

# THE URGENCY OF PROTECTING THE SAFETY OF JOURNALISTS IN COVERAGING DUTIES ON THE MIDDLE EAST WAR: A CASE STUDY ON THE HAMAS-ISRAEL CONFLICT

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## Abstract

The conflict between Hamas and Israel prolonged since 7th October 2023 has caused many reported and unreported casualties from the journalists' side. Until March 2024, 105 media workers from various countries were killed while covering events in the Gaza Strip. The number of casualties has risen exceedingly since the year 2022. The International Federation of Journalists (IFJ) reported the deaths of journalists in the Gaza Strip had contributed to 72% of the deaths of all media workers worldwide. The death toll of journalists in the Gaza Strip in the context of the Israel-Hamas conflict constitutes an unresolved problem threatening the freedom of the press and democracy. This study aims to excavate what efforts should be made by relevant authorities to protect the safety of journalists so that they can avoid violence when covering and disseminating information in conflict areas, especially in the Gaza Strip. This study uses a qualitative approach. Data collection was conducted through a literature study and content analysis of news articles on violence against journalists during war coverage in the Gaza Strip. The research findings show that the relevant authorities have only expressed concern about the violence and deaths of journalists in Gaza but there has been no concrete effort to guarantee the protection of journalists. A concerted effort to protect journalists in dangerous environments such as war zones is essential to uphold democratic values and encourage transparent information dissemination despite challenging situations.

**Keywords:** On Duty Journalist, Effective and Optimal State Protection, Freedom of the Press, Hamas-Israel conflict

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## Introduction

Mass media has an important role in people's lives. The important role of mass media in people's lives can be seen from the functions of the media. Severin & Tankard (2013), explain at least 4 functions of mass media in people's lives, including, 1). Surveillance. This function provides information to the public through news written by journalists. 2). Correlation, which is the function of selecting and interpreting information about the environment. In carrying out the correlation function, the media often includes criticism and how people react to certain events. The correlation function aims to enforce social norms and maintain consensus by exposing irregularities and monitoring the government. 3). Transmission of the Social Heritage. This function is the role of the media to convey information, values, and norms from one generation to the next. 4. Entertainment. The entertainment function aims

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to provide a break for the public from the problems and busyness of work every day by filling leisure time.

The four functions of the mass media are actualized through the work of media workers, one of which is journalists (Randall, 2000). Following their functions and duties, a journalist is someone who is employed to serve the public interest in collecting, processing, and disseminating accurate and balanced information. (Ashari et al., 2019). To get actual and reliable information, journalists often cover various places. Journalists will do various ways to get as complete and actual information as possible from various events including conflict events (Syidqi & Sobur, 2021). Conflicts can occur on a local scale within a country and can also occur between countries.

Press coverage of conflicts that occur between two countries is very important to the public. In the coverage of conflicts, journalists can describe in detail the time, geographical location, events that occurred, the suffering of every fallen soldier, and the death of innocent civilians due to the impact of fighting between the parties to the conflict. (Vishnu Prabhu & Dwivedi, 2015). It is often thanks to journalists' coverage that serious human rights violations, war crimes, and other atrocities are brought to the attention of the public and decision-makers. By traveling to conflict zones, interviewing sources, verifying facts, and spreading the word, journalists have become the eyes and ears of communities around the world. In some cases, journalists covering conflicts have also helped courts obtain important evidence to hold war criminals accountable. (Mijatovic, 2022). Therefore, journalists documenting crimes can help uphold human rights, build accountability, and foster international solidarity.

However, when reporting in conflict zones, journalists often face extreme safety risks and dangers. (Ali & Iqbal, 2022; Hamdani, 2020). Acts of violence against journalists can take various forms such as intimidation, threats and coercion verbally or nonverbally, either directly or indirectly. Other forms of violence against journalists are in the form of dark calls, terror, harassment, expulsion, prohibition of coverage, destruction of offices, seizure of cameras, beatings and even murders that cause journalists to lose their lives. (Yuni, 2018).

Press freedom monitoring organization Reporters Without Borders (RSF) noted that nearly 1,700 journalists have been killed worldwide in the last 20 years. (Deloire, 2022). Based on this data, an average of more than 80 journalists are killed each year. The annual number of journalist deaths peaked in 2012 with 144 deaths and in 2013, 142 journalists were killed. This spike was largely triggered by the war in Syria. RSF noted that 80 percent of the deaths recorded between 2003 and 2022 occurred in 15 countries. The international non-governmental organization said that the most dangerous countries were Iraq and Syria.

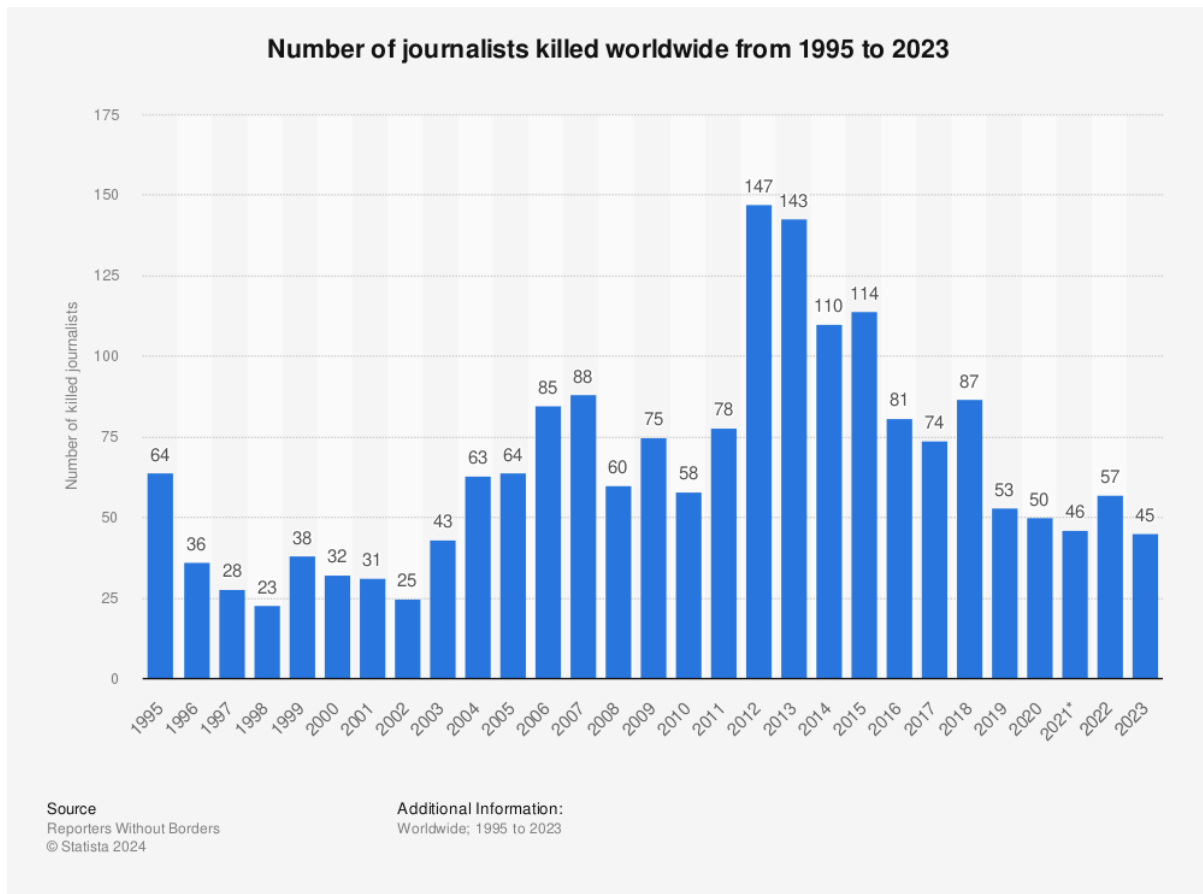


Figure 1: Number of journalists killed worldwide from 1995 to 2023

Source: Reporter Without Borders @. Statistica 2024.

In two countries, Iraq and Syria, a total of 578 journalists lost their lives. The next most vulnerable countries are Afghanistan, Yemen, Somalia and Palestine. Journalists who were victimized while on duty in the Afghan conflict area were among others due to crossfire, bomb attacks and dangerous assignments.

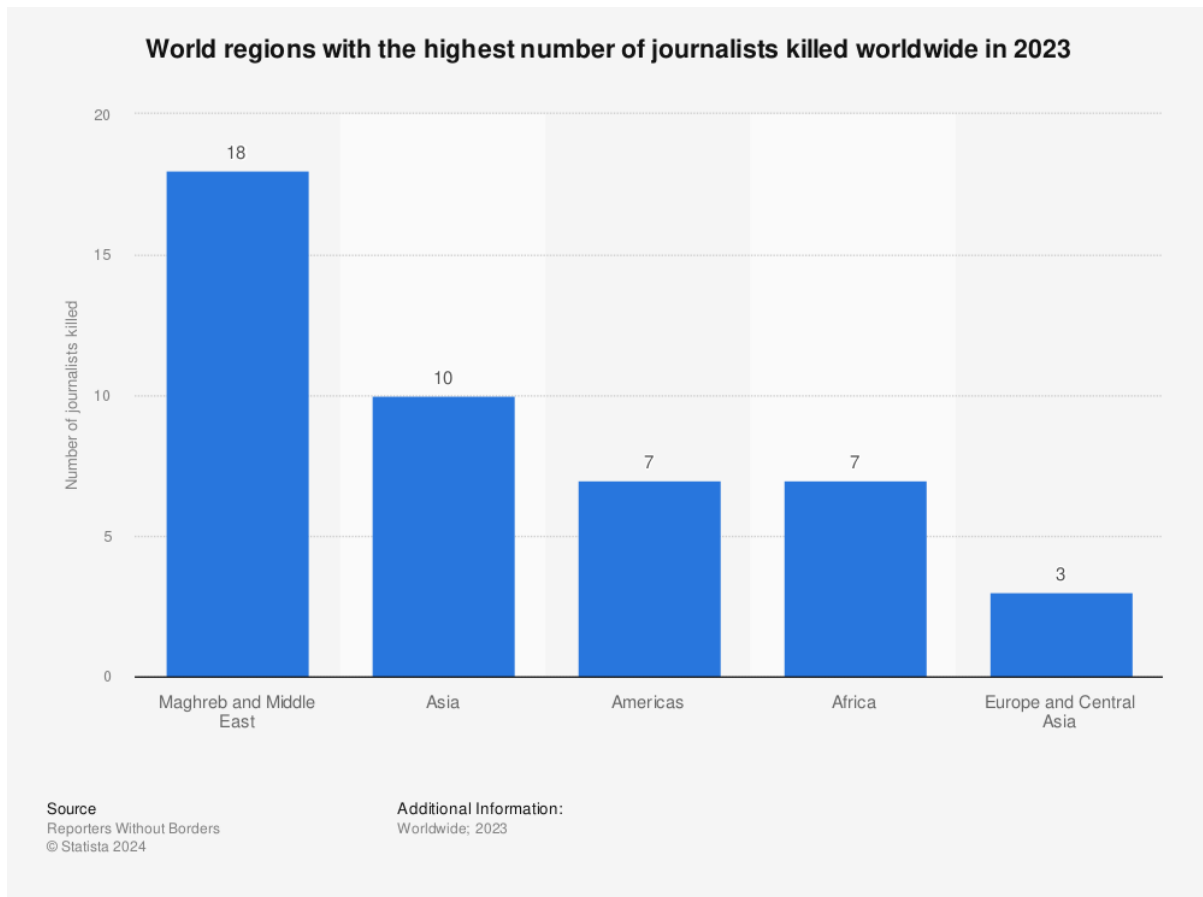


Figure 2: World region with the highest number of journalists killed worldwide in 2023

Source: Reporter Without Borders.

### **Journalists killed in the Hamas - Israel conflict.**

The prolonged conflict between Palestine and Israel that has been going on since 1948 until now has caused many casualties. In this conflict, victims not only occur in the military and civilians but also in journalists who struggle to get information.

The latest and deadliest conflict between Hamas and Israel, which has been going on since October 7, 2023, to date, has claimed the lives of more than a hundred journalists from various countries. As of July 2024, 108 media workers from various countries have been killed while covering events in the Gaza Strip. (<https://cpj.org/>, 2024) . Data from Reporters Without Borders recorded that until March 2024, the death toll of journalists on the Israeli side was 4 people, Palestinian journalists 141 people, and Lebanese, 3 people. Based on this data, the number of journalists who died in the Hamas-Israel conflict was far more than in 2022. The International Federation of Journalists (IFJ), said that the death of journalists in the Gaza Strip has accounted for 72% of the deaths of all media workers in the world in 2023. This highlights the huge risks faced by media workers in the region.



Figure 3: Journalists killed in the Hamas - Israel conflict

Source: Antaranews.com

In addition to the many journalists killed in the Hamas-Israel conflict, the plight of journalists is also exacerbated by reports that some journalists have experienced harassment, detention, and intimidation while reporting in Gaza and the West Bank, Israel, and surrounding areas.

The death toll of journalists in the Gaza Strip in the context of the Israel-Hamas conflict is an urgent problem that threatens press freedom and democracy. Based on the above background, this article focuses on two issues:

- What is the regulatory framework governing legal protection for journalists in times of conflict, both internationally and nationally?
- What are the efforts made by relevant authorities to provide protection and safety for journalists on duty in the Gaza Strip or Hamas - Israel conflict areas?

### Materials and Methods

This research is a type of normative legal research. Normative legal research in the study is “based on the understanding that science is the science that is legal prescriptive and applied, jurisprudence is always related to what should be or what it should be, methods and procedures of research in natural sciences and social sciences cannot be applied in legal studies” (Christiani, 2016). Normative legal research is research that refers to literature studies on legal literature, and regulations relating to both national and international law. Data collection is done through a literature study. In addition, other data sources in this study are news stories about violence against journalists in the coverage of the war in the Gaza Strip. The data sources in this research are as follows: Documentation and literature. In this

research, documentation and literature include books, journal articles, laws and regulations, news, audiovisuals, study reports, presentation materials, and papers.

## **Results and Discussion**

Based on the results of the study, in this section, the researcher presents the results and discussion of the study.

### ***3.1. Legal Framework Concerning Protection for Journalists in a Coveraging Duty in Armed Conflicts***

#### ***3.1.1 International Legal Framework***

One of the sources of international law is a treaty or Convention, which is a legal instrument expressing the will and agreement of States or other international subjects to achieve a common goal, the conclusion of which is regulated by international law and has binding legal consequences for the contracting parties. Agreements under international law can cover a variety of aspects, such as economic, social, and cultural agreements and even agreements on war. Under international law, treaties relating to war are known as International Humanitarian Law (IHL) (Melzer, 2021), which also regulates the protection of journalists in areas of armed conflict. In general, international agreements governing the protection of journalists in conflict zones are contained in conventions. A convention is an instrument usually used in limited or open multilateral agreements to regulate matters that are considered very important, and usually these matters are not simple and are regulated in detail. The purpose of humanitarian law is to protect those who suffer or are victims of war, both those who are actually and actively involved in the conflict (combatants) and those who do not participate in the conflict (civilians). In addition, IHL only applies when there is an armed conflict, and in order to determine the applicability of IHL, a distinction must be made between international and non-international armed conflicts. International humanitarian law not only regulates the conduct of war, as contained in the Hague Convention but also protects the victims of war, as contained in the Geneva Convention. In the Hague Convention, the protection of journalists is regulated in the Hague Convention IV 1907 (Levie, 1907) concerning Respect for the Laws and Customs of War on Land (Respecting the Laws and Customs of War on Land) Article 13, which states:

**"Persons following an army without being directly attached to it, such as newspaper correspondents and reporters, sultans and contractors, who fall into the hands of the enemy and whom the latter deems fit to detain, shall be entitled to be treated as prisoners of war, provided that they have of a certificate issued by the military authorities of the army which they accompany".**

Based on this article it can be concluded that a journalist (with the term: newspaper correspondents and reporters) who falls into the hands of one of the warring parties and is detained by one of the warring parties is treated as a prisoner of war. However, the journalist cannot be considered as a prisoner of war.

In order to qualify for treatment as a prisoner of war, journalists must have a certificate issued by the head of the armed forces to which they belong. If a journalist is detained by a belligerent, the journalist

will be treated as a prisoner of war, but if the journalist does not have a certificate from one of the armed forces, the journalist cannot be treated as a prisoner of war if the journalist is detained. To reaffirm the protection of journalists contained in the Hague Convention, the Geneva Convention, as a law protecting victims of war, mentions the protection of journalists again in Article 4 of the 1949 Geneva Convention III on the Treatment of Prisoners of War (Ferraro & Cameron, 2016), which defines the groups considered as prisoners of war, where journalists are included in the fourth group. Article 4(A)(4) states:

"Persons accompanying the armed forces without actually being members thereof, such as civilian members of military aircraft crews, war correspondents, supply contractors, members of work units or services responsible for the welfare of the armed forces, provided that they have received authorization from the armed forces which they accompany, which shall issue them for this purpose with an identity card similar to the attached model".

This provision hardly differs from the above-mentioned Article 13 of the Fourth Hague Convention of 1907, which makes the presence of journalists in armed hostilities conditional upon the possession of a pass issued by one of the belligerents.

Article 13 of the 1907 Hague Convention IV refers to journalists as news correspondents and reporters, while Article 4 of the 1949 Geneva Convention III refers to journalists as war correspondents. The protection of journalists is also affirmed in Additional Protocol I to the 1977 Geneva Conventions on the protection of victims of international wars. Paragraph (1) states that the status of journalists in armed conflicts must be considered civilians, while paragraph (2) explains that journalists are protected under the Geneva Conventions and this Protocol, provided that they do not take actions that may affect and harm civilians, and without prejudice to civil rights as war journalists assigned to the army.

Paragraph 3 sets out the conditions for working as a reporter such as holding a press card issued by the government of the country of which they are a national, or of the country of residence or of the news agency employing them.

Talking about the legal consequences if the State or armed forces or State-sponsored militia intentionally violates the IHL relating to protection for journalists in the armed conflicts, the IHL stated in principle that, journalists operating in the context of armed conflict are afforded the protections of international humanitarian law. This applies even when the journalist has been apprehended by enemy forces. The journalist is to be treated as a civilian until he fulfills the criteria for designation as a prisoner of war. In that instance, the journalist will be entitled to the protections afforded to prisoners of war. It is clear, however, that what happened to journalists during the armed conflict in the epicenter of the Middle East conflict, which is in Israel and Palestine, committed by the Hamas Armed Group and Israeli Militia, can be categorized as a violation of international humanitarian law. As such, the Hamas Armed Group must be held to account for war crimes that it has committed.

It is a fundamental tenet of international humanitarian law that the only permanent court with jurisdiction to punish perpetrators of war crimes in violation of humanitarian law is the International Criminal Court (hereinafter referred to as the ICC). Consequently, Hamas can be prosecuted by the ICC for the crimes it is alleged to have committed. Nevertheless, the ICC faces some significant challenges

in exercising its authority to punish those who violate humanitarian law, including limitations imposed by its territorial jurisdiction.

This is based on the provisions contained in the international treaty that became the foundation of the ICC's work, known as the Rome Statute. The Statute itself is a form of an international treaty that serves as an instrument of agreement that will form and underlie an international organization. Following the provisions of the Rome Statute, the ICC is empowered to exercise its jurisdiction over any individual (irrespective of nationality) who has committed a crime within the territory of a State Party to the 1998 Rome Statute. 8. The Rome Statute and the ICC may also exercise their authority over international crimes committed in the territory of any country (irrespective of whether the territory in question is that of a State Party to the 1998 Rome Statute), provided that the perpetrator is a citizen of a State Party. In this case, the crimes committed by ISIS are situated in Iraq and Syria, both of which have not ratified the Rome Statute. Consequently, the ICC does not have jurisdiction over them. In the absence of ICC jurisdiction over Iraq and Syria, ISIS cannot be reported to the ICC and the ICC cannot simply prosecute ISIS in the absence of jurisdiction. However, this does not mean that there is no way for the world to prosecute ISIS for all the crimes they have committed. It is important to note that the ICC's primary objective is to promote distributive justice. Therefore, it would be unjust to allow perpetrators of crimes such as those committed by ISIS to evade accountability, particularly given the numerous victims of their actions. The ICC's jurisdiction is limited to crimes committed by non-citizens of states that have ratified the Rome Statute, as well as crimes that are not committed within a state party. Nevertheless, if international crimes are perpetrated by non-citizens of a state party to the ratification of the Rome Statute or crimes that are not committed in a state party, the ICC may still prosecute the perpetrators of these crimes based on a referral from the UN Security Council. This body is obliged to maintain world peace and security. Consequently, the ICC may prosecute and punish ISIS, but only based on recommendations from the United Nations Security Council.

### ***3.1.2 Domestic Legal Framework***

With respect to the providing adequate legal protection for journalists, this research found, as follows:

First, in Israel: The Israeli government has implemented various measures to protect journalists, including the establishment of a special unit within the Ministry of Defense to handle media-related issues during conflicts. Additionally, the Israeli military has developed guidelines for the treatment of journalists, emphasizing their status as civilians and the need to respect their safety.

Second, in the Palestine territory: The Palestinian Authority has also taken steps to protect journalists, including the establishment of a media committee to monitor and respond to incidents affecting journalists. Furthermore, the Palestinian government has issued laws and regulations aimed at ensuring the safety and security of journalists.

Third, the Republic of Indonesia: Indonesian Constitution: The Indonesian Constitution guarantees the right to freedom of expression and the press, which includes the right to gather and disseminate information. The Constitution also provides for the protection of journalists and media workers from harassment, intimidation, and violence



### **3.1.3 'Soft Law' Instruments under International Law**

Besides the 'hard law' stipulated in the IHL mentioned above, there are several 'soft law' instruments that have significant roles in providing effective legal protection to the journalists on duty stipulated above, as follows:

First, the UN Security Council Resolutions: The UN Security Council has passed several resolutions aimed at protecting journalists and media workers in armed conflict. For example, Resolution 1738 (2006) emphasizes the need to protect journalists and media workers from violence and intimidation.

Second, Reporters Without Borders: Reporters Without Borders, a non-governmental organization, advocates for the protection of journalists and media workers and monitors incidents of violence and intimidation against them.

### **3.2. Legal Protection Efforts for Journalists on Duty in the Gaza Strip.**

The increasing death toll experienced by journalists in the conflict between Hamas and Israel has led to reactions from various stakeholders. Various stakeholders have made efforts to provide protection and safety for journalists serving in the Hamas-Palestine conflict zone, researchers identified several stakeholders who expressed reactions.

#### ***Reporters Without Borders (RSF).***

Reporters Without Borders (RSF) provides advocacy for journalists working in conflict zones, including the Hamas and Palestinian conflicts. RSF regularly releases the number of journalists killed and injured in the Gaza Strip. RSF has repeatedly called on the international community to protect Palestinian journalism and increase pressure on Israel to end the massacre in Gaza.

#### ***Federasi Jurnalís Internasional (IFJ)***

The International Federation of Journalists (IFJ) is the world's largest global trade union federation of journalists' unions. It represents more than 600,000 media workers from 187 organizations in 146 countries. The International Federation of Journalists is an associate member of the United Nations Educational, Scientific and Cultural Organization and has represented journalists at the United Nations since 1953 (UN/ILO). The IFJ works with the International Trade Union Confederation (ITUC) and the Trade Union Advisory Committee of the OECD.

In an effort to stop journalist casualties in the Hamas-Israel conflict, the International Federation of Journalists (IFJ) said it would take legal action against Israeli politicians and military leaders if they do not comply with an International Court of Justice (ICJ) order regarding the targeting of journalists. (<https://www.ifj.org/>, 2024). The IFJ made this demand in a letter sent to Israeli Prime Minister Benjamin Netanyahu and Defense Minister Yoav Galant. The IFJ emphasized that its 600,000 members consider journalists in Gaza as their colleagues. The letter sent by the IFJ, represented by its President Dominique Pradaliéi and Secretary General Anthony Bellanger, emphasized that the Constitution of the International Federation of Journalists guarantees the protection of press freedom, journalists' rights, and the independence of journalism. The IFJ said it has been following with great concern the increasing

number of killings among journalists in Gaza since October 7. This number represents nearly ten percent of all journalists working in Gaza. The International Federation of Journalists urges its 187 affiliate members to do the same, as permitted by national judicial mechanisms. (antaranews.com, 2024).

## **Conclusion**

In carrying out journalistic duties in conflict zones, legal protection for journalists has been regulated in several international conventions and agreements, such as the 1907 Hague Convention, the 1949 Geneva Convention, and Additional Protocol I of the 1977 Geneva Convention, even human rights violations against journalists are also included in the category of war crimes which are one of the jurisdictions of the ICC in the Rome Statute. In situations of international conflict, war journalists have a special status as stipulated in the Geneva Convention III, as prisoners of war when the journalist is captured by the enemy and is able to show a certificate of accreditation issued by the armed forces they accompany. Journalists are also protected from acts of violence, the taking, confiscation and or seizure of work equipment, and must not be obstructed or intimidated by any party. Although the legal protection for journalists clearly states that journalists serving in international conflict areas are civilians and have the right to protection as civilians, in practice journalists are still being targeted. In fact, the number of victims killed, missing, and subjected to acts of violence and intimidation in the Hamas-Israel conflict is very large.

Due to the number of journalists killed and subjected to acts of violence, the international community has expressed reactions and made various efforts to stop violence against journalists on duty in conflict areas in the Gaza Strip. These efforts have been made by stakeholders such as the UN, the ICC as well as associations and communities of journalists from around the world in the form of concern, and condemnation. However, these efforts have not been effective, and violence against journalists continues to occur.

## **Recommendations for Enhancing Journalist Safety**

In order to enhance the safety of journalists in conflict zones, several measures can be taken.

1. It is recommended that legal protections be strengthened. To enhance the efficacy of international legal frameworks in addressing the evolving nature of conflicts, it is necessary to reinforce and adapt them. This encompasses the necessity of ensuring that all parties to a conflict are cognizant of and adhere to their obligations under international law.
2. Improving Enforcement Mechanisms: It is of the utmost importance that effective investigations and prosecutions for crimes against journalists are carried out to deter future violations. It is incumbent upon the international community to provide support for efforts to hold perpetrators of these crimes accountable and to end the culture of impunity that allows such violations to occur with impunity.
3. In addition, it is necessary to provide journalists with the required personal protective equipment (PPE) and training to ensure their safety. It is the responsibility of media

organisations to ensure that journalists have access to adequate personal protective equipment (PPE) and training to enable them to navigate conflict zones safely. This encompasses the provision of hostile environment training and the assurance that journalists are furnished with the requisite apparatus to safeguard their well-being.

4. The facilitation of access to conflict zones is a further key aspect of this issue. It is the responsibility of governments and military forces to facilitate access for journalists to conflict zones while ensuring their safety. This encompasses the provision of secure passage and the avoidance of targeting media personnel and installations.
5. In addition, it is important to provide support to local journalists. Local journalists are frequently the most vulnerable to harm in conflict zones. It is incumbent upon international media organizations to provide resources, training, and advocacy to local journalists to ensure their safety and ability to report.
6. The objective of this section is to present a series of recommendations designed to raise awareness of the challenges faced by journalists in conflict zones. Public awareness campaigns can serve to highlight the importance of protecting journalists and the role they play in conflict zones. Such initiatives may also facilitate the mobilisation of support for measures designed to enhance the safety of journalists and to hold perpetrators of attacks against them to act is therefore clear that the safety of journalists in conflict zones is a critical issue that requires urgent attention. The high number of journalist casualties in the Gaza Strip during the Israel-Hamas conflict serves to illustrate the necessity for the implementation of efficacious measures to safeguard media personnel. By implementing measures to reinforce legal protections, enhance enforcement mechanisms, provide personal protective equipment (PPE) and training, facilitate access to conflict zones, support local journalists, and raise awareness, the international community can assist in ensuring the safety of journalists and uphold the principles of press freedom and democracy.

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