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High Level Panel of Legal Experts on Media Freedom



Periodic Report 1: May-September 2020

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First periodic report. May – September 2020

The High Level Panel of Legal Experts on Media Freedom (‘the Panel’) is an independent body that was convened at the request of the UK and Canadian governments. The Panel comprises a diverse group of leading lawyers from around the world. The Chair of the Panel is Lord Neuberger of Abbotsbury and the Deputy Chair is Amal Clooney, the UK’s Special Envoy on Media Freedom. The remit of the Panel is to provide advice and recommendations to governments to prevent and reverse abuses of media freedom. The International Bar Association’s Human Rights Institute (IBAHRI) acts as Secretariat to the Panel.

The Panel has arranged for the IBAHRI Secretariat to produce periodic reports that detail their plans and the work they have undertaken to date. Reports will be therefore be produced until the end of the Panel’s term on this basis.

Detailed information about the Panel’s mandate, its terms of reference, and published reports are all available online at the Panel’s [webpages](#).

Panel Statements

To mark the occasion of World Press Freedom Day on 3 May 2020, the Panel issued a **statement** on the challenges posed to media freedom in the context of the Covid-19 pandemic. The Panel highlighted that *‘false information about the Covid-19 virus is dangerous and can even be deadly, especially when it is spread by governments themselves. But the use of laws purportedly passed to deal with misinformation to silence critical reporting is also dangerous.’* Furthermore, the Panel stressed that *‘governments that have detained journalists simply for doing their job must release them and that states that have passed laws that violate international human rights standards should repeal them as soon as possible.’*

Follow-up to Published Panel Reports

The Panel released its first **report**, titled *‘The Use of Targeted Sanctions to Protect Journalists’*, in February 2020, at Chatham House (The Royal Institute of International Affairs), in London. The report is authored by Deputy Chair of the Panel, Amal Clooney, and was endorsed by the Panel, the IBAHRI, the Committee for the Protection of Journalists, Reporters without Borders, PEN America, and the UN Special Rapporteur on Freedom of Expression (at that time David Kaye). A recording of the event can be viewed at this [link](#).

Since releasing the report, the Panel has undertaken follow-up consultations and advocacy as follows:



United Kingdom

Chair of the Panel, Lord Neuberger and Deputy Chair of the Panel, Amal Clooney released a joint statement welcoming the Foreign & Commonwealth Office announcement that the UK's global human rights sanctions regime is now operational and that the first targets have been designated. Lord Neuberger and Amal Clooney stated:

‘Targeted sanctions against individuals are one of the most valuable tools available to states to impose accountability for human rights abuses and enforce international norms. That is why we have encouraged the UK to implement its system of global human rights sanctions.’

However, they also noted that:

‘The bases for designations that have been announced today are not as broad as they could be under the Sanctions Act. We hope that in the near future the scope of the regime will be broadened in line with our recommendations, and that additional designations will be announced to respond to serious abuses of human rights being perpetrated around the world.’

Additionally, Panel member and IBAHRI Director, Baroness Helena Kennedy QC, in her capacity as a member of the House of Lords, spoke to the recommendations in the report at the discussion on the UK's Global Human Rights Sanctions Regulations 2020, in the House of Lords. The Hansard (official report) from the debate can be found [here](#).

Australia

The Panel accepted an invitation to address the Australian parliamentary committee currently considering creating a targeted sanctions regime to address global human rights abuses. Chair of the Panel, Lord Neuberger and Deputy Chair of the Panel, Amal Clooney and Panel Member the Honourable Irwin Cotler, gave expert evidence, virtually, to the Committee on Foreign Affairs, Defence and Trade.

They discussed the recommendations in the Panel's report and answered questions posed by Members of Parliament involved in the Inquiry. Ms. Clooney called on the Australian Government *‘to send a message to those who engage in corruption and human rights abuses that Australia's banks and schools and beaches are off limits’*.

The recording of the sessions can be viewed at this [link](#) and transcripts of the Panel's remarks can be found at this [link](#).

Upcoming Panel Reports

In line with their remit, the Panel will propose initiatives that can be taken by governments to ensure that existing international obligations relating to media freedom are upheld, disseminate elements for model legislation to promote and protect a vibrant free press, and report on means of raising the cost to those who target journalists for their work.

Ongoing Panel work includes the following:

A. Improving Multilateral Enforcement Mechanisms to Protect Freedom of the Press

Following on from its report on targeted sanctions, the Panel is developing four further reports that will recommend best practice and initiatives to ensure that more robust international mechanisms are in place when a journalist is arbitrarily targeted or attacked. These ‘Enforcement Reports’ focus on the following five priority areas for reform:

- (1) The Use of Targeted Sanctions to Protect Journalists
- (2) Providing Safe Refuge to Journalists at Risk
- (3) Strengthening Consular Support to Journalists at Risk
- (4) Promoting More Effective Investigations into Violence Against Journalists and
- (5) Advice on the Adoption of a new Media Freedom Charter.

The Panel has already released the first report on sanctions (see above) and will release four additional Enforcement reports at events throughout the Winter of 2020. Further details regarding the launch events will be shared by the IBAHRI Secretariat on their website.

B. Reports on International Standards to Guide Legislation Affecting ... Freedom of the Press

The Panel is also preparing a series of reports containing advice on model elements for the drafting and interpretation of legislation in line with international human rights standards. These reports will address laws that are frequently used to target journalists and those undertaking journalistic activity in separate reports, including:

- (1) Defamation, Sedition and ‘insult’ laws,
- (2) Misinformation and Disinformation (so-called ‘fake news’ laws),
- (3) Hate Speech and Blasphemy laws,
- (4) Counterterrorism laws, and
- (5) Espionage and Official Secrets laws.

The Panel hopes to release these International Standards reports beginning in early 2021.

Legal Technical Assistance to States and International Organisations

The Panel regularly receives requests for legal technical assistance support from states and international organisations. While some of these requests have been received and responded to confidentially, the Panel can share publicly that it is currently responding to the following requests for legal advice and support:

Sudan

Following a request from the Sudanese Minister of Justice, Deputy Chair of the Panel, Amal Clooney and Panel member Can Yeginsu held a meeting with the Sudanese Minister of Justice, Nasredeem Abdulbari. The Panel has agreed to provide legal advice regarding the compatibility of pending legislation, affecting freedom of the press, with international human rights standards. Panel Members Hon. Irwin Cotler and Nadim Houry will also assist with this work. The Panel, in conjunction with the IBAHRI, are now in the process of mapping this extensive legal technical assistance project, including: (i) a review of current criminal laws affecting speech; and (ii) the provision of in-house expertise to officials in Khartoum.

Zimbabwe – Zimbabwe Media Commission (ZMC) Bill

In March 2020, the UK Foreign, Commonwealth and Development Office ('FCDO') submitted a request to the Panel, requesting a legal opinion on the Zimbabwe Media Commission (ZMC) Bill. The Panel responded positively to the request. Ms. Catherine Anite led and authored legal advice, which was endorsed by fellow Panel Member, former Vice President of the European Court of Human Rights Baroness Tulkens, and shared with the UK FCDO on the 12 May 2020.

Zimbabwe's Minister for Information Publicity and Broadcasting Services shared that they were willing to accept the majority of the recommendations presented in the Panel opinion. The bill has now passed onto the next stage of the legislative process, and once this is complete, we will review the final version of the bill to assess the impact of the Panel's recommendations.

In addition, further to this request, the UK FCDO requested that Catherine Anite hold a meeting to discuss the bill with civil society in Zimbabwe, which took place on 21 July 2020. Civil society reported that they found the session very useful and are looking forward to further engagement with the Panel in the future.

Zimbabwe - Cybersecurity and Data Protection Bill

In June 2020, the UK FCDO submitted a second request to the Panel, requesting a legal opinion on the Zimbabwe Cybersecurity and Data Protection Bill, which is in the early stages of the governmental process and has not yet had the First Reading in Parliament. The Panel agreed to accept this request, led by Panel member Catherine Anite, and will be shared with the UK FCDO at the end of September 2020.

Expert Intervention - The Inter-American Court of Human Rights

Following a request, the Panel has also constituted a working group that is researching and drafting an amicus brief to be submitted in a landmark media freedom case before the Inter-American Court of Human Rights regarding the use of criminal defamation laws against journalists.

Panel Meetings and Engagement with State Officials

Panel meetings

On 27 July 2020, the fifth meeting of the Panel took place. The next meeting of the Panel will take place on the 8 October 2020.

United Kingdom and Canadian governments

The Chair of the Panel, Lord Neuberger and Deputy Chair of the Panel, Amal Clooney, supported by other Panel members, continue to engage with the UK and Canadian governments, providing updates on the Panel's work and its advocacy efforts, as well as discussing the wider media freedom campaign and the work of the Media Freedom Coalition.

UK Foreign Affairs Select Committee

The Chair of the Panel, Lord Neuberger and Deputy Chair of the Panel, Amal Clooney have sought to provide regular updates on the Panel's work to the UK Foreign Affairs Select Committee, following the release their '**Media freedom is under attack: The FCO's defence of an endangered liberty report**', in September 2019.

A member of the Select Committee attended the launch of the 'The Use of Targeted Sanctions to Protect Journalists' report and going forward, the Panel has agreed for the IBAHRI Secretariat to provide written quarterly updates to the Select Committee, which will act as a record that the Select Committee can use to inform its own work on the media freedom campaign.

Additional Engagement from Panel Members

Throughout this period, Panel members have moderated and participated in a number of events championing the right to freedom of expression and supporting broader efforts to protect media freedom and journalists.

Deputy Chair of the Panel, Amal Clooney, spoke at an event for business leaders in Manila, Philippines about '**Championing Speech in Asia**', and argued in favour of decriminalising libel in the wake of the conviction of Maria Ressa for 'cyber libel' in Manila.

Panel member Baroness Tulkens moderated the French language **COVID-19 and Freedom of Expression webinar**, organised by the Oxford Bonavero Institute for Human Rights, in partnership with UNESCO and the Reuters Institute for the Study of Journalism (Department of Politics and International Relations, University of Oxford).

Chair of the Panel, Lord Neuberger participated in the ‘**Infodemic**’ – **misinformation and disinformation during Covid-19 webinar**, jointly organised by UNESCO and UNDP.

Advisor to the Panel, Judge Sack, participated in **the Difference between Defamation and Free Speech - intricacies of media and press law, a webinar** organised by the Indian National Association of Legal Professionals.

IBAHRI Director and Panel member, Baroness Kennedy QC regularly engages with the funder of the project, UNESCO. Most recently, Baroness Kennedy gave a presentation on the work of the Panel at the July meeting of the Global Media Defence Fund Steering Committee. Members of the Steering Committee include UNESCO and the UK and Canadian governments, major donors to the Defence Fund.



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