

International Mechanisms for Promoting Freedom of Expression

JOINT DECLARATION

by

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

Having 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.

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