



JOINT DECLARATION ON UNIVERSALITY AND THE RIGHT TO FREEDOM OF EXPRESSION

The United Nations (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,

Having discussed these issues together with the assistance of ARTICLE 19, Global Campaign for Free Expression and the Centre for Law and Democracy;

Recalling and reaffirming our Joint Declarations of 26 November 1999, 30 November 2000, 20 November 2001, 10 December 2002, 18 December 2003, 6 December 2004, 21 December 2005, 19 December 2006, 12 December 2007, 10 December 2008, 15 May 2009, 3 February 2010, 1 June 2011, 25 June 2012 and 4 May 2013;

Stressing, once again, the fundamental role of freedom of expression both in its own right and as an essential tool for the defence of all other rights, as a core element of democracy and as indispensable for advancing development goals;

Recognising the universal nature of freedom of expression, which is reflected in its inclusion in international and regional general human rights treaties and standards, as well as in national constitutions, in the ubiquitous adoption by States of democracy, which rests on freedom of expression, as a system of government, and in the recognition of freedom of expression as a core human value in all major cultural, philosophical and religious traditions around the world;

Mindful of the fact that, in the context of freedom of expression, universality implies both an obligation on States to refrain from unduly restricting this right and a positive obligation on States to ensure that all individuals and groups in society can enjoy and exercise this right without discrimination in terms both of seeking and receiving information and of imparting information and ideas;

Cognisant of the fact that, when freedom of expression comes under attack, it is often an early warning that all human rights are at risk and of a deteriorating security situation;

Recalling that freedom of expression is essential as an underpinning of sustainable development and for ensuring effective, transparent, accountable and democratic public institutions;

Concerned about the frequent attempts to justify violations of freedom of expression, often for purely political ends, by reference to culturally specific, traditional or community values, moral or religious beliefs, or claimed threats to national security or public order;

Gravely concerned about the fact that minorities and other groups which have suffered from historical discrimination are prevented from enjoying fully their right to freedom of expression with the result that they continue to be marginalised from the political, economic, cultural and social spheres;

Noting that freedom of expression, in concert with the right to protection from discrimination, which is a non-derogable human right, protects the rights of all individuals and groups in society to express viewpoints which differ, however strongly, from those of the majority, as long as these do not violate legitimate restrictions on free speech, for example those relating to incitement to hatred;

Emphasising that it is inherent in the overriding nature and importance of human rights that they require the modification or elimination of laws, regulations, customs and practices which lead to discrimination or other forms of human rights abuses, and noting that this is reflected in many leading human rights statements, including the 1993 Vienna Declaration and Programme of Action and the *Convention on the Elimination of All Forms of Discrimination against Women* and the *Convention on the Rights of Persons with Disabilities*;

Aware of the important positive role that open debate about different cultures, values, traditions, beliefs and practices can have in promoting understanding and peace, and in combating hatred, discrimination and violence;

Adopt, in Paris, on 6 May 2014, the following Joint Declaration on Universality and the Right to Freedom of Expression:

1. Recommendations for States

- a. States should take positive steps to ensure that all individuals and groups in society can realise their right to freedom of expression without discrimination. The specific steps that may be necessary will vary from State to State but the following measures should be considered:
 - i. Strengthening obligations on public broadcasters to serve the information and expressive needs of different individuals and groups in society, as well as to promote understanding and tolerance in society.
 - ii. Creating an enabling legal framework for community media, including so it can serve the information and expressive needs of different individuals and groups.
 - iii. Providing support, whether of a financial or regulatory nature, for media outlets or media content, for example in certain formats or languages, that serve the information and voice needs of different individuals and groups.
 - iv. Generally putting in place a legal and regulatory framework that promotes the rights of different individuals and groups to access and use media and digital technologies to disseminate their own content as well as to receive relevant content produced by others.
- b. States should take concrete and effective steps to modify or eliminate harmful stereotypes, prejudices and practices, including traditional or customary values or practices, which undermine the ability of all individuals and groups in society to enjoy the right to freedom of expression.
- c. States should not impose restrictions on freedom of expression unless they meet the minimum test for such restrictions under international law, including that they meet the standards of legality (provided by law), serve one of the legitimate aims recognised in the *International Covenant on Civil and Political Rights* (ICCPR), and are necessary and proportionate.
- d. States have some limited flexibility under international law in deciding whether or not, and if so how, to restrict freedom of expression to protect legitimate aims while respecting the standards set out above, including to reflect their own traditions, culture and values. International law also recognises that different approaches towards restrictions on freedom of expression may be justified by the very different factual situations States may face. Neither of these variations in any way undermines the principle of universality of freedom of expression and restrictions on freedom of expression should never represent an imposition by certain groups of their traditions, culture and values on others.

- e. There is a core of freedom of expression in relation to which States have either no power or extremely limited power to adapt restrictions to take into account local traditions, culture and values, which particularly includes political speech, broadly defined, given the centrality of such speech to democracy and respect for all human rights, which also implies that public figures should accept a greater degree of scrutiny by society.
- f. Certain types of legal restrictions on freedom of expression can never be justified by reference to local traditions, culture and values. Where they exist, such restrictions should be repealed and anyone who has been sanctioned under them should be fully absolved and be afforded adequate redress for the violation of their human rights. These include:
 - i. Laws which protect religions against criticism or prohibit the expression of dissenting religious beliefs.
 - ii. Laws which prohibit debate about issues of concern or interest to minorities and other groups which have suffered from historical discrimination or prohibit speech which is an element of the identity or personal dignity of these individuals and/or groups.
 - iii. Laws which provide for special protection against criticism for officials, institutions, historical figures, or national or religious symbols.
- g. States should give special attention, as needed given local circumstances, to combating, including through programmes designed to counter them, historical discrimination, prejudices and/or biases which prevent the equal enjoyment of the right to freedom of expression by certain groups.
- h. The global reach and effectiveness of the Internet, as well as its relative power and accessibility compared to other communication platforms, means that it plays a key role in realising the universality of freedom of expression. In this context, the following principles apply:
 - i. The right to freedom of expression, which applies regardless of frontiers, protects the Internet, as it does other forms of communication.
 - ii. Extreme caution should be taken in applying restrictions on freedom of expression to the Internet and other digital technologies, taking into account that such actions in one jurisdiction may affect other jurisdictions.
 - iii. States should actively promote universal access to the Internet regardless of political, social, economic or cultural differences, including by respecting the principles of net neutrality and of the centrality of human rights to the development of the Internet.

2. Recommendations for Other Actors

- a. International, regional and national human rights bodies should monitor and take steps to address restrictions on freedom of expression which are claimed to be justified by reference to specific traditions, practices, cultures and/or values, as well as situations where certain groups suffer from systematic barriers in terms of their ability in practical terms to exercise their right to freedom of expression.
- b. The international community – including inter-governmental bodies and individual States – should take steps to promote more dialogue and debate about these issues with a view to promoting greater understanding about and collaboration to support universal respect for freedom of expression.
- c. The media should play a positive role in countering discrimination, stereotypes, prejudices and biases, including by highlighting their dangers, by adhering to the highest professional and ethical standards, by addressing issues of concern to minorities and by giving members of minorities an opportunity to speak and to be heard.

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