

Remarks of Professor Can Yeginsu

Launch of the High Level Panel of Legal Experts on Media Freedom Report ‘Advice on Promoting More Effective Investigations into Abuses Against Journalists’

25 November 2020

Thank you, Baroness Kennedy. This is, on any view, a stunning report by Nadim Houry on behalf of the Panel. It highlights the very real scandal of impunity in the 21st century: From Jamal Khashoggi’s brutal murder to the killing of Daphne Galizia, the majority of crimes against journalists still go unpunished. The Report also provides proposals for action, which the Panel endorses.

This is an extremely difficult area to that – to propose action. Because here, as in other areas of our work, we see an enormous chasm between on the one hand well-settled legal obligation and on the other the ugly reality of inaction. The position in international law is clear. Under Article 2(3) of the International Covenant, States are under an obligation to investigate allegations of violations of rights under the Covenant. Duty to investigate brings with it the obligation that such an investigation be **independent, impartial, prompt, thorough, effective, credible and transparent**. When it comes to journalists who have suffered harm, we face the ugly reality that Nadim has explained tonight and is clear from his report: **89%** of cases that concern the killing of a journalist remain unresolved. Nadim calls this **rampant** impunity in his Report; he is right to do so.

The serious concern is that this impunity exists notwithstanding the numerous resolutions and decisions to promote the safety of journalists that have been adopted by the **UN Security Council**, the **UN General Assembly**, the **UN Human Rights Council**, and **UNESCO**: those are just the initiatives at the UN level. Witness then the regional initiatives as documented in Nadim’s report: at the level of the African Union, African Commission, the Council of Europe, the EU, the OSCE, the Organisation of American States and the Inter-American Commission. And yet the attacks on journalists are only increasing. Something has to be done.

Nadim’s Report proposes, as we have heard, the establishment of an **international Task Force**, as well as measures that can be taken to support non-governmental organisations, as well as to strengthen the UN’s capacity to hold the worst violators accountable. There is a theme in the report, which I want to pick up on. And that is the issue of transparency. Nadim and I have the opportunity to discuss this element in some detail together and some of the fruits of that discussion and work are in the Report: investigations must be transparent. That is not a choice, it is a matter of legal obligation. But the transparency theme cuts across a great deal of the working that we are undertaking on the High Level Panel. And that should come as no surprise. In the domain in media freedom – our remit - the transparency principle is critical:

- First, it is critical for the ability of journalists to report, in their efforts to hold the powerful or our political masters to account.
- Secondly, it is plainly critical that we know when a State uses its powers to target journalists, whether it is by criminal investigation, charge or conviction. The public must have access to those prosecutorial and judicial processes and the media must be able to report them freely.

- And thirdly, as Nadim's report establishes so convincingly, the transparency principle is critical to any meaningful attempts to investigate abuses against journalists that have taken place. It is a key element in the fight against impunity.

As Amal Clooney said by way of opening, this Panel has already made concrete and detailed proposals for the protection of journalists. We have advised in one voice and with broad support:

- Sanctions for those who target journalists,
- Robust consular assistance to those journalists targeted,
- An emergency visa (and safe refuge) for journalists at risk for their work,
- And now an international investigative task force and attendant mechanisms.

I am going to close by looking forward. In particular looking forward to continuing our work on the application of the transparency principle to protect journalists. Criminal proceedings and investigations against journalists must, as a matter of general proposition, be conducted in public and a matter of public record. Journalists must know the reasons why they are being held pre-charge or pre-trial. Journalists and their lawyers must be given access to the evidence allegedly being used to deprive them of their liberty. Not only must the State investigate crimes committed against journalists, but they must prosecute them and, if they choose not to, they must tell us why. States must be held to account if they take measures to target journalists.

This week I wrote an Opinion piece in *Just Security* about the necessary fight against what Barack Obama has called truth decay: misunderstanding fomented by misinformation. Authoritarian regimes around the world have been making every effort to suppress the free flow of information, so as to control what constitutes "the truth". Their primary target has been the truth tellers, chief among them independent journalists and media outlets. It is vitally important that democratic states take action to protect the truth tellers. Thank you.