

LETTER FROM THE EXECUTIVE BOARD

Dear Delegates,

It gives us great pleasure to welcome you to this simulation of the UNESCO ,CAM MUN 2013. We hope to dazzle you with our charm, knowledge, chemistry and plenty more. But more than that, we look forward to being pleasantly surprised with some good quality debate, which, quite unfortunately, seems like a rare commodity today. We also, being good friends outside of committee, look forward to providing you a fun conference, and request that you feel comfortable in expressing yourselves. As far as it is not impracticality or an abomination on the name of MUNs, we shall try to accommodate any requests that you may have. Additionally, we assure you, particularly those who are new to this form of debate, that we are among the most encouraging, and understanding members you will find on the executive board, and ask you to not be scared of speaking up, if you desire to make a point in committee.

You are ambassadors of your countries and primarily, I'd like you maintain basic diplomacy and rules of procedure for the benefit of smooth proceedings during committee sessions.

At the very outset, we would like to make it clear that this study guide is fairly generic, and meant to point you in the direction of actual research, and not to be used as the sole source of your preparation. Additionally, be warned that any reference to this particular document over the three days of the simulation will be met with a shrug, and a statement similar to "We are unaware of any study guides that the UN hands out, delegate." Thus, do come prepared with legitimate documents and research of your own, the links to some of which have been provided in this document itself. The guide provided to you has no headings which may prove to be a long read however, it has been prepared keeping in mind the flow of arguments and intertwined nature of issues of the agenda discussed here.

You are free to debate whichever agenda you'd like to debate on first. We leave the order of agendas to the committee members. Accordingly, we would open the floor to motion for change of order of agendas too.

On a lighter note, any gifts that you wish to bestow upon us, in the form of chocolates, cupcakes, beverages, etc are most welcome! Sweet treats hurt none!

We wish you the very best, and reiterate our hope for fruitful debate, and a fun conference.

Regards,

Aayush Mohanty

President

The Executive Board

UNESCO, CAM MUN 2013

THE NATURE OF PROOF/EVIDENCE IN COUNCIL

The following kinds of documents (in the order of decreasing precedence) can be admitted as

proof in council:

- UN Documents- reports by any UN body.
- State Reports- Any State's Report from their govt portals or State owned media
- Reuters reports on incidents- there are two probable problems with Reuters: > reports claiming to quote an individual from any govt will not necessarily reflect the govt's point of view in totality (should there be a disagreement in the two view points).
> Reuters reports in committee will be admitted as persuasive proof only, and a State is entitled to denying the basis of Reuters' investigative reports.
- For any definitions of terms in international law- definitions clearly defined only in Treaties and Conventions or ICRC rules of International Humanitarian Law shall be considered.

War reporting is inherently dangerous. Indeed, it could arguably be one of the most dangerous occupations in the world. Still, out of sense of professional duty, many journalists and media professional[s] make the courageous choice to go to conflict zones, so as to tell the world about the stories of armed conflicts and the human cost they entail. Amidst the so-called 'fog of war', they play a vital role in keeping the world informed and ensuring that our responses are based on the facts and truths unfolding on the ground.

Journalists working in conflict areas play an important role in ensuring the checks and balances of society. They shed light on serious human rights violations occurring in different parts of the world. Objective reporting is an essential tool that brings attention to issues created by conflict in order for them to be addressed.

UN Secretary-General Ban Ki-moon eloquently describes the benefits that journalists provide:

"A free press gives people access to the information they need to make critical decisions about their lives. It holds leaders accountable, exposes corruption, and promotes transparency in decision-making. It raises awareness and offers an outlet for different voices, especially those that would otherwise go unheard."

Unfortunately, journalists covering conflict are increasingly victims of violence themselves. They are subject to intimidation, death threats, arbitrary arrests, kidnappings, and torture. Journalists have been shot, blown up, stabbed, beaten to death, and female journalists have been victims of sexual violence. The perpetrators of these crimes; be they individuals, groups, or governments; are seldom punished. In times of conflict, the increasing violence results in crimes which often go unreported. A culture of impunity makes perpetrators aware that they will face few consequences. These conditions heighten the dangers that journalists face. In fact, Mr. Rodney Pinder of the International News Safety Institute (INSI) states that 90% of those responsible for the killings of media professionals have neither been charged nor sentenced.

The consequences of crimes against journalists are far-reaching. Not only are the lives of smart and able journalists being lost, the fact is that "many journalists have been forced to resort to self censorship in an effort to protect themselves rather than lose their lives."

Thus it is of utmost importance that journalists reporting on conflict receive protection if freedom of information is to endure. Should journalists continue to feel intimidated, the violations of international law and crimes against humanity will go unreported and be left unchecked.

In the words of UN Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns:

"It is hard to imagine a world without journalists. Without their work, humanity would be reduced to silence."

Thus, a close link between the protection of journalists and the maintenance of freedom of expression can be detected. In fact, it could be argued that targeting journalists is a direct attack against freedom of expression and hence against democracy.

As Koïchiro Matsuura, Director-General of the United Nations Educational, Scientific and Cultural Organisation ('UNESCO'), highlighted:

"[e]very aggression against a journalist is an attack on our most fundamental freedoms. Press freedom and freedom of expression cannot be enjoyed without basic security."

In 1946 the United Nations General Assembly resolved that "freedom of information implies the right to gather, transmit and publish news anywhere and everywhere without fetters." In the 1960s, America's involvement in the Vietnam War led to journalists having a huge impact on the broadcasting of information. On the other hand it also exposed the dangers of reporting in

conflict areas and, in the following decades, violence against journalists and other media workers became an issue that took on truly international proportions.

In fact, in 1977 Protocol I supplementing the Geneva Conventions for the first time granted civilians protection in armed conflict thereby making violence against journalists illegal under humanitarian international law. A UNESCO (United Nations Educational, Scientific and Cultural Organization) conference in Namibia in 1991 addressed the issue of the free press in Africa, and the resulting Declaration of Windhoek specified that the “fostering of an independent, pluralistic and free press is essential to the development and maintenance of democracy in a nation.” In 1997, with the passing of Resolution 29 at the UNESCO General Conference, violence against journalists was condemned.

The safety of journalists subsequently became an issue that was increasingly debated by NGOs (non-governmental organizations), and of concern to the employers’ of journalists. *Reporters Without Borders* created the *Charter for the Safety of Journalists Working in War Zones or Dangerous Areas* in 2002 for media management to encourage employers to provide training, reliable safety equipment, insurance, psychological counseling and legal protection. They also drafted the *Declaration on the Safety of Journalists and Personnel in Situations of Armed Conflict* for signatures after a workshop in 2003 attended by international groups including the Red Cross (ICRC), Amnesty International, Lawyers Without Borders and Doctors Without Borders.

Despite these efforts, 2005 became the bloodiest year on record for news media workers. The American war in Iraq brought a surge in the deaths of journalists in which 151 journalists were killed, primarily by Iraqi insurgents. However the US received international criticism for bombing the offices of the independent news organization *Al Jazeera* in both Afghanistan and Iraq. The US again became subject of criticism when Wikileaks released video footage taken from the gun site of an American Apache attack helicopter that machine gunned down civilians, including a Reuters reporter and his assistant who were armed with nothing more than cameras. The era also saw the beginning of a practice known as “embedding” of journalists whereby media workers traveled with and were protected by US and British armed forces. This greatly increased the safety of journalists who operated in war zones, but also resulted in the loss of neutrality that could increase the risk of being attacked or harassed by the other side in the conflict.

Recently, the issue of safety of journalists has been complicated by the increasing role of blogs and social media in disseminating information. Ordinary citizens reported the “Arab Spring” through the use of Facebook and Twitter, and the use of repressive measures on those citizens consequently increased. Although journalists are protected as citizens and not as media professionals per se, the increasing numbers of those potentially concerned makes the respect of humanitarian international law ever more pertinent. One of the greatest challenges to reducing violence against journalists is impunity, and the greater the number of journalists, professional or amateur, involved, the greater the difficulty to protect, monitor, and in the case of violence, bring to justice those responsible.

War reporting is a distinct type of journalism that has gained popularity over the past decades, while drastically changing its form and purpose to align with the rapidly shifting nature of wars worldwide. While journalists have covered wars as early as the Crimean War and American Civil War, their engagement is becoming increasingly professional, seeing a rise in the use of audio and visual means (World Wars I and II and the Vietnam War), (real-time) TV reporting (Persian Gulf and Yugoslav wars) and most recently, 24/7 news and cyber journalism (Afghanistan and Iraq wars), as well as the involvement of local citizens in journalistic activities (Arab uprisings). The role of the journalist, from an observer to an actual ‘member’ of the conflict, and

the involvement of the general population in journalistic activities has changed drastically. This is enhanced by the fact that wars are, today, not solely fought by means of war machinery but also by (dis)information and the control thereof – the phenomenon of information warfare.

In relation to the greater proximity of journalists to the armed conflict, their increased exposure and the (sporadic) involvement of local citizens, it is important to distinguish between two types of occupational journalism: independent journalists and war correspondents. Independent journalists are referred to as such because they are not officially sanctioned by the military or government, and operate 'independently' of these influences. They are defined as:

'[...] any correspondent, reporter, photographer, and their technical film, radio and television assistants who are ordinarily engaged in any of these activities as their principal occupation [...].'

Thus, they are freelancers, stringers or part of a media organisation and known as 'unilaterals' in journalist jargon. In relation to these ever-growing dangers faced by journalists, who are essential in monitoring States' respect for the rights and well being of their citizens, it must be noted that the concern for their protection can similarly be traced back as far as to the Crimean and American Civil War. This was initially focused on the protection of journalists accompanying the military as prisoners of war ('POW') and on the issuance of an identity card to attest for such. Article 50 of the Lieber Code provided that citizens accompanying the army, such as reporters, should, if captured, be considered POWs. Similar provisions were subsequently integrated into the 1899 and 1907 Hague Convention on the Laws and Customs of War on Land (IV) under Article 13 as well as into the Prisoner of War GC of 1929 under Article 81. Independent journalists, however, were not given any protection under these initial provisions, not even in the original 1949 GCs. In the 1970s and most notably during the Vietnam War, the international community concerned itself for the first time specifically with the physical protection of independent journalists. On 9 December 1970, the United Nations General Assembly ('UNGA') adopted Resolution 2673 (XXV), directing the Economic and Social Council to draft a 'Convention on the Protection of Journalists Engaged in Dangerous Missions in Areas of Armed Conflict' through its Human Rights Commission. This resulted in the 1975 Draft UN Convention, which was, at the invitation of the UNGA, reviewed by the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law applicable in Armed Conflicts (1974-1977). The *ad hoc* Working Group of Committee I of this conference considered that, instead of creating a separate convention resulting in a special status for journalists, the protection should rather be incorporated into existing IHL instruments. Finally, after approval of the UNGA, this led to the inclusion of Article 79 AP I, a specific provision relating to journalists, which, however, does not afford special protections.

The wars in Yugoslavia, Iraq and Afghanistan initiated fresh discussions on how to better protect journalists, which resulted in various proposals from the international community, including: RSF's *Charter for the Safety of Journalists Working in War Zones or Dangerous Areas* (2002); the *Geneva Declaration on Actions to Promote Safety and Security of Journalists and Media in Dangerous Situations* (2004);⁶⁴ UNSC Resolution 1738 (2006);⁶⁵ UNESCO's *Berlin Declaration* (2000)⁶⁶ and *Medellin Declaration on Securing the Safety of Journalists and Combating Impunity* (2007);⁶⁷ and PEC's *Draft Convention to Strengthen the Protection of Journalists in Armed Conflicts and Other Situations Including Civil Unrest and Targeted Killings* (2007).

With regard to the second most important threat to journalists in armed conflicts, arrest and possible detention in armed conflicts, it is important to note that human rights complement and reinforce IHL. All types of journalists must be treated as civilians even though their exact status

depends on their nationality and place of arrest. If arrested by authorities of their own country, internal laws as well as universal human rights law apply. Journalists who are citizens of a non-belligerent State are under the protection of potential diplomatic relations between the two States and are protected by peacetime law, including human rights. Journalists arrested by authorities of another belligerent nationality do, next to the general applicability of human rights, first and foremost enjoy protection by the fundamental guarantees afforded by Article 75 AP I, including *inter alia* the prohibition of violence to life, health or physical and/or mental well being, outrages upon personal dignity, the taking of hostages, collective punishments, threats and fair and humane detention and trial.

Proposals for Enhanced Protection

In relation to enhancing journalists' legal as well as practical protection in armed conflicts, the great bulk of suggestions can mainly be categorised into six concrete proposals to improve journalists' current situation:

1. Enhanced Ratification of the Additional Protocols A general suggestion is that States should be urged to ratify the APs in order to provide better protection in IACs and NIACs. The claim is that the APs are not binding on States who have not ratified them, and therefore do not have the same weight and significance as the universally applicable GCs.

However, the fact that the APs have not been signed by all States does not necessarily impede the protection afforded to journalists. Such protection is considered a given, because as established earlier in this article, the protection of journalists engaged in dangerous missions in armed conflicts is in fact customary international law. Thus, it applies universally and consistently and addresses the protection of journalists both in case of attacks and arrests.

Therefore, this proposal does not necessarily improve, *de jure* or *de facto*, the situation of journalists in armed conflicts, but can be beneficial as part of an awareness and education campaign to clarify the universal nature of journalists' protection.

2. Reinforced Protection by an International Instrument

Another rather general proposal is most notably advanced by Alexandre Balguy-Gallois, Legal Adviser to RSF and Professor of IHL, namely to reinforce existing protections for journalists. However, there is no consensus on what an additional instrument for the protection of journalists should look like and which special protections it should encompass. Balguy-Gallois' efforts, for example, are geared towards summarising existing protections into one coherent and overall document mainly for the purposes of raising awareness and clarifying potential ambiguities.

In fact, as established above, the different protection of journalists and war correspondents and the varying provisions relating to IACs and NIACs are confusing and would benefit from a precise and coherent document. Such could reinforce protections that are applicable to IACs as well as NIACs and could address the increasing dangers that journalists face in the latter. Moreover, it could outline the difference in protection between war correspondents and journalists or could alternatively also be used to eliminate the difference in protection. By clarifying, reinforcing and potentially adding new provisions, this document would certainly improve the current legal regime. In addition, it could possibly contribute to a better understanding, resulting in enhanced implementation of the law, at least in relation to those attacks and arrests that are non-targeted. However, it is doubtful how far such a document is actually feasible in the sense of being a legal text. It is questionable whether States would sign and ratify yet another legal instrument, even with knowledge of the unlikelihood of it becoming universal. It appears that instead, non-legal means that do not require the binding ratification of

States are more likely to succeed on an international scale. This could for example be a declaration aimed at restating and clarifying the current law.

Main Issues to Consider:

Below are several issues that one should take into consideration when debating this topic:

Ending impunity: Reducing the prevalence of crimes against journalists is largely dependent on holding perpetrators accountable. States are critical to this process; their role in ensuring prompt and impartial investigations is fundamental. That being said, state actors, including government officials, militaries and security forces, are often the perpetrators of such crimes. Individual states therefore may be the last to call for investigation, much less prosecution. Thus, the international community should play an important role in combatting government complicity concerning impunity. The mechanisms by which this could be achieved without violating state sovereignty therefore need to be debated and addressed.

Definition of a conflict area: When trying to find measures to uphold the safety of journalists in conflict areas, it is first necessary to define exactly what constitutes a conflict area. Wars between countries, civil wars, and revolutions clearly meet this definition. However, there exist multiple situations for which the international community needs to decide whether or not these are conflict areas in which the protection of journalists applies.

Such situations include: drug related violence, social unrest, human rights advocacy and agitation against government, corporate, or other vested interests.

Journalism in the age of Internet: Most of the international conventions and agreements that afford protection to journalists were established prior to the rise of the Internet as a communication medium. Today's age of omnipresent technology includes blogs, Wikileaks and social networks such as Facebook and Twitter. It is now more difficult to define journalism, much less who is a journalist. This raises complex questions about whether Internet-based media should be considered another form of journalism and, if so, should netizens be afforded the same protection as other media workers.

8 "Vested interests" are benefits that a person or party has and often does not want to give up.

9 A "netizen" is a person who uses the Internet to partake in political debate (blend of net and citizen).

Propaganda vs. journalism: Advocates for press freedom argue that the media is not a legitimate military target because we are all entitled to pluralistic information. On the other hand, war usually leads to very strongly opposed opinions, marking those who disagree as enemies. As such, the distinction between what is propaganda and what is journalism is often unclear and/or highly subjective. Someone's view depends upon which side of a conflict they are on: one side's "journalist" can be viewed, by the other side, as aiding and abetting military action through propaganda and communication which helps the opponent's war effort. The international community needs to establish guidelines to help distinguish journalism that promotes freedom of information from the use of media for war efforts. Example issues include: dual use and embedded journalists.

Media motives: The spectrum of journalistic motives is broad, ranging from those that try to provide unbiased reporting of events that occur in conflict areas to circumstances where media organizations can be complicit in crimes against humanity. An occurrence of media reporting that spread violence and hatred occurred in Rwanda when *Radio Télévision Libre des Mille Collines*¹² (RTLM) played a significant part in the 1994 genocide that led to the death of approximately eight hundred thousand Tutsi people. Even journalists who strive for objective reporting can be suspect to those on the opposing side of a conflict because of their affiliation

with governments, military authorities, NGOs and international bodies. It is therefore imperative that the international community provides guidelines to determine where a journalists or media outlet falls within this spectrum.

10 “Dual use” refers to use for both civilian and military purposes.

11 This term was first used by American and British troops in Iraq. “Embedded journalists” are protected by and operate alongside military personnel on one side of the conflict.

12 The English translation is the “Free Radio and Television of [the land of] One Thousand Hills”.

V. Web Sites:

CPJ (Committee to Protect Journalists) provides up-to-date and comprehensive statistics

violence committed against journalists:

<http://www.cpj.org/>

OHCHR (the Office of the United Nations High Commissioner for Human Rights) allows for

a better understanding of international law, human rights issues, and a link to Fact Sheets,

which provides information on a wide range of human rights subjects:

<http://www.ohchr.org/EN/Pages/WelcomePage.aspx>

UN (United Nations) provides a complete and thorough overview of worldwide peace and

security, development, human rights, humanitarian affairs and international law:

<http://www.un.org/>

Reporters Without Borders, the world's leading organization dedicated to the defense of freedom of the press, journalists and netizens, offers extensive information, documentation

and case studies, organized by region and country:

<http://en.rsf.org/>

France at the United Nations provides multiple documents in regard to the protection of journalists:

<http://www.franceonu.org/france-at-the-united-nations/thematic-files/rule-of-law>