

International Mechanisms for Promoting Freedom of Expression

JOINT DECLARATION

by

the UN Special Rapporteur on Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media and the OAS Special Rapporteur on Freedom of Expression

Having discussed these issues in London and virtually with the assistance of ARTICLE 19, Global Campaign for Free Expression;

Recalling and reaffirming their Joint Declarations of 26 November 1999, 30 November 2000, 20 November 2001, 10 December 2002, 18 December 2003 and 6 December 2004;

Recognising the huge and growing importance of the Internet as a vehicle for facilitating in practice the free flow of information and ideas that lies at the heart of the right to freedom of expression;

Stressing the need for strict application of international guarantees of freedom of expression to the Internet;

Aware of the ongoing debate about Internet governance and the concerns that have been raised about government interference in the Internet;

Condemning attempts by some governments to use the need to combat terrorism as a justification for adopting laws that unduly restrict freedom of expression;

Concerned that the standard of restricting expression which amounts to incitement, hitherto well-established in the areas of public order and national security, is being eroded in favour of vague and potentially very overbroad terms;

Noting the need for specialised mechanisms to promote freedom of expression in every region of the world and welcoming the appointment, by the African Commission on Human and Peoples' Rights, of a Special Rapporteur on Freedom of Expression;

Adopt, on 21 December 2005, the following Declaration:

On the Internet

- No one should be required to register with or obtain permission from any public body to operate an Internet service provider, website, blog or other online information dissemination system, including Internet broadcasting. This does not apply to registration with a domain name authority for purely technical reasons or rules of general application which apply without distinction to any kind of commercial operation.
- The Internet, at both the global and national levels, should be overseen only by bodies which are protected against government, political and commercial interference, just as freedom from such interference is already universally acknowledged in the area of the print and broadcast media. National regulation of Internet domain names should never be used as a means to control content.
- The right to freedom of expression imposes an obligation on all States to devote adequate resources to promote universal access to the Internet, including via public access points. The international community should make it a priority within assistance programmes to assist poorer States in fulfilling this obligation.
- Filtering systems which are not end-user controlled – whether imposed by a government or commercial service provider – are a form of prior-censorship and cannot be justified. The distribution of filtering

system products designed for end-users should be allowed only where these products provide clear information to end-users about how they work and their potential pitfalls in terms of over-inclusive filtering.

- No one should be liable for content on the Internet of which they are not the author, unless they have either adopted that content as their own or refused to obey a court order to remove that content. Jurisdiction in legal cases relating to Internet content should be restricted to States in which the author is established or to which the content is specifically directed; jurisdiction should not be established simply because the content has been downloaded in a certain State.
- Restrictions on Internet content, whether they apply to the dissemination or to the receipt of information, should only be imposed in strict conformity with the guarantee of freedom of expression, taking into account the special nature of the Internet.
- Corporations which provide Internet searching, chat, publishing or other services should make an effort to ensure that they respect the rights of their clients to use the Internet without interference. While this may pose difficulties in relation to operations in certain countries, these corporations are encouraged to work together, with the support of other stakeholders, to resist official attempts to control or restrict use of the Internet, contrary to the principles set out herein.

On Anti-Terrorism Measures

- The right to freedom of expression is universally recognised as a cherished human right and to respond to terrorism by restricting this right could facilitate certain terrorist objectives, in particular the dismantling of human rights.
- While it may be legitimate to ban incitement to terrorism or acts of terrorism, States should not employ vague terms such as 'glorifying' or 'promoting' terrorism when restricting expression. Incitement should be understood as a direct call to engage in terrorism, with the intention that this should promote terrorism, and in a context in which the call is directly causally responsible for increasing the actual likelihood of a terrorist act occurring.

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