



CRISIS-READY JOURNALISM:

ANTICIPATING LEGAL THREATS & STRATEGIC RESPONSES

BACKGROUND

Investigative journalism has always been a dangerous job, but with threats to the rule of law across the globe, as well as an increased prevalence and acceptance of misinformation, the work of investigative journalists has become both more critical and more dangerous than ever. Journalists and newsrooms regularly face new tactics aimed at limiting their ability to report, which are often specific to their country of operation and can range from: lawsuits meant to intimidate, silence, or bankrupt them; official measures to constrain the activities and even the existence of independent media; and prosecution and detention based on fabricated claims. These attacks threaten the personal safety, liberty, reputations, and financial security of journalists and editors, publishers, and media owners.

The threat of legal or physical retaliation for reporting on matters of public interest undermines the journalism profession and thus civil society and democratic governance. In response to these growing threats against journalists, the Cyrus R. Vance Center for International Justice (the “Vance Center”)—a program of the Bar of the City of New York Fund, Inc.—is working to enhance media protection and improve the access of journalists to specialized legal assistance.

The Vance Center’s Public Interest Reporting Program regularly receives requests for legal assistance from journalists and independent media organizations around the world facing existing or imminent threats from governments or powerful interests or individuals, stemming from their published or planned reporting. These threats pose significant challenges for those committed to independent journalism.

The Program’s Exiled Media initiative seeks to provide at-risk journalists with greater access to pro bono legal representation, so they can safely continue their critical work. It primarily focuses on supporting journalists who must adjust their locations or organizational structures to cope with threats to their safety and freedom to report. By utilizing our in-house legal expertise and unique co-counsel model with law firms worldwide, the Vance Center strives to provide proactive legal assistance to journalists and media organizations to insulate them from legal and extra-legal attacks threatening their lives, careers, and/or publications.

DISCLAIMER

These guidelines provide information only. They are not intended to and do not constitute legal advice and do not create an attorney-client relationship with any person or entity.

CRISIS-READY JOURNALISM

GUIDELINES

The following guidelines revolve around three practical strategies[1] to help investigative journalists and newsrooms anticipate and respond to certain legal threats[2]:

- >> Avoiding defamation and related claims
- >> Legal documentation
- >> Relocation, corporate formation, and tax exemption

1. PREVENT AND DEFEND AGAINST DEFAMATION AND RELATED CLAIMS

IDENTIFYING THE PROBLEM

The individuals and companies that are the subjects of investigative reporting around the world increasingly exploit the legal system to distract or intimidate journalists and deplete the finances of media outlets, particularly those that are independent and without deep pockets. We know the threat of legal retaliation has led newsrooms to kill stories, soften findings, or pursue less impactful investigations to avoid being dragged into frivolous lawsuits.

Strategic lawsuits against public participation—or SLAPPs—have weaponized the law. More often than not, SLAPPs are unmeritorious and do not hold up in court. A troubling development is the increasing use of civil defamation, particularly in nations that have decriminalized it, resulting in excessive financial penalties aimed at bankrupting journalists or pressuring them into self-censorship. These cases often involve long, costly legal battles with lower standards of proof, and in some jurisdictions, journalists are denied access to legal aid, making it harder to mount a proper defense. Nevertheless, the process by which a journalist is forced to retain legal counsel and divert time to defense has a significant chilling effect on free expression.

Some countries have responded to the growing threat of SLAPPs by enacting anti-SLAPP legislation. Notably, several US states, Canada and Australia have anti-SLAPP laws, whereas the United Kingdom and the European Union are developing them.[3] Several law firms in the UK regularly enable oligarchs and current or former government officials to retaliate against reports exposing their corruption. Proceedings in all these jurisdictions, especially in the UK, are lengthy and expensive, even when ultimately exonerating the media defendants, leading to calls for anti-SLAPP legislation in the UK.

[1] This is not an exhaustive list of legal strategies. These are just three options that we regularly pursue at Vance Center and are found to be useful by our clients.

[2] These guidelines address only a small fraction of the legal threats journalists face; other risks, such as prosecution or investigation for financial crimes, privacy violations, violence, and doxxing, are not covered. For those threats, please reach out to organizations like the Committee to Protect Journalists, The Rory Peck Trust, and Media Defence.

[3] Other jurisdictions have anti-SLAPP laws or initiatives; however, these are often limited in scope and primarily focus on environmental law.

CRISIS-READY JOURNALISM

Similarly, the US attracts countless SLAPPs despite the fact that 32 states and the District of Columbia have enacted anti-SLAPP legislation. The nation's patchwork of laws, which offer varying levels of protection, do not deter plaintiffs—hailing from all over the world—from exploiting the US legal system in an effort to target and drain journalists. The US and the UK present the most significant threats to journalists and journalistic free expression, as lawsuits in these jurisdictions are likely to result in high litigation defense costs and potentially even higher judgments. Other legal systems impose lower costs but often also lower levels of legal protection to publishers.

ADDRESSING THE PROBLEM

Write and edit with a proactive and protective approach, ensuring your organization incorporates the following practices into its editorial policies:

Newsgathering

- Rely on credible, reputable sources, minimizing anonymous sources in line with your editorial guidelines
- Keep thorough records of communications, notes, and supporting documents to substantiate your facts

Writing and editing

- Be accurate and cautious when referencing any claims of immorality or illegality
- Explicitly reference past legal decisions, ensuring their relevance to the current context
- Clearly separate opinions from factual statements and ensure that these opinions are genuinely and reasonably justified with a sound basis
- If uncertainties arise, consult legal counsel for pre-publication review

Legal review

- Always offer subjects an opportunity to comment and present their responses fairly
- Use documents to corroborate all allegations whenever possible
- Seek permission to use any copyrighted or trademarked material (e.g., photography, drawings, music, videos, etc.) as the "fair use" exception is seldom applicable
- In the event of legal action, seek immediate legal assistance

RESOURCES

- OCCRP training modules: 12 training modules available on how to write and edit stories while limiting the risk of defamation suits and other legal harassment, which were designed by leading defamation attorneys in the US and the UK. Please contact OCCRP (info@occrp.org) to gain access to these modules.
- "[Ethical Guidelines for Journalists](#)," United Nations Communications Group

CRISIS-READY JOURNALISM

2. STRENGTHEN THROUGH LEGAL DOCUMENTATION

IDENTIFYING THE PROBLEM

Written agreements in publishing, such as those for licensing, translation, or commissioning of stories, are legal documents that outline the terms, rights and obligations between content creators and publishers, ensuring clarity on ownership, distribution, compensation, risk allotment, and usage of the content. These agreements are essential for all parties involved in journalism, including media organizations and freelancers, as they establish clear responsibilities and protect against legal liabilities.

For media organizations, these agreements vitally safeguard their interests and ensure compliance with industry standards, thereby minimizing the risk of disputes. For co-publishing projects, these agreements ensure that all parties understand their roles and obligations, fostering collaboration and avoiding conflict. For freelancers, a written contract is equally important. It eliminates doubt, ambiguity, and confusion in the working relationship, providing vital protection against non-payment, liability, and other legal issues. Unfortunately, many media freelancers worldwide often work without formal contracts, relying instead on informal text or email exchanges that do not specify project terms or establish necessary safety measures.

At a minimum, written agreements should clearly outline key aspects, including the scope of work, how changes will be handled, payment terms, and copyright ownership. By formalizing these details in a written contract, journalists not only protect their interests but also foster a more professional and transparent collaboration with organizations. This way, both parties can engage with greater confidence, knowing that their rights and responsibilities are well-defined and safeguarded. Additionally, these agreements should include essential elements such as indemnification and appropriate insurance coverage, such as from [Reporters Shield](#), an insurance program that protects journalists from legal costs and liabilities related to their reporting activities.

ADDRESSING THE PROBLEM

- The Vance Center has templates—including for freelance contributors, licensing, and translation—and we seek local counsel for our clients when these need to be adapted to a particular jurisdiction (either for a particular US state or another country)
- Freelancers should develop templates from their past and current work and actively encourage their peers to do the same, ultimately establishing consistent and fair standards across the industry
- Publications should establish an organizational policy requiring the use of written agreements when collaborating with freelancers, ensuring consistency in outputs and minimizing risk of disputes

RESOURCES

- [ACOS Alliance templates](#)
- [Freelance Investigative Reporters + Editors \(FIRE\) contract template](#)

CRISIS-READY JOURNALISM

3. INSULATE AGAINST RISK: RELOCATION, CORPORATE FORMATION & TAX EXEMPTION

IDENTIFYING THE PROBLEM

In many countries, laws offer the media little protection, and officials harass and threaten journalists who investigate corruption or government finances. Consequently, many publications should consider how they can continue to operate given heightened censorship, political persecution, and risk of financial retaliation from their government.

ADDRESSING THE PROBLEM

Creating a new entity in a different jurisdiction – journalists who relocate to the US often decide to incorporate a nonprofit organization and obtain federal tax-exempt status [i.e., 501(c)(3) status]

Forming a nonprofit has many benefits:

- **Tax-exempt Status:** Nonprofits with 501(c)(3) status are exempt from paying federal and state income taxes on revenue generated from activities related to their mission. Additionally, donors can receive charitable deductions for their contributions.
- **Access to Grants and Funding:** Many nonprofits are eligible for grants from government agencies, foundations, and other organizations. These grants can provide significant financial support for programs and operations.
- **Public Trust and Credibility:** Being a nonprofit signals to the public that an organization is mission-driven and focused on benefiting society rather than generating profits for shareholders or pursuing a political agenda. This can help build trust with donors, volunteers, and the community.
- **Mission Alignment:** Nonprofits have the freedom to pursue their missions without the pressure to prioritize profit-making activities. This allows them to focus on addressing social, environmental, or cultural issues that may not be adequately addressed by for-profit entities.
- **Flexibility in Operations:** While nonprofits must adhere to certain governance and reporting requirements, they generally have more flexibility in how they operate compared to for-profit businesses that must prioritize profit maximization over social impact. This can allow nonprofits to adapt more quickly to changing circumstances and community needs.
- **Collaboration Opportunities:** Nonprofits often collaborate with other organizations, including government agencies, businesses, and other nonprofits, to address complex social challenges. This collaboration can lead to innovative solutions and greater impact.

RESOURCES

- [The Public Interest Reporting Program](#) can assist foreign organizations to establish a presence in the United States. [Lawyers for Reporters](#), another Vance Center program, has templates and offers pro bono assistance to US-based organizations and journalists seeking to start entities.
- [Committee to Protect Journalists](#)
- [Media Defence](#)

CRISIS-READY JOURNALISM

ACKNOWLEDGEMENTS

The Cyrus R. Vance Center for International Justice developed these guidelines with the generous support of UNESCO's Global Media Defence Fund*.

*The designations employed and the presentation of material throughout these guidelines do not imply the expression of any opinion whatsoever on the part of UNESCO concerning the legal status of any country, territory, city or area or its authorities, or concerning the delimitation of its frontiers or boundaries.

The Vance Center is responsible for the choice and the presentation of the facts contained in this publication and for the opinions expressed therein, which are not necessarily those of UNESCO and do not commit the Organization.



With the support of the
UNESCO Global Media Defence Fund (GMDF)

ABOUT THE CYRUS R. VANCE CENTER FOR INTERNATIONAL JUSTICE

The Cyrus R. Vance Center for International Justice advances global justice by engaging lawyers across borders to support civil society and an ethically active legal profession. We do this through two main approaches. First, we provide pro bono legal representation to civil society organizations and international human rights bodies around the world, in partnership with leading law firms. This work falls into four thematic areas: the environment, human rights and access to justice, institutional integrity, and public interest reporting. In addition to our pro bono work for clients, the Vance Center works to make the legal profession a more diverse and accessible space for all. We engage law firms, bar associations, law schools, and pro bono clearinghouses to encourage and join innovative initiatives that strengthen an ethical pro bono practice, build systemic support for public interest law, and reduce barriers to a more diverse legal field. We are a charitable program of the New York City Bar Association.



CYRUS R. **VANCE CENTER**
FOR INTERNATIONAL JUSTICE