Report on the Seminar

"Reinforcing regional cooperation to promote freedom of expression and the rule of law in Asia through ending impunity for crimes against journalists"

Main commemoration of the International Day to End Impunity for Crimes against Journalists

4 December 2017

Colombo, Sri Lanka

I. Executive summary

This report aims to give an overview of the main outcomes of the seminar *"Reinforcing regional cooperation to promote freedom of expression and the rule of law in Asia through ending impunity for crimes against journalists"*, which was held on 4 December 2017 in Colombo, Sri Lanka.[1] The seminar was jointly organized by UNESCO and the Ministry of Finance and Mass Media of Sri Lanka, and served as the main commemoration of the 2 November International Day to End Impunity for Crimes Against Journalists. This inter-regional dialogue provided an opportunity to discuss Asian regional and sub-regional cooperation to end impunity for crimes against journalists, and in particular to raise awareness amongst regional bodies, national authorities and institutions, civil society, and media about the importance of solving cases of killed journalists, with the goal of strengthening the rule of law and stop the culture of impunity in Asia.[2]

It brought together more than 150 participants from over 20 different countries. The Prime Minister, Minister of Finance and Mass Media, and Minister of Law & Order of Sri Lanka were present, along with the representatives of the national human rights commissions of eight different South and Southeast Asian countries. A range of civil society and legal representatives participated, including delegates from a number of national, regional, and international journalist associations; media outlets from different Asian countries; regional and international NGOs; several UN agencies (UNESCO, OHCHR, UNDP, IOM); embassies; research centers; and Sri Lankan public institutions including the police and the national human rights commission.

The first session drew a picture of the current situation of national protection and impunity mechanisms in Asia, presenting the situation for safety of journalists in different countries and the mechanisms that

---

[1] The programme of the seminar is online here:
https://en.unesco.org/sites/default/files/agenda_idei.pdf
[2] The concept note of the seminar is online here:
https://en.unesco.org/sites/default/files/concept_note_idei_2017.pdf

have been put in place to address the issue of impunity. The discussions showed that most of mechanisms and best practices established so far in Asia have been initiated by civil society and media and don't yet involve Member States' public institutions. It was observed that journalists in Asia incur a variety of threats, which stem for a variety of actors: security forces including intelligence agencies, organized crime, and terror groups. Often the lack of prosecution and corruption means the cases get dismissed, sometimes even because of a settlement between the families of murdered journalists and their murderers. Participants stated that most governments have little interest in the matter and do not have monitoring, protection and prosecution mechanisms in place. It was observed that national human rights commissions, whose status as independent public institutions and whose mission of protecting human rights is highly relevant to the issue of safety of journalists and impunity, could host national protection or prosecution mechanisms or become possible focal points for monitoring safety of journalists. However, there is a need for a reinforcement of the national human rights commissions' role on this issue. Citizens need to be more aware of their existence and function and of the possibility of referring to them. The commissions' actions and their role to reinforce freedom of expression and safety of journalists need also to be tested and used by the citizens and the media.

The UN Plan of Action on Safety of Journalists and the Issue of Impunity (hereafter the UN Plan of Action) recommends engaging all concerned stakeholders in the efforts for safety of journalists, which means that in addition to the national human rights commissions, strong solidarity and coordination are also needed with civil society and media houses. Participants agreed that civil society organizations and media need to be strongly united in order to engage a meaningful dialogue with public authorities and make significant progress on the issue of safety of journalists and impunity.

The second session focused on the specific situation in Sri Lanka, and the country's efforts in reducing crimes against journalists, investigating past crimes and attacks against them, and the challenges faced by media. In the past years, Sri Lanka has gone from one of the most dangerous countries in the world for journalists to one in which there are no reported cases of killings since January 2009. This does not mean, however, that the situation for journalists has become entirely safe, as there are ongoing threats and attacks against them, as some participants pointed out. This is partly due to a change in government and therefore in state policies, though the panelists debated the efficiency of these changes. The presence on the panel of both journalists and representatives of national authorities (from the police and the national human rights commission) prompted a discussion on the follow-up of cases of journalists killed in Sri Lanka, none of which have yet been judicially resolved as their killers remain unpunished. The Minister of Law & Order reiterated his intention to keep up investigations until justice can prevail, and pledged that the police will prioritize cases on freedom of expression. The panel agreed on the need for continued monitoring of the safety of journalists' situation in Sri Lanka, notably through the fostering of a new collaboration between the national human rights commission, civil society, and media on this issue.

Following the seminar and the discussion between the editor of *Uthayan*, a Tamil newspaper from the north, and the Minister of Law & Order, the Sri Lankan police have now reopened investigations into the attacks against *Uthayan*, that occurred since 2006. The latest such attack took place in 2013 despite police protection on *Uthayan*.

The third session looked at the possibility of establishing regional or sub-regional cooperation to ensure safety of journalists and the fight against impunity in Asia. Concerning regional cooperation in the field of human rights, Asia has not agreed on regional human rights treaties and/or courts in charge of enforcing regional and international standards on human rights including freedom of expression, unlike other regions (such as Europe, Africa, or Latin America). This situation is partly due to the size and diversity of the continent, but also to a lack of political will on the governments' part. The result is that cooperation between the authorities of the region's countries on safety of journalists and impunity, or human rights in general, remains extremely low and needs to be intensified. The panelists agreed that, realistically, cooperation could first be established at sub-regional level (South Asia and Southeast Asia) to look for the adoption of a Declaration on freedom of expression and/or human rights, and at a later stage be extended to the larger Asia-Pacific region. An efficient cooperation at sub-regional level in Asia would necessitate the involvement of all concerned stakeholders, such as civil society and the media. In order to be successful and trigger real involvement of states, sub-regional cooperation on these issues would have to be led by civil society and the media. These two groups of stakeholders would need to establish transnational networks that could hold governments accountable, even in cases in which there is a political reluctance to confront human rights issues.

The fourth session addressed the next steps to be made and the way forward to ensure the safety of journalists and the end of impunity for the crimes against them in the region. In particular, it raised the important issue of awareness, which needs to be raised among the authorities, civil society, media and the public at large. It is necessary that citizens are made aware of the existence of national human rights commissions and the possibility to refer any human rights abuses to them, notably those related to freedom of expression and safety of journalists. To this end, it is indispensable that the independence of national human rights commissions is effective and clearly known by the citizens. Moreover, in order for the public to feel concern by the question of safety of journalists, it is advisable that the stories of killed or attacked journalists are humanized and don't remain mere statistics. If the public is sensitized on cases of killed or attacked journalists, it will create pressure on the authorities to open investigations and follow up on the cases until they are resolved. It is vital to create an informed and mobilized civil society that will keep up advocacy on governments and public authorities, along with media and international or intergovernmental organizations. Other successful initiatives related to capacity building were presented and discussed, in particular concerning specific safety trainings and support for journalists (e.g. digital, first aid, insurance, planning), security forces and the judiciary on the model of projects previously implemented in other regions. The active involvement of media owners and the creation of coordinated mechanisms (on the model of the WhatsApp group with all media editors in Pakistan) between all of them have been also highlighted as methods to increase safety of journalists and raise awareness on impunity for crimes and attacks against journalists in the region.

II. Detailed summation of seminar

Opening statements

The Hon Mangala Samaraweera, Minister of Finance and Media, recalled the significance of holding this commemoration in Sri Lanka, which has been in the past one of the most unsafe countries for journalists. He reaffirmed the need to safeguard the changes by investigating the past murders of journalists, and to recognize that justice is crucial. He stated that freedom of expression, as a basic human right, is an important component in upholding democracy. This includes the new media field, which is also composed of bloggers and users of new technologies; a new challenge is therefore to manage disinformation and fake news through legal means, without taking away freedoms.

In a speech delivered through a prerecorded video, Mr Frank La Rue, then Assistant Director-General of UNESCO for Communication and Information, described impunity as the most prominent reason for recurring acts of violence against journalists. He recalled the three keystones of the UN Plan of Action: Prevention, Protection, and Prosecution. He highlighted the importance of this International Day to reconsider and redesign policies, and to call on states to establish safety mechanisms for journalists. He stated that safety of journalists should not only concern killings, but also protect them from other forms of intimidation, including specific forms targeting women journalists. Mr La Rue recalled that the entire UN system stands behind Sustainable Development Goal 16 (Promote peaceful, just, and inclusive societies), and called on all states to implement frameworks to ensure safety of journalists.

Mr Guy Berger, Director of the UNESCO Division on Freedom of Expression and Media Development, further elaborated on Target 16.10 of the Sustainable Development Goals (Ensure public access to information and protect fundamental freedoms) in order to foster safety of journalists and the free flow of information, which are necessary steps to achieve all sustainable development goals. He recalled the recent UN General Assembly Resolution A/RES/70/162,[3] which draws attention on the increased number of journalists who have been killed, tortured, arrested, detained, harassed, and intimidated, with specific threats for women journalists. The same resolution invites states to create a mechanism with international bodies such as UNESCO and OHCHR to protect journalists. Mr Berger pointed out that five years before, only 25% of Member States had given responses to the UNESCO requests for information; that proportion was up to 75% in 2017, although the information given was not always comprehensive and sufficiently transparent. He encouraged the government of Sri Lanka and others in the region to consider joining the Group of Friends for Safety of Journalists, comprised of ambassadors at UN bodies in Paris, Geneva, and New York. He concluded by inviting all stakeholders to contribute to the safety of journalists, with a special onus on national human rights commissions.

Subsequently, a video on the evolution of press freedom and of the state of impunity in Sri Lanka was shown. Between 2005 and 2015, Sri Lanka had been described as the most dangerous country for journalists, and in 2014 media freedom became a public concern during the election of the new government. The government has initiated a series of measures to combat crimes against media, conduct

---

[3] http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/70/162

investigations on past crimes and restore media freedom. As a result, Sri Lanka has been taken off the Committee to Protect Journalists' global impunity index in 2016.

In his keynote speech, the Hon Ranil Wickremesinghe, Prime Minister of Sri Lanka, pledged his support to the UN Plan of Action and expressed the strong commitment of his government to support its implementation. He explained how the current government has transformed the country, recognizing that free media and free speech are the baselines for achieving democracy, and ending Sri Lanka's status as a pariah state on the international scene. He made the promise that all attacks on journalists will be investigated and that Sri Lanka will protect journalists at all costs. The Prime Minister also voiced disappointment at the insufficient number of Sri Lankan editors attending the seminar. He encouraged the media to question the authorities about investigations into the killing, abductions, and assaults on journalists, and called for a better collaboration on the part of media organizations, coming together with the government and civil society to support media freedom, as they should be on the front line in this fight.

Session 1 – *National protection and impunity mechanisms in Asia*

The speakers of the first session were:

- Mr Laxman Datt Pant, Chairperson, Media Action Nepal;
- Mr Ilias Alami, Operations Manager, Afghan Journalists Safety Committee (AJSC);
- Ms Angkhana Neelapaijit, Commissioner, National Human Rights Commission of Thailand;
- Ms Fathimath Isha Afeef, Journalist, Maldives Independent;
- Ms Geeta Seshu, Journalist and Contributing Editor, *The Hoot*, also member of UNESCO's Media Freedom Committee, India;
- Mr Owais Aslam Ali, Secretary General, Pakistan Press Foundation.

The moderator of the first session was Mr Guy Berger, director of the UNESCO Division on Freedom of Expression and Media Development.

Threats highlighted by the panel included intimidation by political forces within an electoral context and by a variety of actors, in the provinces especially. These include the governments themselves, using laws such as lèse-majesté or sedition laws, military forces or security forces, and non-state actors such as fundamentalist groups, local organized crime, people involved in illegal trades, and influential people, most of whom are linked to local power centers.

The panel highlighted the challenges for national protection mechanisms, including:

- The issue of impunity not being addressed by the states.
- The corruption of the judiciary system, in which cases can be dismissed with a bribe.
- Official human rights complaint mechanisms or judicial prosecutions are often challenged or bypassed by unofficial channels.

The panel began its discussion covering the UN Plan of Action, which invites all stakeholders to play a role in protecting journalists and media workers; nevertheless, the actor ultimately responsible for security is the state itself. Human rights commissions, which are state-linked institutions, should be used more by civil society organizations to hold states accountable for journalists' safety. Human rights commissions should build up internal capacities to protect journalists at the national level and foster political will within the state to prosecute crimes and attacks against journalists.

Panelists reviewed of the types of pressure and attacks journalists face in their respective countries. Mr Laxman Datt Pant observed that in Nepal, the government is amending the penal code to allow the police to investigate online content. Political interference on the part of the government and all political parties means that impunity is seldom investigated, and any initiatives to change this are slow. Mr Pant said it is imperative that the state is held accountable, but it is also important that media owners fulfil their part, including by increasing journalists' wages.

Mr Ilias Alami observed that in Afghanistan, menaces against journalists have increased and worsened in the past two years. He explained that before 2015 they tended to be threats, and have since become full-blown attacks. The new Afghan government, however, is committed to protecting journalists, establishing

by presidential decree a committee to deal with this issue. The situation is especially dire in the provinces far from the center, and self-censorship remains widespread.

Ms Angkhana Neelapaijit exposed that things have gotten worse since May 2014 in Thailand, with reports of extra-judicial killings. She explained her belief that journalists must be seen as human rights defenders and as a voice for the voiceless, but they are subjected to various threats. One journalist reporting on the trafficking of people belonging to the Rohingya minority group was prosecuted, and although her case was dismissed, the threats against her continued and she was forced to leave Thailand. In many other cases, when a journalist is prosecuted, he or she is suspended by the company for which they work.

Ms Fathimath Isha Afeef said that in the Maldives, the police most often do not take action against the abductions and killings of journalists. She personally knew several journalists that have been killed. Perpetrators are often linked to influential gangs, and the police are perceived as hostile to those who demand justice. In one case, a smear campaign was led against a murdered journalist, claiming he was against religion; and recently, the Maldivian government introduced a new defamation law.

Ms Geeta Seshu stated that there have been 7 journalists killed in 2016 and 10 in 2017 in India, but that there is little acknowledgement of these crimes. The police debate whether the motivations behind these crimes were personal or political, and one killing even took place within a police barracks. Only one case led to a conviction, which has been appealed. This is also due to the fact that small time mafia networks are linked to centers of power. The government has set up a bureau documenting crimes against journalists since 2014, but this bureau does not include any journalists; now the Press Council and the Editors Guild are looking into some matters, but without the involvement of media owners. Overall, the quality of life of journalists and their families is dismal. Ms Seshu argued that media houses must acknowledge when their journalists are under attack: she gave an example of a good practice that was used in Tripura state, where no media house published any news for one day as a form of protest.

Mr Owais Aslam Ali pointed out that since 2002 there have been 72 killings of journalists in Pakistan, 50 of which were deliberately targeted; of these, only 5 cases led to a conviction. The perpetrators of these crimes can be militants, members of intelligence agencies or of political parties. In many cases, blood money was paid to ensure the case was dismissed. According to Mr Ali, commitment to press freedom in Pakistan has declined, and consequently there is no state protection for journalists.

The panel recalled the mandate of the national human rights commissions to bring a case to court, observe trials, and report to the governments. In Thailand, the national human rights commission leads far-reaching investigations and presents its reports to the government, even when they are accusatory and test the government's tolerance. In Pakistan, although the commission is a young institution, its powers extend even further: it can conduct enquiries, request the appointment of special prosecutors by the government, and even demand confidential information related to the armed forces and the intelligence agencies. Some challenges were raised as to the expectations towards the commissions:

- Even though some commissions have the tools and authority and are equipped to exercise their authority by the laws, they often lack the capacity and resources to do so.
- Commissions' work on press freedom and safety issues has not been tested so far.

- Despite the existence of commissions, there is often a lack of a culture of accountability in governments and public institutions, allowing killers to remain free.
- Citizen consultations are often limited to the commemoration of international days.
- There are still criminal defamation laws restricting the debate in some countries.

In addition to the role of human rights commissions, the panel discussed where and how the issue of safety of journalists could be systematized and sustained.

- The media need to acknowledge and get the message across that impunity is unacceptable;
- More solidarity amongst the media is needed to raise visibility on impunity, including between the media owners and journalists themselves;
- Civil society needs to support the media and work closely with the human rights commissions;
- More work is needed in the provinces;
- Governments, in particular Ministries of Justice, and Parliaments have a duty to amend existing restrictive laws on the press.

The session ended by recalling the importance of institutionalizing protection mechanisms by encouraging civil society, media, and state-linked institutions such as the national human rights commissions to work in synergy.

Quotes from session 1

Geeta Seshu: "I also don't think we have tested the human rights commission [of India] sufficiently as a civil society, we have not tested it in the area of media freedom or free speech. Freedom of expression is actually a human rights issue but we've never tested it."

Owais Aslam Ali: "For the safety of journalists, the elephant missing from the room is the media. […] If media has a tremendous impact on our countries, in every country, and should media decide that impunity is unacceptable, they can force the authorities to take it much more seriously. […] Our challenge is how to get the media involved, how to activate them, how to shape their conscience to say 'this is your issue; you need to follow up on cases of impunity'. […] If the media decides that we will not forget those of us who have been killed, the government will find it very hard to forget them and action can be taken."

Session 2 – *Fighting impunity in Sri Lanka: review of challenges and achievements*

The speakers of the second session were:

- Ms Sonali Samarasinghe Wickrematunge, Minister, Permanent Mission of Sri Lanka to the United Nations in New York (speaking in her personal capacity);
- Ms Deepika Udagama, Chairperson, National Human Rights Commission of Sri Lanka;
- Mr Thevanayagam Premanath, Editor, *Uthayan* newspaper;
- Mr Ruwan Gunasekera, Police Superintendent and Police Media Spokesman;
- Mr Sanjana Hattotuwa, Senior Researcher, Centre for Policy Alternatives.

The moderator of the second session was Mr Nalaka Gunawardene, writer, journalist, and development communication specialist from Sri Lanka.

The session started with a detailed presentation by the Police Superintendent on the state of investigations on crimes against journalists, which can be separated into four categories: killings, individual attacks, kidnappings and disappearances, and attacks on media stations. By his account, there have been 9 killings and 3 non-deadly attacks between 2005 and 2015. No attacks against journalists have been reported since 2015. The Police Superintendent explained for each case the results of the investigations by the Criminal Investigation Department (CID) of the Sri Lanka Police, which is responsible for carrying out investigations throughout the country into serious crimes, and the number of arrests of suspects. Among the progresses made on these investigations, he explained the challenges that remain such as the time lapse since the killings or the destruction of evidence. He also explained that some cases have been completed and have been presented to the judicial system.

Following a question from the moderator, it was indicated that the police would obtain advice from the Attorney General on how to proceed concerning cases for which information is no longer available.

The panel acknowledged the importance of having a strong oversight body such as the national human rights commission to monitor the safety of journalists, and the need for it to be constantly alert. Ms Deepika Udagama specified that the commission has the ability to pick up an investigation autonomously without the need for a formal complaint. It can investigate and make recommendations to the government, but it cannot prosecute. Any further actions need to be taken by the police and the judicial system. It was suggested that the National Action Plan should be amended to allow the commission to refer cases to the Attorney General, in order to commence procedures even without police evidence.

The journalists on the panel shared their personal experiences of threats and attacks in the past, and the support (or lack thereof) they have received from the state or from civil society. A common point raised was the observation that when there is no separation of power and no independent and strong judicial system, the culture of impunity persists and institutions are not trustworthy. Ms Sonali Samarasinghe pointed out that a polarized media landscape also contributes to the culture of impunity and violence: often smear campaigns target victims, suggesting that they got what they deserved. There is a need for a culture of accountability, in which prosecutions are brought against whomever may be guilty, even against characters that are popular in public opinion. She remarked that under the previous regime, the absence

9

of government checks and balances allowed for a culture of impunity. Journalists felt they couldn't get protection from law enforcement authorities, who were neglecting their duties, nor from media institutions, who were unable to provide help. Although many sections of civil society, of the diplomatic community, and even of the political class spoke up, the divisiveness of the media landscape fed into the cycle of impunity, which in turn allowed for attacks and intimidations. Ms Samarasinghe also expressed concern at what she perceived as a high polarization of media in Sri Lanka still prevailing today.

Mr Thevanayagam Premanath observed that even after the end of the war and the last killing of a journalist in 2009, there have been attacks on his newspaper in the northern city of Jaffna, despite the fact that it was under police protection since 2006. He lamented that police protection is not sufficient to prevent attacks. Mr Premanath also pointed out that not all crimes against journalists are officially registered by the state, and some of them, as many as 35, have gone unnoticed by the authorities.

The Hon Sagala Ratnayake, Minister of Law & Order of Sri Lanka, who attended for this session, committed in the name of the government of Sri Lanka to investigating all crimes against journalists and making this a priority. He observed that the passage of time and the destruction of evidence made investigation of past murders difficult, but the authorities would nevertheless pursue it. He also replied to Mr Premanath by saying he welcomed the notification of any crimes in the north that have been missed by the security forces, and would transmit the information to his office so that they could investigate them as well.

Mr Sanjana Hattotuwa expressed skepticism, observing that the huge recent change in the national context made it exceedingly hard to reflect on the durability of positive evolutions. Mr Hattotuwa expressed his doubts that events such as the seminar have any effect on national policy and on the lack of accountability of criminals; he also contradicted the optimism expressed by the ministers, due to the experience of the past in Sri Lanka. He observed that currently Sri Lanka is experiencing, if not a democratic deficit, a trust deficit in which people do not feel there is an improvement in their lives and in the issue of impunity, perhaps due to the government's unwillingness or its inability to get its message across. Finally, he objected that to note an improvement compared to the brutal and undemocratic previous government was not enough, and that democracy, decency, and dignity should be the absolute baseline for everyone, because they should be a norm rather than a luxury.

The panel concluded with a number of key points and lessons learnt from Sri Lanka that can be extended to the regional level in Asia:

- Monitoring and recording to overcome statistical gaps relating to killings of journalists is important, and the human rights commission could work closely with civil society to that end.
- When it comes to the safety mechanism and the data behind the killings of journalists, there was a debate on whether it should be the journalist or the act of journalism that should be protected. It was noted that an attack on a journalist is an attack on freedom of expression as a whole, and therefore an attack on democracy.
- Impunity cannot be resolved on its own, it is an issue that is linked to other human rights violations and has to be addressed in a systemic way, with a major role for politics. Ms Udagama observed that it is impossible to bounce back to a fully functioning democracy all at once after a protracted period of authoritarianism, and therefore there is an imperative need for a political stewardship that

spearheads change in attitudes, leading to support for human rights and democracy. State institutions have an obligation and a responsibility towards human rights, as do media houses.
- The panel recognized achievements made in Sri Lanka but argued they are not enough, calling for more internal engagement from the state and from all citizens of the country.

Quotes from session 2

Nalaka Gunawardene: "Journalism is not a crime. But for several years in our recent past in Sri Lanka, doing plain good journalism in the public interest was a very hazardous activity. For courageous, outspoken journalists and editors, it was akin to signing their death warrant: things were that bad, not so long ago. As our 26-year-old civil war neared its violent end, the pressure on our media intensified. In fact, it has been said we've had two conflicts going on in this country. One which ended in May 2009, another low-intensity conflict that certainly started during the war but has continued even beyond: the one between the state and media, particularly independent media, and the independent journalists and media houses were casualties in that conflict."

Nalaka Gunawardene: "Crimes against journalists in this country have taken various forms. Some prominent journalists and editors were murdered, some were brutally attacked in public or abducted from the streets and tortures, others simply disappeared and were never seen again. Media institutions were shot at, bombed, or set on fire. And these atrocities happen in the south of Sri Lanka as well as in the north. […] The authorities promised investigations and justice, but nothing really happened, and after a while everybody except the victims and the immediately affected ones seemed to have forgotten."

Deepika Udagama: "I think these issues need to be kept alive constantly, we need to discuss. There are of course achievements, as well as challenges and failures where impunity still continues. It is not a secret that every functioning democracy needs very good oversight bodies. It is only where there are good checks and balances that democracy will function. So if we are today speaking about impunity regarding crimes against journalists, I think these things don't happen by accident, it's not just by chance. You see a pattern here, it's clearly a process of democracy, and a process where the rule of law is concerned."

Hon Sagala Ratnayake, Minister of Law & Order: "When we started with most of these cases, we were starting below zero. The evidence was destroyed, many years had lapsed: it was difficult to recreate some of this evidence, the data for example. Most of the institutions were not coordinating for this law, even in the police stations some of the evidence has been taken out. This is how bad it was. […] But I want to assure everybody that the government is committed to this. We will ask the police to prioritize the cases on freedom of expression. This is the commitment we gave to the people of the country."

Session 3 – *Towards a regional cooperation to foster freedom of expression and safety of journalists in Asia*

The speakers of the third session were:

- Mr Toby Mendel, Executive Director, The Centre for Law and democracy;
- Ms Kathryn Raymundo, Alerts Officer, Southeast Asian Press Alliance (SEAPA);
- Mr Jerald Joseph, Commissioner, National Human Rights Commission of Malaysia;
- Mr Monjurul Ahsan Bulbul, President, Bangladesh Federal Union of Journalists-JFUJ;
- Justice Ali Nawaz Chowhan, Chairman, National Human Rights Commission of Pakistan;
- Ms Mohna Ansari, Commissioner, National Human Rights Commission of Nepal.

The moderator of the third session was Ms Cynthia Veliko, Regional Representative of the Office of the High Commissioner for Human Rights (OHCHR).

The moderator started by providing an overview of regional mechanisms existing in Africa, Latin America, and Europe, and observing that Asia does not have a regional mechanism such as a treaty or a court to address human rights issues. Sub-regional institutions such as the South Asian Association for Regional Cooperation (SAARC) or the ASEAN Intergovernmental Commission on Human Rights (AICHR) do not have a mandate to enforce human rights treaties or media freedom. There exists a South Asian taskforce for regional human rights cooperation, but it has not produced real results.

Justice Ali Nawaz Chowhan presented the example of Pakistan, where the concerned stakeholders are oblivious to the existence of the national human rights commission to the extent that no case of an attack on a journalist has been presented to the body (though the commission has autonomously investigated and obtained results in some circumstances). He recognized that the national human rights commission is still young and not yet solidly established. Justice Chowhan suggested a regional framework to support the work of national human rights commissions and mitigate any challenges. He called for cooperation between commissions for the promotion of freedom of expression and safety of journalists. According to him, this would increase resilience to threats from terrorist groups and intelligence agencies.

Mr Monjurul Ahsan Bulbul recalled the lack of regional mechanisms and also, in some countries, the unreliability of national human rights commissions due to their lack of independence. He expressed the opportunity in South Asia to create mechanisms for safety of journalists, taking advantage of the laws that many of these countries share from the British epoch, although he noted that newer laws have led to a partial divergence of national norms. Media representatives from Bangladesh, India, and the Maldives have held a meeting in Delhi to discuss the possibility of empowering the press councils to act regarding safety of journalists, perhaps by going as far as creating the position of special rapporteur. Mr Bulbul suggested that UNESCO should promote the development of independent media expert groups, as it has done in India, to foster solidarity between media stakeholders concerning safety of journalists. The moderator commented that any regional mechanism would have to be owned by the Member States in the region, like all the other regional mechanisms around the world. The UN system could at most fill an advisory and guidance role; as for at-risk people, they should be involved but the onus of decision-making

cannot be on them. Despite their lack of independence in some countries, national human rights commissions should also be involved.

Ms Kathryn Raymundo highlighted the need to further develop the capacities of media workers and monitoring mechanisms for attacks against journalists, and to provide a safe space for those who suffer from abuse. She suggested that the mechanisms should start at sub-regional level in Southeast Asia before expanding to other parts of the region. Mr Toby Mendel observed that existing mechanisms are general human rights bodies. He suggested that to be practical and specific to regional challenges, there is a need to focus on the special rapporteurs. He observed that setting up a regional mechanism in Asia could be challenging and suggested to start with building up sub-regional mechanisms focusing on South Asia and Southeast Asia.

Mr Jerald Joseph suggested setting up a UNESCO network as a quick and initial mechanism to move forward, welcoming the fact that UNESCO, in addition to the OHCHR, was tackling this specific human rights abuse, considering the involvement of specialized agencies as adding to efficiency. He talked about various challenges in the region such as the culture of self-censorship and the lack of denunciations by governments on issues of safety of journalists. Many governments are silent and there is a lack of right to information laws. Mr Joseph acknowledged that the only rule-based organization in Southeast Asia is ASEAN, which has endowed itself with the ASEAN Human Rights Declaration. The many repressive laws in Southeast Asian countries pose a challenge, and having a larger Asian mechanism would probably be too difficult to establish. He suggested that there should be a network of key actors such as national human rights commissions and civil society organizations, which could be established through UNESCO, starting with the seminar.

Ms Mohna Ansari also talked about the shared values and issues related to human rights in Asia. She also observed the lack of human rights mechanisms to take on the issue of safety of journalists in South Asia. Ms Ansari then explained how the national human rights commission of Nepal played a key role during conflicts. For instance, the commission received complaints on cases involving journalists, though unfortunately very few perpetrators were brought to justice, and individual threats to journalists remain high.

The panel discussed some existing mechanisms in Southeast Asia such as the Southeast Asian National Human Rights Institutions Forum, and cited the fact that some countries (Brunei and Singapore) still do not have national human rights commissions. It was suggested that a systematic approach could be developed in order to work more concertedly. The Asian Human Rights Commission, an influential NGO working on awareness-raising and advocacy, could also be used to bring together human rights commissions. The Asia Pacific Forum (APF) is a systematic and organized network. The panel mentioned it is perhaps time for the commissions to form working groups focused on specific subjects such as freedom of expression, safety of journalists and the issue of impunity.

Justice Chowhan commented that human rights commissions are struggling due to a lack of resources. He observed the need to have a regional intergovernmental mechanism established through a treaty "that will have some teeth", and to avoid having a loose network. Without a regional body it will be difficult to

eliminate impunity, because of the power of some of the region's governments. The panel cited the need for journalists to participate fully in the issue of safety of journalists, citing the observation by the Prime Minister of Sri Lanka on the lack of engagement of media editors and owners on this issue.

Mr Bulbul highlighted the importance of the UN to push for the implementation of the UN Plan of Action in all countries of the region. He also talked about the use of the Sustainable Development Goals, especially SDG target 16.10, to reinforce the safety of journalists. The moderator highlighted that the achievement of the SDGs, and in this particular instance SDG target 16.10, requires the involvement of all media stakeholders.

Mr Mendel presented the experience in the Arab world with the International Federation of Journalists (IFJ), where he was involved in drafting a Declaration on safety of journalists. According to him, one of the lessons drawn from the Arab region is that pushing ahead with overambitious initiatives is useless because of the impossibility of running away from the political reality of the region. In the Arab world, there is a lack of trust between the civil society and media environment and the state institutions. In this context, civil society and journalists' organizations developed and adopted a Declaration on freedom of expression.[4] Once the Declaration was finalized, countries were invited to endorse it. The endorsing countries are the presumptive members of the prospective regional mechanism.[5] According to Mr Mendel, this is a step-by-step approach, which takes into account the political realities of a region where several countries are not democratic. It therefore seems applicable to the South and Southeast Asian sub-regions. Mr Mendel also suggested that mechanisms should be implemented with existing structures, such as the AICHR, even when these structures are facing challenges. While some countries in the region have a vibrant civil society, others have state-aligned NGOs.

The panel observed and appreciated the important work which has already been delivered by civil society. Justice Chowhan expressed the wish for civil society to be further organized to protect and promote democracy. He supported the idea that democracy is an essential precondition for human rights. Discussions also proceeded on the need to build up journalist capacities, and to promote good and professional journalism unbent to the demands of power, in order to earn the respect of civil society. Mr Bulbul cautioned that, as a journalist with over three decades' experience, the references to "responsible journalism" could easily be abused by governments to repress journalism as a whole, and poor journalism was not to be used as an excuse to limit the freedom of the press.

Another area discussed by the panel was data sharing about the safety of journalists in the region, as well as setting up civil society alliances in Asia. The panel reiterated that all the suggested interventions to increase cooperation will not happen if someone does not take the lead, a role which should be taken by civil society organizations, including in enhancing and contributing to the development of independent media. The panel however cautioned against the growing trend of state-aligned NGOs.

Quotes from session 3

---

[4] http://www.ifj.org/fileadmin/documents/Declaration_on_media_freedom_in_the_Arab_World_EN.pdf
[5] To this date, the Declaration has been signed by Jordan, Palestine, Sudan, and Tunisia.

Toby Mendel: "You can push ahead of your region, you can mobilize and improve things, but you can't run away completely from the reality of your region. In Southeast Asia you have countries that are not democratic and that is a reality, and somehow that would affect this thing: the question is do you think it's going to be better to have it or not? […] We adopted a Declaration. That was a civil society-driven initiative but we involved lots of different stakeholders: the national human rights commissions, the media community in all its manifestations including the official bodies, so on and so forth. Then we tried to go around and have countries endorse it. It is a very strong Declaration. […] We have agreed to get four or five countries to endorse it, and what we are looking at now is that the countries which endorsed the Declaration are going to form the mechanism, and we will have a mechanism just with those countries."

Monjurul Ahsan Bulbul: "Having been a professional journalist for the last three and a half decades, I am fed up with the lesson-learning of so-called 'responsible' journalism, from the autocratic rulers, the martial law rulers, and the so-called democratic rulers. I would just like to say that journalism itself is a responsible profession. Without having minimum sense of responsibility a person cannot be a journalist. A journalist's responsibility is to commitment to its professionalism. I agree, we do have poor journalism, but the answer to poor journalism is more journalism."

Session 4 – *Way forward, including raising awareness and reinforcing capacities*

The speakers of the fourth session were:

- Mr Ranga Kalansooriya, Regional Advisor, International Media Support (IMS), and former Director-General, Department of Government Information of Sri Lanka;
- Ms Banchita Chakma, Commissioner, National Human Rights Commission of Bangladesh;
- Ms Laxmi Murthy, International Federation of Journalists Asia-Pacific, India;
- Mr Mehdi Benchelah, Senior project officer, Division of Freedom of Expression and Media Development, UNESCO.

The moderator of the fourth session was Ms Jacqui Park, Director of the International Federation of Journalists (IFJ) Asia-Pacific.

The panel highlighted the importance of awareness raising. Mr Ranga Kalansooriya presented the IMS publication "Defending journalism, how national mechanisms can protect journalists and address the issue of impunity",[6] which presents a comparative analysis of practices in seven countries.[7] He mentioned that out of seven case studies, five were in Asia. Mr Kalansooriya also commented on the necessity of stakeholder involvement, and further emphasized the importance of setting up mechanisms and ending impunity whilst involving all the stakeholders. Proactive processes are needed (safety trainings for journalists, dialogue, and networking) as well as reactive ones (quick response mechanisms, hotlines, evacuation mechanisms, and safety funds).

The panel referred to the condition that national human rights commissions be fully independent, and the need to strengthen monitoring and documentation of cases of attacks against journalists. Another suggestion was to humanize stories related to attacks on journalists. Stories of killed or attacked journalists should be relatable and not remain mere statistics. If the public is sensitized on cases of killed or attacked journalists, it will create a pressure on the authorities to open investigations and follow up on the cases until they are resolved. There should also be stories on the families, which keep them in the public memory as the cases drag on for many years.

Mr Mehdi Benchelah supported the idea of humanizing the stories of journalists targeted for their work. Without public awareness, the whole issue of safety of journalists will just remain a set of numbers. There is a need for the media to play a bigger role in ensuring that the stories of slain journalists are presented to the public in the most impactful way. The use of events such as World Press Freedom Day and the International Day to End Impunity can be effective for this purpose. It would also be useful to reach out to the entertainment industry, including the film industry, in order to ensure that the stories of courageous journalists are told in an interesting and professional way.

The panel talked about a trend of focusing too much on government and civil society, and observed that media owners also need to be involved in raising awareness about safety of journalists. The panel also

---

[6] https://www.mediasupport.org/wp-content/uploads/2017/11/1_Journalist-Protection-Book-Digital-7.pdf
[7] Afghanistan, Colombia, Indonesia, Iraq, Nepal, Pakistan, and the Philippines.

highlighted the importance of unity among media stakeholders. One good example is Pakistan, where 35 editors have established a WhatsApp group and work together whenever there is an attack against a journalist. The Philippines also provides a good example of a country where media owners and workers are united and work together to ensure safety. In the Kashmir region, journalists in electronic media have agreed to refrain from reporting on breaking news separately, rather doing so together at the same time to achieve safety in numbers and deter trolling.

The panel also stated that coalitions of journalists could facilitate the availability of basic journalistic equipment. Another challenge arises when journalists are not compensated properly, leading them in some instances to compromise their ethical conduct and to take risks. Mr Benchelah pointed that media houses should provide basic safety trainings for journalists (e.g. first aid, digital safety). It has been noticed that in some countries, media organizations feel compelled to offer these trainings out of fear of being sued by the families of killed journalists in cases where they didn't deliver on their obligations to provide for their safety. Media should foster their collaboration with civil society organizations that can provide specific trainings for journalists.

The example of Sri Lanka was cited, in which the government made a commitment to follow up on the safety of journalists and prosecute attacks against them. The panel urged to bring together all existing mechanisms, and to foster the collaboration between national human rights commissions, the media and other stakeholders. For proper evidence gathering to prosecute the perpetrators of crimes against journalists, it is important to develop capacities in collaboration with local stakeholders. The example of Nepal was also raised, in which trainings for journalists have been delivered at the local level.

The UN Plan of Action also entails the training of security forces and other law enforcement bodies. An example was given of a successful training of this type, in Tunisia. UNESCO has been replicating similar trainings in at least twelve other countries, and would be interested to intervene similarly in Asian countries to foster a dialogue between security forces and journalists. It was also proposed to organize trainings on freedom of expression for members of the judiciary in Asia, following the model of influential capacity building activities implemented by UNESCO in Latin America and Africa. One suggestion was the development of an "index of political will to tackle the issue of impunity", taking on the example of influential indexes on the ease of business, which will show the gravity of the situation in numbers and may ultimately encourage governments to take action. However, it was also noted that it could be very difficult to synthesize safety of journalists, including psychological and physical elements, into a number in an index. Instead, the application of the UNESCO Journalists Safety Indicators and Media Development Indicators could be used to map precisely the situation and provide key recommendations based on a thorough analysis of the situation.

Direct involvement of the media needs to be reinforced, and it was proposed to make the issue of journalists' safety a media-led initiative first, rather than a civil society initiative.

A certain number of recommendations emerged from the plenary discussions:

- Starting media initiatives to promote safety of journalists that would not involve an additional cost, such as fostering links with civil society organizations and asking them to organize trainings for journalists on various topics (first aid, digital safety).
- Humanizing the stories of killed journalists, all the while continuing to investigate and publish stories on the causes of their deaths.
- Using a digital platform to save journalists' stories, such as the one hosted by Reporters Without Borders, which is willing to roll out similar platforms in the region if needed.
- Further strengthening collaboration mechanisms between journalists, civil society, and international NGOs such as Reporters Without Borders or the International Committee of the Red Cross, for collaboration and capacity building.
- Advocating with governments on behalf of civil society organizations and intergovernmental bodies, to send a strong message that no form of journalism justifies the loss of journalists' lives.
- Developing capacities for prosecutors, judges, and law enforcement bodies in Asia on freedom of expression and safety of journalists.
- Educating society about how the threat to journalists impedes the citizens' right to know.
- Pushing for the implementation of the UN Plan of Action, with the participation of UN agencies such as OHCHR and UNESCO.

Closing remarks

Mr Toby Mendel delivered the closing remarks of the conference, mentioning the importance of independence of the various mechanisms, and the need to do more all over Asia, including in Sri Lanka despite the good progress of the last years. Mr Mendel underlined that although safety of journalists is important, it must fit into a general environment of freedom of expression. In some countries, attacks on journalists are treated as a separate legal category, but it should be kept to mind that an attack on any journalist is an attack on freedom of expression and on society as a whole. All concerned stakeholders must play their part, participating in the '3 Ps' of the UN Plan of Action (Prevention, Protection, Prosecution).

Mr Mendel pointed out that media owners are not fully involved in the issue of safety of journalists. Nevertheless, their involvement is crucial, as is the involvement of unions. The political and economic aspect of this issue cannot be ignored, as journalists are often not getting paid properly. UNESCO and other organizations, including OHCHR, have a role to play, as do the national human rights commissions that need the adequate capacity to handle issues related to the safety of journalists. Furthermore, police and other law enforcement bodies need to be engaged to prosecute the perpetrators of crimes against journalists. All these stakeholders must be committed to achieve positive results.

Given the size of the Asia-Pacific region, it may not be realistic to aspire to set up a region-wide mechanism. Sub-regional mechanisms can be put in place, such as establishing special rapporteurs on the topic. National human rights commissions could be the main hosts for these mechanisms. In any case, future mechanisms must be flexible and responsive, to adapt to a large and diverse environment, which is the lesson drawn from precedents in other regions.