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## Seminar and Inter-regional Dialogue on the protection of journalists

*“Towards an effective framework of protection for the work  
of journalists and an end to impunity”*

**Strasbourg, 3 November, 2014**

### Organised by

Council of Europe

UNESCO

Centre for Freedom of the Media (CFOM), University of Sheffield  
European Lawyer's Union / Union des Avocats Européens (ELU/UAE)

### RAPPORTEUR'S CONCLUSIONS

by

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United Nations  
Educational, Scientific and  
Cultural Organization



Union des avocats européens

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## Towards an effective framework of protection for the work of journalists and an end to impunity

Strasbourg, 3 November 2014

### Rapporteur's conclusions

By

Dr. Tarlach McGonagle<sup>1</sup>

This seminar generated discussions that were as detailed as they were dynamic. The present conclusions attempt to give a representative sense of those discussions rather than a full summary, as such. A wealth of materials – seminar presentations, a full transcript of the discussions and related in-depth studies – have been gathered and made available via the [seminar website](#). Those materials give a much more comprehensive account of the ins-and-outs of the day's discussions and are therefore recommended reading for all interested parties. Other accounts of the seminar, giving insights into the various individual and institutional contributions and positions, are also available ([here](#) and [here](#)).

The conclusions present a selection of key and recurrent themes in the discussions. In the spirit of the action-oriented dialogue that was the order of the day, the conclusions also seek to identify meaningful ways to: (i) continue the inter-regional, multi-stakeholder dialogue, and (ii) operationalize some of the suggestions for making the existing framework of protection for the work of journalists more effective and for bringing an end to impunity.

The over-arching conclusion is that the urgency of the current situation needs to be matched by an urgency of engagement. That engagement needs to be comprehensive and differentiated as well as strategic and creative. It needs a greater number of actors to engage whole-heartedly and in both general and targeted ways.

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## 1. Urgency of the situation requires urgency of engagement

### 1.1 Urgency of the situation

Incidents and patterns of journalists being intimidated, threatened, arbitrarily deprived of their liberty, physically attacked, tortured and even killed because of their investigative work, opinions or reporting are being extensively documented by a range of human rights and journalist organisations throughout the world. The statistics – and the human suffering that generates them - are as steady as they are alarming. Reporters without Borders, for instance, has detailed the following instances of killings and imprisonment of journalists, media assistants and netizens so far in 2014:<sup>2</sup>

Actors	Killed	Imprisoned
Journalists	63	176
Media assistants	11	13
Netizens and citizen journalists	19	175
TOTAL	93	364

UNESCO Director-General's 2014 Report on the Safety of Journalists and the Danger of Impunity provides that organisation's most recent statistical overview, breakdown and analysis of the killing and imprisonment of journalists throughout the world. It covers the period 1 January 2006 - 31 December 2013, with particular emphasis on 2012 – 2013. Among the Report's key findings are:

*Out of the total of 593 cases, the received information showed that 39 cases were resolved, representing 6.6 percent of the total. Of the remainder, 172 cases or 29 percent were still ongoing in various stages of judicial inquiry, and no information was received concerning 382 cases or 64 percent of the cases.*

The alarming statistics reveal numerous very troubling trends. First, there is the extent of the problem of crimes against journalists, coupled with the wide-ranging nature of those crimes. Second, there is the extent, not only of the problem of impunity, but also of the problem of getting States authorities to participate in established (international) reporting procedures that are of vital importance for documenting, analysing and actively combating the problem of impunity. This is exemplified by the widespread failure of States to respond to UNESCO's reporting system (64%).

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<sup>2</sup> Reporters without Borders, Press Freedom Barometer: <http://en.rsf.org/press-freedom-barometer-journalists-imprisoned.html?annee=2014> (last accessed on 1 December 2014). 'TOTAL' line added to overview.

Furthermore, during the seminar, reference was made to an increase in reporting of crimes against a broader range of public communicators such as bloggers, whistle-blowers, NGOs, human rights defenders, academics, etc., usually related to the sensitive nature of the topics they are covering. The seminar also learnt of the documentation of increasing prevalence of gender-related crimes such as sexual aggression against female journalists.

## 1.2 *Urgency of engagement*

Speakers at the seminar broadly accepted that there is an irrefutable case for urgent protective and remedial measures and for equally urgent measures to eradicate the root causes of crimes against journalists and impunity for those crimes. Threats to, and intimidation of, journalists can often be seen as indicators - or early warning signals - of wider or escalating threats to freedom of expression in society. They can be evidence of a deterioration of the rule of law and a sign that democratic institutions are not functioning properly.

## 2. **Comprehensive and differentiated engagement**

There is a need for a long-term, systematic and shared endeavour to enforce and strengthen the existing framework of protection for journalists. It should comprise normative, political and cooperative dimensions, involving intergovernmental organisations (IGOs) at the international and regional levels, States and civil society. This endeavour needs to be driven by a dialogue involving all relevant stakeholders if it is to forge a shared vision and pursue that shared vision within the existing international normative and institutional framework of protection for journalists. There are synergies to be unlocked between the different international and regional standards and bodies and dialogue is the key to unlocking them. Such dialogue can also draw inspiration, energy and legitimacy from active participation by a range of civil society actors, in particular bodies representing journalists, the media and the legal profession.

The existing framework of protection has complementary legal and political dimensions. Laws are only enforceable when there is real political commitment to enforce them. The effectiveness of laws depends on the prior existence of a favourable environment for freedom of expression that is grounded in a wide range of democratic safeguards and invigorated by an informed and active public.

The relevant international legal framework is characterised by the co-existence of different areas of law: international human rights law, international humanitarian law and international criminal law. These are distinct areas of law with certain gaps between them, although they do overlap in places as well.

The complexity of the international legal framework of protection requires that we prise open existing international legal standards and explore the full range of relevant State obligations – negative and positive – that they entail. International legal standards formulate relevant States obligations in an authoritative way. It is then the task of international and regional courts and treaty-monitoring bodies to interpret those standards. International treaties are living instruments. Their provisions must be interpreted in tune with the times and so as to ensure that the rights they safeguard are not just theoretical or illusory, but practical and effective, in terms of

the substance of the rights they safeguard and the remedies available when those rights are violated. When rights are ignored or violated, they are patently not effective in practice. The legal standards in which rights are enshrined will consequently be criticized as dead letters. The seminar heard various examples of such scenarios.

International and regional courts and treaty bodies make a crucial contribution to the elucidation of international and regional legal standards when they enumerate, explain and categorise State obligations under international law. This exercise helps to “de-mystify” those obligations, not least for national law-makers and judges, thereby increasing the likelihood that international standards will become embedded in national legal systems and processes. As noted by several speakers at the seminar, these challenges of elucidation and embedding need to be overcome in order to improve the implementation of the international legal framework of protection in practice.

In order to scrutinize relevant State obligations more closely, it may be useful to divide them into the following categories: prevention, protection and prosecution.

### *2.1 Prevention*

The prevention and pre-emption of crimes against journalists is best secured in a favourable, safe and enabling environment for freedom of expression. Such an environment needs to be built around a robust legal system that is at once comprehensive and differentiated, ensuring protection of the outer ramparts of the right to freedom of expression like the physical safety of everyone exercising the right, as well as more specific protections for core journalistic activities, such as the protection of sources, access to information, privacy of communications, digital security, etc. The legal system needs to be bolstered by effective enforcement mechanisms. Here, again, the legal and political dimensions of the system of protection merge because political will and political discourse can influence the context in which legal measures are implemented. Government officials and politicians should refrain from discourse that in any way stigmatizes journalists and their work because of the chilling effect of such discourse. Stigmatization and verbal attacks on journalists by those in positions of power can contribute to a climate of intimidation of journalists (including targeted campaigns and threats via social media). Government officials and politicians should also publicly and unequivocally condemn threats to, and attacks on, journalists and other media actors whatever the source of those threats and attacks.

### *2.2 Protection*

All international and regional human rights treaties place States parties under so-called negative obligations not to interfere with any of the rights guaranteed by the treaties. For the protection of journalists, the right to life, the prohibition of torture, the right to liberty and security, the right to a fair trial are all of crucial importance. However, as the seminar heard, human rights protection is about “dos as well as don'ts”. Besides the negative obligations to refrain from interference with rights, States are also bound by various positive obligations. States' positive obligations require them to take pro-active measures in order to ensure that rights are effective in practice and that effective remedies are available when rights are violated.

Thus, in the context of the protection of journalists, it is not enough for States to merely refrain from being involved in violence against journalists. They must also put in place an effective system of protection for journalists and authors. This would include a criminal law framework (and enforcement machinery) to bring to justice those responsible for such crimes. States are also under an obligation to take preventive operational measures (in appropriate circumstances) to protect journalists whose lives are at risk from the criminal acts of others. The high-water mark for positive obligations in Europe is the finding by the European Court of Human Rights in its *Dink v. Turkey* judgment that States have a duty to create a favourable environment for participation in public debate for everyone and to enable the expression of ideas and opinions without fear.<sup>3</sup> This obligation involves preventive and protective elements. The Inter-American Court of Human Rights has espoused a similarly high standard (in respect of journalists) in its *Vélez Restrepo and Family v. Colombia* judgment.<sup>4</sup>

Also worth mentioning in relation to the protection of journalists are the censorial dangers of actual (mis-)use, abuse, or threatened use of different types of legislation to prevent the exercise of journalistic activities and public debate. This can have a grave chilling effect on freedom of expression and public debate. Examples of the different types of legislation include criminal defamation, national security, and “propaganda for homosexuality”, hate speech, anti-terrorism, blasphemy and memory-laws.

One of the criticisms frequently levelled at the existing international framework for the protection of journalists - and repeated on a number of occasions at the seminar - is that it lacks the infrastructure to respond swiftly and effectively to protect journalists as soon as they have been threatened. Seminar participants, in sync with an emerging trend in recent international and regional IGO texts concerning the protection of journalists, stressed that it is imperative to establish mechanisms capable of responding rapidly and effectively to such threats.

Participants' suggestions went in the same direction as those proposed, for example, as good practice on the safety of journalists identified by the Office of the UN High Commissioner for Human Rights and put forward by the UN Human Rights Council, i.e., “the establishment of an early warning and rapid response mechanism to give journalists, when threatened, immediate access to the authorities and protective measures”.<sup>5</sup>

The Council of Europe, too, has been developing plans for an “Internet-based platform drawing on information supplied by interested media freedom organisations to record and publicise possible infringements of the rights guaranteed by Article 10 of the European Convention on Human

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<sup>3</sup> *Dink v. Turkey*, nos. 2668/07, 6102/08, 30079/08, 7072/09 and 7124/09, 14 September 2010.

<sup>4</sup> *Vélez Restrepo and Family v. Colombia*, Preliminary Objection, Merits, Reparations and Costs, Judgment of 3 September 2012, Series C, No. 248.

<sup>5</sup> UN Human Rights Council, Resolution A/HRC/27/L.7, ‘The safety of journalists’, 19 September 2014, para. 5(f).



Rights".<sup>6</sup> The present conclusions were completed just before the Council of Europe was due to publicly launch the Internet-based Freedom of Expression Platform on 4 December 2014, at a Conference organised by its Parliamentary Assembly and the French Senate.

### 2.3 Prosecution

States have an obligation to ensure that an effective remedy is available whenever human rights have been violated. They also have a positive obligation to carry out effective, independent and prompt investigations into alleged unlawful killings or ill-treatment, either by the State or non-State actors, with a view to prosecuting the perpetrators of such crimes and bringing them to justice. The UN Human Rights Council sets out a range of relevant requirements for such investigations and prosecutions in para. 3 of its Resolution A/HRC/27/L.7 on the safety of journalists, when it urges States to:

*ensure accountability through the conduct of impartial, speedy, thorough, independent and effective investigations into all alleged violence against journalists and media workers falling within their jurisdiction, to bring perpetrators including, inter alia, those who command, conspire to commit, aid and abet or cover up such crimes to justice, and to ensure that victims and their families have access to appropriate remedies.*

As already mentioned, both the European Court of Human Rights and the Inter-American Court of Human Rights have repeatedly recognised in their relevant case-law that these requirements are part-and-parcel of States' obligations to protect journalists and prosecute and punish the perpetrators of crimes against journalists. The importance of these requirements was affirmed by various participants in the seminar.

It was also noted that the transfrontier nature of certain crimes against journalists underscores the need for transfrontier and regional cooperation between States, for the purposes of effective information-exchange, investigations and prosecutions.

### 2.4 Spelling out the implications of obligations

Different obligations arising from international law may have different concrete implications for the range of state authorities ultimately responsible for their fulfilment. By identifying and prising open these obligations, it becomes possible to spell out their specific implications for police officers, military personnel, prison wardens, etc. The seminar heard of increasing practices of police violence against journalists (accounting for more than half the injuries resulting from attacks on journalists in Europe), especially journalists reporting on demonstrations. This points up the need to sensitize police officers to their human rights obligations – as a branch of the State.

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<sup>6</sup> Council of Europe Committee of Ministers' Declaration on the protection of journalism and the safety of journalists and other media actors, 30 April 2014, para. 11.

Identifying and prising open State obligations also facilitates the task of teasing out their implications in specific situations that give rise to very different contextual considerations: states of emergency, conflict zones, public protests, crisis situations (natural disasters, etc.). The question of armed conflict is, for instance, significant, first because that would trigger the applicability of international humanitarian law and mean that journalists are ordinarily entitled to the same level of protection as civilians. But it is also significant for practical reasons. Editorial decisions to send journalists to cover armed conflicts (or other high-risk situations) demand sophisticated ethical, legal and practical risk-analysis considerations and calculations. Deep soul-searching is currently going on within journalism, in particular about the conditions on which free-lancers and citizen journalists should engage in dangerous reporting. There is a growing appreciation within journalism of the need for 360-degree training prior to undertaking dangerous missions, with such training including focuses on physical and digital security; trauma; legal issues, etc. Journalists on dangerous assignments have to contend with changing circumstances: instead of serving as a shield, displaying journalistic insignia or carrying journalistic equipment in public can draw attention to journalists and thereby expose them to a heightened risk of attacks. The training of journalists therefore needs to be both holistic and tailored to specific problems and challenges.

### **3. Strategic and creative engagement**

Despite being extensive, the existing international framework of protection for journalists has failed to adequately achieve its primary objective or to end impunity. The framework - in particular its enforcement mechanisms - is perceived as lacking teeth, being cumbersome, bureaucratic and slow-moving. These perceptions prompted repeated calls at the seminar for strategic and creative engagement with the framework.

As with relevant State obligations, it is necessary to prise open the different international standards and explore their potential for enhancing the protection of journalists in different ways. Some of the international standards are legally-binding on States, whereas others are politically authoritative or influential. Some provide for State-reporting and monitoring processes or envisage complaints procedures. The twin themes of protection of journalists and combating impunity are currently enjoying considerable political traction in IGO forums. More and more texts aiming to further these aims are being adopted and the level of protection they seek to achieve is being ratcheted up accordingly. Examples include the UN Human Rights Council's Resolution A/HRC/27/L.7 on the safety of journalists (2014); the Council of Europe Committee of Ministers' Declaration on the protection of journalism and the safety of journalists and other media actors (2014) and the Joint Declaration by the International Mechanisms for Promoting Freedom of Expression<sup>7</sup> on Crimes against freedom of expression (2012).

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<sup>7</sup> The United Nations (UN) Special Rapporteur on Freedom of Opinion and Expression, the Organization for Security and Co-operation in Europe (OSCE) Representative on Freedom of the Media, the Organization of American States (OAS) Special Rapporteur on Freedom of Expression and the African Commission on Human and Peoples' Rights (ACHPR) Special Rapporteur on Freedom of Expression and Access to Information.

The challenge remains, however, to be able to distinguish between and evaluate existing standards in terms of their potential and limitations and then engage strategically and creatively with them in order to continue to ratchet up the level of protection.

### 3.1 *Strategic engagement*

The seminar heard various examples of how the protection of journalists and eradication of impunity can be prioritised through strategic engagement with existing standards and mechanisms, such as State reporting mechanisms, individual complaints mechanisms, etc. Sophisticated advocacy that includes cross-referencing to the array of existing international and regional standards and case-law was identified as one way of achieving this.

Another way would be for States to ensure that the protection of journalists and eradication of impunity are addressed in a prominent way in their reporting obligations under relevant international and regional treaties (e.g. the International Covenant on Civil and Political Rights (ICCPR)) and processes (e.g. the Universal Periodic Review (UPR), conducted under the auspices of the UN Human Rights Council). IGOs' oversight bodies already pay regular attention to these questions in the reporting procedures, but there is scope for that attention to be made more structural. NGOs can also engage in different types of advocacy and lobbying to ensure that States actually do give prominence to the issues in such contexts. An effective strategy in this respect, it was suggested, is the presentation of well-documented evidence of serious abuses or violations as this kind of evidence can elicit redoubled efforts for remedial action.

The relevance of the UPR, in particular, was underscored. The UPR is conducted by the UPR Working Group which comprises the 47 member States of the UN Human Rights Council. So-called "troikas" (groups of three States) assist each State review: they may group issues or questions for the State under review in order to focus the dialogue with the State and they also have a rapporteur-function afterwards. Other States may also participate in the review process by entering the dialogue with the State under review. All of this means that States can address these issues in respect of themselves or in respect of other States under review, thereby giving the process a peer-review character and increasing the potential for criticising failures to provide the requisite levels of protection, as well as identifying and sharing best practices for improving protection and countering impunity. The documents on which UPR state reviews are based are: States' own reports; reports of UN treaty bodies; reports of UN Special Procedures and other agencies, as well as information provided by other stake-holders such as national human rights institutions and civil society.

Where they exist within international and regional courts and treaty oversight bodies, individual complaints mechanisms can play a very important role in ensuring redress for victims of crimes against journalism and journalists and for developing principles to guide, if not bind, States in their implementation of the international framework of protection. The European Court of Human Rights and the Inter-American Court of Human Rights have, for instance, developed strong bodies of case-law. Within that case-law, key cases establish new principles or refine existing ones, so as

to ratchet up existing levels of protection (ECHR: *Dink v. Turkey*, *Özgür Gündem v. Turkey*,<sup>8</sup> *Gongadze v. Ukraine*<sup>9</sup> and *Fatullayev v. Azerbaijan*;<sup>10</sup> IACHR: *Vélez Restrepo and Family v. Colombia*, *In re. Globovisión Television Station regarding Venezuela*<sup>11</sup> and *Ivcher Bronstein v. Peru*<sup>12</sup>). The African Court on Human and Peoples' Rights - a much younger regional court and one for which only seven states have adopted Declarations recognising the right of individual petition - has yet to develop a body of case-law concerning the protection of journalists. The seminar heard of the difficulties for protection and enforcement that have arisen in Asia in the absence of a regional judicial mechanism reinforced by a right of individual complaint.

The seminar was told that the UN Human Rights Committee's individual communications have a relatively high compliance rate, although the mechanism itself is somewhat underused. Over the years, the Human Rights Committee has developed a significant body of "jurisprudence" on the safety and protection of journalists, as synthesised in the Committee's General Comment No. 34 on Article 19, ICCPR (freedoms of opinion and expression).<sup>13</sup> The restatement of the Committee's relevant principles, in particular in para. 23 of the General Comment, shows that Article 19, ICCPR in its current state of development offers a solid basis for further expansion:

*"23. States parties should put in place effective measures to protect against attacks aimed at silencing those exercising their right to freedom of expression. Paragraph 3 may never be invoked as a justification for the muzzling of any advocacy of multi-party democracy, democratic tenets and human rights. Nor, under any circumstance, can an attack on a person, because of the exercise of his or her freedom of opinion or expression, including such forms of attack as arbitrary arrest, torture, threats to life and killing, be compatible with article 19. Journalists are frequently subjected to such threats, intimidation and attacks because of their activities. So too are persons who engage in the gathering and analysis of information on the human rights situation and who publish human rights-related reports, including judges and lawyers. All such attacks should be vigorously investigated in a timely fashion, and the perpetrators prosecuted, and the victims, or, in the case of killings, their representatives, be in receipt of appropriate forms of redress. (footnotes omitted)"*

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<sup>8</sup> *Özgür Gündem v. Turkey*, no. 23144/93, ECHR 2000-III.

<sup>9</sup> *Gongadze v. Ukraine*, no. 34056/02, ECHR 2005-XI.

<sup>10</sup> *Fatullayev v. Azerbaijan*, no. 40984/07, 22 April 2010.

<sup>11</sup> *Matter of the "Globovisión" Television Station regarding Venezuela*. Order of the Inter-American Court of Human Rights of 21 November 2007.

<sup>12</sup> *Ivcher Bronstein v. Peru*. Reparations and Costs. Judgment of 6 February 2001, Series C, No. 74.

<sup>13</sup> Human Rights Committee, *General Comment 34: Article 19 (Freedoms of Opinion and Expression)*, UN Doc. CCPR/C/GC/34, 12 September 2011.

### 3.2 *Creative engagement*

It was noted at the seminar that inconsistencies in case-law are fertile ground for creative solutions. Strategic litigation, class actions, test cases and *amicus curiae* briefs can all help to press principles and issues on judicial and political agendas. The exploration of alternative and/or underused judicial mechanisms can also prove fruitful. For instance, in the Rules of the European Court of Human Rights, Rule 39 - concerning Interim measures – could prove a useful measure to ameliorate the slow-moving nature of international and regional mechanisms. In short, Rule 39 allows the Court, “at the request of a party or of any other person concerned, or of their own motion, [to] indicate to the parties any interim measure which they consider should be adopted in the interests of the parties or of the proper conduct of the proceedings”.<sup>14</sup>

Rule 39 is typically only invoked in exceptional circumstances, i.e., when there is imminent risk of serious and irreparable harm to life or limb to an applicant.<sup>15</sup> It remains to be seen whether Rule 39 could be successfully invoked in order to secure the release of journalists; prevent the closure of a media entity, or address threats by private sector actors. It has been suggested elsewhere that in so-called “life-and-limb cases”, “[i]f it were possible to present compelling evidence that a journalist has been targeted and that the state is complicit or that the State refuses to provide the necessary protection, it is possible that the Court could order interim measures to require the State to provide the required protection”.<sup>16</sup> Jurisprudence from elsewhere – in particular the Inter-American Court of Human Rights, which has considerable experience with interim measures - may offer helpful guidance on the possibility of a more creative use of Rule 39.

The equivalent provision to Rule 39 in the Inter-American system is Article 63(2) of the American Convention on Human Rights, the text of which clearly states that there, too, recourse to interim measures is limited to exceptionally grave circumstances: “in cases of extreme gravity and urgency, and when necessary to avoid irreparable damages to persons, the Court shall adopt such provisional measures as it deems pertinent in matters it has under consideration [...]”. The system

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<sup>14</sup> **Rule 39 – Interim measures**

1. The Chamber or, where appropriate, the President of the Section or a duty judge appointed pursuant to paragraph 4 of this Rule may, at the request of a party or of any other person concerned, or of their own motion, indicate to the parties any interim measure which they consider should be adopted in the interests of the parties or of the proper conduct of the proceedings.
2. Where it is considered appropriate, immediate notice of the measure adopted in a particular case may be given to the Committee of Ministers.
3. The Chamber or, where appropriate, the President of the Section or a duty judge appointed pursuant to paragraph 4 of this Rule may request information from the parties on any matter connected with the implementation of any interim measure indicated.
4. The President of the Court may appoint Vice-Presidents of Sections as duty judges to decide on requests for interim measures.

<sup>15</sup> ‘Interim measures’, Fact sheet, European Court of Human Rights (January 2013).

<sup>16</sup> Intervention by Michael O’Boyle, Deputy Registrar of the European Court of Human Rights, Committee of Ministers of the Council of Europe, Thematic Debate: “Safety of journalists – Further steps for the better implementation of human rights standards”, 11-13 December 2013, available at: <https://wcd.coe.int/ViewDoc.jsp?id=2142165&Site=CM> (last accessed on 2 December 2014).

of interim measures developed by the Inter-American Court of Human Rights has been described as “a system that merits study by the Council of Europe because it addresses the issue of preventive upstream mechanisms that offer a real measure of protection against genuine threats”.<sup>17</sup>

The African Court on Human and Peoples' Rights is likewise empowered to adopt interim measures: “In cases of extreme gravity and urgency, and when necessary to avoid irreparable harm to persons, the Court shall adopt such provisional measures as it deems necessary”.<sup>18</sup>

Creative engagement with the existing framework of protection is not limited to the exploration of lesser-known legal provisions and judicial procedures. It was suggested at the seminar that national human rights commissions could play an important role as well. The precise nature of that role would depend on their mandate and could include, for instance, receiving complaints, conducting inquiries or investigations, issuing condemnatory statements, etc.

#### **4. Greater engagement by a wider range of actors**

The importance of comprehensive, cooperative and concerted endeavours to ensure more effective protection of the work of journalists and to combat impunity has already been stressed. States have primary obligations in this area, but the international and regional communities and civil society (in particular journalist organisations) can clearly play a supportive role in a broader dialogical relationship with States. Such a role could entail guidance from IGOs about the nature and implications of State obligations for different State authorities and contributions by NGOs to law- and policy-making processes, as well as participation in oversight and other bodies.

Non-state actors, such as armed groups in conflict zones, must operate in accordance with the principles of international law, especially international humanitarian law. Non-state actors, such as private companies, must also operate in accordance with their duties and responsibilities. The UN's Guiding Principles on Business and Human Rights (2011) create a context in which corporate actors are expected to conduct all of their activities in a manner that respects human rights. While these Guiding Principles are not legally-binding in a formal sense, they are influential, having already achieved considerable political traction. Furthermore, their detailed character and the emphasis on their implementation means that they are a valuable reference point and instrument for applying pressure on businesses to raise their game in terms of respecting human rights. It is worth noting that the structure of the Guiding Principles comprises three complementary, mutually-supporting principles: the state duty to protect human rights; the corporate responsibility to respect human rights, and access to remedies.

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<sup>17</sup> *Ibid.*

<sup>18</sup> Article 27(2), Protocol to the African Charter on Human and Peoples' Rights on the establishment of an African Court on Human and Peoples' Rights.

Journalists and the media, human rights defenders and civil society organisations play vital roles in documenting and analysing crimes against journalists and in advocating for effective investigations and prosecutions of those responsible. Such activities often expose those actors to risks of threats and violence and therefore require greater attention.

Increased, structured victim-participation in investigations was also identified as an important way of building trust, transparency and accountability.

## **5. Follow-up**

This seminar and the inter-regional dialogue it has fostered promise to have a galvanizing impact on an already dynamic and increasingly well-organised campaign to ensure the protection of the work of journalists and the eradication of impunity. Besides any formal follow-up to the seminar, it is clear that after so much food for thought has been put on the table, there are various different take-outs for all participants and, indeed, a wider coalition of stake-holders. The various ideas and experiences shared may resonate differently, depending on participants' and stake-holders' professional and geographical backgrounds, but the exchange that took place certainly invited exploration of various action lines. The suitability of various experiences for replication in other regional or national systems reminded us that we live in what the late Professor Kevin Boyle once termed, "a global village of precedent".<sup>19</sup> This is not just about judicial precedent, but a broader cross-fertilisation of ideas, best practices and trouble-shooting.

In this spirit, there would be great value, as one participant put it, in developing a joint compendium to address shortcomings and improve the existing framework for protection and its implementation. Any such compendium or agenda for further concerted, dialogue-driven action based on this seminar should concern itself with the priorities identified for strengthening the existing framework of protection.

### **Those priorities include:**

- **Creating a favourable, safe and enabling environment for freedom of expression;**
- **Teasing out the specific implications of State obligations – negative and positive – for all branches of the State and in specific contexts;**
- **Engaging strategically and creatively with the normative and institutional dimensions of the existing framework of protection;**
- **Ratcheting up the level of protection guaranteed in future legal and political standard-setting texts;**

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<sup>19</sup> Kevin Boyle, Untitled address, 8 December 1999, Human Rights Centre, University of Essex, England.

- **Implementing legal standards effectively so that rights are enjoyed effectively;**
- **Adopting or supporting a range of identified good/best practices concerning the protection of journalists and combating impunity, especially those aiming to provide rapid responses to threats and violence against journalists;**
- **Continuing multi-stakeholder dialogue to achieve these objectives.**

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