



General Assembly

Distr.: General
18 December 2023

Original: English

Human Rights Council

Fifty-fifth session

26 February–5 April 2024

Agenda items 2 and 3

Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Expert seminar on legal and economic threats to the safety of journalists

Report of the United Nations High Commissioner for Human Rights

Summary

In its resolution 51/9, the Human Rights Council requested the United Nations High Commissioner for Human Rights to organize, before the fifty-fourth session of the Council, a one-day expert seminar on legal and economic threats to the safety of journalists, in consultation with all relevant stakeholders, and to submit a report thereon to the Council at its fifty-fifth session.

The expert seminar was held on 25 April 2023 in a hybrid format. The present report contains a summary of the discussions held, during which panellists and speakers highlighted the impact of legal and economic threats to the safety of journalists, identified challenges in addressing the issue and pointed to ways forward, identifying specific actions to ensure a safe environment for journalists.



I. Introduction

1. In its resolution 51/9 on the safety of journalists, the Human Rights Council requested the United Nations High Commissioner for Human Rights to organize, before the fifty-fourth session of the Human Rights Council, a one-day expert seminar on legal and economic threats to the safety of journalists, in consultation with all relevant stakeholders, and to prepare and submit a report thereon to the Council at its fifty-fifth session. The present report is submitted pursuant to that request.
2. The expert seminar was held on 25 April 2023 in a hybrid (in person and online) format at the United Nations Office at Geneva. The seminar was webcast and recorded¹ and was made accessible to persons with disabilities through the use of International Sign interpretation and real-time captioning.
3. The aim of the expert seminar was to examine the range of and trends in legal and economic threats to the safety of journalists, including their gender dimension and impact on the enjoyment of human rights, and to identify measures to better protect journalists from legal and economic threats.
4. The expert seminar was opened by the High Commissioner and the Permanent Representative of Austria to the United Nations Office and other international organizations in Geneva on behalf of the core group of countries that had sponsored Human Rights Council resolution 51/9. The seminar comprised four thematic sessions, on: (a) current legislation and legal trends affecting the safety of journalists; (b) legal threats, including strategic lawsuits against public participation and their impact on the safety of journalists; (c) economic threats to the safety of journalists and their impact on media independence and pluralism; and (d) the way forward to better protect journalists from legal and economic threats and ensure an independent, free and pluralistic media. In total, 17 panellists participated in the expert seminar (10 in person, 6 remotely and 1 through a pre-recorded video message). All sessions were chaired by a moderator and three to five panellists delivered statements introducing the themes and highlighting key aspects of the theme of each session. After the experts' initial statements the moderators opened the discussion for participants, in person and remotely, to contribute with comments and questions. Each session ended with concluding remarks by the experts.²

II. Summary of the expert seminar

A. Opening remarks

5. The High Commissioner opened the expert seminar, emphasizing that a free and independent media was vital to democratic governance and to upholding the rule of law. He expressed concern about the rising use of criminal defamation laws to silence criticism, curtail public discussion and protect the interests of powerful elites. He drew attention to new laws in many countries that imposed abusive restrictions on freedom of speech, including broadly defined fake news, cybercrime and public health laws in the context of the coronavirus disease (COVID-19) pandemic. Another trend was the frequent use of strategic lawsuits against public participation by people in power, often aimed at journalists in order to prevent them from reporting on matters of public interest. He stressed that the real objective of such lawsuits was to overwhelm defendants through protracted legal proceedings and excessive costs, which could result in self-censorship. He expressed concern about the mounting economic threats to journalists from dismissals, job insecurity and pay cuts, exposure to excessive damages in civil defamation cases, cuts in public funding and the shutting of news outlets. In closing, the High Commissioner stressed that a free media could help guarantee collective freedoms and that protecting journalists should be a collective responsibility.

¹ See <https://media.un.org/en/webtv/schedule/2023-04-25>.

² All documents related to the expert seminar are available at <https://www.ohchr.org/en/events/events/2023/expert-seminar-legal-and-economic-threats-safety-journalists>.

6. In her opening remarks, the Permanent Representative of Austria, Désirée Schwietzer, noted that, over the previous five years, there had been a decline in press freedom, affecting approximately 85 per cent of the world population, and that much of the recent backsliding in terms of freedom of the press was in the form of restrictions and threats. Legal actions, such as strategic lawsuits against public participation, were on the rise, criminal and financial investigations and prosecutions were misused for retaliation and intimidation and disproportionate criminal penalties were used to deter journalists from performing investigative work. Journalists also faced a wide range of economic threats, such as media capture, dismissals, excessive damages in civil defamation cases, cuts in public funding and the closure of news outlets. Threats to the legal and economic safety of journalists deserved greater attention and urgent action. The expert seminar should contribute to raising awareness, stimulate dialogue and foster outcomes to promote and protect the safety of journalists.

B. Presentations by panellists

Session 1. Current legislation and legal trends affecting the safety of journalists

7. The moderator of the first session, the Chief of the Rule of Law and Democracy Section of the Office of the United Nations High Commissioner for Human Rights (OHCHR), introduced the topic of the session, which was aimed at providing an overview of legislation and legal trends affecting the safety of journalists.

8. The first panellist, the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Irene Khan, explained that there were five groups of laws used against journalists.³ The first group included a range of national security laws, from sedition and counter-terrorism to espionage and foreign influence. The second group related to criminal defamation and libel laws, which should have no place in a modern democracy because public officials should expect a higher degree of public scrutiny and be open to criticism. The third group of laws, which had evolved with the growth of the digital space, included cybercrime laws, such as cyber-libel and terrorism laws that were used against journalists, and granted investigators sweeping powers, including digital surveillance, with limited or no judicial oversight. Fake news laws, which had also emerged in recent years, targeted online disinformation by seeking to restrict online criticism of government policies. Many such laws tended to be broad, vague, poorly drafted and open to abuse, with no proper oversight by courts. In the fourth group, the Special Rapporteur referred to strategic lawsuits against public participation, noting that, using defamation, privacy and data protection laws, powerful individuals were increasingly pursuing frivolous, unfounded legal action against journalists and media outlets and demanding damages, with the objective of harassing, intimidating and exhausting the resources and morale of journalists. In the fifth group, she identified laws covering financial crimes, such as tax evasion, fraud and money-laundering, which were increasingly being used by authorities to harass journalists. Convictions for financial crimes could result in excessive fines, bankrupting news outlets and journalists themselves. The Special Rapporteur called for the end of the weaponization of the law and for adequate legal protection of journalists. Journalists were a fundamental pillar of democracy and urgent action was needed to give them effective protection.

9. The Special Rapporteur also noted that digital technologies had affected the traditional media model and had led to economic strife and staff cuts. The absence of adequate laws had exacerbated the situation, resulting in media capture by States and commercial interests. The Special Rapporteur stressed that the economic crisis in the media sector was a threat to freedom of expression and media freedom. In order for the media to survive, she called for the strengthening of independent public service media, funded by the public and responsive to the needs of journalism in the public interest.

10. The second panellist, the Chair of the Information Regulator of South Africa and member of the Committee on the Elimination of Racial Discrimination, Faith Dikeledi Pansy Tlakula, focused her remarks on laws that guaranteed access to information and data protection. She noted that when freedom of information laws were not properly drafted and interpreted, they could impede the right to freedom of expression and access to information. Most access to information laws had exceptions: for example, exceptions pertaining to

³ See [A/HRC/50/29](#).

national security. In addition, good data protection laws should have a public interest override so that information on national security could be disclosed if it was in the public interest. Data protection laws should include a journalistic exclusion, provided that the media had a code of conduct that adequately protected personal information.

11. Regarding regional trends in Africa, Ms. Tlakula observed that overly broad laws such as criminal defamation and fake news laws were being applied in the region. She expressed regret that United Nations resolutions and declarations on the safety of journalists were not being applied in the region and called for a comprehensive approach to the problem, for instance, by ensuring that regional organizations, such as the African Union, adopted international standard-setting resolutions and declarations. Ms. Tlakula added that, in the digital age, disinformation and fake news, exacerbated by artificial intelligence systems on digital platforms, were the greatest threat to freedom of expression and democracy. She stated that digital platforms should be held accountable for platform content and that Governments should proactively publish information to prevent misinformation.

12. The third panellist, the Organization for Security and Cooperation in Europe (OSCE) Representative on Freedom of the Media, Teresa Ribeiro, observed that, since the beginning of the armed conflict in Ukraine, there had been a severe clampdown on media freedom in Belarus and the Russian Federation, with journalists under increased pressure as they were suspected of being foreign agents and were subjected to oppressive measures. The situation had forced many journalists into exile. The use of legal instruments and procedures to harass, intimidate, hinder and stifle journalistic work was in contradiction with OSCE principles on freedom of expression and freedom of the media. In 2018, OSCE member States had adopted a ground-breaking decision condemning all attacks and violence against journalists and calling upon States to bring their laws, policies and practices on media freedom into full compliance with their international obligations, while ensuring that defamation laws did not carry excessive penalties that could undermine the safety of journalists.⁴ Despite those political commitments, legal harassment and the abuse of the judicial system to suppress the work of journalists continued and in some countries seemed to be a growing phenomenon.

13. Ms. Ribeiro advocated for the repeal of criminal defamation laws and for restricting defamation to the realm of civil law. She acknowledged that civil law was also prone to misuse and that even in countries where defamation was no longer a criminal offence, legal action through courts was used to stifle or retaliate against media workers through lengthy and expensive civil suits. Further, legal harassment in the form of criminal charges, defamation claims and abusive private lawsuits against journalists and other media workers and the use of litigation to stifle media freedom were compounded by the adoption of legislation criminalizing the spread of disinformation on the Internet. Ms. Ribeiro referred to her 2021 report, “Legal harassment and abuse of the judicial system against the media”⁵ and mentioned an expert round table that would take place in Skopje, on 16 and 17 May 2023, to discuss ways to address such phenomena.⁶

Session 2. Legal threats, including strategic lawsuits against public participation and their impact on the safety of journalists

14. The second session, on legal threats, including strategic lawsuits against public participation and their impact on the safety of journalists, was moderated by the Legal Director of Media Defence, Pádraig Hughes. The session was aimed at identifying legal threats faced by journalists, their impact on their safety and human rights, the role of the State and the private sector and measures to address legal threats.

15. The first panellist, lecturer in commercial law at the School of Law of the University of Aberdeen, Scotland, and member of the University’s Anti-SLAPP Research Hub, Francesca Farrington, noted that it was possible to weaponize the law against journalists reporting on matters of public interest. Such uses of the law threatened media freedom by reframing debate on matters of public interest as a matter of private dispute. She stressed that reforms to both substantive and procedural law were necessary to counteract legal and economic threats to journalists. The primary aim should be to ensure that legal threats to journalists were stopped at the source, did not proceed to a full hearing and did not result in

⁴ See <https://www.osce.org/files/mcdec0003%20safety%20of%20journalists%20en.pdf>.

⁵ See <https://www.osce.org/representative-on-freedom-of-media/505075>.

⁶ See <https://www.osce.org/representative-on-freedom-of-media/541482>.

punitive measures. States should adopt measures allowing for the early dismissal of unfounded proceedings, remedies for victims of abusive lawsuits and appropriate penalties against those who brought cases found to be abusive.

16. Alongside reforms to substantive and procedural law, Ms. Farrington called for the empowerment of regulatory bodies to investigate and sanction legal professionals who facilitated abusive lawsuits against journalists. Lastly, she referred to the role that private international rules played in threatening journalistic freedom worldwide. The psychological and financial impact of such litigation could be magnified through the advancement of legal proceedings in foreign jurisdictions that were unfamiliar to defendant journalists. Courts needed to deter and remedy such abusive litigation in another jurisdiction through private international law.

17. The second panellist, the Director of the Mass Media Defence Centre and member of the High-Level Panel of Legal Experts on Media Freedom, Galina Arapova, emphasized that many journalists were forced to leave their countries to escape threats because of their professional activities. Threats of imprisonment and violence were the main reasons that forced journalists to work in exile, as shown by the relocation of numerous independent journalists from Belarus and the Russian Federation in recent years. In 2020, in a report by the High-level Panel of Legal Experts on Media Freedom, on providing safe refuge to journalists at risk, the High-level Panel recommended the introduction of a new emergency visa for journalists at risk and the identification of implementation mechanisms for existing frameworks for the safer relocation of journalists and media professionals.⁷ Since the issuance of the report, the situation in Europe had worsened, requiring the development of new mechanisms.

18. Ms. Arapova pointed to the intermediary role of high-tech companies in modern digital journalism and noted how the international community of journalists and media freedom organizations were trying to engage with those companies to raise awareness about the importance of information flow in times of conflict, including the introduction of specific mechanisms to protect the work of independent media entities that faced censorship from the authorities. In conclusion, Ms. Arapova urged all relevant stakeholders to join forces to support organizations and States that had introduced mechanisms to support journalists under threat.

19. The third panellist, the Executive Director of the Media Foundation for West Africa, Sulemana Braimah, highlighted developments in Africa regarding the legal safety of journalists. As a result of advocacy, criminal libel and sedition laws had been repealed in several countries. However, those laws had been replaced by other legislation, in particular laws on cybersecurity and fake news, which, in some instances, was even more punitive against journalists. In most circumstances, such laws were used to inflict economic and psychological threats on journalists and, in many instances, had been used to detain journalists or to sentence them to prison terms. In most cases where cybersecurity breaches were claimed, the only basis was that the claims had been made online. Mr. Braimah indicated that, in Burkina Faso, the revised criminal code required journalists to clear all articles or publications related to national security with the Government; journalists failing to do so were liable to pay a heavy fine or to undergo a prison term.

20. In relation to strategic lawsuits against public participation, Mr. Braimah mentioned the example of a Ghanaian publication, *A Fourth State*, the author of which had been the subject of multiple claims, including defamation and contempt. An additional claim had been filed in the United Kingdom of Great Britain and Northern Ireland on the basis that one of his articles had been published online. The suits had been filed with the intention of intimidating, harassing and imposing psychological pain on the journalists involved.

21. The fourth panellist, the legal adviser of the European Centre for Press and Media Freedom and member of the Coalition against SLAPPs in Europe, Flutura Kusari, spoke about the creation and the achievements of the Coalition. The killing of Maltese journalist Daphne Caruana Galizia in 2017 had revealed the use of legal tactics against journalists across Europe. In 2018, a small group of media freedom activists had established the Daphne Caruana Galizia Foundation in order, inter alia, to identify the scope of the problem, to document strategic lawsuits against public participation and to conduct advocacy with

⁷ See <https://www.ibanet.org/Safe-Refuge-report-launch-2020>, paras. 244–283.

politicians in Europe, including at the regional level, with the aim of encouraging the adoption of measures against that form of litigation.

22. Ms. Kusari noted that, in order to monitor and advocate measures to combat the use of strategic lawsuits against public participation, journalists needed financial support and legal advice. At the same time, it was important to publicize and identify the enablers of that type of litigation, namely lawyers and law firms of powerful politicians and businesspersons. For that purpose, the Daphne Caruana Galizia Foundation and a small group of media freedom activities had organized a European contest to combat the use of strategic lawsuits against public participation and to present an award to the country and the politician who had achieved the greatest success in this regard. As a result of the contest, some lawyers had become hesitant to engage in such lawsuits. Eventually, the journalists had launched the Coalition against SLAPPs in Europe, which gathered over 200 representatives from the media, media freedom organizations, journalists and academics, and had convinced the European Commission to work on its first directive and recommendation to combat the use of strategic lawsuits. Further, the Council of Europe was in the process of drafting a recommendation on the subject, which was expected to be approved in 2024.

23. In a pre-recorded video message, the fifth panellist, Guatemalan journalist and social communicator Marielos Monzón, indicated that the criminalization of journalists in Central America was a signal of authoritarian backsliding in the region, including the closing of democratic spaces and a failing system of checks and balances. Governments in the region were using public institutions to harass the media and independent journalists were considered by powerful groups to be the enemy. Since the democratic transition in Guatemala, the persecution of human rights defenders had not ceased and the targeting of the media and the criminalization of independent journalists were being used to prevent freedom of expression and access to information, especially in corruption cases. Showcase trials and the imprisonment of renowned journalists, such as José Rubén Zamora, in Guatemala, were used to stifle investigation, resulting in self-censorship. Despite the legal threats, independent journalism continued to be a space that those in power had failed to silence.

24. Ms. Monzón illustrated the trend towards authoritarianism in Central America by highlighting that: the criminalization of human rights defenders, including journalists, had increased by 54 per cent; in the last two weeks of March 2023, 11 journalists had been forced to leave Guatemala; and, in 2022 and 2023, 22 journalists in countries in Central America had gone into exile. Further, in 2022, it had found that about 30 journalists from El Salvador had been subjected to spying using Pegasus software. Narratives aimed at framing journalists as part of criminal structures also continued to emanate from those in power. Ms. Monzón concluded by calling upon the international community to join forces to robustly support freedom of expression and press freedom as prerequisites for democracy and to act effectively to address the increasing challenges in Central America.

Session 3. Economic threats to the safety of journalists and their impact on media independence and pluralism

25. The third session, on economic threats to the safety of journalists and their impact on media independence and pluralism, was moderated by policy and advocacy adviser at Free Press Unlimited, Flora Schulte Nordholt. The session aimed at identifying the main economic challenges that threatened the work of the media and affected the safety of journalists, their gender dimensions and solutions to address them.

26. The first panellist, the Permanent Representative of Sweden to the United Nations Office and other international organizations in Geneva and Chair of the United Nations Educational Scientific and Cultural Organization (UNESCO) International Programme for the Development of Communication, Anna Brandt, explained the work of the UNESCO programme. The programme was an intergovernmental initiative to promote the development of the media in developing countries and countries in conflict and in post-conflict situations. Aware that, after physical safety, the most urgent priority for journalists was financial survival, the programme had expanded its work to address the viability of the media. Through data collection, analysis, research and national consultations, the programme had concluded that traditional media models had been steadily declining as audiences and revenue moved online. The COVID-19 pandemic had aggravated the situation. As a result, media outlets and journalists, and their crucial work, were in great danger. Confronting the issue required a holistic approach and solutions at the national and international levels. The programme had

identified and shared innovative responses and business models from media outlets around the world. The UNESCO policy brief entitled “Finding the funds for journalism to thrive: policy options to support media viability”⁸ laid out new recommendations for policymakers.

27. Ms. Brandt also referred to the gender dimensions of safety of journalists. Recent UNESCO-led research had pointed to a sharp increase in online violence against women journalists to belittle, humiliate and shame, frighten, silence and discredit them professionally and prevent their active participation in public debate.⁹ Women in the media frequently found themselves in precarious financial situations, often facing a pay gap with men in the profession. Closing the gender pay gap required long-term efforts to reject all forms of systemic discrimination against women. Ms. Brandt concluded that confronting the challenges facing the independent media and addressing the multiple layers of threats to safety of journalists in a gender-responsive way required the urgent and coordinated action of Governments, civil society and the private sector, guided by the United Nations Plan of Action on the Safety of Journalists and the Issue of Impunity.

28. The second panellist, a member of the Working Group on the issue of human rights and transnational corporations and other business enterprises, Fernanda Hopenhaym, indicated that the Guiding Principles on Business and Human Rights had become the global standard with regard to respect of human rights in the context of business activities. The Working Group had developed guidance for the protection of human rights defenders in that context.¹⁰ Many of the Guiding Principles were also applicable to the protection of journalists, particularly in relation to corruption, as well as corporate abuse and interference in the work of journalists. In a recent report on the political participation of the private sector,¹¹ the Working Group had addressed potential interference by or participation of businesses in political and regulatory matters. The Working Group found that the capture by private actors of the media and public narratives constituted an important aspect of interference and economic threats to the safety of journalists and media freedom. To better protect journalists and media freedom, Ms. Hopenhaym recommended that the Guiding Principles be incorporated by the media, including big corporations owning media outlets and companies providing financial resources for the media.

29. The third panellist, the Head of the Private and Public Services Sectors Unit at the International Labour Organization (ILO), Oliver Liang, presented a labour perspective on the protection of journalists and the media. He referred to key labour principles applicable to journalists, such as freedom of association and collective bargaining, equality and non-discrimination, the prohibition of forced labour and occupational safety and health. Mr. Liang noted that most journalists worked as independent or freelance workers and that few were covered by collective agreements. Challenges for unions organizing freelance workers included anti-competition laws that prohibited collective bargaining on behalf of freelance workers.¹² Mr. Liang also noted important wage gaps between female and male journalists, including discrimination in hiring journalists based on ethnicity, race, nationality and even political opinion.¹³ Mr. Liang added that forced labour, prohibited under the ILO Abolition of Forced Labour Convention, 1957 (No. 105), could also be inflicted as a punishment on people for expressing political opinions. In relation to occupational safety and health, Mr. Liang noted that in the ILO Occupational Safety and Health Convention, 1981 (No. 155), the adoption of coherent policies in workplaces through consultative processes and the provision of personal protective equipment and training were called for.

30. Mr. Liang observed that women journalists were more likely to be targets of violence and harassment. Workplace sexual harassment and the masculine culture that prevailed in newsrooms were issues that had yet to be addressed. ILO had recently adopted the Violence and Harassment Convention, 2019 (No. 190) and the related Violence and Harassment Recommendation, 2019 (No. 206), which addressed all types of violence, including

⁸ See <https://unesdoc.unesco.org/ark:/48223/pf0000381146>.

⁹ See <https://en.unesco.org/publications/thechilling>.

¹⁰ See [A/HRC/47/39/Add.2](#).

¹¹ See [A/77/201](#).

¹² See ILO Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87), and ILO Right to Organize and Collective Bargaining Convention, 1949 (No. 98).

¹³ On the issue of grounds of discrimination and remedies for ensuring equal treatment of workers, see ILO Equal Remuneration Convention, 1951 (No. 100), and ILO Discrimination (Employment and Occupation) Convention, 1958 (No. 111).

gender-based violence and harassment in the workplace. The instruments applied to all workers, irrespective of their contractual status. Aware that employment relationships in the news media were increasingly on a freelance basis, Mr. Liang highlighted that ILO principles were aimed at combating disguised independent employment relationships. Looking forward, the overriding strategy to address some of the labour challenges facing journalists was social dialogue through engagement with social partners, trade unions, associations of employers, news associations and journalists. Further, he underscored that the provision of social protection, health insurance and unemployment insurance were ways to ensure the economic viability of journalists in times of trouble.

31. The fourth panellist, the Director of the Centre for Independent Journalism in Malaysia, Wathshlah Naidu, focused on the situation of journalists and media workers in South-East Asia. According to a survey by the International Federation of Journalists, one in eight respondents from seven South-East Asian countries felt insecure about their jobs and the COVID-19 pandemic had exacerbated the financial and economic challenges faced by media workers. The regional economic and geopolitical context had further contributed to precarious economic conditions. In some cases, journalists who worked in increasingly restrictive environments had had to flee their countries. The scale of socioeconomic development in the region had also contributed to a lack of effective protection of labour rights, which had contributed to reduced job security, low and minimum wages, pay cuts, delays in payment, part-time work and dismissals. Social protection was also lacking or limited, in particular safety nets such as pensions, insurance and health benefits. Promotions were often affected, especially for women, who were already experiencing gender pay gaps and the glass ceiling phenomenon. In addition, there were also limitations on unionizing and collective bargaining, and memberships in media unions had dropped in the region.

32. Ms. Naidu stressed that precarious labour conditions had a disproportionate gender impact. The prevailing discriminatory conditions, including on non-binary media workers, and failure to respect sexual and reproductive rights had multiple effects, including in relation to hiring, promotion, financial security and employment benefits, as well as safety and security. Women and non-binary journalists and media workers in the region continued to experience sexual harassment, assault and rape in the workspace. Physical threats had also been manifested in digital spaces, including online gender-based violence. Ms. Naidu added that increasing digitalization had contributed to the disruption of services and access, Internet shutdowns, restrictions and delays, which had affected public trust and diversity of information. Big technology companies had become news aggregation outlets, which had led to a drop in the advertisement and subscription revenues of traditional media organizations. Ms. Naidu concluded that the very existence of journalists was at risk and that, moving forward, good practices and sustainable models should be considered.

Session 4. The way forward to better protect journalists from legal and economic threats and ensure independent, free and pluralistic media

33. The Director of the Thematic Engagement, Special Procedures and Right to Development Division of OHCHR chaired the last session of the expert seminar, on articulating the way forward by identifying specific measures that should be adopted by all stakeholders to better protect journalists from legal and economic threats and to ensure independent, free and pluralistic media.

34. The first panellist, Chief of the Section for Freedom of Expression and Safety of Journalists of UNESCO, Guilherme Canela, recalled the overall recommendation of the United Nations Plan of Action on the Safety of Journalists and the Issue of Impunity: to build relevant policies based on the three pillars of prevention, prosecution and protection. Mr. Canela highlighted progress to counter legal threats to the safety of journalists. For example, judges, prosecutors, lawyers and law enforcement agents were more open to engaging on the issue. On the way forward, additional ways should be identified to raise awareness among national judges about examples of good jurisprudence being created by regional human rights courts, including from a gender-based perspective.¹⁴ Further, efforts

¹⁴ See, for instance, the recent decision of the Inter-American Court of Human Rights in the case of *Bedoya Lima v. Colombia*, which offers an innovative perspective on how to take the safety of women journalists into account from a legal point of view. See https://www.corteidh.or.cr/docs/casos/articulos/seriec_431_esp.pdf [in Spanish].

should be deployed, including through training, to convince prosecutors that, in some cases, following international standards, they should not prosecute cases. Mr. Canela also highlighted the need to address what he called “indirect censorship”, namely the increased use of financial crimes against journalists in order to imprison them. Finally, networks of lawyers with an interest in those discussions should be supported in actions against such strategic lawsuits.

35. Regarding economic threats to journalists, Mr. Canela set out some areas for future focus. First, official development assistance should focus more on journalism and media development assistance should be increased. Second, more ways to obtain financial resources for the media should be explored, while the capturing of such resources by powerful interests should be avoided. Lastly, better ways to integrate those issues into monitoring and reporting efforts should be explored, for example, in the context of the universal periodic review and the voluntary national reviews in the context of the 2030 Agenda for Sustainable Development, particularly under Sustainable Development Goal 16.

36. The second panellist, the Senior Legal Officer at the non-governmental organization Article 19: International Centre against Censorship, Paulina Gutiérrez, advocated for ensuring a comprehensive global and domestic response to strategic lawsuits against public participation. Good regional initiatives existed, for example, in Europe and Latin America, as well as at the national level in relation to adapting regulatory frameworks. However, there was a need for guidance from regional and international human rights mechanisms on the duty to prevent the abuse of laws and proceedings. Stock should be taken of how that phenomenon manifested differently in various legal systems. Human rights bodies could also provide guidance on how higher thresholds for public interest reporting could be applied at the national level as a means to deter abusive litigation against journalists.

37. Ms. Gutiérrez referred to a recent report of Article 19 on how courts were responding to strategic lawsuits against public participation, including in contexts where relevant legislation was lacking.¹⁵ She noted that regional human rights courts, in particular the European Court of Human Rights and the Inter-American Court of Human Rights, had been calling for regulations on the issue. Despite the lack of protection at the national level, national courts, for example in Colombia, India and South Africa, were creating frameworks to address such litigation. The cases reviewed showed that courts were considering the nature of the activities of the defendants targeted through such lawsuits and were developing tests to assess what constituted the public interest. Ms. Gutiérrez expressed support for an investigation into the role of the courts and had supported the idea of providing the courts with better equipment to respond to that type of litigation, including through training on how to identify such cases and to establish a high threshold for public interest reporting. That approach also involved identifying laws and procedural rules that served as enablers of abusive litigation, including strategic lawsuits against public participation. Ms. Gutiérrez also expressed support for the idea of adopting a comprehensive approach to legislative measures, including a comprehensive review of the enablers. Lastly, when addressing such strategic lawsuits, she stated that it was important to provide more support to those defending the victims and to determine how different manifestations of such litigation could inform policymaking at the national level.

38. The third panellist, the Legal Director of Media Defence, Mr. Hughes, noted that States tended to continue to adopt laws and practices that shut down freedom of expression. He highlighted four threats to journalists and their work: (a) defamation and libel laws; (b) national security laws; (c) surveillance; and (d) Internet shutdowns. First, he indicated that, in relation to criminal defamation laws against journalists, there was a consensus at the international level and among international courts that criminal defamation, custodial sentences and the imposition of sanctions, such as travel bans and excessive fines, were contrary to international law. For lawyers defending journalists, the underlying problem was that States could rely on the threat of criminal sanction to stifle speech, creating a chilling effect on journalism. There was a significant body of case law in African, European and Inter-American courts that undermined the State’s use of criminal defamation. That consensus needed to be recognized and given force through legislative means.

¹⁵ See <https://globalfreedomofexpression.columbia.edu/wp-content/uploads/2023/04/GFoE-Article19-SLAPPs-paper.pdf>.

39. Second, the use of national security laws remained a significant threat to press freedom. While States argued that there was a legitimate aim in suppressing speech, the real purpose was to shield security services from scrutiny and to avoid constitutional checks and balances. In the recent proliferation of cybercrime laws around the world, States had invoked national security to justify oppressive measures. The Johannesburg Principles on National Security, Freedom of Expression and Access to Information and the Global Principles on National Security and the Right to Information provided a balanced response to the use of national security laws. The principles provide a road map for codifying the limitations that should exist in the use of national security laws.

40. Third, Mr. Hughes referred to surveillance, specifically the Pegasus spyware sold to States that was being used to hack mobile devices. The spyware allowed access to every aspect of journalists' work and life, including their sources and their family members. Because of the scale of the threat of spyware to journalists, it was essential that those practices be challenged, including through litigation. Further, States should restrict or ban the use of that type of spyware, given the severe impact it had on journalists and independent media.

41. Last, Mr. Hughes referred to the increasing use of Internet shutdowns, which had an enormous impact on journalists and the media. It was important to hold telecommunications companies and subsidiaries involved in Internet shutdowns accountable, including by imposing severe economic impacts. Mr. Hughes encouraged engagement with the litigation process as a way of heightening sensitivity with regard to the issues that journalists were facing. He also encouraged States and international organizations to recognize the jurisprudence adopted by international and regional courts and to codify such jurisprudence in order to provide necessary protections for journalists.

42. The fourth panellist expert, the Regional Director for Eastern Europe and Global Response at the non-profit organization International Media Support, Gulnara Akhundova, stated that her organization had adopted a holistic approach to threats to the safety of journalists, from addressing the phenomenon of "news deserts" in States members of the European Union, working at the very local level, to engaging with high-technology companies in Silicon Valley. Ms. Akhundova advocated for policy change and empowerment at the national level. Further, she called for integrating the media development perspective into national action plans and country development strategies. In that context, Ms. Akhundova referred to official tax regimes, financial support schemes and possibilities for media outlets to register as non-profit organizations. She stressed that it was not enough to provide emergency support and financing to the media; more had to be done to develop viable business models for independent media, especially for local media, to respond to digital challenges. Examples could include developing the business skills of media managers and introducing new technologies for newsrooms.

43. Ms. Akhundova emphasized that the daunting task ahead could only be accomplished by proactively reaching out to other stakeholders, especially through private-public partnerships, to support independent media. In relation to disinformation, Ms. Akhundova stressed that gender-based disinformation was a big threat to the safety of women journalists and should be recognized as a form of gender-based violence. Likewise, sexist hate speech against women and LGBTIQ+ journalists, online and offline, should be recognized and regulated as hate speech.

C. Interactive discussion

44. During the interactive discussion, statements were made by the representatives of Australia, Austria, Azerbaijan, Germany, Lithuania, the Russian Federation, the United States and the European Union. Representatives of three non-governmental organizations, the Asian Forum for Human Rights and Development, the Institute for Reporters' Freedom and Safety and Justice for All International, and academic experts took the floor.

45. Many speakers welcomed the focus of the expert seminar and asserted their commitment to the safety of journalists. Some recalled that independent journalism was a key pillar of a functioning democracy, ensuring access to information and civic participation. Some speakers noted with concern that attacks against independent media were increasing worldwide, with journalists facing intimidation, legal threats and abusive litigation. Cases of

strategic lawsuits against public participation that targeted journalists were a serious threat to democracy and human rights. Taking resolute steps in strengthening legislative measures was key in that regard. Some speakers noted that international instruments for the safety of journalists were in place but the main challenge was the implementation gap and the lack of political will on the part of States to provide better protections for journalists.

46. The Russian Federation referred to censorship, the blocking of broadcasting, criminal investigations, the imposition of fines and sanctions and the freezing of bank accounts of Russian media workers and outlets in the States members of the European Union and in the United States. Other speakers referred to dismissals, harassment, legal threats and detention of journalists and outlets critical of the invasion of Ukraine by the Russian Federation, as well as the exile of journalists. Speakers expressed concern about arguments put forward by States to legitimize limitations on freedom of expression and media freedom in times of war, including the dissemination of hate speech and propaganda by State media during war. The targeting of journalists living in exile was also an issue of concern, as was the use of spyware in the surveillance of the activities of journalists. The abuse of economic, criminal and regulatory laws against the media and journalists was also a major concern. Speakers agreed on the crisis affecting the economic sustainability of the media and journalists, in particular critical media outlets and outspoken journalists, in the digital age.

47. Some speakers shared national initiatives to advance the safety of journalists: Australia referred to its recent implementation of a mandatory bargaining code for the media and digital platforms, which was at empowering local news publishers to negotiate with large online platforms and to allow the former to receive compensation for publishing news content on the latter; Azerbaijan cited a presidential decree of 2021 on reforms of the media that had established a media development agency and a law of 2022 that had strengthened mechanisms to ensure media independence and pluralism; Lithuania reported that it had adopted legislative amendments to the civil procedure code and the criminal code in 2022 to tackle strategic lawsuits against public participation by introducing a swift procedure to assess the preliminary merits of claims; Germany noted its support to the international programme for the protection of journalists in crisis and conflict; and the United States mentioned the executive order issued by the President prohibiting the Government from using commercial spyware that posed risks to national security or misuse by foreign Governments. Further, guiding principles developed by the Freedom Online Coalition to illustrate how Governments could respect human rights through the responsible use of surveillance technology had also been released. In addition, the United States Agency for International Development (USAID) had launched the “Reporter Shield” initiative, a fund to be used by journalists around the world to defend themselves against strategic lawsuits against public participation. The European Commission reported on the launching of its initiative against such litigation to improve the protection of journalists from abusive court proceedings and its support to 550 journalists and media outlets under threat, including in Afghanistan and Ukraine.

48. Speakers asked the panellists a wide range of questions, including on: how Member States could adopt laws and regulations to prevent misinformation and disinformation; the legal framework to protect the media and the safety of journalists during conflict; how to balance the right of media freedom and the legitimization by States of limitations on the basis of national security; how to develop synergies between Governments and civil society to provide suitable frameworks for exiled journalists; effective strategies that journalists could adopt to cope with threats; how journalists could reconcile the dual responsibilities to provide independent information with the need for the media to generate resources to operate; what the international community, including the Human Rights Council, could do to address strategic lawsuits against public participation and to defend journalists in exile; and how the Human Rights Council, States, civil society and media organizations could better protect journalists.

D. Closing remarks by panellists

49. Panellists recalled that international human rights law allowed for restrictions to freedom of expression. However, restrictions should follow a procedure and certain criteria, including the principle of proportionality. States were taking advantage of restrictions that they had imposed on journalists, which constituted an unlawful interference with freedom of

expression and press freedom. States should fully adhere to international human rights law and standards in all situations.

50. Panellists explained that the international legal framework also provided protection for journalists during armed conflicts. Statements from international organizations were most useful in advancing principled positions on the right to freedom of expression and press freedom. Regarding journalists in exile, they were protected as migrant workers under the ILO Migration for Employment Convention (Revised), 1949 (No. 97), which created a duty for States parties to provide the same labour protections as for national workers, including freedom of association and the right to collective bargaining.

51. Regarding disinformation and fake news, panellists noted that some Governments resorted to banning media outlets and shutting down the Internet, violating the right to freedom of expression and the right of access to information. In that regard, they criticized the decision of the European Union to ban the television network “Russia Today” and the adoption by the Russian Federation of a law banning any criticism by non-governmental organizations of the armed conflict between the Russian Federation and Ukraine. The experts stressed that censorship and banning did not stop disinformation and misinformation and were counterproductive. The best way of dealing with disinformation and misinformation was fact-checking on the basis of independent information through independent free media.¹⁶

52. On the use of spyware to carry out surveillance of journalists’ activities, the acknowledgements by authorities of its negative impact were being used by journalists in court proceedings and gave legitimacy to their positions in court.

53. Regarding strategic lawsuits against public participation, panellists noted that they were unique in the sense that they were high-profile, lengthy and expensive and that they required serious legal work and proper explanation to the public, in addition to jeopardizing freedom of expression and democracy. However, model legislation was already available to countries that were interested in taking steps to protect journalists, including the model directive against the use of such litigation introduced by the Coalition against SLAPPs in Europe and the model law proposed by the Anti-SLAPP Research Hub in the United Kingdom.

54. On the impact of the privatization of the media and how the race for revenue had affected the media and journalists, panellists stressed the public-good component of the media, which needed to be ensured, including by the private sector, and which required regulation. Public broadcasters also had an important role to play in protecting and promoting the media as a public good.

55. To move forward, the panellists emphasized the importance of taking stock of progress made over the previous 30 years and lessons learned from past experiences. United Nations resolutions were becoming part of soft law, an increasing number of judges were quoting United Nations resolutions in their decisions and they were being taken into account in the legal defence of the media in preparing cases. Caucuses such as the Media Freedom Coalition and the Freedom Online Coalition had been developed and the elements of independence, freedom and media pluralism in the Declaration of Windhoek on Promoting an Independent and Pluralistic African Press had contributed to the promotion of safer journalism. Regarding countries in crisis, such as Ukraine, the international community had quickly reacted, along with key local players, in responding to issues of journalism in conflict situations and providing protective equipment.

56. In concluding, panellists emphasized that political will to act by States and relevant stakeholders was key to the establishment of mechanisms to protect the rights and interests of journalists, recognizing their role as public watchdogs, while sanctioning parties that abuse journalists’ rights.

¹⁶ See [A/HRC/47/25](#).