

## International Mechanisms for Promoting 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 non-believers, 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 21<sup>st</sup> 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 60<sup>th</sup> 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.

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