



# **Reporting Terrorist incidents Guidelines for Journalists**

# Reporting Terrorist incidents: Guidelines for Journalists

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*November 2019*

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## **Introduction**

This guidebook was prepared following an OIC-ISESCO workshop on reporting terrorist incidents. The workshop took place in Jeddah, Kingdom of Saudi Arabia, from 31 October to 2 November 2017.

The purpose of the guidelines in this guidebook is to help journalists and other media professionals as they face the huge challenges involved in reporting incidents of political violence. For journalists, these include not only the obvious physical dangers, but also multiple ethical and editorial dilemmas – not least those of language. For the word ‘terrorism’ itself, while widely used in public and political discussion, is also controversial. The difficulty in deciding who has the right to call whom a terrorist means that some major news organizations try to avoid the word altogether. The issue of political violence itself cannot be avoided, affecting as it does the daily lives of audiences around the world. Journalists have a duty to their audiences to report that issue as responsibly as possible. The guidelines, which follow, are designed to assist them in that challenging task.

## 1. Fairness and balance



Our audiences expect us to provide them with information, which is fair and reliable. It is our job as journalists to help them understand the world. This may sometimes involve reporting views, which we, or the governments of the countries and territories in which we are working, find distasteful or unacceptable.

It is our role as journalists to use our editorial judgement in order to inform our audiences as fully as possible. At the same time, we should avoid simply spreading propaganda (for more detail on this, see Section 3, below). Fairness in reporting terrorist incidents includes the idea of treating all people involved in the story with the respect, which is due to them. Balance involves offering as much detail and context as possible, although this can often be very difficult in the early stages of a breaking news story, which involves multiple deaths and injuries.

### Objectivity, Impartiality, Balance:

These are three of the most frequently discussed issues in relation to the reporting of political violence. In applying these theoretical ideas to the practical challenges of covering terrorism, it is very important to remember to ask how reliable your sources are. Both officials and armed groups are capable of exaggeration and promoting falsehoods. It is our duty to our audiences to examine any claim as rigorously possible before publication or broadcast. A key part of this is considering the language, which we use. Some news organizations will only use the word 'terrorist' when it appears in direct speech. Sometimes, using the terminology of one party or another may suggest that we, as journalists, are taking their side. In a time when their own country is at war, journalists may well wish to do that, but our first duty is always to do the best we can to help our audiences understand complex stories, which affect their lives and those of their families and friends.

## 2. Dealing with hate speech



Journalism's dealing with hate speech includes both ethical and legal issues. The latter obviously depend on the jurisdiction in which the journalist is working, and a journalist should always be sure to be aware of relevant legislation. The ethical issues relate to treating contributors and others fairly and with respect. While a journalist may wish to remain impartial in relation to the story, which they are reporting, this does not extend to promoting hatred of one person or group by another. This is one case in which hate speech is an issue not only of law, but of editorial ethics.

These issues can be complex, though. What one person or group may see as hate speech another may see as justifiable freedom of expression. Our task as journalists is to report issues as fully as possible without borrowing the language of discrimination from those who seek to promote prejudice on the grounds of race, religion, or gender. We must balance the requirements of preventing hate speech with those of freedom of expression, and freedom of religion.

The United Nations' International Covenant on Civil and Political Rights is a key document highlighting some of these issues. It can be viewed at: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx> . Articles 19 and 20, which relate to freedom of expression and the prohibition of 'incitement to discrimination, hostility or violence' are especially relevant to journalists, whether they are writing their own material, or citing the words of others.

One simple check for journalists is to ask the following questions:

- Am I doing the right thing for my audience?
- Am I being fair to the people involved in this story in the way I am describing them?
- Could the way I have written this story help to promote hatred?

### 3. Avoiding spreading terrorist propaganda



Acts of political violence are carried out for different reasons, but these generally include a desire to gain publicity and to terrorize civilians. If such acts were not known about, both these aims would be harder to achieve. This presents a dilemma for journalists. To ignore attacks altogether would be to fail our audiences, yet to report them too extensively, and in a sensationalist manner, may help the perpetrators to achieve their aims.

In March 2017, an attacker drove across Westminster bridge in central London, deliberately hitting pedestrians, before leaving his vehicle and running towards the Houses of Parliament. He stabbed a police officer, killing him, before being shot dead himself. The way that the attack was reported led to a debate in Britain about the way such incidents should be covered. The Guardian published an article (<https://www.theguardian.com/commentisfree/2017/mar/24/coverage-westminster-attack-media-politicians>) headlined, ‘Media hype about the Westminster attack will only encourage others.’ The author of the article, Simon Jenkins, warned against filling, ‘pages of newspapers and hours of television and radio with words like fear, menace, horror, maniac, monster.’

As with many of the questions discussed in these guidelines, these issues require careful thought and use of sound editorial judgement. This can be made all the more difficult as these decisions must often be taken under pressure of time, and without complete facts at editors’ disposal.

Individual cases, therefore, are likely to demand individual responses – but there are some general principles, which can assist in addressing the challenges.

- Journalists should think carefully before publishing or broadcasting the ‘claims of responsibility’ put forward by those who say they carried out bombings and other attacks.
- There must be sound editorial reasons for doing so. What could they actually add to our audiences’ understanding? Remember that in some countries, the distribution of such material may be illegal.

- There may be cases in which journalists will wish to have contacts with groups considered terrorists by the government of that country or others.
- There may sometimes be sound editorial justification for this, but reporters and editors need to have a clear understanding of what these might be. Again, in some cases this may be against the law of the territory where the journalist is operating so this is another important consideration.

As experienced TV journalists who participated in the Jeddah workshop pointed out, news organizations should have very good reasons for broadcasting material produced by militant groups. Where there are occasions where this might be editorially justified, it is important to remember that such content is created for propaganda purposes. It may be designed to encourage others to commit attacks. Disseminating it may help recruitment to groups carrying out attacks.

In the age of social media, established news organizations may have less control than once they did over the spreading of ‘terrorist’ content. This does not mean that the obligation to deal with them responsibly is diminished.

#### **4. Islamophobia, discrimination, and prejudice**



The OIC’s Islamophobia Observatory publishes regular reports on Islamophobia in the media. At a workshop for journalists at the OIC in Jeddah in November 2017, some of the research findings were summarized. ‘Two evils’ in particular were identified: Islamophobia, and radicalization.

There was a concern that the media, especially western media, were responsible for spreading Islamophobia. There was also a perception that where perpetrators of attacks were not Muslims, they were treated differently. The reporting of the mass shooting in Las Vegas in October 2017 ([https://en.wikipedia.org/wiki/2017\\_Las\\_Vegas\\_shooting](https://en.wikipedia.org/wiki/2017_Las_Vegas_shooting)) and the shootings at the French magazine Charlie Hebdo in January 2015 ([https://en.wikipedia.org/wiki/Charlie\\_Hebdo\\_shooting](https://en.wikipedia.org/wiki/Charlie_Hebdo_shooting)) was cited as an example.



Journalists' duty in cases such as these is to report incidents fairly, in a manner, which will not promote Islamophobia, or any other kind of discrimination or prejudice. The United Nations' International Covenant on Civil and Political Rights, referred to earlier, is a useful source here – but for journalists in particular, this is an area in which all people involved in a story should be treated with the fairness, which sound journalistic ethics normally demand.

There may be cases when the reporting of prejudiced remarks is in the public interest – for example, when a public figure has made them contrary to what he or she has previously stated. If the decision is taken to report remarks such as these, then it must only be done for sound editorial reasons, having taken due account of the possible consequences of putting such material in the public domain.

## 5. The news media's role in countering prejudice, and promoting counter narratives



The journalist's job has many parts. Journalists are often required to discover information and relay it to others. They are also sometimes required to challenge what they are told. As noted above, in Section 1 'Fairness and Balance', official and non-official sources may resort to

exaggeration or deception in order to promote their views, or a particular version of events. In cases such as these, it is the job of the journalist to question them. Only that way can they be sure that they are serving their audiences.

This is especially true in terms of countering prejudice. Statements, which promote prejudice, should not pass unchallenged. There may be good editorial, and perhaps legal, reasons for ignoring them altogether. If they are reported – perhaps for what they reveal about the views of an individual or organization – they must be reported with due regard for the effect that publishing or broadcasting such views might have. While exposing someone as a racist, for example, might damage their reputation, reporting their words might also lead some members of the audience to think that racist remarks were acceptable, even in the public domain.

Delegates to the Jeddah workshop pointed out the responsibility, which journalists have when considering whether to report justifications, which those carrying out acts of political violence may offer for their actions. It was suggested that publication of such claims could even lead to unrest. It should be noted that in some jurisdictions it may be illegal. It was argued that putting forward counter-narratives might be more appropriate (see also Section 3, above).

Prejudice can often be countered effectively by good original reporting. For example, stories such as how teachers, doctors, or bus-drivers work in areas more normally associated with armed conflict or violent unrest often resonate with audiences who can see parallels with their own lives, however remote. They may also help to challenge stereotypes associated with certain countries or territories.

## **6. Identification of sources**



Journalists' use of sources during a breaking story is one of their great challenges and responsibilities, especially when large scale loss of life is involved. One of the first questions journalists need to ask themselves is this: is this source in a position to know? Even if the answer is 'yes', remember the source may have a particular reason for telling you what they are telling you.

- Militant groups may wish to use news organizations to spread fear.

- Security forces may wish to give the impression that incidents are not as serious as they in fact are.

Always seek multiple sources if at all possible.

Even reliable contacts may occasionally take the opportunity to use a trusted reporter to put misleading information into the public domain. As journalists, we are trying to tell stories. Our sources are usually trying to promote a cause or a point of view. We need to remember that our interests and theirs may only rarely coincide.

Particular caution may be needed when dealing with anonymous sources. They may seek to exploit their anonymity to mislead or deceive. There may be times when their information is valuable, and worth publishing or broadcasting – but journalists have to be certain that it is valuable enough to grant the source anonymity. There have to be good reasons for doing so, such as, for example, considerations relating to the security of the source or the journalist.

The widespread use of the internet and mobile technology has provided both challenges and new possibilities for verification. Social media platforms permit anyone to spread information and images. That includes those seeking to spread false information. At the same time, open source investigations, such as those conducted by Bellingcat ([www.bellingcat.com](http://www.bellingcat.com)) offer extensive possibilities to identify the origin of images and other material. Using social media, Google images, and Google maps, and other easily available technology, material can quickly be verified (<https://newslab.withgoogle.com/>). This can be an extremely effective way of exposing anyone using archive material and claiming it is of current events, or taking material from one location, and claiming it is from another.

Ultimately, as was suggested at the Jeddah workshop, journalists have no better sources than themselves, working from multiple, reliable sources.

## 7. Reporting attacks live on electronic and social media



As participants at the Jeddah workshop agreed, journalists cannot ignore attacks. Our audiences have a right to know about the threats they may face. Media coverage can lead to a response from the authorities, for example in terms of increased security measures.

News of attacks today can be disseminated more quickly than ever before. Journalists face the pressure of competition not only from other news organizations, but also from social media users. At the same time, our audiences expect higher standards from us than they do from material posted online by people other than journalists. This includes higher standards of accuracy, but also standards of taste and decency. The immediate aftermath of a bombing or shooting attack on a market or shopping centre will include scenes, which some audience members will consider unsuitable for broadcast or publication. Audience expectations vary from country to country, and from culture to culture – but we, as journalists, need to be sensitive to what they are. In addition to these ethical considerations, there may well be regulatory requirements, too. That will depend on the territory in which you are working, but you need to know what they are.

In order to serve our audiences properly, we need to exercise sound editorial judgement. This means having a strong sense of our responsibility as newsgatherers and distributors. We need to tell the story as fully as possible – and that may well include showing serious injury or even death – but we need to do so without distressing audiences unnecessarily.

We should think carefully before naming victims, or otherwise identifying them, for example by showing their faces. Their families and friends may not yet be aware that their loved ones have been caught in an attack – and it is generally the job of the authorities, not the news media, to communicate such information to families. Their learning of death or injury to a family member through the media risks increasing their distress. This is especially true where children are involved.

Remember, one of the aims of those carrying out acts of political violence is to terrorize ordinary people. We should not unwittingly help the attackers achieve those aims.

The intense competition, which characterizes breaking news today, can make this an extremely difficult task. Remember to use the most reliable sources you can. Eyewitnesses can be invaluable in helping to make sense of what has happened, but remember that even they can make mistakes. Somebody who has seen an attack may not have seen everything. They may prove to be an excellent eyewitness, but he or she cannot necessarily know how many people may have been killed in the whole area. As experienced journalists at the Jeddah workshop pointed out, sending a colleague to the nearest hospital or hospitals may be the most reliable way of checking casualty figures. Groups carrying out attacks may even try deliberately to spread false information to make attacks seem worse than they were.

Remember too that some incidents initially reported as terrorism are not terrorism. In November 2017, one of London's busiest shopping areas, Oxford Street, was the site of a major police operation after false reports of shots being fired. Incidents suspected of being vehicle attacks may turn out to be traffic accidents. When covering breaking stories, stick to what you know, and be aware of what you do not.

## 8. Dealing with victims and their relatives



Coverage of traumatic events such as terrorist attacks can often be most effective when it conveys the human suffering involved. This will necessarily involve interviewing people who are experiencing some of the worst moments of their lives.

Dealing with contributors such as these requires great sensitivity and tact. We need to remember always to treat our sources with respect. Our time as journalists, especially covering breaking news stories, is always short. You may find, though, that just spending a few minutes talking to someone before taking out your notebook or camera will be more effective in the longer term. Gaining the confidence of your contributors is vital. Showing that you have time for them will help to build trust.

One of the most important things to remember is that different people will respond in different ways to similar situations. One man who has seen his daughter killed may wish to be interviewed about it. Another may not. People may also respond in different ways at different times. One person may be willing to talk about the death of a family member in the hours afterwards, but, weeks later, may refuse to do so. Another person may respond in entirely the opposite way. Always bear this in mind when dealing with victims and their relatives.

## 9. Journalist safety



Reporting on armed conflict of any kind can be dangerous. In today's world, every war is also a media war. Armies, police forces, and armed groups are all aware of the importance of getting their version of events reported as widely as possible. In the worst cases, this has put journalists themselves in the firing line.

Major international news organizations now insist on their journalists' having safety training before being assigned to hostile environments. The training tends to include information on keeping as safe as possible in dangerous places, and some instruction on basic First Aid.

Such training is unfortunately beyond the budgets of some smaller news media, but there are some good resources available online. For example, Reporters Without Borders, has produced, in partnership with UNESCO, a 'Safety Guide for Journalists'. The guide is published in French, English, Spanish, and Arabic. It is available at [https://rsf.org/sites/default/files/guide\\_journaliste\\_rsf\\_2015\\_en\\_0.pdf](https://rsf.org/sites/default/files/guide_journaliste_rsf_2015_en_0.pdf) . The Committee to Protect Journalists has also published a 'Journalist Security Guide'. This is available from their website at <https://cpj.org/reports/2012/04/journalist-security-guide.php> and is also published in several languages including English, French, and Arabic.

## 10. Working with intelligence and security services



Covering terrorism involves building relationships with intelligence and security services. They will often be valuable sources. In the event of an ongoing incident, they may be able to provide vital safety advice.

There will also be times when their interests, and those of journalists, differ. One of the great challenges in dealing with information provided by security contacts is that it can be very difficult, and sometimes impossible, to get a second source. This does not mean that the information is unreliable, but it may mean that the intelligence source is providing it for a particular reason, and it may need to be placed in broader context before publication or broadcast.

Reporting on intelligence and security services raises ethical and, frequently, legal questions. The nature of the latter depends on the jurisdiction. Ethical questions may include agreeing to a 'news blackout'. In some countries and territories, the authorities will have the legal right to demand that reporting of certain incidents be censored, or that such incidents are not reported at all. There will also be occasions when news organizations will agree voluntarily not to publish or broadcast the activities of security services. An example of this might be when to do so might warn perpetrators of an attack of a police operation to arrest them.

## 11. Legal framework for media coverage of terrorist events

When covering terrorist incidents, the press is faced with the problem of contradiction between the legal principles related to human rights and the media, on the one hand, and media freedom and its limits, the freedom of expression and its limits and the public's right to information, on the other hand. There is an arsenal of rules provided for in the various international human rights and media documents, including treaties and international resolutions and declarations of a universal nature. These rules are "jus cogens" (compelling) norms from which no derogation is permitted. They are binding on the media when they cover terrorist events. Alongside these hard laws, there are soft laws relating to ethics.

Consequently, the question that often arises is to what extent journalists and mass media professionals respect these legal and ethical rules in their coverage of terrorist acts. The reason for asking such a question lies in the fact that the press in a democratic society cannot refuse to cover events; otherwise, it will fail to discharge its responsibility as a fourth authority - if not a fifth authority with the spread of the new media- since its role is to inform the public about all local and international events.

Hence, the media and terrorism appear to entertain a relationship of harmony and conflict and to be intertwined with each other. Indeed, terrorist acts gain their significance from their strong media coverage.

Thus, when news of a terror attack breaks, jurists immediately look into how far the media complied with the set of legal rules governing media coverage of terrorism. They also examine respect for the universal principle of the freedom of expression and information, which was first forged and promoted by the ideas of the Enlightenment formally established since the emergence of the international system of Westphalia in 1648 concerning freedom of opinion, expression and freedom of the press. They do not only review the rules limiting this freedom<sup>1</sup>, but also the related domestic laws on the media, the penal code and the international human rights law, in particular the rules governing incitement to commit crimes and incitement to terrorism, violence, hatred<sup>2</sup> and all forms of discrimination.

These principles are enshrined in most of the international human rights instruments to which most States are parties. They have incorporated them into their domestic legislation, and many have enshrined them in their constitutions, obliging journalists and the media to respect the privacy and human dignity of individuals, protect public order in its political, social and economic sense, and protect the internal and external security of the State. It is certain that these rules, which frame the freedom of opinion and expression are governed by limits that should not be transgressed. In some circumstances, like the coverage of terrorist events, it becomes necessary to curtail the freedom of information and forbid the media from inciting to and advocating terrorism, hatred, ethnic and religious discrimination. These are issues constantly dealt with in most international human rights instruments<sup>3</sup>.

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<sup>1</sup> ISESCO, *Western Media Content on Islam in Light of International Law*, ISESCO Publications, 2016.

<sup>2</sup> Amélie Robitaille-Froidure, *La liberté d'expression face au racisme*, l'Harmattan, 2011.

<sup>3</sup> Roger Pinto, *La liberté de l'information et de l'opinion en droit international*, Economica, Paris 1984, p. 104.



## **a- Freedom of opinion and expression and incitement to terrorism**

How to distinguish between incitement to terrorism as a crime that can be committed by some audio-visual, electronic and written media and the principle of freedom of information and expression?

Journalists may be in conflict with the laws criminalizing incitement to terrorism, but when and under what circumstances do the media call for terrorism? This question concerns the mass media linked to, close to or sympathizing with terrorist organizations. In this regard, what is the legal status of these media? Are they like those that may commit in good faith mistakes when covering terrorist incidents? Can both be treated similarly?

Some countries have imposed closure of the media suspected of belonging to terrorist organizations, while others have tightened surveillance on them. In general, the accusation of advocating, glorifying, and inciting to terrorism can lead to the criminalization of media coverage<sup>4</sup>, considering that this coverage can be used by terrorists and their propagandists to spread their ideas locally and internationally.

In this sense, the journalist is caught in a legal and ethical dilemma between the right of information and the restrictions imposed on the freedom of information, between the duty to inform the public and the obligation to respect the law and listen to the voice of moral conscience. This obligation prevents terrorists from achieving their goals. In this situation, the journalist faces a highly serious and complex legal and ethical dilemma.

The media are obliged not to publish terrorism-related information, either because it falls under the provisions of articles 19 and 20 of the International Covenant on Civil and Political Rights, or because its publication is criminalized by the national information law, the penal code, the terrorism act or cybercrime laws<sup>5</sup>.

In general, journalists and the media are obliged not to publish information and news that glorify and incite to terrorism, as part of covering terrorist events, especially when publication may have serious consequences. Hence, we wonder what might be the legal and ethical repercussions if a media organization decides to cover a terrorist event. What aspects should be spotlighted? Which ones should be ignored, as they serve terrorists more than the public?

What is the legal characterization of interviews that news websites, television channels, radio stations and newspapers conduct with leading members of terrorist groups? Are they not in conflict with the rules of international information law, international human rights law, national information law, criminal law, anti-terrorist law and cybercrime law?

Would not these interviews encourage the presence of terrorists in the media and give them the floor to influence public opinion? Do not they help terrorists to achieve their goal by presenting their claims to the public and publicizing their causes? There is no doubt that the professional ethics reject this, and the law prevents and punishes it. When the media do so, they promote terrorists' ideas in the same way as they promote the ideas of thought leaders and political leaders. The danger that this may lead to is that some people might sympathize with and be influenced by these ideas. The media, thus, give terrorists an outlet to spread and publicize their ideas, thereby providing them with the oxygen without which they cannot live.

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<sup>4</sup> UNESCO, *Terrorism and the Media: A Handbook for Journalists*, 2017, pp. 21-22.

<sup>5</sup> Isabelle GARCIN-MARROU, *Terrorisme, médias et démocratie*. Presses universitaires de Lyon, Lyon 2001, p. 148.

## **b- Exploiting the freedom of the press as the oxygen of terrorism**

Media coverage and analysis of terrorist events can be considered as the oxygen of terrorism, in the famous words of former British Prime Minister Margaret Thatcher, who stressed that the media were the oxygen of terrorism<sup>6</sup>. Terrorist events are carefully choreographed in order to attract the attention of the traditional and new media. Media coverage thus serves terrorists and is an effective tool to achieve their goals, especially when this coverage is comprehensive and detailed. Therefore, it effectively contributes to promoting the agenda of terrorist movements by spreading terror among citizens, and increases scepticism about the capacity of the security and military establishment to fight against terrorism.

Can we consider that media coverage of terrorist incidents, as part of the freedom of information and the right of the public to information, is a service to terrorists and that this is what they are seeking? Or is this not important, and sometimes it is not in the interest of the terrorists? There is no doubt that this is a subject of disagreement. Accordingly, if the dissemination and broadcasting of information through the media is useful to the terrorists, all journalists and media professionals should realize that the terrorist act is always a media act par excellence that exploits the freedom of expression and information to reach the largest audience possible<sup>7</sup>. This is what makes the difference between ordinary criminals and terrorists. While the ordinary criminal always tries to hide his crime, the terrorist seeks to publicize his crime, looks into ways to disseminate it and exploits the media in the name of press freedom and the public's right to information to disseminate his crime and expose it extensively. The argument is that the media's lack of interest in broadcasting and disseminating terrorists' operations prevents them from reaching the largest audience possible nationally and internationally, which confirms the statement that "the media is the oxygen of terrorism".

However, this argument does not confirm that refraining from reporting on terrorist acts in the media will deprive terrorists of their oxygen. On the contrary, the silence of the media may drive terrorists to commit more violent crimes in order to attract people's attention<sup>8</sup>.

The decision of the media to cover or not terrorist events is a two-sided coin. It may encourage terrorist acts and it may be a frustrating factor for terrorists, and it could be a tool to stifle terrorism and not the oxygen of terrorism.

It must be emphasized that despite the violence of terrorism, the freedom of the press and the right to information should not be stifled in moments of tension and anxiety resulting from terrorist acts because the role of free and pluralistic media is to illuminate public opinion. "When the security of the population is directly targeted, the media must protect both the population and democracy by exercising their right and duty to inform"<sup>9</sup>.

The Parliamentary Assembly of the Council of Europe has stressed that "terrorism should not affect freedom of expression and information in the media as one of the essential foundations of any democratic society. This freedom includes the right to be informed of matters of general interest, including terrorist acts and threats, and the replies thereto by the State and international organizations". This approach was echoed by the former Secretary-General of the United

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<sup>6</sup> UNESCO, *Terrorism and the Media: A Handbook for Journalists*, 2017, pp. 11.

<sup>7</sup> Fadel Talal Al Ameri, *Freedom of Information in the Arab World in the Absence of Democracy*, Hala Publishing, Egypt, 2011, p. 119 and beyond.

<sup>8</sup> Asaad As-Sahmrani: "Freedom of Expression: Rules and Regulations", working paper presented to the 19<sup>th</sup> Session of the International Islamic Fiqh Academy, Sharjah, 25 May 2009.

<sup>9</sup> UNESCO, *Terrorism and the Media: A Handbook for Journalists*, 2017, p. 15.

Nations at a session of the Security Council when he considered that “freedom of the media is a defence against terrorist discourse”.<sup>10</sup>

### **c- The media and the law criminalizing direct incitement to terrorism**

In order to ensure respect for the freedom of opinion and expression, the freedom of the press and the right to information, the media must respect the rules governing information at the service of the common good. The media should also be aware of the domestic legal provisions regulating information as well as the international legal rules of information<sup>11</sup>, especially as terrorism is a subject that is strictly regulated by the law nationally and internationally because of the dangers it poses and its significant political sensitivity.

Another question in this regard, which media professionals should not ignore, is whether media owners and journalists have the right to make these tools available to terrorists to broadcast their ideas by interviewing them? Or are there legal barriers to doing so? How can the crime of incitement to terrorism that some audio-visual, written and electronic media may commit be reconciled with a universal principle linked to the first fundamental freedom, which is freedom of the media and freedom of expression?

There is a legal arsenal that forbids the media to engage in incitement to and glorification of terrorism and punishes journalists doing so when covering terrorist incidents. The most relevant international legal instruments include the International Covenant on Civil and Political Rights (ICCPR), particularly articles 19 and 20 on freedom of information, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Convention on the Rights of the Child<sup>12</sup>. In addition, regional human rights instruments include the European Convention on Human Rights of 1950, the American Convention of 1969, the African Charter on Human Rights of 1981, the European Convention on Cybercrime of 2001, the Arab Charter on Human Rights of 2004, the Arab Convention on Combating Information Technology Offences of 2010, and the Unified Arab Guiding Law of 2004.

The available instruments show that there is an international legal basis that strongly prohibits incitement to terrorism and restricts the freedom of the media to continue to cover the terrorist event in all its details. This is the task of the media. Otherwise, this would compromise one of the principles on which freedom of expression is grounded. The latter was indeed the first of the ten amendments relating to human rights, which were entered into the Constitution of the United States in 1791. Freedom of expression was also enshrined in the various documents issued by the revolutions, in particular the French Revolution in 1789 in Article 11 of the French Declaration of the Rights of Man and of the Citizen.

There are also other domestic laws governing this issue, some of which are related to criminal law and include provisions and penalties on incitement to terrorist crimes, especially crimes

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<sup>10</sup> He told this at a Security Council session on the stories and ideologies of terrorism on 11 May 2016 in New York.

<sup>11</sup> Ismail Wasfi Al-Agha: Treatment of Arab newspapers of the phenomenon of terrorism: an analytical study of a number of Arab newspapers. Naif Arab University for Security Sciences. Master Thesis: 2004 p. 64.

<sup>12</sup> Emmanuel Decaux, *Le droit face au racisme*, Ed. A, Pedon, Paris 1999, p. 69.

committed through the media, as is the case in France, Morocco and Egypt<sup>13</sup>. In addition to the penal law, cybercrime laws also punish incitement to terrorism, thereby affecting deeply freedom of the media and freedom of opinion and expression. There are also anti-terrorism laws, which clearly prohibit the incitement and glorification of terrorism, as in France, the United States, Morocco, Egypt, Tunisia and Saudi Arabia. There is, therefore, an international, regional and national legal arsenal that prevents the media coverage of terrorist events.

However, how can a distinction be made between incitement to terrorism and reporting on terrorism? How can the restrictions on freedom of opinion and expression be reconciled with the coverage of terrorist events in detail? How can the journalist reconcile the legal rules obliging him to respect human rights and professional ethics that may often intersect with and complement the law with the core legal principles on freedom of information and freedom of opinion and expression? For example, while the law and ethics of the profession may prohibit the publishing of images, victims' dead bodies and terrorists' names, media readers and viewers are impatient to know the details of the terrorist act and the identities of both the perpetrators and the victims. Otherwise, they will accuse the media of being non-independent and working hand-in-glove with the executive authority, especially with the government. This is indeed a tough equation. How can this be reconciled with the non-disclosure of terrorists?

Hence, it would seem prudent for professional journalists to cover the terrorist event in line with the ethics of the profession, the principles of international and national law of information, and the principles of human rights and freedom of expression and information. Such an approach would be more judicious than compromising the right to information when the media observe "silence" and refuse to cover the terrorist event.

#### **d- A glimpse of indirect legal regulation of media coverage of terrorist events**

A professional journalist should be fully aware of the international legal instruments, which indirectly regulate media coverage of terrorist events and clearly delineate the limits of such coverage.

Some of these instruments are part of peremptory international legal norms, while others fall under international declarations and recommendations, or the soft law. In addition to these requirements, there are other legal rules that strictly regulate media coverage of terrorist events, namely national information laws, penal laws, cybercrime laws and anti-terrorism laws.

It should be recalled that a professional journalist covering terrorist events should be aware of the provisions of the international and national legal arsenal referred to above. He should also be aware of the international legal principles and rules enshrined in international conventions and declarations, as well as the related decisions and resolutions of the United Nations Security Council and General Assembly.

Among the documents that the journalist must constantly keep in mind when covering terrorist events are instruments issued by United Nations organs, including, but not limited to, U.N. Security Council Resolution<sup>14</sup> number 1624, which called for the prohibition of incitement to

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<sup>13</sup> Abdul Fattah Bayoumi Hijazi, *Combating Computer and Cyber Crimes under the Model Arab Law*, Cairo, 2009.

<sup>14</sup> This Resolution reaffirms Security Council resolutions concerning threats to international peace and security caused by acts of terrorism, in particular resolutions 1267 (1999), 1373 (2001) and 1617 (2005). See "Manual on International Cooperation in Criminal Matters related to Terrorism" of the United Nations Office on Drugs and Crime, New York, 2009, p. 15.

terrorism. Besides, the U.N. General Assembly<sup>15</sup> has issued several resolutions on the protection of human rights and fundamental freedoms while countering terrorism, namely:

- Resolution 60/158 adopted on 16 September 2005 which emphasized that “States must ensure that any measures taken to combat terrorism comply with their obligations under international law, in particular human rights law, refugee law and international humanitarian law”;
- Resolution 61/171 of 2006, which affirms human dignity and the obligation of all States to preserve and protect the dignity and fundamental freedoms of individuals, as well as to uphold fundamental democratic practices and the rule of law while countering terrorism;
- Resolution on combating defamation of religions<sup>16</sup> and incitement to religious defamation by any means.

All these documents prohibit incitement to and glorification of terrorism through the media, either explicitly or implicitly.

In addition to these international texts, there are other texts with stronger and more stringent provisions prohibiting incitement to terrorism, in particular articles 19 and 20 of the International Covenant on Civil and Political Rights and the other international conventions that constitute the international human rights law.

The Optional Protocol to the Convention on the Rights of the Child of 2000 is part of this legal arsenal, as well as the Council of Europe’s Convention on Cybercrime No. 185, adopted in Budapest on 23 November 2001, and its Optional Protocol of 2003.

When covering terrorist incidents, the professional journalist should not also ignore the range of regional conventions on combating terrorism and preventing incitement to and glorification of it, either explicitly or implicitly. The most important of these agreements are:

- The European Convention on the Suppression of Terrorism, concluded in Strasbourg in 1977<sup>17</sup>;
- The Council of Europe Convention on the Prevention of Terrorism, adopted in Warsaw on 16 May 2005, which focused on preventing terrorism and its negative effects on the full enjoyment of human rights, in particular the right to life, to privacy and to image;
- The Inter-American Convention against Terrorism, adopted by the member countries of the Organization of American States in 1971;
- The African Convention on the Prevention and Combating of Terrorism, adopted in Algiers in 1999, which considers that terrorist act means any promotion, sponsoring, contribution,

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<sup>15</sup> “Manual on International Cooperation in Criminal Matters related to Terrorism” *Op. Cit.* p. 236 and beyond.

<sup>16</sup> Ali Karimi, *Western Media Content on Islam in Light of International Law*, ISESCO Publications, 2016, p. 106-107.

<sup>17</sup> This Convention was signed on 27 January 1977 and entered into force on 4 August 1978.

command, aid, incitement or encouragement of terrorism, including incitement or glorification of terrorism by the media<sup>18</sup>;

- The Arab Convention for the Suppression of Terrorism, named “the Arab Strategy for the Suppression of Terrorism” adopted in 1998, which also prohibits incitement to and promotion of terrorism while reaffirming the principles of human rights protection;
- The Convention of the Organisation of the Islamic Conference on Combating International Terrorism, adopted in Ouagadougou in July 1999, which stressed in article 4 the prevention of incitement to and glorification of terrorism, and prohibited praise for terrorism in mass media<sup>19</sup>.

Most of these international documents emphasize the fundamental principles of freedom of expression and the restrictions imposed on them, as defined in the international legal instruments, particularly in articles 19 and 20 of the International Covenant on Civil and Political Rights.

Turning to the Special Rapporteur’s interpretation of terrorism, when he raised the issue of the media in relation to terrorism, he noted that article 5 of the Council of Europe Convention on the Prevention of Terrorism requires States parties to criminalize the public provocation to commit acts of terrorism as a specific offence. He also stressed that the definition in article 5 on terrorism was a best practice.

In a commentary on the decision of the European Court of Human Rights in the *Leroy v. France* case, a reference is made to the fact that article 12 of the Convention requires that in the implementation of the provisions of article 5, human rights obligations, in particular freedom of expression, should be respected. Therefore, in implementing article 5 of the Convention, the offence of incitement to terrorism must be limited to the incitement to conduct that is truly terrorist in nature, as properly defined in article 7: the offence of incitement to terrorism “must restrict the freedom of expression no more than is necessary for the protection of national security, public order and safety or public health or morals; must be prescribed by law in precise language, including by avoiding reference to vague terms such as “glorifying” or “promoting” terrorism<sup>20</sup>; must include an actual (objective) risk that the act incited will be committed; [and] should expressly refer to two elements of intent, namely intent to communicate a message and intent that this message incite the commission of a terrorist act”<sup>21</sup>.

This text refers to the protection of private life, human dignity, the right to privacy and public order, respect for the presumption of innocence and non-violation of the confidentiality of the

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<sup>18</sup> Al-Wafi Sami: “Terrorism between international conventions and national legislation”, Research in public law, University of Tunis – Manar, Tunisia: 2008.

<sup>19</sup> Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism to the 16<sup>th</sup> Session of the Human Rights Council, 22 December 2010, A/HRC/16/51.

<sup>20</sup> See Fact Sheet No. 32 p. 28, as well as the joint declaration of the Special Rapporteur on freedom of opinion and expression, the OSCE representative on freedom of the media and the OAS Special Rapporteur on freedom of expression on 21 December 2005.

<sup>21</sup> Document A/62/267, para. 28: The Johannesburg Principles on National Security, Freedom of Expression and Access to Information, Freedom of Expression and Access to Information U.N. Doc. E/CN.4/1996/39 (1996), Principle 6.

investigation. These are a set of controls that we are constantly incorporated in the various documents related to the ethics of the profession and interfere with the binding legal rules and regulations that the professional journalist is supposed to be aware of when covering terrorist events.

However, is not there a certain contradiction between these rules and principles and the inviolability of the freedom of information? At the same time, does this not jeopardize the core pillars of the right to information, considering that the right to information and the freedom of information are two peremptory norms of international human rights law as well as of the national law and international information law?

### **e- Inviolability of press freedom**

Against an international and regional backdrop marked by the affluence of media channels, information sources and social media, the repeated terrorist attacks, which targeted France over the past two years, have given rise to a heated legal debate. The French law No. 86-1067 of 30 September 1986 on the Freedom of Communication stipulates that “[...] communication through electronic channels is free, and only restricted in cases of respecting human dignity and protecting public order.” Interpreting and applying these general provisions in addressing terrorist events was the subject of a recommendation by the French High Audio-visual Council (CSA) on 20 November 2013<sup>22</sup>.

How journalists handled the terrorist acts in France between 2014 and 2017 was open to question. Special focus was on audio-visual media as the main coverage tool of the terrorist attacks of 7, 8 and 9 January 2015 in France. Several cases were filed at the court where the media were accused of glorifying terrorist acts.

The French ministry of justice required from Public Prosecutor representatives to be strict about media publishing material that is racist, anti-Semitic, or incites and glorifies terrorism. The ministry stressed that this is no longer governed by the Law on the Freedom of the Press of 29 July 1881, explaining that the anti-terrorist act of 13 November 2014 puts press crimes within the ambit of Criminal Law.

Looking at the new Moroccan press code of 2016, one may see the influence of the French law. Criminal offences applicable in the new press law have been transferred to the criminal act. This may be the case for other OIC countries, especially those whose press law is influenced by the French model. This means that the same transfer of certain articles from the French press law of 1881 to the criminal law is found in other countries influenced by the French experience, and allowed applying to media matters the same provisions relating to terrorism, particularly as regards investigation, custody, tapping and intercepting information. It should be noted that there are those who stress the need to respect media law provisions, arguing that incitement to terrorism, so long as it produces no effect, should remain within the ambit of the information and communication law<sup>23</sup>, while avoiding any departing from its substance.

Proceeding from the above, it must be emphasized that restrictions on freedom of expression for journalists and the media should not, nor should the authorities imposing them, infringe on the inviolable principle of the right to information.

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<sup>22</sup> UNESCO, *Terrorism and the Media: A Handbook for Journalists*, 2017.

<sup>23</sup> See the opinion of the National Human Rights Advisory Committee on this draft law, issued on 25 September 2014.

Otherwise, why should the media take the risk of reporting on terrorist acts?

Three major restrictions can be expected: violation of private life, violation of the confidentiality of investigations, and violation of the principle of the presumption of innocence. Needless to say, that in reporting terrorist acts, the right to information is inviolable and takes precedence over any other consideration.

There is no such legal provision that would prevent the media from publishing the pictures and names of terrorists, as long as it does not impede investigation or puts the perpetrators in danger. That is why a journalist may not be prosecuted for engaging in terrorism, on the ground that they have published the image or name of a terrorist<sup>24</sup>.

There has been criticism of media outlets treating terrorists as celebrities. The call is on the media to stop glorifying terrorists and giving them publicity. To overcome this, some stress the need for the media to observe a code of ethics, because indulging in showing names and faces of perpetrators of terrorist acts and publishing biographies of them may cause the audience to learn more of terrorists than victims of terrorism. Here lies a strange paradox: media outlets are free to publish any relevant material, including pictures of sordid scenes, as there is no such law that prohibits them from doing so. Hence, publishing photographs of terrorists may not be regarded as illegal<sup>25</sup>. This much is true, as people seeking the truth will regard any attempt to inhibit free media reporting on these acts as being unprofitable. By not using graphic images of perpetrators of terrorist acts, the media will see their credibility undermined and be accused of hiding the truth. But is this not being inconsistent with professional ethics? Here lies the importance of professional ethics to fill the legal vacuum.

#### **f- Publishing images and protecting human dignity<sup>26</sup>**

Images have become an integral part of the terrorist operation, or even more important than the terrorist act itself, especially when trying to dramatize the event. There are many examples of this, both in France and in the Arab region, such as the execution of Egyptian workers in a Libyan beach by the Daesh group, as well as the burning of the Jordanian pilot by the same organization. The two crimes bespeak of a bloody process of communication to serve terrorist purposes and constitute a serious violation of personal human dignity

One of the most striking examples of non-respect for human dignity is the publishing of images showing victims. It is certain that the criminal act is based primarily on the inviolability of the human body. This idea was clearly formulated in a judgment rendered by the Court of Appeal of Paris on 20 December 2000 concerning the dissemination of a photo showing the dead body of an assassinated police officer. The Court declared that the photo did not respect the dignity of the dead.

Is it possible to show images of the victims on television channels, news websites and newspapers?

The French judiciary has given the legal answer to this question when it condemned media that had published the photo of the body of the police officer assassinated in 1998 in France lying on the pavement<sup>27</sup>. In France, the dissemination of images showing victims is punishable by a

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<sup>24</sup> André Bertrand, *Le droit à la vie privée et le droit à l'image*, Litec, Paris 1999, pp. 4-5.

<sup>25</sup> *Ibid.*

<sup>26</sup> F. Rigaux, *La protection de la vie privée et des autres droits de la personnalité*, Coll. Bibliothèque de l'Université Catholique de Louvain, Etablissement Emile Bruylant, 1990.

<sup>27</sup> Michel Guerrin, «La photo de presse en procès», *Le Monde*, 16 February 1999; p. 1.



€15,000 fine. In other countries, however, the situation is quite different. For example, after the Ben Gardane attack in Tunisia in March 2016, Tunisian media were widely disseminating images of the bodies of victims. They went unpunished, despite criticisms and comments denouncing this behaviour by civil society organizations that stated that the dignity of the dead, as well as that of detained persons, had to be respected.

Another problem arises when the details of the terrorist event are not published and are not covered entirely. The terrorist act has then no meaning as its perpetrators remain unknown and its details unrevealed. This could increase social anxiety, which already suspects the media of not saying everything or of wanting to silence the truth.

Here again the journalist is faced with the dilemma of the law and ethics, on the one hand, and the duty to inform the public, on the other. No one today can clearly distinguish between what is worth publishing because it has some value and usefulness, and what is considered dangerous because it may lead to disorder and violate legal and ethical rules.

The French experience of covering terrorist incidents between 1995 and 2017 shows that media organizations, including the ones known for accuracy in conveying news and balance in conveying different views, did not refrain from abusing the dignity of victims, publishing horrific images or inciting to terrorism<sup>28</sup>.

In all the incidents mentioned above, the media coverage was characterized by precipitation and sensationalism in order to attract the greatest number of followers, using exaggeration, to the extent of violating the ethics of the profession and the media law and distorting the truth.

Hastiness and the search for scoop and sensationalism are the causes of the professional, ethical and legal violations committed in the media coverage of many terrorist incidents. As a result, the legal framework governing the right to image is not respected and the restrictions on freedom of information are violated.

In February 2015, the French High Audio-visual Council adopted a number of sanctions against some radio and television channels concerning the media coverage of the terrorist events of 7-8 January 2015, ranging from warning to caution. Most of these media organizations broadcast violent images with no respect for human dignity and the rules of international human rights law, international media law relating to the right to image, domestic laws and codes of ethics.

French national legislation has addressed the issue of the image since 1970 and set a specific framework for it under civil law. However, with the development of new information technologies and computer privacy, the right to the image has come under the scope of criminal law. The right is also enshrined in article 19 of the International Covenant on Civil and Political Rights, the Convention on the Rights of the Child, in particular its Optional Protocol, in articles 10 and 9 of the European Convention on Human Rights, the Council of Europe Convention on Cybercrime and its Additional Protocol<sup>29</sup> of 2003.

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<sup>28</sup>Examples of this include media coverage of the explosion at the Saint-Michel metro station in Paris in 1995, the attack in a church at Saint-Étienne-du-Rouvray, the Charlie Hebdo attack in 2016 and 2017, and the Nice terrorist act in 2016.

<sup>29</sup> A. Charvin, «La protection de la vie privée dans la loi du 17 juillet 1970», *Revue des Sciences criminelles*, 1971, p. 605.