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HUMAN RIGHTS IN ARMED CONFLICTS

PROTECTION OF JOURNALISTS ENGAGED IN DANGEROUS MISSIONS  
IN AREAS OF ARMED CONFLICT

Report of the Secretary-General

Addendum

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REPLIES RECEIVED FROM GOVERNMENTS

Barbados

Byelorussian Soviet Socialist Republic

New Zealand

Union of Soviet Socialist Republics

## I. INTRODUCTION

1. By paragraph 5 of resolution 2854 (XXVI) the General Assembly requested the Secretary-General to submit to the Assembly at its twenty-seventh session the replies received from Governments on the part of the report of the Commission on Human Rights on its twenty-eighth session relating to the question of protection of journalists engaged in dangerous missions in areas of armed conflicts, as well as an analytic report on those replies. The replies received before 31 August 1972 have already been reproduced in annex II of document A/8777. Since then, the Secretary-General has received four additional replies which are reproduced in the annex. The analytic report contained in the following paragraphs is based on all the Governments' replies thus far received.

## II. GENERAL OBSERVATIONS

2. Australia<sup>1/</sup> expressed the view that the international community had a major interest in the free dissemination of news and information, and that it was of considerable value that bona fide journalists should have access to information of public interest, particularly in the areas of armed conflict. In recognition of the possible danger involved and the beneficial work of journalists to the international community, the Australian Government supported proposals for a convention for the protection of journalists engaged in dangerous professional missions in areas of armed conflict. At the same time, Australia stressed that the obligations of all States towards civilian populations should in no way be weakened. Australia did not intend to propose at this stage any further amendments to the draft articles prepared by the Commission at its twenty-eighth session <sup>2/</sup> as a basis for further work. It would be active in the work of drawing up an effective convention acceptable to all Members of the United Nations.

3. The Government of Barbados (see annex and paragraph 15), having accepted the principle of protection of journalists in areas of armed conflict, considered that the central issue remaining related to the machinery and procedures for the issuance and withdrawal of the identification card.

4. The Government of the Byelorussian Soviet Socialist Republic (see annex) expressed its support for the elaboration of additional norms of international law to ensure the proper protection of civilians in armed conflicts and of persons participating in national liberation movements and fighters struggling against colonialism, racist régimes and foreign domination and exploitation, for self-determination and independence. While it had no objections to the elaboration of a special convention on protection of journalists engaged in dangerous missions in areas of armed conflict, it regarded this question as secondary in comparison with the other urgent problems just mentioned. A number of the draft articles

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<sup>1/</sup> See A/8777, annex II.

<sup>2/</sup> Ibid., annex I.

still needed, in its view, a considerable revision in order to receive wide support. It pointed out that certain principles should be observed in the elaboration of such a convention: first, it must not contain any provisions which would be used for the purpose of interfering with the internal affairs of States, or restricting national sovereignty; secondly, the convention should enumerate not only the rights but also the duties of journalists; thirdly, the card could only be issued for those journalists whose activities were in conformity with the purposes and principles of the United Nations Charter; finally, there was no need to establish an international professional committee.

5. The Government of New Zealand (see annex) regarded the completion of an international convention on this subject as timely, and a worth-while development of international humanitarian law. There was still a considerable amount of work to be done before a draft convention on this subject could be finalized. No consideration had yet been given to the final articles of the draft.

6. The Government of Pakistan<sup>3/</sup> stated that it had considered the draft international agreement on the protection of journalists engaged in dangerous missions and felt that it contained no provisions which might be against its interest.

7. The Government of Spain<sup>3/</sup> reaffirmed the view that an international agreement ensuring the protection of journalists on dangerous missions would constitute a valuable contribution to international information activities and to the protection of human rights in armed conflicts. It considered that the draft articles approved by the Commission on Human Rights as the basis for further work deserved a positive appraisal in general and represented an undoubted improvement over the previous texts.

8. The Government of the Union of Soviet Socialist Republics (see annex) considered that the proposed draft articles prepared at the twenty-eighth session of the Commission on Human Rights might provide the basis for further work in preparing the text of a convention on the subject. In its view, however, the draft articles dealt with a matter of narrow scope which was far from being the most important of the questions relating to the protection of human rights in armed conflicts. By settling this specific question alone, the United Nations would not be accomplishing its tasks of preparing instruments for the protection of civilian populations and of fighters struggling against colonial domination and racist régimes, and of implementing Assembly resolutions 2446 (XXIII) and 2674 (XXV). It would not object to the consideration of the draft articles on the protection of journalists at the twenty-seventh session of the General Assembly, though a number of the provisions of the draft articles needed revision.

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3/ Ibid., annex II.

III. OBSERVATIONS ON THE DRAFT ARTICLES

A. Article 1

9. The Government of Spain pointed out that in order to define the scope of the convention, it was necessary to specify whether "dangerous professional missions" related only to armed conflicts (whether or not international) or whether they also included internal disturbances. If they excluded the latter, the words "in areas where an armed conflict is taking place" might be added after the word "missions".

10. The Government of Morocco<sup>4/</sup> suggested that missions carried out in areas affected by earthquakes, fires, floods and epidemics might also be included.

11. The Government of New Zealand (see annex) considered that the provisions of the convention should apply to "non-international conflicts", since leaving out conflicts not of an international character would detract greatly from the scope and effectiveness of the convention.

12. Spain also suggested that in article 1 the words "the card provided for in article 4 below and subsequent articles" might be replaced by "the card established and regulated by this Convention". It suggested that perhaps a reference could be made to the distinctive emblem mentioned in articles 7, 8 and 9.

B. Article 2

13. It was suggested by Spain that article 2 should be divided into three subparagraphs with an opening phrase: "For the purposes of the application of this Convention:".

14. On the ground that the Geneva Conventions did not "define" armed conflict, whether or not international, and that the definition of armed conflict should not depend on the "ratification" of protocols to the Geneva Conventions, Spain suggested that the present third paragraph should be replaced by the following:

"The term 'armed conflict', whether or not international, refers to the armed conflicts to which the Geneva Conventions of 12 August 1949 and the protocols annexed thereto apply."

C. Articles 3 and 4

15. The Government of Barbados regarded the system proposed under articles 3, 4 and 6 as the most acceptable arrangement, a compromise between entrusting full responsibility to the international professional committee or to the competent authorities of the State, and a balance between the divergent views based on the principle of non-interference with freedom of the press on the one hand, and the interest of the State on the other.

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<sup>4/</sup> Ibid.

16. The Government of New Zealand considered that it would be desirable to have an international professional committee or some similar body responsible for formulating the regulations governing the issuance of the card to journalists, although more thought would have to be given to the committee's composition, role and financing.

17. Spain expressed doubts about the need for the establishment of the international professional committee since the regulations which that body would have to issue under the first paragraph of article 4 could all be laid down in the convention itself. It considered it unnecessary to repeat in the second paragraph of article 4 the phrase "who is engaged in a dangerous mission", in view of the definition of "journalist" in the first paragraph of article 2: the sentence should be revised to read "A journalist shall hold the above-mentioned card". Spain also raised doubts about the wording of the third paragraph of article 4. 5/

18. As mentioned in paragraph 4 above, the Government of Byelorussian Soviet Socialist Republic considered that there was no need to establish the international professional committee.

D. Article 5

19. With respect to the card, Morocco suggested that a different colour of card according to the status of the journalist and the nature of his mission might be envisaged.

20. As to the data given on the card, it was suggested that information such as the blood group, the exact address of the person or organization to be notified in case of accident, the number and type of the insurance policy, 6/ or an indication of the information medium which the journalist represents and of its head office 7/ might also be included.

21. Regarding the second paragraph of article 5, Spain questioned the practicality of the idea of restricting the card to "a specified geographical area", since such expression was too vague and a conflict might quickly spread from one area to the other. It also questioned the prescribed period of 12 months.

E. Article 6

22. Spain suggested that this article should precede article 5 or form the first part of that article. In its view, the words "or who is under its jurisdiction" in the second paragraph could be deleted.

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5/ This comment seems to be based on the use of the word "reconocer" in the Spanish text of article 4. The English text uses "inform" and the French text uses "fait connaître".

6/ Suggested by Morocco (see A/8777, annex II).

7/ Suggested by Spain (see A/8777, annex II).

F. Articles 7, 8 and 9

23. These articles, in the view of Spain, could be redrafted or rearranged in a more logical order.

24. With regard to the letter "J" in the distinctive emblem referred to in article 9, Spain suggested that in view of the existence of the word "information" or "press" in many languages, it might be preferable to choose the letter "I" or "P" for that purpose.

G. Article 10

25. Spain considered that subparagraph (a) of the first paragraph appeared to be redundant. It expressed the view that the internment regulations set forth in articles 79 to 135 of the Fourth Geneva Convention might be difficult to apply. The draft convention should indicate the circumstances when measures of internment should not be ordered and when the journalist should consequently be released.

26. As to the second paragraph, it was suggested by Spain that the words "area where there is a conflict within the meaning of article 2" could be replaced by the expression "area of armed conflict".

27. In the view of Spain, a more precise statement of the obligations of the journalist and the penalties which might be imposed if he failed to fulfil those obligations, should be included in either this article or another article.

H. Article 11

28. Spain suggested that this article appeared superfluous and could be deleted.

I. Article 13

29. Spain suggested that it might be appropriate to add in the first paragraph a sentence which would spell out the right of each State Party to grant or deny to foreign journalists a request for access to a specified dangerous area, on the same terms as are applicable to the journalists of that State.

ANNEX

REPLIES RECEIVED FROM GOVERNMENTS

BARBADOS

/Original: English/

31 August 1972

The Government of Barbados, having examined the documentation attached to the Secretary-General's note, considers that, having accepted the principle of protection of journalists in areas of armed conflict, the central issue remaining relates to the machinery and procedures for the issuance and withdrawal of the identification card, which would entitle journalists to the protection of the Convention.

In this connexion, the Government of Barbados considers the "mixed system" proposed in articles 3, 4 and 6 of the draft Convention to be the most acceptable arrangement since this proposal appears to be a compromise between entrusting full responsibility to the international professional committee or to the competent authorities of the State and is a balance between the divergent views based, on the one hand, on the principle of non-interference with the freedom of the press, and the interest of the State on the other.

BYELORUSSIAN SOVIET SOCIALIST REPUBLIC

/Original: Russian/

11 September 1972

The Byelorussian SSR is in favour of the elaboration of additional rules of international law designed to ensure the proper protection of civilian persons in armed conflicts and of participants in the national liberation movement struggling against colonialism, racist régimes and foreign domination and exploitation, and for the realization of the right of peoples to self-determination and independence.

Although the Byelorussian SSR is not in principle opposed to the preparation of a special convention on the protection of journalists engaged in dangerous missions, it notes that that question is of secondary importance by comparison with the above-mentioned vitally important and urgent tasks of ensuring the protection of human rights in armed conflicts.

A draft convention has, of course, been the subject of consideration both in the Third Committee of the United Nations General Assembly and in the Commission on Human Rights. The fact that, despite the known improvement of some articles, the draft convention was still not approved by the Commission on Human Rights at its twenty-eighth session testifies to the need for the substantive and more detailed elaboration of a number of provisions of that instrument.

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It goes without saying that a convention could become an effective instrument for ensuring the protection of journalists engaged in dangerous missions only if an overwhelming majority of States accedes to it. In this connexion, it is extremely important that the future convention should, first, contain no loopholes permitting interference in domestic affairs or the infringement of the sovereign rights of States; secondly, set out not only the rights but also the obligations of journalists; thirdly, include provisions whereby safe-conduct cards could be issued only to persons whose journalistic activity is in keeping with the purposes and principles of the Charter of the United Nations. Lastly, as already emphasized in statements by representatives of the Byelorussian SSR and other countries in the Third Committee and in the Commission on Human Rights, there is no need to establish the International Professional Committee referred to in articles 3, 4, 5 and 10 of the draft convention.

NEW ZEALAND

/Original: English/

30 August 1972

The New Zealand Government regards the completion of an international convention on this subject as timely and a worthwhile development of international humanitarian law. It is pleased to note the progress made at the twenty-eighth session of the Commission on Human Rights. Nevertheless, formulation of a widely acceptable and useful international instrument on a subject which raises a number of issues of importance to Governments necessarily requires careful consideration, and the New Zealand authorities believe that there is still a considerable amount of work to be done before a draft convention can be finalized.

In this connexion it is noted that no consideration has yet been given to the final articles of the draft convention and that the comments of the Conference of Government Experts on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts have also to be received.

At this stage the New Zealand Government does not wish to comment on individual articles of the draft convention but would make three general observations. It is felt that the provisions of the convention should apply to non-international conflicts, because to leave out conflicts not of an international character would detract greatly from the scope and effectiveness of the convention.

Secondly, it is considered that it would be desirable to have an international professional committee or some similar body responsible for the regulations governing the cards to be issued to journalists, but that more thought will have to be given to the committee's composition, role and financing.

Finally, the New Zealand Government feels that further consideration will have to be given to the nature of the protection offered to journalists so that the protection required is in line with what in the circumstances of armed conflict is possible and reasonable.

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UNION OF SOVIET SOCIALIST REPUBLICS

/Original: Russian/

6 September 1972

The competent Soviet organizations considered that the draft articles of a convention on the protection of journalists engaged in dangerous missions submitted by a number of delegations at the twenty-eighth session of the Commission on Human Rights may provide the basis for further work in preparing the text of a convention on the subject. At the same time, it should be pointed out that the draft deals with a question of narrow scope which is far from being the most important of the whole set of problems relating to the protection of human rights in periods of armed conflict. By settling this specific question alone the United Nations will not be accomplishing the task it faces of preparing, with due regard to and as a further development of the 1949 Geneva Conventions, instruments designed to ensure the protection of civilian populations and of fighters against colonial domination and racist régimes, and also of implementing General Assembly resolutions 2446 (XXIII) and 2674 (XXV).

The Permanent Mission has no objection to the discussion at the twenty-seventh session of the General Assembly of the draft articles on the protection of journalists, but a number of the provisions require amendments, which must be considered during the discussion of the matter by the General Assembly.

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