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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Summary of the Human Rights Council panel discussion on the protection of journalists in armed conflict prepared by the Office of the United Nations High Commissioner for Human Rights*

* Late submission.

I. Introduction

1. On 4 June 2010, during its fourteenth session, the Human Rights Council held a panel discussion on the protection of journalists in armed conflict, pursuant to its resolution 13/24. In the resolution, the Council further requested the Office of the United Nations High Commissioner (OHCHR) to liaise with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, the International Committee of the Red Cross and all concerned parties and stakeholders, including relevant press organizations and associations and United Nations bodies and agencies, with a view to ensuring their participation in the panel discussion.
2. The panel discussion aimed to: (a) draw the attention of the international community to the dangers faced by journalists in armed conflict; (b) take an inventory of international frameworks and agreements applicable to journalists and the media in situations of armed conflict and the status of their implementation; and (c) contribute to the development of an appropriate response by the Human Rights Council.
3. The panel discussion was chaired by Mr. Alex Van Meeuwen (Belgium), President of the Human Rights Council; moderated by Mr. Hisham Badr (Egypt), Vice-President of the Human Rights Council; and opened by the Deputy High Commissioner for Human Rights, Ms. Kyung-wha Kang. The panellists were: Mr. Frank La Rue, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; Mr. Robin Geiss, legal adviser in the Legal Division of the International Committee of the Red Cross (ICRC); Mr. Mogens Schmidt, Deputy Assistant of the Director-General for Communication and Information and Director of the Division for Freedom of Expression, Democracy and Peace at the United Nations Educational, Scientific and Cultural Organization (UNESCO); Mr. Osama Saraya, Editor-in-Chief of *Al Ahram* newspaper; Mr. Omar Faruk Osman, President of the Federation of African Journalists, an organization affiliated with the International Federation of Journalists; and Ms. Hedayat Abdel Nabi, President of the Press Emblem Campaign.
4. Pursuant to Council resolution 13/24, the present summary has been prepared by OHCHR.

II. Statement by the Deputy High Commissioner for Human Rights and contributions of panellists

5. The Deputy High Commissioner for Human Rights, in her opening remarks, commended the Council for placing the important issue of the protection of journalists in armed conflict high on its agenda, and underscored the vital role played by journalists amidst the so-called “fog of war” to keep the world informed about the truth and facts unfolding on the ground. However, she noted that despite unequivocal norms enshrined in international humanitarian and human rights law guaranteeing their protection, deliberate attempts to target journalists in areas of ongoing conflict continued to increase. As such attacks were committed with impunity, the Deputy High Commissioner stressed that other would-be abusers were encouraged to follow suit. Noting that the erosion in the observance of the international norms highlighted the need to take proactive measures to ensure they would be fully respected and implemented, she called for the development of a common approach to protect journalists in armed conflict not only across United Nations entities, but in the international community as a whole.
6. Mr. Frank La Rue, Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, emphasized that under international human rights

law, States have a threefold obligation to respect, protect and fulfil all individuals' right to freedom of expression, and when violations occur, to fully investigate such acts, to prosecute persons responsible, and to provide victims with effective remedy. Emphasizing that such human rights obligations continued to apply during times of armed conflict alongside international humanitarian law, the Special Rapporteur noted that they were also applicable in situations of internal disturbances and tensions where there might be use of force, but the threshold of armed conflict had not yet been crossed. In his view, the main problem with regard to continuing attacks against journalists lay not in the lack of international legal standards and norms, but in the lack of vigorous implementation of the existing rules. The Special Rapporteur expressed his concerns that the perpetrators of attacks against journalists and other media professionals had enjoyed total impunity in 94 per cent of cases recorded in 2009, while the percentage of cases in which even some partial measure of justice had been obtained was minimal. He underscored that in only 2 per cent of the cases of attacks against journalists in 2009 had the offences been tried before the competent authorities and the perpetrators and instigators prosecuted. Stressing that preventing impunity functioned as the most important deterrent against the repetition of such attacks, he stressed the necessity of exploring ways to improve compliance with existing norms, and encouraged the Council to continue its deliberation on that pressing topic in its future sessions. The Special Rapporteur also suggested that the Council undertake an in-depth study on the issue.

7. Mr. Robin Geiss of ICRC expressed concerns that experiences from recent armed conflicts showed that, in addition to being exposed to dangerous situations because of the nature of their work, media professionals were increasingly prone to becoming victims of direct attacks in violation of international humanitarian law. He further noted that intentional attacks against journalists, as civilians, constituted a war crime under the Rome Statute of the International Criminal Court. Since images and news could have a decisive impact on the outcome of armed conflicts in the information era, he emphasized that the obstruction of journalists' tasks in times of armed conflict was alarmingly frequent, ranging from denial of access, censorship and harassment, to arbitrary detention and direct attacks against media professionals. While it might appear that international humanitarian law does not provide much protection for journalists at first sight, the panellist stressed that as civilians, journalists in fact enjoyed comprehensive protection against direct attacks, arbitrary detention, and internment during armed conflict. He also stated that the most serious deficiency was the lack of vigorous implementation of existing rules, and of systematic investigation, prosecution and sanction of violations, rather than a lack of rules. In that regard, he stressed the role that ICRC plays to protect journalists, in particular by making the rules regarding the protection of journalists and civilians in armed conflict more widely known and better respected, and asserted that improved compliance with existing rules should be the foremost objective.

8. Mr. Mogens Schmidt of UNESCO observed that the number of journalists killed when reporting from conflict and war zones had risen steadily since 2002, but also noted that there had also been a radical increase in the killing of media professionals during times of peace. He stressed that the safety of journalists was an issue that affected all, and that every aggression against a journalist was an attack on the most fundamental freedoms. According to the panellist, one of the aggravating factors that made it difficult to ensure the protection of journalists in conflict and war zones was that currently many conflicts were not only fought between States, but involved insurgents and terrorists who did not respect international humanitarian or human rights law. To enhance their protection, the panellist underscored the need for media staff to receive safety and first aid training, so that they would be prepared to confront the risks inherent in war zones, and so that they could learn how to behave appropriately in the face of danger, and how to deal with the effects of traumatic events. He also emphasized that media staff must be appropriately equipped and

insured, and that a personal follow-up should be provided to them after completion of a dangerous assignment. Additionally, he stated that Governments and their military and security services could contribute to the safety of media staff by providing valuable information on the safety conditions in the field and by giving appropriate instructions to the troops on the rights of media staff.

9. Mr. Osama Saraya of *Al Ahram* newspaper stated that the conflict in Iraq shed the most light on the issue of the protection of journalists in areas of armed conflict, as more than 280 journalists had been killed during the conflict. He pointed out that none of the persons guilty of killing those journalists had been brought to justice. The panellist stated that journalists were the intermediary for truth, and killing a journalist expanded the scourge and further complicated the conflict itself. In addition, he drew the attention of the Council to the fact that death was not the only result of the phenomenon of attacks against journalists, as many journalists who had worked in situations of armed conflict, including his colleagues, lived with trauma and could not function in the workplace due to physical and mental scars and injuries. The panellist also underlined that many of the current conflicts were intractable with some of them lasting for decades, which often fed terrorism and terrorist groups that imposed their own laws in the conflict zones. He therefore stressed that a firm solution must be found to such conflicts, and that news agencies intending to cover a conflict situation must factor in terrorism and organized crime as well. He also emphasized that international cooperation should prioritize technical assistance to developing countries in that field, so as to enable local journalists to do their job and to enjoy the protection by the State. Finally, the panellist expressed his continuing commitment to seek new and innovative ways to ensure the protection of journalists.

10. Mr. Omar Faruk Osman of the Federation of African Journalists provided an overview of the safety and security situation of journalists in Africa, and stated that their predicament was further complicated by the fact that they had to face not only repressive Governments, but also armed gangs and militias. He also underlined that the political will to end the culture of impunity was almost nonexistent, which in turn perpetrated crimes against journalists. He further stressed that human rights could not be guaranteed in the absence of press freedom and freedom of expression, while freedom of expression could not exist when journalists were not protected and suffered death or violence for telling the truth. Emphasizing that there were already sufficient legal standards in place, the panellist stressed that neither the Federation of African Journalists nor the International Federation of Journalists supported the notion of a new international law to agree on a press emblem. He underlined that journalists had already accepted insignia which were universally known, and thus a new emblem would do little more than raise new concerns about Governmental control over the licensing of journalists. While welcoming the adoption of Security Council resolution 1738 (2006) on the protection of journalists in armed conflict, the panellist stressed that the Human Rights Council should develop a mechanism to encourage States to transpose the resolution into their national legislation.

11. Ms. Hedayat Abdel Nabi of the Press Emblem Campaign noted that the panel discussion coincided with the sixth anniversary of the creation of the Campaign, which had been established by a group of journalists in Geneva for the protection of journalists in armed conflict and dangerous situations. Stressing the difference between journalists who were present in armed conflicts by choice, and civilians who were present in such situations by accident, the panellist underscored the need to rethink, or revise, existing rules. In that regard, she referred to ideas presented by the Press Emblem Campaign in December 2007, including, inter alia, the adoption of an internationally recognized press emblem to identify journalists; the guarantee of unhindered, unfettered and uninterrupted Internet services by the authorities concerned; the establishment of mechanisms of inquiry into attacks against journalists; the establishment of "media corridors" by parties to a conflict to protect journalists and media installation; and the establishment of a compensation fund and an

insurance scheme. The panellist called on the Council to develop guidelines for the protection of journalists, which would lead to a global compact, either through the creation of a working group of the Advisory Committee of the Council, or by setting up an ad hoc intergovernmental working group.

III. Summary of discussion

A. Dangers and risks faced by journalists in armed conflict

12. Several delegations expressed concern that journalists were deliberately targeted in areas of ongoing armed conflict as a result of their role in exposing human rights abuses and atrocities, corruption or unpopular opinions or situations. It was noted that such attacks constituted a violation not only of the journalists' right to freedom of expression, but also of the public's right to receive information or the truth, which is an essential component of any democratic society. It was further emphasized that common dangers and risks faced by journalists in armed conflict included killings, abductions, hostage-taking, arbitrary arrests and detention, enforced or involuntary disappearances and acts of harassment and intimidation. One speaker also noted that, due to the work that they did, journalists were often suspected as spies during armed conflict, and either eliminated or used deliberately as "bargaining chips".

13. In their statements, several delegations and speakers noted that such dangers and risks faced by journalists were exacerbated by the complexity of current armed conflicts, as they were no longer limited to two regular armies fighting each other, and multiple non-State actors were involved, making it increasingly difficult to distinguish civilians from non-civilians in such asymmetric conflicts. Additionally, new weapons and methods of warfare were used, and the frontline of conflicts was often ill-defined and changed frequently.

14. It was further noted by several delegations that journalists were often targeted even in situations where there was no armed conflict, for example where organized crime was prevalent. In addition, a view was also expressed that journalists must also be protected by the occupying forces in situations of occupation.

15. Many delegations also expressed concern that only rarely were attacks against journalists investigated and persons responsible brought to account, thus perpetrating an environment of impunity. In that regard, it was noted that in the past 12 years more than 1,100 journalists and media staff had been killed in the course of duty, yet almost none of those cases had been investigated or prosecuted, even in cases of targeted killings.

B. International norms and standards applicable to journalists in armed conflict and their implementation

16. Many delegations referred to the provisions in international humanitarian law which guarantee the protection of journalists either as embedded journalists or as civilians. In the case of the former, many delegations highlighted that as stipulated in article 4, section A, paragraph 4, of the Geneva Convention relative to the Treatment of Prisoners of War (Third Geneva Convention of 1949), embedded journalists or war correspondents are entitled to prisoner of war status when they fall into the power of the enemy. In the case of non-embedded journalists, it was noted that, as stipulated in article 79 of the Protocol Additional to the Geneva Conventions of 12 August 1949 and Relating to the Protection of Victims of International Armed Conflicts (Protocol I), journalists engaged in dangerous professional missions in areas of armed conflict must be considered as civilians and enjoy the

corresponding guarantees and protection under international humanitarian law. Although Protocol I applies only to situations of international armed conflict, several delegations noted that the protection of journalists as civilians was considered to be a norm of customary international law, and thus it also applied to situations of non-international armed conflict.

17. While noting that journalists were protected as civilians under international humanitarian law unless and for such time as they took direct part in hostilities, several delegations stressed that performing tasks in the conduct of their profession, such as recording videos, taking photographs or recording information, did not constitute direct participation in hostilities.

18. Several delegations concurred with the panellists that an intentional attack against journalists, as civilians, constituted not only a violation of international humanitarian law and international human rights law, but also a war crime under the Rome Statute of the International Criminal Court.

19. Many delegations also highlighted the importance of Security Council resolution 1738 (2006), in which the Security Council condemned intentional attacks against journalists, media professionals and associated personnel and called upon all parties to put an end to such practices. In addition, several delegations noted that as civilians, journalists also enjoyed protection under other Security Council resolutions on the protection of civilians during armed conflict, including resolution 1894 of 2009. However, several delegations also expressed concern that the recommendations outlined in those Security Council resolutions had yet to be fully implemented.

20. In addition to Security Council resolutions on the protection of journalists and civilians during armed conflict, some delegations also noted the relevance of the Medellín Declaration on securing the safety of journalists and combating impunity, adopted by the participants of the UNESCO conference on press freedom, safety of journalists and impunity in 2007.

21. While a view was expressed for the need to reevaluate existing norms and conventions due to the changes in the nature of modern warfare, most delegations stressed that existing protection afforded to journalists under international humanitarian law and international human rights law was sufficient, but that the instruments were not being implemented on the ground.

C. Proposals to enhance the protection of journalists in armed conflict and recommendations to the Human Rights Council

22. In order to enhance the protection of journalists in armed conflict, several delegations emphasized the importance for States to train their armed forces, security personnel and other law enforcement agencies to protect journalists, as well as to support concrete safety training of journalists in conflict areas. The need to enhance the safety and security of United Nations personnel who worked to protect journalists and other civilians in armed conflict was also raised.

23. Many delegations and speakers stressed the obligation of States and the international community to ensure that all attacks against journalists were promptly investigated, and that those found responsible were brought to justice in accordance with international fair-trial standards. The importance of establishing prevention mechanisms to support the safety of journalists and criminal justice reform to support effective investigations and prosecutions of attacks and killings against journalists was also emphasized. It was also noted that putting an end to impunity was the best way to protect journalists and media professionals.

24. Some delegations recommended that the Human Rights Council play a complementary and supportive role to the work of the Security Council and other international bodies and organizations to protect journalists in armed conflict, by focusing on human rights aspects of violence against journalists around the world, such as violations of the right to freedom of expression, arbitrary arrest and detention and reprisals against journalists. Delegations and panellists also stressed that documentation of violations, for example through the Human Rights Council, the Security Council and UNESCO, played a key role in overcoming cultures of impunity and ensuring accountability. Suggestions were also made to have a comprehensive report to document attacks on journalists worldwide, and for the United Nations Secretary-General to present a specific report on the implementation of Security Council resolution 1738.

25. Some delegations also welcomed the report on the issue of protection of journalists submitted to the Human Rights Council by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and encouraged the Special Rapporteur to enhance his cooperation with human rights treaty monitoring bodies and other organizations, including regional organizations and non-governmental organizations, to promote the rights of journalists to perform their job in a safe as possible environment in areas of armed conflict.

26. Noting that the creation of robust democratic institutions and adequate judicial and administrative mechanisms enhanced the ability of States to protect and secure the rights of all individuals, including journalists, a recommendation was also made to the Human Rights Council to assist States emerging from armed conflict to rebuild their legal and institutional frameworks and to create conditions to promote and protect the right to freedom of expression.

27. Several delegations also noted the need to address the protection of journalists in all situations, not limited to armed conflict, and suggested that the Human Rights Council consider holding a further panel discussion on that topic as follow-up.

28. In his concluding remarks, the Vice-President of the Council stated that the panel was an exceptional opportunity to bring to light the perils encountered by journalists in armed conflict. He noted that the recommendations formulated through the panel should serve as guidance in devising concrete action, including an appropriate response by the Human Rights Council.
