

The 14th session of the Human Rights Council
Panel discussion on the protection of journalists in armed conflict

Date and Venue

4 June 2010, Room XX, Palais des Nations, Geneva, 14th Session of the Human Rights Council

Mandate and objectives

The Human Rights Council, through resolution 13/24, decided to convene a panel discussion at its fourteenth session on the protection of journalists in armed conflict. It further requested the Office of the United Nations High Commissioner for Human Rights to liaise with the Special Rapporteur on 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.

The aim of the panel discussion is to:

- Draw the attention of the international community to the dangers faced by journalists in armed conflicts.
- Take an inventory of the international frameworks and agreements applicable to journalists and the news media in situations of armed conflict and their implementation.
- Contribute to the development of an appropriate response by the Human Rights Council.

Opening statement: Ms. Kyung-wha Kang, Deputy High Commissioner for Human Rights

Moderator: H.E. Ambassador Alex Van Meeuwen, President, Human Rights Council

Panelists:

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, Legal Division of the International Committee of the Red Cross (ICRC)

Mr. Mogens Schmidt, Deputy Assistant Director-General for Communication and Information and Director, Division for Freedom of Expression, Democracy and Peace, UNESCO

Mr. Ossama Saraya, Editor in Chief, Al Ahram Newspaper

Mr. Omar Faruk Osman, President, Federation of African Journalists (FAJ) – affiliated to the International Federation of Journalists

Ms. Hedayat Abdel Nabi, President, Press Emblem Campaign (PEC)

Format

Presentations by the panellists will be followed by an interactive discussion. The interactive discussion will be divided into two segments of 60 minutes each (45 minutes for comments and questions from the floor, followed by 15 minutes for comments and replies by panellists). The interactive discussion will be followed by concluding remarks from the moderator.

Member States, national human rights institutions, international organizations and non-governmental organizations are encouraged to participate and make their contributions to the debate, subject to the modalities and the practices of the Council. In particular, NGO coordination

is strongly encouraged to maximize the use of time. The modalities of the panel are 3 minutes for the Member States and 2 minutes for Observer States and other observers.

Outcome

The Office for the High Commissioner for Human Rights shall, as called for pursuant to the resolution, prepare a report on the outcome of the panel discussion in the form of a summary.

Background

The protection of journalists engaged in dangerous assignments during an armed conflict is a major concern for the international community and a key obstacle for achieving the full implementation of the right to freedom of opinion and expression.

Conflicts in all parts of the world have a serious impact on journalists and media professionals. Killings, attacks, the kidnapping of journalists are regularly reported by United Nations or others sources¹. These acts, which are contrary to international humanitarian and human rights law, are often committed in an environment of impunity.

Obligations related to the protection of journalists in armed conflict are mostly enshrined in international humanitarian law. The Third Geneva Convention, in its article 4(A) (4) states that persons who accompany the armed forces without actually being members thereof, such as war correspondents, provided that they have received authorization, from the armed forces which they accompany, benefit from the prisoner-of-war status. This article has been supplemented by specific provisions in Protocol I related to measures of protection of journalists. Article 79 of Protocol I provides inter alia that:

1. Journalists engaged in dangerous professional missions in areas of armed conflict shall be considered as civilians within the meaning of Article 50, paragraph 1.
2. They shall be protected as such under the Conventions and this Protocol, provided that they take no action adversely affecting their status as civilians, and without prejudice to the right of war correspondents accredited to the armed forces to the status provided for in Article 4 (A) (4) of the Third Convention (...).

In the International Committee of the Red Cross Study on Customary Rules of IHL (2005), Rule 34 in Chapter 10 states that: “Civilian journalists engaged in professional missions in areas of armed conflict must be respected and protected as long as they are not taking a direct part in hostilities. (...) State practice establishes this rule as a norm of customary international law applicable in both international and non-international armed conflicts.” The ICRC contributes to making the rules that protect journalists and civilians in general known and respected, including by cooperating in initiatives of other organizations that work to contribute to the safety of journalists.

The application of international humanitarian law and of international human rights law is not mutually exclusive, but is complementary, as emphasized for example by the Human Rights Committee². In this context, international human rights law not only upholds the right to freedom of

1 See for example reports of the Secretary-General to the Security Council on the protection of civilians in armed conflict, annual reports of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression to the Human Rights Council and various reports from civil society organizations, including annual reports of Reporters without Borders, International News Safety Institute or the International Federation of Journalists.

2 Human Rights Committee, general comment No. 31 (2004): “the Covenant applies also in situations of armed conflict to which the rules of international humanitarian law are applicable. While in respect of certain Covenant

expression, including for journalists, but also their right to life, as well as their right to liberty and security of persons³.

Several United Nations bodies have also addressed this issue. On 23 December 2006, the United Nations Security Council adopted Resolution 1738 calling on Governments to protect journalists in armed conflict situations. The Security Council expressed its deep concern at the frequency of acts of violence in many parts of the world against journalists, media professionals and associated personnel in armed conflict, in particular deliberate attacks in violation of international humanitarian law. It condemned intentional attacks against journalists, media professionals and associated personnel, as such, in situations of armed conflict, and calls upon all parties to put an end to such practices. It recalled that journalists, media professionals and associated personnel engaged in dangerous professional missions in areas of armed conflict shall be considered as civilians and shall be respected and protected as such, provided that they take no action adversely affecting their status as civilians. It further recalled that media equipment and installations constitute civilian objects, and in this respect shall not be the object of attack or of reprisals, unless they are military objectives. The Security Council demanded that all parties to an armed conflict must comply with their obligations under international law to protect civilians in armed conflict. States and all other parties to an armed conflict were urged to do their utmost to prevent violations of international humanitarian law against civilians, including journalists, media professionals and associated personnel. It also emphasized the responsibility of States in that regard, as well as their obligation to end impunity and to prosecute those responsible for serious violations. All parties in situations of armed conflict were urged to respect the professional independence and rights of journalists, media professionals and associated personnel as civilians.⁴

International Tribunals have also addressed this issue. For example, in the *Randal* case, the International Criminal Tribunal for the Former Yugoslavia (ICTY) Appeals Chamber considered that journalists working in war zones served “a public interest” because they “play a vital role in bringing to the attention of the international community the horrors and reality of conflict”.⁵

UNESCO has a specific mandate to defend freedom of expression and press freedom. In this context, UNESCO has dedicated part of its work to the issue of protection of journalists, in armed conflicts in particular, and has taken various initiatives in that respect⁶.

The protection of journalists in armed conflict has also been discussed by the Human Rights Council. The Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression has drawn the attention of the Human Rights Council to this important issue at several occasions as he has received numerous reports concerning deliberate attempts to target journalists, particularly in areas of ongoing armed conflict. In its resolution 12/16, the Human Rights Council “expressed its continuing concern that threats and acts of violence, including

rights, more specific rules of international humanitarian law may be especially relevant for the purpose of the interpretation of the Covenant rights, both spheres of law are complementary, not mutually exclusive”.

3 See articles 6, 9 and 19 of the International Covenant on Civil and Political Rights.

4 See S/RES/1738 (2006). See also Presidential Statement S/PRST/2009/1 which contains an Aide Memoire for the consideration of issues pertaining to the protection of civilians in armed conflict.

5 ICTY, *Prosecutor v. Radoslav Brdjanin and Monir Tlic*, Decision on interlocutory appeal, 11 December 2002. or *Randal case*.

6 See for example the 2007 World Press Freedom Day which was dedicated to the theme of journalists’ safety. In 2006, the safety of journalists was the subject of a thematic debate conducted during the 25th session of the Intergovernmental Council of the International Programme for the Development of Communication (IPDC) held at UNESCO Headquarters in Paris. Two years later, at its 26th session in March 2008, the IPDC Intergovernmental Council adopted a Decision on the Safety of Journalists and the Issue of Impunity, which gives to IPDC a central role in monitoring the follow-up of killings condemned by UNESCO’s Director-General. The latest report by the Director-General to the Intergovernmental Council of the IPDC was published in March 2010 (“The safety of journalists and the risk of impunity CI-10/CONF.202/4/Bis).

killings, attacks and terrorist acts, particularly directed against journalists and other media workers in situations of armed conflict, have increased and are not adequately punished, in particular in those circumstances where public authorities are involved in committing those acts”. It called upon States to “to ensure that victims of violations of the rights referred to in paragraph 1 above have an effective remedy, to investigate effectively threats and acts of violence, including terrorist acts, against journalists, including in situations of armed conflict, and to bring to justice those responsible in order to combat impunity”. It also called on “all parties to armed conflict to respect international humanitarian law, including their obligations under the Geneva Conventions of 12 August 1949 and, where applicable, the Additional Protocols thereto of 8 June 1977, the provisions of which extend protection to journalists in situations of armed conflict, and to allow, within the framework of applicable rules and procedures, media access and coverage, as appropriate, in situations of international and non-international armed conflict.”⁷

Several initiatives taken by other entities, including the Press Emblem Campaign⁸, the International News Safety Institute⁹ or Reporters without Borders¹⁰, are testimony to the importance of the issue.

7 See Human Rights Council resolution 12/16, paras. 3 (a, c), 5 (c), 7.

8 See www.pressemblem.ch.

9 International News Safety Institute, Protection of Journalists in Conflict – Fundamental Rules – Brussels, 7 August 2006, see

http://newssafety.org/index.php?option=com_content&view=article&id=3736:protection-of-journalists-in-conflict-fundamental-rules&catid=314:press-room-news-release&Itemid=100077

10 “Declaration on the safety of journalists and media personnel in situations involving armed conflict,” drawn up in 2003 by Reporters without Borders, <http://www.rsf.org>.