General Assembly 1 (GA1)

Safeguarding the role of free press in conflict situations

Research Report

Leiden Model United Nations 2022

Fake news

Forum:	*Disarmament and International Security (The First General Assembly)*
Issue:	*Safeguarding the role of free press in conflict situations*
Position:	*Deputy Chair*

Introduction

One of the fundamental elements of a democratic society is the freedom of speech and accurate information at all times. In conflict situations and wars, the role of the media is indeed crucial in providing the public with accurate and timely information. Trustworthy news and images can contribute to the protection of civilians and conflict prevention, bring to the attention of the international community the horrors and reality of conflict, and expose violations of human rights and international humanitarian law.

As a matter of fact, journalists and free press working in war areas, face a plethora of risks. Namely: denial of access, censorship, harassment, arbitrary detention, and assaults that put their well-being at stake. While being aware, journalists undertake a risk by working in these regions, just like other people who choose to do so. Nevertheless, due to the fact that they are regarded as civilians, they should never be attacked regardless of the occasion. In times of conflict and aggression, member states should acknowledge the vital significance and purpose of journalism, the media, and ultimately the crucial role of individual journalists. Safeguarding the role of free press in conflict situations is essential to making a step closer to a democratic society where values such as freedom of speech are truly upheld.

Conflict situations are also often a fertile soil for mass disinformation campaigns intended to undermine the proper understanding of the developments, as well more generally, security, public order and peaceful democratic processes. There is a vital need to develop tools to more effectively protect democracy from “information weapons”, while preserving freedom of expression and freedom of the media both in the countries involved in the conflict and more widely.

Picture of journalist in an area of conflict[1]

Definition of Key Terms

Free press:

When referring to free press, the news outlets and other publications, even individual citizens of a nation, have the right to communicate information without influence or fear of retribution from the state itself or other powerful entities or individuals such as terrorist groups, dictators etc.

Media:

The term media, refers to the communication channels through which citizens disseminate news, education, promotional messages and other data. It has a plethora of physical and online forms, such as: newspapers and magazines, television, radio, billboards, telephone, the Internet etc. The main purpose of media is to spread information and knowledge.

War correspondents/ Embedded journalists:

Embedded journalism is the act of placing journalists within and under the control of one side's military during an armed conflict. Embedded reporters and photographers are attached to a specific military unit and permitted to accompany troops into combat zones. War correspondents are not part of the armed forces, and therefore they fall under the civilian status and avail themselves of the protection derived from that status.

Access to information:

Access to Information can be defined as the right to seek, receive and impart information held by public bodies. It is an integral part of the fundamental right of freedom of expression, as recognized by Article 19 of the Universal Declaration of Human Rights (1948)[2], in which it states that the fundamental right of freedom of expression encompasses the freedom to "*to seek, receive and impart information and ideas through any media and regardless of frontiers*".

Freedom of expression:

Freedom of expression is protected by Article 10 of Human Rights Act[3]. It refers to citizen's right to hold their personal opinions and to express them freely without government

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[1] Council of Europe. "Freedom of Expression in Times of Conflict." Freedom of Expression, -, www.coe.int/en/web/freedom-expression/freedom-of-expression-in-times-of-conflict. Accessed 11 Aug. 2022.

[2] United Nations. "Universal Declaration of Human Rights." *United Nations*, www.un.org/en/about-us/universal-declaration-of-human-rights. Accessed 11 Aug. 2022.

[3] "Human Rights Act 1998." *Legislation.Gov.Uk*, www.legislation.gov.uk/ukpga/1998/42/contents. Accessed 11 Aug. 2022.

interference. It is explicitly stated that: *"Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises."*

Propaganda:

Propaganda is an organized spreading of often false ideas. It is used to promote a particular agenda or point of view. The goals of propaganda can vary, but common goals include shaping people's opinions, convincing them to support a particular cause or political candidate, or encouraging them to behave in a certain way.

Conflict zones:

Areas where armed conflict is occurring or is likely to occur between militarized parties and is also taken to include areas where such parties are in a heightened state of military alert or tension, which might endanger civil wellbeing.

Military objectives:

A legitimate military target is an object, structure, individual, or entity that is considered to be a valid target for attack by belligerent forces according to the law of war during an armed conflict.

War crimes:

According to the United Nations, a war crime is a serious breach of international law committed against civilians or "enemy combatants" during an international or domestic armed conflict. In other words, they are atrocities and offences committed against any civilian population, before or during the war, including: atrocities or offences against persons or property, constituting violations of the laws or customs of war, murder, ill treatment or deportation to slave labor or for any other purpose of the civilian population in occupied territory, killing of hostages, torture or inhuman treatment, including biological experiments, plunder of public or private property, wanton destruction of cities, towns or villages, devastation not justified by military necessity, mass systematic rape and sexual enslavement in a time of war, persecutions on political, racial or religious grounds in execution of or in connection with any crime within the jurisdiction of the Tribunal, whether or not in violation of the domestic law of the country where perpetrated, other inhumane acts.

General Overview

Synopsis of past lethal conflicts for press

During the last 30 years 2.658 journalists have been killed in conflict areas. Even in war zones, most journalists are murdered in reprisal for what they write, as opposed to being killed by the hazards of combat reporting. For instance, in Somalia, more than half of journalists killed did not die in a firefight or bombing attack; instead, they were individually murdered. In Iraq, the most dangerous nation for journalists on record, 65 percent of journalists killed since the US-led invasion were individually targeted and murdered.

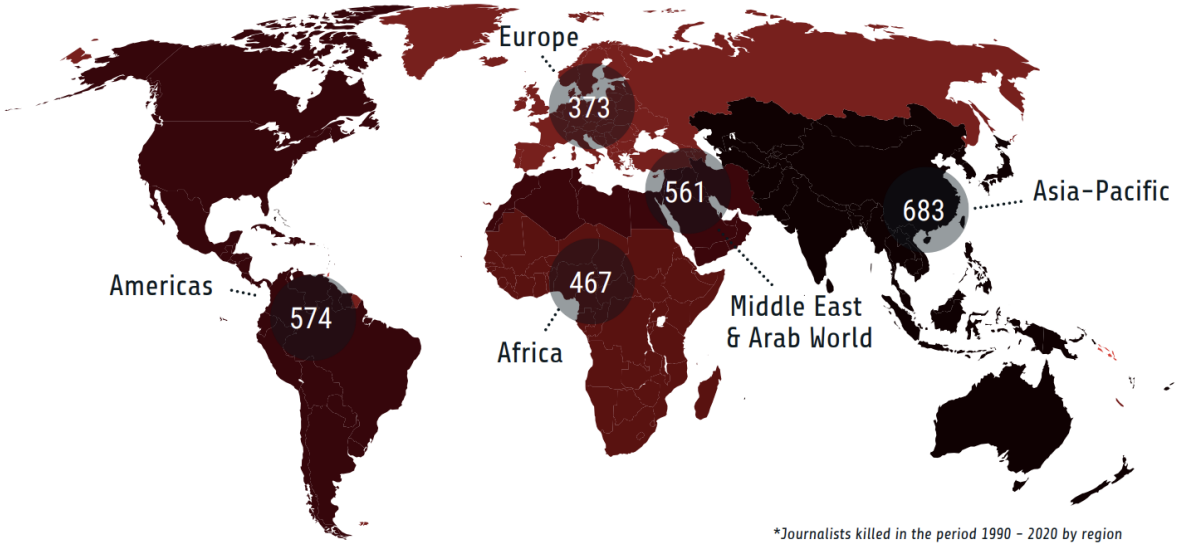

Diagram of deaths of journalists (1990-2020)[4]

The Iraq War (2003-2011)

On April 8, 2003, during the US-led invasion of Iraq, Al Jazeera correspondent Tareq Ayoub was killed when a US warplane bombed Al Jazeera's headquarters in Baghdad. The invasion and subsequent nine-year occupation of Iraq claimed the lives of a record number of journalists. It was undisputedly the deadliest war for journalists in recorded history. The war in Iraq claimed the lives of a record number of journalists and challenged some commonly held perceptions about the risks of covering conflict.

Russo-Ukrainian conflict (2014- present)

The war in Ukraine provides yet another tragic illustration of the vulnerability of journalists in conflict situations. As of now, 32 journalists have been killed in Russia's ongoing war on Ukraine. Journalists have been targeted, tortured, kidnapped, attacked, and killed, or refused safe passage from cities and regions under siege. During armed conflict, journalists must be treated as civilians and any attempt on their lives constitutes a war crime, and States have a duty to respect international humanitarian law. Furthermore,

[4] IFJ. "White Paper on Global Journalism." IFJ, www.ifj.org/fileadmin/user_upload/IFJ_white_book__part_1.pdf. Accessed 12 Aug. 2022.

cyberattacks against Ukrainian media and internet infrastructure by Russian forces has been a major concern.

War crimes against journalists and International Humanitarian Law

Journalists play a vital role in the public interest by acquiring and conveying reliable information regarding armed conflicts. The public and decision-makers are frequently made aware of grave human rights violations, war crimes, and other atrocities as a result of the work of journalists. By going where others won't, interacting with individuals, verifying the facts, and disseminating the news, press personnel contributes to resolving a plethora of issues. Sometimes journalists covering conflicts have also helped courts obtain crucial evidence to hold war criminals to account. Their work can therefore document crimes, help to uphold human rights, establish accountability, and foster international solidarity.

Nevertheless, journalists frequently encounter great danger, which is sometimes comparable to that experienced by members of the armed forces.

For these reasons, international humanitarian law provides a framework of security for war correspondents. More specifically, the Geneva Conventions of 1949 and their Additional Protocols[5] establish guidelines to protect those who are not participating in armed conflict and those who are no longer able to engage in it. Additional Protocol I[6] mandates that journalists must be safeguarded as civilians and must not act in a way that would jeopardize their status.

This indicates that all parties to a conflict must defend journalists, refrain from targeting them on purpose, and maintain their rights if they are held hostage. Moreover, the Rome Statute of the International Criminal Court states that intentionally directing attacks against civilians, and therefore also against journalists who are not engaged in the hostilities, constitutes a war crime.

Thus, advocating for armed conflicts is a hazardous career, and even more so when the states involved do not fully abide by the norms and standards by which they are bound. This not only endangers the lives of journalists, it also prevents them from providing reliable and timely information on issues of public concern, therefore undermining people's right to information.

Media facilities in war and Propaganda

Military control of information during war time is a major contributing factor to propaganda, especially when the media go along with it without question. As a matter of fact, in many cases the military often manipulates the mainstream media, by restricting or managing what information is presented and hence what the public are told. For them it is paramount to control the media. This can involve all manner of activities, from organizing media sessions and daily press briefings, or through providing managed access to war zones, to even planting stories.

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[5] "International Committee of the Red Cross." *International Committee of the Red Cross*, www.icrc.org/en/doc/war-and-law/treaties-customary-law/geneva-conventions/overview-geneva-conventions.htm. Accessed 11 Aug. 2022.

[6] "ICRC Login Service." *ICRC*, "ICRC Login Service." *ICRC*, https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/INTRO/470?OpenDocument&redirect=0. Accessed 11 Aug. 2022.

For instance, during the short invasion of Iraq in 2003, journalists were embedded with various coalition forces. This was an idea born from the public relations industry and provided media outlets a detailed and fascinating view for their audiences. For the military, however, it provided a means to control what large audiences would see, to some extent. Independent journalists would be looked upon more suspiciously. In a way, embedded journalists were unwittingly making a decision to be biased in their reporting, in favor of the coalition troops. If an embedded journalist was to report unfavorably on coalition forces, they were accompanying they would not get any cooperation. Thus, when allowing journalists to get closer meant the military had more chance to try and manipulate the message.

Furthermore, WWII can be considered as another example of propaganda during an armed conflict. From the beginning of World War One, both sides of the conflict used propaganda to shape international opinion. Governments during the First World War devoted massive resources and huge amounts of effort to producing material designed to shape opinion and action internationally. The efforts of states to justify their actions, and to build international support, resulted in some of the most powerful propaganda ever produced. They also shaped attitudes towards propaganda itself in the years following the end of the War.

Thus, the impacts of such propaganda contributed to the loss of millions of lives for it helped form a sense of legitimacy to what could otherwise have been regarded as controversial. Propaganda therefore comes with a huge cost.

Major Parties Involved

Iraq

In Iraq, extreme polarization due to political influence on the media, makes balanced, independent information almost impossible to come by. Journalists struggle to defend their rights, and most have been subjected to constant threats since 2019. Many media outlets have been attacked and ransacked due to their coverage of anti-corruption protests, deemed hostile to certain political currents. In theory, Iraq's constitution guarantees press freedom, but some of its articles are contradicted by current laws. Public figures often bring defamation suits against journalists who name them in their investigative reporting.

Media funding is unequally distributed and closely tied to political affiliation. The greater a political party's resources, the more influential its affiliated media outlet. Many media outlets have abandoned editorial independence because of a lack of funds. The few independent media outlets that still exist have found a public on social media, but they struggle to survive. Certain institutions and religious figures remain untouchable. It is not uncommon for media outlets to be sanctioned or suspended for investigating corruption involving senior officials. In recent years, many journalists have been killed by armed groups, both Jihadist organizations and militias. Such killings rarely lead to investigations and those responsible go unpunished.

Mexico

Mexico has been highly affected by this phenomenon as it has long been one of the world's most dangerous countries to be a journalist as since 2000 there have been over 150 deaths. Organized criminal groups are the perpetrators of many of the killings. However, numerous deaths have been a result of political violence where criminal and state actors constantly negotiate for power. Authorities have benefited from blaming cartels for the violence in Mexico, which absolves the state from its prominent role in undermining the security of journalists and citizens' right to press freedom.

Russia
For journalists and media outlets operating in Russia, the introduction of amendments to the country's criminal and administrative codes in March 2022 marked the beginning of a new and dangerous era, threatening fines and lengthy prison terms for those convicted of disseminating "fakes" or any information that Russian authorities deemed to be false. Many Russian journalists, as well as international journalists working in the country, felt they had no choice but to flee for their own safety. Many of the country's independent outlets relocated outside Russia.

Philippines
The Philippines is the most dangerous country in Southeast Asia for journalists. Reports show that 177 journalists and media workers have been killed there since 1986. Freedom of press plays a crucial role in ensuring the government of the day does not get away with abuses of power. In the Philippines, it is getting tougher by the day for the media to do their job.

Israël
Israel is a highly affected nation by this phenomenon. According to the United Nations, during an armed conflict between Israel and Palestine military personnel, Al Jazeera journalist Shireen Abu Akleh was shot and killed while covering an Israeli army operation. After assigning a legal team o refer the killing to the International Criminal Court (ICC) in The Hague., Palestine Al Jazeera Media Network proved that Israeli military personnel were guilty for her death.

Vietnam
Vietnam became a subject of large-scale news coverage in the United States only after substantial numbers of U.S. combat troops had been committed to the war in the spring of 1965. Vietnam is a highly affected country from this phenomenon due to the fact that the Vietnam conflict is often referred to as the "first television war." The role of the media in the Vietnam War is a subject of continuing controversy. Some believe that the media played a large role in the U.S. defeat. They argue that the media's tendency toward negative reporting helped to undermine support for the war in the United States while its uncensored coverage provided valuable information to the enemy in Vietnam. More than 60 journalists were killed during the war.

Timeline of Events

1949	Geneva Convention: Guidelines established to protect those who are not participating in armed conflict and those who are no longer able to engage in it.
November 1, 1955 – April 30, 1975	Vietnam War "first television war.": For one of the first times, propaganda is used as a means of combatting the enemy.
1996	Proposal by the EU Council of Ministers for the protection of embedded journalists
2003-2011	Iraq War: it is considered to be the deadliest conflict for journalists

2006	155 deaths of journalists are marked, more than every year
2014-present	Russo-Ukrainian Conflict: Free-press is put at risk
2015	UNSC Resolution calling for an end to intentional attacks against journalists in circumstances of armed conflict, encouraging nations to adhere to their commitments to stop impunity for severe violations of humanitarian law and to bring those guilty to justice.
2020	UNHRC Resolution reaffirming the principles of international humanitarian law applicable to journalists.
2022	Killing of Al Jazeera journalist Shireen Abu Akleh while covering an Israeli army operation

Past Attempts to Solve the Issue

The EU Council of Ministers has created guidelines to help member states uphold their obligations to protect embedded journalists. In 1996 the EU Council of Ministers adopted a recommendation on the protection of journalists in situations of conflict and tensions[7] which sets out 12 principles on safety, rights and working conditions, as well as a duty to investigate which should guide state actions and policies. It further offers a broad definition of the term journalists, by highlighting that it covers, "*all those engaged in the collection, processing and dissemination of news and information*" including camera operators and photographers "*as well as support staff such as drivers and interpreters*". The same body adopted in 2007 Guidelines on protecting freedom of expression and information in times of crisis[8], recommending concrete measures notably to ensure personal safety, free movement, access to information, protection of sources and legislative guarantees to uphold media freedom. Additionally, it emphasized how important it is for governments and media experts to work together in this situation.

Possible Solutions

Taking some of the aforementioned conflicts into consideration, member states should implement measures bearing the following components: guarantee of safety, freedom of movement and access to information, provision of information to the media, protection of journalists' sources of information and journalistic material, guarantees against undue

[7] COUNCIL OF EUROPE COMMITTEE OF MINISTERS. "RECOMMENDATION No. R (96) 4." *COUNCIL OF EUROPE COMMITTEE OF MINISTERS*, https://rm.coe.int/16804ff5a1. Accessed 11 Aug. 2022.

[8] Council of Europe. "Guidelines of the Committee of Ministers of the Council of Europe on Protecting Freedom of Expression and Information in Times of Crisis." *Freedom of Expression*, www.coe.int/en/web/freedom-expression/committee-of-ministers-adopted-texts/-/asset_publisher/aDXmrol0vvsU/content/guidelines-of-the-committee-of-ministers-of-the-council-of-europe-on-protecting-freedom-of-expression-and-information-in-times-of-crisis?inheritRedirect=false. Accessed 11 Aug. 2022.

limitations on freedom of expression, accreditation, and derogations under Article 15 of the European Convention on Human Rights.

More specifically, nations should take every precaution to ensure the safety of both domestic and international journalists. They should give instructions to their military and police forces to regard journalists as civilians and provide them with the necessary and reasonable protection and support when requested, provided that they do not take any actions that might jeopardize their status as civilians.

Furthermore, they should not restrict the public's access to information beyond the limitations as stated in Article 10 of the European Convention on Human Rights.

Alternatively, military, and civilian authorities are encouraged to regularly educate journalists and the media through briefings, press conferences, press tours, or other means, on an equitable basis and without discrimination. If at all possible, media organizations should have access to secure information centers with the necessary technology.

Member states must bear in mind that they should use concrete and clearly defined terms when imposing restrictions of freedom of expression and information in conflict situations, notably regarding incitement to violence and public disorder.

Systems for the accreditation of journalists should only be implemented to the extent necessary. If required by national law, accreditation should be given to all media professionals without discrimination. Furthermore, the exercise of journalism and journalistic freedoms should not be made dependent on accreditation. States should refrain from imposing restrictive measures against journalists, such as revoking their accreditation or excluding them, on account of the exercise of their professional activities or the content of their reports.

As a final point, in situations of war or other public emergency threatening the life of the nation, measures derogating from the state's obligation to secure these rights and freedoms are allowed to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with its other obligations under international law and meet the requirements of lawfulness, legitimate aims, necessity and proportionality.

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