

International Mechanisms for Promoting Freedom of Expression

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.

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