

Seminar and Inter-regional Dialogue on the Protection of Journalists

Towards an effective framework of protection for the work of journalists and an end to impunity

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The framework of legal protection for journalists at global level

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Mr Chairperson, colleagues and friends,

I am delighted to address this important meeting on the global legal framework for the protection of journalists one day after the first annual International Day to End Impunity for Crimes against Journalists. OHCHR is very grateful to the organizers and the sponsors for arranging this event.

Let me start by saying that, on paper, this global framework is in place. International human rights law and international humanitarian law set out norms and standards to protect journalists and other media workers. Resolutions have also been adopted by the Security Council, the General Assembly, the Human Rights Council and several regional organizations. Thematic reports have been submitted to these bodies, including by the United Nations Secretary-General, Special Rapporteurs of the Human Rights Council, and the Office of the High Commissioner for Human Rights. The issues are well documented, and the legal obligations are clear.

The major challenge is to ensure compliance with this framework and guarantee that perpetrators are held accountable for attacks against journalists. Far too many States fail to implement binding international norms. In some, what appears to be perfect legislation, does not translate into effective protection on the ground. There are too many places where crimes against journalists are committed with absolute impunity. We must ask ourselves what can be done to close the profound gap between law and practice.

OHCHR, particularly through its field presences, encourages implementation by raising alerts when there are threats against journalists and intervening with authorities to underline

their responsibility to investigate. OHCHR participates as an observer in protection programmes and holds consultations with journalists and others to discuss their rights. The High Commissioner addresses the issue in bilateral contacts with States, but also in press releases, statements and reports. For example, in June 2014, after the conviction of the Al Jazeera journalists in Egypt, the High Commissioner called for a review of Egyptian laws and judicial procedures, stating: “It is not a crime to carry a camera, or to try to report various points of views about events. It is not a crime to criticize the authorities, or to interview people who hold unpopular views. Journalists and civil society members should not be arrested, prosecuted, beaten up or sacked for reporting on sensitive issues. They should not be shot for trying to report or film things we, the public, have a right to know are happening.”¹

At the request of the Human Rights Council, and in collaboration with the Special Rapporteur on the right to freedom of expression, OHCHR compiled good practices on the protection of journalists, the prevention of attacks committed against them and the fight against impunity for such attacks. This was presented to the Human Rights Council in September 2013, and the findings examined at a panel discussion convened by the Council last June. Based on inputs received from States, the report identifies good practices in four areas: political commitment, legislative framework, combating impunity, and protection. In his report to the 69th session of the General Assembly, the Secretary-General encourages States to share, examine, reinforce and replicate these good practices. Again, in a resolution adopted in September this year, the Human Rights Council encourages States to combat impunity by using these good practices. These reports and resolutions have led to concrete proposals on the type of measures States could consider to strengthen the protection of journalists in their jurisdictions. They include the creation of special investigative units or independent commissions; the appointment of a specialized prosecutor; the training of prosecutors and judiciary regarding the safety of journalists; and the establishment of an early warning and rapid response mechanism to give journalists, when threatened, immediate access to the authorities and protective measures.

The United Nations human rights system includes compliance mechanisms. The human rights treaty bodies, composed of independent experts, regularly address the rights of journalists in their concluding observations following the examination of State parties’ reports. For example, in its concluding observations on Hong Kong (China), the Human Rights Committee called on the State ‘to take vigorous measures to repeal any unreasonable direct

¹ <http://www.ohchr.org/EN/NewsYorks/Stories/Pages/Egyptjournalistsverdict.aspx>

or indirect restrictions on freedom of expression, in particular for the media and academia, to take effective steps including investigation of attacks on journalists and to implement the right of access to information by public bodies".² Today you will hear from Michael O'Flaherty about the Committee's general comment 34 on article 19 of the International Covenant on Civil and Political Rights, which deals with freedom of opinion and expression, in which it makes clear that States should put in place effective measures to protect against attacks aimed at silencing those exercising their right of freedom of expression and that any attack, such as arbitrary arrest, torture or threats to life and killings should be vigorously investigated in a timely fashion, perpetrators prosecuted and victims provided with appropriate redress.

This Committee and other human rights treaty bodies also have competence to receive and examine individual complaints of the treaties they oversee. Two weeks ago, the Mexican journalist Lydia Cacho, winner of the World Press Freedom Prize, the victim of several threats and attacks, including arbitrary detention and torture, filed such a complaint. She seeks redress for the violations of her rights, committed in a context of systematic violence against journalists and human rights defenders and lacking State action to counter impunity. Several treaty bodies have competence to conduct suo moto inquiries into grave or systematic violations of their treaty in States parties. I encourage participants to highlight these procedures, which also allow for interim measures, as while their outcomes are not binding are very frequently complied with by States.

Special Procedures, mandate holders of the Human Rights Council, regularly address the situation of journalists with States through their confidential communications (urgent appeals, allegation letters), press releases, statements and thematic and country reports. The special rapporteurs on the right to freedom of expression, the situation of human rights defenders, extrajudicial, summary or arbitrary executions, torture, and the Working Groups on Arbitrary Detention and Enforced Disappearances have been particularly active. During 2012 and 2013, the Special Rapporteur on the right to freedom of expression transmitted communications on attacks against 171 journalists to 40 countries in all regions, most jointly with other mandate holders. Commissions of inquiry, investigations and fact-finding missions are increasingly established by the Security and Human Rights Councils and the High Commissioner to address country situations raising serious human rights concern. The

² Concluding observations on the third periodic report of Hong Kong, China, adopted by the Committee at its 107th session (11 – 28 March 2013), para. 13.

victimization of journalists has been tracked in a number of these, in particular that relating to the Syrian Arab Republic.

Finally, the Universal Periodic Review of the Human Rights Council, whereby all Member States of the United Nations are reviewed by their peers, provides a forum in the security of journalists is regularly raised and States requested to take urgent protection measures. For instance, in their review of Ethiopia in 2014, several Member States raised the issue of restrictions imposed on civil society and journalists, including arbitrary detention, and recommended that Ethiopia end harassment of journalists, release those detained without valid grounds, and ensure that journalists and media workers can pursue their profession in an environment which guarantees the right to freedom of opinion and expression.³

At the regional level, the OSCE Representative on Freedom of the Media, the OAS special rapporteur for freedom of expression, and the Special Rapporteur on Freedom of Expression and Access to Information in Africa, the Inter-American Court on Human Rights and the European Court of Human Rights, have contributed to standard-setting, awareness-raising and addressing violations relating to the safety of journalists. These mechanisms play a key role in the promotion and protection of human rights as they are most familiar with the dynamics and sensitivities of a particular region. Regional mandates on freedom of expression should be created in all regions and existing mechanisms should be reinforced, for example through increased interaction with UN experts. In October, OHCHR organized a fourth International Workshop on Enhancing Cooperation between UN and Regional Human Rights Mechanisms. Interactions among mechanisms have resulted in joint initiatives, including joint visits and press releases.

In closing, let me reiterate that the standards and mechanisms exist, and we must encourage their use. It is tempting to consider new international conventions or declarations, or amending existing treaties which focus on the rights of journalists and media workers. We should be cautious however as we may find ourselves bogged down in long processes where long-established principles may be reopened. The results may also lead to the fragmentation, rather than strengthening of protection. What might be considered is the formulation of “principles and guidelines” on the safety of journalists, an authoritative document in which all relevant norms and standards are brought together.

³ A/HRC/27/14

Principles and guidelines have been developed in other human rights contexts by a number of the Special Rapporteurs and have proven to be influential. It goes without saying that existing international compliance mechanisms should be strengthened, and provided with capacity and resources to pay systematic attention to the safety of journalists.

Journalists are particularly vulnerable in societies where the rule of law is absent and human rights implementation weak. Corruption, intimidation and reprisals and weak judicial systems, all of which contribute to impunity, must be tackled. A culture of respect for human rights, the rule of law and democracy is essential. And this can only be achieved through a combination of political will and sustained efforts.

Thank you.