

# PERMANENT PEOPLES' TRIBUNAL

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## 51° SESSION ON THE MURDER OF JOURNALISTS

### SUMMARY OF THE JUDGMENT

**UNEDITED VERSION**

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## 1. INTRODUCTION

### The proceedings

In accordance with the functions expressed in its Statute, the Permanent Peoples' Tribunal (PPT) accepted in November 2020 a request to open a procedure to investigate the murder of journalists in relation to their work, as ultimate consequence of violent attacks and other attempts at silencing their voices. This request was transmitted by the press freedom organisations Free Press Unlimited, Committee to Protect Journalists and Reporters Without Borders, in cooperation with the Syrian Center for Media and Freedom of Expression and the Center for Justice and Accountability.

Due to the complexity of the issues expressed in the request and the subsequent indictment submitted to this Tribunal on September 2021 and notified to the authorities on October of the same year, the session was articulated in an opening event held in The Hague on 2 November 2021 and in three thematic hearings dedicated respectively to three national cases identified and selected as representative of the global scenario of human rights violations and impunity in which many journalists around the world operate: Mexico, Sri Lanka and Syria.

Unlike the opening session, which was dedicated to reconstructing the systemic nature of the problem of impunity in multiple geographic areas, the three thematic hearings illustrated the specificities of the individual national contexts selected, on the basis of oral and written evidence that also included the circumstances in which three journalists lost their lives as a result of the work. These were, for Mexico, the journalist Miguel Ángel López Velasco, for Sri Lanka, the journalist Lasantha Wickrematunge and, finally, for Syria, the journalist Nabil Walid Al-Sharbaji.

The events involving are united, according to the indictment, by a "continued impunity, without concrete perspective for justice in the country in question" (Indictment, p. 6). They are also, according to the indictment, "reflective of a wider pattern of violence against journalists in these contexts, and illustrate the ways in which these States, by act or omission, fail to honour their obligations under international human rights law" (Indictment, p. 6).

The three hearings were held, respectively, on 26-27 April 2022 in Mexico City, and for the Sri Lanka and Syria cases, on 12-13 May 2022 and 16-17 May 2022 in The Hague.

During the preparatory phase preceding the organisation of the hearings, the Tribunal acquired from the requesting organisations extensive, complete and detailed evidentiary material in support of the accusation. It also considered a substantial amount of other written material on each of the countries.

As required by the Statute, the General Secretariat of the PPT invited the three States to exercise their rights of defence during the public hearings. It should be noted that none of them responded either to the notification of the opening of the Tribunal or to the subsequent invitation to appear at the hearings in accordance with the scheduled time for the defence.

The panel of judges, convened by the PPT President and the PPT Secretary General, has been integrated by (in alphabetical order): **Eduardo Bertoni** (Argentina), Former Special Rapporteur for Freedom of Expression, Inter-American Commission on Human Rights; **Marina Forti** (Italy), independent journalist; **Gill H. Boehringer**, (Australia) former Dean and now Honorary Senior Research Fellow at the School of Law, Macquarie University, Sydney; **Mariarosaria Guglielmi** (Italy), Magistrate, Vice President of Medel (Magistrats Européens pour la Démocratie et Libertés); **Helen Jarvis** (Australia-

Cambodia), former head of the Victim Support Section of the Extraordinary Chambers in the Courts of Cambodia (ECCC) and Vice-President of the Permanent Peoples' Tribunal; **Nello Rossi** (Italy), former judge of the Supreme Court of Cassation, Criminal Section, and Vice-President of the Permanent Peoples' Tribunal; **Kalpana Sharma** (India), independent journalist; **Philippe Texier** (France), former magistrate of the French Court of Cassation and President of the Permanent Peoples' Tribunal; and **Marcela Turati Muñoz** (Mexico), independent journalist.

The summary of the judgment of this Tribunal is delivered in The Hague on 19 September 2022.

## **Competence of the PPT**

The Permanent Peoples' Tribunal is an international opinion tribunal, established in 1979 and based in Rome. Its main functions, according to its 2018 Statute, are to be:

«a tribune of visibility, of the right to speak, of the affirmation of the rights of peoples exposed to severe and systematic violations by public and private actors, at national and international levels, who have no possibility of referring and having access to competent organs of the organised international community;

an instrument of explicitation and verification of the existence, the severity, the responsibilities, and impunity of the concrete violations, as well as of the due measures of justice and reparation;

a witness and promoter of research aimed at filling the institutional and doctrinal gaps in existing international law»<sup>1</sup>.

As stated in article 12 of its Statute, «the PPT may receive requests addressed both by governments or governmental organs, as well as by groups or movements representing, at national and/or international levels, interests of communities»<sup>2</sup>. The PPT does not have the legal capacity to issue binding judgments and therefore does not have to observe internationally recognised principles applicable to criminal procedure. However, article 17 of its Statute establishes the obligation to inform «each government, authority, private group which is involved in the case shall be duly informed of the concerned accusations/indictments or investigations, and shall be given ample opportunity to take part in each stage of the procedure, through the submission of evidence and a defence»<sup>3</sup>.

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<sup>1</sup> Permanent Peoples' Tribunal, Statute, 27 December 2018, available at: [http://permanentpeopletribunal.org/wp-content/uploads/2019/05/Statute-of-the-PPT\\_ENG\\_FINAL.pdf](http://permanentpeopletribunal.org/wp-content/uploads/2019/05/Statute-of-the-PPT_ENG_FINAL.pdf), p. 1.

<sup>2</sup> Ibid., p. 6.

<sup>3</sup> Ibid., p. 7.

## **2. THE THREE CASES SUBJECT TO THE TRIBUNAL'S JUDGMENT**

In the three countries addressed during the proceedings of the People's Permanent Tribunal - Mexico, Sri Lanka and Syria - violence against defenceless journalists is a worrying trend and a chilling and systematic reality.

As mentioned at the outset, the three countries in question represent extreme cases of bloody repression, which must certainly be denounced more forcefully than hitherto, at the same time as being carefully analysed in terms of its causes and forms of implementation. Such denunciation and analysis are not enough, however. The cases we have examined show that little is being done to determine individual, collective, and institutional responsibilities for this terrible phenomenon.

The Tribunal's commitment is to identify -- in the various contexts under investigation -- the forces (despotic regimes, economic potentates, criminal powers) interested in opposing and repressing freedom of information and suppressing journalists, to reconstruct the dynamics of the crimes and their constants, and to probe the causes of the impunity enjoyed by the authors of the murders and their principals.

The aim of this session of the Permanent People's Tribunal has been to observe the peculiarities and 'variables' of the various situations, to grasp the 'constants' of the violence perpetrated against journalists and media workers and to highlight the origins, manifestations and root causes of intolerance, repression, and their physical elimination.

Apart from this, there remain other important elements of the overall picture to be analysed: the legal regulation of the media; any restrictions imposed directly or indirectly by governments or corporate interests; the excessive and ill-considered criticism of the function of the media by holders of political power and other actors, which lead to the labelling of journalists as 'enemies'; the degree of protection afforded by law; the level of protection given to journalists by the media; the degree of protection given by the state and civil society to journalists and their families.

The three cases that the Tribunal examined in detail were of the murder of Miguel Ángel López Velasco from Veracruz, Mexico on June 21, 2011, Lasantha Wickrematunge from Sri Lanka on January 8, 2009, and Nabil Walid Al-Sharbaji from Syria on May 25, 2015. The detailed reports on these cases are available in the judgement.

### **Mexico**

Miguel Ángel López Velasco or 'Milo Vela', the pseudonym he used for his famous column in *Notiver*, was murdered on June 29, 2011, in his home in the city of Veracruz along with his wife and son. He is one of 156 journalists, including twelve women, who have been murdered in Mexico between 2000 and 2022.

During the hearings in Mexico City on 26-27 April 2022, eleven Mexican journalists who had either been threatened or whose colleagues had been murdered, four family members of murdered journalists, several academic experts, a former public prosecutor for crimes against journalists, and five representatives of freedom of expression and journalism defence organizations testified. Together they provided a national overview of the context of impunity as well as the facts of the murder of Milo Vela.

The crime against the López family not only inaugurated an era of terror, but it was also an example of the lack of state protection that Milo suffered despite the fact that the threats he had received were public and the authorities knew about them. The case is also

emblematic of the mechanisms of impunity in the cases of crimes against journalists in Mexico.

## **Sri Lanka**

The Tribunal's session on attacks on journalists in Sri Lanka was held on 12 and 13 May 2022, a moment when the world's media was focused on the explosion of popular resistance to the Sri Lankan government's incompetence, corruption and economic policies that had led to huge foreign debts and caused a severe financial crisis.

Over the two days, testimony and documentation were presented regarding the extra-judicial killing of 27 journalists and 17 media workers in the years 2004-2010, at least 35 of whom were Tamils. These killings have not been comprehensively investigated nor have any perpetrators been convicted.

While most journalists are believed to have been killed for their criticism of the government's decades long civil war against the Tamils or their support for the Tamils, others were killed because they revealed the corruption and incompetence of the government, especially the Sinhalese journalists.

The specific case we looked at was the murder of Lasantha Wickrematunge, editor of the *Sunday Leader*. On 8 January 2009, Lasantha was killed as he drove to work by men on motorcycles who intercepted his car at a traffic intersection, bludgeoned him with a sharp instrument, leaving a deep wound in his skull. Two days before his murder, Lasantha had written a strong editorial, published posthumously, in which he criticised the government for its war against the Tamils, and also predicted that it was inevitable that he would be "bumped off".

This audacious attack on one of Sri Lanka's best-known and most outspoken journalists is emblematic of a larger problem that independent-minded journalists in Sri Lanka faced in that period and continue to do so even today.

In none of the cases of murder, assault, or disappearance has there been any convictions. On the contrary, some of those from the military who were named and charged with these crimes have been pardoned and even reinstated.

## **Syria**

During a session held on 16 and 17 May 2022, the Tribunal heard the case of Nabil Walid Al-Sharbaji, a journalist and non-violent political activist in Syria. The dramatic circumstances of his arrest and eventual death in custody bring to our attention the events of 2011 and the following years when a popular uprising in Syria morphed into a full-fledged war.

The story of Nabil Al- Sharbaji and the young people who published *Enab Baladi* is in fact the story of a generation who sought democracy and freedoms in Syria, spurred on by developments in other countries of the Arab Spring. Along with others, Nabil was committed to a strategy of non-violence, influenced by study of the ideas of Gandhi, Nelson Mandela, Sheik Dawat Said, and some Quranic verses, and he had also gone to Turkey for training in non-violent activism.

Nabil was arrested briefly on 16 March 2011, with other young activists, and was released a month later

He was detained again on 26 February 2012, by the Air Force Intelligence, and taken to the Mezzeh Military Airport. From there he was transferred to the infamous

Sednaya Military Prison, where he passed away. His family was informed of his death on 25 May 2015. No information was provided on the circumstances of his death, nor was his body given to the family for funeral rites.

The Tribunal focused on the case of Nabil Al-Sharbaji to illustrate the failure of the Syrian state to protect journalists, as well as activists and their defenders. The information provided by experts and witnesses demonstrated that this is a structural failure rooted in the structure of power of the regime

Since the hearings on Mexico, Sri Lanka, Syria took place between April and May this year, tragically more journalists have been attacked and killed.

We must also remember the case of Shireen Abu Akleh, well known Palestinian-American journalist working with Al Jazeera, shot and killed on May 11 while she was covering a raid by the Israeli Defence Force in Jenin refugees camp, in the Occupied Territories of Palestine.

This is the latest example that dramatically demonstrates the problems in establishing responsibility of the perpetrators of these murders, including those above them, and bringing them to justice.

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### 3. ANALYSIS OF THE SITUATION IN THE LIGHT OF THE OPENING SESSION AND THE THREE CASES

Attacks on journalists and media workers in the three countries examined in the Tribunal's proceedings were invariably not uncomplicated criminal acts performed intentionally by individuals, but were actions understandable only as a result of a complex of forces which combine to form a "structure of violence". Without that understanding it would be difficult to answer the basic question: what can be done to protect those who through their journalistic work allow us to live in democratic societies?

In each of the countries the structure of violence contained elements specific to itself, yet there were a number of elements, found in all three.

#### Components of the Structure of Violence

**Government-corporate linkages.** In all three countries there are extensive linkages between business interests and government officials with consequent corruption and misuse of public funds a factor in journalist reporting and their subsequent deaths.

**Impossibility of open discussion and criticism** of government policies, operations and corruption. In Syria, in the absence of independent journalism, even using social media to criticise the government, especially its military actions, and the lack of democracy was shown to put one in danger of imprisonment, torture and even death. In Sri Lanka, journalists who criticised the government's war against the Tamils, or who criticised government officials for corruption, or those who supported the Tamils in the civil war, were attacked. In Mexico it was inviting an attack to criticise public officials for corruption, particularly in the States, or to campaign against the drug cartels

**Violence by state forces**, including police and military, has been by far the major source of killings and other attacks in Syria and Sri Lanka, while in Mexico they played a significant role, alongside organised crime and drug cartels, which appear to have frequently played a substantial part in the attacks.

**Impunity for the crimes** committed has been absolute in Syria and Sri Lanka, while in Mexico it is said to be over 90%.

**Protective mechanisms** were absent in Syria and Sri Lanka (and remain so) while in Mexico there were a range of Federal and State protective mechanisms, but in general they have failed largely because it appears there is a lack of political will to stop the attacks and end impunity.

**The legal system** in all three countries has been under enormous pressure not to interfere with the restrictions to the media, freedom of expression and the attacks on journalists. In Syria the judiciary is not independent. In Sri Lanka the judiciary had been seen as independent in the past, but was weak in the face of increasing accretion of power of the governments and military, and effectively was sidelined. In Mexico cases were occasionally brought to courts and convictions obtained and prison terms resulted, but these were exceptional.

In all three countries the **legal profession** saw lawyers killed for their involvement in defending human rights cases, and many have fled.

**Investigations** have been blocked, compromised or perfunctory, in Syria and Sri Lanka while in Mexico, as indicated by the lower impunity rate, there have been some serious investigations leading to a few convictions and substantial prison sentences.



**Media corporations** have been attacked in various ways, pressured formally and informally in Sri Lanka and Mexico if they sought to criticise government policies and practices. In Syria there has long been no independent media, while in Sri Lanka there is a long history of government censorship. In all three countries, it appears that media corporations have not offered much by way of providing protection for their journalists and media workers.

**Journalists** have tried with great courage to maintain a space for freedom of expression in each country. Nevertheless, their resistance was largely unsustainable. Many have been killed, others disappeared, others brutally attacked and tortured. In such conditions substantial numbers have decided to flee and resist from abroad, often in hiding and even then sometimes attacked and have had to flee again and yet again. Others have felt it necessary to self-censor. Formal local journalist organisations have not existed in Syria, while in Sri Lanka an active organization, Journalists for a Democratic society, is in exile. In Mexico, various networks and groups of journalists have organised among themselves to try to bring an end to the unstoppable violence, but have faced continued harassment and repression.

To fully understand the situations in the countries observed, it is not enough to identify and denounce the 'internal' factors and reasons for the repression and violence against journalists and those who, even if they do not have strictly professional roles, exercise critical information.

It is also necessary to look at the complicity, connivance, and acquiescence in the international sphere that the protagonists of the violent actions make use of, particularly on the part of the great hegemonic or military powers present in the areas in which the three countries observed are located.

We have witnessed over a decade of considerable international attention to the attacks on journalists, and, as discussed in more detail in the following section of this Judgment, much activity (Reports, Resolutions, Special Missions, *inter alia*) on behalf of the community by various UN institutions, notably the system of Special Rapporteurs of the Human Rights Council and the Human Rights Commissioner; the European Union; Inter-American institutions; international and national human rights NGOs ; as well as the numerous journalist and press freedom organizations (including the three that organised this Tribunal). Yet the problem remains and appears to be growing worse. In effect, little practical action has been taken to protect journalists by the international community.

The problem of attacks on journalists has not yet been effectively confronted. Reliance on international community solutions does not appear to be the way forward. Nor does the corporate media sector appear willing to effectively protect their labour force. While Mexico is one of the countries that has led the way in developing an innovative series of Protective Mechanisms, these have failed because of the lack of political will.

Indeed, the lack of political will runs through all of the evidence we have considered. Therefore, the issue that must be discussed internationally, and to which the Tribunal has made Recommendations is: how can the political will of the people in each country be supported so that governments are forced to respond, and freedom of expression can be developed and maintained, while journalists and media workers are protected?

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## 4. EXISTING FRAMEWORK OF INTERNATIONAL AND REGIONAL INITIATIVES

### The worsening problem

The Tribunal has heard testimony and considered documentation evidencing the continuing problem of the suppression of freedom of expression, the lack of effective protection of journalists and media workers, and the failure to end impunity in three countries. It is, however, a worldwide phenomena.

While the Tribunal respects and does not wish to denigrate the initiatives taken by the international community over the years, mainly through the United Nations and the other international and regional frameworks, unfortunately their efforts have, at best, managed only to mitigate the general trend towards greater danger for journalists and little progress in ending impunity. Indeed, several of the documents below make that point explicitly.

Nevertheless, the Tribunal recognises the importance of bringing to public attention the initiatives that have been taken at the international and regional level in developing a more comprehensive and effective strategy. Something different is also needed, as will be foreshadowed at the end of this section and in the Tribunal's Recommendations.

### The Wide Range of Existing Institutional Initiatives

Since the adoption of the United Nations Declaration of Human Rights in 1948, a variety of documents issued by international institutions and organisations have repeatedly stated the need to protect freedom of information and expression as a fundamental human right of every person, interrelated to all other human rights, and a key value of democracy.

In recent years, increasing attention has been paid to the implementation of standards and policies on protection of journalists and improvement in the level of compliance with existing mechanisms to prevent crimes and address impunity.

The legal framework for the protection of journalists, which includes obligations under international, regional and national human rights law and the case law of national as well as supranational courts, has been enriched since 2012 by a significant increase of soft law instruments and supported by different initiatives.

Several non-binding instruments have been adopted over the years, both at UN and regional level, to reinforce and explain the scope of treaty obligations, and explicitly focus on the issue of impunity. This soft law has shifted the focus to the newest challenges to the safety and security of journalists.

Recent initiatives include: the **Resolution** adopted by the UN General Assembly on 16 December 2021; the **Recommendation** CM/Rec (2022)4 adopted on 17 March 2022 by the Council of Europe; the **2021 Report** on the state of democracy, human rights and rule of law of the Secretary General of the Council of Europe and **the Parliamentary Assembly of the Council of Europe Resolution** 2317 (2020), "Threats to media freedom and journalists' security in Europe".

Against the backdrop of the observation of the "systemic" character assumed by the threats to the freedom of the media and the safety of journalists - as well as of the *non-*

*compliance of States with the positive obligations to protect journalists and to eradicate impunity* - this bulk of resolutions, statements, declarations and recommendations evolved in the direction of identifying more effective strategies of action and new mechanisms aimed at ensuring the adequate protection of journalists. (Emphasis added.)

The development of this massive soft law, while it shows an increasing awareness of the seriousness of the risks for the journalists, at the same time highlights the persistent lack of compliance by the state of their obligation to provide adequate protection.

### **The UN and international and regional protective frameworks**

Recognised since the landmark **Resolution 1738** adopted on 23 December 2006 by the UN Security Council on attacks perpetrated against journalists in conflict zones, the need for strategic and harmonised approach to the issue of the safety of journalists and the impunity of perpetrators of crimes against them, led to the adoption of the UN "**Plan of action for the safety of journalists and the issue of impunity**" (UNPA), as well as to its further development *fostered by the necessity to assess and increase its effectiveness*. (Emphasis added.)

The report issued in September 2018, in accordance with the Human Rights Council resolution 33/2 (29 September 2016), by the United Nations High Commissioner for Human Rights provided a complete overview of the existing international mechanisms concerned with ensuring the safety of journalists and the analysis of their effectiveness.

**The UNHCHR highlighted the undeniable advancements to strengthen the safety of journalists and address prevailing impunity** for violations of their rights represented by the wide range of prevention, protection, monitoring and complaint mechanisms established over the years. A very complex framework of instruments, often with multiple functions such as – in addition to UNPA- issue regular statements and reports.

At least seven special procedures of the Human Rights Council contribute to prevention by raising awareness, deterrence and accountability and document violations of the rights of journalists, may identify alleged perpetrators, make recommendations and raise awareness about what is, and what is not, lawful.

They include the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; the Working Group on Arbitrary Detention; the Working Group on Enforced or Involuntary Disappearances and the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, while other Special Procedures also touch on this principle in different ways.

All of these procedures perform a key preventive function by contacting States concerning information received regarding alleged violations of the rights of journalists, undertaking country visits to analyse the human rights situation at the national level, making public statements, and submitting reports to the Council and the General Assembly; the role played by OHCHR in providing education and information about the safety of journalists, developing policies and practices within organizations and States.

The Inter-American Commission on Human Rights' Special Rapporteur for freedom of expression conducts activities to protect and promote the right to freedom of thought and expression and promotes the adoption of legislative, judicial and administrative measures to enable the exercise of the right to freedom of thought and expression.

**This notwithstanding, the report concluded that, however, the safety of journalists is far from secure. Indeed, the situation continues to deteriorate alarmingly, raising legitimate questions as to the efficacy of international and regional mechanisms, or indeed mechanisms at all levels.**

In 2012 the UN Special Rapporteur on Freedom of Opinion and Expression, the Organization for Security and Co-operation in Europe (OSCE) Representative on Freedom of the Media, the Organization of American States (OAS) Special Rapporteur on Freedom of Expression and the African Commission on Human and Peoples' Rights (ACHPR) Special Rapporteur on Freedom of Expression and Access to Information, adopted a **Joint Declaration on Crimes Against Freedom of Expression**, which is considered a key document to identify the most specific standards applicable to states with respect to protecting the safety of journalists.

## **Conclusion**

The limitations of the current “top down” approach discussed above must be accepted. The protection of journalists and media workers and the ending of impunity must be taken up by other means also. This could be a task suited to regional, state and local “bottom up” alliances of organisations of civil society, non-state actors, in a movement for change featuring specific demands for independent media, protection for journalists and media workers, and the end of impunity, as will be further outlined in the Tribunal's Recommendations.

## 5. FINDINGS

This session of the Tribunal responded to world wide concern about the dangers posed to the orderly functioning of societies by the increasing restriction of freedom of expression in many countries and the consequent increase in physical and other attacks on journalists and media workers. Reducing the extremely high rate of impunity that follows such attacks, and encourages future perpetrators, is a critical issue that must be faced if the increasing number of attacks is to be reversed.

That concern was brought to the Tribunal in an Indictment prepared by the Lead Prosecutor Almudena Bernabeu and her team at the behest of three press freedom organizations, Free Press Unlimited, Committee for the Protection of Journalists, Reporters Without Borders as part of their Safer World for the Truth coalition, with the cooperation and support of the Syrian Center for Media and Freedom of Expression and the Center for Justice and Accountability and local organisations in each of three countries selected as cases illustrative of the world-wide phenomenon.

The Tribunal recognised the importance of providing increased visibility to the continuing killings of journalists and media workers around the globe and in specific countries, and to the grave problem of impunity.

The Indictment alleges serious violations of international law by each of the States of Mexico, Sri Lanka and Syria.

### **Mexico**

That “The Prosecutor...holds the State of Mexico responsible for grave violations of the international human rights of journalist Miguel Angel López Velasco, specifically the right to life [Art. 6 ICCPR], the right to freedom of expression [Art. 19 ICCPR], and the right to an effective remedy [Art. 2 ICCPR].

### **Sri Lanka**

That “The Prosecutor ...holds the Democratic Socialist Republic of Sri Lanka responsible for grave violations of the international human rights of journalist Lasantha Wickrematunge, specifically the right to life [Art. 6 ICCPR], the right to freedom of expression [Art. 19 ICCPR] and the right to an effective remedy [Art. 2 ICCPR].”

Further, that the government violated Lasantha Wickrematunge’s right to freedom from discrimination based on political opinion [Art. 26 ICCPR].

### **Syria**

That “The Prosecutor ... holds the Syrian Arab Republic responsible for grave violations of the international human rights of journalist Nabil Walid Al-Sharbaji, specifically the right to freedom from torture [Art. 7 ICCPR], the right to life [Art. 6 ICCPR], the right to freedom of expression [Art. 19 ICCPR], and the right to an effective remedy [Art. 2 ICCPR].

Further, that the government violated Nabil Walid Al-Sharbaji's right to freedom from discrimination based on political opinion [Art. 26 ICCPR] and his right to a fair trial [Art. 14 ICCPR].

The PPT highlights that all three of the States charged in the Indictment are among the 173 Parties (and six more signatories without ratification) to the International Covenant on Civil and Political Rights (ICCPR), a multilateral treaty that commits states parties to respect the civil and political rights of individuals, including the right to life, freedom of religion, freedom of speech, freedom of assembly, electoral rights and rights to due process and a fair trial. It was adopted by United Nations General Assembly Resolution 2200A (XXI) on 16 December 1966 and entered into force 23 March 1976.

Although all of the States in the Prosecutor's Indictment were given timely notice of the Tribunal's session with the date and time of the Opening Session, and were invited to present a defence to the charges in the Indictment, none of the countries responded or offered a defence.

In view of the overwhelming and compelling evidence consisting of witness testimony including that of expert witnesses and those with personal experience; very substantial written documentation from individuals and organisations, the Tribunal has unanimously made the following finding:

**That through their acts and omissions (the lack of investigation, the lack of reparation to the victims, and the full impunity) the States of Mexico, Sri Lanka and Syria are Guilty of all of the human rights violations brought against them in the Indictment.**

The Tribunal is also of the opinion that the three States have violated a number of other Conventions, Treaties and other international, regional and national legal instruments to which they have themselves committed to uphold.- A detailed consideration of this was not in the mandate of this Tribunal, but we recommend that such an endeavour be pursued.

## 6. RECOMMENDATIONS

Since it is the citizens and peoples who have an absolute need for information, only the vigorous development of processes of democratisation and liberalisation of power can trigger in the countries observed (and more generally) a significant reversal of course and the realisation of acceptable conditions for the existence of free and pluralist information.

In this context, the existence of a judiciary that is truly independent of the executive power and the strengthening of the police operating in conjunction with prosecutors are indispensable measures for curbing the criminality that targets journalists and their function of informing the public.

As has been amply illustrated in the analysis of three individual country cases, the systematic impunity enjoyed by the perpetrators of violence and murder, and those who order and organise them, may be the result of a number of different causes: the open political cover offered to the perpetrators of the criminal acts; the status of those who order or who organise the attacks; the omissions of the competent authorities; the weakness or lack of independence of judges and prosecutors; the inadequacy of the investigative will, or techniques used; and so on.

The passive acceptance of impunity on the part of governments and the lack of incisive countermeasures on the legal and organisational level remain the direct responsibility by omission of the institutions and ruling classes and an ignominy for the countries in which these events occur.

By clearly bringing to light the repressive practices existing in the countries brought to trial, illuminating areas otherwise destined to remain in the shadows, illustrating the dynamics of individual crimes committed against journalists, this Tribunal has fulfilled part of its task: to give voice to the victims, to ascertain the responsibilities of governments and states, to point the finger at perpetrators and political perpetrators of violence by denouncing the connivances they have enjoyed.

It is also necessary to emphasise the nature of a strategy directed at combating the repression, violence and killings of journalists. It is necessarily destined to take concrete form in a plurality of initiatives put in place by different actors operating in individual countries and at the international level.

In this session the Tribunal has learned of the many and serious violations of the rights of journalists in the three countries under Indictment and found Guilty. The three cases examined in depth exemplify the negative impact on all the victims, their families and colleagues, the media in general, and the resulting lack of freedom of expression that undermines the rule of law and democratic participation.

The Tribunal believes in the necessity for practical actions that can have an effect on the continuing problem of impunity found in each of the three countries and elsewhere. Bringing an end to impunity is fundamental to the process of transformation to a safe environment for journalists and the restoration of the freedom of expression and other rights denied to journalists and detailed in the Tribunal's hearings.

While the Tribunal recognises the importance of international law and standards, and the mechanisms and Special Procedures associated with them, as well as those developed on a regional basis, the continuing and deepening problem of murders of journalists with impunity indicates that something different must be added to the efforts to protect journalists and the freedom of expression.

Nation states must diligently fulfill their obligations under international humanitarian law, and of course the obligations imposed upon them by national law. Indeed, they should go beyond existing law, undertaking law reforms, education programs,

allow international independent experts to investigate, promote the importance of the freedom of the press among the people, and other initiatives that are likely to protect journalists and their families, thereby protecting and expanding the public space for communication resulting in more informed citizens. They must end impunity where it exists.

However, many states are failing in their duty to protect journalists from attacks; to ensure their freedom from arrest on trumped up charges, from false imprisonment, from torture, from being disappeared, and from attacks equating to discrimination because of their opinions expressed in their work; to provide effective remedies; to make reparations for their injuries and those of their families; and to ensure a safe environment by holding accountable in law the perpetrators and especially those who encourage, order and organise, or who are complicit in, the attacks on journalists.

The Tribunal takes the view that the highly developed framework of laws and mechanisms, international, regional and state, for the protection of journalists is in general lacking one necessary element: the people. Civil society needs to be prioritised in working towards transforming the media into a safe space. In other words, work must also be done from the bottom up, to develop a civil society response to ending impunity and restoring freedom of expression where it has been lost or constricted.

This will require the development of a larger and more comprehensive alliance of those in the information- communication sector linking a movement to protect journalists and extend the space for free expression with other movements for freedom and justice.

Journalists are major actors in the attempt to expose threats to others, such as whistle blowers who expose political corruption; lawyers who challenge government actions and defend human rights activists; and environmental defenders who challenge corporate devastation of the environment. Linkages with these other sectors for mutual protection could provide the impetus to transform the political apathy that allows impunity to continue.

It is with that understanding that the Tribunal makes the following Recommendations:

### **To the United Nations (and beyond)**

1. That there should be a comprehensive independent review of the apparent inability of the international community's initiatives, largely through the United Nations mechanisms and Special Procedures, and including international humanitarian law, to protect journalists, media workers and even media organizations, and to end impunity. It should be tasked with making practical recommendations for a more effective system, and be done as a matter of urgency.

### **To the governments of Mexico and its states; Sri Lanka and Syria**

2. Immediately cease the complicity, connivance and participation of government agencies and all public authorities in the harassment, persecution and murder of journalists and others engaged in media work and in defending the right to freedom of expression;
3. End impunity. Ensure that all attacks against journalists are thoroughly investigated and effective prosecutions mounted against those suspected on legal grounds to be the perpetrator(s); those who organised them; those who ordered the attacks, and



the political, economic or criminal networks that support them. Provide for certain, adequate and effective sentences. Clarify to the public what was the underlying cause and hidden interests to be served by the attacks.

### **To all States**

4. All countries should take appropriate actions to protect journalists and independent media organisations from attacks intended to restrict the freedom of expression, most egregiously the killing of journalists. Effective investigatory mechanisms and practices need to be staffed with trained personnel in a context of independent prosecution and independent judiciary with the authority to impose deterrent punishments.
5. All countries should adopt policies and implement practices ensuring transparency by providing adequate up-to-date and appropriate information to the public regarding investigations and judicial hearings with regard to attacks on journalists;
6. Countries should not allow impunity to persist through competing or conflicting jurisdictional claims such as seems to have happened in Mexico. A clear and explicit and jurisprudentially consistent method of resolving such disputes should be adopted into law;
7. All countries should investigate crimes against journalists within a perspective that such crimes are likely to be related to the victim's journalistic work rather than assuming *ab initio* that it is not.
8. Strong protection mechanisms must be available for threatened journalists, relatives, witnesses and journalists' sources. These must be fit for purpose and local conditions, adequately funded and must be implemented with vigour.
9. While media outlets and journalists, like the rest of society, may also deserve criticism for the manner in which they perform their duties, the authorities should always choose the path of reasoned and specific criticism, avoiding stigmatisation or indiscriminate attacks on journalists and free information directed at denigrating the function of the media and the entire profession;
10. Where journalists as a group are being targeted in a country, the national government has a primary responsibility to relocate the journalists and families, assuring them a life with dignity and the conditions in which they are able to continue working as journalists. Such relocation should allow for a return in the future to their homes and a peaceful work environment. Relocation must not be a method of silencing journalists;
11. Bring pressure on international agencies and other nation states to provide safe passage and resettlement for those who wish to flee, literally for their lives, and those of family members. Attention must be paid to making such removal and resettlement more rapid, more certain and less stressful than at present;
12. Fund University academics, independent organizations, and other researchers so they may continue and deepen research on the restriction of freedom of expression,

attacks on journalists and media organisations, and impunity. An independent fund should be established for this purpose, with funds from both public and private sources (as recommended below);

13. Guarantee the legal and other conditions in which journalists are able to organise together in order to protect themselves as working journalists in the search for truth, justice and memory..
14. In all countries, where there are suitable conditions, consideration be given by community groups and other civil society organisations to the establishment of local, regional and national People's Tribunals or Citizens Inquiries, either permanently or ad hoc, to inquire into and publicise: attacks on journalists; their causes, structural and immediate; perpetrators and those higher up who are responsible for the attack. And to make further Recommendations as appropriate in then existing circumstances.

### **To All Organisations in the Information Communication Sector**

15. Work together for the specific purposes of increasing the public understanding of the problem of attacks on journalists with impunity, and applying pressure on governments to carry out their rights- protecting obligations. The *Safer World for the Truth* coalition could form the core of such an alliance, expanded to include a range of relevant organisations, academics in mass communications and other relevant departments; representatives from trade unions of communication workers;
16. The alliance recommended in the previous Recommendation should seek to increase its impact by developing further linkages within the alliance and with other sector organisations where their members are also being attacked and murdered, such as lawyers lawyers and environmental defenders;
17. Those organisations engaged in monitoring attacks on journalists should extend their research capacity to investigate the dynamics of impunity, the political-economic causes of, and beneficiaries from, restrictions on freedom of expression including the attacks on journalists and media organisations, and the identity of the organisers and masterminds of attacks on journalists;
18. In order to have a more comprehensive set of data that will reveal the social cost of attacks on journalists, in all monitoring there should be data collected on survivors (injured or otherwise), consequential injury to others in the attack, including to bystanders. The same applies to journalists' sources, a much neglected category but one that is essential for the production of news;

### **To Corporations (especially those operating in Mexico, Sri Lanka and Syria)**

19. Affirm and implement a commitment to human rights standards and a commitment to freedom of expression specifically; convey that commitment directly to the governments at all levels (local, regional, federal); use your position to ensure that

your business associates, partners, suppliers etc adhere to those commitments and have no connection or dealings with those who violate those standards;

20. Take seriously their obligations as employers and improve their policies and practices for the protection of the safety and health of their journalists and other media workers, including specific protections where female journalists are at special risk.

Finally, the Tribunal wishes to express our appreciation to all those who organised and participated in the five sessions held over the past ten months. For the families and friends of the victims in the cases we have examined, we hope our Findings and Recommendations will serve as a concrete sign of memory and at least a symbolic reparative gesture in the face of ongoing impunity. We express the hope that this Judgment will give support and encouragement to all those who have suffered the crimes analysed and to those around the world who are mobilising to commemorate the victims of these crimes and to fight for justice, truth and memory.