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NEW YORK
CITY BAR

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New York City Bar Association Condemns Attacks on Freedom of Expression, Opinion and Press in Russia and Ukraine and Urges Prompt Investigation

EXECUTIVE SUMMARY

The New York City Bar Association (City Bar) expresses its grave concerns regarding the Russian Federation’s continued attacks on freedom of expression, opinion, and press in Russia and Ukraine.¹ These attacks violate foundational principles of international law and are a clear breach of the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR). We condemn these attacks in the strongest possible terms, urge the United Nations Human Rights Council to find the Russian Federation in violation of its obligations to respect freedom of expression, opinion, and the press and, to the extent that the actions described below against civilian journalists may constitute war crimes, urge that they be included in the investigation into the Russian Federation’s conduct already announced by the Prosecutor of the International Criminal Court (ICC).

FACTS RELATING TO ATTACKS ON EXPRESSIVE RIGHTS

Since February 24, 2022, the Russian Federation has relentlessly attacked expressive freedom in Russia and Ukraine through use of military force and repressive – indeed, illegal – laws meant to prevent Russian citizens from learning the truth about the war in Ukraine. Consistent with its attacks on civilian populations detailed in the City Bar’s March 10 Statement, the Russian Federation’s attacks have repeatedly killed and/or injured journalists in the warzone in contravention of international law, including:

¹ This statement is the third statement issued by the City Bar concerning the ongoing war in Ukraine. See New York City Bar Association, Mar. 10, 2022, *New York City Bar Association Urges Prompt Investigation of Potential Russian War Crimes in Ukraine*, <https://www.nycbar.org/media-listing/media/detail/russian-war-crimes-in-ukraine-investigation-request> (the March 10 Statement); New York City Bar Association, Feb. 25, 2022, *Statement on Russian Federation’s Invasion of Ukraine*, <https://www.nycbar.org/media-listing/media/detail/russian-federations-invasion-of-ukraine>.

- On February 28, Russian soldiers ambushed Sky News journalists, resulting in chief correspondent Stuart Ramsay being shot in his leg.²
- On March 1, Russian Federation rocket attacks on the Kyiv TV Tower killed Yevhenii Sakun, a cameraman for the Ukrainian television channel LIVE.³
- On March 6, Russian soldiers attacked Guillaume Briquet, a Swiss journalist, resulting in his hospitalization.⁴
- On March 13, Russian soldiers shot and killed Brent Renaud, a documentary filmmaker, outside Kyiv; Juan Arredondo, a photographer with Mr. Renaud, was also injured in the attack.⁵
- On March 15, two reporters on assignment for Fox News, Pierre Zakrzewski and Oleksandra Kuvshynova, were killed by incoming fire, with reports citing the Russian Federation as the responsible party.⁶

In addition to these physical attacks, the Russian Federation has also resorted to the systemic manipulation and suppression of information at home. It has done so through the enforcement of arbitrary regulations and the adoption of new laws aimed at preventing the Russian public from learning about the war in Ukraine except through state-sanctioned channels peddling approved government propaganda:

- On March 2, Roskomnadzor, the Russian telecommunications agency, forced Rain TV, Russia's only independent broadcaster, off the air for allegedly "inciting extremism, abusing Russian citizens."⁷ Similarly, radio station Echo of Moscow was forced off the air after being accused of "calling for extremist activities, violence and

² Stuart Ramsay, *Sky News team's harrowing account of their violent ambush in Ukraine this week*, Sky News (Mar. 5, 2022), <https://news.sky.com/story/sky-news-teams-harrowing-account-of-their-violent-ambush-in-ukraine-this-week-12557585>; Dominic Ponsford, *Journalists under attack in Ukraine: Sky's Stuart Ramsay wounded in ambush*, Press Gazette: The Future of Media (Mar. 8, 2022), <https://pressgazette.co.uk/journalists-attacked-in-ukraine>.

³ *Ukraine: Cameraman Yevhenii Sakun killed in TV tower bombing*, International Federation of Journalists (Mar. 3, 2022), <https://www.ifj.org/media-centre/news/detail/category/press-releases/article/ukraine-cameraman-yevhenii-sakun-killed-in-tv-tower-bombing.html>.

⁴ Ponsford, *supra*.

⁵ Alex Traub, *Brent Renaud, Crusading Filmmaker, Is Killed at 50*, N.Y. Times (Mar. 13, 2022), <https://www.nytimes.com/2022/03/13/obituaries/brent-renaud-dead.html>.

⁶ Michael M. Grynbaum, *A Fox News crew in Ukraine was caught in fighting, leaving two journalists dead*, N.Y. Times (Mar. 15, 2022), <https://www.nytimes.com/2022/03/15/business/media/ukraine-fox-news-cameraman-killed.html>; Sarah Burns, *Irish journalist Pierre Zakrzewski killed in Ukraine after vehicle hit by Russian shelling*, The Irish Times (Mar. 18, 2022), <https://www.irishtimes.com/news/social-affairs/irish-journalist-pierre-zakrzewski-killed-in-ukraine-after-vehicle-hit-by-russian-shelling-1.4827713>.

⁷ *WATCH: Russian TV staff walk off set after final broadcast*, BBC (Mar. 4, 2022), <https://www.bbc.com/news/av/world-europe-60615753>.

deliberately false information about the actions of Russian forces as part of a special operation.”⁸

- On March 4, the State Duma passed and President Putin signed, an amendment to the criminal code prohibiting “[p]ublic dissemination of deliberately false information about the use of the Armed Forces of the Russian Federation” on pain of imprisonment for up to 15 years.⁹

This climate has caused the mass exodus of international news organizations from Russia, further depriving the Russian public of independent reporting on the war in Ukraine.¹⁰ The law and the Russian Federation’s related crackdown has also interrupted access to Facebook, Instagram, TikTok, and Twitter, depriving the Russian public access to user-generated content.¹¹

This brutal crackdown is, unfortunately, consistent to form. The Russian Federation has a history of intensifying such attacks during unprovoked military actions in violation of international law. During the Russian Federation’s occupation of Ukrainian Crimea, for example, it silenced dissent under the guise of “combating extremism.”¹² Similarly, it branded critical press organizations as foreign agents under an anti-democratic law passed in 2012.¹³ And, it has

⁸ ‘Just static’: Why Russia’s liberal radio station Ekho Moskvy goes off the air, Firstpost (Mar. 4, 2022), <https://www.firstpost.com/world/just-static-why-russias-liberal-radio-station-ekho-moskvy-goes-off-the-air-10428981.html>.

⁹ Putin approves criminal liability for fakes about Russian Armed Forces, TASS (Mar. 4, 2022), <https://tass.com/society/1417043>; Russia Duma Passes Law on ‘Fake News’, The Moscow Times (Mar. 4, 2022), <https://www.themoscowtimes.com/2022/03/04/russia-duma-passes-law-on-fake-news-a76754>. The law was preceded by a directive from Roskomnadzor to news outlets to remove from news reporting the words “assault, invasion, or declaration of war.” Nico Hines, *Russia Bans Its Media From Calling Putin’s War a ‘War’*, The Daily Beast (Feb. 26, 2022), <https://www.thedailybeast.com/roskomnadzor-to-block-russian-media-using-words-war-or-invasion>.

¹⁰ Michael M. Grynbaum, *The New York Times Pulls Its News Staff From Russia*, N.Y. Times (Mar. 8, 2022), <https://www.nytimes.com/2022/03/08/business/media/new-york-times-russia-press-freedom.html>; Joshua Benton, “An information dark age”: Russia’s new “fake news” law has outlawed most independent journalism there, NiemanLab (Mar. 7, 2022), <https://www.niemanlab.org/2022/03/an-information-dark-age-russias-new-fake-news-law-has-outlawed-most-independent-journalism-there>; Siobhan Toman & Sophie Williams, *War in Ukraine: BBC suspends its journalists’ work in Russia*, BBC (Mar. 6, 2022), <https://www.bbc.com/news/world-europe-60617365>. Some of these media had already been blocked in Russia. See, e.g., Elahe Izadi & Sarah Ellison, *Russia’s independent media, long under siege, teeters under new Putin crackdown*, Wash. Post (Mar. 4, 2022), <https://www.washingtonpost.com/media/2022/03/04/putin-media-law-russia-news>.

¹¹ James Vincent, *Russia bans Instagram as promised, blocking access for 80 million users*, The Verge (Mar. 14, 2022), <https://www.theverge.com/2022/3/14/22976603/russia-bans-instagram-facebook-meta-call-to-violence>; Nitasha Tiku, *TikTok suspends posting new video from Russia over the country’s recent ‘fake news’ law*, The Wash. Post (Mar. 6, 2022), <https://www.washingtonpost.com/technology/2022/03/06/tiktok-russia-putin-fake-news-law>; Christian Lima, *Russia’s ‘fake’ news law could force more social networks to pull out of country*, The Wash. Post (Mar. 7, 2022), <https://www.washingtonpost.com/politics/2022/03/07/russias-fake-news-law-could-force-more-social-networks-pull-out-country>.

¹² *Online and On All Fronts Russia’s Assault on Freedom of Expression*, Human Rights Watch (July 18, 2014), <https://www.hrw.org/report/2017/07/18/online-and-all-fronts/russias-assault-freedom-expression>.

¹³ *Russia Labels Meduza Media Outlet As ‘Foreign Agent’*, Radio Free Europe/Radio Liberty (Apr. 23, 2021), <https://www.rferl.org/a/russia-meduza-labeled-foreign-agent-press-freedom/31219272.html>.

aggressively targeted critics in the media for harassment, intimidation, and trumped-up criminal charges; journalists have also died under mysterious circumstances with speculation that their murders were ordered by the Russian Federation.¹⁴

EXPRESSIVE FREEDOMS MUST BE PROTECTED

Freedom of expression is a customary international norm of human rights law, recognized across constitutions, domestic law, and regional human rights instruments. Foremost, it is enshrined in Article 19 of the UDHR: “Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.”¹⁵ It is also recognized in Article 19 of the ICCPR, forming three core tenets: the right to hold opinions without interference (freedom of opinion); the right to seek and receive information (access to information); and the right to impart information (freedom of expression).¹⁶

Although the Russian Federation must abide by these principles, it is openly flouting them as evidenced by its attacks on journalists and adoption of an oppressive censorial regime.¹⁷ This disregard for international law is especially worrisome as expressive freedoms are central to self-determination around the world. Indeed, the free exchange of ideas protected by the UDHR and ICCPR is premised on individuals having sufficient information on which to make personal, social, and political choices. The Russian Federation’s attacks on journalists and information itself make this impossible for individuals in Russia and undermine it for those outside Russia.

In light of these abuses, the City Bar emphasizes its view, and the clear implications of the UDHR and ICCPR, that journalists play a fundamental role in ensuring the expressive freedom of others and themselves have the right to engage in the expressive freedoms of gathering and reporting the news. As one scholar explained, principles of international human rights treaties imply “that the news media play a systemic role within democracy that justifies the broad grant of freedom of media expression.”¹⁸ The City Bar thus emphatically condemns the Russian Federation’s attempts to undermine journalism, both through physical attacks on journalists in Ukraine and the establishment of a censorial regime in Russia, which together undermine rule of law.

¹⁴ For just one example, see *Russia Charges Former Journalist with Treason*, Voice of America (July 8, 2020), https://www.voanews.com/a/europe_russia-charges-former-journalist-treason/6192418.html.

¹⁵ UN General Assembly, Universal Declaration of Human Rights, 10 December 1948, 217 A (III).

¹⁶ UN General Assembly, International Covenant on Civil and Political Rights, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171. International Humanitarian Law also is relevant as journalists engaged in dangerous professional missions in zones of armed conflict are civilians who enjoy the full scope of protection granted to civilians. Journalists are thus protected both against the effects of hostilities and against arbitrary measures taken by a party to the conflict when they fall into that party’s hands, either by being captured or being arrested. Article 79 to Protocol I supplement Article 4 (A) (4) of the Third Geneva Convention.

¹⁷ Resolution 1738 (2006) / adopted by the Security Council at its 5613th meeting, on 23 December 2006.

¹⁸ Michael Perkins, *International Law and the Search for Universal Principles in Journalism Ethics*, *Journal of Mass Media Ethics*, 17:3, 193-208, 202 (2002).

Relatedly, the City Bar emphasizes that the UDHR and ICCPR also protect the right *to seek* and *to receive* information about the world. These rights have little value if journalists are unlawfully prevented from gathering and reporting the news to the public. Whether through physical attacks on journalists in Ukraine or the censorial regime now established by the Russian Federation, these attacks on expressive freedom deprive individuals of their rights to receive information sufficient to make sense of the world around them and, therefore, undermine their rights to self-determination, self-government, and self-expression.

CONCLUSION

For all these reasons, the City Bar condemns in the strongest possible terms attacks that are not just attacks on journalists in the war zone in Ukraine but also attacks on the right to know in the Russian Federation. The City Bar demands that the Russian Federation end these unlawful attacks on free expression immediately and comply with its obligations under international law. The City Bar urges all relevant authorities, including the Human Rights Council and, to the extent that the Russian Federation's actions may constitute war crimes, the ICC Prosecutor, to review these attacks and to take all necessary action to help bring their perpetrators to justice.

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About the Association

The mission of the New York City Bar Association, which was founded in 1870 and has approximately 24,000 members, is to equip and mobilize a diverse legal profession to practice with excellence, promote reform of the law, and uphold the rule of law and access to justice in support of a fair society and the public interest in our community, our nation, and throughout the world. www.nycbar.org