

- **Joint Declarations**  
of the representatives of  
intergovernmental bodies  
to protect free media and  
expression

Joint Declarations of the representatives of intergovernmental bodies to protect free media and expression; Ed. by Adeline Hulin. - Vienna: OSCE Representative on Freedom of the Media, 2013. - 87 pp.

Joint Declarations of the representatives of intergovernmental bodies to protect free media and expression sets forth and chronicles the history and development of the Joint Declarations promulgated by the three, and now four special rapporteurs on free speech and expression of the Organization for Security and Co-operation in Europe, the United Nations, the Organization of American States and the African Commission on Human and Peoples' Rights.

Design: red hot 'n' cool, Vienna

Editor: Adeline Hulin

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Organization for Security and Co-operation in Europe

6 Wallnerstrasse  
A-1010 Vienna Austria  
Phone +43-1-51436-6800  
e-mail pm-fom@osce.org

ISBN 978-92-9234-645-4

# ■ Joint Declarations of the representatives of intergovernmental bodies to protect free media and expression

Vienna 2013



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# Foreword

**By Dunja Mijatović<sup>1</sup>**

Dear Reader,

This book contains the work of many people who are bound together by a common characteristic: a passion and unflinching commitment to free media and free expression.

It is a chronicle of 14 years of expression of that commitment: the annual joint declarations of four leaders, the OSCE Representative on Freedom of the Media, the UN Special Rapporteur on Freedom of Opinion and Expression, the OAS Special Rapporteur on Freedom of Expression, and ACHPR Special Rapporteur on Freedom of Expression and Access to Information. These media freedom advocates have mandates from intergovernmental bodies across the globe to protect and promote free media and expression.

In a time of globalization, joint worldwide mechanisms defending the free flow of information are fundamental. The joint declarations are a great opportunity to speak with a common voice.

The joint declarations have proven to be a noteworthy example of international co-operation in the field of media-freedom advocacy. Every year since 1999, with the assistance of Article 19 and the Centre for Law and Democracy, the Rapporteurs have met and issued a declaration restating freedom of expression as a fundamental and internationally recognized human right stressing the necessity of independent and pluralistic media for free and democratic societies, and recommending actions to strengthen free expression worldwide.

Focusing every year on a particular threat to free expression, the declarations reflect the evolution of media during a time marked by tremendous technological change. Despite the opportunities created, such as digital broadcasting, new threats have emerged. Full media freedom is still just a dream in most of the countries around the world. The panoply of actions taken by governments to curb free media and free expression is impressive – from criminalizing writing and speaking to shutting off access to government information to pressuring

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<sup>1</sup> Mijatović was appointed Representative on Freedom of the Media of the Organization for Security and Co-operation in Europe in March 2010.

journalists to disclose their confidential sources – nations are seldom at a loss for creative ways to retard media freedom.

Violence against journalists remains a crucial issue. The number of journalists murdered, attacked and jailed has continued almost unabated. The problems may vary from one country to another in scope and in substance, but in reality media is still under assault, as are individuals' right to express themselves without fear.

The declarations are testimonies to the efforts undertaken by the four freedom of expression rapporteurs to address those challenges and to remind governments worldwide that their commitments to freedom of opinion and expression must be maintained, defended and expanded, both online and off-line. The declarations address a wide range of issues and warn of the threat of government interference in the marketplace of ideas. By offering remedies to specific shortcomings, the declarations assist governments and provide guidelines for best practices in the fields covered.

It is, therefore, a success that the joint declarations are being relied upon in an increasing number of international settings, including the European Court of Human Rights<sup>2</sup>. The Court has referred to the declarations in its decisions when referring to the international and comparative law and practice. Recent examples include cases involving guidelines on how to handle the publishing of classified information by a journalist and on the liability of a newspaper for republishing content posted on the Internet.

National courts in OSCE participating States are also relying on the declarations. In June 2012, for example, the Supreme Court of the Republic of Chuvashiya in the Russian Federation cited the Joint Declaration on Freedom of Expression and the Internet when overruling a lower court decision against the owner of the *nasvyazi.ru*, an Internet portal.

Reasons given by the court included the right to freedom of expression in Article 10 of the European Convention on Human Rights and Article 19 of the International Covenant on Civil and Political Rights. The court also cited the "Declaration on Freedom of Expression and the Internet" adopted on 1 June

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<sup>2</sup> See *Editorial board of Pravoye Delo and Shtekel v. Ukraine, Stoll v. Switzerland*

2011 by the rapporteurs.<sup>3</sup> The court concluded that, by holding the website's owner liable for content, the lower court had not recognized the Declaration as an international norm that does not contradict national legislation.

The Supreme Court noted that "holding the owner of a website liable is possible only according to reasons provided for by the general norms of civil legislation." It also stated that the lower court had not cited legal norms that would require website owners to delete readers' comments that others dislike. As a result, the owner of na-svyazi.ru was only ordered to upload a retraction drafted by the Supreme Court and keep it posted for no less than a year.

In sum, I am pleased with the outstanding teamwork of the rapporteurs. I believe that our relationship through the years has resulted in enriching experiences and true progress in the field of free expression. I hope that will continue to hold true.

I trust this compilation will be a valuable resource for journalists, lawyers, judges, scholars and human rights activists in their important work of promoting free media and free expression.

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3 Paragraph 2(a) of the Declaration says that "no one who simply provides technical Internet services such as providing access, or searching for, or transmission, or caching of information, should be liable for content generated by others, which is disseminated using those services, as long as they do not specifically intervene in that content or refuse to obey a court order to remove that content, where they have the capacity to do so." Paragraph 2(b) of the Declaration says that "consideration should be given to insulating fully other intermediaries (...) from liability for content generated by others under the same conditions as in paragraph 2(a)." "At a minimum, intermediaries should not be required to monitor user-generated content and should not be subject to extrajudicial content takedown rules which fail to provide insufficient protection for freedom of expression."



# History of the Joint Declarations

## Toby Mendel<sup>1</sup>

The three and now, four special international rapporteurs (also known as mandates) on freedom of expression have adopted a Joint Declaration on freedom of expression annually since 1999. The 13th such Joint Declaration was launched on 25 June 2012 in Port of Spain, Trinidad and Tobago. It addressed the issue of crimes against freedom of expression (i.e. attacks on those who exercise their right to free expression). This article looks at the genesis and development of the Joint Declarations.

The first special rapporteur for the protection of freedom of expression, the UN Special Rapporteur on freedom of opinion and expression, was established by a resolution of the UN Human Rights Commission in March 1993,<sup>2</sup> and the first Special Rapporteur, Abid Hussain, from India, was appointed shortly thereafter. It was a momentous development in terms of the institutional structures for the international protection of freedom of expression, the first dedicated body to address this key human rights issue.

This first international mandate was followed, some four years later, by the creation of two further dedicated rapporteurs on freedom of expression. The Office of the Representative on Freedom of the Media of the Organization for Security and Co-operation in Europe was created in late 1997 by the Permanent Council of the OSCE,<sup>3</sup> while the Inter-American Commission on Human Rights (IACHR) created the Organization of American States (OAS) Special Rapporteur on Freedom of Expression at its 97th Regular Session in October 1997. By late 2008, both of these positions had been filled (respectively, by Freimut Duve and Santiago Canton).

ARTICLE 19, the international freedom of expression organisation, decided it would be a good idea to bring these three special mandates together for a face-to-face meeting which was held in London in November 1999. The purpose was to foster an exchange of information and to promote co-operation between the

<sup>1</sup> Mendel is Executive Director of the Centre for Law and Democracy

<sup>2</sup> Commission Resolution 1993/45, 5 March 1993, para. 11.

<sup>3</sup> PC DEC No. 193, OSCE, 5 November 1997, para. 1.

mandates and to expose the mandate holders to a spectrum of NGO opinion to which they might not otherwise have access.

The initial meeting was a modest affair, bringing together the mandate holders and a few ARTICLE 19 staff, along with a few other interested groups and individuals based in London. The discussions focused mainly on substantive freedom of expression issues the rapporteurs were facing in their respective regions, along with discussions about how they might be able to work together more closely.

As Director of the ARTICLE 19 Law Programme, I was responsible for standards issues. It became clear, as the discussions progressed, that one of the challenges facing all of the mandate holders was the paucity of mechanisms for developing international standards on freedom of expression. There were, of course, the primary texts, but these were by definition very brief and general in nature. There was also a growing body of international jurisprudence – from the UN Human Rights Committee and regional human rights courts and bodies – but this was limited both by the relatively small (especially at that time) size of this body of law but also by the fact that it only addressed certain kinds of issues, namely the types of cases that individuals might bring before these bodies. Thus, while there were quite a few defamation cases, there was little or no jurisprudence on issues like the responsibility of the State to ensure diversity in the media or to respect the independence of public broadcasters.

There was also a body of so-called “soft law”, for example in the form of resolutions and other statements from authoritative actors like the Committee of Ministers of the Council of Europe. There were, however, three key limitations with this body of standards. First, like the jurisprudence, it was limited in scope, focusing mainly on issues which the various actors felt were of overriding importance. Second, there was a very distinct dominance of European standards, with very little coming from the rest of the world. Finally, in many cases, the standards were quite conservative in nature, often representing a relatively safe elaboration of established jurisprudence of the European Court of Human Rights.

It quickly became apparent that the special mandates were an ideal group to help address this problem. To take advantage of the coming together of these eminent persons, I suggested that they work together to issue a Joint Declaration addressing a number of freedom of expression themes. The suggestion was readily agreed upon and I quickly set about preparing a draft, which was discussed and finalized the following day.

On 26 November 1999, the first Joint Declaration of the International Mechanisms for Promoting Freedom of Expression was issued. At the time, there was no suggestion that this would become an annual event, so the 1999 Joint Declaration addressed a wide range of themes that were deemed to be important and missing from the wider body of international standard setting. These included calls for recognition of the right to information, the decriminalization of defamation and promoting an independent and pluralistic media.

Another standard-setting exercise arising out of that first meeting has largely been lost in mists of time. This was the adoption in February 2000 of a Statement Regarding Key Issues and Challenges in Freedom of Expression. The Statement, which is 10 pages long, addresses a wide range of freedom of expression issues, including public order and national security restrictions, criminal content restrictions and hate speech, defamation (civil and criminal), attacks on members of the media, informal censorship, economic measures, privacy, gender issues, protection of sources, new technologies, state control over both public and private broadcasters, election reporting, minorities and children and strengthening the capacity of the mechanisms.

The main driver for adopting the Statement was a desire to take maximum advantage of the coming together of the three mandate holders. We did not know when the mandates might come together again, or when we might have another opportunity to issue a statement like this, and so we wanted to cover as many issues as possible. This explains the extraordinary breadth of the Statement, in terms of topics covered. It also explains the delay in adopting it, as it naturally took some time to prepare a document of that breadth.

These documents, and in particular the Joint Declaration, received an immediate and extremely enthusiastic welcome from a range of actors interested in promoting and understanding freedom of expression. This, in turn, led to various discussions among us over the course of the year about a follow-up to both the meeting and the Joint Declaration. In due course, funds were raised so that the event could be substantially expanded and more civil society representatives from around the world could participate.

The result was a meeting on 29-30 November 2000, again in London, which brought together 26 experts and civil society activists from all regions of the world to discuss key freedom of expression issues and to present their concerns. The idea of Joint Declarations becoming an annual practice was starting to emerge in

our discussions. As a result, it was agreed in advance that the Joint Declaration for that year would focus on two key themes, namely attacks on journalists (censorship by killing) and defamation.

The 2000 meeting focused on the two Declaration themes and provided participants with an opportunity to discuss the main concerns in their regions. It also provided the mandate holders with an opportunity to discuss co-operation among themselves, which has increased steadily in practice since that time. The idea of issuing Joint Declarations on an annual basis was also firmly agreed at that meeting.

Importantly, the 2000 meeting also provided an opportunity to discuss the idea of expanding the number of mandates, most immediately by promoting the establishment of an African mandate by the African Commission on Human and Peoples' Rights. That Commission adopted the *Declaration of Principles on Freedom of Expression in Africa*<sup>4</sup> in 2002, and this was followed in 2004 by a resolution establishing the Special Rapporteur on Freedom of Expression (later changed to the Special Rapporteur on Freedom of Expression and Access to Information in Africa).<sup>5</sup>

The 2006 Joint Declaration was the first one adopted by all four special mandates.

Building on the 2000 meeting, Joint Declarations have been adopted annually since then, almost always with one or two key thematic focuses. An exception was the 10th Anniversary Declaration, adopted on 3 February 2010, which focused on 10 key threats to freedom of expression over the coming 10 years, the Tenth Anniversary Joint Declaration: Ten Key Challenges to Freedom of Expression in the Next Decade or the so-called 10-10-10 Declaration.

Together, the 13 Joint Declarations represent an extremely important body of international standards relating to freedom of expression. They are regularly relied on not only by activists and academics and other standard-setting bodies, but also by lawyers and judges. In this way, what might be termed “soft law” gradually matures into hard law.

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4 At its 32nd Ordinary Session, held in Banjul, Gambia, 17-23 October 2002.

5 Resolution 71, adopted at the 36th Ordinary Session, held in Dakar, Senegal, from 23 November to 7 December 2004.



## History of the Offices

### **Mandates**

#### ***The OSCE Representative on Freedom of the Media***

### **Background**

The task of the OSCE (Organization for Security and Co-operation in Europe) Representative on Freedom of the Media is to observe relevant media developments in OSCE participating States and, in close co-ordination with the Chairman-in-Office, to advocate and promote full compliance with OSCE principles and commitments regarding freedom of expression and free media.

### **Early warning**

In this respect, the Representative assumes an early warning function and co-operates closely with the participating States, the Permanent Council, the Office for Democratic Institutions and Human Rights, the High Commissioner on National Minorities and, where appropriate, other OSCE bodies, as well as with national and international media associations.

### **Rapid response**

The Representative concentrates on rapid response to serious non-compliance with OSCE principles and commitments by participating States. In case of serious problems caused, for instance, by obstruction of media activities and unfavorable working conditions for journalists, the Representative seeks direct contacts with the participating States and other parties involved, assesses the facts and contributes to the resolution of the issue.

### **Collecting information on media situation**

The Representative collects and receives information on the situation of the media from all bona fide sources. Participating States and other interested parties (e.g. organizations or institutions, media and their representatives, relevant NGOs) may forward their requests, suggestions and comments related to strengthening and further developing compliance with OSCE principles and commitments,

including alleged instances of intolerance by participating States (hate speech).

### **Restrictions**

The mandate directs that the Representative will not communicate with and will not acknowledge communications from any person or organization which practices or publicly condones terrorism or violence.

The Representative routinely consults with the Chairman-in-Office and reports on a regular basis to the Permanent Council, recommending further action where appropriate.

[www.osce.org/fom](http://www.osce.org/fom)

### ***The OAS Special Rapporteur for Freedom of Expression***

The Office of the OAS (Organization of American States) Special Rapporteur for Freedom of Expression has a general mandate to carry out activities for the protection and promotion of the right to freedom of thought and expression. This includes the following activities:

- Advise the IACHR (Inter-American Commission on Human Rights) in evaluating cases and requests for precautionary measures, as well as in preparing reports.
- Carry out promotional and educational activities on the right to freedom of thought and expression.
- Advise the IACHR in conducting on-site visits to OAS member countries to deepen the general observation of the situation and/or to investigate a particular situation having to do with the right to freedom of thought and expression.
- Conduct visits to OAS Member States.
- Prepare specific and thematic reports.
- Promote the adoption of legislative, judicial, administrative, or other types of measures that may be necessary to make effective the exercise of the

right to freedom of thought and expression.

- Coordinate with ombudsmen's offices or national human rights institutions to verify and follow up on conditions involving the exercise of the right to freedom of thought and expression in the Member States.
- Provide technical advisory support to the OAS bodies.
- Prepare an annual report on the situation regarding the right to freedom of thought and expression in the Americas, which will be considered by the full Inter-American Commission for its approval and inclusion in its Annual Report to the General Assembly.
- Gather all the information necessary to prepare the aforementioned reports.

*[http://www.oas.org/en/iachr/expression/docs/brochures/rapporteur\\_brochure\\_web\\_julio\\_13.pdf](http://www.oas.org/en/iachr/expression/docs/brochures/rapporteur_brochure_web_julio_13.pdf)*

## **Mandate**

The Special Rapporteur is mandated by the Human Right Council resolution 7/36:

(a) To gather all relevant information, wherever it may occur, relating to violations of the right to freedom of opinion and expression, discrimination against, threats or use of violence, harassment, persecution or intimidation directed at persons seeking to exercise or to promote the exercise of the right to freedom of opinion and expression, including, as a matter of high priority, against journalists or other professionals in the field of information;

(b) To seek, receive and respond to credible and reliable information from Governments, non-governmental organizations and any other parties who have knowledge of these cases;

(c) To make recommendations and provide suggestions on ways and means to better promote and protect the right to freedom of opinion and expression in all its manifestations; and

(d) To contribute to the provision of technical assistance or advisory services by

the Office of the United Nations High Commissioner for Human Rights to better promote and protect the right to freedom of opinion and expression.

### **Working methods**

In the discharge of his mandate the Special Rapporteur:

- a) Transmits urgent appeals and letters of allegation to Member States on alleged violations of the right to freedom of opinion and expression. The Special Rapporteur summarises these communications as well as replies received from Governments in an annual report submitted to the Human Rights Council.
- b) Undertakes fact-finding country visits.
- c) Submits annual reports covering activities relating to the mandate to the Human Rights Council and to the General Assembly (starting in 2010 for the latter).

<http://www.ohchr.org/EN/Issues/FreedomOpinion/Pages/OpinionIndex.aspx>

### ***The ACHPR Special Rapporteur on Freedom of Expression and Access to Information***

#### **Mandate**

The African Commission on Human and Peoples' Rights meeting decided to appoint a Special Rapporteur on Freedom of Expression in Africa with the following mandate:

- Analyze national media legislation, policies and practice within Member States, monitor their compliance with freedom of expression standards in general and the Declaration of Principles on Freedom of Expression in particular, and advise Member States accordingly.
- Undertake investigative missions to Member States where reports of massive violations of the right to freedom of expression are made and make appropriate recommendations to the African Commission.

- Undertake country Missions and any other promotional activity that would strengthen the full enjoyment of the right to freedom of expression in Africa.
- Make public interventions where violations of the right to freedom of expression have been brought to his/her attention. This could be in the form of issuing public statements, press releases, urgent appeals.
- Keep a proper record of violations of the right to freedom of expression and publish this in his/her reports submitted to the African Commission.
- Submit reports at each Ordinary Session of the African Commission on the status of the enjoyment of the right to freedom of expression in Africa.

#### The African Commission on Human and Peoples' Rights:

- Calls upon Member States of the African Union to take all necessary measures to ensure the protection of the right to freedom of expression and to include information on measures taken to ensure the enjoyment of the right to freedom of expression in their periodic reports to the African Commission.
- Submit reports at each ordinary Session of the African Commission on the status of the enjoyment of the right to freedom of expression in Africa.
- Urges Members States of the African Union to co-operate with and assist the Special Rapporteur in the performance of his tasks and to provide all necessary information for the fulfilment of his mandate.
- Invites its Members to incorporate the issue of freedom of expression in their promotional activities to Members States.
- Requests the African Union to provide adequate resources, assistance and support for the implementation of this Resolution.

*[http://www.achpr.org/english/\\_info/free\\_exp\\_res\\_3.html](http://www.achpr.org/english/_info/free_exp_res_3.html)*



## 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***

London, 26 November 1999

- We, 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, recall that freedom of expression is a fundamental and internationally recognised human right and a basic component of any democratic society.
- Independent and pluralistic media are essential to a free and open society and accountable systems of government. The current state of free media in our member-states, although very different from organisation to organisation, is far from perfect.
- Certain governments, that belong to one or more of our organisations, have continued to harass media in their respective countries. The levels of harassment might be different but the general aim is the same: to stomp out pluralism and open debate on issues of concern to citizens.
- Freedom of expression is not only a fundamental human right in and of itself, but it has ramifications for economic development as well. The media has a “corrective” function by bringing to the public attention corruption and inequitable practices. Lack of a free media can often lead to economic stagnation and improper practises by both governments and businesses.

- We urge our participating states and the media in these countries to refrain from serious instances of intolerance, especially “Hate Speech.”

Abid Hussain, UN Special Rapporteur on Freedom of Opinion and Expression

Freimut Duve, OSCE Representative on Freedom of the Media

Santiago Canton, OAS Special Rapporteur on 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 nonpecuniary 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.

Abid Hussain, UN Special Rapporteur on Freedom of Opinion and Expression

Freimut Duve, OSCE Representative on Freedom of the Media

Santiago Canton, OAS Special Rapporteur on Freedom of Expression

## JOINT DECLARATION

### Challenges to Freedom of Expression in the New Century

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 met with representatives of NGOs, UNESCO, journalists associations and human rights experts in London on 19-20 November 2001, under the auspices of ARTICLE 19, Global Campaign for Free Expression, assisted by Canadian Journalists for Free Expression, we;*

Recall and reaffirm our Joint Declarations of 26 November 1999 and 30 November 2000;

Condemn the criminal terrorist attacks of 11 September 2001 and extend our deepest feelings of sympathy to the victims;

Are of the view that the events of 11 September 2001 and their aftermath highlight the importance of open public debate based on the free exchange of ideas, and should serve as a catalyst for States all over the world to bolster guarantees of freedom of expression;

Express our concern about the consequences these events are having for the right to freedom of expression at the advent of the "electronic century" which is witnessing the growing dominance of forms of communication such as broadcasting and the Internet;

Are aware of the fact that broadcasting remains the most important source of information for most people in the world;

Recognise the growing importance of the Internet, and its potential as a tool to enhance the right to freedom of expression and freedom of information;

Note 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, including in Africa and Asia;

Recall the World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance in Durban and our Joint Statement on Racism and the Media of 27 February 2001, which stated: “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, selfregulation and other positive measures”;

Adopt the following Declaration:

### **Countering Terror**

- Terror must not triumph over human rights in general, and freedom of expression in particular;
- Certain governments have, in the aftermath of the events of 11 September, adopted measures or taken steps to limit freedom of expression and curtail the free flow of information; this reaction plays into the hands of the terrorists;
- Guarantees for freedom of expression have developed over centuries but they can easily be rolled back; we are particularly concerned that recent moves by some governments to introduce legislation limiting freedom of expression set a bad precedent;
- We are of the view that an effective strategy to address terror must include reaffirming and strengthening democratic values, based on the right to freedom of expression;
- The events of 11 September have brought in their wake a rise in racism and attacks against Islam; we call on governments, as well as the media, to do all within their power to combat this dangerous trend;

## **Broadcasting**

- Promoting diversity should be a primary goal of broadcast regulation; diversity implies gender equity within broadcasting, as well as equal opportunity for all sections of society to access the airwaves;
- Broadcast regulators and governing bodies should be so constituted as to protect them against political and commercial interference;
- Effective measures should be adopted to prevent undue concentration of media ownership;
- Media owners and media professionals should be encouraged to conclude agreements to guarantee editorial independence; commercial considerations should not unduly influence media content;
- We are of the view that elected political officials and members of government who are media owners must separate their political activities from their media interests;

## **The Internet**

- The right to freedom of expression applies to the Internet, just as it does to other communication media;
- The international community, as well as national governments, should actively promote universal access to the Internet, including through supporting the establishment of information communication technology (ICT) centres;
- States should not adopt separate rules limiting Internet content;

Abid Hussain, UN Special Rapporteur on Freedom of Opinion and Expression

Freimut Duve, OSCE Representative on Freedom of the Media

Santiago Canton, OAS Special Rapporteur on 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 met* with representatives of NGOs, UNESCO, journalists' associations and human rights experts in London on 9-10 December 2002, under the auspices of ARTICLE 19, Global Campaign for Free Expression;

*Reiterating*, on the occasion of Human Rights Day, that an environment of respect for all human rights is necessary for realisation in practice of the right to freedom of expression;

*Recalling and reaffirming* the Joint Declarations of 26 November 1999, 30 November 2000 and 20 November 2001;

*Condemning* attacks on journalists, including assassinations and threats, as well as the climate of impunity that still exists in many countries, as noted in the Joint Declaration of 30 November 2000;

*Recognising* the importance and mutually reinforcing role in a democracy of the twin pillars of a free media and an independent, effective judiciary;

*Welcoming* the establishment of the International Criminal Court;

*Stressing* that problems associated with a weak judiciary cannot be addressed through restrictions on freedom of expression;

*Cognisant* of the threat posed by increasing concentration of ownership of the media and the means of communication, in particular to diversity and editorial independence;

*Aware* of the important corrective function played by the media in exposing political and economic corruption and other wrongdoing;

*Recalling* the concern expressed in the Joint Declaration of 20 November 2001 over interference in the free flow of information and ideas by elected political officials and members of government who are media owners;

*Mindful* of the ongoing abuse of criminal defamation laws, including by politicians and other public figures;

*Welcoming* the Declaration of Principles on Freedom of Expression in Africa and the commitment of the African Commission on Human and Peoples' Rights to adopt a regional mechanism to promote the right to freedom of expression;

*Noting* the need for specialised mechanisms to promote freedom of expression in every region of the world;

*Adopt* the following Declaration:

### **Freedom of Expression and the Administration of Justice**

- Special restrictions on commenting on courts and judges cannot be justified; the judiciary play a key public role and, as such, must be subject to open public scrutiny.
- No restrictions on reporting on ongoing legal proceedings may be justified unless there is a substantial risk of serious prejudice to the fairness of those proceedings and the threat to the right to a fair trial or to the presumption of innocence outweighs the harm to freedom of expression.
- Any sanctions for reporting on legal proceedings should be applied only after a fair and public hearing by a competent, independent and impartial tribunal; the practice of summary justice being applied in cases involving criticism of judicial proceedings is unacceptable.
- Courts and judicial processes, like other public functions, are subject to the principle of maximum disclosure of information which may be overcome only where necessary to protect the right to a fair trial or the presumption of innocence.



- Judges' right to freedom of expression, and to comment on matters of public concern, should be subject only to such narrow and limited restrictions as are necessary to protect their independence and impartiality.

### **Commercialisation and Freedom of Expression**

- Governments and public bodies should never abuse their custody over public finances to try to influence the content of media reporting; the placement of public advertising should be based on market considerations.
- Media owners have a responsibility to respect the right to freedom of expression and, in particular, editorial independence.
- The right to freedom of expression and to a diversity of information and ideas should be respected in international financial arrangements, including the upcoming round of World Trade Organisation negotiations, and by international financial institutions.

### **Criminal Defamation**

- Criminal defamation is not a justifiable restriction on freedom of expression; all criminal defamation laws should be abolished and replaced, where necessary, with appropriate civil defamation laws.

Ambeyi Ligabo, UN Special Rapporteur on Freedom of Opinion and Expression

Freimut Duve, OSCE Representative on Freedom of the Media

Eduardo Bertoni, OAS Special Rapporteur on 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

18 December 2003

*Having* discussed these issues 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 and 10 December 2002;

*Condemning* attempts by some governments to limit freedom of expression and to control the media and/or journalists through regulatory mechanisms which lack independence or otherwise pose a threat to freedom of expression;

*Noting* the importance of protecting broadcasters, both public and private, from interference of a political or commercial nature;

*Recognising* the fundamentally unique nature of the Internet and the serious problems with trying to apply systems designed for the print or broadcast sector to this new medium;

*Recalling* that the right to freedom of expression guarantees everyone the freedom to seek, receive and impart information through any medium and that, as a result, attempts to limit access to the practise of journalism are illegitimate;

*Aware* of the important watchdog role of the media and of the importance to democracy and society as a whole of vibrant, active investigative journalism;

*Welcoming* the commitment of the African Commission on Human and Peoples' Rights to adopt a regional mechanism to promote the right to freedom of expression and noting the need for specialised mechanisms to promote freedom of expression in every region of the world;

*Adopt*, on 18 December 2003, the following Declaration:

### **On the Regulation of the Media**

- All public authorities which exercise formal regulatory powers over the media should be protected against interference, particularly of a political or economic nature, including by an appointments process for members which is transparent, allows for public input and is not controlled by any particular political party.
- Regulatory systems should take into account the fundamental differences between the print and broadcast sectors, as well as the Internet. Broadcasters should not be required to register in addition to obtaining a broadcasting licence. The allocation of broadcast frequencies should be based on democratic criteria and should ensure equitable opportunity of access. Any regulation of the Internet should take into account the very special features of this communications medium.
- Imposing special registration requirements on the print media is unnecessary and may be abused and should be avoided. Registration systems which allow for discretion to refuse registration, which impose substantive conditions on the print media or which are overseen by bodies which are not independent of government are particularly problematical.
- Content restrictions are problematical. Media-specific laws should not duplicate content restrictions already provided for in law as this is unnecessary and may lead to abuse. Content rules for the print media that provide for quasi-criminal penalties, such as fines or suspension, are particularly problematical.
- Media outlets should not be required by law to carry messages from specified political figures, such as the president.

### **On the Restrictions on Journalists**

- Individual journalists should not be required to be licensed or to register.
- There should be no legal restrictions on who may practise journalism.
- Accreditation schemes for journalists are appropriate only where necessary to provide them with privileged access to certain places and/or events; such schemes should be overseen by an independent body and accreditation decisions should be taken pursuant to a fair and transparent process, based on clear and non discriminatory criteria published in advance.
- Accreditation should never be subject to withdrawal based only on the content of an individual journalist's work.

### **Investigating Corruption**

- Media workers who investigate corruption or wrongdoing should not be targeted for legal or other harassment in retaliation for their work.
- Media owners should be encouraged to provide appropriate support to journalists engaged in investigative journalism.

Ambeyi Ligabo, UN Special Rapporteur on Freedom of Opinion and Expression

Freimut Duve, OSCE Representative on Freedom of the Media

Eduardo Bertoni, OAS Special Rapporteur on 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**

6 December 2004

*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 and 18 December 2003;

*Noting* the growing recognition of the key right to access information held by public authorities (sometimes referred to as freedom of information), including in authoritative international statements and declarations;

*Applauding* the fact that a large number of countries, in all regions of the world, have adopted laws recognising a right to access information and that the number of such countries is growing steadily;

*Recognizing* the fundamental importance of access to information to democratic participation, to holding governments accountable and to controlling corruption, as well as to personal dignity and business efficiency;

*Condemning* attempts by some governments to limit access to information either by refusing to adopt access to information laws or by adopting laws, which fail to conform to international standards in this area;

*Stressing* the need for informational 'safety valves' such as protection of whistle-blowers and protection for the media and other actors who disclose information in the public interest;

*Welcoming* the commitment of the African Commission on Human and Peoples' Rights to adopt a regional mechanism to promote the right to freedom of expression and noting the need for specialised mechanisms to promote freedom of expression in every region of the world;

*Adopt*, on 6 December 2004, the following Declaration:

### **On Access to Information**

- The right to access information held by public authorities is a fundamental human right which should be given effect at the national level through comprehensive legislation (for example Freedom of Information Acts) based on the principle of maximum disclosure, establishing a presumption that all information is accessible subject only to a narrow system of exceptions.
- Public authorities should be required to publish pro-actively, even in the absence of a request, a range of information of public interest. Systems should be put in place to increase, over time, the amount of information subject to such routine disclosure.
- Access to information is a citizens' right. As a result, the procedures for accessing information should be simple, rapid and free or low-cost.
- The right of access should be subject to a narrow, carefully tailored system of exceptions to protect overriding public and private interests, including privacy. Exceptions should apply only where there is a risk of substantial harm to the protected interest and where that harm is greater than the overall public interest in having access to the information. The burden should be on the public authority seeking to deny access to show that the information falls within the scope of the system of exceptions.
- Public authorities should be required to meet minimum record management standards. Systems should be put in place to promote higher standards over time.
- The access to information law should, to the extent of any inconsistency, prevail over other legislation.

- Those requesting information should have the possibility to appeal any refusals to disclose to an independent body with full powers to investigate and resolve such complaints.
- National authorities should take active steps to address the culture of secrecy that still prevails in many countries within the public sector. This should include provision for sanctions for those who wilfully obstruct access to information. Steps should also be taken to promote broad public awareness of the access to information law.
- Steps should be taken, including through the allocation of necessary resources and attention, to ensure effective implementation of access to information legislation.

### **On Secrecy Legislation**

- Urgent steps should be taken to review and, as necessary, repeal or amend, legislation restricting access to information to bring it into line with international standards in this area, including as reflected in this Joint Declaration.
- Public authorities and their staff bear sole responsibility for protecting the confidentiality of legitimately secret information under their control. Other individuals, including journalists and civil society representatives, should never be subject to liability for publishing or further disseminating this information, regardless of whether or not it has been leaked to them, unless they committed fraud or another crime to obtain the information. Criminal law provisions that don't restrict liability for the dissemination of State secrets to those who are officially entitled to handle those secrets should be repealed or amended.
- Certain information may legitimately be secret on grounds of national security or protection of other overriding interests. However, secrecy laws should define national security precisely and indicate clearly the criteria which should be used in determining whether or not information can be declared secret, so as to prevent abuse of the label "secret" for purposes of preventing disclosure of information which is in the public interest. Secrecy laws should set out clearly which officials are entitled to classify documents as secret and should also set overall limits on the length

of time documents may remain secret. Such laws should be subject to public debate.

- “Whistleblowers” are individuals releasing confidential or secret information although they are under an official or other obligation to maintain confidentiality or secrecy. “Whistleblowers” releasing information on violations of the law, on wrongdoing by public bodies, on a serious threat to health, safety or the environment, or on a breach of human rights or humanitarian law should be protected against legal, administrative or employment-related sanctions if they act in “good faith”.

Ambeyi Ligabo, UN Special Rapporteur on Freedom of Opinion and Expression

Miklos Haraszti, OSCE Representative on Freedom of the Media

Eduardo Bertoni, OAS Special Rapporteur on 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.

Ambeyi Ligabo, UN Special Rapporteur on Freedom of Opinion and Expression

Miklos Haraszti, OSCE Representative on Freedom of the Media

Eduardo Bertoni, OAS Special Rapporteur on Freedom of Expression

## JOINT DECLARATION

by

**the UN Special Rapporteur on Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media, the OAS Special Rapporteur on Freedom of Expression and the ACHPR (African Commission on Human and Peoples' Rights) Special Rapporteur on Freedom of Expression**

*Having* discussed these issues together 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, 6 December 2004 and 21 December 2005;

*Stressing* the importance of respecting the right of journalists to publish information provided to them on a confidential basis;

*Emphasising* the importance of the recent ruling of the Inter-American Court of Human Rights in the case of Marcel Claude Reyes and others v. Chile, which confirmed the existence of a right to access information held by States;

*Aware* of the adoption by the Global Transparency Initiative, a civil society movement, of the Transparency Charter for International Financial Institutions: Claiming Our Right to Know, calling for greater openness by multilateral development banks and other international financial bodies;

*Welcoming* the progressive amendments that a number of international financial institutions have made to their information disclosure policies in recent years;

*Noting* that international public bodies and inter-governmental organisations, like their national counterparts, have an obligation to be transparent and to provide access to the information they hold;

*Cognisant of* greater public awareness of the tensions that may result from certain types of expression due to different cultural and religious values, in particular prompted by the Danish cartoons incident;

*Concerned* about calls from certain quarters to resolve the tensions noted above by reversing hitherto well-established standards of respect for freedom of expression;

*Reaffirming* that freedom of expression and a free media can play an important positive role in addressing social tensions and in promoting a culture of tolerance;

*Recalling* that 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;

*Noting* the need for specialised mechanisms to promote freedom of expression in every region of the world and the lack of such a mechanism in the Asia-Pacific region;

*Adopt*, on 19 December 2006, the following Declaration:

### **On Publishing Confidential Information**

- Journalists should not be held liable for publishing classified or confidential information where they have not themselves committed a wrong in obtaining it. It is up to public authorities to protect the legitimately confidential information they hold.

### **Openness of National and International Public Bodies**

- Public bodies, whether national or international, hold information not for themselves but on behalf of the public and they should, subject only to limited exceptions, provide access to that information.
- International public bodies and inter-governmental organisations should adopt binding policies recognising the public's right to access the information they hold. Such policies should provide for the proactive disclosure of key information, as well as the right to receive information upon request.

- Exceptions to the right of access should be set out clearly in these policies and access should be granted unless (a) disclosure would cause serious harm to a protected interest and (b) this harm outweighs the public interest in accessing the information.
- Individuals should have the right to submit a complaint to an independent body alleging a failure properly to apply an information disclosure policy, and that body should have the power to consider such complaints and to provide redress where warranted.

### **Freedom of Expression and Cultural/Religious Tensions**

- The exercise of freedom of expression and a free and diverse media play a very important role in promoting tolerance, diffusing tensions and providing a forum for the peaceful resolution of differences. High profile instances of the media and others exacerbating social tensions tend to obscure this fact.
- Governments should refrain from introducing legislation which makes it an offence simply to exacerbate social tensions. Although it is legitimate to sanction advocacy that constitutes incitement to hatred, it is not legitimate to prohibit merely offensive speech. Most countries already have excessive or at least sufficient 'hate speech' legislation. In many countries, overbroad rules in this area are abused by the powerful to limit non-traditional, dissenting, critical, or minority voices, or discussion about challenging social issues. Furthermore, resolution of tensions based on genuine cultural or religious differences cannot be achieved by suppressing the expression of differences but rather by debating them openly. Free speech is therefore a requirement for, and not an impediment to, tolerance.
- Professional and self-regulatory bodies have played an important role in fostering greater awareness about how to report on diversity and to address difficult and sometimes controversial subjects, including intercultural dialogue and contentious issues of a moral, artistic, religious or other nature. An enabling environment should be provided to facilitate the voluntary development of self-regulatory mechanisms such as press councils, professional ethical associations and media ombudspersons.

- The mandates of public service broadcasters should explicitly require them to treat matters of controversy in a sensitive and balanced fashion, and to carry programming which is aimed at promoting tolerance and understanding of difference.

### **Impunity in Cases of Attacks Against Journalists**

- Intimidation of journalists, particularly murder and physical attacks, limit the freedom of expression not only of journalists but of all citizens, because they produce a chilling effect on the free flow of information, due to the fear they create of reporting on abuses of power, illegal activities and other wrongs against society. States have an obligation to take effective measures to prevent such illegal attempts to limit the right to freedom of expression.
- States should, in particular, vigorously condemn such attempts when they do occur, investigate them promptly and effectively in order to duly sanction those responsible, and provide compensation to the victims where appropriate. They should also inform the public on a regular basis about these proceedings.

Ambeyi Ligabo, UN Special Rapporteur on Freedom of Opinion and Expression

Miklos Haraszti, OSCE Representative on Freedom of the Media

Ignacio J. Alvarez, OAS Special Rapporteur on Freedom of Expression

Faith Pansy Tlakula, ACHPR Special Rapporteur on Freedom of Expression

## **JOINT DECLARATION ON DIVERSITY IN BROADCASTING**

**The UN Special Rapporteur on Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media, the OAS Special Rapporteur on Freedom of Expression and the ACHPR (African Commission on Human and Peoples' Rights) Special Rapporteur on Freedom of Expression and Access to Information,**

*Having met with representatives of NGOs, academics and other experts in Amsterdam on 7-8 December 2007, under the auspices of ARTICLE 19, Global Campaign for Free Expression, assisted by the Institute for Information Law (IViR), University of Amsterdam;*

*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 and 19 December 2006;*

*Stressing the fundamental importance of diversity in the media to the free flow of information and ideas in society, in terms both of giving voice to and satisfying the information needs and other interests of all, as protected by international guarantees of the right to freedom of expression;*

*Cognisant, in particular, of the importance of diversity to democracy, social cohesion and broad participation in decision-making;*

*Aware of the potential of new technologies both to serve as vehicles for promoting diversity but also to pose new threats to diversity, including as a result of the digital divide;*

*Emphasising the complex nature of diversity, which includes diversity of outlet (types of media) and source (ownership of the media), as well as diversity of content (media output);*

*Recognising the varied contributions that different types of broadcasters – commercial, public service and community – as well as broadcasters of different reach – local, national, regional and international – make to diversity;*



*Noting* that undue concentration of media ownership, direct or indirect, as well as government control over the media, pose a threat to diversity of the media, as well as other risks, such as concentrating political power in the hands of owners or governing elites;

*Stressing* that independent public service broadcasters will continue to play an important role in promoting diversity in the new digital broadcasting environment, including through their unique role in providing reliable, high-quality and informative programming;

*Mindful* of the potential for abuse of regulatory systems for the media to the detriment, among other things, of diversity, particularly where oversight bodies are not sufficiently protected against political or other interference;

*Concerned* about the growth of a number of threats to the viability of public service broadcasting in different countries, which undermine its ability to fulfil its potential to contribute to media diversity, as well as the failure of many countries to recognise community broadcasting as a distinct type of broadcasting;

*Adopt*, on 12 December 2007, the following Declaration on Promoting Diversity in the Broadcast Media:

### **General Points**

- Regulation of the media to promote diversity, including governance of public media, is legitimate only if it is undertaken by a body which is protected against political and other forms of unwarranted interference, in accordance with international human rights standards.
- Broad public education and other efforts should be undertaken to promote media literacy and to ensure that all members of society can understand and take advantage of new technologies with a view to bridging the digital divide.
- Transparency should be a hallmark of public policy efforts in the area of broadcasting. This should apply to regulation, ownership, public subsidy schemes and other policy initiatives.

- Low-cost technologies that are widely accessible should be promoted with a view to ensuing broad access to new communications platforms. Technological solutions to traditional problems of access – including in relation to hearing or visual disabilities – should be explored and promoted.
- Measures should be put in place to ensure that government advertising is not used as a vehicle for political interference in the media.

### **On Diversity of Outlet**

- Sufficient ‘space’ should be allocated to broadcasting uses on different communications platforms to ensure that, as a whole, the public is able to receive a range of diverse broadcasting services. In terms of terrestrial dissemination, whether analogue or digital, this implies an appropriate allocation of frequencies for broadcasting uses.
- Different types of broadcasters – commercial, public service and community – should be able to operate on, and have equitable access to, all available distribution platforms. Specific measures to promote diversity may include reservation of adequate frequencies for different types of broadcasters, must-carry rules, a requirement that both distribution and reception technologies are complementary and/or interoperable, including across national frontiers, and non-discriminatory access to support services, such as electronic programme guides.
- Consideration of the impact on access to the media, and on different types of broadcasters, should be taken into account in planning for a transition from analogue to digital broadcasting. This requires a clear plan for switchover that promotes, rather than limits, public interest broadcasting. Measures should be taken to ensure that digital transition costs do not limit the ability of community broadcasters to operate. Where appropriate, consideration should be given to reserving part of the spectrum for analogue radio broadcasting for the medium-term. At least part of the spectrum released through the ‘digital dividend’ should be reserved for broadcasting uses.

- The least intrusive effective system for the administration of broadcasting to promote diversity should become used, taking into account reductions in the problem of scarcity. Licensing, justified by reference to the airwaves as a limited public resource, is not legitimate for Internet broadcasting.
- Special measures are needed to protect and preserve public service broadcasting in the new broadcasting environment. The mandate of public service broadcasters should be clearly set out in law and include, among other things, contributing to diversity, which should go beyond offering different types of programming and include giving voice to, and serving the information needs and interests of, all sectors of society. Innovative funding mechanisms for public service broadcasting should be explored which are sufficient to enable it to deliver its public service mandate, which are guaranteed in advance on a multi-year basis, and which are indexed against inflation.
- Community broadcasting should be explicitly recognised in law as a distinct form of broadcasting, should benefit from fair and simple licensing procedures, should not have to meet stringent technological or other licence criteria, should benefit from concessionary licence fees and should have access to advertising.

### **On Diversity of Source**

- In recognition of the particular importance of media diversity to democracy, special measures, including anti-monopoly rules, should be put in place to prevent undue concentration of media or cross-media ownership, both horizontal and vertical. Such measures should involve stringent requirements of transparency of media ownership at all levels. They should also involve active monitoring, taking ownership concentration into account in the licensing process, where applicable, prior reporting of major proposed combinations, and powers to prevent such combinations from taking place.
- Consideration should be given to providing support, based on equitable, objective criteria applied in a non-discriminatory fashion, to those wishing to establish new media outlets.

## **On Diversity of Content**

- Policy tools could be used, where this is consistent with international guarantees of freedom of expression, to promote content diversity among and within media outlets.
- Consideration should be given to providing support, based on equitable, objective criteria applied in a non-discriminatory fashion, for the production of content which makes an important contribution to diversity. This might include measures to promote independent content producers, including by requiring public service broadcasters to purchase a minimum quota of their programming from these producers.
- An appropriate balance should be struck between protection of copyright and neighbouring rights, and promoting the free flow of information and ideas in society, including through measures which result in a strengthening of the public domain.

Ambeyi Ligabo, UN Special Rapporteur on Freedom of Opinion and Expression

Miklos Haraszti, OSCE Representative on Freedom of the Media

Ignacio Alvarez, OAS Special Rapporteur on Freedom of Expression

Faith Pansy Tlakula, ACHPR Special Rapporteur on Freedom of Expression

## **JOINT DECLARATION ON DEFAMATION OF RELIGIONS, AND ANTI-TERRORISM AND ANTI-EXTREMISM LEGISLATION**

**The UN Special Rapporteur on Freedom of Opinion and Expression, the  
OSCE Representative on Freedom of the Media, the OAS Special Rapporteur  
on Freedom of Expression and the ACHPR (African Commission on Human  
and Peoples' Rights) Special Rapporteur on Freedom of Expression and  
Access to Information,**

*Having met in Athens on 9 December 2008, under the auspices of ARTICLE 19,  
Global Campaign for Free Expression;*

*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 and 12 December 2007;*

*Recognising the importance to democracy, as well as to holding social institutions accountable, of open debate about all ideas and social phenomena in society and the right of all to be able to manifest their culture, religion and beliefs in practice;*

*Emphasising that there is an important difference between criticism of a religion, belief or school of thought and attacks on individuals because of their adherence to that religion or belief;*

*Noting that success in promoting equality in society is integrally linked to respect for freedom of expression, including the right of different communities to have access to the media both to articulate their views and perspectives, and to satisfy their information needs;*

*Aware of the fact that negative social stereotyping leads to discrimination and limits the ability of those subject to it to be heard and to participate in public debate;*

*Stressing that the primary means to address underlying social problems of prejudice is through open dialogue that exposes the harm prejudice causes and that combats negative stereotypes, although at the same time it is appropriate to prohibit incitement to hatred, discrimination or violence;*

*Welcoming* the fact that a growing number of countries have abolished limitations on freedom of expression to protect religion (blasphemy laws) and noting that such laws are often used to prevent legitimate criticism of powerful religious leaders and to suppress the views of religious minorities, dissenting believers and nonbelievers, and are applied in a discriminatory fashion;

*Concerned* about the resolutions on “defamation of religions” adopted by the UN Commission on Human Rights and its successor, the Human Rights Council, since 1999, and the UN General Assembly since 2005 (see General Assembly Res. 60/150, 61/164, 62/154; Commission on Human Rights Res. 1999/82, 2000/84, 2001/4, 2002/9, 2003/4, 2004/6, 2005/3; Human Rights Council Res. 4/9, 7/19);

*Concerned also* about the proliferation of anti-terrorism and anti-extremism laws in the 21st Century, in particular following the atrocious attacks of September 2001, which unduly restrict freedom of expression and access to information;

*Cognisant* of the important contribution of respect for freedom of expression to combating terrorism, and of the need to find effective ways to counter terrorism which do not undermine democracy and human rights, the preservation of which is a key reason to fight terrorism in the first place;

*Aware* of the abuse of anti-terrorism and extremism legislation to suppress political and critical speech which has nothing to do with terrorism or security;

*Stressing* the importance of the role of the media in informing the public about all matters of public concern, including those relating to terrorism and efforts to combat it, as well as the right of the public to be informed about such matters;

*Adopt*, on 10 December 2008, the 60th anniversary of the Universal Declaration of Human Rights, the following Declaration on Defamation of Religions, and Anti-Terrorism and Anti-Extremism Legislation:

## **Defamation of Religions**

- The concept of ‘defamation of religions’ does not accord with international standards regarding defamation, which refer to the protection of reputation of individuals, while religions, like all beliefs, cannot be said to have a reputation of their own.
- Restrictions on freedom of expression should be limited in scope to the protection of overriding individual rights and social interests, and should never be used to protect particular institutions, or abstract notions, concepts or beliefs, including religious ones.
- Restrictions on freedom of expression to prevent intolerance should be limited in scope to advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence.
- International organisations, including the United Nations General Assembly and Human Rights Council, should desist from the further adoption of statements supporting the idea of ‘defamation of religions’.

## **Anti-Terrorism Legislation**

- The definition of terrorism, at least as it applies in the context of restrictions on freedom of expression, should be restricted to violent crimes that are designed to advance an ideological, religious, political or organised criminal cause and to influence public authorities by inflicting terror on the public.
- The criminalisation of speech relating to terrorism should be restricted to instances of intentional incitement to terrorism, understood as a direct call to engage in terrorism which is directly responsible for increasing the likelihood of a terrorist act occurring, or to actual participation in terrorist acts (for example by directing them). Vague notions such as providing communications support to terrorism or extremism, the ‘glorification’ or ‘promotion’ of terrorism or extremism, and the mere repetition of statements by terrorists, which does not itself constitute incitement, should not be criminalised.

- The role of the media as a key vehicle for realising freedom of expression and for informing the public should be respected in anti-terrorism and anti-extremism laws. The public has a right to know about the perpetration of acts of terrorism, or attempts thereat, and the media should not be penalised for providing such information.
- Normal rules on the protection of confidentiality of journalists' sources of information – including that this should be overridden only by court order on the basis that access to the source is necessary to protect an overriding public interest or private right that cannot be protected by other means – should apply in the context of anti-terrorist actions as at other times.

Frank LaRue, UN Special Rapporteur on Freedom of Opinion and Expression

Miklos Haraszti, OSCE Representative on Freedom of the Media

Catalina Botero, OAS Special Rapporteur on Freedom of Expression

Faith Pansy Tlakula, ACHPR Special Rapporteur on Freedom of Expression and Access to Information



## JOINT STATEMENT ON THE MEDIA AND ELECTIONS

**The UN Special Rapporteur on Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media, the OAS Special Rapporteur on Freedom of Expression and the ACHPR (African Commission on Human and Peoples' Rights) Special Rapporteur on Freedom of Expression and Access to Information,**

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

*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;

*Recognising* the importance to democracy, and to holding political parties and leaders accountable, of robust and open debate about all matters of public concern, particularly during election periods;

*Emphasising* the key role that the media, and in particular broadcasters, play in terms of framing electoral issues, informing the electorate about the main developments, and communicating the platforms, policies and promises of parties and candidates to electors;

*Welcoming* the continuing global trend towards more democratic elections based on the will of the people expressed through free, equal and universal suffrage;

*Stressing* that free and fair elections are possible only where the electorate is well informed and has access to pluralistic and sufficient information;

*Noting* that in many countries the incumbent government benefits from disproportionate and excessively positive media coverage, including because of its control over the media, public and private, or because of its close relationship with the media;

*Aware* that only a diverse media environment can ensure that all viewpoints and political perspectives are aired during election campaigns;

*Concerned* about threats to free and open media coverage during elections, including from threats, physical attacks and unduly limiting legal restrictions on freedom of expression;

*Cognisant* of the important role played in many countries during elections by publicly-owned media, and particularly public service broadcasters, which provide election coverage in accordance with an obligation of balance and impartiality in news, current affairs and other types of programming;

*Adopt*, on 15 May 2009, the following Statement on the Media and Elections:

### **Overall Environment for Media and Elections**

- States should put in place a range of measures, including those highlighted in our Joint Declaration of 12 December 2007, to create an environment in which a pluralistic media sector can flourish. These should include, among others, obligations of transparency of media ownership, licensing of different types of broadcasters to promote diversity, rules to prevent undue concentration of media ownership and measures to promote content diversity among and within media outlets.
- Laws that unduly restrict freedom of expression contrary to international and constitutional guarantees should be repealed. Where such laws are still in place during election campaigns, the authorities should apply the constitutional or international guarantees that protect freedom of expression.
- States should put in place effective systems for preventing threats and attacks against the media and others exercising their right to freedom of expression, and for investigating such attacks when they do occur, bringing those responsible to justice and compensating victims. This obligation takes on particular significance during election periods.
- The media should be free to report on election-related matters. They should also be exempted from liability for disseminating unlawful statements made directly by parties or candidates – whether in the

context of live broadcasting or advertising – unless the statements have been ruled unlawful by a court or the statements constitute direct incitement to violence and the media outlet had an opportunity to prevent their dissemination.

- The obligation of political figures, including candidates, to tolerate a greater degree of criticism than ordinary persons should be clearly reaffirmed during elections.
- A party or candidate which has been illegally defamed or suffered another illegal injury by a statement in the media during an election period should be entitled to a rapid correction of that statement or have the right to seek redress in a court of law.
- It should be illegal for the media to discriminate, on the basis of political opinion or other recognised grounds, in the allocation of and charging for paid political advertisements, where these are permitted by law.
- Oversight of any rules relating to the media and elections should be vested in an independent administrative body which should address any complaints promptly. The decisions of this body should be subject to judicial review.

## **Public Media**

- All publicly-owned media, including public service broadcasters, should be under the following obligations during an election period:
  - > To ensure that the electorate are informed about election matters, including the role of elections in a democracy, how to exercise one's right to vote, the key electoral issues, and the policy positions of the various parties and candidates contesting the election. This should normally include reporting that involves questions being put to party leaders and candidates, as well as debates between candidates.
  - > To respect strict rules of impartiality and balance, particularly when reporting on the governing party(ies) and on government decisions and actions during an election period.

This implies that equal coverage should be given to arguments in favour of both sides in any referendum.

- > To grant all parties and candidates equitable access to the media to communicate their messages directly with the public, either for free or at subsidised rates. Equitable access means fair and non-discriminatory access allocated according to objective criteria for measuring overall levels of support, and includes factors such as timing of access and any fees.
- > To ensure that any reporting of opinion polls and election projections is accompanied by sufficient information to allow the electorate to understand properly their significance.

Frank LaRue, UN Special Rapporteur on Freedom of Opinion and Expression

Miklos Haraszti, OSCE Representative on Freedom of the Media

Catalina Botero, OAS Special Rapporteur on Freedom of Expression

Faith Pansy Tlakula, ACHPR Special Rapporteur on Freedom of Expression and Access to Information

## TENTH ANNIVERSARY JOINT DECLARATION: TEN KEY CHALLENGES TO FREEDOM OF EXPRESSION IN THE NEXT DECADE

**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 met in Washington on 2 February 2010, 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 and 10 December 2008;*

*Emphasising, once again, the fundamental importance of freedom of expression - including the principles of diversity and pluralism - both inherently and as an essential tool for the defence of all other rights and as a core element of democracy;*

*Recognising that many important gains have been made over the last ten years since our first Joint Declaration was adopted in November 1999 in terms of respect for freedom of expression, including gains in respect for the right to information and considerable growth in access to the Internet;*

*Concerned that at the same time enormous challenges still exist in giving full effect to the right to freedom of expression, including restrictive legal regimes, commercial and social pressures, and a lack of tolerance of criticism on the part of the powerful;*

*Noting that some of the historic challenges to freedom of expression have still not been addressed successfully, while new challenges have arisen due to technological, social and political developments;*

*Aware* of the enormous potential of the Internet as a tool for realising the right to freedom of expression and to information;

*Cognisant* of the efforts by some governments to restrict the Internet, as well as the failure to recognise the unique nature of this medium, and emphasising the need to respect freedom of expression and other human rights in any efforts to apply legal rules to it;

*Stressing* that, while the last ten years have witnessed impressive growth in global efforts to protect and promote freedom of expression, far more attention needs to be devoted to this effort, by governments and other official actors, by human rights and other civil society organisations, and in international cooperation;

*Welcoming* the impressive development of international standards regarding the promotion and protection of freedom of expression over the last ten years by international bodies and civil society actors;

*Adopt*, on 3 February 2010, the following Declaration on Ten Key Threats to Freedom of Expression:

### **1. Mechanisms of Government Control over the Media**

Government control over the media, an historic limitation on freedom of expression, continues to be a serious problem. Such control takes many forms but we are particularly concerned about:

- a) Political influence or control over public media, so that they serve as government mouthpieces instead of as independent bodies operating in the public interest.
- b) Registration requirements for the print media or to use or access the Internet.
- c) Direct government control over licensing or regulation of broadcasters, or oversight of these processes by a body which is not independent of government, either in law or in practice.

- d) The abuse of State advertising or other State powers to influence editorial policy.
- e) Ownership or significant control of the media by political leaders or parties.
- f) Politically motivated legal cases being brought against the independent media.
- g) The retention of antiquated legal rules – such as sedition laws or rules against publishing false news – which penalise criticism of government.

## **2. Criminal Defamation**

Laws making it a crime to defame, insult, slander or libel someone or something, still in place in most countries (some ten countries have fully decriminalised defamation), represent another traditional threat to freedom of expression. While all criminal defamation laws are problematical, we are particularly concerned about the following features of these laws:

- a) The failure of many laws to require the plaintiff to prove key elements of the offence such as falsity and malice.
- b) Laws which penalise true statements, accurate reporting of the statements of official bodies, or statements of opinion.
- c) The protection of the reputation of public bodies, of State symbols or flags, or the State itself.
- d) A failure to require public officials and figures to tolerate a greater degree of criticism than ordinary citizens.
- e) The protection of beliefs, schools of thought, ideologies, religions, religious symbols or ideas.
- f) Use of the notion of group defamation to penalise speech beyond the narrow scope of incitement to hatred.

- g) Unduly harsh sanctions such as imprisonment, suspended sentences, loss of civil rights, including the right to practise journalism, and excessive fines.

### **3. Violence Against Journalists**

Violence against journalists remains a very serious threat with more politically motivated killings of journalists in 2009 than in any other year in the past decade. Particularly at risk are journalists reporting on social problems, including organised crime or drug trafficking, voicing criticism of government or the powerful, reporting on human rights violations or corruption, or reporting from conflict zones. Recognising that impunity generates more violence, we are particularly concerned about:

- a) A failure to allocate sufficient attention and resources to preventing such attacks and to investigating them and bringing those responsible to justice when they do occur.
- b) The lack of recognition that special measures are needed to address these attacks, which represent not only an attack on the victim but also an attack on everyone's right to receive information and ideas.
- c) The absence of measures of protection for journalists who have been displaced by such attacks.

### **4. Limits on the Right to Information**

Over the past ten years, the right to information has been widely recognised as a fundamental human right, including by regional human rights courts and other authoritative bodies. Laws giving effect to this right have been passed in record numbers and this positive trend continues, with some 50 laws having been passed in the last ten years. However, major challenges remain. We are particularly concerned about:

- a) The fact that a majority of States have still not adopted laws guaranteeing the right to information.
- b) The weak laws in place in many States.



- c) The massive challenge of implementing the right to information in practice.
- d) The lack of openness around elections, when the need for transparency is particularly high.
- e) The fact that many intergovernmental organisations have not given effect to the right to information in relation to the information they hold as public bodies.
- f) The application of secrecy laws to journalists and others who are not public officials, for example to impose liability for publishing or further disseminating information which has been leaked to them.

### ***5. Discrimination in the Enjoyment of the Right to Freedom of Expression***

Equal enjoyment of the right to freedom of expression remains elusive and historically disadvantaged groups – including women, minorities, refugees, indigenous peoples and sexual minorities – continue to struggle to have their voices heard and to access information of relevance to them. We are particularly concerned about:

- a) Obstacles to the establishment of media by and for historically disadvantaged groups.
- b) The misuse of hate speech laws to prevent historically disadvantaged groups from engaging in legitimate debate about their problems and concerns.
- c) The lack of adequate self-regulatory measures to address:
  - i) Underrepresentation of historically disadvantaged groups among mainstream media workers, including in the public media.
  - ii) Inadequate coverage by the media and others of issues of relevance to historically disadvantaged groups.
  - iii) The prevalence of stereotypical or derogatory information about historically disadvantaged groups being disseminated in society.

## **6. Commercial Pressures**

A number of commercial pressures pose a threat to the ability of the media to disseminate public interest content, which is often costly to produce. We are particularly concerned about:

- a) Growing concentration of ownership of the media, with serious potential implications for content diversity.
- b) Fracturing of the advertising market, and other commercial pressures, leading to cost-cutting measures such as less local content, cheap, shallow entertainment and a decrease in investigative journalism.
- c) The risk that the benefits from the switchover to digital frequencies will go largely to existing broadcasters, and other uses such as telecommunications, to the detriment of greater diversity and access, and public interest media.

## **7. Support for Public Service and Community Broadcasters**

Public service and community broadcasters can play a very important role in providing public interest programming and in supplementing the content provided by commercial broadcasters, thereby contributing to diversity and satisfying the public's information needs. Both face challenges. We are particularly concerned about:

- a) The increasingly frequent challenges to public funding support for public broadcasters.
- b) The fact that many public broadcasters have not been given a clear public service mandate.
- c) The lack of specific legal recognition of the community broadcasting sector in licensing systems which are based on criteria that are appropriate to this sector.
- d) The failure to reserve adequate frequencies for community broadcasters or to establish appropriate funding support mechanisms.

## **8. Security and Freedom of Expression**

The notion of national security has historically been abused to impose unduly broad limitations on freedom of expression, and this has become a particular problem in the aftermath of the attacks of September 2001, and renewed efforts to combat terrorism. We are particularly concerned about:

- a) Vague and/or overbroad definitions of key terms such as security and terrorism, as well as what is prohibited, such as providing communications support to terrorism or extremism, the 'glorification' or 'promotion' of terrorism or extremism, and the mere repetition of statements by terrorists.
- b) Abuse of vague terms to limit critical or offensive speech, including social protests, which do not constitute incitement to violence.
- c) Formal or informal pressures on the media not to report on terrorism, on the grounds that this may promote the objectives of terrorists.
- d) Expanded use of surveillance techniques and reduced oversight of surveillance operations, which exert a chilling effect on freedom of expression and undermine the right of journalists to protect their confidential sources.

## **9. Freedom of Expression on the Internet**

The significant potential of the Internet as a tool to promote the free flow of information and ideas has not been fully realised due to efforts by some governments to control or limit this medium. We are particularly concerned about:

- a) The fragmentation of the Internet through the imposition of firewalls and filters, as well as through registration requirements.
- b) State interventions, such as blocking of websites and web domains which give access to user-generated content or social networking, justified on social, historical or political grounds.
- c) The fact that some corporations which provide Internet searching, access, chat, publishing or other services fail to make a sufficient effort to

respect the rights of those who use their services to access the Internet without interference, for example on political grounds.

- d) Jurisdictional rules which allow cases, particularly defamation cases, to be pursued anywhere, leading to a lowest common denominator approach.

### **10. Access to Information and Communications Technologies**

While the Internet has provided over a billion people with unprecedented access to information and communications tools, the majority of the world's citizens have no or limited access to the Internet. We are particularly concerned about:

- a) Pricing structures which render the poor unable to access the Internet.
- b) A failure to roll out connectivity the 'last mile' or even further, leaving rural customers without access.
- c) Limited support for community-based ICT centres and other public access options.
- d) Inadequate training and education efforts, especially among poor, rural and elderly populations.

Frank LaRue, UN Special Rapporteur on Freedom of Opinion and Expression

Miklos Haraszti, OSCE Representative on Freedom of the Media

Catalina Botero, OAS Special Rapporteur on Freedom of Expression

Faith Pansy Tlakula, ACHPR Special Rapporteur on Freedom of Expression and Access to Information

## JOINT DECLARATION ON FREEDOM OF EXPRESSION AND THE INTERNET

**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 and 3 February 2010;

*Emphasising*, once again, the fundamental importance of freedom of expression – including the principles of independence and diversity – both in its own right and as an essential tool for the defence of all other rights, as a core element of democracy and for advancing development goals;

*Stressing* the transformative nature of the Internet in terms of giving voice to billions of people around the world, of significantly enhancing their ability to access information and of enhancing pluralism and reporting;

*Cognisant* of the power of the Internet to promote the realisation of other rights and public participation, as well as to facilitate access to goods and services;

*Welcoming* the dramatic growth in access to the Internet in almost all countries and regions of the world, while noting that billions still lack access or have second class forms of access;

*Noting* that some governments have taken action or put in place measures with the specific intention of unduly restricting freedom of expression on the Internet, contrary to international law;

*Recognising* that the exercise of freedom of expression may be subject to limited restrictions which are prescribed by law and are necessary, for example for the prevention of crime and the protection of the fundamental rights of others, including children, but stressing that any such restrictions must be balanced and comply with international law on the right to freedom of expression;

*Concerned* that, even when done in good faith, many of the efforts by governments to respond to the need noted above fail to take into account the special characteristics of the Internet, with the result that they unduly restrict freedom of expression;

*Noting* the mechanisms of the multi-stakeholder approach of the UN Internet Governance Forum;

*Aware of* the vast range of actors who act as intermediaries for the Internet – providing services such as access and interconnection to the Internet, transmission, processing and routing of Internet traffic, hosting and providing access to material posted by others, searching, referencing or finding materials on the Internet, enabling financial transactions and facilitating social networking – and of attempts by some States to deputise responsibility for harmful or illegal content to these actors;

*Adopt*, on 1 June 2011, the following Declaration on Freedom of Expression and the Internet:

### **1. General Principles**

- a. Freedom of expression applies to the Internet, as it does to all means of communication. Restrictions on freedom of expression on the Internet are only acceptable if they comply with established international standards, including that they are provided for by law, and that they are necessary to protect an interest which is recognised under international law (the ‘three-part’ test).
- b. When assessing the proportionality of a restriction on freedom of expression on the Internet, the impact of that restriction on the ability of the Internet to deliver positive freedom of expression outcomes must be weighed against its benefits in terms of protecting other interests.

- c. Approaches to regulation developed for other means of communication – such as telephony or broadcasting – cannot simply be transferred to the Internet but, rather, need to be specifically designed for it.
- d. Greater attention should be given to developing alternative, tailored approaches, which are adapted to the unique characteristics of the Internet, for responding to illegal content, while recognising that no special content restrictions should be established for material disseminated over the Internet.
- e. Self-regulation can be an effective tool in redressing harmful speech, and should be promoted.
- f. Awareness raising and educational efforts to promote the ability of everyone to engage in autonomous, self-driven and responsible use of the Internet should be fostered ('Internet literacy').

## **2. Intermediary Liability**

- a. No one who simply provides technical Internet services such as providing access, or searching for, or transmission or caching of information, should be liable for content generated by others, which is disseminated using those services, as long as they do not specifically intervene in that content or refuse to obey a court order to remove that content, where they have the capacity to do so ('mere conduit principle').
- b. Consideration should be given to insulating fully other intermediaries, including those mentioned in the preamble, from liability for content generated by others under the same conditions as in paragraph 2(a). At a minimum, intermediaries should not be required to monitor user-generated content and should not be subject to extrajudicial content takedown rules which fail to provide sufficient protection for freedom of expression (which is the case with many of the 'notice and takedown' rules currently being applied).

### **3. Filtering and Blocking**

- a. Mandatory blocking of entire websites, IP addresses, ports, network protocols or types of uses (such as social networking) is an extreme measure – analogous to banning a newspaper or broadcaster – which can only be justified in accordance with international standards, for example where necessary to protect children against sexual abuse.
- b. Content filtering systems which are imposed by a government or commercial service provider and which are not end-user controlled are a form of prior censorship and are not justifiable as a restriction on freedom of expression.
- c. Products designed to facilitate end-user filtering should be required to be accompanied by clear information to end-users about how they work and their potential pitfalls in terms of over-inclusive filtering.

### **4. Criminal and Civil Liability**

- a. Jurisdiction in legal cases relating to Internet content should be restricted to States to which those cases have a real and substantial connection, normally because the author is established there, the content is uploaded there and/or the content is specifically directed at that State. Private parties should only be able to bring a case in a given jurisdiction where they can establish that they have suffered substantial harm in that jurisdiction (rule against ‘libel tourism’).
- b. Standards of liability, including defences in civil cases, should take into account the overall public interest in protecting both the expression and the forum in which it is made (i.e. the need to preserve the ‘public square’ aspect of the Internet).
- c. For content that was uploaded in substantially the same form and at the same place, limitation periods for bringing legal cases should start to run from the first time the content was uploaded and only one action for damages should be allowed to be brought in respect of that content, where appropriate by allowing for damages suffered in all jurisdictions to be recovered at one time (the ‘single publication’ rule).



## **5. Network Neutrality**

- a. There should be no discrimination in the treatment of Internet data and traffic, based on the device, content, author, origin and/or destination of the content, service or application.
- b. Internet intermediaries should be required to be transparent about any traffic or information management practices they employ, and relevant information on such practices should be made available in a form that is accessible to all stakeholders.

## **6. Access to the Internet**

- a. Giving effect to the right to freedom of expression imposes an obligation on States to promote universal access to the Internet. Access to the Internet is also necessary to promote respect for other rights, such as the rights to education, health care and work, the right to assembly and association, and the right to free elections.
- b. Cutting off access to the Internet, or parts of the Internet, for whole populations or segments of the public (shutting down the Internet) can never be justified, including on public order or national security grounds. The same applies to slow-downs imposed on the Internet or parts of the Internet.
- c. Denying individuals the right to access the Internet as a punishment is an extreme measure, which could be justified only where less restrictive measures are not available and where ordered by a court, taking into account the impact of this measure on the enjoyment of human rights.
- d. Other measures which limit access to the Internet, such as imposing registration or other requirements on service providers, are not legitimate unless they conform to the test for restrictions on freedom of expression under international law.
- e. States are under a positive obligation to facilitate universal access to the Internet. At a minimum, States should:

- i. Put in place regulatory mechanisms – which could include pricing regimes, universal service requirements and licensing agreements – that foster greater access to the Internet, including for the poor and in ‘last mile’ rural areas.
- ii. Provide direct support to facilitate access, including by establishing community-based ICT centres and other public access points.
- iii. Promote adequate awareness about both how to use the Internet and the benefits it can bring, especially among the poor, children and the elderly, and isolated rural populations.
- iv. Put in place special measures to ensure equitable access to the Internet for the disabled and for disadvantaged persons.
- f. To implement the above, States should adopt detailed multi-year action plans for increasing access to the Internet which include clear and specific targets, as well as standards of transparency, public reporting and monitoring systems.

Frank LaRue, UN Special Rapporteur on Freedom of Opinion and Expression

Dunja Mijatović, OSCE Representative on Freedom of the Media

Catalina Botero Marino, OAS Special Rapporteur on Freedom of Expression

Faith Pansy Tlakula, ACHPR Special Rapporteur on Freedom of Expression and Access to Information

## JOINT DECLARATION ON CRIMES AGAINST 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 met in Paris on 13 September 2011 and in Tunis on 4 May 2012 and 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 and 1 June 2011;*

*Emphasising, once again, the fundamental importance 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 for advancing development goals;*

*Expressing our abhorrence over the unacceptable rate of incidents of violence and other crimes against freedom of expression, including killings, death-threats, disappearances, abductions, hostage takings, arbitrary arrests, prosecutions and imprisonments, torture and inhuman and degrading treatment, harassment, intimidation, deportation, and confiscation of and damage to equipment and property;*

*Noting that violence and other crimes against those exercising their right to freedom of expression, including journalists, other media actors and human rights defenders, have a chilling effect on the free flow of information and ideas in society ('censorship by killing'), and thus represent attacks not only on the victims but on freedom of expression itself, and on the right of everyone to seek and receive information and ideas;*

*Concerned about the particular challenges and danger faced by women exercising their right to freedom of expression, and denouncing gender specific crimes of intimidation including sexual assaults, aggression and threats;*

*Mindful* of the important contribution to society made by those who investigate into and report on human rights abuses, organised crime, corruption, and other serious forms of illegal behaviour, including journalists, media actors and human rights defenders, and of the fact that the nature of their professions makes them susceptible to criminal retribution, and that they may, as a result, be in need of protection;

*Condemning* the prevailing state of impunity for crimes against freedom of expression and the apparent lack of political will in some countries to address these violations, with the result that an unacceptable number of these crimes are never prosecuted, which emboldens the perpetrators and instigators and substantially increases the incidence of these crimes;

*Noting* that independent, speedy and effective investigations into and prosecutions of crimes against freedom of expression are essential to addressing impunity and ensuring the respect for the rule of law;

*Stressing* the fact that crimes against freedom of expression, if committed by State authorities, represent a particularly serious breach of the right to freedom of expression and the right to information, but that States also have an obligation to take both preventive and reactive measures in situations where non-state actors commit crimes against freedom of expression, as part of States' obligation to protect and promote human rights;

*Aware of* a number of root causes that contribute to crimes against freedom of expression, such as high prevailing rates of corruption and/or organised crime, the presence of armed conflict and lack of respect for the rule of law, as well as the particular vulnerability of some of those who investigate and report on these problems;

*Cognisant of* a number of international standards that are relevant to this issue, including the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Geneva Conventions of 1949 and their Additional Protocols, the International Convention for the Protection of All Persons from Enforced Disappearance, UN Security Council Resolution 1738 (2006), UN Human Rights Council Resolution 12/16: Freedom of opinion and expression, the 2007 UNESCO Medellin Declaration and the 2010 UNESCO Decision on the Safety of Journalists and the Issue of Impunity;

*Adopt*, in Port of Spain, Trinidad and Tobago, on 25 June 2012, the following Joint Declaration on Crimes Against Freedom of Expression:

### **1. General Principles**

- a. State officials should unequivocally condemn attacks committed in reprisal for the exercise of freedom of expression and should refrain from making statements that are likely to increase the vulnerability of those who are targeted for exercising their right to freedom of expression.
- b. States should reflect in their legal systems and practical arrangements, as outlined below, the fact that crimes against freedom of expression are particularly serious inasmuch as they represent a direct attack on all fundamental rights.
- c. The above implies, in particular, that States should:
  - i. put in place special measures of protection for individuals who are likely to be targeted for what they say where this is a recurring problem;
  - ii. ensure that crimes against freedom of expression are subject to independent, speedy and effective investigations and prosecutions; and
  - iii. ensure that victims of crimes against freedom of expression have access to appropriate remedies.
- d. In situations of armed conflict, States should respect the standards set out in Article 79 of Protocol I additional to the Geneva Conventions, 1977, which provides that journalists are entitled to the same protections as civilians, provided they take no action adversely affecting their status.

### **2. Obligations to Prevent and Prohibit**

- a. States have an obligation to take measures to prevent crimes against freedom of expression in countries where there is a risk of these occurring and in specific situations where the authorities know or should have known of the existence of a real and immediate risk of such crimes, and not only in cases where those at risk request State protection.

b. These obligations include the following legal measures:

- i. the category of crimes against freedom of expression should be recognised in the criminal law, either explicitly or as an aggravated circumstance leading to heavier penalties for such crimes, taking into account their serious nature; and
- ii. crimes against freedom of expression, and the crime of obstructing justice in relation to those crimes, should be subject to either unlimited or extended statutes of limitations (i.e. the time beyond which prosecutions are barred).

c. These obligations include the following non-legal measures:

- i. appropriate training on crimes against freedom of expression, including gender specific crimes, should be provided to relevant law enforcement officials, including the police and prosecutors, as well, where necessary, to military personnel;
- ii. operation manuals and guidelines should be developed and implemented for law enforcement officials when dealing with crimes against freedom of expression;
- iii. training supported by the State should be available for individuals who may be at risk of becoming victims of crimes against freedom of expression and this issue should be covered in university courses on journalism and communications;
- iv. systems to ensure effective access to information about the circumstances, investigation and prosecution of crimes against freedom of expression, including media access to the courts, should be put in place, subject to appropriate guarantees of confidentiality; and
- v. consideration should be given to putting in place general measures of protection such as providing health care, insurance and other benefit programmes to individuals who may be at risk of becoming victims of crimes against freedom of expression.

### **3. Obligations to Protect**

- a. States should ensure that effective and concrete protection is made available on an urgent basis to individuals likely to be targeted for exercising their right to freedom of expression.
- b. Specialised protection programmes, based on local needs and challenges, should be put in place where there is an ongoing and serious risk of crimes against freedom of expression. These specialised programmes should include a range of protection measures, which should be tailored to the individual circumstances of the person at risk, including his or her gender, need or desire to continue to pursue the same professional activities, and social and economic circumstances.
- c. States should maintain detailed and disaggregated statistics on crimes against freedom of expression and the prosecution of these crimes, among other things to facilitate better planning of prevention initiatives.

### **4. Independent, Speedy and Effective Investigations**

When a crime against freedom of expression takes place, States should launch an independent, speedy and effective investigation, with a view to bringing to trial, before impartial and independent tribunals, both perpetrators and instigators of these crimes.

Such investigations should meet the following minimum standards.

- a. Independent
  - i. The investigation should be carried out by a body that is independent from those implicated in the events. This implies both formal hierarchical and institutional independence, and practical arrangements to secure independence.
  - ii. When there are credible allegations of involvement of State agents, the investigation should be carried out by an authority outside of the jurisdiction or sphere of influence of those authorities, and the investigators should be able to explore all allegations fully.

- iii. An effective system should be put in place for receiving and processing complaints regarding investigations by law enforcement officials of crimes against freedom of expression, which is sufficiently independent of those officials and their employers, and which operates in a transparent manner.
- iv. Where the seriousness of the situation warrants it, in particular in cases of frequent and recurrent crimes against freedom of expression, consideration should be given to establishing specialised and dedicated investigative units – with sufficient resources and appropriate training to operate efficiently and effectively – to investigate crimes against freedom of expression.

b. Speedy

- i. The authorities should make all reasonable efforts to expedite investigations, including by acting as soon as an official complaint or reliable evidence of an attack against freedom of expression becomes available.

c. Effective

- i. Sufficient resources and training should be allocated to ensure that investigations into crimes against freedom of expression are thorough, rigorous and effective and that all aspects of such crimes are explored properly.
- ii. Investigations should lead to the identification and prosecution of all of those responsible for crimes against freedom of expression, including direct perpetrators and instigators, as well as those who conspire to commit, aid and abet, or cover up such crimes.
- iii. Where there is some evidence that a crime which has been committed may be a crime against freedom of expression, the investigation should be conducted with the presumption that it is such a crime until proven otherwise, and relevant lines of enquiry related to the victim's expressive activities have been exhausted.
- iv. Law enforcement bodies should take all reasonable steps to secure



relevant evidence and all witnesses should be questioned with a view to ascertaining the truth.

- v. The victims, or in case of death, abduction or disappearance the next-of-kin, should be afforded effective access to the procedure. At the very least the victim or the next-of-kin must be involved in the procedure to the extent necessary to safeguard their legitimate interests. In most instances, this will require giving access to certain parts of the proceedings and also to the relevant documents to ensure participation is effective.
- vi. Civil society organisations should be able to lodge complaints about crimes against freedom of expression – of particular importance in cases involving killings, abductions or disappearances where the next-of-kin are unwilling or unable to do so – and intervene to in the criminal proceedings.
- vii. Investigations should be conducted in a transparent manner, subject to the need to avoid prejudice to the investigation.
- viii. Restrictions on reporting on court cases involving prosecutions of crimes against freedom of expression should be limited to highly exceptional cases where clearly overriding interests prevail over the particularly strong need for openness in such cases.
- ix. In addition to criminal investigations, disciplinary proceedings should be carried out where there is evidence that public officials have committed crimes against freedom of expression in the course of their professional duties.

## **5. Redress for Victims**

- a. Where crimes against freedom of expression are committed, the victims should be able to pursue appropriate civil remedies, regardless of whether or not a criminal act has been established.
- b. Where a conviction is entered for a crime against freedom of expression, a system should be in place to ensure that an adequate remedy is provided to the victims, without the need for them to pursue independent

legal action. Such remedies should be proportionate to the gravity of the violations, and should include financial compensation, and a range of measures to rehabilitate the victims and to facilitate the return of victims to their homes in conditions of safety and/or to reinstate them in their work if they so desire.

## **6. Role of other stakeholders**

- a. Inter-governmental organisations should continue to prioritise the fight against impunity for crimes against freedom of expression and use available review mechanisms to monitor whether States are complying with their international obligations in this area.
- b. State and non-state donors should be encouraged to fund projects which aim to prevent and combat crimes against freedom of expression.
- c. Media organisations should be encouraged to provide adequate safety, risk awareness and self-protection training and guidance to both permanent and freelance employees, along with security equipment where necessary.
- d. Relevant civil society organisations and media should be encouraged, as appropriate, to continue to monitor and report on crimes against freedom of expression, to coordinate global campaigns on crimes against freedom of expression, and to consolidate documentation, for example through a central website/portal.

Frank LaRue, UN Special Rapporteur on Freedom of Opinion and Expression

Dunja Mijatović, OSCE Representative on Freedom of the Media

Catalina Botero Marino, OAS Special Rapporteur on Freedom of Expression

Faith Pansy Tlakula, ACHPR Special Rapporteur on Freedom of Expression and Access to Information





## The Rapporteurs

### ***The OSCE Representative on Freedom of the Media***

#### **Dunja Mijatovic (Representative since March 2010)**

Ms. Dunja Mijatovic of Bosnia and Herzegovina was appointed the OSCE Representative on Freedom of the Media in March 2010. She is an expert in media law and regulation. In 1998, as one of the founders of the Communications Regulatory Agency of Bosnia and Herzegovina, she helped to create a legal, regulatory and policy framework for the media in a complex post-war society. She was also involved in setting up a self-regulatory Press Council and the first Free Media Helpline in South East Europe.

In 2007 she was elected Chair of the European Platform of Regulatory Agencies. She was the first non-EU Member State representative and the first woman to hold this post. Previously, she chaired the Council of Europe's Group of Specialists on freedom of expression and information in times of crisis. During her Chairmanship, the CoE Committee of Ministers adopted the Declaration by the Committee of Ministers on the protection and promotion of investigative journalism and Guidelines on protecting freedom of expression and information in times of crisis. As an expert on media and communications legislation, she has worked in Armenia, Austria, Iraq, Jordan, Montenegro, Serbia, Slovenia, Morocco and the United Kingdom.

#### **Miklós Haraszti (Representative from March 2004 to March 2010)**

Mr. Miklós Haraszti is a Hungarian writer, journalist, human rights advocate and university professor. He served as the second OSCE Representative on Freedom of the Media from March 2004 to March 2010.

Haraszti was born in Jerusalem in 1945.

Haraszti studied philosophy and literature at the Budapest University and in 1996 received an honorary degree from Northwestern University in the United States.

In 1976 Haraszti co-founded the Hungarian Democratic Opposition Movement.

In 1980 he became editor of the *samizdat* periodical *Beszélo*. In 1989 he participated in “roundtable” negotiations regarding the transition to free elections. He was a member of the Hungarian Parliament from 1990 to 1994. Haraszti later lectured on democratization and media politics at many universities.

Haraszti has written several essays and books, including “A Worker in a Worker’s State” and “The Velvet Prison,” both of which have been translated into several languages. His essays have been published in The New York Times and The Washington Post. He speaks English, Russian and German.

### **Freimut Duve (Representative from 1998 to March 2003)**

Ms. Freimut Duve is a German politician, human rights activist, writer and journalist. He served as the first OSCE Representative on Freedom of the Media from 1998 through 2003.

He was born in 1936 in Würzburg.

Duve studied modern history, sociology, political science and English literature at the University of Hamburg.

Duve was political editor at *Stern* magazine from 1969 through 1970. From 1970 through 1989 he was chief editor of *rororo-AKTUELL*, Germany’s leading political pocketbook series, a part of Rowohlt publishing house. While there, the house published the political works of Vaclav Havel and Mario Soare’s manifesto against the dictatorship in Portugal. It also published yearbooks on human rights in Central and Eastern Europe in the 1980’s.

He was a member of the Bundestag with the Social Democratic Party from 1980 to 1998 representing Hamburg.

Duve won the Hannah Arendt Award for Political Thinking in 1997.

His publications include “Kap ohne Hoffnung” (1965), “Die Restauration entlässt ihre Kinder” (1968), “Der Rassenkrieg findet nicht statt” (1970), “Aufbrüche - Die Chronik der Republik 1961-1986” (1986), “VomKrieg in der Seele” (1994), “Freedom and Responsibility“ 4 editions of the Yearbook” (1998/1999 - 1999/2000 - 2000/2001 - 2001-2002), “The Caucasus - Defence of the Future“ ( 2001), and “We are Defending our Future“ mobile.culture.container.(2001-2003).

## ***The OAS Special Rapporteur for Freedom of Expression***

### **Ms. Catalina Botero (Rapporteur since July 2008)**

The Inter-American Commission on Human Rights elected Colombian attorney Catalina Botero Marino as Special Rapporteur for Freedom of Expression in July 2008.

Before assuming the position of Special Rapporteur, Botero worked as Acting Magistrate and Auxiliary Magistrate in the Constitutional Court of Colombia for 8 years.

She has worked as an adviser for the Office of the Prosecutor General of the Nation; National Director of the Office for the Promotion of Human Rights in the Office of the People's Defender of Colombia, Director of the Consultancy for Human Rights and International Humanitarian Law at the Social Foundation, and as a professor and researcher at the Law School of the Universidad de los Andes and other national and international universities.

Botero is the author of several books and essays published in different countries on freedom of expression, constitutional law, international criminal law and transitional justice.

She received her law degree in 1988 at the Universidad de los Andes and did postgraduate studies there, as well as in Madrid, Spain, at Universidad Complutense, Universidad Carlos III, and the Center for Constitutional Studies.

### **Ignacio Alvarez (Rapporteur from 2005 to 2008)**

Mr. Ignacio J. Álvarez is the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights of the Organization of American States from 2005 to 2008. He is a Venezuelan lawyer and holds a degree from the Universidad Católica Andrés Bello-Venezuela. He is also a specialist in Procedural Law (Universidad Central de Venezuela), and holds a Master's degree in International Law from American University in Washington, D.C.

After assuming his function of Special Rapporteur, he became the Chair of the Interamerican Legal Affairs Committee of the International Law Section of the District of Columbia Bar.

### **Eduardo Bertoni (Rapporteur from 2002 to 2005)**

Mr. Eduardo Bertoni is the Director of the Center for Studies on Freedom of Expression and Access to Information (CELE) at Palermo University School of Law in Argentina. He was the Executive Director of the Due Process of Law Foundation until May, 2006.

Previously, he was the Special Rapporteur for Freedom of Expression of the Inter-American Commission of Human Rights at the Organization of American States (2002-2005) and a former fellow of the Human Rights Institute at Columbia University School of Law.

Bertoni has also worked as a private lawyer in Argentina and has been a legal adviser for several nongovernmental organizations in his country. He has also worked as an adviser to the Department of Justice and Human Rights in Argentina.

He holds a Master's degree in International Policy and Practice from the Elliot School of International Affairs at George Washington University. Bertoni was appointed Professor of Criminal Law and Criminal Procedure at the School of Law of Universidad de Buenos Aires, where he has taught undergraduate and graduate courses. He was also an Adjunct Professor at the School of Law of George Washington University. Bertoni has written several publications on the right to freedom of expression, judicial reforms and international criminal law and has given lectures in several countries on these issues.

### **Santiago A. Canton (Rapporteur from 1999 to 2002)**

Mr. Santiago A. Canton has been the Executive Secretary of the Inter-American Commission on Human Rights since 2001. Mr. Canton holds a law degree from the University of Buenos Aires and a Master's degree in International Law from the Washington College of Law of American University. In 1998 he was elected as the first Special Rapporteur for Freedom of Expression in the Inter-American System.



From 1994 to 1998 Canton was Director for Latin America and the Caribbean for the National Democratic Institute for International Affairs, a democracy-development institute based in Washington, D.C. Mr. Canton was a political assistant to President Carter in democratic development programs in countries in Latin America. In 2005, Canton was honored with the Gran Award of Chapultepec for his contributions in the promotion, development, strengthening and defense of the principles of freedom of expression throughout the Americas.

### ***The UN Special Rapporteur on Freedom of opinion and expression***

#### **Frank La Rue (Rapporteur since July 2008)**

Mr. Frank La Rue is a lawyer and current Director of the Centro-American Institute for Social Democracy Studies (DEMOS) in Guatemala. He holds a degree in law from the University of San Carlos, Guatemala, and a postgraduate degree in U.S. foreign policy from the Johns Hopkins University. He was also a professor of human rights at the University of Rafael Lavinder de Guatemala.

La Rue has worked extensively on human rights issues and, as founding member and Director of the Centre for Legal Human Rights Action, he was involved in presenting the first Guatemalan human rights case before the Inter-American Court for Human Rights. La Rue also brought the first case of genocide against the military dictatorship in Guatemala.

As a human rights activist, he was nominated for the Nobel Peace Prize in 2004. La Rue served as Presidential Commissioner for Human Rights in Guatemala (2004 – 2008), Human Rights Adviser to the Minister of Foreign Affairs of Guatemala, President of the Governing Board of the DEMOS, and consultant to the Office of the High Commissioner for Human Rights.

La Rue has been the UN Special Rapporteur on Freedom of opinion and expression since August 2008.

#### **Ambeyi Ligabo (Rapporteur from August 2002 to July 2008)**

Mr. Ambeyi Ligabo of Kenya was United Nations Special Rapporteur on Freedom of opinion and expression from 2002 to 2008, when he was appointed by the Commission on Human Rights.

He also held key positions in the multilateral sector of the Ministry of Foreign Affairs of Kenya.

Before serving his government, he was a renowned freelance journalist and writer in his country. Ligabo, who also served three years in the United Nations Operation in Somalia, holds post-graduate degrees in political science and international relations.

### **Abid Hussain (Rapporteur from 1993 to July 2002)**

Dr. Abid Hussain, an Indian economist and diplomat, served for nine years as the UN Special Rapporteur on Freedom of opinion and expression.

Previously he was the India's ambassador to the United States of America from 1990 to 1992. He also served as Secretary in the Ministry of Commerce and Ministry of Heavy Industry as a member of the Indian Administrative Service.

Hussain was honoured in 1988 with the Padma Bhushan (an award to recognize distinguished service to the nation) and has been at the forefront of India's economic and trade reforms since the 1980s.

During his career he was U.N Adviser on Turkey on Community Development for two years and also Chief of Industrial, Technology, Human Settlements and Environment in the UN Regional Commission of ESCAP, Bangkok for seven years. He has also been Vice Chairman of the Rajiv Gandhi Foundation, Chancellor of Central University, Hyderabad and Trustee of the Indira Gandhi National Centre for Arts Trust.

He remains an active member of civil society and has contributed to contemporary debates on a wide range of issues including globalization, Internet censorship, gender issues or freedom of expression.

***The ACHPR Special Rapporteur on Freedom of Expression and Access to Information*****Faith Pansy Tlakula (Rapporteur since 2005)**

Ms. Faith Pansy Tlakula of South Africa was appointed ACHPR Special Rapporteur on Freedom of Expression and Access to Information in December 2005.

Tlakula is the chairwoman of the Electoral Commission of South Africa (IEC) and chancellor of the Vaal University of Technology. Before that, she was the chief electoral officer at the IEC, a member of the South African Human Rights Commission (SAHRC), national director of the Black Lawyers Association of South Africa and chairperson of the Council of North-West University.

She has received a number of awards, including the “Rapport/City Press Prestige Women’s Award” in 2006, the CEO Magazine “Most Influential Woman Award” in 2007 and the Black Business Executive Circle “Chairman’s Award” in 2011.

