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Promotion and protection of human rights: human rights situations and reports of special rapporteurs and representatives

Promotion and protection of the right to freedom of opinion and expression

Note by the Secretary-General

The Secretary-General has the honour to transmit to the General Assembly the report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Frank La Rue, submitted in accordance with Human Rights Council resolution 12/16.

* A/65/150.



Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

Summary

The present report, submitted in accordance with Human Rights Council resolution 12/16, is the first report to the General Assembly of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression. Sections I and II of the report contain an overview of the activities undertaken by the Special Rapporteur, including communications sent, participation in meetings and seminars, and country visits undertaken and requested. Section III examines trends regarding violence against journalists worldwide and the obligation of States under international human rights law to guarantee their protection. Section IV explores trends regarding violence against journalists in situations of armed conflict and the protection afforded to them under international humanitarian law, in addition to international human rights law. Section V sheds light on difficulties faced by “citizen journalists” and identifies applicable State obligations to ensure their protection. The report concludes with recommendations to enhance the protection of journalists and citizen journalists alike, in both conflict and non-conflict situations.

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I. Introduction

1. The mandate of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression was established by the Commission on Human Rights in its resolution 1993/45. After assuming all of the mandates, mechanisms, functions and responsibilities of the Commission on Human Rights, the Human Rights Council decided by its resolution 7/36 of 28 March 2008, to extend the mandate of the Special Rapporteur for a further three years. The Human Rights Council, in its resolution 12/16, requested the Special Rapporteur to submit an annual report to the General Assembly, as well as to the Human Rights Council, on activities relating to his mandate.

2. In accordance with Human Rights Council resolution 7/36, the Special Rapporteur is mandated to gather all relevant information, wherever it may occur, relating to violations of the right to freedom of opinion and expression, discrimination against, threats or use of violence, harassment, persecution or intimidation directed at persons seeking to exercise or to promote the exercise of the right to freedom of opinion and expression, including, as a matter of high priority, against journalists or other professionals in the field of information, and to make recommendations on ways and means to better promote and protect the right to freedom of opinion and expression.

3. Accordingly, the Special Rapporteur has devoted a section of his annual report to the Human Rights Council to the issue of the protection of journalists and other media professionals; the previous mandate holder also addressed this issue in his annual reports, beginning 2005.¹ As the present report is the first such report to be submitted to the General Assembly, the Special Rapporteur would like to bring to the attention of all Member States the recent trend of violence against journalists, media professionals and associated personnel, and the obligation of States to protect them. Section III will examine the trend of violence against journalists in all situations and the obligation of States to protect journalists under international human rights law, while section IV will examine the specific protection needs of journalists in situations of armed conflict and focus on the protection guarantees under international humanitarian law. Section V will explore the trends and applicable State obligations with regard to non-professional journalists, or “citizen journalists”.

II. Activities of the Special Rapporteur

A. Communications

4. Since assuming his mandate on 1 August 2008, the current mandate holder has sent 528 communications, 487 of which were sent jointly with other special procedures mandate holders.² The geographical distribution of the communications sent was as follows: Asia and the Pacific, 34 per cent; Latin America and the Caribbean, 21 per cent; Africa, 18 per cent; Europe, North America and Central Asia, 14 per cent; and the Middle East and North Africa, 13 per cent.

¹ E/CN.4/2006/55, A/HRC/4/27 and A/HRC/7/14, A/HRC/11/4 and A/HRC/14/23.

² As at 3 August 2010.

B. Participation in meetings and seminars

5. The activities carried out by the Special Rapporteur in the period from April to December 2009 were described in his report submitted to the Human Rights Council in April 2010 (A/HRC/14/23). Since that period, the Special Rapporteur has participated in the following meetings and seminars.

6. From 17 to 19 February 2010, the Special Rapporteur participated as a speaker in an event entitled “2010 Human Rights Summit: Affirming Fundamental Freedoms” held in Washington, D.C., organized by Human Rights First and Freedom House.

7. On 30 April 2010, the Special Rapporteur participated in the Australian Press Freedom Media Dinner in Sydney, Australia, organized by the Walkley Foundation. On 2 and 3 May 2010, the Special Rapporteur participated in events organized by the United Nations Educational, Scientific and Cultural Organization (UNESCO) on the occasion of World Press Freedom Day in Brisbane, Australia.

8. On 3 June 2010, the Special Rapporteur presented his annual report to the Human Rights Council (A/HRC/14/23 and Add.1 and 2). In the report, he addressed four main issues: (a) general considerations on the right to freedom of opinion and expression; (b) freedom of expression for groups in need of particular attention and the role of freedom of expression in combating discrimination; (c) permissible restrictions and limitations on the right to freedom of expression; and (d) the protection of journalists and freedom of the press.

9. On 4 June 2010, the Special Rapporteur participated as one of five panellists in the Human Rights Council panel discussion on the protection of journalists in armed conflict.

10. On 16 and 17 June 2010, the Special Rapporteur attended an expert meeting on human rights and the Internet, organized by the Ministry of Foreign Affairs of Sweden, held at Lund University.

11. From 28 June to 2 July 2010, the Special Rapporteur participated in the seventeenth annual meeting of Special Rapporteurs, Representatives, Independent Experts and Chairpersons of Working Groups of the Human Rights Council, organized by the Office of the United Nations High Commissioner for Human Rights in Geneva.

12. From 2 to 4 July 2010, the Special Rapporteur attended the High-level Democracy Meeting on the occasion of the tenth anniversary of the Community of Democracies, organized by the Permanent Secretariat of the Community of Democracies and hosted by the Government of Poland in Krakow.

13. On 8 July 2010, the Special Rapporteur participated in a meeting organized by the Ministry of Foreign and European Affairs of France on the theme “The Internet and freedom of expression”, in Paris.

C. Country visits

14. Country visits constitute a central and essential element of the mandate. The Special Rapporteur takes into account various factors when sending a request to Governments to undertake an official visit. Such factors include visits undertaken

and requested by former mandate holders, trends that emerge from an analysis of communications sent by the Special Rapporteur and geographical balance.

Missions undertaken

15. Since the establishment of the mandate in 1993, visits have been undertaken to the following countries: Malawi (1994), Republic of Korea (1995), Islamic Republic of Iran (1996), Turkey (1996), Belarus (1997), Poland (1997), Malaysia (1998), Hungary (1998), Sudan (1999), Ireland (1999), United Kingdom of Great Britain and Northern Ireland (1999), Tunisia (1999), Albania (2000), Argentina (2000), Equatorial Guinea (2002), Islamic Republic of Iran (2003), Italy (2004), Côte d'Ivoire (2004), Colombia (2004), Serbia and Montenegro (2004), Azerbaijan (2007), Ukraine (2007), Honduras (2007), Maldives (2009) and Republic of Korea (2010).

16. Since assuming his mandate in August 2008, the Special Rapporteur has undertaken visits to Maldives (1 to 5 March 2009 (see A/HRC/11/4/Add.3)) and the Republic of Korea (6 to 17 May 2010). The report on the mission to the Republic of Korea will be presented to the Human Rights Council in June 2011.

Upcoming missions

17. From 9 to 24 August 2010, the Special Rapporteur will undertake an official visit to Mexico, together with the Special Rapporteur for freedom of expression of the Organization of American States, Ms. Catalina Botero.

18. The Special Rapporteur would like to thank the Government of Israel for accepting new dates for the mission, which, it has now been agreed, will take place in January 2011.

Pending requests

19. As at August 2010, the following requests from the Special Rapporteur were pending: Italy (requested in 2009 and renewed in 2010); the Islamic Republic of Iran (requested in February 2010); Sri Lanka (requested in June 2009); Tunisia (requested in 2009); and the Bolivarian Republic of Venezuela (requested in 2003 and 2009).

III. Protection of journalists and press freedom

20. The right to freedom of expression is generally recognized as a fundamental right which constitutes one of the essential foundations of a democratic society. Indeed, through the exercise of their right to freedom of expression, or collecting, analysing and disseminating information, and ensuring the public's right to receive information, journalists play a key role as part of the checks and balances in society, and thus contribute to the development and strengthening of democracy.

21. Journalists are understood to be individuals who are dedicated to investigating, analysing and disseminating information, in a regular and specialized manner, through any type of written media, broadcast media (television or radio) or electronic media. With the advent of new forms of communication, journalism has extended into new areas, including citizen journalism (see section V). The Special Rapporteur underscores that journalists should not be subject to conditions such as

compulsory membership in professional associations or a university degree to practise journalism.³ When reference is made to journalists in the present report, the Special Rapporteur is also alluding by extension to other media professionals and associated personnel, given the fact that they are also often targeted because of their activities in gathering and disseminating information and for being part of “the press”.

22. The credibility of the press is linked to its commitment to the truth and to the pursuit of accuracy, fairness and objectivity. Indeed, the Special Rapporteur is of the view that, by voluntarily upholding the highest standards of ethics and professionalism and ensuring their credibility in the eyes of the public, journalists can contribute to enhancing their own protection. In this regard, the Special Rapporteur welcomes various standards that have been developed and adopted by journalists, including the Declaration of Principles on the Conduct of Journalists, and the initiatives undertaken by the International Federation of Journalists (IFJ) to encourage journalists to voluntarily adhere to the Declaration as a global standard of professional conduct.

23. In addition, the Special Rapporteur emphasizes the importance for journalists to be alert to the danger of discrimination being furthered by the media, and to do the utmost to avoid facilitating such discrimination based on, *inter alia*, race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. In this regard, the Special Rapporteur notes that, in accordance with international human rights law, any expression of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence should be prohibited, as should the dissemination of ideas based on racial superiority or hatred. Moreover, the Special Rapporteur encourages journalists to promote, through their work, a deeper understanding of racial, cultural and religious diversity, and to contribute to developing better intercultural relationships.

A. Trends

24. Journalists play an essential watchdog role in ensuring transparency and accountability in the conduct of public affairs and other matters of general interest by keeping the public informed. However, it is their monitoring role and their ability to influence public opinion which frequently result in their becoming targets of various human rights violations, including abduction, arbitrary detention, assault, enforced disappearance, expulsion, extrajudicial killing, harassment, kidnapping, threats and acts of violence and of discrimination, imprisonment, persecution, and torture, as well as surveillance, search and seizure. Such acts constitute, first and foremost, a violation of journalists’ right to freedom of expression and press freedom, as they are aimed at preventing journalists from reporting and expressing their opinions on sensitive issues. Attacks against journalists also constitute a violation of the right of the public to receive information.

25. The most severe form of violence against journalists is what has often been referred to as “censorship by killing”. According to IFJ, 139 journalists and media personnel were killed worldwide in 2009; 113 (81 per cent) of those deaths were the

³ See, for example, the Inter-American Declaration of Principles on Freedom of Expression and the Chapultepec Declaration adopted on 11 March 1994.

result of targeted killings.⁴ In addition, according to the Committee to Protect Journalists (CPJ), the number of journalists and media personnel killed in 2009 represented the highest number of such deaths recorded since 1992, owing largely to the massacre of 30 journalists and media workers in the Maguindanao province of the Philippines on 23 November 2009.⁵ The Special Rapporteur notes that the six countries with the highest number of journalists killed in 2009 are, in descending order, the Philippines, Somalia, Iraq, Pakistan, Mexico and the Russian Federation.⁶

26. The suspected perpetrators of murders of journalists since 1992 are political groups (30 per cent), Government officials (24 per cent), criminal groups (13 per cent), paramilitary groups (7 per cent), military officials (5 per cent), local residents (2 per cent) and mob violence (2 per cent), while the rest are unknown (19 per cent).⁷

27. Although reporting from situations of armed conflict significantly increases the risks to their lives, more journalists are, in fact, killed in non-conflict situations than are killed during armed conflict.⁸ Indeed, the Special Rapporteur would like to underscore the fact that the majority of casualties are not international war correspondents, but local journalists working in their own countries, mostly in peacetime, covering local stories. As highlighted in the joint statement issued by the Special Rapporteur and the three regional rapporteurs on freedom of expression, the Special Rapporteur would like to reiterate that journalists reporting on social problems, including organized crime or drug trafficking, voicing criticism of Government or the powerful, or reporting on human rights violations or corruption are at particular risk.⁹ Another factor that often places journalists at risk is reporting on environmental matters, electoral processes, demonstrations or civil disorder. The Special Rapporteur also notes that in at least 4 of every 10 cases in which journalists were murdered, the victims had reported receiving threats before they were killed.¹⁰

28. Perhaps one of the biggest factors exacerbating the risk of threats and actual acts of violence against journalists is impunity, or the lack of investigation of acts committed and prosecution of persons responsible. As the Special Rapporteur noted in his most recent report to the Human Rights Council, perpetrators have enjoyed total impunity in 94 per cent of cases in which journalists were murdered in 2009, while the percentage of cases in which even some partial measure of justice has been obtained has been minimal.¹¹ The fact that persons responsible for the killings are not brought to account emboldens others who would prefer journalists to remain silent to follow suit, thus perpetuating a vicious circle, which, in the long term, has a

⁴ International Federation of Journalists, "End of a deadly decade: journalists and media staff killed in 2009", available at <http://www.ifj.org/assets/docs/059/046/c93b13b-7a4a82e.pdf>.

⁵ Committee to Protect Journalists (CPJ), see <http://www.cpj.org/killed/2009>. For the press release issued by the Special Rapporteur regarding the Magindanao massacre, see <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=9657&LangID=E>.

⁶ CPJ, <http://www.cpj.org/killed>.

⁷ Ibid.

⁸ Report by the Director-General to the Intergovernmental Council of the International Programme for the Development of Communication, United Nations Educational, Scientific and Cultural Organization, CI-10/CONF.202/4/Bis 2, 30 March 2010.

⁹ "Ten key challenges to freedom of expression in the next decade" (see A/HRC/14/23/Add.2).

¹⁰ CPJ, "Getting Away with Murder", 2010 Impunity Index, available at <http://cpj.org/reports/2010/04/cpj-2010-impunity-index-getting-away-with-murder.php>.

¹¹ A/HRC/14/23, para. 94.

“corrosive and corrupting effect on society as a whole”, as underscored by the Secretary-General.¹²

29. The Special Rapporteur notes that the 12 countries with the highest number of unresolved murders of journalists expressed as a proportion of the country’s population are (in descending order): Iraq (88), Somalia (9), Philippines (55), Sri Lanka (10), Colombia (13), Afghanistan (7), Nepal (6), Russian Federation (18), Mexico (9), Pakistan (12), Bangladesh (7), and India (7).¹⁰

30. Journalists, confronted with attacks, threats and possible imprisonment, are often forced to flee their home countries to avoid risking their lives. Since 2001, more than 500 journalists have reportedly fled their countries of origin, and 454 remained in exile as at June 2010.¹³ At least 85 journalists fled their home countries between 1 June 2009 and 31 May 2010, double the number recorded in the previous year.¹⁴ In addition, at least 29 editors, reporters and photographers have fled the Islamic Republic of Iran since June 2009, the highest annual tally from a single country in a decade.¹⁵ Moreover, the exile rate of journalists fleeing Africa has allegedly tripled over the past year, with at least 42 journalists, most of them from Ethiopia and Somalia, fleeing their homes.

31. The Special Rapporteur would like to draw attention to the difficulties faced by journalists who are forced to leave their countries of origin, as less than a third of exiled journalists are able to continue to work in their profession.¹⁶ They also encounter challenges as they attempt to establish a new legal status and adjust to different languages and cultures. The recipient States have an obligation to grant refugee status to journalists who meet the criteria stipulated in article 1A of the 1951 Convention relating to the Status of Refugees, not to expel or return them to the frontiers of territories where their life or freedom would be threatened, and to ensure that journalists in exile enjoy their rights. However, the Special Rapporteur would like to stress the obligation of all States to guarantee the protection of journalists in their own countries in the first place.

B. Protection under international human rights law

32. While the provisions under international humanitarian law are not applicable in situations of internal unrest accompanied by violence below the level of that which characterizes an armed conflict, journalists are afforded protection under international human rights law.

33. The right of all individuals to freedom of opinion and expression is stipulated in article 19 of the Universal Declaration of Human Rights and article 19(2) of the International Covenant on Civil and Political Rights, which states that “everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers,

¹² Secretary-General’s message for 2010 on the occasion of World Press Freedom Day, available at <http://www.un.org/en/events/pressfreedomday/sg.shtml>.

¹³ CPJ, “Journalists in exile 2010: an exodus from Iran, East Africa”, available at <http://cpj.org/reports/2010/06/journalists-exile-2010-iran-africa-exodus.php>.

¹⁴ Ibid.

¹⁵ Ibid.

¹⁶ Ibid.

either orally, in writing or in print, in the form of art, or through any other media of his choice". The Special Rapporteur notes that 166 States, or the majority of the States Members of the United Nations, have ratified the International Covenant on Civil and Political Rights, while 72 States are signatories.¹⁷

34. The Special Rapporteur would like to reiterate that under international human rights law, as stipulated in, inter alia, article 2 of the International Covenant on Civil and Political Rights, States have the obligation to respect and to ensure to all individuals within its territory and subject to its jurisdiction the right to freedom of opinion and expression. The obligation to respect entails that States must refrain from restricting the exercise of all individuals' right to freedom of opinion and expression, unless certain criteria under article 19(3) of the Covenant are met, as elaborated below. The obligation to ensure the right constitutes a positive duty to: (a) protect individuals against acts committed by non-State actors and (b) fulfil, or facilitate the enjoyment of, the right.

35. The obligation to respect means that States must refrain from interfering with individuals' enjoyment of rights. While article 19(3) of the International Covenant on Civil and Political Rights permits States to impose certain limitations on the right to freedom of expression, the Special Rapporteur is concerned that, all too often, States invoke this provision to justify undue interference with journalists' right to freedom of expression to prevent them from exposing corruption or misconduct by the Government or powerful private entities, or from reporting on other politically sensitive issues. Even though such limitations may be provided by law as required by article 19(3), in many cases the provisions are vague and ambiguous and are accompanied by harsh sentences, including imprisonment, and disproportionate fines. The Special Rapporteur would like to remind States that limitations on the right to freedom of expression must be the exception, rather than the rule. Further details regarding the criteria which must be met when States attempt to limit the right to freedom of expression are set out in the Special Rapporteur's most recent report to the Human Rights Council.¹⁸

36. The Special Rapporteur notes that, in time of public emergency which threatens the life of the nation and which is officially and lawfully proclaimed in accordance with international law, a State may derogate from certain rights, including the right to freedom of expression. However, derogations are permissible only to the extent strictly required by the exigencies of the situation and only when and for so long as they are not inconsistent with its obligations under international law.¹⁹ Moreover, there are certain non-derogable rights, as outlined in article 4(2) of the International Covenant on Civil and Political Rights. Hence, a journalist should never, under any circumstances, be arbitrarily deprived of his or her life, subjected to torture or to cruel, inhuman or degrading treatment or punishment, imprisoned merely on the grounds of inability to fulfil a contractual obligation, held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence at the time when it was committed, denied recognition as a person before the law, or denied the right to freedom of thought, conscience and religion.

¹⁷ United Nations Treaty Collection, http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-4&chapter=4&lang=en.

¹⁸ A/HRC/14/23, paras. 72-87.

¹⁹ See article 4 of the International Covenant on Civil and Political Rights, and Human Rights Committee General Comment No. 29 (CCPR/C/21/Rev.1/Add.11).

37. The obligation to protect is particularly important in relation to violence against journalists committed by non-State actors. Specifically, States have the obligation to take appropriate measures or to exercise due diligence to prevent any harm caused by private persons or entities, a failure of which can amount to a violation of article 2 of the International Covenant on Civil and Political Rights.²⁰

38. The obligation to fulfil or to facilitate the enjoyment of the right to freedom of expression requires States to take positive and proactive measures, including, for example, allocating sufficient attention and resources to prevent attacks against journalists and taking special measures to address such attacks, including providing protection for journalists. It also encompasses the obligation to create conditions to prevent violations of the right to freedom of expression, including by ensuring that relevant national legislation complies with their international human rights obligations and is effectively implemented.

39. In addition, States have an obligation to investigate threats and acts of violence against journalists promptly, thoroughly and effectively through independent and impartial bodies.²¹ Following investigations, States must ensure that those responsible are brought to justice so as to prevent impunity, and make reparation to individuals whose rights have been violated. The latter generally entails appropriate compensation and can involve, where appropriate, restitution, rehabilitation and measures of satisfaction, such as public apologies, public memorials, guarantees of non-repetition and changes in relevant laws and practices.²²

40. Moreover, in situations where journalists find themselves in the territory of another State, the host State is also obliged to respect, protect and fulfil their rights, including their right to freedom of opinion and expression. This obligation also applies to an occupying power in situations of occupation, as well as forces of a State party acting outside its territory, such as forces constituting a national contingent of a State party assigned to an international peacekeeping or peace enforcement operation.²³

41. In sum, international human rights law guarantees the right to freedom of expression of all individuals, including journalists, as well as their right to life, liberty and security, among other rights. However, despite those existing norms and standards, attacks against journalists continue, as highlighted above (see paras. 24-31). The Special Rapporteur strongly emphasizes the need for States to abide by their international obligations by taking more effective action on the ground to ensure the effective protection of journalists, especially where there is a pattern of attacks against them.

²⁰ Human Rights Committee, General Comment No. 31, Nature of the General Legal Obligation on States Parties to the Covenant (CCPR/C/21/Rev.1/Add.13), para. 8.

²¹ *Ibid.*, para. 15. See also Human Rights Council resolution 12/16, para. 5.

²² CCPR/C/21/Rev.1/Add.13, para. 16.

²³ *Ibid.*, para. 10.

IV. Protection of journalists in situations of armed conflict

A. Trends

42. The Special Rapporteur would like to underscore the key role that journalists play in situations of armed conflict, as they shed light on events unfolding on the battlefield, including potential abuses and violations of international human rights and humanitarian law committed by parties to a conflict. In the *Randal* case, the Appeals Chamber of the International Tribunal for the Former Yugoslavia noted 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”.²⁴ In addition, in his report to the Security Council on the protection of civilians in armed conflict, the Secretary-General highlighted the important role of the media and information in the context of humanitarian operations, noting that the awareness of distant events allows informed assessment and helps humanitarian agencies to shape an appropriate response before going into a conflict area.²⁵

43. The Special Rapporteur recognizes that war reporting is inherently dangerous, as journalists are exposed to dangers arising from military operations and, instead of fleeing the combat zone, often seek proximity. In his most recent reports on the protection of civilians in armed conflict, the Secretary-General also expressed concern regarding the increasing number of journalists and media assistants killed or injured while reporting from areas of conflict, highlighting the fact that fatalities have resulted from excessive risk-taking, crossfire, or deliberate targeting by parties to a conflict.²⁶ In addition, owing to their work, journalists are often suspected of being spies during armed conflicts and are either “eliminated” or used deliberately as “bargaining chips” by warring parties.

44. While being present in zones of conflict inevitably augments the risks posed to journalists’ lives, the Special Rapporteur would like to stress that, increasingly, journalists are deliberately targeted and their work obstructed. Indeed, their role in exposing human rights abuses and atrocities and unpopular opinions or situations place them at risk of being subjected to various forms of harassment and attacks by warring parties who would prefer them to remain silent. Such acts take many forms and can range from denial of access to certain areas, censorship and harassment, abductions, arbitrary arrest and detention and enforced or involuntary disappearances to killings. Although more journalists are killed in non-conflict situations than during armed conflict (see para. 27 above), it is also worth noting that half of the countries listed as the 20 most dangerous for journalists by the Committee to Protect Journalists (CPJ) are or were in situations of armed conflict (Afghanistan, Algeria, Colombia, Iraq, Israel and the Occupied Palestinian Territories, Somalia, Sierra Leone, Sri Lanka and Rwanda).²⁷

²⁴ *Prosecutor v. Radoslav Brdjanin and Monir Talic*, International Tribunal for the Former Yugoslavia, decision on interlocutory appeal, 11 December 2002 (also known as the *Randal* case).

²⁵ S/2001/331, para. 43.

²⁶ See S/2009/277, para. 19, and S/2007/643, paras. 29 and 30.

²⁷ CPJ, <http://cpj.org/killed>.

45. Death is not the only result of attacks against journalists: those who return from conflict zones or dangerous assignments often suffer from post-traumatic stress disorder and other negative psychological consequences, as well as permanent physical injuries. The Special Rapporteur therefore stresses the importance of ensuring that journalists, media professionals and associated personnel receive safety and first-aid training, that they are appropriately equipped and insured and that effective follow-up is provided to them after they have been on a dangerous assignment.

46. One of the factors which makes it difficult to ensure the safety and protection of journalists in situations of conflict is that many current conflicts involve not States with regular armies fighting each other, but non-State actors who flout international humanitarian or human rights law. In addition, modern conflicts have become more complex owing to the involvement of multiple non-State actors, as well as the so-called “civilianization” of armed conflict and the use of new means and methods of warfare. Such factors undoubtedly exacerbate the manifold dangers faced by journalists and other media professionals.

47. However, the Special Rapporteur would like to emphasize that, despite the changing nature of armed conflicts today, there are sufficient protection guarantees for journalists under existing legal standards, as outlined below.

B. Protection under international humanitarian law and international human rights law

48. International humanitarian law protects journalists and other media professionals in times of armed conflict. In an international armed conflict, a journalist is entitled to all rights and protection granted to civilians, 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). The same protection also applies to non-international armed conflicts during which journalists are considered to be civilians by virtue of customary international law.²⁸ Hence, although there are only two explicit references to media personnel under international humanitarian law (article 79 of Additional Protocol I, regarding journalists engaged in dangerous professional missions in areas of armed conflict, and article 4A(4) of the Geneva Convention relative to the Treatment of Prisoners of War (Third Geneva Convention), regarding, *inter alia*, war correspondents), all provisions related to the protection of civilians in the four Geneva Conventions and the Additional Protocols thereto are applicable to journalists.

49. Most important, as civilians, journalists are protected against direct attacks unless and for such time as they take direct part in hostilities. Violations of this rule constitute a grave breach of the Geneva Conventions and Additional Protocol I, and an intentional attack against a civilian also amounts to a war crime under the Rome Statute of the International Criminal Court, in both international and

²⁸ See Security Council resolution 1738 (2006); Council of Europe Recommendation No. R (96) 4 of the Committee of Ministers to member States on the protection of journalists in situations of conflict and tension, 3 May 1996; and International Committee of the Red Cross study on customary international humanitarian law, 2005, rule 35.

non-international armed conflicts.²⁹ With regard to acts amounting to direct participation in hostilities, the Special Rapporteur would like to stress that, as clarified by the International Committee of the Red Cross (ICRC), three cumulative requirements must be met: (a) the act must be likely to adversely affect the military operations or military capacity of a party to an armed conflict or, alternatively, to inflict death, injury or destruction on persons or objects protected against direct attack (threshold of harm); (b) there must be a direct causal link between the act and the harm likely to result either from that act or from a coordinated military operation of which the act constitutes an integral part (direct causation); and (c) the act must be specifically designed to directly cause the required threshold of harm in support of a party to the conflict and to the detriment of another (belligerent nexus).³⁰ Hence, journalists performing tasks in the conduct of their profession, such as recording videos, taking photographs or recording information solely for the purpose of informing the public, are not considered as direct participants in hostilities, and thus do not lose their protection as civilians under international humanitarian law.

50. During times of conflict, journalists are at a heightened risk of being subjected to arbitrary detention and internment for alleged security reasons.³¹ In an international armed conflict, war correspondents, or representatives of the media who are accredited to, and accompany, the armed forces without being members thereof, are entitled to the status and treatment of a prisoner-of-war in case of capture. This is by virtue of the fact that they are formally authorized to accompany the armed forces and aim to keep the closest possible contact with the armed forces and thus inevitably share the fate of the armed forces.³² Hence, war correspondents benefit from all the protections of the Third Geneva Convention as supplemented by Additional Protocol I and customary international law. All other journalists who fall into the hands of a party to an international armed conflict benefit at least from the protections granted in article 75 of Additional Protocol I, which includes, inter alia, prohibition of violence to life, health or physical or mental well-being, humiliating and degrading treatment, and taking of hostages. They are also entitled to fair trial guarantees in the case of detention for penal offences. In addition, journalists in the hands of a party to the conflict or occupying power of which they are not nationals benefit from the protections granted by the Geneva Convention relative to the Protection of Civilian Persons in Time of War (Fourth Geneva Convention).

51. In the case of non-international armed conflicts, there is no distinction between war correspondents and other journalists under international humanitarian law, and the protection for all journalists emanates from common article 3 of the Geneva Conventions and the Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II). This includes, for example, protection from violence to life, health and physical or mental well-being, including torture, hostage-taking,

²⁹ Article 8(2)(b)(i) and e(i).

³⁰ Nils Melzer, Legal Adviser, International Committee of the Red Cross, *Interpretive Guidance on the Notion of Direct Participation in Hostilities under International Humanitarian Law*, pp. 46-64.

³¹ Statement of the International Committee of the Red Cross presented at the panel discussion on the protection of journalists in armed conflict during the fourteenth session of the Human Rights Council, available from the Human Rights Council extranet (<http://portal.ohchr.org>).

³² Robin Geiss, "The Protection of Journalists in Armed Conflicts", *German Yearbook of International Law*, vol. 51, 2008, p. 307.

humiliating and degrading treatment, as well as threats to commit such acts. They are also entitled to fair trial guarantees (articles 4, 5, 6 of Additional Protocol II). The Special Rapporteur would like to emphasize that violations of most of these provisions are punishable as war crimes.

52. The Special Rapporteur would like to highlight the fact that, in addition to being afforded protection under international humanitarian law as civilians, journalists and other media professionals are protected under international human rights law even during armed conflict. Indeed, as emphasized by, *inter alia*, the Human Rights Committee, in situations of armed conflict, international humanitarian law and international human rights law are not mutually exclusive, but complementary.³³ As such the obligation of States to respect, protect and fulfil the right of all individuals to freedom of expression, as well as their right to life, liberty and security (see section III.B above), continue to apply during armed conflict alongside international humanitarian law.

53. Hence, as civilians, all journalists, whether accredited to or embedded with the forces involved, attached to adversary forces or operating unilaterally, are provided with comprehensive protection under international humanitarian law during armed conflict, provided they do not directly participate in hostilities. The Special Rapporteur would like to discourage the granting of special protection or special status to journalists under international law, as this would necessitate the formulation of a precise definition of journalists as a protected category and the clearer identification of journalists in armed conflict, both of which could potentially lead to significantly decreased protection for journalists. The former might require journalists to be duly accredited and recognized by some public authority, thus increasing interference by the State, and the latter might place journalists in further danger, since many are targeted precisely because they are journalists, as explained above. Thus, the Special Rapporteur firmly believes that existing standards are sufficient, but that respect for and the implementation of such standards must be strengthened.

C. Initiatives taken by various stakeholders

54. Various stakeholders have addressed the issue of the protection of journalists in armed conflict, including United Nations bodies and civil society organizations. On 23 December 2006, the Security Council adopted a landmark resolution on the protection of journalists in armed conflict (resolution 1738 (2006)), in which it expressed its deep concern regarding the frequency of deliberate attacks against journalists, media professionals and associated personnel in armed conflict, in violation of international humanitarian law, and called upon all parties to an armed conflict to put an end to such practices. It also emphasized the responsibility of States, as well as their obligation to end impunity and to prosecute those responsible for serious violations. In accordance with the request made by the Security Council through that resolution, the Secretary-General has included a section on the protection of journalists in armed conflict in his reports on the protection of civilians in armed conflict.

³³ CCPR/C/21/Rev.1/Add.13, para. 11.

55. The Special Rapporteur also welcomes the adoption by the Security Council of resolutions related to countries with regard to which it highlighted the importance of freedom of expression, expressed concern at the situation of journalists and media professionals, and encouraged peacekeeping and other missions to look into the issue.³⁴ Moreover, on 14 January 2009, the Council adopted an updated aide-memoire for the consideration of issues pertaining to the protection of civilians in armed conflict, which contains a section dedicated to media and information and the protection of journalists.³⁵ The aide-memoire condemned and called for the immediate cessation of attacks against journalists, media professionals and associated personnel in situations of armed conflict, and encouraged United Nations peacekeeping and other relevant missions authorized by the Security Council to include a mass media component that can disseminate information about international humanitarian law and international human rights law.³⁶

56. Like the former Commission on Human Rights, the Human Rights Council has regularly expressed concern regarding attacks against journalists in resolutions on freedom of expression, including the most recent resolution on the issue, adopted in October 2009 (Council resolution 12/16), in which the Council expressed its continuing concern that threats and acts of violence, including 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. The Council called upon States to ensure that victims of such violations 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, 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.³⁷

57. In addition to welcoming the resolutions of the Human Rights Council, the Special Rapporteur welcomes the convening by the Council of a discussion panel focusing specifically on the protection of journalists in armed conflict during its fourteenth session, in which he participated. The Special Rapporteur is encouraged by statements made by States condemning attacks against journalists, reiterating the obligations under existing international standards to protect journalists in armed conflict, and stressing the importance of Security Council resolution 1738 (2006). While the issue is of ongoing concern, given the fact that more journalists are killed in non-conflict situations than in armed conflict, the Special Rapporteur would encourage the convening of another panel to consider, *inter alia*, the protection of journalists in situations where the threshold of armed conflict has not been reached.

58. UNESCO has also taken various initiatives relating to the protection of journalists as part of its mandate to defend freedom of expression and press

³⁴ See, for example, Security Council resolutions 1933 (2010) on Côte d'Ivoire (paras. 6 and 7); 1917 (2010) on Afghanistan (para. 34); and 1910 (2010) on Somalia (thirteenth preambular paragraph).

³⁵ Annexed to the statement by the President of the Security Council (S/PRST/2009/1), p. 12 and 13.

³⁶ *Ibid.*, p. 13.

³⁷ Human Rights Council resolution 12/16, paras. 3 (c), 5 (c) and 7.

freedom. For example, in 1997, the General Conference endorsed two major declarations on media assistance to conflict and post-conflict situations, as well as on the relationship between media and good governance. World Press Freedom Day 2007 focused on the theme of journalists' safety, and the participants adopted the Medellin Declaration on Securing the Safety of Journalists and Combating Impunity. In March 2008, the Intergovernmental Council of the International Programme for the Development of Communication (IPDC) adopted a decision on the safety of journalists and the issue of impunity, which gave IPDC a central role in monitoring the follow-up to killings condemned by the Director-General of UNESCO. The latest report by the Director-General to the Intergovernmental Council of IPDC, on the safety of journalists and the danger of impunity, was published in March 2010.

59. The Special Rapporteur would also like to highlight the essential role played by ICRC in protecting journalists and other media professionals in areas of conflict. ICRC contributes to making the rules that protect journalists and civilians known and better respected and, since 1985, it has maintained a permanent hotline (+41 79 217 32 85), which is at the disposal of journalists who find themselves in trouble in armed conflicts. Journalists, as well as their employers and relatives, may alert ICRC when a journalist is missing, wounded or detained in order to request assistance. The kind of protection services that can be provided by ICRC to journalists range from seeking verification of a reported arrest and access in the framework of ICRC detention visits, providing information to relatives and employers on the whereabouts of a journalist who is being sought, maintaining family links and actively tracing missing journalists, to evacuating wounded journalists.

60. Several civil society organizations have also taken initiatives to address the issue of protection of journalists in armed conflict. CPJ, IFJ, the International News Safety Institute, the Press Emblem Campaign and Reporters without Borders, to name only a few, have contributed significantly to raising the awareness of the international community regarding attacks against journalists and their safety concerns. Their engagement covers a wide range of actions, from providing training to journalists to the systematic reporting of attacks against and killings of journalists. These organizations have also developed a range of handbooks, codes and guidelines and safety information for journalists and other media professionals.

V. Protection of “citizen journalists”

61. The Special Rapporteur intends to submit a full thematic report to the Human Rights Council on the issue of freedom of expression on the Internet. However, in the present report, the Special Rapporteur would like to highlight the phenomenon of citizen journalism and the risks that non-professional journalists also encounter in exercising their legitimate right to freedom of expression.

62. In times of armed conflict, internal disturbance or natural disaster, ordinary citizens may become engaged in reporting activities. Such persons are usually referred to as “citizen journalists”. While there is no universal definition of citizen journalism as such, the concept is usually understood as independent reporting, often by amateurs on the scene of an event, which is disseminated globally through modern media, most often the Internet (for example, through photo- or video-

sharing sites, blogs, microblogs, online forums, message boards, social networks, podcasts, and so forth). New technologies have provided unprecedented access to means of global communication, and have therefore introduced new means of reporting on news and events around the world.

63. Citizen journalists are not trained professional journalists. At times, citizen journalism has been criticized as being unreliable or lacking objectivity. Nevertheless, the importance of this new form of journalism cannot be underestimated. Indeed, through a participatory approach, citizen journalists contribute to the creation of a richer diversity of views and opinions, including information about their communities and groups in need of particular attention, such as women, indigenous people and minorities, and play a critical watchdog role in countries where freedom of the press is not a reality. More important, they can provide an immediate, insider's view of a conflict or catastrophe, whereas professional journalists may not be granted access to places where hostilities unfold or may have to travel for days before reaching a disaster zone or area.

A. Trends

64. Whether at the scene of a dramatic event or documenting and disseminating sensitive information, even during times of peace, citizen journalists often face risks similar to those faced by professional journalists, including acts of reprisal for their reporting activities. Citizen journalists have been subjected to acts of harassment and intimidation, including death threats, attacks against their physical integrity, arbitrary arrest and detention, prosecution, prison sentences and/or fines, and even assassination. Acts of harassment and intimidation often include repeated and unsupported police summonses, the targeting of their families, smear campaigns to discredit them and travel bans and other restrictions on movement.

65. As citizen journalists are by nature more isolated, they are more vulnerable to attack than professional journalists. However, citizen journalists enjoy less protection than their counterparts in traditional media, as they do not have the support of media organizations and networks, in particular the organizational resources, including lawyers and financial resources, which can help shield them from harassment.

66. Since 2004, the Special Rapporteurs on the promotion and protection of the right to freedom of opinion and expression have sent numerous urgent appeals and letters of allegations to Member States on behalf of individuals whose rights were violated because they expressed themselves via the Internet, often on blogs. The following cases, described in communication reports of the Special Rapporteur which are available publicly, illustrate some of the challenges faced by citizen journalists. Responses of the States concerned, where provided, can be found in the relevant communication reports.

67. On 7 April 2006, the Special Rapporteur, together with the Special Representative of the Secretary-General on the situation of human rights defenders and the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people, sent an urgent appeal to the Government of Honduras in relation to the physical assault by armed men against a female member of the Lenca indigenous community and contributor to the "Indymedia" website

because of her reporting activities on the human rights situation of her community.³⁸

68. On 20 February 2009, the Special Rapporteur, together with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, sent an urgent appeal to the Government of Egypt regarding the situation of an Egyptian citizen and student blogger who, on 6 February 2009, had been arrested and allegedly beaten outside his home in Qotour city by State Security Investigations officers. On his blog, he had criticized the Egyptian policy regarding Gaza, including the restrictions on humanitarian aid delivered through Egypt to Gaza.³⁹

69. On 6 January 2010, the Special Rapporteur sent a letter of allegations to the Government of the Islamic Republic of Iran regarding ongoing concerns regarding the situation of journalists, bloggers and persons who express their views which are critical of the Government in the Islamic Republic of Iran. According to information received, several days prior to 7 December 2009 (National Student Day), various censorship measures were allegedly implemented to limit access to and the flow of information. On 5 December, Internet connections were reportedly blocked or slow, in particular in Tehran, Isfahan and Shiraz, affecting various websites, in particular those presenting views supportive of the opposition leader. Reports also claim that it was impossible to browse or send e-mails. Before and during the demonstrations, mobile phone connections and the Short Message Service (SMS) were also reportedly suspended or jammed. In addition, demonstrators who were using mobile phones to take photographs or to film the events were also allegedly arrested or had their phones seized by security forces.⁴⁰

70. On 9 July 2009, the Special Rapporteur, together with the Special Rapporteur on extrajudicial, summary or arbitrary executions, sent an urgent appeal to the Government of China in relation to violent clashes between Han and Uighurs during demonstrations in Urumqi, the capital of the Xinjiang Uighur Autonomous Region, during which at least 156 people were killed and more than 800 were injured. During the protests, mobile phone services were reportedly blocked and Internet connections minimized, with websites and online discussion forums ordered not to publish any material related to the protests.⁴¹

71. In addition, the Special Rapporteur notes that States frequently utilize restrictive domestic legislation to investigate, arrest and sentence citizen journalists. Such laws include press and penal code provisions, emergency or national security laws and emerging Internet-specific laws and decrees. Examples of the use of such laws and the consequent violations of the rights of citizen journalists are highlighted below, based on urgent appeals and letters of allegations sent⁴² and press

³⁸ A/HRC/4/27/Add.1, para. 258.

³⁹ A/HRC/14/23/Add.1, paras. 729-735.

⁴⁰ *Ibid.*, paras. 1181-1186.

⁴¹ *Ibid.*, paras. 339-343.

⁴² The cases have been published in the communications report of the Special Rapporteur. See <http://www2.ohchr.org/english/issues/opinion/annual.htm>.

statements⁴³ issued by the Special Rapporteur, which are already in the public domain.

Penal codes and press laws

72. National penal codes and press laws often contain vaguely defined provisions that criminalize criticism of Government or reporting on politically or socially sensitive topics, which are used to punish not only professional journalists, but also citizen journalists. For example, on 4 March 2005, the Special Rapporteur sent an urgent appeal to the Government of Malaysia with regard to the situation of a blogger who was reportedly under investigation for acts fostering religious disunity for comments posted on his blog regarding religion and politics. He faced imprisonment for a period of two to five years if found guilty under section 298A of the penal code.⁴⁴

73. On 15 July 2009, the Special Rapporteur, together with the Special Rapporteur on the situation of human rights defenders, sent an urgent appeal to the Government of Azerbaijan concerning a youth activist and a prominent video-blogger who, on 8 July 2009, together with a colleague, was physically assaulted by two men in civilian clothing while having lunch in a restaurant. Both reported the attack to the police and, as a result, they were interrogated for several hours and subsequently arrested. The following day, a preliminary hearing was held in their case, and the video-blogger and his colleague were charged with hooliganism under article 221 of the criminal code of Azerbaijan and remanded to two months pre-trial detention pending further investigation of the case. The hearing in their case was held in closed session. The assailants were present at their hearing only as witnesses, and remained free at the time the communication was sent.⁴⁵

74. On 13 July 2010, the Special Rapporteur issued a press statement regarding draft law 1415 of Italy on surveillance and eavesdropping for criminal investigations, whose provisions proposed the introduction of amendments to the penal code. The Special Rapporteur expressed his concern at the fact that, according to the draft provisions, anyone who was not accredited as a professional journalist could be sentenced to imprisonment for up to four years for recording any communication or conversation without the consent of the person involved and publicizing such information. He stated that such a severe penalty would seriously undermine all individuals' right to seek and impart information.

Emergency or national security laws

75. Emergency or national security laws are also often used to justify restrictions on citizen journalists' expression of views or dissemination of information through the Internet, often on the basis of protecting vaguely defined national interests or public order. For example, on 27 February 2004, the Special Rapporteur, together with the Chairperson of the Working Group on Arbitrary Detention and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, sent an urgent appeal to the Government of the Syrian Arab Republic regarding the arrest of a person in relation to articles which he distributed by e-mail,

⁴³ See <http://www2.ohchr.org/english/issues/opinion/index.htm>.

⁴⁴ E/CN.4/2006/55/Add.1, para. 521.

⁴⁵ A/HRC/14/23/Add.1, paras. 84-87.

mainly from the Akhbar al-Sharq Internet site (www.thisissyria.net).⁴⁶ The Syrian authorities were quoted as saying that material on the site is “detrimental to the reputation and security of the nation” and “full of ideas and views opposed to the system of Government in Syria”.

Internet-specific laws

76. In other cases, laws or decrees that explicitly regulate online expression have been adopted and used to restrict the peaceful expression of opinion and ideas. For example, on 17 May 2010, at the conclusion of his fact-finding mission to the Republic of Korea, the Special Rapporteur issued a press statement in which he expressed concerns regarding Internet-specific legislation, in particular the Framework Act on Telecommunications and the Act on Promotion of Information and Communications Network Utilization and Information Protection. The Special Rapporteur noted that the former was used as the basis for arresting a blogger for posting online articles which were critical of the Government’s economic policy in the context of the financial crisis, while the latter has been used to delete online posts and to sentence or fine individuals who initiated online campaigns for a consumer boycott.

B. State obligations

77. Citizen journalists can by no means replace professional journalists. However, the growing phenomenon of threats, attacks, arrests, arbitrary detention, surveillance and prosecution of citizen journalists must be recognized, and their rights protected in accordance with States’ obligations under international human rights law.

78. In this regard, the Special Rapporteur reminds States of their obligations to respect, protect and fulfil the right of citizen journalists to seek, receive and impart information and ideas of all kinds without fearing for their security (see section III.B above). Should they find themselves in situations of armed conflict, citizen journalists are also protected under international humanitarian law as civilians, in addition to the provisions under international human rights law.

VI. Conclusions and recommendations

79. The Special Rapporteur is alarmed and concerned that the number of journalists and media personnel killed in 2009 was the highest since 1992, and that 81 per cent of those killings were deliberate and targeted. While the risk of armed conflict increases the risk to the lives of journalists and other media professionals, more journalists were killed in non-conflict situations, mostly for reporting on organized crime or drug trafficking, environmental matters or human rights violations and corruption, or for voicing criticism of Government or the powerful.

80. Impunity for those who attack and/or kill journalists remains a central obstacle to guaranteeing the protection of journalists. The Special Rapporteur is deeply concerned that perpetrators have enjoyed total impunity in 94 per cent of cases in which journalists were murdered in 2009, and in only 2 per cent of cases of attacks

⁴⁶ E/CN.4/2005/64/Add.1, para. 847.

against journalists in 2009 were the offences tried before the competent authorities and the perpetrators and instigators prosecuted.

81. It is also worrying that the number of journalists forced into exile as a result of attacks, threats and possible imprisonment doubled between 2009 and 2010 compared with the previous year. While the host Government has the obligation to respect and to ensure the rights of all individuals within its territory, regardless of nationality or other grounds, the Special Rapporteur reiterates the obligation of all States to guarantee the protection of journalists and others who exercise their right to freedom of expression in their own countries in the first place.

82. Citizen journalists have come to play an increasingly important role in gathering and disseminating news, in particular in countries where press freedom is restricted, or in a disaster or conflict zone where professional journalists may not be present. While they cannot replace professionally trained journalists, they contribute to the public's access to a richer diversity of views, opinions and information. Like professional journalists, and for the same reasons, citizen journalists are subjected to acts of harassment and intimidation, including death threats, arbitrarily arrested and detained, prosecuted and sentenced to imprisonment and/or to harsh fines, and even assassinated. However, they enjoy less protection than professional journalists, as they do not have the support of media organizations and networks, and lack recognition as professional journalists.

83. The Special Rapporteur emphasizes that the problem with regard to continued and increasing violence against journalists, associated media personnel and citizen journalists is not lack of legal standards, but lack of implementation of existing norms and standards. The Special Rapporteur would thus like to make the following recommendations.

A. Member States

84. The Special Rapporteur calls upon all States to respect and implement their obligations under international human rights law and international humanitarian law, as well as existing norms and standards, to protect the rights of journalists and citizen journalists alike.

85. Most important, the Special Rapporteur urges all States to end impunity for threats and attacks against and the murder of journalists, media professionals, associated personnel and citizen journalists. In particular, the Special Rapporteur calls upon the 12 countries with the highest rates of impunity (see para. 29 above) to investigate all violations thoroughly and to prosecute the perpetrators.

86. In order to combat impunity, the Special Rapporteur calls upon States to ensure that the domestic criminal justice system functions effectively and efficiently at all stages, from investigation, prosecution and trial to the enforcement of judgements. It is the view of the Special Rapporteur that putting an end to impunity is one of the most effective ways to guarantee the protection of journalists and press freedom in the long term.

87. States also have an obligation to implement measures to prevent the recurrence of violence against journalists and citizen journalists, which may include ensuring that law enforcement agencies, security personnel and armed forces are provided with training on international human rights law and international humanitarian law,

including their obligation to protect journalists and to respect them as civilians during armed conflict.

88. Given that in at least 4 of every 10 cases involving the murder of journalists, the victims receive threats before being killed, the Special Rapporteur urges all Governments to investigate such threats and ensure effective protection, for example through witness protection programmes. In this regard, the Special Rapporteur notes that detailed guidelines and recommendations have been set out in the report of the Special Rapporteur on extrajudicial, summary and arbitrary executions (see A/63/313), the reports of the Office of the United Nations High Commissioner for Human Rights on the right to the truth (A/HRC/12/19 and A/HRC/15/33) and the analytical study on human rights and transitional justice (A/HRC/12/18).

89. The Special Rapporteur also encourages all States to establish an early-warning and urgent response mechanism for the protection of journalists; such a mechanism should also exist for the protection of human rights defenders. It should be an official State commission with high-level recognition and an appropriate budget, composed of high-level representatives of State institutions related to security, territorial administration and human rights, as well as representatives of journalists' associations, media associations and non-governmental organizations working on issues related to the right to freedom of expression. The Commission's plan of work and urgent response procedures should be determined through a common agreement among its members, according to the circumstances of the country or a region within the country.

90. As restrictive national laws are used to justify harassment and interference with citizen journalists' freedom of expression, the Special Rapporteur urges States to fulfil their international human rights obligations by ensuring that legal provisions that criminalize freedom of expression, whether in the penal code, press law or elsewhere, are in conformity with international legal standards. When promulgating Internet-specific laws, States must ensure that they comply with article 19 of the International Covenant on Civil and Political Rights and the Universal Declaration on Human Rights.

B. United Nations

91. The Special Rapporteur encourages the Security Council to continue to give priority to the issue of the protection of journalists in armed conflict, including by integrating the issue into the mandate of peacekeeping operations and other missions, as appropriate, in accordance with Security Council resolution 1738 (2006) and the aide-memoire (see S/PRST/2009/1).

92. The Special Rapporteur also welcomes the initiatives taken by various stakeholders on the issue of the protection of journalists in armed conflict, including United Nations bodies and organizations such as the Security Council, the Human Rights Council and UNESCO. The Special Rapporteur encourages all relevant United Nations entities to coordinate their activities and responses.

93. For States emerging from conflict situations, United Nations entities should consider providing assistance to States to establish robust democratic institutions and effective judicial and administrative mechanisms which would enhance their ability to protect and guarantee the rights of all individuals, including journalists,

and to create favourable conditions to promote and protect the right to freedom of expression.

C. Journalists, non-governmental organizations, media organizations and donors

94. The Special Rapporteur commends the courageous work of journalists and citizen journalists, who often risk their lives to inform the public. The Special Rapporteur encourages journalists and citizen journalists to uphold the highest standards of professional conduct and to report honestly, objectively and in an ethically responsible and independent manner, so as to enhance their credibility and protection.

95. In addition, the Special Rapporteur encourages journalists and citizen journalists to be aware of the dangers involved before entering a conflict or disaster zone and to receive appropriate training, including knowledge of first aid and munitions. In this regard, the Special Rapporteur notes that a number of media organizations have formulated guidelines for journalists so that they can be better prepared for assignments in a war zone. Such guidelines include the International News Safety Institute safety code, the Charter for the Safety of Journalists Working in War Zones or Dangerous Areas, developed by Reporters without Borders, and the Journalist Safety Guide of CPJ.

96. The Special Rapporteur encourages journalists and citizen journalists, should they encounter any human rights violations as a result of their work, to document them and to submit complaints to him by e-mail, at urgent-action@ohchr.org.

97. News organizations also have a responsibility to ensure that journalists and associated media personnel are provided with proper safety training and equipment in peacetime and in conflict so that they are prepared to confront the risks inherent in war zones, and to provide confidential professional counselling to journalists and media personnel who have experienced trauma and other forms of extreme stress in the course of their duties.

98. The Special Rapporteur encourages non-governmental organizations and other organizations working on the issue of the protection of journalists to continue their efforts and to work jointly through a coordinated approach.

99. The Special Rapporteur also encourages donors to support training courses, projects, policies and programmes to enhance the protection of journalists and citizen journalists.