

and their communication devices confiscated or destroyed. Now, these are many issues that have led to a situation that is extremely threatening for journalists and the work that they do.

The threat of harm to these journalists has risen to such a level in certain situations that many journalists are either forced to submit and resort to self-censorship or to flee their countries and live in exile. Both within the country where they work and when they are able to leave, when the threat level has risen to an extent where they cannot survive in that particular environment, we need to institute initiatives at the international level so that we can give refuge to these journalists.

I think it is also important to understand that safety of journalists and their freedom of expression is imperiled, not just by the state, but also by non-state actors such as organized gangs, terrorist organizations, militant groups with extremist ideologies, and other negative elements in the society. This whole question of protection of journalists and safety of journalists has to be a very comprehensive one and a broad framework needs to be adopted.

There are two or three points that I want to make in addition to this. It is very important for somebody either at the non-state level or at the level of intergovernmental engagements to understand who are the journalists who are mostly at risk. Obviously, those are the journalists who report on politics, corruption, organized crimes, et cetera—the journalists who are covering war zones, areas of internal land conflict or civil strife, foreign journalists reporting on international affairs and respect for human rights in countries where authoritarian regimes and poor rule of law observance are there. Local journalists who work in remote areas are more vulnerable because of their relative invisibility, particularly those who report on violations of social and economic rights of rural communities by the state or by powerful national and multinational corporations.

In addition to all the risks that journalists faced, we have to look at the situation of women journalists today. They face gender-specific safety risks, such as sexual harassment. Especially with this digital space, the threat to women journalists has risen to an extent where we really need to become much more sensitive.

I, therefore, think that an essential aspect of the duty to protect is compliance with international norms, human rights, and humanitarian law that are relevant to protection of journalists. What you have just said is very much linked to what I am saying because cooperation with international initiatives established for journalist safety is very important. If we are to establish a media freedom coalition, then an essential part of their thinking has to be concentrated on how to protect these journalists, either in their national environments or even when they are living abroad, and what kind of dignified existence they can have, which allows them to continue with their work as journalists and at the same time protects them.

## **CAN YEGINSU**

Thank you, Hina. These pathways to safety that you and I and other members of the Panel have been working on, of course, have to be practical and they have to be effective. They cannot just be on paper.

I want to follow up with David McCraw. Hina Jilani mentioned the importance of protecting foreign journalists but also local staff. David, I think you are going to have a perspective on this from your vantage point.

## **REMARKS BY DAVID MCCRAW**

doi:10.1017/amp.2023.38

Thank you so much. Just to drive home how practical this work is, twice in the last twenty-four hours, I have been involved in moving journalists out of two separate countries because of risk.

Neither of those countries were Russia or Ukraine, which has been occupying my attention. This is a real-world problem.

I stand at the intersection of two workstreams here. I am the principal newsroom lawyer for *The New York Times*, but also, in my role at the *Times*, I am head of international security. It is very important to me that the work being done here is what has to happen in terms of the law to address the real-world, on-the-ground problems. I salute the work that was done by the High Level Panel. If you have not had a chance to read the report, I would commend it to you. It manages to talk about the real legal obstacles that journalists face when they are trying to escape danger in a country, whether they are local journalists or international journalists, but primarily with local journalists, and also addresses the true realities of trying to make that move above and beyond the law.

Over the course of the summer, my colleagues and I at the *Times* were deeply involved in moving people out of Afghanistan. We ended up, I am happy to say, moving 215 people from Kabul to Mexico City by way of Doha. Most of those people have now relocated to the United States or are being relocated to Canada, and I can assure you that the lesson that I took away from that is that *The New York Times* is influential. It has resources. It threw a lot of resources at this, and it is still not enough. I cannot imagine what it is like for independent journalists, local journalists working for local outlets in their country.

The realities of this involved, in my case, going to the State Department and to Congress to try to get changes in the law to allow easier immigration to the United States for journalists from Afghanistan. It involved my colleagues and I negotiating with the government of Qatar, with the government of Mexico, with Canada, high-level conversations with people in the United States, ultimately our people in Kabul dealing directly with the Taliban. Despite all of that, it was still an incredible lift, and some of these things come up in the report, that people in these emergency situations are not walking around with passports. They do not have the proper paperwork, and they are not leaving their families behind. Many times, that involves small children who, again, do not have identification cards, let alone passports. And so all of those issues need to be addressed, and addressing them in-country is really difficult.

That is why the work that has been done by the High Level Panel to talk about a more receiving culture, if you will, meaning countries that are in the position to help, taking people in and then sorting the problems with passports, visas, medical checks, security checks, et cetera at a later point, because those things are extremely difficult on the ground.

We had tried to have an orderly exit from Afghanistan. We had arranged for a flight that was going to take people to Mexico on a Monday at night. On that Sunday morning at six o'clock, I received a call from an editor who said, "The Taliban are walking through the streets of Kabul. I thought you might want to know." I was not quite sure what that meant, but, yes, I did want to know. All the well-laid plans we had as an organization fell apart, and we had to scramble. It would have been so much easier had many of the things in that report already been adopted by countries in a position to help.

## CAN YEGINSU

Thank you very much, David.

I want to come back to Jeffrey immediately, as the state representative here. Jeffrey, majority aside, we have been working very closely with Canada on this issue. Canada has also received, as have the other members of the Media Freedom Coalition, our report as a Panel on safe refuge. Could you just speak to our work and what, if anything, has come of it?

**JEFFREY MARDER**

Sure. I am pleased that Canada has actually adopted a policy that is aligned with the recommendation made by the High Level Panel. We brought in, last summer, a specific refugee stream for human rights defenders, including journalists, through a pilot project. The numbers are modest. It was 250 individuals in the first year, and that includes human rights defenders and family members. It is not huge, and we always want to see bigger numbers, but you have to start someplace. It was weeks later that the Taliban took over in Afghanistan. Now we have Ukraine. The system is quite overwhelmed.

But it is a great program. It works through referrals from the UN High Commissioner for Refugees as well as with several civil society organizations based in Europe doing the screening. It is looking at those most at risk. It must be a huge challenge to say who is most at risk when so many journalists and other human rights offenders are at risk.

I know one of the High Level Panel's recommendations was for a specific visa for temporary refuge. In my country, Canada, that is not something we typically do, which is not to say that we have not done it and which is not to say that my colleagues in our immigration department are not looking very closely at doing that. But other countries do have longer traditions of doing that; in particular, a number of countries in Eastern Europe. My understanding is for several years, based on their history, they have had temporary refuge programs and continue to use them. The Czech Republic, I know, is very active in this area. Germany is looking at it, if not doing it already. And there has been a push in the Netherlands.

The need is indeed huge and unfortunately getting bigger, but I think we have made a modest but positive beginning in that regard, and ongoing work, discussions, and dialogue with the High Level Panel will bear further fruit.

**CAN YEGINSU**

Thank you very much, Jeffrey. It was very humbling to be with you in Tallinn, Estonia, our first in-person in two years, and the ministers of states were all addressing one another as to what they were going to be doing by way of commitment. It was very humbling to hear the Czech Republic get up and say that they will be giving effect to our recommendation for an emergency visa and Germany to follow. It is a work in progress, but it is work that may not otherwise have come about.

Now, that is just a snapshot. There are two things I would like to make clear at this stage based on some of the questions that have been coming in. The first is that this issue of safe refuge, that is just one of the areas that we have been working on. Amal Clooney has been leading the Panel's work on sanctions. Irwin Cotler has been leading the Panel's work on bolstering consular protections for journalists that have been targeted abroad, and Nadim Houry, also a member of the High Level Panel, has been leading our work with our partners on the creation of an investigative task force to look into abuses against journalists.

One of the questions that has come in is where does the Panel sit, not vis-à-vis the states' advisors, but non-governmental organizations, and whether there are any tensions between the Panel's work and non-governmental organizations. I am happy to report that of our four advisory reports, they have been endorsed formally by all of the major free speech and media freedom organizations around the world, and we have been working in very close consultation with them. They are, in many respects, the real experts here, because we are very keen that whatever we provide by way of remedy is practical and effective.

I want to move now to another aspect, and I want to turn to Professor Dario Milo, who has been leading the Panel's expert interventions before regional human rights courts on cases engaging media freedom. Professor Milo, could you speak, please, to the Panel's work in this area?