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# Threats to the Right to Life of Journalists

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## **Centre of Governance and Human Rights Working Papers**

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**Abstract:** *This material was presented at a Meeting of Experts convened at CGHR by the UN Special Rapporteur on extrajudicial, summary or arbitrary executions, Prof. Christof Heyns, to study the question of the Safety of Journalists from 1-2 March 2012.\**

## 1. General Overview

In recent years journalists around the world have become the targets of an alarmingly high number of targeted physical assaults and murders. The high toll of deaths and injuries among journalists is shocking and unacceptable. They not only violate journalists' right to life and right to exercise their profession safely, but the right of society at large to be informed. For every journalist killed, our right to freedom of opinion and expression is inhibited. Each death, therefore, limits our ability to know and understand that which is important to us.

Playing this crucial role entails special risks. For this reason, journalists require heightened protection of their physical safety. They are a key component of society's ability to seek the truth in an open and diverse manner. An informed and engaged public is an essential component of a democratic society. The work of journalists is not only essential components of the fight against social ills such as corruption and maladministration, but it also serves to protect human rights such as political participation, by ensuring informed choices. Journalists often challenge orthodoxy and established power structures, and as such become targets. Violence towards journalists threatens accountable and democratic governance and the protection of human rights.

States have negative obligations to refrain from any actions that might threaten or undermine the safety and physical integrity of journalists. States also have positive obligations to protect the right to life of journalists through taking all effective measures against the killings, ill-treatment, and other interferences which are likely to threaten the safety and physical integrity of journalists undertaken by private parties. They have an obligation not only to exercise due diligence to prevent violations, but also to ensure the accountability of the perpetrators of violations through the independent investigation and punishment of crimes and the provision of effective remedies to victims – in other words, not to allow impunity. This was acknowledged in particular by the former United Nations Commission on Human Rights which called upon States to investigate promptly and thoroughly all killings of persons for reasons related to their activities, including journalists.<sup>1</sup> Therefore, States are also internationally responsible for both actions and inaction in relation to the killing of journalists or threats to their safety.

This report poses the question of how legal as well as non-legal mechanisms can be used to ensure the greater protection of the right to life of journalists.

Journalists as a category deserve attention in the context of extrajudicial, summary or arbitrary executions since they are subjected to serious and peculiar risks of their right to life and physical integrity that stem from the nature of their work. Within the framework of the mandate, issues regarding threats to the life of journalists or killings of journalists have been addressed in a number of country visit reports and follow-up reports to country recommendations.<sup>2</sup> Noteworthy

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<sup>1</sup> E/CN.4/RES/2005/34 (2005), para. 5; A/CN.4/RES/2004/37 (2004), para. 6; E/CN.4/RES/2003/53 (2003) para. 5; E/CN.4/RES/2002/36, para. 6; E/CN.4/RES/2001/45 (2001), para. 7; E/CN.4/RES/2000/31 (2000), para. 6.

<sup>2</sup> Reports on the missions to: the Democratic Republic of the Congo, A/HRC/14/24/Add.3 (2010), paras. 2 and 92; Colombia, A/HRC/14/24/Add.2 (2010), para. 2; the Philippines, A/HRC/8/3/Add.2 (2008), paras. 38 and 45; Jamaica,

is also that the then Special Rapporteur found in her 2003 report that journalists are among the persons who receive the most death threats.<sup>3</sup> Journalists have been regularly the subject of communications jointly with the Special Rapporteur on the right to freedom of opinion and expression. Indeed, approximately 8 per cent of the communications sent by the mandate between 2003 and 2011 concerned killings of journalists or others from the media, or threats to their lives. In this regard, the Special Rapporteur expresses concern that 45 per cent of the communications concerning journalists remain unanswered by States.

Killings, murders or disappearances of journalists presumed dead, with evidence that the motive was retribution for news coverage or commentary, are among the main violations that the Committee to Protect Journalists (CPJ) has identified in its classification of attacks on the press.<sup>4</sup>

The violation of the ‘supreme right’ – the right to life of journalists, should be seen as the tip of the pyramid: below that extreme lie other forms of intrusion, such as torture, imprisonment, detention, assault and censorship for example. This report focuses specifically on the loss of the right to life, threats to life, and disappearances, but it should be kept in mind that it is often impossible to tell, until it is too late, whether a generally threatening environment will result in infringements to the right to life.

Importantly, this report relied on quantitative data to support the alarming trends in journalist killings and impunity. In some cases the statistics vary on the basis of different definitions of ‘journalist’ or methods of data collection. For example, as at 21 January 2012, the CPJ counted 632 journalists murdered between 1992 and 2012, however, the 2007 report of the International News Safety Institute (INSI) titled *Killing the Messenger* recorded 657 ‘deliberate deaths’ between 1996 and 2006. Despite providing data for a much shorter period (11 years as opposed to 20), INSI recorded more deaths. This is attributed to the fact that INSI include all types of media workers in its data, whereas CPJ does not. With new forms of electronic media making mass communication available to non-professionals, the understanding of what is meant by ‘journalism’ has expanded to include citizen reporting as well as the work of more traditional print and broadcast media.

## 2. What is journalism?

Defining the terms ‘journalism’ and ‘journalist’ are necessary in order to determine the applicable legal framework and States’ obligations towards journalists. In its General Comment No. 34 on article 19, the Human Rights Committee defines journalism as “a function shared by a wide range of actors, including professional full time reporters and analysts, as well as bloggers and others who engage in forms of self-publication in print, on the internet or elsewhere”.<sup>5</sup> The Rapporteur on the right to freedom of opinion and expression states that “[j]ournalists are understood to be individuals who are dedicated to investigating, analysing and disseminating information, in a regular and specialised manner, through any type of written media, broadcast media, (television

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E/CN.4/2004/7/Add.2 (2003) paras. 50-51; Turkey, A/CN.4/2002/74/Add.1 (2002), paras. 42 and 56; Nepal, E/CN.4/2001/9/Add.2 (2000), paras. 32 and 73; Mexico, E/CN.4/2000/3/Add.3 (1999), paras. 70, 81-84 and 107.

Follow-up to country recommendations: Brazil, A/HRC/14/24/Add.4 (2010), para. 26; the Philippines, A/HRC/11/2/Add.8 (2009), para. 10; Sri Lanka and Nigeria, A/HRC/8/3/Add.3 (2008), para. 45;

<sup>3</sup> E/CN.4/2003/3, para. 54.

<sup>4</sup> Other attacks which do not per se constitute a violation to the right to life of journalists identified by the CPJ include the following: abducted; attacked (journalists wounded or assaulted); censored; expelled; harassed (access denied or limited; detained for less than 48 hours); imprisoned (arrested or detained by a government for at least 48 hours); legal action; missing (kidnapped or detained by nongovernment forces for at least 48 hours; disappeared); threatened (menaced with physical harm or some other type of retribution).

<sup>5</sup> CCPR/C/GC/34 (2011), para. 44.

or radio) or electronic media. With the advent of new forms of communication, journalism has extended into new areas, including citizen journalism.”<sup>6</sup>

These definitions emphasise that the category should not be restrictive, but focus instead on the behaviours and practices that bring individuals into the sphere of performing journalistic activities and therefore expose them to specific types of risks. The present report will thus consider threats faced by emergent groups such as ‘citizen journalists’ as well as journalists using new forms of news publication such as digital and social media.

Citizen journalists, who are unpaid and often untrained, use online forums such as blogs or social networking sites to publish information and opinions about events. Citizen journalists are only ‘journalists’, however, when they engage in a journalistic activity such as systemising information or publicly reporting facts. As ‘citizens’, however, they do not automatically possess the protections afforded to professional journalists.

Further, media personnel such as producers, fixers, camera operators or photographers are an important subset of the definition of journalist for the purposes of this report. This is because media personnel face similar risks to their lives as the reporters they support. The definition of ‘journalist’ advanced by the Committee of the Minister of the Council of Europe in Recommendation 4 of 3 May 1996 includes: *“all representatives of the media, namely all those engaged in the collection, processing and dissemination of news and information including cameramen and photographers, as well as support staff such as drivers and interpreters”*.

Finally, journalists may be considered as a specific category of human rights defenders when they play a role in exerting pressures on governments to fulfil their human rights obligations, raise human rights awareness among the public or expose human rights violations that governments themselves or other actors carry out.<sup>7</sup>

### 3. The legal framework

The protection offered by laws, both national and international, to journalists applies to many facets of their work, ranging from their physical safety to the qualified testimonial privilege often afforded to journalists. International and national courts have consistently upheld the immense public interest fulfilled by the work of journalists, which only sometimes corresponds with unique protections afforded to journalists.<sup>8</sup>

The international legal framework applicable to the right to life of journalists stems from international human rights law and international humanitarian law (IHL). In this framework, journalists are protected not only from attack and maltreatment by state and non-state agents, but the impartiality and independence of journalists are protected so as to enable them to perform their functions in a manner non-threatening to those on whom they are reporting. For example, the Appeals Chamber of the International Criminal Tribunal for the Former Yugoslavia has held that “war correspondents must be perceived as independent observers rather than as

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<sup>6</sup> A/65/284 (2010), para. 21.

<sup>7</sup> See A/HRC/19/55 (2012) para. 32 on the role of journalists and media workers as human rights defenders.

<sup>8</sup> *Goodwin v United Kingdom*, Merits and just satisfaction, App no 28957/95; ECHR 2002-VI; IHL 3098 (ECHR 2002), 11 July 2002 para 39; *Prosecutor v. Radoslav Brdjanin and Momir Talic* Decision on Interlocutory (*Randal Case*) Appeal IT-99-36-AR73.9 (11 December 2002) at 36; *Schoen v. Schoen*, 5 F.3d 1289, 1292 (9th Cir. 1993)

potential witnesses for the Prosecution. Otherwise, they may face more frequent and grievous threats to their safety and to the safety of their sources”.<sup>9</sup>

### *International Human Rights Law*

A number of rights are at stake pertaining to the protection of the right to life of journalists, most prominently, journalists, like all other people, are protected from the arbitrary deprivation of their lives in terms of article 6 of the International Covenant on Civil and Political Rights (ICCPR). Also in furtherance of their physical well-being and integrity, journalists are afforded the following rights: the right to personal liberty and integrity, freedom from torture, freedom of expression, and the right to an effective remedy. There is no specific international legal instrument that deals exclusively with protecting the personal security of journalists but international human rights law instruments guarantee all these rights and impose positive and negative obligations on states with regard to the protection of the safety of journalists. These instruments include the Universal Declaration of Human Rights, the ICCPR, the Convention Against Torture, the International Convention for the Protection of All Persons from Enforced Disappearance, as well as soft law instruments such as the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, the Declaration on the Protection of All Persons from Enforced Disappearance, the Basic Principles and Guidelines on the Right to a Remedy and Reparation, and the Declaration on Human Rights Defenders.

The mapping of international legal instruments demonstrates that the obligation to respect the life, personal security and professional activity of journalists are fourfold: undertaking measures to guarantee protection, abstention from interference, prevention of third party interference, and investigation and punishment when violations take place. If the relevant provisions of these instruments are fully respected, they would cover the different types of interference with the safety and physical integrity of journalists. Thus the international legal framework on the protection of the right to life of journalists seems comprehensive in terms of scope.

### *International Humanitarian Law*

In IHL a distinction is maintained between journalists and war correspondents. War correspondents are a sub-genus of journalists that accompany the armed forces of a State without being members thereof. In the international armed conflict context, journalists that properly belong to the armed forces of a State, for example journalists working for the official publication of a State’s armed forces are not deemed to be civilians and are subject to enemy attack by virtue of being combatants. In non-international armed conflict, the question is not one of status (being a combatant or not), but one of function – thus a journalist is protected as long as her or she does not engage in hostilities directly.

Journalists that operate during armed conflict retain their character as civilians, as such all the protection offered to civilians by IHL is inherently also applicable to journalists. While Article 79 of the Additional Protocol I makes this explicit during international armed conflict, Additional Protocol II, relevant to non-international armed conflict, is silent on this matter. Nevertheless, there are no sources that suggest journalists lose their character as civilian during non-international armed conflict. This raises the question whether journalists are afforded protection

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<sup>9</sup> *Randal Case, ibid*, at 42.

in excess of that afforded to ordinary civilians by virtue of being so-called “specifically protected persons”.

Indeed, war correspondents are afforded such additional protection. Under the Third Geneva Convention, war correspondents (as per the distinction already made above), are afforded prisoner-of-war status on capture, while retaining their civilian status and related protection. Further, a rule of customary international humanitarian law has crystalized to the effect 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”.<sup>10</sup> This rule is applicable to both international as well as non-international armed conflict.<sup>11</sup>

*Resolutions, recommendations and reports by UN bodies addressing the safety and killings of journalists*<sup>12</sup>

In addition to preventing attacks on journalists, various resolutions of the United Nations Security Council and General Assembly have emphasised the need for States to *actively* ensure respect for and protection of journalists’ professional activities while working in areas of armed conflict. This is a step beyond simply their protection from being the target, or subject to the dangers, of armed conflict scenarios.

The UN Security Council adopted Resolution 1738 in 2006 to condemn attacks against journalists in conflict situations. It emphasises “the responsibility of States to comply with the relevant obligations under international law to end impunity and to prosecute those responsible for serious violations of international humanitarian law” and “that journalists, media professionals and associated personnel engaged in dangerous professional missions in areas of armed conflict shall be considered civilians, to be respected and protected as such.” The resolution opens the scope for an intervention of the Security Council under Chapter VII of the UN Charter, in that it stipulates that “the deliberate targeting of civilians and other protected persons [including journalists], and the commission of systematic, flagrant and widespread violations of international humanitarian and human rights law in situations of armed conflict may constitute a threat to international peace and security, and reaffirms in this regard its readiness to consider such situations and, where necessary, to adopt appropriate steps.”<sup>13</sup>

Noteworthy is also that in the latter resolution, the Security Council requests the Secretary-General to include as a sub-item in his next reports on the protection of civilians in armed conflict the issue of the safety and security of journalists, media professionals and associated personnel.<sup>14</sup> Consequently, in his following reports to the Security Council on the protection of civilians in armed conflict, the Secretary-General included a paragraph or section on attacks against journalists.<sup>15</sup> For the years 2009 and 2010, killings of journalists were reported in Afghanistan, Colombia, the Democratic Republic of the Congo, Iraq, Israel, Lebanon, Pakistan, the occupied Palestinian territories, Somalia, Sri Lanka and Yemen. Likewise, the Secretary-General has reported on killings of or attacks against journalists in his reports on the situation in Afghanistan and its

<sup>10</sup> Henckaerts, JM. & Doswald-Beck, L. *Customary International Humanitarian Law: Volume I: Rules* ICRC, (2005) Rule 34, p115.

<sup>11</sup> Council of Europe, Parliamentary Assembly, Rec. R (96) 4 (*ibid.*, §42); *Customary International Humanitarian Law*, *ibid*, p 116.

<sup>12</sup> The authors are grateful to Ms Alice Mauske for her assistance with this section.

<sup>13</sup> S/RES/1738 (2006), para. 9.

<sup>14</sup> Para. 12.

<sup>15</sup> S/2007/643 (2007), paras. 29-30; S/2009/277, para. 19; S/2010/579, para. 16: the Secretary-General stated that attacks against journalists in conflict situations remain of concern.

implication for international peace and security.<sup>16</sup> In this regard, he drew particular attention to the murder of female journalists as part of a pattern of violence against women.<sup>17</sup>

Additionally, Member States in resolutions adopted by the General Assembly have voiced collective concern for specific situations, in particular in Afghanistan, Belarus, and the Islamic Republic of Iran, not only in the context of armed conflict.<sup>18</sup>

UN Human Rights bodies have also addressed the issue of safety of journalists through various channels. The Human Rights Council Universal Periodic Review (UPR) has offered the opportunity to draw attention to the killings of journalists in certain countries and to urge the concerned States to address the unjustified targeting of journalists and the media and to combat impunity for their killings.<sup>19</sup> In resolutions adopted at its special sessions, the Human Rights Council has also condemned the persecution, targeting and killing of journalists.<sup>20</sup> The High Commissioner for Human Rights reported on attacks on journalists in several reports in particular concerning the situation in Afghanistan and Colombia.<sup>21</sup> As to the Human Rights Committee, from 2000 to 2011, it has expressed concern about intimidation, harassment and threats against journalists, without in the majority of cases, qualifying/specifying the nature of the threats. It has also addressed the killings and murders of journalists in concluding observations in respect of seven countries.<sup>22</sup> In that time frame, the Committee Against Torture has also expressed concern about the death or killings of journalists in five instances.<sup>23</sup>

The safety of journalists also lies at the heart of the mandate of the Special Rapporteur on the right to freedom of opinion and expression. In the framework of his mandate, the Special Rapporteur has continuously drawn attention to this issue in many reports and communications. The valuable work and the recommendations formulated in the discharge of the freedom of expression mandate are to be taken into consideration for the present report.<sup>24</sup> The Special Rapporteur on the situation of human rights defenders has also devoted a section of her 2012 annual report to the Human Rights Council on the action taken by her mandate and her concerns regarding the situation of journalists as human rights defenders.<sup>25</sup>

<sup>16</sup> A/56/681-S/2001/1157, para. 34; A/61/326-S/2006/727, para. 44; A/62/345-S/2007/555, para. 53; A/63/372-S/2008/617, para. 50.

<sup>17</sup> A/62/345-S/2007/555, para. 53.

<sup>18</sup> A/RES/61/175, paras. 1(e) and 2(d); A/RES/61/176 (2007), para. 2; A/RES/63/18 (2009), para. 34; A/RES/64/11 (2010), para. 36; A/RES/64/176 (2010), paras. 3(a) and 4(h); A/RES/65/226 (2011), paras. 2(j) and 4(h); A/C.3/66/L.56 (2011), paras. 2(j) and (f), and 6(i).

<sup>19</sup> UPR on Somalia, A/HRC/18/2 (2011), paras. 319-321, UPR on Colombia A/HRC/19/29 (2009) paras. 651 and 662; UPR on Mexico, A/HRC/11/37, paras. 609 and 616; Honduras, UPR Philippines, A/HRC/8/52, paras. 473-474.

<sup>20</sup> A/HRC/RES/S-15/1 (2011), Situation of human rights in the Libyan Arab Jamahiriya, para. 3; A/HRC/RES/S-16/1 (2011), The current human rights situation in the Syrian Arab Republic in the context of recent events, paras. 1-2; A/HRC/S-17/2 (2011), Situation of human rights in the Syrian Arab Republic, para. 5; A/HRC/S-18/1 (2011), The human rights situation in the Syrian Arab Republic, para. 2(a).

<sup>21</sup> E/CN.4/2001/15 (2001), paras. 38, 191-194; E/CN.4/2002/184 (2002), paras. 1 and 25-26; E/CN.4/2003/13 (2003), para. 111; E/CN.4/2004/13 (2004), paras. 97-98; E/CN.4/2005/10 (2005), paras. 12 and 14; E/CN.4/2006/9 (2006), paras. 40-43; 54, 61, 87; A/HRC/4/48 (2007), paras. 11, 30-37, 44-45, 109, 112, 124; A/HRC/7/39 (2008), para. 19-20, 27, 68-69; A/HRC/10/23 (2009), paras. 33, 51-54; A/HRC/13/62 (2010) para. 9, 55-59, 69.

<sup>22</sup> The Philippines CCPR/CO/79/PHL (2003), para. 8; Russian Federation, CCPR/CO/79/RUS (2003), para. 22; and CCPR/C/RUS/CO/6 (2009), para. 16; Colombia CCPR/CO/80/COL (2004), para. 11; and CCPR/C/COL/CO/6 (2010), para. 17; Honduras, CCPR/C/HND/CO/1 (2006), para. 17; Azerbaijan CCPR/C/AZE/CO/3 (2009), para. 15; Mexico, CCPR/C/MEX/CO/5 (2010), para. 20; Serbia, CCPR/C/SRB/CO/2 (2011), para. 21.

<sup>23</sup> CAT/C/CMR/CO/4, para. 18; CAT/C/UKR/CO/5, para. 15; CAT/C/PHL/CO/2, para. 11; A/56/44, para. 72; CAT/C/RUS/CO/4, para. 22.

<sup>24</sup> See in particular A/65/284 (2010), para. 20 *et seq* and previous reports: E/CN.4/2003/67, paras. 32, 59, 70-71; E/CN.4/2005/64, paras. 53-54, 56; E/CN.4/2006/55, paras. 59-61, and mission reports: e.g. Mexico, A/HRC/17/27/Add.3 (2011); Colombia, E/CN.4/2005/64/Add.3, para. 94; Côte d'Ivoire, E/CN.4/2005/64/Add.2, paras. 48-49.

<sup>25</sup> See A/HRC/19/55 (2012) paras. 29-59.



Also, whenever a journalist is killed, UNESCO issues a press statement to condemn the killing. UNESCO has also most recently been instrumental in gaining agreement among various UN actors on a UN Plan of Action on The Safety of Journalists and The Issue of Impunity.

#### **4. Non-legal protection**

There are limits to what legal protection can and does offer journalists, who often operate in highly contested and hostile environments. A number of positive measures of a non-legal nature could be undertaken that could contribute to ensure proper safeguards to journalists' safety. Non-legal activities germane to journalists' right to life can be defined by two distinctions: between preventative protection measures and post-facto remedial action, and between inter-governmental, governmental action and non-governmental action.

A number of measures have been taken to reduce the risks faced by journalists internationally, including non-legal/political actions to increase the attention paid to the dangers faced by journalists. UNESCO and OHCHR have a significant and expanding role to play in highlighting threats to journalists besides the role played NGOs in this regard. The greater the visibility of these issues through publishing periodic reports and delivering statements as well as press releases, the more difficult it is for a climate of impunity to proliferate. Also prior protection includes practical initiatives such as providing training courses and safety equipment to journalists to minimise risks they encounter while conducting their profession, emergency hotlines and providing insurance.

A variety of measures have been undertaken both by international governmental organisations and by NGOs to attempt to mitigate some of the dangers faced by journalists. The United Nations, especially UNESCO and OHCHR, have established platforms to call upon States to investigate all acts of violence against journalists, to promote awareness among their armed services and police forces and to train them to respect the safety of journalists.<sup>26</sup> Individual country information from the UNESCO report on the Safety of Journalists and the Danger of Impunity is used in UNESCO's submission to the OHCHR within the framework of the Universal Periodic Review since early 2011.<sup>27</sup>

Other post facto remedial action includes providing support for families, and medical care, evacuation and counselling. Intergovernmental Organisations and agencies, led by UNESCO and ICRC, are increasingly focusing on practical assistance to journalists in danger around the world. Meanwhile, the NGO community has taken a strong lead in providing practical, non-legal solutions to these problems, both in terms of preventative counter-measures, and remedial assistance.

#### **5. The safety of journalists in specific risk contexts**

This section highlights five acts of journalism whereby the safety and physical integrity of journalists and media workers are placed specifically at risk.

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<sup>26</sup> UNESCO 'Medellin Declaration' resulting from the Conference on Press Freedom, Safety of Journalists and Impunity (Medellin, Columbia, 3-4 May 2007).

<sup>27</sup> UNESCO CONCEPT NOTE UN Inter-Agency Meeting on the Safety of Journalist and the Issue of Impunity 13-14 September 2011, ([http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CI/CI/pdf/un\\_interagency\\_meeting\\_safety\\_journalist\\_concept\\_paper\\_en.pdf](http://www.unesco.org/new/fileadmin/MULTIMEDIA/HQ/CI/CI/pdf/un_interagency_meeting_safety_journalist_concept_paper_en.pdf))p 2

*Journalists working in situations of armed conflict*

According to CPJ, 154 journalists were killed in crossfire and/or combat from 1992 until 2011.<sup>28</sup> Despite their protection under IHL outlined earlier, journalists remain a specifically vulnerable group when working in conflict zones. This heightened vulnerability stems from the fact that they are unarmed and play a vital role in revealing information and exposing abuses about armed conflicts to the world where often other independent voices (including civil society actors) cannot. In conflict zones, journalists might be murdered directly and deliberately, killed in shelling operations directed at media stations (increasingly deemed ‘dual use’ facilities and thus legitimate military targets), or killed in cross-fire (the fire is not directed at them or their work place deliberately).

The term ‘journalist’ is undefined in IHL and is given its ordinary meaning. This includes all occupations associated with the media as outlined in the definition of journalists used in this report,<sup>29</sup> but does not extend to communications or public relations staff employed by the military.<sup>30</sup>

Article 79 of Additional Protocol 1 to the Geneva Conventions protects those journalists who are on a dangerous professional mission, meaning any professional activity exercised in the area affected by hostilities.<sup>31</sup> War correspondents are journalists who are authorised under the Third Geneva Convention to accompany the armed forces of a State without being members thereof. ‘Embedded’ journalist is a modern term not referred to in legal instruments that denotes all journalists who travel with the armed forces. The protection available to ‘embedded’ journalists – journalists that move around with troops during war - is generally the same as war correspondents outlined above.<sup>32</sup>

The protection granted by IHL to journalists in armed conflict will be lost, however, should a journalist ‘take action adversely affecting their status as civilians’ - action that directly and effectively contributes to one of the combatants.<sup>33</sup> This would include violently opposing arrest or taking up arms other than for self-defence. It has been held that it also includes the publishing of hate propaganda directed against a party to a conflict.<sup>34</sup>

Independent journalists working in low intensity conflict zones that may not be deemed an ‘armed conflict’ and therefore do not trigger the application of IHL, are protected under international human rights law, discussed above. International human rights law continues to apply in armed conflicts as well.<sup>35</sup>

<sup>28</sup> The ten deadliest countries in this regard are Iraq: 53, Bosnia: 13, Russia: 12, Somalia 12, Afghanistan: 9, Israel and the Occupied Palestinian Territories: 8, Georgia: 7, the former Yugoslavia: 6, Sierra Leone: 5 and Libya: 5, information available from: <http://cpj.org/killed/in-combat.php>.

<sup>29</sup> Dieter Fleck (ed), *The Handbook of International Humanitarian Law*, (2008), [515].

<sup>30</sup> Dr Amit Mukherjee, “Protection of Journalists under International Humanitarian Law”, 17 *Communications & the Law* (1995), p 34.

<sup>31</sup> ICRC, *Commentary on the Additional Protocols I and II of 8 June 1977*, p 918.

<sup>32</sup> Alexandre Belguy-Gallois ‘The protection of journalists and news media personnel in armed conflicts’ (2004) Vol. 86, No 853 *International Review of the Red Cross* 37 40-41.

<sup>33</sup> Art 79(2) and see Art 51(3) of Additional Protocol I to the Geneva Conventions. If they actively participate in the war, their civilian status is suspended as long as their contribution continues. Although there is no express provision dealing with the protection of journalists in non-international armed conflicts, they fall under the group considered as civilian. .

<sup>34</sup> In the *Prosecutor v Nahimana (Judgment)* (3 December 2003) the International Criminal Tribunal

For Rwanda concluded that hate propaganda broadcast or published in the written media in support of one party to the conflict may be qualified as acts of violence and thus active participation in the conflict. See Hans Peter Gasser, “War, Protection of News Media Workers”, *Max Planck Encyclopaedia of Public International Law* (2011), [7].

<sup>35</sup> *Legal consequences of the construction of a wall in the Palestinian Territory (Advisory Opinion)* [2004] I.C.J Rep.

Three main forms of violence are experienced across different categories of journalism: psychological harm, physical harm, and death. Although these dangers are not particular to armed conflict journalism, the danger of physical harm is most pronounced for this category. The victims are often taken hostage, either because of the content of their work or because of their mere presence in conflict zones. The risk of death is also heightened where physical and psychological harm (including torture or sexual assault) and abduction is prevalent in this context.

There is a general agreement that the legal protection to journalists reporting in conflict zones is sufficient and well developed.<sup>36</sup> Journalists should be protected against the effects of hostilities<sup>37</sup> as well as against arbitrary conduct such as killings or torture on the part of combatants if they are captured or arrested.<sup>38</sup> The problem, however, remains the implementation of existing laws during times of crisis.

Within zones of conflicts, the normal functioning of national law enforcement usually becomes dysfunctional in practice meaning that accountability for the unlawful use of violence against civilians becomes increasingly difficult. Thus, zones of active hostilities often lack impartial investigations of the conduct of parties engaged in the conflict and the prosecution of those who attack civilians, including journalists, often remains unaddressed.

Apart from the challenges posed by the paralysis of proper judicial accountability mechanisms during conflict, impunity will be rife where journalists are targeted specifically by government armed forces and/or other organisations in conflict zones to suppress the delivery of uncensored information about such conflicts elsewhere, or for supposed affiliations with foreign governments and NGOs.

According to a CPJ report, more than 94 percent of attacks on journalists are not investigated at all. Iraq and Somalia, two of the world's two worst conflict zones, rank first and second respectively in the number of journalist killings that were not investigated nor prosecuted.<sup>39</sup> This lack of investigation is particularly prevalent in cases where journalists suffer attacks in full-blown war situations. For instance, the killings of two photojournalists and injuries to two others as a result of a mortar attack in Libya have not been investigated.<sup>40</sup> The abduction and killing of a South African photojournalist has not been investigated.<sup>41</sup>

In cases of low intensity conflicts, groups that are outlawed by the State often orchestrate attacks on journalists. This makes it difficult for the State to prosecute attackers without first destroying the whole armed group. The increasing complexity of non-international armed conflicts, an area

<sup>36</sup> However, some argue that the protection available in non-international conflicts is not as robust as the protection in international armed conflicts - see Ben Saul 'The international protection of journalists in armed conflict and other violent situations' (2008) 14(1) *Australian Journal of Human Rights* 99, 123 observing that 'The protection of journalists in non-international armed conflict is less developed than in international conflicts, as is true of the law as a whole on non-international conflicts' - at 119. Common article 3 of the Geneva Conventions, which applies to non-international armed conflicts, only requires human and non-discriminatory treatment of all not directly taking part in hostilities including journalists.

<sup>37</sup> See, for example, Addition Protocol No I, Arts 48, 51, 57 and 85 (3).

<sup>38</sup> See generally Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War, 12 August 1949.

<sup>39</sup> See [http://journalism.about.com/gi/o.htm?zi=1/XJ&zTi=1&sdn=journalism&cdn=newsissues&tm=26&f=00&su=p554.21.342.ip\\_&tt=2&bt=1&bts=1&st=11&zu=http%3A//www.cpj.org/reports/2011/06/2011-impunity-index-getting-away-murder.php](http://journalism.about.com/gi/o.htm?zi=1/XJ&zTi=1&sdn=journalism&cdn=newsissues&tm=26&f=00&su=p554.21.342.ip_&tt=2&bt=1&bts=1&st=11&zu=http%3A//www.cpj.org/reports/2011/06/2011-impunity-index-getting-away-murder.php) (last accessed 2 December 2011)

<sup>40</sup> <http://www.bbc.co.uk/news/uk-13151490> (last accessed 2 December 2011)

<sup>41</sup> <http://www.theatlantic.com/international/archive/2011/05/south-african-journalist-anton-hammerl-killed-in-libya/239187/> (last accessed 2 December 2011)

for which the law is less developed than international armed conflicts, means new risks can arise for journalists such as the inability to distinguish combatants from civilians by the use of 'uniforms'.

CPJ has documented more than 80 attacks on the press since the escalation of the Libyan uprising from mid February 2011 until May 2011. They include the killing of five journalists in cross fire/combat during the hostilities. In Iraq, 2011 marked the first year since the war erupted in 2003 when no journalists were killed in combat or crossfire (in 2003 the figure was 12, 2004: 19, 2005:6, 2006:4, 2007:5, 2008:2, 2009: 4, 2010: 1).<sup>42</sup>

In Syria, amidst media coverage of the protests during 2011, the CPJ documented the death of cameraman Ferzat Jarban in Homs in November. Syria's acceptance of the Arab League's proposal in November entails allowing international journalists' access to Syria and domestic media to report freely.<sup>43</sup> In January 2012 Gilles Jacquier, a French journalist working for France 2 Television, was fatally wounded when a shell exploded as a group of journalists were covering demonstrations in Homs.

In Israel and the Occupied Palestinian Territories, it is reported that ten journalists have been killed since 1992.<sup>44</sup> In 2009, the Israeli military operations in Gaza targeted local and international media facilities at least four times.<sup>45</sup> A number of journalists were injured while trying to cover these operations.

Somalia constitutes the most dangerous country for journalists in Africa. The conflict between insurgent groups and the Transitional Federal Government has inflicted serious risks on journalists working there, especially in central and southern Somalia. A total of 12 journalists were killed in Somalia from 1992 until the end of 2011.<sup>46</sup> The continuous threat in Somalia led many journalists to escape from the capital to other cities while others left the country to reside in Kenya, Uganda, and Djibouti.<sup>47</sup>

Mere figures about casualties do not always reflect the true level of danger. Regions that are less well covered and potentially less prone to deadly attacks on journalists – including many in Africa – are so precisely because of the dangers facing journalists.

According to the International Federation of Journalists (IFJ), common life-threatening risks journalists face in South Asia includes direct physical attacks as well as dangers resulting from reporting on war and violent dissent.<sup>48</sup>

Since 2008, there has been a decline in the hazards that journalists face in Afghanistan. Nevertheless, between 2008 and 2009, three journalists were killed in Afghanistan. Several reported being threatened and harassed.<sup>49</sup>

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<sup>42</sup> <http://cpj.org/killed/in-combat.php>

<sup>43</sup> <http://cpj.org/2011/12/syria-must-release-imprisoned-journalists.php#more>

<sup>44</sup> [http://www.cpj.org/attacks\\_on\\_the\\_press\\_2010.pdf](http://www.cpj.org/attacks_on_the_press_2010.pdf)

<sup>45</sup> These included the offices of the Al-Risala newsweekly, the headquarters of Al-Aqsa TV, Al-Johara Tower which housed more than 20 international news organizations, Al-Shuruq Tower, which hosted more than a dozen international news and production companies, including Reuters, Fox News, and the Dubai-based television station Al-Arabiya.

<sup>46</sup> 1992:1 2007:4, 2009:6 2010: 1: <http://cpj.org/killed/africa/somalia/in-combat.php>

<sup>47</sup> [http://www.cpj.org/attacks\\_on\\_the\\_press\\_2010.pdf](http://www.cpj.org/attacks_on_the_press_2010.pdf)

<sup>48</sup> IFJ 2007-2008. Sixth Annual Press Freedom Report for South Asia. Retrieved on 4th Nov, 2011, from: <http://asiapacific.ifj.org/en/pages/ifj-asia-pacific-reports>.

<sup>49</sup> IFJ, "Reporting in Times of War: Press Freedom in Afghanistan 2008 – 11" available at (<http://asiapacific.ifj.org/assets/docs/082/029/36e9452-4d93d1d.pdf>)

In Sri Lanka the environment became increasingly dangerous in the latter years of the country's conflict. Although the ceasefire in 2002 brought hope for press freedom, the civil war was resumed in 2006, and the situation for journalists worsened. Media owners co-opted with the government's "with us or against us" attitude, becoming tools of propaganda, while the journalists became more vulnerable, especially as their key leaders were targeted and forced into silence or exile.<sup>50</sup>

Where the non-implementation of IHL poses a gap in protection for journalists in armed conflict, non-legal protection is often resorted to for basic safety and risk management. The provision of security training courses to journalists reporting in conflict zones, for example can help journalists to sense danger and reduce fatalities.<sup>51</sup>

The ICRC still maintains its important role in the protection of civilians during armed conflict. It offers a hotline service at the disposal of journalists who work in zones of armed conflict. Journalists, their employers or their relatives may notify ICRC when a journalist is detained, missing, wounded, or has been killed to request assistance. The kind of protection services that can be provided by the ICRC to journalists are: 'seeking notification of a reported arrest/capture and access in the frame of ICRC detention visits; providing immediate information to next of kin and employers/professional associations on the whereabouts of a sought journalist whenever such information can be obtained; maintaining family links; actively tracing missing journalists; evacuating wounded journalists; recovering and transferring or repatriating mortal remains, etc.'<sup>52</sup>

Despite these measures, it remains very difficult for foreign correspondents to travel to international war zones and report on these conflicts safely. The recent deaths of Peter Conroy and Marie Colvin in Syria reiterate this fact. Incidentally, more media outlets are hiring local freelance journalists instead who cannot access the same consular protection that foreign journalists can and who may not necessarily have the same level of safety training. The plight of these individuals is important to highlight under local journalists.

### *Journalists investigating organised crime*

Organised crime can often be a "powerful parallel economy with enormous influence over the legal economy" and thus of focused interest to journalists.<sup>53</sup> According to a report by Reporters Without Borders (RWB), 141 journalists and media workers were killed between 2000 and 2010 by organised criminals.<sup>54</sup> The Secretary-General of RWB has noted that, "media workers are above all being murdered by criminals and traffickers of various kinds. Organised crime groups and militias are their leading killers worldwide. The challenge now is to rein in this phenomenon."<sup>55</sup>

Albeit the pressing concern is the state's due diligence in protecting journalists from non-state actors, where there corruption and state involvement the state's respect for journalists' rights comes to the fore. Organised crime is a particularly difficult topic for journalists to cover and the

<sup>50</sup> [For extensive review of the role of journalists in peace-making in Sri Lanka, see IFJ \*On the Road to Peace: Reporting Conflict and Ethnic Diversity: A Research Report on Good Journalism Practice in Sri Lanka\* \(<https://www.ifj.org/assets/docs/152/226/61fe198-oc3a3e2.pdf>\)](https://www.ifj.org/assets/docs/152/226/61fe198-oc3a3e2.pdf)

<sup>51</sup> See CPJ 'On assignment: Covering conflicts safely: Guide for reporting in hazardous situations' available at <http://www.cpj.org/reports/2003/02/journalist-safety-guide.php#cover> (last accessed 19 November 2011)

<sup>52</sup> <http://www.icrc.org/eng/resources/documents/interview/30-international-conference-interview-notari-221107.htm>

<sup>53</sup> RWB Inquiry Report "Organized Crime – Muscling in on the Media" page 2

<sup>54</sup> RWB Inquiry Report "Organized Crime – Muscling in on the Media" page 2

<sup>55</sup> [http://en.rsf.org/journalists-in-2010-targets-and-30-12-2010\\_39188.html](http://en.rsf.org/journalists-in-2010-targets-and-30-12-2010_39188.html)

secrecy that often surrounds it further endangers the lives of journalists and makes the ability of governments to protect them much weaker. Organised crime networks sometimes have financial stakes in media outlets or suffocate ordinary journalism by demanding which stories to be run or shaping coverage to their advantage.

Increasingly, journalists have been targeted by organised crime networks for opinions expressed on the Internet, rather than in print. However, it is important to note that even journalists who do not actively cover issues surrounding crime fall victim to organised criminal groups.

Though journalists directly reporting on organised crime are at greatest risk, journalists reporting on any issue and through any medium can face repercussions for being perceived to have come too close to the activities of criminal gangs, or shown the potential to do so in the future. Nor do findings necessarily have to have been expressed in the media; merely being seen to investigate the actions of criminal groups can face severe repercussions.

The main risks to journalists reporting on organised crime come from the retribution they face from criminal organisations. Kidnap, torture and murder are particular forms of harm this retribution can take. The murder to journalists also acts as a provocative warning to others not to pursue investigation into organised crime in the future. Attacks on journalists do not just happen as retribution for reporting on organised crime, but also in order to encourage self-censorship. As well as potentially being murdered, many journalists are attacked, kidnapped, or forced into exile as a result of their coverage of crime and corruption. Reporting basic information about criminal activities—including the names of drug lords, smuggling routes, and prices—places journalists at direct risk.<sup>56</sup> Organised crime outlets are concerned what these journalists might know, rather than simply what they have reported.<sup>57</sup>

Journalists are most at risk from organised crime in regions in which there is State control and the State's legitimate monopoly on violence has been lost. Journalists reporting on organised crime often lack protection from the police. This is because of instances where the authorities get involved in organised criminal gangs or corruption is systematic. Many police forces also fail to protect journalists early-on when they are threatened.

Journalists reporting on organised crime often face high risks in the process of uncovering information. In June 2009 in the Philippines, an organised crime reporter for the Remate local newspaper, Jojo Trajano, was killed in crossfire between police and criminals during a raid of a den in Taytay Rizal province near Manila.<sup>58</sup>

The ability of State authorities to help journalists is further weakened by widespread corruption and dysfunctional judiciaries, creating a lack of accountability that puts journalists at risk of future attack.<sup>59</sup> A 2010 CPJ Special Report "Silence or Death in Mexico's Press" found that "systemic impunity" is present at judicial levels where crimes against journalists were investigated.<sup>60</sup> The criminal justice system had failed to protect journalists by failing to prosecute more than 90 per cent of crimes relating to journalists. The CPJ also found that state prosecutors and police forces have been negligent in investigating extrajudicial killings and violence against journalists and have

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<sup>56</sup> CPJ Special Report "Silence or Death in Mexico's Press" 2010 Chapter One

<sup>57</sup> Reporters Without Borders Inquiry Report "Organized Crime – Muscling in on the Media" page 4

<sup>58</sup> CPJ Report - Journalists Killed in the Philippines <http://www.cpj.org/killed/2009/jojo-trajano.php> [accessed 20 November 2011]

<sup>59</sup> CPJ Report "Drug Trade, Violent Gangs Pose Grave Danger" by Carlos Lauría, February 10, 2009 <http://www.cpj.org/2009/02/drugs-violence-press-latin-america.php> [accessed 18<sup>th</sup> November 2011]

<sup>60</sup> CPJ Special Report "Silence or Death in Mexico's Press" 2010 Summary

used unlawful methods such as coercion of witnesses and fabrication of evidence. Many people interviewed by CPJ in order to compile the report saw complicity between police and criminals as so widespread that they viewed the judicial system as another arm of the criminal organisations.<sup>61</sup>

The 2010 CPJ Report notes that some reporters and editors have allowed themselves to be infiltrated by drug cartels, meaning that when future journalists join news outlets and pursue investigation into organised crime, they may face aggression from within the news outlets themselves. An IFJ Report entitled “A Dangerous Profession – Press Freedom Under Fire in the Philippines” also noted that the Philippine police did little to bring prosecutions for the murders of journalists. Indeed, until 2005 only one case had been solved regarding the murder of journalists by the Philippine police, and many cases also involved the police as chief suspects of murders.<sup>62</sup>

State complicity or corruption is particularly dangerous for journalists reporting on the links between politics and organised crime.<sup>63</sup>

Journalists reporting on organised crime not only face retribution from the criminal gangs themselves, but from corrupt political factions or state officials who profit from organised crimes.<sup>64</sup>

In order to protect journalists from organised crime, close cooperation is required between States. The United Nations Convention against Transnational Organised Crime, which was signed in Palermo in 2000 and took effect in 2003, focuses in particular on trying to protect the victims of human trafficking and combating money laundering. However, ways of providing protection for journalists have yet to be defined despite their high-risk position as targets of organised criminal groups. International efforts to combat organised crime, such as the Palermo convention, often fail to consider the risks posed to journalists reporting on organised crime, and instead focus on more direct victims such as victims of trafficking.<sup>65</sup>

Major concerns within regions are highly dependent on the infiltration of organised crime into state institutions. The safety of journalists covering organised crime in Latin America is particularly threatened given the prevalence of organised crime in numerous countries. State authorities’ failure to protect journalists when they receive threats can also force journalists and their families into exile. It is important to note variances within regions such as Latin America. For instance, Mexican media has not traditionally been unified in defending the rights of colleagues to work without fear of reprisal. Such unity is crucial, as evidenced in Colombia, where strong press

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<sup>61</sup> CPJ Special Report “Silence or Death in Mexico’s Press” 2010 Summary

<sup>62</sup> IFJ Report “A Dangerous Profession – Press Freedom Under Fire in the Philippines” page 4

<sup>63</sup> In Brazil, Francisco Gomes de Medeiros of Radio Caicó was shot 46 times in front of his home in October 2010 after reporting on crime and drug trafficking. In September 2010 Gomes had broken a story exposing the relationship between local politicians and organized criminal gangs, which described local political figures buying votes in exchange for crack cocaine. Soon after the piece aired, Gomes received anonymous death threats yet received little police protection. In December, investigators said that Gomes had been killed by a representative of Vladir Souza do Nascimento, a convicted felon serving a prison sentence for drug trafficking because Gomes’ coverage had hindered criminal activities being run by Souza from prison, CPJ Report – Journalists Killed in Brazil <http://cpj.org/killed/americas/brazil/murder.php> [accessed 20th November 2011]:

<sup>64</sup> In Mexico, the 2004 murder of Tijuana editor Francisco Ortiz Franco and the 2005 disappearance of reporter Alfredo Jiménez Mota in northern Hermosillo are linked to the complicity of State officials as the reporters were investigating possible links between criminal groups and officials, CPJ Report “Drug Trade, Violent Gangs Pose Grave Danger” by Carlos Lauría, February 10, 2009 <http://www.cpj.org/2009/02/drugs-violence-press-latin-america.php> [accessed 18<sup>th</sup> November 2011]

<sup>65</sup> RWB Inquiry Report “Organized Crime – Muscling in on the Media”

freedom groups and a unified media have helped curb the scourge of deadly, unpunished violence.<sup>66</sup>

In the Philippines, reporting on organised crime is linked closely to political corruption, as is common in Eastern Europe. In Eastern European countries such as the Ukraine, journalists are more often paid off by organised criminal gangs than attacked or murdered.<sup>67</sup>

The United Nations Office on Drugs and Crime (UNODC) has joined with media representatives, universities and federal and state-level governments in Mexico to hold media consultation workshops throughout 2011 in the nine states most affected by crime against the media: Chihuahua, Tamaulipas, Baja California, Sinaloa, Durango, Guerrero, Jalisco, Michoacan and Mexico City.<sup>68</sup> The workshops are to produce strategies at the state and federal levels which will enable the provision of technical assistance to media practitioners and authorities. During the training, participants identified the risks that the media face and propose solutions to help protect journalists. Also noteworthy in Mexico is the establishment of the Office of the Special Prosecutor for Crimes against Freedom of Expression in Mexico in cooperation with UNODC.

In Italy, journalists who report on organised crime are given state-sponsored protection.<sup>69</sup>

#### *Journalists reporting on politics*

The INSI Report “Killing the Messenger” (2011 Update) shows that of the total recorded deaths unrelated to war reporting in 2011, the greatest number were related to reporting on politics and corruption. Similar results were found in 2010 and 2009. CPJ reports that political groups and Government officials are the dominant suspects (30 per cent and 24 per cent, respectively) for the 627 journalists killed between 1992 and 2011, compared to paramilitary groups (7 per cent) and military officials (4 per cent).<sup>70</sup> The CPJ and the INSI reported in 2011 that the most dangerous type of media work under this category is that carried out by local journalists reporting on domestic politics.<sup>71</sup>

This poses two important questions for this report: How do States tolerate and/or control the space for political reporting? And how does the State ‘protect’ this category which by its very nature holds Governments to account?

The category is also broader than the traditional ‘political’ reporter. It can include those reporters deemed to be in opposition to the incumbent government through their association, employment by or interaction with ‘foreign reporters’, but who themselves are not directly reporting on politics. For example, during the recent anti-government uprising in Syria, people have disappeared after working for a foreign journalist or responding to the foreign media’s questions.<sup>72</sup> The category extends again to those reporting on state funded environmental and/or construction projects, in particular on the human rights issues emanating from these.

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<sup>66</sup> CPJ Special Report “Silence or Death in Mexico’s Press” 2010 Chapter One

<sup>67</sup> UNESCO Report “Press Freedom – Safety of Journalists and Impunity” page 59

<sup>68</sup> <http://www.unodc.org/unodc/en/frontpage/2011/July/unodc-and-mexico-launch-project-to-protect-journalists.html> [accessed 11th November 2011]

<sup>69</sup> RWB Inquiry Report, ‘Organized Crime – Muscling in on the Media’, page 7.

<sup>70</sup> CPJ, ‘627 Journalists Murdered since 1992’, <http://www.cpj.org/killed/murdered.php> (accessed 20 November, 2011)

<sup>71</sup> See section below on local journalists.

<sup>72</sup> Reporters Without Borders, ‘Foreign media urged to take utmost care to protect local sources’, 15 November 2011. <http://en.rsf.org/syria-foreign-media-urged-to-take-utmost-15-11-2011,41390.html> (accessed 20 November, 2011)



The murder of Russian journalist Anna Politkovskaya in 2006, renowned worldwide for her criticism of the Russian army and Government is well known and the obstructions of an investigation into her murder reflect the impunity there.

In the Philippines, there is still uncertainty over the ability of the new administration under President Benigno Aquino III to deliver on promises to end impunity. During the nine year rule of Gloria Macapagal Arroyo, 79 journalists and media workers were killed.<sup>73</sup> According to CPJ, the 2009 Maguindanao Massacre in the Philippines, in which 34 journalists were known to have died, appeared to be the single deadliest event for the press since their records began in 1992. It remains unresolved.

In January 2011, the President of the Press Association of Cadiz, Spain, was physically attacked in response to a newspaper article he wrote about the misuse of public funds.<sup>74</sup> Similarly in Cambodia, three journalists received death threats when they tried to investigate a report accusing the Cambodian Prime Minister of involvement in large scale illegal logging.<sup>75</sup>

Many journalists were killed by violent Government crackdowns when reporting on anti-government protests during the Arab Spring in 2011 in Yemen, Egypt and Tunisia. Note that political protests met with violent oppression can confound the category of 'armed conflict' dealt with above. In Pakistan's province of Baluchistan, journalists have been allegedly receiving death threats from government secret services and other parties.<sup>76</sup> At least 13 journalists have been killed and 16 others injured in a series of violence in that province and the authority has failed to introduce any measures to protect journalists.<sup>77</sup>

A lack of protection for political journalists is often intended by the State and is not merely due to negligence. Examples include police misconduct and abuse of power, the unwillingness (and not simply the inability) of authorities to investigate harm and complete failure of judicial redress.

The key gap in this category is one of impunity. The Chair's Summary of the Vienna Conference held on 23 November 2011 identified impunity to be the main obstacle to ensuring protection of journalists generally – and was a State responsibility. A strong link between effectively addressing impunity and political will was identified.

An important example for present purposes is the investigation in Russia of Anna Politkovskaya's murder in 2006, which has failed to convict the remaining accused (three of the four alleged killers were acquitted). On 8 January 2009, Lasantha Wickramatunga, one of Sri Lanka's leading editors and a prominent critic of the Rajapaska Government was beaten to death by a group of assailants. The government arranged for investigative hearings yet these made little progress.<sup>78</sup> More generally, INSI reported deliberate killings of 657 media workers from 1996 until 2006, while only 27 have resulted in the identification and conviction of perpetrators.<sup>79</sup>

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<sup>73</sup> Southeast Asia Press Alliance 2011. Retrieved on Nov 4<sup>th</sup>, 2011, from [www.seapabkk.org](http://www.seapabkk.org)

<sup>74</sup> Protection of journalist from violence, Issue Paper commissioned and published by Thomas Hammarberg, Council of Europe Commissioner for Human Rights, 4 October 2011.

<sup>75</sup> RWB, The dangers for journalists who expose environmental issues, September 2009

<sup>76</sup> Malik Siraj Akbar, 'Baluchistan's press under siege', The Committee to Protect Journalists, October 17, 2011. <http://www.cpj.org/blog/2011/10/baluchistans-press-under-siege.php> (accessed 21 November 2011)

<sup>77</sup> INSI, 'Pakistan provincial spokesman denies attack on TV journalist in Quetta', 18 Oct 2011 [http://www.newssafety.org/casualty\\_news.php?id=124](http://www.newssafety.org/casualty_news.php?id=124) (accessed 21 November 2011)

<sup>78</sup> CPJ, Getting Away With Murder, June 1, 2011. <http://www.cpj.org/reports/2011/06/2011-impunity-index-getting-away-murder.php> (accessed 21 November 2011)

<sup>79</sup> INSI, Killing the Messenger 2007 <http://www.newssafety.org/category.php?category=global-inquiry> (accessed 20 November 2011)

Certain topics may be ‘tolerated’ by some governments more than others. Reporting that is critical of the incumbent government and its authorities, which uncovers government corruption or which gives voice to the opposition tend to pose a greater risk to journalists safety in non-democratic countries. For example, in the Democratic Republic of Congo a number of journalists were attacked by those linked to the ruling party while reporting on opposition allies in the final run up to the November 2011 presidential and parliamentary elections.<sup>80</sup> An editor of a weekly magazine in Kazakhstan was arrested on January 6, 2009 after publishing an article linking the National Security Committee to trafficking.<sup>81</sup>

Political reporting is often a dangerous exercise worldwide, but particularly so in Russia, parts of Latin America and the Philippines, where there have been many reported killings. Threats against journalists in these countries are by criminal operations that sometimes have government links.

Finally, recent political upheaval in the Middle East and related violence has impacted heavily on journalists’ safety in the region. For example, Al-Wadhaf, a Yemeni cameraman covering an anti-government protest in Sana’a the capital of Yemen, was shot twice in the face by a sniper.<sup>82</sup> Dolega, a photographer covering the anti-Tunisian President protests on 14 January 2011, was struck in the head by a tear gas canister fired by security forces and died.<sup>83</sup>

The safety of journalists reporting on politics appears to improve with greater judicial independence from the state. The Investigative Committee of Russia, its main investigating authority, has been given greater autonomy, which led to the prosecution (although not conviction) of the alleged murderers of journalist Anna Politkovskaya in 2011 after five years. Another welcome improvement is in data collection. A comprehensive online database has been created under the aegis of the IFJ, mainly using data provided by the Glasnost Defence Foundation and the Centre for Journalism in extreme Situations. It records all cases of dead Russian journalists, how they died and the status of the investigation into their deaths.<sup>84</sup>

This raises the importance of strengthening and implementing domestic institutions and laws to protect journalists and ensuring that appropriate penalties are attached. In 2009, the Serbian Criminal Code was amended to include ‘endangering the safety of a journalist’ as a crime punishable by a maximum imprisonment of eight years. This law was applied for the first time in 2010 when three persons were convicted of threatening Brankica Stankovic, a journalist from the Belgrade based television station B92.<sup>85</sup>

#### *Local journalists reporting for media outlets primarily aimed at national consumption*

Local journalists constitute over 80 per cent of journalist deaths during the last decade. It is for this reason that this report deals with ‘local journalists’ as a category distinct from political journalists or those reporting on crime despite their overlap.

<sup>80</sup> RWB, Concern about political tension and hostility to media on eve of election, 24 November 2011. <http://en.rsf.org/democratic-republic-of-congo-concern-about-political-tension-24-11-2011,41451.html> (accessed 5 December, 2011)

<sup>81</sup> Reporters Without Borders, Imprisoned journalist’s parole request again rejected, 17 August 2011. <http://en.rsf.org/kazakhstan-imprisoned-journalist-s-parole-17-08-2011,39597.html> (accessed 5 December, 2011)

<sup>82</sup> CPJ, Hassan al-Wadhaf, <http://www.cpj.org/killed/2011/hassan-al-wadhaf.php> (accessed 27 November, 2011)

<sup>83</sup> CPJ, Lucas Mebrouk Dolega, <http://www.cpj.org/killed/2011/lucas-mebrouk-dolega.php> (accessed 27 November, 2011)

<sup>84</sup> Deaths of Journalists in Russia, database <http://www.journalists-in-russia.org/>

<sup>85</sup> Protection of journalists from violence, Issue Paper commissioned and published by Thomas Hammarberg, Council of Europe Commissioner for Human Rights, 4 October 2011.

Local journalists are those journalists who work within their state of residence and/or nationality and who primarily report on regional and/or local issues for national consumption only. Here, we focus on local journalists who are paid for their work across all forms of media. They are a heterogeneous group with a diverse range of socioeconomic positions, age and ethnicity. The level of risk can diverge within this category depending upon factors such as notoriety, financial flexibility, level of experience and employer protection etc.

This category is reported to be the one at greatest risk of harm and most vulnerable to State action, but it is also the category we know least about (*i.e.* in terms of accurate numbers, identification of perpetrators, cause of death *etc.*). Like political journalists, impunity constitutes the single largest gap in protection for local journalists.

Because this category overlaps with the categories of journalists reporting on armed conflict, political journalists and journalists reporting on organised crime, the dangers faced by local journalists are ‘on top of’ or in addition to those risks of reporting outlined under these two categories discussed above.

This category of risk came to the fore with the liberalisation of the media in the 1980s and proliferation of private media houses which fostered pluralism, journalistic critiques of the state and opposition reporting. This in turn, has also led to greater risk of harm in countries where governments have responded adversely to this development. Hence local journalists can become targets because they are symbols of a defiant and autonomous civil society.<sup>86</sup>

The harm to local journalists that occurs due to the pernicious use of repressive laws, criminal violence and impunity overlap with political journalists. Harm which results from a lack of employer protection and inadequate support is unique to this category.

Inadequate employer support includes failures by media houses or individual employers to implement the necessary training or provide the equipment needed to ensure the journalist’s wellbeing and safety in the case of dangerous missions.<sup>87</sup> According to CPJ in Tanzania journalistic safety has been compromised and the profession made increasingly vulnerable to corruption because of “poor working conditions, low pay, and the lack of job security.”<sup>88</sup> When, as in some cases, the State controls the vast majority of media outlets, a poor working environment, low pay or a discouragement from unionising can intersect with the harm faced by local journalists and be attributed directly to the State.

The pernicious use of repressive laws to infringe upon journalists rights is in fact the perverse opposite of impunity since they are officially sanctioned by the State. Foreign journalists are less likely to be prosecuted under vaguely defined and controversial laws because of the legal overlap and attention that would draw from their home nations.

The risks that local journalists face from the lack of privately owned media and State condoned pernicious use of repressive laws are commonly seen in Africa. In 2010, according to reports, Burundi became the second country in Africa to charge journalists with treason for practicing their profession, which carries a death sentence.<sup>89</sup> Eritrea’s media environment is said to be one of the

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<sup>86</sup> Blankson and Murphy, *Negotiating Democracy: Media Transformations in Emerging Democracies*, University of New York Press: Albany, 2007.

<sup>87</sup> See the Philippines in particular, IFJ, *Gunning for Media, Journalists and Media Staff killed in 2010, 2011*

<sup>88</sup> CPJ, *Tanzania*, 2011

<sup>89</sup> IFJ, *Gunning for Media, Journalists and Media Staff killed in 2010, 2011*.

least protective for journalists in the world,<sup>90</sup> and it remains one of the few countries that lacks any privately owned media (banned since 2001). Far-reaching anti-terrorism laws have intensified repression of journalists in Ethiopia.<sup>91</sup>

In the Asia Pacific region, the IFJ highlighted Pakistan, the Philippines, Indonesia, Thailand, India, Afghanistan, Nepal and Sri Lanka as areas of violence where threats to journalists (local and foreign) manifest themselves most pervasively.<sup>92</sup> Apart from the risks which were present for media workers in this region due to conflict zones, the most significant reported risks in Indonesia, the Philippines and Nepal are those related to employer 'negligence' or their lack of capacity to provide appropriate training, safe practices and adequate working conditions. These latter risks pose unique problems for the safety of local journalists working for poorly endowed media outlets.

In Europe, 2010 saw killings of local journalists in Turkey, Latvia and Greece, Bulgaria and Russia, identified by the IFJ as cases where the individual's profession had singled them out as a specific target. In Russia attacks on local journalists may be formally condemned but are institutionally tolerated,<sup>93</sup> which highlights the disparity between government rhetoric and government inaction in this area.

In Latin America, violence is most significant in Mexico and Honduras, although Ecuador, Brazil, Guatemala, Columbia and Venezuela are also very dangerous areas. This is because the States' reluctance to properly investigate and prosecute these crimes is a serious shortcoming in the region. Perpetrators also target the families and relatives of local journalists.

Political upheaval in Iraq and its continuing violence pose the greatest danger for all journalists, including local journalists there. Lebanon, OPT and Yemen have also been listed by the IFJ as areas of considerable danger to local journalists in this region.<sup>94</sup>

#### *'Citizen journalists'*

Especially owing to events during the 'Arab Spring', the role of citizen journalists is gaining international attention.<sup>95</sup> With the advent of advanced communication and information technologies, citizens play important roles in the collection and dissemination of news of public interest. These roles are especially important when and where traditional media is constrained from performing investigation and dissemination functions.<sup>96</sup>

This section highlights the importance of conceptualising the 'citizen journalist'. This category of persons is complex, multi-tiered and relatively new. The term includes unpaid, untrained and unprofessional citizens reporting on events for public consumption. They are largely concerned with blogging, but may also use social networking sites to report, distribute video footage or photographs and moderate internet polls and forums.

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<sup>90</sup> UNHCR, *Freedom of the press 2011- Eritrea*, 14<sup>th</sup> September 2011

<sup>91</sup> CPJ, *Anti Terrorism further restricts Ethiopian Press*, July 23<sup>rd</sup>, 2009

<sup>92</sup> IFJ, *Gunning for Media, Journalists and Media Staff killed in 2010*, 2011

<sup>93</sup> Amnesty International, *Beaten Up for Speaking Out: attacks on human rights defenders and journalists in the Russian federation*, 2011

<sup>94</sup> IFJ, *Gunning for Media, Journalists and Media Staff killed in 2010*, 2011

<sup>95</sup> See for instance 2010 report to the General Assembly by the Special Rapporteur on the right to freedom of expression, A/65/284 paras. 61-63.

<sup>96</sup> See also the Chair's Summary of the Vienna Conference held on 23 November 2011.

Where online operations are heavily monitored, citizen journalists often enlist the support of foreign media organisations as vehicles for their reporting. Lee Salter argues that citizen journalists pose a challenge to traditional concepts of legal personality since a ‘citizen is a subject of a state, but the Internet allows their reporting to transcend the jurisdictional boundaries of the state’.<sup>97</sup> Hence we also see citizen journalists referred to as ‘netizens’, a term which implies an alternative non-state based form of citizenship.

The increased focus by States on threats to security emanating from non-state actor networks during the past decade has politicised the censorship of blogs and Internet forums. Increased cyber-activism came with increasing cyber-surveillance after the events of September 11, 2001,<sup>98</sup> and the founding of information activists sites such as Wikileaks can be seen as a consequence of both. Another important consequence is that Internet corporations that previously had no explicit political agenda are now vehicles of government policy in the censorship of political dissent, such as Nokia Siemens provision of electronic surveillance technology to Iran<sup>99</sup> and the complicity of Yahoo in the identification of the imprisoned journalist Shi Tao to Chinese authorities.<sup>100</sup>

Violence carried out by police or the authorities against citizen journalists mostly occurs at the point of arrest for ‘breach’ of the laws outlined above or in prison by beating and/or means of torture. It can also include the deliberate withholding of health treatment. Apart from violence in prison or on arrest for such spurious charges outlined above, attacks against citizen journalists that appear to originate directly from State authorities without ‘legal cause’ have also been reported and have led to death. For example, in Tunisia, prominent Internet journalist Sihem Bensedrine, was attacked in January 2004 by an assailant working with state security.<sup>101</sup> In China, five ‘netizens’ visiting blogger Chen Guangcheng were attacked by presumed police auxiliaries.<sup>102</sup> In the Palestinian Territories, Asma Al Ghoul blogged about Hamas’s closure of the Sharek youth forum and the arrest of her brother by Hamas security personnel, and was consequently targeted at a rally and beaten.<sup>103</sup>

Other risks which can precipitate threats to life and physical harm specific to this category include government orchestrated smear campaigns (United Arab Emirates), cyber-attacks (Myanmar), hacking into citizen journalists accounts (Egypt), disappearance after arrest and State harassment of families of citizen journalists.

Bloggers may be targeted for ‘Crimes against the State’ under anti-press freedom laws which now extend to expressions of opinion via electronic media (see for example, Egypt, Iran, UAE, Saudi Arabia, China and Myanmar). In Iran the explicit penalty for any online expression perceived to be ‘against the will of God’ is death. There have been instances where a journalist was sentenced to death in relation to his activities.<sup>104</sup>

<sup>97</sup> Salter, Lee 2009 Issues for Citizen Journalism in Allen, Stuart *Citizen Journalism: Global Perspectives* Peter Lang p. 176

<sup>98</sup> Richard Kahn and Douglas Kellner, “Internet Subcultures and Oppositional Politics,” in *The Post-subcultures Reader*, ed. David Muggleton and Rupert Weinzierl (Berg, 2003), 303.

<sup>99</sup> CPJ, “Attacks on the Press 2010: Iran - Committee to Protect Journalists”, n.d., <http://www.cpj.org/2011/02/attacks-on-the-press-2010-iran.php>.

<sup>100</sup> CPJ, “Falling Short: Online Rules: A Study in Paradox - Reports - Committee to Protect Journalists”, n.d., <http://www.cpj.org/reports/2008/06/9-2.php>.

<sup>101</sup> Committee to Protect Journalists October 1 2004 *Without a Net* Retrieved 24 November 2011 from <http://www.cpj.org/reports/2004/10/yahyaoui.php>

<sup>102</sup> Reporters without Borders 27 October 2011 *Respect for free speech continues to deteriorate in China*

<sup>103</sup> Cyberdissidents.org *Cyber Dissident Database: Asma Al Ghoul*

<sup>104</sup> E/CN.4/2004/62/Add.2, Mission to Iran, para. 50.

The gaps in protection and categories of harm show that citizen journalists' right to life is mostly threatened in those countries with governments that have failed to consistently uphold the rule of law, freedom of speech or where patterns of human rights abuses (not necessarily by the State) are evidenced. These include those countries with specific laws targeting citizen journalists who are deemed 'cyber criminals' and those in which the political reasons for the arrest of citizen journalists are disguised by the use of unrelated laws

Some States are extending protective scope by giving formal recognition to the developing role of 'citizen journalists' as reporters. Australian Shield Laws that protect professional journalists now extend to citizen journalists in recognition of the need to protect those reporting online without remuneration.<sup>105</sup>

The increasingly complex internet technologies used to promote and facilitate net-based citizen journalism in oppressive regimes can just as easily be used against journalists.<sup>106</sup> The promotion of citizen journalism by 'Western' nations via faulty exports such as Haystack (a tool which unsuccessfully purported to circumvent online censorship in Iran) has directly led to crackdowns on internet freedoms in authoritarian regimes.<sup>107</sup>

## 6. Conclusions

Journalists as a category of individuals are subjected to special risks of physical violence that amount to serious risks to their right to life. The current scale of threats to the lives and killings of journalists is a serious matter of concern. It shows an erosion of the rule of law and democratic governance where they occur.

There is a serious issue of impunity for perpetrators of these violations by the failure to investigate and prosecute crimes against journalists. This issue is a common thread tying the various categories of risks together in this report. Despite its prevalence in the risks faced by most human rights defenders, it remains an important problem for journalists in their own right.

There is evidence that physical violence against journalists that might amount to threats to their right to life also deters the entire journalistic community and forces it to practice self-censorship that eventually erodes its public role in democratic societies.

The largest numbers of journalists who are killed around the world each year die outside zones of armed conflict and in time of peace. According to UNESCO this is 80 per cent of journalists' killings worldwide.

It is erroneous to believe that media workers share only those risks that civilians face in wartime. Rather, they face heightened risks while practicing their profession. War reporters have traditionally been subjected to dangers related to their general safety, although it has been shown that they can be intentionally also targeted by combatants because of their work. Also the changing nature of wars and methods of coverage have both heightened the risks faced by

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<sup>105</sup> The *Evidence Amendment (Journalists' Privilege) Bill 2010*, which late last year amended the definition of 'journalist' in respect of journalist privilege under the *Evidence Act 1995* (Commonwealth of Australia). This amendment removed reference to a person "who in the course of work" and replaced it with a person "who is engaged and active in" the publication of news).

<sup>106</sup> Evgeny Morozov, "What if Tunisia's revolution ended up like Iran's?," *Net.Effect*, January 15, 2011, <http://neteffect.foreignpolicy.com/blog/5386>.

<sup>107</sup> Evgeny Morozov, *The Net Delusion: The Dark Side of Internet Freedom* (Public Affairs, 2011).

journalists in armed conflict.<sup>108</sup> Many journalists now are being regarded as spies or supporters of terrorism.<sup>109</sup>

Journalists reporting on organised crime face serious risks in particular retribution from criminal organisations, but also from State officials to a lesser extent.

Local journalists reporting for media outlets primarily aimed at national consumption reportedly constitute the group of journalists at greatest risk of harm, yet data on violations of their right to life are very difficult to obtain.

The threats to the lives of journalists extend to all media personnel as well as “citizen journalists”. With the growing importance of the Internet and the use of social networks, blogs and other means of online expression to disseminate opinions and information, it is feared that violent retaliation to new media journalism will only increase.

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<sup>108</sup> Herbert N. Foerstel, *Killing the Messenger: Journalists at Risk in Modern Warfare*, (Praeger Publishers, 2006) p 23-25.

<sup>109</sup> Herbert N. Foerstel, *Killing the Messenger: Journalists at Risk in Modern Warfare*, (Praeger Publishers, 2006) p 81.

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