have a positive impact on campaign and advocacy actions, and provide a marker for the evaluation of a campaign's effectiveness.

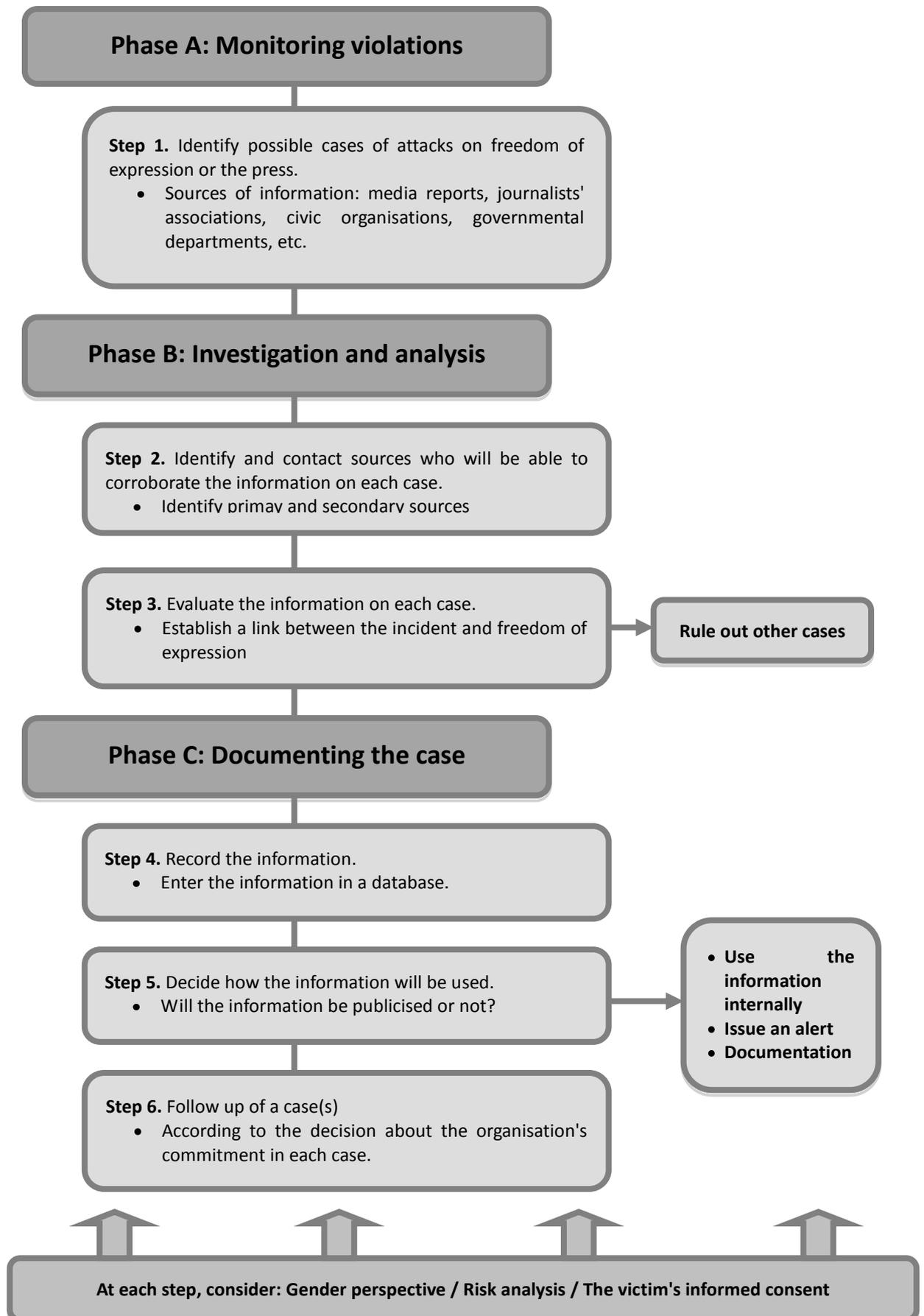
It is particularly important to *follow up* on cases where the supposed perpetrators have not been brought to justice. It is each government's responsibility to prevent the recurrence of violations, otherwise a culture of impunity is created.

Following up on cases is also important because it can act as a deterrent in certain situations. This will depend on the seriousness of the attack or threat issued against the victim. A periodic follow up, along with the implementation of security measures, may help alleviate the risk.

Finally, the decision to *follow up* on a case may depend on the victim's needs. For example, if the individual who was targeted is willing to go to court to demand compensation and redress, the organisation in question may continue to provide legal assistance, psychological support, etc.

Outline

This diagram illustrates the different steps involved in monitoring, analysing and documenting an attack on freedom of expression or the press. It summarises the various elements involved in the process, from the moment a possible violation is identified, up to the point when an investigation is concluded.



Bibliography and online links

ARTICLE 19 and Centro Nacional de Comunicación Social (Ed.), *Seminario Internacional. Sistemas de alertas y metodología para el registro, documentación y seguimiento de las agresiones a periodistas y medios de comunicación*, México, 2008. <http://libertad-expresion.org.mx/wp-content/uploads/2009/01/cencos-memoriaweb1.pdf> .

ARTICLE 19 and Centro Nacional de Comunicación Social (Cencos), *Guía Práctica sobre la libertad de expresión*, México, 2008. <http://libertad-expresion.org.mx/wp-content/uploads/2009/01/cencos-guiaweb.pdf> .

ARTICLE 19 and Centro Nacional de Comunicación Social (Cencos), *Protocolo para el registro, documentación y seguimiento de agresiones a periodistas*. México: 2008. <http://libertad-expresion.org.mx/wp-content/uploads/2009/01/cencos-protocoloweb.pdf> .

World Association of Community Radio Broadcasters (AMARC), *Programa de legislaciones y derecho a la comunicación*: <http://legislaciones.item.org.uy/index>.

World Association of Community Radio Broadcasters – Latin America and the Caribbean (AMARC ALC): <http://alc.amarc.org/index.php?p=home&l=ES>.

Association of Caribbean MediaWorkers (ACM): <http://www.acmediaworkers.com>

Cerigua, Centro de Reportes Informativos sobre Guatemala, *Riesgos para ejercer el periodismo en Guatemala. Informe Libertad de Expresión 2008*, Guatemala, 5 de enero de 2009.

Comité por la Libre Expresión (C-Libre): <http://alertas.clibre.info/> y www.clibre.info.

Committee to Protect Journalists, *Attacks on the Press 2009*. <http://cpj.org/2010/02/attacks-on-the-press-2009.php> .

Committee to Protect Journalists. *Americas*: <http://cpj.org/americas/> .

Eduardo Bertoni, *La situación de la libertad de expresión en las Américas. Un análisis a la luz de los informes de la Relatoría Especial para la Libertad de Expresión*, Centro de Estudios para la Libertad de Expresión y Acceso a la Información (CELE), Universidad de Palermo, Argentina, 2010
[http://www.libertad-expresion.org.mx/wp-content/uploads/2010/01/situacion_eduardo_bertoni.pdf].

Fernando J. Ruiz, “Las nuevas fronteras del monitoreo en América Latina”, presentación en el *Primer encuentro de corresponsales del Programa Monitoreo de la Libertad de Expresión de FOPEA*, 14 de agosto del 2009.
http://www.fopea.org/Libertad_de_Expresion/Informes_Monitoreo_LE/Las_nuevas_fronteras_del_monitoreo_en_America_Latina .

Foro Argentino de Periodismo (FOPEA), *Monitoreo de la Libertad de Expresión en la Argentina. Informe Octubre 2006 – Julio 2008*, Buenos Aires, octubre de 2008.

Foro Argentino de Periodismo (FOPEA), *Patrón de casos de ataques a la libertad de expresión*, 2008.
http://www.fopea.org/Libertad_de_Expresion/Patron_de_casos .

Freedom House, *Freedom of the Press*: <http://www.freedomhouse.org/template.cfm?page=16> .

Fundación para la Libertad de Prensa (FLIP), *Manual operativo de atención, monitoreo y registro* (documento de trabajo, exclusivo de uso interno de la FLIP).

IFEX, *IFEX Clearing House Editorial Guidelines*, September 2009.

Instituto de Prensa y Sociedad (IPYS), *Informes por país*: <http://www.ipys.org/infoxpais.shtml> .

Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights (IACHR): <http://www.cidh.org/relatoria/index.asp?IID=1>

Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights (IACHR), *2009 Annual Report*, Organization of American States, OEA/Ser.L/V/II, Doc. 51, Washington, D.C., 30 December 2009, <http://www.cidh.org/pdf%20files/Annual%20Report%202009.pdf>

Reporters without Borders, *Americas*: <http://en.rsf.org/americas,5.html>

Rory Peck Trust: <http://www.rorypecktrust.org/>.

ANNEX 1

IFEX CLEARING HOUSE EDITORIAL GUIDELINES

(September 2009)

The objective of the IFEX Clearing House (CH) is to facilitate the dissemination of information to defend and promote freedom of expression, and to enable the freedom of expression community to work together more efficiently and effectively toward this goal.

Core services of the IFEX CH are the operation of an Action Alert Network (AAN), the publication of a regular *IFEX Digest*, and the publication of a weekly newsletter, the *IFEX Communiqué*. Through these channels, the CH will disseminate to members and to the general public, information produced or sourced by IFEX members. To this end, the CH will maintain an Internet presence for access by both members and the public. The CH will also operate listservs for the circulation of internal information for the use of its members and IFEX Council.

(...)

II. LEVELS OF INFORMATION

1. External

1.1 Alerts

Alerts are communications supplied by members that are generally of an urgent nature, often calling for rapid action.

Alerts will be formatted and, if necessary, edited by AAN staff for clarity and coherence. Communications may also be reformatted to maximise their actionability.

The official languages of the IFEX Clearing House are English, French and Spanish. AAN staff will - where appropriate and resources permitting - translate material from other official IFEX languages (French and Spanish) into English. Alerts may be abridged in translation for expediency. Alerts submitted in English only will not be translated into other languages.

In certain instances, French or Spanish-language versions of alerts may not be issued on the AAN, but displayed instead as a link directing subscribers and users of the IFEX website to other members' websites to access the alert.

Alerts should be no more than one page in length. AAN staff may reject alerts of more than two pages.

Alerts shall be circulated to IFEX lists according to the prioritisation scheme included in Appendix II and posted to the IFEX website.

(...)

APPENDIX I

TEN GUIDELINES FOR PREPARING EFFECTIVE ALERTS

1. Get your facts straight

- * investigate facts for legitimacy
- * confirm authority of source
- * avoid using anonymous sources, if possible

2. Provide case's essential details

- * clearly indicate the date the incident occurred, including the month and year, in the first reference; avoid using words like "today", "yesterday" or "last week"
- * state the location where the violation took place, including geographic references, where necessary
- * provide full names of victim and assailants, if known

3. Consult past member alerts on ongoing cases

- * refer to the IFEX website to see what has previously been written on the case; this will help to avoid contradictions or inconsistencies in information

4. Write for an international audience

- * define your terms
- * choose words that will be understood worldwide, not just in your own country or culture
- * provide the full names of political organisations, movements, etc., in addition to acronyms

5. Tell the whole story

- * provide good, concise explanations of the key facts - most alerts should be no more than a page in length
- * explain relevance to freedom of expression
- * state probable cause for violation, if known
- * provide background to case or simple instructions for getting useful background information (e.g. web link)

6. Make it easy to read and understand

- * begin with a good, clear headline that summarises the issue
- * use plain language, not jargon
- * use short sentences and simple grammar
- * break up long paragraphs
- * use bullets and section headings to avoid visual monotony
- * avoid repetition and verbosity

7. Avoid making unsubstantiated statements

- * unconfirmed allegations and vague hypotheses often do more harm than good to the victim and affect the source's credibility
- * make reference to relevant articles in international or regional treaties ratified by the country in question (e.g. Article 19 of the Universal Declaration on Human Rights and the International Covenant on Civil and Political Rights) or to free expression provisions in the country's own Constitution

8. Include recommended actions, when applicable

- * actions should be clear, concise and logical
- * if the case is time-sensitive, explain why
- * take the time to evaluate which authorities you might target to have maximum impact
- * suggest the most effective method of communication and include all pertinent contact information

9. Implement a thorough editorial process

- * solicit comments on a draft before sending it out
- * editors should:
 - ensure all names are spelled correctly throughout alert
 - verify dates and chronology of events
 - check grammar, punctuation and syntax
 - remove any verbose or repetitive sections

10. Ensure proper follow-up

- * continue to monitor case developments
- * issue updates as significant new information becomes available

Some of the above based on *Designing Effective Action Alerts for the Internet*, by Phil Agre, Department of Information Studies, University of California, Los Angeles, Los Angeles, California 90095-1520, USA, pagre@ucla.edu, <http://dlis.gseis.ucla.edu/pagre>, 24 April 1999 version. Copyright 1994-1998, all rights reserved. Used by permission.