

International Mechanisms for Promoting Freedom of Expression

JOINT DECLARATION

Current Challenges to Media Freedom

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

London, 30 November 2000

Having met with representatives of NGOs, UNESCO, journalists' associations and human rights experts in London on 29-30 November 2000, under the auspices of ARTICLE 19, Global Campaign for Free Expression, assisted by Canadian Journalists for Free Expression;

Recalling and reaffirming their Joint Declaration in London of 26 November 1999;

Noting the importance of regional mechanisms in promoting the right to freedom of expression and the need to promote such mechanisms in every region of the world;

Welcoming the recommendation of the African Commission on Human and Peoples' Rights Seminar on Freedom of Expression and the African Charter that a Special Rapporteur or other mechanism on freedom of expression be established for Africa;

Encouraging moves in the ASEAN and Asia-Pacific to develop regional mechanisms for the promotion and protection of human rights;

Supporting the Inter-American Declaration of Principles on Freedom of Expression of the Inter-American Commission on Human Rights;

Endorsing the ARTICLE 19 document, Defining Defamation: Principles on Freedom of Expression and Protection of Reputation;

Stating our intention to adopt a joint statement on racism and the media as part of the process of preparation for the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance;

Adopt the following Declaration:

- Two threats to freedom of expression and the free flow of information and ideas have now reached crisis proportions in many parts of the world.
 - attacks on journalists and others exercising their right to freedom of expression (censorship by killing).
 - the abuse of restrictive defamation and libel laws.

Censorship by Killing

- Attacks such as the murder, kidnapping, harassment of and/or threats to journalists and others exercising their right to freedom of expression, as well as the material destruction of

communications facilities, pose a very significant threat to independent and investigative journalism, to freedom of expression and to the free flow of information to the public.

- States are under an obligation to take adequate measures to end the climate of impunity and such measures should include devoting sufficient resources and attention to preventing attacks on journalists and others exercising their right to freedom of expression, investigating such attacks when they do occur, bringing those responsible to justice and compensating victims.

Defamation

All Member States should review their defamation laws in order to ensure that they do not restrict the right to freedom of expression and to bring them into line with their international obligations.

At a minimum, defamation laws should comply with the following standards:

- the repeal of criminal defamation laws in favour of civil laws should be considered, in accordance with relevant international standards;
- the State, objects such as flags or symbols, government bodies, and public authorities of all kinds should be prevented from bringing defamation actions;
- defamation laws should reflect the importance of open debate about matters of public concern and the principle that public figures are required to accept a greater degree of criticism than private citizens; in particular, laws which provide special protection for public figures, such as *desacato* laws, should be repealed;
- the plaintiff should bear the burden of proving the falsity of any statements of fact on matters of public concern;
- no one should be liable under defamation law for the expression of an opinion;
- in relation to a statement on a matter of public concern, it should be a defence to show that publication was reasonable in the given circumstances; and
- civil sanctions for defamation should not be so large as to exert a chilling effect on freedom of expression and should be designed to restore the reputation harmed, not to compensate the plaintiff or to punish the defendant; in particular, pecuniary awards should be strictly proportionate to the actual harm caused and the law should prioritize the use of a range of non-pecuniary remedies.

At the same time the three special mechanisms recognize that new communications technologies are of enormous value in promoting the right to freedom of expression and the free flow of information and ideas, and express an intention to include this as a topic of discussion at their next joint meeting.

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