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Ladies and gentlemen:

In a recent report to the 56 Ambassadors present in the Permanent Council in Vienna, I provided a list of the gravest dangers looming for media freedom in the OSCE area.

As *danger number one*, I named violence against journalists, and I added: “There is only one thing more intimidating for free speech than harassment, physical attacks, and murder of media workers; and that is when governments *tolerate* harassment, attacks, and murders.”

Obviously, all loss of life and violence suffered by journalists at work is tragic and a setback for the profession. But worse is the aggression and murder as *punishment for exercising journalism*.

It is a special war – a peacetime war on journalism. I would like to devote my contribution to the wonderful journalists, the Gongadzes, Husseynovs, Politkovskayas, Dinks, who have been falling victim to this special war in growing numbers.

Violence against journalists: why the gravest danger?

I believe that peacetime, targeted killing of journalists, and especially killing of journalists in revenge for critical coverage, is more dangerous than the next great sin against freedom of the press – unfortunately also quite common – which is a systemic lack of pluralism, undue governmental influence, and monopolisation of mass media.

It is more dangerous for many reasons.

- First, when there is brutality as punishment for the journalists’ work, then it is also a message; to the colleagues, editors, owners, and to all their families.

- Violence becomes censorship far beyond the context of the actual controversy; it will impede the press in performing its most important task in defence of democracy, because it is journalists covering *human rights abuses* and *corruption scandals* that are most punished with violence.
- The effect of the violence extends to the whole society by collapsing editors' willpower. Editors are the ones in any democracy that practically define which issues are to be reported and discussed.
- Finally, violence against journalists joins even the forces that commercialise the media. It adds the element of physical fear to the effects that today are pushing the media away from meaningful information, towards empty entertainment.

What can governments do about it?

As an intergovernmental watchdog, my duty is to ask governments if they have done everything in their power against this plague.

Governments can do a lot because, knowingly or not, they always play a role in the commencement of violence, even if they were not among those who ordered the killings.

I will name several major governmental sins; root causes in the genesis and evolution of violence against journalists.

Impunity for assaults against journalists

When violence against journalism can count on a practical impunity, it is no exaggeration to claim that this indifference by the authorities encourages and perpetuates the crime.

Failure to find the perpetrators may happen even to the best of detectives. But with apathy, law enforcement seems to share the motives of the perpetrators.

Idleness in stopping violence kills hope. Otherwise, there would be enormous reserves for putting things right. In every generation there are risk-taking, brave groups of journalists, especially young ones, who are enticed by the adventure of professionalism.

But that adventure can happen only if the risks remain professional, legal or political.

Hope for change is still-born if quality and energy are self-defeating notions, because the system allows violence to seal quality's fate.

Of course, not all cases of targeted murders of journalists come in retaliation for professional work. In April 2007, the Permanent Mission of the Russian Federation to the

OSCE informed me that out of the last eight cases which prompted inquiries from my office, in five the perpetrators were identified and in three of them sentences were handed down.

However, in the majority of the above cases the journalist's writing was not the likely motive. The two cases where the journalist's writing was likely to serve as the "cause" of death was that of Anna Politkovskaya of *Novaya Gazeta*, and of Ivan Safronov of *Kommersant*.

It is worth noting that these are the two cases with reportedly little progress thus far. In Safronov's case, the investigation was not opened for murder but for "incitement to suicide".

A further unpromising trend is that in most cases, success only means the identification of the actual killers. Those who paid the bill, the ZAKAZCHIKI, remain unknown.

The clearly politically motivated cases as a rule presume impunity even for their perpetrators.

The cases of Vladislav Listiev, Paul Klebnikov and Anna Politkovskaya in the Russian Federation are some of the best known examples of many more with marginal or no progress.

Russia is no exception; "loud" cases elsewhere are also unlikely to yield satisfactory results, whether one speaks of Elmar Huseynov in Azerbaijan or Georgiy Gongadze in the Ukraine.

The investigation and trial of Hrant Dink in Turkey may be one notable exception.

Criminalisation of journalism

Impunity does not start with the actual failure to successfully investigate and prosecute murders of journalists.

It starts with criminalisation of journalist offences, which is, in fact, the criminalisation of the offence of journalism.

Violence against journalists and official deprivation of their freedom are intricately linked.

Before becoming plaintiffs in violence cases, journalists are defendants in criminal cases – for speech offenses!

State hostility and violence against journalists: street arrests, detention, criminal prosecution, and all for their reporting – are gateways to unofficial violence: threats, assault and murder.

This is more than clear from the most notable cases of journalists murdered in the last several years – those of Elmar Huseynov (2005), Anna Politkovskaya (2006) and Hrant Dink (2007). All were preceded by numerous criminal proceedings against these journalists at some point in their careers.

Criminalisation of journalism works as declaration of open season on journalists.

Take the case of Eynulla Fatullayev, editor of *Realny Azerbaijan*. In September 2006, he received a suspended sentence for defaming the Interior Minister. Then he was sentenced to two years' imprisonment in May 2007 for "slandering a village" with his story about the Nagorno-Karabagh war. Since these procedures, Fatullayev and his family members have been subject to numerous threats and incidents of violence. And on the evening after his last trial this May, *Realny Azerbaijan* reporter Uzeyir Jafarov was almost beaten to death by people whom he saw booing in the Fatullayev trial audience.

In the same South Caucasus region, data shows that since 2004, violence against journalists virtually disappeared in Georgia and in Armenia. This is phenomenal because in 2004 Georgia decriminalized libel, and Armenia practically decriminalized it by abolishing prison sentences for it. Prior to these welcome reforms in state attitude towards speech offences, Georgia and Armenia had many cases of both prosecution of journalists and violence against them.

Sometimes incarceration of journalists is presented as a "buffer" which may protect journalists against arbitrary popular violence. The opposite is true. The criminalized journalists are practically exposed as VRAGI NARODA, the enemy of the people. Governments cannot escape their responsibility for the attacks against them.

Discrimination against the independent press

As a rule, it is the opposition, independent and investigative journalists who are victims of detention, imprisonment, fines and administrative harassment on the one hand, and, are, on the other hand, liable to threats, assaults, kidnappings and murder.

We have to see that in most nations where violence against journalists is prevalent there still exists a strong state-owned media sector. That would be no problem if it was only a transitory phenomenon on the way from command economy to an open one.

But the very states that tolerate violence against journalists (and practically instigate it by criminalizing journalism), are often also using the power of the state to discriminate against the fragile independent press, in favor of the state media sector.

Discrimination against non-state journalism is detectable in the registration and licensing regime, in taxation, in printing and distribution possibilities, and in advertising revenue earned from government.

No wonder that as a rule, violence against journalists also hits the independents in the first place, just as does the failure to successfully prosecute the murders.

Most victims have worked for the independent papers. I tend to see the whole conundrum of violence against journalist in the new democracies as a by-product of the protracted transition of media ownership from state property to civil property.

Democratising media means handing the press from government custody over to the people; the acknowledgment that media is a civil endeavor, and that the only job it leaves to government is self-restraint.

I am afraid impunity of violence against journalist is linked with the difficulties in quite a few governments to embrace this cause.

Intolerance vis-à-vis coverage of demonstrations

The right to demonstrate is not only consisting of free assembly, it is a speech right, too. Violence against journalists is more likely to be met with impunity where unsanctioned demonstrations are met with violence, even if peaceful; where the media that wants to report on this are treated as part of the unsanctioned demonstration; and where the officers responsible for the abuses are not prosecuted.

We know of the mixture of criminal and extra-legal, often cruel actions that befell journalists, Uzbek or foreign, who attempted to report on the demonstrations in Andijan in 2005.

And we all heard of the news surrounding the so-called “Marches of the Discontented”, organized by an opposition alliance in Moscow, St. Petersburg and Nizhny Novgorod in the spring of 2007. None of the demonstrations were authorized as the authorities did not allow the demonstrators to march along the requested routes. Several foreign and Russian journalists were detained or beaten in each instance, some of them despite wearing a bright jacket identifying them as journalists.

Let’s add that similarly hostile treatment by police was reported by two Russian journalists from Estonia, suffered while covering the protest marches this spring against the transfer of a war memorial.

Tolerance towards well-known journalist-beating police can too easily be the very psychology that underlies the law-enforcement’s lenience towards unknown journalist-beating perpetrators.

Intolerance in the name of tolerance – mob violence against journalists

Finally, speaking about governmental responsibilities, I have to mention a fairly new and most dangerous trend in granting impunity to threats to journalists.

Governments have a duty to defend journalists from threats and calls for violence even if they are issued in the name of tolerance.

As you are all aware, what had started in 2005 as an unprofessional intra-cultural tongue-in-cheek provocation by the Danish newspaper *Jyllands-Posten* on the subject of the Prophet Mohammed, has since early 2006 become an inter-cultural clash on a horrifying scale. This clash has claimed lives, and mobilized mass demonstrations against perceived collective Danish, or European, desire to humiliate the whole of Islam through the press.

A year after the cartoon crisis, while free media worldwide has striven to increase its own cultural sensitivity, we have seen many lawsuits against caricaturists or writers for incitement, allegedly committed by depictions of religious subjects. In the Arab and predominantly Muslim countries, these trials ended with convictions as a rule. There have been attempts to sever both legal rules and practice in the OSCE area as well, but with a more varied result. In Russia, the cases ended without convictions partly because the press outlets in question have themselves ceased to operate in the meantime. In Denmark and France, the caricaturists have been acquitted either on the prosecutorial or the court level. But such cases are still ongoing in Belarus and Azerbaijan.

Again, we see criminalization conducive to violence. First, authorities in an educational vein prosecute editorial mistakes which are susceptible to hurt some people's religious feelings, or simply question accustomed wisdom. The handling of such statements belongs in self-regulatory discussions among the affected media workers.

But instead of cooling the flames, those criminal procedures only pour oil on them.

This is because those who loudly demand the prosecution or even execution of the erring journalists are not friends of freedom of speech (and consequently, cannot be friends of true freedom of religion either).

In Denmark, death threats were issued to two of the cartoonists involved, forcing them into hiding. *Jyllands-Posten* also received several bomb threats.

Simultaneously, religious and political authorities issued *fatwas* that offered prizes for murders of the *Jyllands-Posten* cartoonists.

In Pakistan, prayer leader Mohammed Yousaf Qureshi announced that his mosque and religious school would give 25,000 USD and a car, while a local jewellers' association would give another 1 million USD.

In India, a provincial minister called for the head of a cartoonist, offering 11.5 million USD and gold as a reward.

In Afghanistan, an award of 100 kilograms of gold was promised by the Taliban.

On 4 May, two Azerbaijani journalists from the monthly newspaper *Senet* were sentenced to three and four years' imprisonment respectively, for "incitement to national, racial and religious hatred" allegedly contained in an article published in November 2006. The philosophical essay discussed European and Islamic values.

I called on the authorities to protect the two journalists instead of prosecuting them, noting that an Iranian ayatollah had issued a *fatwa* calling for the two to be killed. Domestic religious activists responded by starting an intimidation campaign against the journalists. Reportedly, they were allowed to shout death threats in the court room.

I had to warn again that criminalization of journalists could unleash violence against media professionals, and, by surrendering to opponents of freedom of discussion, encourage extremism.

While such publications may have offended the religious feelings of some readers, it is inadmissible to treat peaceful speech offences as criminal acts. Only actual incitement to violent ethnic or religious hatred should be criminalized.

And there should be a similar approach to actual incitement to violent hatred against journalists as well.

Fatwas calling for journalists to be killed should be made criminal acts. All nations should persecute them, and should ask for help from Interpol and other multilateral law enforcement agencies, if needed, to stop this potentially murderous 'fashion'.

Recommendations

Governments obviously must adhere to the recent UN Security Council Resolution No. 1738, "Condemning attacks against journalists".

I find also great value in Resolution 1535 of the Parliamentary Assembly of the Council of Europe, "Threats to the lives and freedom of expression of journalists".

Discussing this subject in the capital of the nation where most journalists are killed in peacetime, it is right and helpful for IFJ to ask all governments to do everything they can against the war on journalists.

This situation should be put visibly high on the national agenda.

An unequivocal acknowledgement of the gravity of the situation, and an unmistakable declaration of the aim to put it right, could do wonders.

The investigations should be given a journalist-friendly handling.

Setting up a centre that deals exclusively with them seems to be a must. It could operate a special website, listing the cases and demonstrating the progress made.

Governments must be aware of the linkage between governmental respect for media and the level of societal violence against the media.

Peaceful speech offences, such as defamation, libel, and insult must be decriminalised; their handling should be transferred into the civil-law domain.

Special provisions on insult of officials, presidents, state institutions, symbols of the state should be abolished.

Administrative discrimination against the independent, opposition, and investigative press should be stopped.

Governments will have done most of what is doable if they accept that the press is a civil society endeavour; and would be ready to walk the journey from state to civil media, from monopoly to pluralism.

Calls for violence against journalism, even if made as *fatwas*, under the disguise of demanding tolerance towards religions, should be vigorously refuted and criminalised.