

ARTICLE 19



Tackling Hate: Action on UN standards to promote inclusion, diversity and pluralism

Protecting free speech and freedom of religion or belief for all

2018

ARTICLE 19

Free Word Centre
60 Farringdon Road
London,
EC1R 3GA
United Kingdom
T: +44 20 7324 2500
F: +44 20 7490 0566
E: info@article19.org
W: www.article19.org
Tw: [@article19org](https://twitter.com/article19org)
Fb: facebook.com/article19org

© ARTICLE 19, 2018

This work is provided under the Creative Commons Attribution-Non-Commercial-ShareAlike 2.5 licence. You are free to copy, distribute and display this work and to make derivative works, provided you:

- 1) give credit to ARTICLE 19;
- 2) do not use this work for commercial purposes;
- 3) distribute any works derived from this publication under a licence identical to this one.

To access the full legal text of this licence, please visit: <http://creativecommons.org/licenses/by-nc-sa/2.5/legalcode>.

ARTICLE 19 would appreciate receiving a copy of any materials in which information from this report is used.

The Principles were developed as a part of the Civic Space Initiative financed by the Swedish International Development Cooperation, Sida. Sida does not necessarily share the opinions here within expressed. ARTICLE 19 bears the sole responsibility for the content of the document.

Table of Contents

Introduction	4
The problem: discrimination, violence, and censorship	5
The solution: opening space to speak out against hatred	6
Inclusion, pluralism, and diversity in the international human rights framework	8
The ICCPR	8
HRC Resolution 16/18	10
The Istanbul Process	12
Commitments on freedom of religion or belief	13
The Rabat Plan of Action	13
The obligation to prohibit “incitement”	14
The repeal of blasphemy laws	15
Positive measures for States to promote inclusion, diversity and pluralism	18
Mobilising society for inclusion, diversity and pluralism	19
The Beirut Declaration	21
The ‘Plan of Action’ on preventing incitement to atrocity crimes	21
Implementation is key	22
More resources	25
End Notes	26

Introduction

This briefing explores how States and other stakeholders should respond to rising levels of intolerance and hate in societies in all parts of the world, by taking action on UN standards to promote inclusion, diversity and pluralism.

Setting out the foundations of States' international human rights law obligations for promoting inclusion, diversity and pluralism, as well as the numerous action plans and commitments in place to guide States, it shows how States and other actors can effectively tackle hate while promoting and protecting the mutually reinforcing rights to freedom of expression, freedom of religion or belief, and equality.

These UN standards and commitments provide a means to tackle the growing phenomena of hate and intolerance, both for governments and civil society. Implementing these standards and engaging with relevant UN mechanisms is key to promoting inclusion, diversity and pluralism at the national and local levels.

The problem:

Discrimination, violence, and censorship

“Nationalists are once again stirring up discrimination, hatred and violence against vulnerable scapegoats, seeking to profit from messages of ethnic or religious supremacy [...] International human rights law is being violated and undermined.”

This is what the UN High Commissioner for Human Rights warned in early 2018, as hateful and discriminatory rhetoric around the world appears to have become increasingly normalised.¹ This pattern of “hate being mainstreamed” is a problem compounded by increasing limitations on civic space, where restrictions on freedom of expression, freedom of the media, protest and association, online as well as offline, prevent pluralism and diverse public debate. Shrinking civic space not only restricts the voices of minority groups and those subject to hateful rhetoric, but importantly it limits the freedom of all people to speak out to counter this “hate speech”, discrimination and violence.²

The UN Special Rapporteur on freedom of religion or belief, Ahmed Shaheed, identifies that this intolerance is fuelled by populist political movements that scapegoat marginalised and minority groups, and by violence and discrimination committed supposedly in the name of religion.³ These two phenomena feed off and depend on one another for their survival, undermining societies’ resilience to hatred.⁴

Human rights abuses and violations in this context are wide ranging, fuelled by intolerance, and often fanning the flames of further intolerance. Terrorist attacks target people for the political or religious ideas they express; violence is incited against journalists reporting on a candidate’s divisive political campaign; bloggers are murdered for debating religious intolerance; social media is used to incite violence against an ethnic group facing crimes against humanity; prejudice drives crimes against refugees; artists are fined, imprisoned or executed for blasphemy; women are told what they can or cannot wear, all in the name of religion, and even in the name of secularism.

“Hate speech” seeks to marginalise and drive divisions, and is most successful when people are not willing or able to speak out against it. High levels of intolerance are reported to correlate with State-imposed restrictions

on freedom of expression, and freedom of religion or belief, yet responses to intolerance often resort to censorship. Where responses rely solely on broad restrictions on rights, vague laws against “hate speech” are often abused to silence minority and dissenting voices, while serious incidences of incitement to hostility, discrimination or violence go unpunished.⁶

Hate is also increasingly played out online, placing social media companies in the powerful position of adjudicating rights. Whether enforcing their own terms and conditions, or making censorship decisions at the behest of governments, an absence of transparency and accountability means decisions often seem arbitrary, in particular where the expression of minorities is targeted. Those impacted rarely have access to appeal or remedy for violations of their rights.⁷

The solution:

Opening the space to speak out against hatred

Since intolerance is more likely to flourish in environments where human rights are not respected, responses to it must be grounded in respect for international human rights law, driven by the understanding that the rights to freedom of expression, freedom of religion or belief, and equality, are mutually dependent and reinforcing.

Promoting inclusion, diversity and pluralism is the best prevention and response to intolerance: more speech is needed to tackle hate.

Open space for dialogue, debate, and dissent, including on topics that may be controversial, is key to preventing violence and discrimination, by allowing “hate speech” to be challenged. But this does not happen automatically or passively. Ensuring that all voices can be heard often requires that positive measures are taken to enable those who face discriminatory barriers to exercise their right to freedom of expression.

While strong legal protections against discrimination and in support of freedom of expression and freedom of religion or belief are crucial, more than this is required to “change hearts and minds” and to address the root causes of discrimination. Positive and non-coercive measures to develop and amplify messages for inclusion, pluralism and diversity, are key to promoting mutual understanding within and between groups, and empowering people to speak out against hate. Measures to prohibit or censor certain viewpoints will often be counter-productive, failing to address the underlying prejudices that motivate those who engage in “hate speech”.

A whole of society response is needed, mobilising multiple stakeholders, to tackle the root causes of discrimination, in line with States’ international human rights law obligations and commitments.

Inclusion, pluralism, and diversity in the international human rights framework

The maxim that “all human beings are born free and equal in dignity and rights” underpins the Universal Declaration of Human Rights (UDHR), which also recognises the freedoms of speech and religion as “the highest aspiration of the common people.”⁸

The freedoms of opinion and expression, religion or belief, and the right to equality, protected in Articles 19, 18 and 1 of the UDHR, are inextricably linked.⁹ Their protection for all people depends upon respect for inclusion, diversity, and pluralism.

In the 70 years since the proclamation of the UDHR, international human rights law has elaborated protections from discrimination on a growing list of bases, clarified the scope and relationship between the freedoms of expression and religion or belief, and more clearly defined the permissible limitations on these rights, including in relation to “hate speech”.

These developments have come through States’ adoption of treaties, commitments made in resolutions at the UN, and various expert guidance provided by treaty bodies and through other human rights experts and mechanisms. The multiplicity of sources of States’ international obligations and the various action plans that exist to further their implementation can seem disorienting.

The ICCPR

The International Covenant on Civil and Political Rights (ICCPR) gives legal force to many of the human rights articulated in the UDHR. The ICCPR is legally binding on States that have ratified it, and includes the following protections:

- **Article 19: The right to freedom of opinion and expression**
 - Article 19(1) gives absolute protection to the right to freedom of opinion, and does not permit limitations;
 - Article 19(2) of the ICCPR requires States to guarantee to all people the freedom to seek, receive or impart information or ideas of any

kind, regardless of frontiers, through any media of a person's choice. That includes the right to freedom of expression online;¹⁰

- The scope of Article 19(2) of the ICCPR is broad: it extends to the expression of opinions and ideas that others may find deeply offensive,¹¹ and this may even encompass discriminatory expression that could be described as “hate speech.”¹² The criteria for limiting the right to freedom of expression are narrow, and are set out below.

- **Article 18: The right to freedom of religion or belief**

- Like freedom of opinion, Article 18 has an “internal” dimension of the freedom to hold a religion or belief, that is absolute and cannot be subject to limitations;

- The external dimension of freedom of religion or belief is broad, protecting the right to manifest one's belief in worship, observance, practice or teaching, and the criteria for limitations are similarly narrow to the grounds for limiting freedom of expression.

- Article 18 protects all forms of religions or beliefs, including all of the world's major religions, but also equally protects non-theistic and atheistic beliefs, and the freedom to not profess any religion or belief. Integral to this is the freedom to adopt, change or renounce one's religion or belief, and freedom from coercion pertaining to one's religion or belief, implying the necessity of respect for pluralism and diversity.

- **Articles 2(1), 26 and 27: Guarantees against discrimination**

- These provisions are aimed at ensuring equality in the enjoyment of all human rights and the equal protection of the law, as well as specific guarantees to the cultural, religious and linguistic rights of minorities. An expansive range of “protected characteristics” are recognised under international human rights law, including “religion or belief”, as well as race, ethnicity, national or social origin, disability, migrant or refugee status, sex, sexual orientation, and gender identity.

These protections must form the backbone of any States' responses to intolerance and discrimination. At the same time, while the rights to freedom of expression and freedom of religion or belief are fundamental, neither is absolute. A State may, exceptionally, limit the right to freedom of expression under Article 19(3) of the ICCPR, but must prove that the limitation is:

-
- **Provided for by law**, any law or regulation must be formulated with sufficient clarity and precision to enable individuals to regulate their conduct accordingly;
 - **In pursuit of a legitimate aim**, listed exhaustively as: respect of the rights or reputations of others; or the protection of national security or of public order, or of public health or morals;
 - **Necessary in a democratic society**, requiring the State to demonstrate in a specific and individualised way the precise nature of the threat, and the necessity and proportionality of the restriction imposed in response, in particular by establishing a direct and immediate connection between the expression and the threat.¹³

The grounds for limiting the right to manifest one's religion or belief under Article 18(3) of the ICCPR essentially contain these same three elements.

Article 20(2) of the ICCPR additionally *requires* States to prohibit by law “any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence,” an obligation which is unpacked in the Rabat Plan of Action (see below).

HRC Resolution 16/18

In 2011, the UN Human Rights Council (HRC), adopted Resolution 16/18 on “combating intolerance, negative stereotyping and stigmatisation of, and discrimination, incitement to violence, and violence, against persons based on religion or belief.”¹⁴

This resolution is widely regarded as a landmark achievement of the HRC's first decade, because it sets out a universally agreed action plan by States for addressing intolerance on the basis of religion or belief.¹⁵ While HRC resolutions are not legally binding, they are often grounded in States international human rights obligations, and represent a commitment from States to take action on specific human rights issues.

HRC Resolution 16/18 rests on the rationale that the promotion of inclusion, diversity and pluralism is the best antidote to intolerant expression, coupled with policies and laws to tackle the root causes of discrimination.

To achieve this, **the resolution sets out an eight-point action plan** for States to:

- 
- 1 Create collaborative networks to build mutual understanding, promote dialogue and inspire constructive action in various fields;
 - 2 Create a mechanism within governments to identify and address potential areas of tension between members of different religious communities, and assist with conflict prevention and mediation;
 - 3 Train government officials in effective outreach strategies;
 - 4 Encourage efforts of leaders to discuss within their communities the causes of discrimination, and evolve strategies to counter them;
 - 5 Speak out against intolerance, including advocacy of religious hatred that constitutes incitement to discrimination, hostility or violence;
 - 6 Adopt measures to criminalise incitement to imminent violence based on religion or belief;
 - 7 Combat denigration and negative religious stereotyping of persons, as well as incitement to religious hatred, including through education and awareness-building;
 - 8 Recognise that the open, constructive and respectful debate of ideas plays a positive role in combating religious hatred, incitement and violence

Of these eight action points, seven concern measures to speak out against hatred and initiatives to foster greater inclusion, diversity, and pluralism. Only one point pertains to limitations on expression.

Resolution 16/18 constitutes a common framework, to some extent reconciling diverging views, on how to tackle intolerance and discrimination on the basis of religion or belief: it replaced divisive calls at the HRC (and at its predecessor, the UN Commission on Human Rights) for States to combat “defamation of religions”, a concept analogous to blasphemy, in favour of a more positive and consensus-based agenda.

The HRC has adopted follow-up resolutions to Resolution 16/18 annually, and by consensus, since 2011, including Resolution 34/32 in 2017.¹⁶ A complimentary series of resolutions at the General Assembly mirror this HRC initiative, with the last iteration, GA Resolution 72/176, adopted on 19 December 2017.¹⁷

These resolutions each invite States to annually report on their efforts to implement the action plans they contain to the UN High Commissioner for Human Rights and to the UN Secretary General. However, very few States take this opportunity, and those that do tend not to address the full range of actions in HRC Resolution 16/18.¹⁸ This lack of engagement has limited the potentially positive role of this reporting mechanism as a resource for learning and discussion on implementation, and as a base of knowledge and experience on good practice that can be built upon and replicated.

The Istanbul Process

The Istanbul Process is a series of meetings, initiated in 2011, to promote and guide implementation of Resolution 16/18. It was conceived of as a space for various stakeholders to exchange good practices and experiences of implementing the Resolution 16/18 action plan, outside of the sphere of multilateral politics.

The Istanbul Process has enormous potential to be a strong vehicle for the implementation of Resolution 16/18, to identify and replicate innovative and human rights compatible approaches to promoting inclusivity, pluralism and diversity.

However, this requires continuity in the Istanbul Process, which stalled in 2017 when, for a first time since 2011, a meeting was not held. Future meetings would benefit from being more cross-regional, visible, inclusive, and participatory of key stakeholders. Participation should be drawn from domestic government ministries and agencies whose mandates encompass efforts to tackle discrimination, as well as relevant UN special procedures, religious leaders, civil society, national human rights institutions, the media, and technology companies.

Commitments on freedom of religion or belief

The international community's attention to the right to freedom of religion or belief, as well as discrimination on the basis of religion or belief, have long intersected.¹⁹

The 1981 Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief sets out States' basic commitments in this area.²⁰ The mandate now known as the UN Special Rapporteur on freedom of religion or belief was created in 1986 tasked with monitoring the .

Annual resolutions on freedom of religion or belief are adopted at the HRC (Resolution 34/10, 2017), and at the General Assembly (Resolution 72/177, 2017), with a strong emphasis on human rights violations affecting religion or belief minorities, and putting in place legal frameworks and other practical policy measures to address discrimination based on religion or belief. The Special Rapporteur on freedom of religion or belief continues to present annual reports to both the HRC and General Assembly. Many of the report's recommendations build upon the guidance of the standards outlined in this briefing.

The Special Rapporteur also receives individual complaints and conducts country visits, together with other relevant special procedures, notably the UN Special Rapporteur on freedom of opinion and expression.

The Rabat Plan of Action

The Rabat Plan of Action,²¹ developed by international experts with the support of the UN Office of the High Commissioner on Human Rights (OHCHR), provides practical legal and policy guidance to States on implementing Article 20(2) of the ICCPR, which requires states to prohibit certain severe forms of "hate speech". Since it was adopted in 2012, it has been expressly referred to in the more recent iterations of HRC Resolution 16/18, and endorsed by numerous special procedures of the HRC.

The Rabat Plan of Action has normative and practical significance. It addresses misunderstandings of Article 20(2) of the ICCPR by setting out clear guidance on the exceptional circumstances in which the most severe forms of "hate speech" should be limited. It also sets out positive policy measures to address the root causes of discrimination, and the various stakeholders that must be engaged in order to counter "hate speech."²¹ The Rabat Plan of Action's emphasis on supporting open and robust debate,

including by elevating the voices of minority and marginalised groups targeted by hate, makes it an important companion to HRC Resolution 16/18.

The obligation to prohibit “incitement”

The Rabat Plan of Action unpacks the Article 20(2) ICCPR obligation on States to prohibit “any advocacy of national, racial or religion hatred that constitutes incitement to hostility, discrimination or violence.” This corresponds to the more specific commitment within Resolution 16/18 for States to “criminalise incitement to imminent violence based on religion or belief”.

However, the Rabat Plan of Action urges caution before rushing towards prohibitions on expression. While recognising the serious harms that can flow from “hate speech”, it also warns that too frequently, national laws prohibiting “incitement” do not comply with the strict requirements of the ICCPR, but are instead far too broad. Too easily they are then abused to target the types of expression that international human rights law protects.

Arising from States’ misunderstandings of Article 20(2) of the ICCPR, the Rabat Plan of Action identifies a dichotomy:

- On the one hand, there is impunity for real instances of actual incitement to violence, hostility or discrimination, without redress or remedy for the minorities and marginalised groups who are targeted;
- On the other hand, over-broad “incitement” laws are applied abusively to silence or intimidate government critics and dissenters, in particular against persons with minority religions or beliefs, including religious minorities, converts, atheists, and agnostics.

Against this context, the Rabat Plan of Action clarifies exactly what Article 20(2) of the ICCPR means when it calls on States to prohibit “incitement”, drawing upon General Comment No. 34 of the Human Rights Committee.²²

In particular, the Rabat Plan of Action emphasises that any Article 20(2) ICCPR prohibitions on incitement must be an exceptional measure of last resort. They must also meet the requirements of legality, legitimate aim, and necessity and proportionality under Article 19(3) of the ICCPR (set out above).

To resolve this, the Rabat Plan of Action sets out a high threshold for limitations on “incitement”, putting forward six criteria to determine where expression creates such a danger of harm to justify prohibitions on expression:

- 1 the social and political context;
- 2 the speaker, e.g. his or her status and influence over their audience;
- 3 the intent of the speaker;
- 4 the content and form of the expression;
- 5 the extent of the expression; and
- 6 the likelihood and imminence of violence, discrimination or hostility occurring as a direct consequence of the expression.

Even where this threshold is met, any sanctions should be determined on the basis of necessity and proportionality, and criminal responses only used as a last resort. At the same time, any legislative action must be taken in conjunction with comprehensive anti-discrimination laws.

The repeal of blasphemy laws

The Rabat Plan of Action expressly calls for the repeal of blasphemy laws, a call supported by the UN Special Rapporteur on freedom of religion or belief,²³ the UN and regional free expression mandates,²⁴ and the Human Rights Committee’s General Comment No. 34.²⁵

Prohibitions on blasphemy seek to protect religions or beliefs themselves from scrutiny, debate, insult or even ridicule, which can’t be considered a legitimate aim under Article 19(3) of the ICCPR.

There are two more reasons why blasphemy laws violate international human rights law:

- 1 **Blasphemy laws are discriminatory, and fuel division:** blasphemy laws discriminate against minorities and dissenters, limiting open and robust debate on important matters, including but not limited to religion or belief. Rather than encouraging mutual understanding, they fuel division by shutting down debates, often denying already marginalised groups the opportunity to speak or be heard, and are used to justify incitement to violence, as well as acts of violence by State and non-State actors, against those with minority views.

2

People are rights-holders, and abstract ideas or beliefs are not:

international law requires States to respect, protect and promote the rights of individuals to have, adopt and manifest a religion or belief of their choosing, and to protect individuals from discrimination on the basis of their religion or belief. It does not protect the ideas, religions or beliefs themselves as such. Neither does it entitle individuals to have their ideas, religion, or beliefs protected from scrutiny, debate, insult or even ridicule.

Maintaining that blasphemy laws are incompatible with international human rights law is not the same as agreeing with or supporting blasphemous expression in all circumstances. Rather, it merely requires acknowledging that it is not legitimate for the State to restrict such expression unless it separately constitutes “incitement” as defined by Article 20(2) of the ICCPR. This does not constrain individuals from speaking out against expression that they find offensive, including by peacefully protesting against “blasphemy”, as this too is their protected right.

Positive measures for States to promote inclusion, diversity and pluralism

The crux of the Rabat Plan of Action is that violence and discrimination, as well as the advocacy of hatred constituting incitement to these acts, is best prevented through open dialogue rather than through censorship.

The Rabat Plan of Action calls for a variety of positive policy measures from States, many of which are also found in the eight-point action plan of HRC Resolution 16/18.

In addition, it also emphasises the following measures for States to take:

- Create equality bodies or enhance the function of national human rights institutions established in accordance with the Paris Principles, to promote dialogue, but also in relation to accepting complaints about incidents of incitement under Article 20(2) of the ICCPR;
- Create mechanisms and institutions to systematically collect data in relation to incitement under Article 20(2) of the ICCPR;
- Establish a public policy and a regulatory framework which promotes pluralism and diversity of the media, including new media, and which promotes universal and non-discriminatory access to and use of means of communication;

-
- Promote and provide teacher training on human rights, and strengthen intercultural understanding as part of the school curriculum for pupils of all ages;
 - Build the capacity of security forces, law enforcement agents and those involved in the administration of justice on issues concerning the prohibition of incitement under Article 20(2) of the ICCPR;
 - Strengthen the current international human rights mechanisms to provide advice and support to States with regard to national policies for implementing human rights law.

Mobilising society for inclusion, diversity and pluralism

The Rabat Plan of Action differs from Resolution 16/18 in its emphasis on the roles of non-State actors in speaking out against and countering intolerance. In this way, it takes a “whole of society” approach to promoting inclusion, diversity and pluralism, underscoring the importance of open civic space and the involvement of a range of different actors in addressing intolerance.

The Rabat Plan of Action endorses the Camden Principles on Freedom of Expression and Equality, which sets out the moral and social responsibilities that the media, politicians, religious leaders and civil society each have to combat intolerance.²⁶



The media have responsibilities to:

- Take care to report in context and in a factual and sensitive manner, while ensuring that acts of discrimination are brought to the attention of the public;

-
- Be alert to the danger of furthering discrimination or negative stereotypes of individuals and groups in the media;
 - Avoid unnecessary references to race, religion, gender and other protected characteristics that may promote intolerance;
 - Raise awareness of the harm caused by discrimination and negative stereotyping;
 - Report on different groups or communities and give them the opportunity to speak and to be heard in a way that promotes a better understanding of them, while at the same time reflecting the perspectives of those groups or communities;
 - Reflect in voluntary professional codes of conduct for the media and journalists the principle of equality, and take effective steps to promulgate and implement such codes.

Politicians and political parties have responsibilities to:

- Political leaders should refrain from using messages of intolerance or expressions which may incite violence, hostility or discrimination, speak out firmly and promptly against “hate speech”, and make clear that violence can never be tolerated as a response to incitement to hatred;
- Political parties should adopt and enforce ethical guidelines in relation to the conduct of their representatives, particularly with respect to public speech.

Civil society and national human rights institutions have responsibilities to:

- Create and support mechanisms and dialogues to foster intercultural and interreligious understanding and learning.

Religious leaders have responsibilities to:

- Refrain from using messages of intolerance or expressions which may incite violence, hostility or discrimination;
- Speak out firmly and promptly against “hate speech”; and,
- Make clear that violence can never be tolerated as a response to incitement to hatred.

The Beirut Declaration

In relation to the role of religious leaders, the Beirut Declaration and 18 Commitments on “Faith for Rights”, also convened by OHCHR, has sought to build upon the Rabat Plan of Action.²⁷ The Declaration and 18 Commitments broadly outline means for religious leaders, as well as leaders of non-theistic or atheistic movements, to mobilise religions in furtherance of human rights, in particular freedom of religion or belief and freedom of expression.

Several of the 18 commitments are additional to those outlined in Rabat:

- Prevent the use of the notion of “State religion” to discriminate against any individual or group;
- Revisit religious interpretations that appear to perpetuate gender inequality and harmful stereotypes or even condone gender-based violence;
- Monitor interpretations, determinations or other religious views that manifestly conflict with universal human rights norms and standards;
- Refrain from oppressing critical voices and repeal any existing anti-blasphemy or anti-apostasy laws;
- Refine the curriculums, teaching materials and textbooks so they do not condone or justify discrimination;
- Engage with children and youth who are either victims of or vulnerable to incitement to violence in the name of religion.

The ‘Plan of Action’ on preventing incitement to atrocity crimes

In addition, the UN Office on Genocide Prevention and the Responsibility to Protect has launched a “Plan of Action”²⁸ for religious leaders and actors to prevent incitement to violence that could lead to atrocity crimes. The plan is presented around three clusters: “prevent”, “strengthen” and “build”. While focused on the role of religious leaders, it also makes recommendations towards states, new and traditional media, as well as addressing the intersection between religion and incitement to gender-based violence.²⁹

Implementation is key

A proactive and positive approach to the challenge of rising intolerance, promoting inclusion, diversity and pluralism in tackling hate and discrimination³⁰ is essential to effectively advance the implementation of these international commitments through national and local action.

1 States leading by example

To implement their international human rights obligations and commitments on this issue, States must:

- Adopt comprehensive national implementation plans on HRC Resolution 16/18 and the Rabat Plan of Action, and related HRC resolutions on freedom of religion or belief, with the full and effective participation of all stakeholders;
- Ensure an environment for open, robust debate and dialogue, including through a free and open Internet, in line with the rights to freedom of religion or belief, freedom of opinion and expression, and non-discrimination, and encourage initiatives by other stakeholders to promote inclusion, diversity and pluralism, in line with HRC Resolution 16/18 and the Rabat Plan of Action;
- Prohibit the advocacy of discriminatory hatred constituting incitement to hostility, discrimination or violence in compliance with Articles 19(3) and 20(2) of the ICCPR and the guidance of the Rabat Plan of Action, recognising that this requires the repeal of blasphemy laws, the creation of equality bodies, and the enactment of comprehensive anti-discrimination legislation;
- Ensure accountability and redress for all human rights violations, in particular of the right to freedom of religion or belief, freedom of expression and equality.

2 Mobilising all stakeholders

Creating inclusive, pluralistic and diverse societies requires a whole of society approach, including:

- Civil society, political and religious leaders, the media, and social media companies should create their own voluntary initiatives to promote

inclusion, diversity and pluralism according to their own moral and social responsibilities, as identified in the Rabat Plan of Action and the Camden Principles on Freedom of Expression and Equality;

- All stakeholders should participate in multilateral initiatives to promote inclusion, diversity and pluralism, in particular to share and replicate good practice.

3 Enhancing multilateral efforts

Various international mechanisms are in place to further the implementation of States' international human rights obligations, as well as for dialogue and exchange to share and replicate good practice, as well as to address gaps in normative understandings of States' obligations.

To improve effective implementation of HRC Resolution 16/18, states should:

- Respond to requests from OHCHR and the UNSG for information on implementation of Resolution 16/18, with detailed evaluations of relevant national actions and policies;
- Solicit input for reports to OHCHR and the UNSG from national stakeholders, including national human rights institutions and civil society organisations;
- Through negotiations on future resolutions, open OHCHR reporting on the implementation of Resolution 16/18 to all interested stakeholders, including by specifically inviting National Human Rights Institutions, civil society organisations and others to share information on their own activities to implement the resolution;
- Examine ways to rationalise the reporting obligations on States, for example by alternating requests for annual reports on implementation between the HRC and General Assembly resolutions, making them biennial.

To enhance the Istanbul Process, States should:

- Commit to a multi-year programme for the continuation of the Istanbul Process, with greater collaboration between previous and future hosts to more effectively build upon lessons learned, and to enhance opportunities for participation by all stakeholders;
- Establish dedicated resources, including online, for the exchange of information and resources on the Istanbul Process and implementation of Resolution 16/18, to enhance visibility to broader constituencies;

-
- Build upon cross-regional participation, encouraging more States in underrepresented regions to host and attend Istanbul Process Sessions;
 - Encourage self-evaluation and self-criticism in the Istanbul Process to exchange lessons-learned.
 - Explore new formats in the Istanbul Process to enable the identification and replication of good practices, in particular by engaging practitioners, including: national government ministries and agencies; national human rights institutions; legislators; judiciary; national and regional civil society and community leaders; journalists; and social media and internet companies;
 - Mainstream the Rabat Plan of Action and related initiatives within the Istanbul Process, to address misconceptions regarding legitimate restrictions on the rights to freedom of expression and freedom of religion or belief;
 - Convene national and regional gatherings on the implementation of Resolution 16/18 under the umbrella of the Istanbul Process, to feed into and enrich annual meetings;
 - Engage in bilateral initiatives to exchange experiences and best practice, e.g. judicial exchanges or colloquiums, joint law enforcement trainings, etc.;
 - Engage UN special procedures and OHCHR, as well as other relevant UN agencies, funds and programmes, to ensure an effective “feedback loop” of lessons learned across the institution, and foster similar connections to regional human rights mechanisms.

To mainstream implementation through other UN mechanisms, States should:

- Respond to communications from the UN Special Rapporteurs on freedom of religion or belief and on freedom of expression on the implementation of HRC Resolution 16/18, the Rabat Plan of Action and related initiatives;
- Invite the UN Special Rapporteurs on freedom of religion or belief and on freedom of expression to conduct country visits;
- Increase the use of the HRC’s Universal Periodic Review (UPR) mechanism to raise issues of implementation of HRC Resolution 16/18 and the Rabat Plan of Action and related initiatives;

-
- Provide information on the implementation of HRC Resolution 16/18 and the Rabat Plan of Action and related initiatives in reports to relevant UN Treaty Bodies, in particular the Human Rights Committee;
 - Explore how to integrate the assessment of States' actions to promote inclusion, pluralism and diversity to measuring implementation of the Sustainable Development Goals, and the development of the Global Compacts for Migration and on Refugees.

More resources

- “‘Hate speech’ explained: a tool kit”, ARTICLE 19, December 2015, available at: <http://bit.ly/1PfLHh4>
- ARTICLE 19 Projects Advancing the Rabat Plan of Action; December 6 2017; available at: <http://bit.ly/2EmDTwT>
- “Momentum needed to implement UN commitments on combating religious intolerance”, ARTICLE 19, November 2017; available at: <http://bit.ly/2G8Rwjr>
- 6th Session of Istanbul Process focuses on practical measures to implement UN HRC Resolution 16/18, ARTICLE 19, 12 September 2016; available at: <http://bit.ly/2kxIGXf>

End Notes

¹ International Day of Commemoration in Memory of the Victims of the Holocaust, 27 January 2018; available at: <http://bit.ly/2EcZM2j>

² “Hate is being mainstreamed” – global update by the High Commissioner at the 32nd Session of the Human Rights Council, 13 June 2016; available at: <http://bit.ly/2kGFgeQ>

³ Report of the Special Rapporteur on freedom of religion and belief, A/HRC/34/50, 17 January 2017; available at: <http://bit.ly/2lriyfw>

⁴ “Hate is being mainstreamed”, *op. cit.*

⁵ Report of the Special Rapporteur on freedom of religion and belief, “two closely interrelated rights”, A/72/365, 2016; available at: <http://bit.ly/1SJxPO4>

⁶ Rabat Plan of action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility of violence, A/HRC/22/17/Add.4, 5 October 2012; available at: <http://bit.ly/2fTNMG6>

⁷ ARTICLE 19, submission to UN Special rapporteur on freedom of expression on “content regulation in the digital age”, ARTICLE 19, 19 December 2017; available at: <http://bit.ly/2kknQal>

⁸ Universal Declaration of Human Rights, adopted by the General Assembly in Paris on 10 December 1948; available at: <http://bit.ly/1kYiZcO>

⁹ “Two closely interrelated rights”, *Op. Cit.*

¹⁰ HR Committee, General Comment No. 34 on Article 19: Freedoms of opinion and expression, CCPR/C/GC/34, 12 September 2011; available at: <http://bit.ly/1xmySgV>

¹¹ *Ibid.*, at para 11.

¹² Rabat Plan of Action, *Op. Cit.*

¹³ General Comment No. 34, *Op. Cit.*, at para 22.

¹⁴ HRC Resolution 16/18 on “Combating intolerance, negative stereotyping and stigmatization of, and discrimination, incitement to violence and violence against, persons based on religion or belief”, adopted by consensus on 24 March 2011; available at: <http://bit.ly/1Si1zVc>

¹⁵ Resolutions of the HRC are not legally binding, but constitute strong political commitments on the basis of States’ international human rights law obligations. As such, these resolutions, in particular when adopted by consensus, have normative significance in indicating States’ understandings of their human rights obligations.

¹⁶ HRC Resolution 34/32 on “Combating intolerance, negative stereotyping and stigmatization of, and discrimination, incitement to violence and violence against, persons based on religion or belief”, adopted by consensus on 24 March 2017; available at: <http://bit.ly/2BVJoF9>

¹⁷ GA Resolution 72/176 on “Combating intolerance, negative stereotyping, stigmatization, discrimination, incitement to violence and violence against persons,

based on religion or belief”, adopted by consensus on 19 December 2017; available at: <http://bit.ly/2BoN5SE>

¹⁸ The most recent reports are A/72/381 and A/HRC/37/43.

¹⁹ Combatting global religious intolerance: the implementation of Human Rights Council resolution 16/18”, Universal Rights Group, 2014; available at: <http://bit.ly/2EZRv27>

²⁰ Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion of Belief, UNGA resolution 36/55, 25 November 1981; available at: <http://bit.ly/1LYmfM5>

²⁰ Rabat Plan of Action, *Op. Cit.*

²¹ Rabat Plan of Action, *Op. Cit.*

²² General Comment No. 34, *Op. Cit.*

²³ *Op. Cit.*, FN9.

²⁴ Joint Declaration of the International and Regional Freedom of Expression Mechanisms on Defamation of Religions, 20 April 2008; available at: <http://bit.ly/2FBjsOr>

²⁵ General Comment No. 34, *Op. Cit.*

²⁶ The Camden Principles on Freedom of Expression and Equality, ARTICLE 19, 2009; available at: <http://bit.ly/1XfMDrL>

²⁷ Beirut Declaration and its 18 commitments on “faith for rights”, OHCHR, 2016; available at: <http://bit.ly/2v5Y8dk>

²⁸ UN Office on Genocide Prevention and the Responsibility to Protect, Plan of Action for Religious Leaders and Actors to Prevent Incitement to Violence that Could

Lead to Atrocity Crimes, 14 July 2017, available at: <http://bit.ly/2oAK7IT>

²⁹ A broader range of positive measures to counter “hate speech” for all stakeholders, including in relation to online media companies, are set out in ARTICLE 19’s “[Hate speech explained” tool kit](#).”

³⁰ Support for this at the HRC most notably included the Joint Statement on “the power of inclusion and the benefits of diversity”, 20 March 2017, delivered by Canada on behalf of a group of 83 countries at the UN Human Rights Council; available at: <http://bit.ly/2ECNfaX>.

DEFENDING FREEDOM OF EXPRESSION AND INFORMATION

ARTICLE 19 Free Word Centre 60 Farringdon Road London EC1R 3GA
T +44 20 7324 2500 F +44 20 7490 0566
E info@article19.org W www.article19.org Tw [@article19org](https://twitter.com/article19org) facebook.com/article19org

© ARTICLE 19