

International Mechanisms for Promoting Freedom of Expression

JOINT STATEMENT

on

Racism and the Media

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, 27 February 2001

In support of the objectives and with the desire to make a contribution to the preparations for the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance, we:

Reaffirm that the promotion of equality, and freedom from racism, discrimination, xenophobia and intolerance, are essential to the realization of human rights and freedoms.

Stress the fundamental importance of the right to freedom of expression, including of the media, for the personal development, dignity and fulfilment of every individual, for the promotion and protection of equality and democracy, for the enjoyment of other human rights and freedoms, and for the progress and welfare of society.

Note with concern the prevalence of racism and discrimination, as well as the existence in many countries and regions of the world of a climate of intolerance, and the threat these pose to equality and full enjoyment of human rights and freedoms.

Recognize the positive contribution the exercise of the right to freedom of expression, particularly by the media, and full respect for the right to freedom of information can make to the fight against racism, discrimination, xenophobia and intolerance.

Recognize as harmful all forms of expression which incite or otherwise promote racial hatred, discrimination, violence and intolerance and note that crimes against humanity are often accompanied or preceded by these forms of expression.

Are cognisant of the need to ensure a balance between efforts to combat racism, discrimination, xenophobia and intolerance, and protection of the right to freedom of expression.

Reiterate the need to respect the editorial independence and autonomy of the media.

Desire to make a contribution to the preparations for the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance.

Adopt the following Joint Statement:

- Promoting an optimal role for the media in the fight against racism, discrimination, xenophobia and intolerance requires a comprehensive approach which includes an appropriate civil, criminal and administrative law framework, and which promotes tolerance, including through education, self-regulation and other positive measures.
- These efforts must be taken with the realization that respect for freedom of expression and information ensures that all citizens have access to information which helps them form their opinions and challenges their views, and which they need to make decisions.

Civil, Criminal and Administrative Law Measures

Any civil, criminal or administrative law measures that constitute an interference with freedom of expression must be provided by law, serve a legitimate aim as set out in international law and be necessary to achieve that aim. This implies that any such measures are clearly and narrowly defined, are applied by a body which is independent of political, commercial or other unwarranted influences and in a manner which is neither arbitrary nor discriminatory, and are subject to adequate safeguards against abuse, including the right of access to an independent court or tribunal. If these safeguards are not in effect, there is a very real possibility of such measures being abused, particularly where respect for human rights and democracy is weak, and “hate speech” laws have in the past been used against those they should be protecting. In accordance with international and regional law, “hate speech” laws should, at a minimum, conform to the following:

- no one should be penalized for statements which are true;
- no one should be penalized for the dissemination of “hate speech” unless it has been shown that they did so with the intention of inciting discrimination, hostility or violence;
- the right of journalists to decide how best to communicate information and ideas to the public should be respected, particularly when they are reporting on racism and intolerance;
- no one should be subject to prior censorship; and
- any imposition of sanctions by courts should be in strict conformity with the principle of proportionality.

These standards should also apply to new communications technologies such as the Internet, which are of enormous value in promoting the right to freedom of expression and the free flow of information and ideas, particularly across frontiers and at the global level. Any restrictions on these new communications technologies should not:

- limit or restrict the free flow of information and ideas protected by the right to freedom of expression; or
- enable the authorities to interfere with the work of, or intimidate, human rights defenders.

Defamation laws have in some cases been used to limit the right to freely identify and openly combat racism, discrimination, xenophobia and intolerance. To prevent this from happening, defamation laws should be brought into line with inter-national standards on freedom of expression, in particular as outlined in our Joint Declaration of 30 November 2000.

Freedom of Information

The free flow of information and ideas is one of the most powerful ways of combating racism, discrimination, xenophobia and intolerance. There should be free access to information which exposes or otherwise helps to combat these problems, whether that information is held by public or private bodies, unless denial of access can be justified as being necessary to protect an overriding public interest. In addition, States should ensure that the public has adequate access to reliable information relating to racism, discrimination, xenophobia and intolerance including, where necessary, through the collection and dissemination of such information by public authorities.

Promoting Tolerance

Media organizations, media enterprises and media workers – particularly public service broadcasters – have a moral and social obligation to make a positive contribution to the fight against racism, discrimination, xenophobia and intolerance.

There are many ways in which these bodies and individuals can make such a contribution, including by:

- designing and delivering media training programmes which promote a better understanding of issues relating to racism and discrimination, and which foster a sense of the moral and social obligations of the media to promote tolerance and knowledge of the practical means by which this may be done;
- ensuring that effective ethical and self-regulatory codes of conduct prohibit the use of racist terms and prejudicial or derogatory stereotypes, and unnecessary references to race, religion and related attributes;
- taking measures to ensure that their workforce is diverse and reasonably representative of society as a whole;
- taking care to report factually and in a sensitive manner on acts of racism or discrimination, while at the same time ensuring that they are brought to the attention of the public;
- ensuring that reporting in relation to specific communities promotes a better understanding of difference and at the same time reflects the perspectives of those communities and gives members of those communities a chance to be heard; and
- promoting a culture of tolerance and a better understanding of the evils of racism and discrimination.

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