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

## **Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns**

### *Summary*

Journalists, who play a crucial role in ensuring a society that takes informed decisions, are killed at an alarming rate by State and non-State actors. Others are intimidated into self-censorship. In the present report, the Special Rapporteur on extrajudicial, summary or arbitrary executions investigates the mechanisms that are in place to provide greater protection to the right to life of journalists.

The most immediate problem does not lie with gaps in the international legal framework. The challenge is rather to ensure that the established international framework is fully used, and that its norms are reflected in domestic laws and practices.

The approach should be to elevate the killing of journalists from the local level to the national and international levels. The Special Rapporteur proposes measures aimed at ensuring greater accountability and identifies underutilized entry points at all levels that can be used by journalists at risk.

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## **I. Introduction**

1. Christof Heyns took up his functions as Special Rapporteur on extrajudicial, summary or arbitrary executions on 1 August 2010. This is his second annual report to the Human Rights Council, submitted pursuant to Council resolution 17/5. In the report, an overview is given of the Special Rapporteur's activities over the past year. The thematic part focuses on the protection of the right to life of journalists.

## **II. Activities of the Special Rapporteur**

### **A. Communications**

2. The present report covers communications sent by the Special Rapporteur between 16 March 2011 and 15 March 2012, and replies received between 1 May 2011 and 30 April 2012. The details of the communications and responses from Governments are included in the following communications reports of special procedures: A/HRC/18/51 and Corr.1; A/HRC/19/44 and A/HRC/20/30.

3. Observations on the communications sent and received in the reporting period are reflected in an addendum to the present report (A/HRC/20/22/Add.5). During the period under review, the Special Rapporteur sent 112 communications to 52 countries (including 65 urgent appeals and 47 allegation letters). The main issues covered in the communications were attacks or killings (48), the death penalty (20), excessive use of force (19), death threats (12), deaths in custody (5), impunity (4), armed conflict (2), and expulsion (2). The status of individuals who were the subject of concern with regard to requests for stays of execution is contained in an annex to A/HRC/20/22/Add.5.

### **B. Visits**

4. The Special Rapporteur visited India from 19 to 30 March 2012 at the invitation of the Government. A preliminary note on the mission (A/HRC/20/22/Add.4) will be submitted to the Human Rights Council.

5. The Governments of Mexico and Turkey have accepted the Special Rapporteur's visit requests. The Special Rapporteur thanks the Governments who have responded positively to his requests, and encourages the Governments of Eritrea, Sri Lanka, Thailand and Uganda to accept his pending requests for a visit.

6. Follow-up reports on missions undertaken by the previous mandate holder to the Democratic Republic of the Congo, Colombia and the United States of America are contained in documents A/HRC/20/22/Add.1, A/HRC/20/22/Add.2 and A/HRC/20/22/Add.3, respectively.

### **C. Press releases<sup>1</sup>**

7. On 21 November 2011, the Special Rapporteur, along with several other mandate holders, issued a joint statement expressing alarm at the violence in the run-up to

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<sup>1</sup> Press releases of the Special Rapporteur are available from [www.ohchr.org/en/NewsEvents/Pages/NewsSearch.aspx?MID=SR\\_Summ\\_Executions](http://www.ohchr.org/en/NewsEvents/Pages/NewsSearch.aspx?MID=SR_Summ_Executions).

parliamentary elections in Egypt. On 15 April 2011 and on 5 August 2011, the Special Rapporteur jointly with other mandate holders urged the Government of the Syrian Arab Republic to immediately stop violence against civilians. Joint statements were delivered on behalf of all special procedure mandate holders at the seventeenth and eighteenth special sessions of the Human Rights Council on the human rights situations in the Syrian Arab Republic, on 22 August and 2 December 2011, respectively.<sup>2</sup>

8. A number of joint statements were issued on death penalty cases: on 22 September 2011, to call for an immediate halt to the death penalty in the Islamic Republic of Iran,<sup>3</sup> and on 1 July and 21 September 2011, to urge the Government of the United States of America to stop the executions of Humberto Leal García and Troy Davis, respectively.

9. On 6 May 2011, the Special Rapporteur issued a joint statement with the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism on the killing of Osama bin Laden, asking the Government of the United States to disclose the facts surrounding the operation. On 20 October 2011, the Special Rapporteur issued a statement denouncing targeted killing policies.

10. On 2 March 2012, a statement was sent jointly with other special rapporteurs calling on the Government of Pakistan to act decisively to end sectarian violence.<sup>4</sup>

#### **D. International and national meetings**

11. On 19 September 2011, the Special Rapporteur participated in a panel discussion held as a side event during the eighteenth session of the Human Rights Council, entitled “Towards universal abolition of the death penalty: Sharing best practices on ratifying the Second Optional Protocol to the International Covenant on Civil and Political Rights”. The event was organized by the Permanent Mission of Belgium in cooperation with the Office of the United Nations High Commissioner for Human Rights and with the support of the World Coalition Against the Death Penalty.

12. On the occasion of the World Day against the Death Penalty on 10 October 2011, the Special Rapporteur took part in a panel discussion on the international jurisprudence regarding the death penalty and the prohibition of cruel, inhuman or degrading treatment or punishment, organized in Geneva, Switzerland by the World Coalition Against the Death Penalty and facilitated by the Governments of Belgium and Chile.

13. At an expert consultation entitled “Safety of Journalists: Towards a More Effective International Protection Framework”, held by the Government of Austria in Vienna on 23 November 2011, the Special Rapporteur delivered introductory remarks on protecting the right to life of journalists.

14. On 17 and 18 January 2012, the Special Rapporteur attended a consultation in Addis Ababa, entitled “Enhancing Cooperation between the African and the UN Special Procedures Mechanisms for the Promotion and Protection of Human Rights”. Following the meeting, a working group was established and a road map was adopted on concrete means to strengthen the cooperation between those mechanisms. The Special Rapporteur was appointed Chair of the working group for a six-month term.

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<sup>2</sup> Available from <http://www2.ohchr.org/english/bodies/hrcouncil/specialsession/17/index.htm> and <http://www2.ohchr.org/english/bodies/hrcouncil/specialsession/18/index.htm>.

<sup>3</sup> This follows a statement of 2 February 2011 calling for a moratorium on the death penalty in the Islamic Republic of Iran.

<sup>4</sup> Available from <http://ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=11895&LangID=E>.

15. The Special Rapporteur attended an expert meeting on the use of force in armed conflicts, held in Geneva on 26 January 2012.

16. From 26 to 28 January 2012, the Special Rapporteur participated in the Wilton Park conference entitled “Peaceful Protest: A Cornerstone of Democracy—How to Address the Challenges?”, sponsored by the Norwegian Ministry of Foreign Affairs and the Swiss Federal Department of Foreign Affairs.

17. On 20 February 2012, the Special Rapporteur took part in a panel discussion at the Harvard International Law Journal Symposium on State ethics, held at Harvard Law School, where he gave a speech on extrajudicial executions and targeted killings.

18. The Special Rapporteur organized an expert meeting on the safety of journalists, held in Cambridge, United Kingdom of Great Britain and Northern Ireland on 1 and 2 March 2012, with the support of the University of Cambridge Centre of Governance and Human Rights. The purpose of the meeting was to inform the present report.

### **E. Intended future areas of research**

19. The Special Rapporteur notes the trail-breaking work carried out by his predecessor, Philip Alston, on the human rights and humanitarian law impacts of lethal robotic technologies (A/65/321). The Special Rapporteur shares his predecessor’s concern that these technologies are rapidly proliferating, with far too little analysis from a human rights perspective. Accordingly, he intends to deepen and expand work in this crucial area. The Special Rapporteur will undertake detailed research and consultations with legal, robotics, weapons, and ethics experts through 2012-2013, and will report his findings and recommendations to the Human Rights Council in 2013.

## **III. Protection of the right to life of journalists**

### **A. Context<sup>5</sup>**

20. Because of the power of information, news and journalism is a heavily contested domain. Journalists are often in a vulnerable position, where their physical integrity and life may be at stake because of the actions of State or non-State actors. They may face attempts at influence or censorship, but also in some cases physical danger, ranging from getting caught in crossfire to threats, attempted or actual assaults, abductions, disappearances, and even death. If journalists are in danger, the media cannot be free.

21. The most extreme form of censorship is to kill a journalist. The killing not only silences the voice of the particular journalist, but also intimidates other journalists and the public in general. The free flow of ideas and information is replaced by the silent warning of the grave.

22. In the present report, the Special Rapporteur examines how legal and other protective measures may be used to protect the right to life of journalists, and those close to them, against actual deprivation of life and assaults on their physical integrity that may endanger life.

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<sup>5</sup> The Special Rapporteur thanks the University of Cambridge Centre of Governance and Human Rights for its valuable research support.

23. Freedom of expression, as the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression has noted, is also a collective right held by society as a whole (A/HRC/14/23, paras. 29 and 105). Freedom of expression and the concomitant right to receive information are “meta rights”—rights on which the realization of most of other rights depends. They are also the cornerstones of democracy, anti-corruption measures, good governance and in general the ability of society to take informed decisions.

24. Journalists deserve special concern not primarily because they perform heroic acts in the face of danger—although that is often the case—but because the social role they play is so important. Just as the shooting of a police officer warrants messages of “calling all units, officer down” throughout the police force, an attack on a journalist represents an assault on the foundations of the human rights project and on informed society as a whole. Violence against a journalist is not only an attack on one particular victim, but on all members of the society.

25. Within the framework of the mandate, issues regarding assaults on the life of journalists have been addressed in a number of ways.<sup>6</sup> Noteworthy is that the then Special Rapporteur on extrajudicial, summary or arbitrary executions noted in her 2003 report that journalists are among the persons who receive the most death threats (E/CN.4/2003/3 and Corr.1, para. 54). Journalists have regularly been the subject of communications. Indeed, approximately 8 per cent of the communications sent under the mandate on extrajudicial, summary or arbitrary executions between 2003 and 2011 concerned killings of journalists, or threats to their lives.

26. For the purposes of the present report, a functional approach will be taken in respect of the question of who is to be regarded as a journalist, and hence who deserves special attention. The following definition represents a fairly widely accepted understanding of what this concept entails: “The term ‘journalist’ means any natural or legal person who is regularly or professionally engaged in the collection and dissemination of information to the public via any means of mass communication.”<sup>7</sup> Reporters and photographers and those who directly support their work—stringers and drivers—are potentially vulnerable, and because they fulfil a crucial social function they are deserving of special protection. This includes the “new media” or “citizen and online journalists”.<sup>8</sup>

27. Not all journalists focus on human rights—they shine their light on a wide range of issues. Since some journalists are human rights defenders and some human rights defenders are journalists, these two categories are overlapping but not identical.

28. An alarming number of journalists are killed each year in the course of their duties, or are subjected to physical violence. Mere casualty figures do not fully convey the extent of the problem because in many cases journalists are prevented from doing their work following threats to their safety that may not be realized. Nevertheless, the available

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<sup>6</sup> Reports on the missions of the Special Rapporteur to: the Democratic Republic of the Congo, A/HRC/14/24/Add.3, paras. 2 and 92; Colombia, A/HRC/14/24/Add.2, appendix B, para. 2; the Philippines, A/HRC/8/3/Add.2, paras. 38 and 45; Jamaica, E/CN.4/2004/7/Add.2 and Corr.1, paras. 50-51; Turkey, E/CN.4/2002/74/Add.1 and Corr. 1, paras. 42 and 56; Nepal, E/CN.4/2001/9/Add.2, paras. 32 and 73; and Mexico, E/CN.4/2000/3/Add.3, paras. 70, 81-84 and 107. Follow-up to country recommendations: Brazil, A/HRC/14/24/Add.4, para. 26; the Philippines, A/HRC/11/2/Add.8, para. 10; Sri Lanka, A/HRC/8/3/Add.3, para. 45.

<sup>7</sup> Council of Europe, recommendation No. R (2000) 7 of the Committee of Ministers to member States on the right of journalists not to disclose their sources of information, adopted on 8 March 2000.

<sup>8</sup> Report of the Special Rapporteur on the right to freedom of opinion and expression (A/65/284), paras. 61-76.

statistics on the killing of journalists, especially when measured over time, provide an important and compelling starting point from which to better understand the problem, and to identify ways to reduce the danger.

29. A number of civil society groups are doing the important work of tracking work-related deaths of journalists around the world. The data differs according to what is being monitored. Some, like the International News Safety Institute (INSI)<sup>9</sup> and the International Federation of Journalists (IFJ)<sup>10</sup>, keep track of all safety-related aspects, including vehicle accidents and illness, while others, such as the Committee to Protect Journalists (CPJ)<sup>11</sup> and Reporters Without Borders (RWB),<sup>12</sup> take a more narrow approach, focusing more on instances where journalists suffer violent deaths directly related to their profession.

30. According to CPJ, as at 28 March, 909 journalists had been killed since 1992. In 566 of these cases there has been total impunity.<sup>13</sup>

31. The 20 deadliest places during that period, according to CPJ, were as follows: Iraq: 151 killings; Philippines: 72; Algeria: 60; Russian Federation: 53; Colombia: 43; Pakistan: 42; Somalia: 39; India: 28; Mexico: 27; Afghanistan: 24; Brazil: 21; Turkey: 20; Bosnia and Herzegovina: 19; Sri Lanka: 19; Rwanda: 17; Tajikistan: 17; Sierra Leone: 16; Bangladesh: 12; Israel and the occupied Palestinian territory: 10; and Nigeria: 10.<sup>14</sup>

32. The causal correlation between impunity and the killing of journalists is evident from the fact that the countries where the highest number of journalists are killed are also, almost without exception, those with the highest level of impunity.<sup>15</sup> Impunity is a major, if not the main, cause of the high number of journalists killed every year.

33. Two thirds of these deaths occur outside armed conflict. About 40 per cent of the journalists killed covered politics; 34 per cent war; 21 per cent corruption; 15 per cent crime; and 15 per cent human rights.<sup>16</sup> The overriding problem is murder, not accidents. Freelance journalists are at a much higher risk than those who work for news agencies.

34. It is clear from these statistics that the most common profile of a journalist who is killed is that of a local as opposed to foreign correspondent, who covers politics or corruption for a newspaper or a radio station. While the plight of the foreign war correspondent attracts the most attention, and is worthy of such concern, special attention should also be paid to the question of how to alter the fate of the local newspaper journalist who drives home after work and is intercepted by two people on a motorbike, one holding a gun. It is a threat to the human rights project as whole when a blogger is tracked and her head is found next to her keyboard with a threatening note.

35. While the practice of killing the messenger is not new, the nature of the threat changes when society changes. Increased fatalities among photojournalists are a worrying trend, indicating that the impact of visual imagery is considered to have become more threatening. Likewise there have been a number of high-profile killings of environmental

<sup>9</sup> See [www.newssafety.org](http://www.newssafety.org).

<sup>10</sup> See [www.ifj.org](http://www.ifj.org).

<sup>11</sup> See [www.cpj.org](http://www.cpj.org).

<sup>12</sup> See [www.rsf.org](http://www.rsf.org).

<sup>13</sup> CPJ statistics on the killing of journalists, 1992-2012, available from [www.cpj.org/killed](http://www.cpj.org/killed).

<sup>14</sup> *Ibid.*

<sup>15</sup> CPJ 2011 Impunity Index, available from [www.cpj.org/reports/2011/06/2011-impunity-index-getting-away-murder.php#index](http://www.cpj.org/reports/2011/06/2011-impunity-index-getting-away-murder.php#index).

<sup>16</sup> See [www.cpj.org/killed](http://www.cpj.org/killed). Some overlap results in a total of more than 100 per cent.

journalists in recent years, whose stories often contain information about corruption involving multinationals.<sup>17</sup>

36. One of the main changes in the way in which the news is disseminated around the world in recent years has been the emergence of online journalists, both professionals as well as people who are untrained, who use social media. With the spread and increased availability of technology, the pool of who we now consider journalists has expanded rapidly, and so has the number of people who are potential targets of those who want to control the flow of information. In parts of Mexico, for example, the conventional media have for all practical purposes been replaced by new media—and assassins have likewise moved their sights.

37. More than 70 per cent of journalists murdered are reported to have received prior threats.<sup>18</sup> This shows that there is significant room for preventative measures to be taken. In an interconnected world, raising the alarm publicly can have a restraining effect, and one of the challenges is to find ways in which this can be done more effectively.

38. Are all deaths of journalists captured in the aforementioned statistics preventable? Probably not. Those who get close to violence will always be at risk of being caught in the crossfire. If journalists become direct participants in the hostilities they cover, they are also not protected from being targeted. But even in such cases, the risks can be reduced if all parties to the conflict recognize the legitimacy of the presence of journalists, and if the journalists themselves are better prepared. The execution of journalists on account of their work can never be accepted. Journalists, like other people, are subject to the ordinary laws of the land, and as such are accountable. However, the appropriate reaction to their work when they challenge the status quo, and even in those cases where they fall foul of the law, can never be extrajudicial, summary or arbitrary execution.

## **B. The protective framework**

39. A variety of mechanisms exist to protect journalists from attack, and to ensure accountability where this fails.

### **1. International human rights law and policy**

40. There is no specific international treaty dedicated specifically to the protection of journalists from physical attacks. Various parts of the international system collectively play this role.

41. Most pertinently, the right to life is recognized as a rule of customary international law,<sup>19</sup> and specifically in article 3 of the Universal Declaration of Human Rights and article 6 of the International Covenant on Civil and Political Rights. It is a right that may not be derogated from in times of emergency, such as war.<sup>20</sup> A wider network of rights is also

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<sup>17</sup> See for example Article 19, “Indonesia: journalists risk lives for reporting on environmental impacts and local politics”, 13 August 2010, available from [www.article19.org/resources.php/resource/1602/en/indonesia:-journalists-risk-lives-for-reporting-on-environmental-impacts-and-local-politics](http://www.article19.org/resources.php/resource/1602/en/indonesia:-journalists-risk-lives-for-reporting-on-environmental-impacts-and-local-politics).

<sup>18</sup> CPJ, “Risks shift as coverage of political unrest proves deadly”, available from [www.cpj.org/2012/02/attacks-on-the-press-in-2011-journalists-killed-an.php](http://www.cpj.org/2012/02/attacks-on-the-press-in-2011-journalists-killed-an.php).

<sup>19</sup> Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions (A/HRC/17/28), para. 43.

<sup>20</sup> International Covenant on Civil and Political Rights, art. 4; see also the American Convention on Human Rights, art. 27; the European Convention for the Protection of Human Rights and Fundamental Freedoms, art. 15; and the Arab Charter on Human Rights, art. 4, para. 2.



relevant to enhancing journalists' bodily security in exercising their profession, such as the rights to physical integrity, not to be tortured or arbitrarily detained, or to be disappeared, in addition to the rights to freedom of expression and to information.

42. International human rights law, at the global as well as the regional levels, requires States to respect and protect the lives of all within their respective jurisdiction from attacks and threats of attacks, and to provide an effective remedy where this has not been the case. The State and its agents are not only required to refrain from engaging in arbitrary killings, but also to protect people from such threats by non-State actors.

43. Impunity, as has been noted, is widely recognized as one of the main causes of the continued killing of journalists. One of the elements of the right to life is accountability where a breach has occurred. It is an inherent aspect of the State's due-diligence obligation to prevent, punish, investigate and redress threats to and violations of the right to life.<sup>21</sup> The Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions<sup>22</sup> provide that investigations in instances of extrajudicial executions are to be "thorough, prompt and impartial" and conducted by independent bodies.<sup>23</sup> Prosecutors are also required to act independently, impartially and expeditiously.<sup>24</sup> States are obliged to enable prosecutors to act independently and free from interference, including, where necessary, ensuring the safety of prosecutors.<sup>25</sup>

44. The European Court of Human Rights has determined that an investigation: should be initiated by the State of its own volition; should be independent, effective, sufficiently open to public scrutiny and reasonably prompt; and should involve the next of kin/family.<sup>26</sup> Additionally, "any deficiency in the investigation which undermines its ability to identify the perpetrator or perpetrators will risk falling foul of this standard".<sup>27</sup> A parallel jurisprudence has been developed by the Inter-American Court of Human Rights and in the

<sup>21</sup> See Human Rights Committee general comment No. 6 (1982) on the right to life; Human Rights Committee communication No. 161/1983, *Herrera Rubio v. Colombia*, Views adopted on 2 November 1987, para. 10.3; report of the Special Rapporteur on extrajudicial, summary or arbitrary executions (E/CN.4/2005/7), paras. 72-75.

<sup>22</sup> Economic and Social Council resolution 1989/65.

<sup>23</sup> Principles 7 and 9. See European Court of Human Rights, *McCann and Others v. United Kingdom*, Application No. 18984/91, Judgement of 27 September 1995, paras. 161-164 and Human Rights Committee communication No. 146/1983, *Baboeram-Adhin et al v. Suriname*, Views adopted on 4 April 1985. See also Human Rights Committee general comment No. 6; E/CN.4/2005/7, paras. 72-75; and *Velásquez Rodríguez v. Honduras*, *Annual Report of the Inter-American Court of Human Rights*, OAS/Ser. I./V./III.19, doc. 13 (1988), 28 ILM (1989) 291.

<sup>24</sup> Guidelines on the Role of Prosecutors, paras. 12-13.

<sup>25</sup> *Ibid.*, para. 5.

<sup>26</sup> See in particular *Tanrikulu v. Turkey*, Application No. 26763/94, Judgement of 8 July 1999; *Osman v. United Kingdom*, Application No. 23452/94, Judgement of 28 October 1998; *Ergi v. Turkey*, Application No. 23818/94, Judgement of 28 July 1998; and *Nachova and others v. Bulgaria*, Application Nos. 43577/98 and 43579/98, Judgement of 26 February 2004 (endorsed by the Grand Chamber in its Judgement of 6 July 2005). See also, for example, *Piersack v. Belgium*, Application No. 8692/79, Judgement of 1 October 1982.

<sup>27</sup> European Court of Human Rights, *Ramsahai and others v. Netherlands*, Application No. 52391/99, Judgement of 15 May 2007, para. 324.

African Commission on Human and Peoples' Rights.<sup>28</sup> Impunity, in other words, in itself can also constitute a violation of the right to life.<sup>29</sup>

45. Binding treaties and customary law, as well as "soft law" instruments, such as declarations and significant public positions taken by office bearers of intergovernmental organizations (IGOs), will now be considered in an overview of the relevant stakeholders.

**(a) United Nations level**

46. The Secretary-General has on various occasions condemned the killing of journalists.<sup>30</sup>

47. In resolutions adopted at its special sessions, the Human Rights Council has condemned the killing of journalists.<sup>31</sup> The targeting of journalists in a number of countries, including Somalia, Colombia, Mexico, Honduras and the Philippines, has been addressed under the universal periodic review mechanism.<sup>32</sup>

48. Different special procedures have also dealt with the safety of journalists. The topic is central to the mandate of the Special Rapporteur on the right to freedom of opinion and expression, and he has submitted a comprehensive report to the General Assembly on the topic (A/65/284, in particular para. 20 ff).<sup>33</sup> The Special Rapporteur on the situation of human rights defenders devoted a section of her 2012 annual report to the Human Rights Council on the action taken by her mandate regarding journalists as human rights defenders (A/HRC/19/55, paras. 29-59).

49. Special procedures have the ability to move fast, have the mandate to cover all countries (not only those that have ratified particular human rights treaties) and do not require the exhaustion of domestic remedies. They often send letters of allegation to States where journalists have been killed, in order to ensure accountability. Of particular importance to the issue of prevention, however, is the fact that they also have the power to send urgent appeals to States where journalists and others are under threat, to urge those States to protect the person in question. It is an important access point that should be used more often. It should be noted that the special procedures may not act merely on the basis of newspaper reports, but have to be approached by an individual, group, non-governmental organization, intergovernmental agency or Government, who must provide information

<sup>28</sup> Inter-American Court of Human Rights, *Mack Chang v. Guatemala*, Judgement of 25 November 2003; *Velásquez Rodríguez v. Honduras* (see note 23 above); and African Commission on Human and Peoples' Rights, communication No. 87/93, *The Constitutional Rights Project v. Nigeria* (1995), para. 14.

<sup>29</sup> Human Rights Committee general comment No. 31 (2004) on the nature of the general legal obligation imposed on States parties to the Covenant, para. 18.

<sup>30</sup> See, among others, S/2007/643, paras. 29-30; S/2009/277, para. 19; S/2010/579, para. 16; A/56/681-S/2001/1157, para. 34; A/61/326-S/2006/727, para. 44; A/62/345-S/2007/555, para. 53; see also A/63/372-S/2008/617, para. 50.

<sup>31</sup> Resolutions 12/16, para. 3; S-15/1, para. 3; S-16/1, paras. 1-2; S-17/1, para. 5; and S-18/1, para. 2 (a).

<sup>32</sup> See the respective annual reports of the Human Rights Council: A/HRC/18/2 (advance unedited version), paras. 319 and 321 (Somalia); A/HRC/10/29, paras. 651 and 662 (Colombia); A/HRC/11/37, paras. 609 and 616 (Mexico); A/HRC/16/2, paras. 525-526 (Honduras); A/HRC/8/52, paras. 473-474 (Philippines).

<sup>33</sup> See also previous annual reports: E/CN.4/2003/67, paras. 32, 59 and 70-71; E/CN.4/2005/64 and Corr.1, paras. 53-54 and 56; E.CN.4/2006/55, paras. 59-61, and mission reports: for example, Mexico (A/HRC/17/27/Add.3); Colombia (E/CN.4/2005/64/Add.3), para. 94; and Côte d'Ivoire, (E/CN.4/2005/64/Add.2), paras. 48-49.

regarding the incident, the victims of the incident, the alleged perpetrators and the source of the allegations.<sup>34</sup>

50. In a welcome development, several special procedures in the global and regional systems have recently made joint declarations condemning the killing of journalists.<sup>35</sup> The special procedures of the United Nations and the African Union met in Addis Ababa in January 2012 to enhance collaboration between the global and the regional system, which could also lead to more cooperation in respect of journalists in Africa.

51. The High Commissioner for Human Rights has reported on attacks against journalists, for example in the context of the situations in Afghanistan and Colombia, among others.<sup>36</sup>

52. The Human Rights Committee has explicitly addressed the safety of journalists in general comment No. 34 (2011) on the freedoms of opinion and expression. In *Afusun Njaru v. Cameroon*, the Committee found that the State had violated article 9 of the International Covenant on Civil and Political Rights (right to security of the person) by failing to take measures against attacks on journalists.<sup>37</sup>

53. In recent years the Human Rights Committee, in its concluding observations, has expressed concern about intimidation, harassment and threats against journalists;<sup>38</sup> the Committee against Torture has also expressed such concerns, including with respect to the killings of journalists.<sup>39</sup>

54. It should be noted, from the perspective of prevention, that the Human Rights Committee has the power to inform a State party that interim measures are “desirable to avoid irreparable damage” in respect of a pending complaint.<sup>40</sup> Other treaty bodies with comparable competences in this context are the Committee against Torture, the Committee on Enforced Disappearances and the Committee on the Elimination of Discrimination against Women.

55. The United Nations Educational, Scientific and Cultural Organization (UNESCO) has taken a lead role in the United Nations system in respect of freedom of expression, including the safety of journalists. For example, in 1997 UNESCO adopted resolution 29 on the condemnation of violence against journalists. On a regular basis, UNESCO publicly condemns the killing of journalists<sup>41</sup> and exercises “quiet diplomacy”, also in respect of

<sup>34</sup> See [www.ohchr.org/EN/HRBodies/SP/Pages/Communications.aspx](http://www.ohchr.org/EN/HRBodies/SP/Pages/Communications.aspx).

<sup>35</sup> See for example [www.osce.org/fom/41439](http://www.osce.org/fom/41439).

<sup>36</sup> Colombia: E/CN.4/2001/15, paras. 38 and 191-194; E/CN.4/2003/13, para. 111; E/CN.4/2004/13, paras. 97-98; E/CN.4/2005/10 and Corr.1, annex II, para. 14 and annex IV, para. 12; E/CN.4/2006/9, paras. 61 and 87 and annex III, paras. 40-43 and 54; A/HRC/4/48, paras. 11, 44-45, 109 and 124 and annex II, paras. 30-32; A/HRC/7/39, paras. 68-69 and annex, paras. 19-20 and 27. Afghanistan: A/HRC/10/23, paras. 33, 51-54; A/HRC/13/62, paras. 9, 55-59 and 69 (f).

<sup>37</sup> Communication No. 1353/2005, Views adopted on 19 March 2007, para. 6.3.

<sup>38</sup> Philippines, CCPR/CO/79/PHL, para. 8; Russian Federation, CCPR/CO/79/RUS, para. 22 and CCPR/C/RUS/CO/6 and Corr.1, para. 16; Colombia, CCPR/CO/80/COL, para. 11 and CCPR/C/COL/CO/6, para. 17; Honduras, CCPR/C/HND/CO/1, para. 17; Azerbaijan, CCPR/C/AZE/CO/3, para. 15; Mexico, CCPR/C/MEX/CO/5, para. 20; Serbia, CCPR/C/SRB/CO/2, para. 21.

<sup>39</sup> Cameroon, CAT/C/CMR/CO/4, para. 18; Ukraine, CAT/C/UKR/CO/5, para. 17; Philippines, CAT/C/PHL/CO/2, para. 11; Russian Federation, CAT/C/RUS/CO/4, para. 22; Guatemala, *Official Records of the General Assembly, Fifty-sixth Session, Supplement No. 44 (A/56/44)*, para. 72.

<sup>40</sup> Rules of procedure of the Human Rights Committee, rule 92.

<sup>41</sup> See [www.unesco.org/new/en/communication-and-information/freedom-of-expression/safety-of-journalists/](http://www.unesco.org/new/en/communication-and-information/freedom-of-expression/safety-of-journalists/).

threats. The Belgrade Declaration on Support to Media in Violent Conflict and Countries in Transition<sup>42</sup> and the Medellín Declaration on Securing the Safety of Journalists and Combating Impunity<sup>43</sup> inform the direction followed by UNESCO. The Organization was instrumental during 2011 in gaining agreement among various United Nations actors on a draft United Nations plan of action on the safety of journalists and the issue of impunity.<sup>44</sup>

56. At its 26th session, in 2008, the Intergovernmental Council of the International Programme for the Development of Communication (IPDC) adopted its first Decision on the Safety of Journalists and the Issue of Impunity, in which member States were urged “to inform the Director-General of UNESCO, on a voluntary basis, of the actions taken to prevent the impunity of the perpetrators and to notify him of the status of the judicial inquiries conducted on each of the killings condemned by UNESCO”.<sup>45</sup> There does not, however, appear to be much civil society engagement with this process. World Press Freedom Day proclaimed by the General Assembly at the initiative of UNESCO, provides a useful rallying point to emphasize the right to life of journalists.

**(b) Regional level**

57. Under all three established regional human rights systems, individual cases may be brought to a regional court concerning the rights protected in those systems, which include the right to life and physical integrity. This means, on the accountability front, that cases may be brought against State parties when there is a failure to respect or to protect the life of a journalist, or when there is impunity when a journalist has been killed. The decisions of these courts are legally binding.

58. A number of decisions concerning the right to life of journalists have been handed down by the European Court of Human Rights.<sup>46</sup> In *Dink v. Turkey*, the Court held that abandoning a charge against policemen for negligence in protecting journalist Hrant Dink was a failure by the State to protect the journalist.<sup>47</sup> In October 2011, the Commissioner for Human Rights of the Council of Europe published a helpful report entitled “Protection of journalists from violence”.<sup>48</sup>

59. The Parliamentary Assembly of the Council of Europe has adopted various resolutions and recommendations on the issue.<sup>49</sup> The Council and its structures have, in a variety of ways, endorsed the right of journalists not to disclose their sources, except under

<sup>42</sup> Adopted by the participants at the UNESCO conference on press freedom, safety of journalists and impunity in 2007. Available from [www.unesco.org/new/en/communication-and-information/flagship-project-activities/world-press-freedom-day/previous-celebrations/worldpressfreedomday2009000/medellin-declaration/](http://www.unesco.org/new/en/communication-and-information/flagship-project-activities/world-press-freedom-day/previous-celebrations/worldpressfreedomday2009000/medellin-declaration/).

<sup>43</sup> Adopted by the participants at the UNESCO conference on support to media in violent conflict and countries in transition in 2004. Available from [www.unesco.org/new/en/communication-and-information/flagship-project-activities/world-press-freedom-day/previous-celebrations/worldpressfreedomday2009000000/belgrade-declaration/](http://www.unesco.org/new/en/communication-and-information/flagship-project-activities/world-press-freedom-day/previous-celebrations/worldpressfreedomday2009000000/belgrade-declaration/).

<sup>44</sup> See paras. 1.10, 1.11 and 1.18 of the final draft, available from [www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CI/CI/pdf/IPDC/ipdc28\\_un\\_action\\_plan\\_safety.pdf](http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CI/CI/pdf/IPDC/ipdc28_un_action_plan_safety.pdf).

<sup>45</sup> See <http://unesdoc.unesco.org/images/0018/001874/187491e.pdf>.

<sup>46</sup> See, for example, *Gongadze v. Ukraine*, Application No. 4451/70, Judgement of 22 March 2005. See also *Kiliç v. Turkey*, Application No. 22492/93, Judgement of 28 March 2000.

<sup>47</sup> *Dink v. Turkey*, Application Nos. 2668/07, 6102/08, 30079/08, 7072/09 and 7124/09, 14 September 2010, paras. 76-80.

<sup>48</sup> See <https://wcd.coe.int/ViewDoc.jsp?id=1899957>.

<sup>49</sup> See, for example, resolutions 1438 (2005) and 1535 (2007) and recommendation 1897 (2010).

very narrowly defined circumstances.<sup>50</sup> This also serves the purpose of ensuring that journalists are not targeted for elimination as potential witnesses.<sup>51</sup>

60. The Inter-American Court of Human Rights is currently considering a case concerning death threats as a potential violation of the right to life.<sup>52</sup> The Inter-American Commission on Human Rights has adopted resolutions on the issue<sup>53</sup> and has established a Special Rapporteur for Freedom of Expression; for more than a decade, the protection of journalists has been highlighted in the annual reports under the mandate.<sup>54</sup>

61. The African Commission on Human and Peoples' Rights has condemned the practice in resolutions setting out the obligations of States also to ensure accountability.<sup>55</sup> In 2004, the Commission appointed the first Special Rapporteur on Freedom of Expression and Access to Information in Africa, and the mandate holders have done important work in respect of the safety of journalists on the continent.

62. All three regional human rights courts have the authority to issue interim or provisional or preventative measures—legally binding orders to refrain from infringing rights, or to protect them. The Inter-American Commission on Human Rights as a quasi-judicial body also has the power to order precautionary measures. It has done so with the specific aim of protecting the lives of journalists in respect of two matters during 2011,<sup>56</sup> and four matters during 2010,<sup>57</sup> albeit with mixed success. In each of these instances the Commission specifically directed the relevant States to take measures to ensure the lives of the journalists named. The African Commission on Human and Peoples' Rights has similar powers, but has not been asked to use it to protect journalists. These interim measures are potential access points that should be used more often by journalists who are under threat. While the Inter-American system is the leader on this front, the fact that the system of precautionary measures has been the subject of controversy should be pointed out.

63. Other regional IGOs have also taken initiatives in respect of the protection of journalists. The Organization for Security and Cooperation in Europe, for example, has made the safety of journalists one of its priorities.<sup>58</sup>

<sup>50</sup> See Council of Europe, Committee on Culture, Science and Education, "The protection of journalists' sources" (2010); resolution 1729 (2010), para. 6.1.3.3; resolution 1438 (2005), para. 8 (v); and resolution 1636 (2008), para. 8.8.

<sup>51</sup> The Appeals Chamber of the International Criminal Tribunal for the Former Yugoslavia has also held that "war correspondents must be perceived as independent observers rather than as potential witnesses for the Prosecution. Otherwise, they may face more frequent and grievous threats to their safety and to the safety of their sources". *Prosecutor v. Radoslav Brdjanin and Momir Talic*, case No. IT-99-36-AR73.9, Decision on Interlocutory Appeal of 11 December 2002, para. 42.

<sup>52</sup> *Vélez Restrepo and family v. Colombia*, case No. 12.658.

<sup>53</sup> See, for example, the Inter-American Declaration of Principles on Freedom of Expression (2000), approved by the Commission at its 108th session, para. 9.

<sup>54</sup> See [www.cidh.oas.org/relatoria/index.asp?IID=1](http://www.cidh.oas.org/relatoria/index.asp?IID=1).

<sup>55</sup> See for example the Declaration of Principles on Freedom of Expression in Africa (2002), adopted by the Commission at its 32nd session, sect. XI, and the Commission's resolution ACHPR/Res.178(XLIX) of 2011 on the deteriorating situation of freedom of expression and access to information in Africa.

<sup>56</sup> PM 422/11 – Lucía Carolina Escobar Mejía, Cledy Lorena Caal Cumes, and Gustavo Girón, Guatemala; PM 115/11 – Journalists at La Voz de Zacate Grande, Honduras.

<sup>57</sup> PM 36-10 – Rodrigo Callejas Bedoya and family, Colombia; PM 196-09 (Extension) – Inmer Genaro Chávez and Lucy Mendoza, Honduras; PM 196-09 (Extension) – Journalists from Radio Progreso, Honduras; and PM 254-10 – Leiderman Ortiz Berrio, Colombia.

<sup>58</sup> See for example the *OSCE Safety of Journalists Guidebook* (2012), available from [www.osce.org/fom/85777](http://www.osce.org/fom/85777).

64. There are a number of emerging regional human rights systems in the world, for example the Intergovernmental Human Rights Commission of the Association of Southeast Asian Nations, and within the Organization of Islamic Cooperation and the League of Arab States. It will be important to place the protection of the right to life of journalists on their agendas from an early stage, and those working in this field, such as NGOs, should engage with the emerging bodies in this regard.

## 2. International humanitarian law

65. During armed conflict, human rights law applies as the *lex generalis* and international humanitarian law applies as the *lex specialis*.<sup>59</sup> In respect of the right to life, this entails that while both systems apply during armed conflict, the question as to whether a killing should be considered “arbitrary” or unlawful is in most cases determined by international humanitarian law.<sup>60</sup>

66. Journalists who are members of the armed forces are subject to targeting on the same basis as other soldiers or fighters. However, journalists who are not members of the armed forces are protected on the same basis as civilians and may not be deliberately targeted.<sup>61</sup> War correspondents, like other journalists, are not members of the armed forces, and as such are protected against targeting, but they are accredited to the armed forces and as such qualify for prisoner of war status should they be captured.<sup>62</sup>

67. This protection that journalists and civilians enjoy is limited in a number of ways. Their proximity to military objectives entail that their deaths in an attack could potentially be considered collateral damage, provided the other conditions, such as proportionality, are met. Moreover, as is the case with civilians, the protection journalists enjoy ceases to apply when they directly engage in hostilities.<sup>63</sup> “Direct participation” in hostilities entails “acts of war which by their nature or purpose are likely to cause actual harm to the personnel and equipment of the enemy armed forces”.<sup>64</sup> Journalists using their radio transmitters to send military messages, for example, risk placing themselves in this category. The spreading of propaganda for the enemy in itself does not make a journalist a legitimate target, but incitement to commit grave breaches of international humanitarian law, acts of genocide or violence is prohibited, and journalists spreading such messages open themselves up to being legitimate targets.<sup>65</sup>

68. Embedded journalists tend to be equated with war correspondents as far as targeting is concerned.<sup>66</sup>

<sup>59</sup> *Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, I.C.J. Reports 1996*, p. 226; para. 25.

<sup>60</sup> *Ibid.*

<sup>61</sup> Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), art. 79.

<sup>62</sup> Geneva Convention relative to the Treatment of Prisoners of War (Third Geneva Convention), art. 4, para. 4.

<sup>63</sup> Jean-Marie Henckaerts and Louise Doswald-Beck, *Customary International Humanitarian Law, Volume I: Rules* (New York, International Committee of the Red Cross (ICRC), 2005), pp. 116-117.

<sup>64</sup> Y. Sandoz, C. Swinarski and B. Zimmermann, eds., *Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949* (Geneva, ICRC/Martinus Nijhoff, 1987), p. 619, para. 1944.

<sup>65</sup> See International Criminal Tribunal for Rwanda, case No. ICTR-99-52-T, *Prosecutor v. Nahimana, Barayagwiza and Ngeze*, Judgement of 3 December 2003.

<sup>66</sup> Alexandre Belguy-Gallois, “The protection of journalists and news media personnel in armed conflicts”, *International Review of the Red Cross*, vol. 86, No. 853 (March 2004), pp. 40-41.

69. In its resolution 1738 (2006), the Security Council condemned attacks against journalists in conflict situations, and requested the Secretary-General to address, as an item in his reports to the Council, the issue of the safety and security of journalists (para. 12).

70. International humanitarian law is enforced through international and domestic criminal law. An intentional attack against civilians, including journalists, amounts to a grave breach of the Geneva Conventions and a war crime under the Rome Statute of the International Criminal Court.<sup>67</sup> The primary duty, however, is on States to investigate and, if appropriate, prosecute offenders for war crimes that fall within the relevant State's jurisdiction.<sup>68</sup> If they are unable or unwilling to do so, the International Criminal Court has jurisdiction.

### 3. National law

71. The right to life is recognized, and murder and physical assault are proscribed by the legal systems of States around the world. However, the effective implementation of the international norms at the national level is uneven.

72. Impunity was identified above as one of the main reasons for the high incidence of murders of journalists in some societies. With the narrow exception of international criminal prosecutions, prosecutions take place within States and it is at this level that the failure of the system is often located and has to be addressed. In this regard, the norms set out above concerning proper investigation and prosecution must be followed.

73. There are various reasons why those who kill journalists are not brought to justice in domestic legal systems. They include undue influence on the criminal justice system through corruption, intimidation and complicity of those who run the systems, such as the police, prosecutors and judges, and also on witnesses and civil complaints mechanisms. Undue influence may be exerted by politicians, bureaucrats, drug cartels or criminals. Impunity can result from the failure to investigate or to prosecute, the acquittal of a guilty person, or an early release of someone who has been convicted and sentenced. (See the international standards for accountability set out above.)

74. Undue influence is exerted more easily at the local level than at the national level, because of the close interaction between those who may want to manipulate the system and those whom they target, such as witnesses or officials. In a positive development, Mexico is now in the process of passing a constitutional amendment that will proscribe the killing of journalists at the federal level, rather than at the state level.<sup>69</sup>

75. Courts do in some cases provide space for an active civil society when it is not available in the political realm. According to CPJ, in 2011, there were political attempts in Nepal to have charges dismissed against ruling party cadres with respect to the abduction and murder of a journalist. The Supreme Court overruled this, after civil society took legal action.<sup>70</sup>

<sup>67</sup> Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, art. 50; Geneva Convention for the Amelioration of the Condition of the Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, art. 51; Third Geneva Convention, art. 130; Geneva Convention relative to the Protection of Civilian Persons in Time of War, art. 147; Rome Statute, art. 8, para. 2 (a)(i) and (e)(i).

<sup>68</sup> Henckaerts and Doswald-Beck, *Customary International Humanitarian Law*, rule 158.

<sup>69</sup> Mike O'Connor, "Mexican senators say journalist murders to be federal crime", CPJ Blog, available from <http://cpj.org/blog/2012/03/mexican-senators-say-journalist-murders-to-be-fede.php>.

<sup>70</sup> "In Nepal, killers of journalists could go free", letter from the Executive Director of CPJ to the Prime Minister of Nepal, available from <http://cpj.org/2011/09/september-15-2011-prime-minister.php>.

76. Many national legal systems provide for some form of interim measures or restraining orders. In some cases it may be appropriate for journalists who feel threatened to apply for such interim measures. The fact that these orders are legally binding could have a restraining effect, and it also serves to raise public awareness of the plight of the person concerned.

77. Also, national human rights institutions (NHRIs) are well placed to pursue the protection of journalists from attack, inter alia by raising awareness and taking up matters with the Government. The principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles) provide that NHRIs may be authorized to receive and act upon individual complaints, and may in appropriate cases be in a position to assist a journalist under threat, or to address impunity. Public protectors or ombudspersons in some cases have the same function.

#### **4. Additional mechanisms and methods**

78. There are also avenues outside the realm of the legal and intergovernmental structures outlined above, and ways of engaging with them, that can serve to protect journalists.

79. As the overview above demonstrates, there are no obvious gaps in the international framework for the protection of journalists. The main problem lies with the implementation of these norms and the creation of appropriate structures at the national level. Failure of implementation can be attributed partially to ignorance, but also to a lack of political will, requiring awareness-raising on the problem and the applicable norms. The general principle is that the issue must be elevated from the local level to a higher level.

80. It is therefore important to ensure that governmental and civil society structures keep the issue on their agendas, and to focus attention on specific incidences of killings, to emphasize the human aspect of the problem.

81. There are a number of international NGOs worldwide that focus on the issue of protecting journalists and elevate it to a level where it attracts international attention. These include, inter alia, CPJ, IFJ, INSI, RWB and the Press Emblem Campaign<sup>71</sup>. Others have a broader focus, such as freedom of expression in general, but also include the safety of journalists in their work, for example Article 19.<sup>72</sup> Similar work is done by local organizations, such as, for example in the Russian Federation, the Russian Union of Journalists,<sup>73</sup> the Glasnost Defence Foundation<sup>74</sup> and the Centre for Journalism in Extreme Situations.<sup>75</sup>

##### **(a) Safety codes**

82. A wide array of safety codes have been developed, which enable journalists to protect themselves. This includes the INSI safety code of 2007<sup>76</sup> and the RWB Charter for the Safety of Journalists Working in War Zones or Dangerous Areas of 2002.<sup>77</sup>

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<sup>71</sup> See [www.presseblem.ch](http://www.presseblem.ch).

<sup>72</sup> See [www.article19.org](http://www.article19.org).

<sup>73</sup> See [www.ruj.ru](http://www.ruj.ru) (Russian only).

<sup>74</sup> See [www.gdf.ru](http://www.gdf.ru) (Russian only).

<sup>75</sup> See <http://cjes.org/about/?lang=eng>.

<sup>76</sup> See [www.newssafety.org/page.php?page=20450&cat=press-room-news-release](http://www.newssafety.org/page.php?page=20450&cat=press-room-news-release).

<sup>77</sup> See [www.rsf.org/IMG/doc-1288.pdf](http://www.rsf.org/IMG/doc-1288.pdf).



**(b) Training**

83. Some news organizations and NGOs, for example IFJ, INSI and Article 19, provide journalists with safety training, which includes risk awareness and avoidance and first aid. The Rory Peck Trust funds such training.

84. The International Committee of the Red Cross (ICRC) provides first-aid courses for journalists in cooperation with national Red Cross and Red Crescent Societies, and also training on international humanitarian law. ICRC is currently developing a new tool on the training of journalists. Pilot courses are being implemented in Tunisia.

85. The “Green Book” issued by the Ministry of Defence of the United Kingdom provides a positive example by providing clear instructions on how military staff must treat media workers in the field.

**(c) Diplomatic channels**

86. Governments can use diplomatic channels and diplomatic protection to address the plight of their nationals in other countries.

**(d) Emergency helplines and contacts**

87. Both RWB and INSI have established 24-hour emergency contact points for journalists in trouble. ICRC provides a permanent hotline and e-mail contact to report a missing, wounded, or detained journalist and request assistance.

**(e) Support for journalists at risk or in hiding**

88. Colombia has initiated, with some success, a programme for the protection of those at risk, including journalists.<sup>78</sup> The Government of Sweden, within the context of its Special Initiative for Democratization and Freedom of Expression, funded a safe house for journalists in Kalmar, Sweden.

89. One of the high-profile activities of CPJ is its support for journalists forced to go into hiding.<sup>79</sup>

90. ICRC plays an ongoing role, for example in tracking missing journalists and evacuating wounded journalists.

91. Further support that some journalists receive from NGOs, employers or others includes loans of equipment, evacuation, medical care, counselling and support for families.

**IV. Conclusions**

92. **Significant changes in the substantive legal provisions of international law related to the protection of journalists are not necessary; the challenge lies rather with the implementation of the existing normative framework at the international (including regional) and national levels. At this stage, there does not appear to be a need for a new global treaty dealing specifically with the safety of journalists.**

93. **The issue of the safety of journalists must be elevated in the public consciousness. Wider attention must be drawn to the prevalence of attacks on**

<sup>78</sup> See CPJ, “Attacks on the press 2002: Colombia”, available from <http://cpj.org/2003/03/attacks-on-the-press-2002-colombia.php>.

<sup>79</sup> See <http://cpj.org/campaigns/assistance/what-we-do.php>.

journalists and the corrosive effects that such attacks have on society. Greater awareness should also be raised about the international standards and available entry points. Federal as opposed to state investigations and prosecutions may be required and international, in addition to domestic, remedies must be used.

94. There is considerable scope for those actors in countries that are part of regional human rights systems or mechanisms to take up the matter, for example through their special procedures and, to some extent, through interim measures.

95. The primary objective should be prevention. Accountability, with its strong justice dimension, should not be regarded as standing in contrast to prevention—accountability is also the key to preventing recurrence. Impunity is one of the main causes, if not the main cause, of the killing of journalists.

96. The existing entry points in the international system at the United Nations and regional levels, especially special procedures and interim or protective measures, are not currently used to their full capacity. The relevant actors should be made aware of and encouraged to use these mechanisms. A one-page exposition of some of these entry points, with contact numbers and e-mail addresses, called “Emergency contact details for journalists at risk”, is available online.<sup>80</sup>

97. At the local level there are significant shortcomings in the implementation in domestic law of the international normative framework, especially in terms of accountability frameworks.

98. It is not enough that Governments and others are told that journalists need protection. They have to understand why this is needed. Constant and effective advocacy, backed up by statistics, is required.

99. The ability of the State to protect journalists largely depends on the extent to which there is general appreciation of the importance of free speech, enabling legislation is in place, the rule of law prevails, and the political will to protect journalists exists.

100. Violence against journalists thrives where the protection of free speech is absent.

101. National human rights institutions (NHRIs) likewise have an important potential role.

102. Local journalists and foreign correspondents play complementary roles. While journalists based in their home countries have local legitimacy and offer an insider’s view, foreign correspondents are often well placed to attract international attention. While the local journalists are often more vulnerable, foreign correspondents may prove to be more difficult to silence, and can in some cases continue to spread the message. There is, however, an underappreciation of the dangers faced by local journalists, and the fact that they are most at risk.

103. Threats against journalists and physical assaults should be regarded as early warning signals that more drastic measures may follow.

104. The statistics on impunity concerning the killing of journalists will be more compelling if they are compared to statistics concerning the general level of accountability for killings in that particular population.

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<sup>80</sup> See <http://web.up.ac.za/default.asp?ipkCategoryID=16621&subid=16621&ipklookid=10>.

## V. Recommendations

### General

105. All relevant actors should pay continued and increased attention to the safety of journalists and violations of their right to life, as well as those of their families, and strengthen efforts to elevate this issue to the international agenda.

106. The Special Rapporteur invites all international and domestic human rights bodies to consider adopting declarations, resolutions or other similar instruments that highlight the important role of journalists and draw attention to the need to protect them from attack. In particular, the United Nations should set the example in this regard, possibly in the Human Rights Council.

107. Efforts by all parties—intergovernmental organizations, Governments and NGOs—should be supported and strengthened to gather further information and data on these killings and threats and to analyse the trends and developments, including in a gender-sensitive way.

108. When information-gathering on human rights violations is carried out in countries where future criminal prosecutions may be at stake, particular care should be taken to preserve documentation and other evidence which could be of future use in respect of accountability for the killing of journalists.

### Recommendations to States

109. Unequivocal legal and practical protection of the freedom of expression is a prerequisite for the protection of journalists. Clear and effective safeguards to prevent physical threats against journalists and to ensure accountability should be established and regarded as a priority in terms of focus and resources.

110. A clear public stand should be taken at the highest level of Government to condemn extrajudicial, summary or arbitrary executions of journalists and threats to their lives, and to re-emphasize the important role of journalists in society.

111. States have the obligation to conduct prompt and exhaustive investigations into all suspected cases of violations of the right to life of journalists and to identify and bring to justice those responsible, not only the actual perpetrators but also the “masterminds” who initiate the attacks. The investigations and judicial proceedings should be conducted impartially, in the absence of improper influences, pressures, threats or interferences. Statutes of limitation should not allow prosecutions to be blocked.

112. States where there is a pattern of killing of journalists should take special measures to address this issue, and should be scrutinized in respect of those measures by the relevant human rights mechanisms.

113. In countries where high incidences of attacks against journalists are reported, the investigations should be carried out by special investigative units with sufficient resources and appropriate training to operate efficiently and effectively. Where there is a possibility of undue influence by local authorities or other government bodies, such an investigation should be moved to a different authority outside of their jurisdiction or sphere of influence (for example, in appropriate cases, to the federal as opposed to the state level). Independent complaints mechanisms have an important role to play.

114. States should pay special attention to facilitating the work of civil society and media organizations that deal with freedom of expression and the protection of journalists.

115. Investigations into high-scale attacks against journalists may be assigned to commissions of inquiry when appropriate.

116. Journalists and their families should be given the opportunity to benefit from protection programmes, including witness protection programmes, which operate efficiently and on a rapid-response basis. In countries where high incidences of attacks against journalists are reported, States should seriously consider establishing special protection programmes in consultation with civil society, journalists and other stakeholders.

117. Diplomatic channels should be used to their full potential where the life of journalists is at stake, when journalists from a particular country are in State custody in a foreign country.

118. Law enforcement officials and the armed forces should receive training, as part of standard procedure, on the legitimacy of the presence of journalists during non-armed and armed conflict and the legal protection for their safety.

119. States should implement the recommendations on the safety of journalists made under the universal periodic review mechanism by human rights treaty bodies, United Nations special procedures, and regional human rights mechanisms. States are encouraged to share their good practices in protecting the safety of journalists in their national reports submitted during the second cycle of the universal periodic review.

120. States should sign and ratify the International Convention for the Protection of All Persons from Enforced Disappearance.

121. States should fully cooperate with UNESCO, in particular in the preparation of the *Report on the Safety of Journalists and the Issue of Impunity*, which is published every two years. The record so far leaves much room for improvement.

122. States should further strengthen their cooperation with the special procedures of the Human Rights Council and regional human rights mechanisms, and respond and react to their communications in a timely manner.

123. NHRIs likewise have an important role in addressing the protection of journalists. In particular, NHRIs that are based in the countries where a high number of journalists are killed should take on the issue of the safety of journalists as a priority concern.

### **Recommendations to United Nations bodies and agencies**

124. The Special Rapporteur invites States and relevant United Nations bodies and agencies, in consultation with all relevant stakeholders, to explore the need for a specific United Nations instrument, for example a declaration, on the safety of journalists that would emphasize the recognized obligations of States with regard to the protection of the right to life and safety of journalists. In this regard, the Special Rapporteur draws attention to the UNESCO Medellín Declaration on Securing the Safety of Journalists and Combating Impunity, and the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms.

125. The Special Rapporteur acknowledges the activities undertaken by a number of United Nations bodies and agencies towards enhancing the safety of journalists, and

encourages all relevant United Nations actors to pay continued and increased attention to the safety of journalists and to seek the implementation of international standards from States. Collaboration in this regard—also among the relevant United Nations special procedures and between the United Nations and regional procedures—is of particular importance.

126. The Inter-Agency Meeting on the Safety of Journalists and the Issue of Impunity, organized by UNESCO, should be held on a regular basis in order to explore possible avenues for cooperation and enhance coordination between the various United Nations agencies to address the issue of journalists' safety and combat the impunity of perpetrators of crimes against them. Constant information-sharing among all relevant United Nations bodies and agencies could constitute an early warning system against dangers to the right to life and physical safety of journalists.

127. The Human Rights Council should follow up on the recommendations formulated during the first cycle of the universal periodic review regarding the safety of journalists, reiterate the recommendations that have not been implemented, and formulate additional recommendations where appropriate. Violations of the right to life of journalists should be further addressed and given increased attention at the regular and special sessions of the Human Rights Council.

128. The adoption of Security Council resolution 1738 (2006), in which the Council called on all parties to an armed conflict to fulfil their obligations towards journalists under international law, is a positive step. More awareness should be raised around this resolution, and the Secretary-General could make increased use of the opportunity the resolution offers to report on the deaths of journalists in armed conflict to the Security Council.

129. United Nations field presences should strengthen activities of technical assistance for national Governments in implementing domestic protection mechanisms in consultation with all stakeholders, and disseminate good practices to other States and field offices.

### **Recommendations to regional organizations**

130. The Special Rapporteur welcomes and draws attention to regional human rights initiatives and in particular the work of various regional mechanisms in respect of the protection of the right to life of journalists. In addition to the general contribution they make to the protection of journalists, these bodies also offer specific entry points which can and should be accessed by journalists who consider themselves to be in immediate danger, in order to obtain protective measures. Some of these are listed in the emergency contact details document mentioned in paragraph 96 above. The Inter-American system, although it faces challenges, is the leader in respect of precautionary measures, and the other systems will do well to study that experience.

131. The European Court of Human Rights is a leader in respect of the norms applicable to accountability and fair trial, and the other international bodies are encouraged to take heed of its jurisprudence.

132. Regional human rights bodies are encouraged to put the issue of the safety of journalists on the agenda through resolutions, declarations or other similar instruments; to bring the matter to the attention of the regional intergovernmental organizations of which they form a part; and to engage with it in their respective procedures, especially through interim or precautionary measures.

133. Regional organizations should strengthen their cooperation with the United Nations with a view to putting an end to such violations.

### **Recommendations to the International Committee of the Red Cross**

134. The Special Rapporteur acknowledges the valuable and important role of ICRC in protecting the life of journalists, and encourages ICRC to further address the issue and to keep the relevant actors, including the Special Rapporteur, informed of situations of particular concern for the life of journalists.

135. The Special Rapporteur further encourages ICRC to disseminate materials on the application of international humanitarian law to the protection of journalists, including available tools, training programmes and other measures of assistance, such as the ICRC permanent hotline and e-mail to report missing, wounded or detained journalists in need of assistance.

### **Recommendations to non-State actors engaged in armed conflict**

136. Non-State actors should respect the obligations they incur in terms of international humanitarian law during armed conflict, also towards journalists.

### **Recommendations to civil society**

137. Civil society plays a key role in monitoring the prevalence of killings of journalists, in terms of statistics and in drawing attention to specific cases. This is a cause worthy of donor support.

138. Civil society organizations should continue to monitor the situation with regard to the protection of journalists, in particular combining their efforts in support of investigations into killings and attacks against journalists and raising their concerns not only at the national level, but also at the bilateral, regional and international levels, using new technology. They should also consider consolidating their documentation, for example through a central website/portal, enabling the provision of information at the national and international levels for the general public. Statistics on impunity in respect of the killing of journalists should be provided together with figures on impunity for killings in general in a particular society, to allow comparison.

139. The Special Rapporteur calls on civil society to actively use the international and regional human rights machinery to focus attention on killings of journalists and situations of concern. For the second cycle of the universal periodic review, civil society should report on the implementation or lack of implementation of recommendations on the safety of journalists, and suggest possible recommendations when appropriate. Furthermore, the Special Rapporteur encourages civil society organizations to submit relevant facts to the attention of relevant special procedures, including requests for urgent appeals, and to help threatened journalists gain access to the available interim measures.

140. Impact litigation at the national and international, including regional, levels should be used to develop the jurisprudence.

141. Civil society should follow up on each UNESCO *Report on the Safety of Journalists and the Issue of Impunity* and monitor the accuracy of the information provided by States.

142. Since only a few NGOs with a special focus on media issues are represented in Geneva, the NGOs represented there with a more general focus should, where possible, also include the safety of journalists on their agenda.

### **Recommendations to media agencies and journalists**

143. The Special Rapporteur pays tribute to those local and foreign journalists who often face grave danger in their pursuit of truth.

144. While recognizing the often competitive nature of the relationships among media workers worldwide, it is important to set competition aside where issues of safety are involved.

145. Media agencies should provide appropriate basic and advanced security training for journalists and media personnel. As appropriate, such training should include training on the increasing complexities of reporting in armed conflicts or dangerous zones. They should also provide safety and self-protection guidance for their employees, giving them security equipment as necessary and offering training to both their permanent and freelance employees. Safety training for journalists who may face high-risk situations should be continued and, where possible, expanded. Journalists, including freelance journalists, are encouraged to seek out safety training and to take adequate measures to protect themselves. Protective gear where there is violence is essential.

146. The safety of journalists and measures to protect them should be given a central position within efforts for media reform worldwide.

147. Journalists and/or their families are encouraged to report threats and/or violations of their right to life and seek assistance to address them, including by using the emergency contacts mentioned in paragraph 96 above.

148. The fairness, objectivity and professionalism of the reporting done by journalists in exercising their role of informing the world remains the bedrock of the profession. Various media initiatives to maintain this credibility are welcomed.

### **Recommendations to protect the safety of online journalists**

149. All relevant actors, including States and international and national firms hosting social networks and blogs have the responsibility to protect the right of online journalists to seek, receive and impart information without fearing for their physical integrity, safety and lives. In this respect, private data protection should be regulated and implemented. Journalists should be aware of such regulation and of the risks they may face when publishing information through an online medium.

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