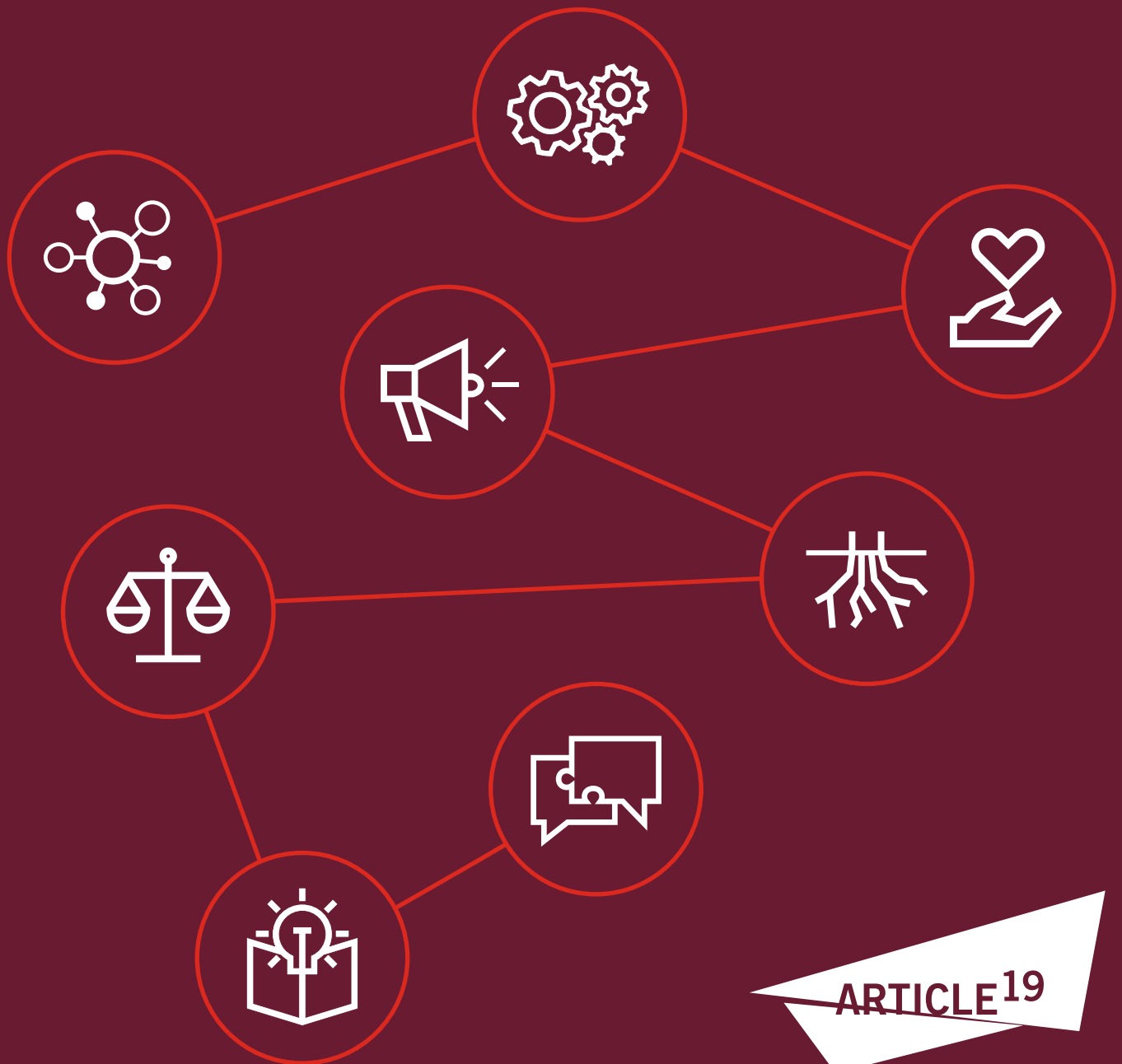


# Tackling Hate

Action on UN standards to promote inclusion, diversity and pluralism



ARTICLE 19

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# Introduction

This updated guide explores how States and other stakeholders should respond to rising levels of intolerance, discrimination and hate 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 in this area, as well as the numerous action plans and commitments in place at the UN level, this guide shows how governments 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 root causes 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.

This guide originated out of ARTICLE 19's extensive work and advocacy on UN efforts to combat religious intolerance. It has evolved to increasingly address hatred on multiple and intersecting grounds, and to assess broader UN initiatives to address hate speech, including on the grounds of religion or belief. This Third Edition takes a closer look at the gender dimensions of hate, including hate based on religion or belief, in particular its disproportionate and differential impacts on women and LGBTQ people. It further examines connections to UN standards on racist hate speech, and hatred against migrants, which often intersect with other forms of discrimination, including on the basis of religion or belief.

International standards have long asserted that the same human rights that apply offline apply equally online. This guide provides updates to international standards in this area to ensure that responses from States and business enterprises, in particular social media companies, maximise the protection of human rights.

The guide further examines how UN processes and mechanisms can be employed to support implementation of States' international human rights law obligations and commitments at the national level.



**Governments 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.”**



# The problem: hate, discrimination, censorship

**“Hate speech is in itself an attack on tolerance, inclusion, diversity and the very essence of our human rights norms and principles... it undermines social cohesion, erodes shared values, and can lay the foundation for violence.”**

This is what the UN Secretary General said in 2019, launching the UN Strategy and Plan of Action on Hate Speech, responding to political leaders, in both liberal democracies and under authoritarian regimes, bringing “hate-fuelled ideas and language into the mainstream, normalizing them, coarsening the public discourse and weakening the social fabric”.<sup>1</sup>

The UN Special Rapporteur on freedom of religion or belief has identified that this intolerance is fuelled by populist political movements that scapegoat marginalised and minority groups, and by hatred in the name of and against persons based on religion.<sup>2</sup> These two phenomena feed off and depend on one another for their survival, undermining societies’ resilience to hatred. The Secretary General has highlighted how these populist movements often promulgate ideologies of national, racial and religious superiority to target migrants and refugees.<sup>3</sup>

ARTICLE 19 has observed that populist political leaders have in many places been propelled to power claiming to be adversaries of “political correctness” and champions for “free speech”. Yet these same actors are often the quickest to shout down opposition, incite violence against their critics, and undermine institutions designed to protect fundamental rights, including the right to freedom of expression.<sup>4</sup>

Often, hate speech takes on distinctly gendered dimensions. Gender stereotypes are often deployed in conjunction with racist and xenophobic tropes to construct threats and mobilise communities against “the other”, including on the basis of religion or belief, and can lead to the incitement of sexual and gender-based violence. At the same time, religion or belief is invoked to justify discrimination, in particular against women and LGBTQ people, including within as well as between religion or belief communities. Both the UN Secretary General and the UN Special Rapporteur on freedom of religion or belief have called on States to do more to address the gendered dimensions of hate, discrimination and violence.<sup>5</sup>

UN actors have observed that the mainstreaming of hate is compounded by worsening 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 targeted by hate, but also limits the freedom of all people to speak out to counter this hate speech, discrimination and violence.<sup>6</sup>

This is because hate speech seeks to marginalise and drive divisions, and is most successful when people are not willing or able to speak out against it.



**Gender stereotypes are often deployed in conjunction with racist and xenophobic tropes to construct threats and mobilize communities against “the other”.**



Image from ARTICLE 19 video: Action on UN standards to tackle hate

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, the UN Special Rapporteur on freedom of opinion and expression has warned that vague laws against “hate speech” are often abused to silence minority and dissenting voices, while there is simultaneously impunity for serious incidences of incitement to hostility, discrimination or violence, and a failure to address broader harms.<sup>7</sup>

Hate is increasingly disseminated online, on privately owned social media platforms. The human rights impacts are diverse and can be severe, ranging from incitement to crimes against humanity and even genocide, to discriminatory harassment and threats against individuals. The potential for content to go viral, contributing to its extensive digital footprint, and difficulties in identifying its authors, present challenges from legal, regulatory and policy perspectives.

States are adopting regulatory regimes to pressure social media companies to remove content that may be protected under international human rights standards. In turn, this is incentivising the rapid removal of content, relying often on automation and upload filters, without sufficient human rights oversight, raising serious concerns for freedom of expression.<sup>8</sup> Platforms are also enforcing terms of service that do not always reflect international human rights standards, in circumstances that are often opaque, with limited options for users seeking to appeal content decisions. The absence of transparency and accountability adds to perceptions of arbitrariness, with minority and dissenting groups often experiencing disproportionate impacts, without access to remedies for violations of their rights.<sup>9</sup>



**Hate is increasingly disseminated online, on privately owned social media platforms.”**





## The solution: opening space to counter hate



“ Society is stronger and more resilient when women and men can play a meaningful role in political, economic and social life, contributing to policy-making that affects their lives, including by accessing information, engaging in dialogue, expressing dissent and joining together to express their views. This includes the right to freedom of thought, conscience and religion.”

**UN Secretary-General António Guterres<sup>10</sup>**

Since intolerance is more likely to flourish in environments where human rights are not respected, responses to it must be grounded in international human rights law, and 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 informed speech is needed to tackle hate. Responses must be based on a clear and contextualised understanding of the problem, which requires the collection of evidence and data, which must be disaggregated, including on the basis of gender.

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 online and offline. 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 multiple and intersecting discriminatory barriers, including on the basis of gender, to fully 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 that promote inclusion, pluralism and diversity, in particular through education and training of government officials, are key to fostering 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 and violence, in line with States’ international human rights law obligations and commitments.



This will require engaging persons targeted by hate speech, as well as civil society more broadly, to understand the contextual factors driving discriminatory sentiments, and the priorities of those most affected. It further requires engagement with business enterprises, in particular social media platforms, to ensure that their terms of service – and their practices for enforcing them – respect international human rights law. A radical new approach to transparency is required, alongside real accountability mechanisms.

Human rights-based strategies to counter hate cannot be gender-neutral, but must proactively seek to address discrimination and violence against women and LGBTQ people, as a priority goal and not as an afterthought. Responses must avoid entrenching patriarchal power structures, for example by focusing solely on male religious leaders of majoritarian and conservative denominations, and/or by instrumentalising women’s role in responses solely on the basis of traditionally understood and limiting gender stereotypes. All initiatives must ensure the effective participation and leadership of women, and fully ensure the right of women to speak and be heard for themselves and for their communities in responding to hate.

To address multiple and intersecting forms of discrimination, it is essential that responses engage with individuals’ various layers of identity and not assume groups are monolithic based on one identifiable criteria, such as religion. This requires responses to focus on dynamics *within* communities, including groups that may be in majority or dominant positions, as well as *between* communities.



**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.”**



# 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.”<sup>11</sup>

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.<sup>12</sup> Their protection for all people depends upon respect for inclusion, diversity, and pluralism.

Over 70 years since the proclamation of the UDHR, international human rights law has elaborated protections from discrimination on a growing list of bases, and clarified the scope and relationship between the freedoms of expression and religion or belief as well as other rights. While there is no definition of ‘hate speech’ under international law, there is a range of guidance to States to ensure responses to such expression comply with their human rights obligations.

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. This guide seeks to unpack some of the most relevant standards and initiatives.

## 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) of the ICCPR gives absolute protection to the right to freedom of opinion, and does not permit limitations;
- Article 19(2) 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.

**The Human Rights Committee**, the treaty body monitoring States’ compliance with the ICCPR, made clear in **General Comment No. 34** that 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,<sup>13</sup> and this may even encompass discriminatory expression that could be described as “hate speech”, but does not reach a threshold where restrictions are necessary or proportionate.<sup>14</sup>



**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.”**

While the right to freedom of expression under Article 19(2) is fundamental, it is not 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; and,
- **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.<sup>15</sup>

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).

While Article 20(2) of the ICCPR addresses incitement as a specific form of hate speech, States may also take action against other forms too. Direct threats or harassment are often discriminatory in nature, and may have significant impacts on the rights of the individuals targeted. States may also prohibit these forms of hate speech, provided those laws comply with the conditions of Article 19(3) of the ICCPR.

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

Articles 18 and 19 of the ICCPR share much in common.<sup>16</sup> Like the freedom of opinion under Article 19(1), the internal dimension of the freedom *to hold* a religion or belief under Article 18(1) 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 is also protected in Article 18(1).

Article 18 protects the individual’s freedom to hold or manifest any religion or belief, including all of the world’s major religions, while equally protecting non-theistic and atheistic beliefs, and the freedom to not profess any religion or belief.<sup>17</sup> 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.

Article 18(3) of the ICCPR sets out permissible grounds for limiting the right to freedom of religion or belief, almost mirroring the conditions of Article 19(3) above.

### **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.



**Article 18 protects the individual’s freedom to hold or manifest any religion or belief, including [...] the freedom to not profess any religion or belief.”**

These provisions provide listings of “protected characteristics”, expressly including religion or belief, as well as race, ethnicity, sex, and national or social origin, among others. These listings are not exhaustive, however, and have been interpreted over time to extend to other grounds, including disability, migrant or refugee status, sexual orientation, and gender identity.

The Human Rights Committee has made clear there is no hierarchy between these characteristics, but treats discrimination on all grounds seriously. It is consistent with this approach to expand the interpretation of Article 20(2) of the ICCPR to treat advocacy of hatred on all grounds of discrimination equally seriously, and not limit this obligation to hate based on race, religion or nationality.<sup>18</sup>

The Human Rights Committee has been clear that it is not permissible to limit the enjoyment of rights, for example to freedom of expression or freedom of religion or belief, for purposes that are discriminatory.<sup>19</sup>

## The CEDAW

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) provides further guidance to States which are relevant to efforts to address the gendered dimensions of hate.

Article 2 of CEDAW requires States to modify or abolish existing laws and policies which constitute discrimination against women, and carries specific obligations to eliminate harmful gender stereotypes to ensure equality and address the root causes of violence against women.<sup>20</sup>

**The Committee on the Elimination of Discrimination against Women** has been clear in its jurisprudence that gender-based discrimination or violence cannot be justified in the name of tradition, culture, religion or fundamentalist ideology, and has noted how “shrinking democratic spaces” have contributed to impunity for human rights violations and abuses.<sup>21</sup> While CEDAW does not contain specific references to religion or belief, the Committee has also emphasised the need for States to take into account varying and intersecting forms of discrimination, which include discrimination on the basis of religion or belief. The Committee has also identified particular risks faced by women human rights defenders tackling prejudice.<sup>22</sup>

In a report marking the 25<sup>th</sup> Anniversary of **the Beijing Declaration and Platform for Action**,<sup>23</sup> the UN Special Rapporteur on freedom of religion or belief made it clear that the right of individuals to manifest their religion or belief may be limited to protect the rights of women and LGBTQ people from gender-based discrimination, provided the conditions of Article 18(3) of the ICCPR are met.<sup>24</sup> In particular, he called upon States to remove reservations to CEDAW citing religious considerations.<sup>25</sup>

## The ICERD

The International Covenant on the Elimination of All Forms of Racial Discrimination (ICERD) calls on States, in Articles 4 and 5, to “eradicate all incitement to, or acts of” racial discrimination, while fully respecting other rights protected by human rights law, including freedom of expression. Article 4 further requires States to:

- “declare an offence punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin”; and,
- “declare illegal and prohibit organizations, and also organized and all other propaganda activities, which promote and incite racial discrimination, and shall recognize participation in such organizations or activities as an offence punishable by law.”

**The Committee on the Elimination of Racial Discrimination** has emphasised the exceptional nature of restrictions in criminal law. In General Recommendation No. 35 on racist hate speech, it reconciles the broader language of Article 4 of ICERD with the narrower obligation to prohibit advocacy of hatred constituting incitement under Article 20(2) of the ICCPR, requiring any measures pursuant to ICERD comply with the ICCPR also.<sup>26</sup>

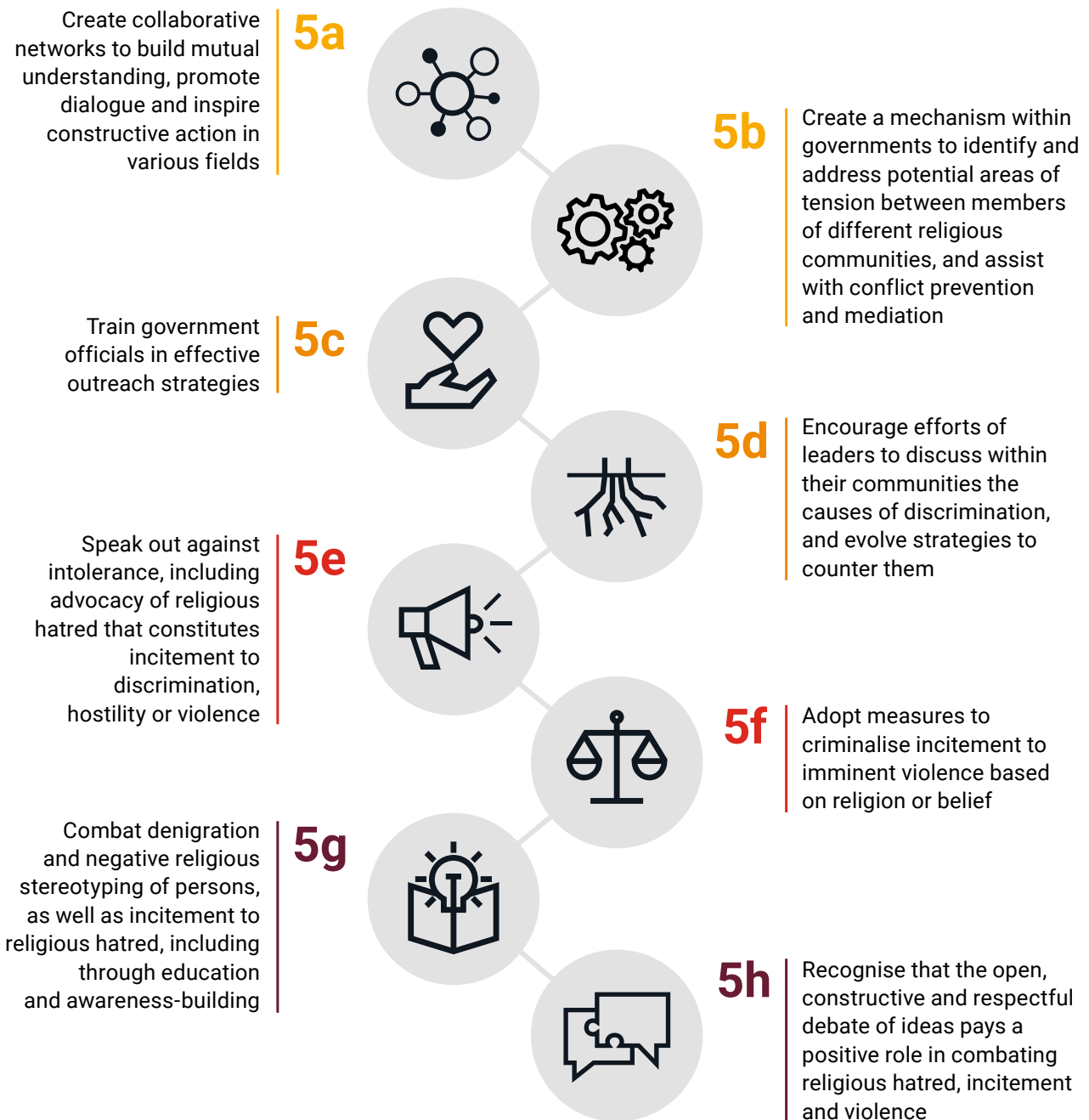
## HRC Resolution 16/18

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”.<sup>27</sup>

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. 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.

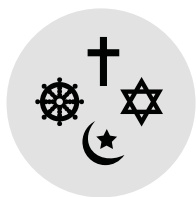
HRC Resolution 16/18 rests on the rationale that the promotion of inclusion, diversity and pluralism is the best antidote to intolerant expression, coupled with policies and laws to tackle the root causes of discrimination.

To achieve this the resolution sets out, in paragraph 5, an **eight-point action plan** for States to:



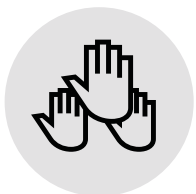
While the resolution emphasises the importance of comprehensive and holistic implementation across all eight action points, it is notable that, of the eight action points above, seven concern measures to speak out against hatred and initiatives to foster greater inclusion, diversity, and pluralism. Only one point pertains to limitations on expression, and is narrowly drawn to address expression that incites imminent violence (para. 5f).

While most commentary on HRC Resolution 16/18 focuses on its “eight-point action plan”, the resolution contains several other substantive commitments. Paragraph 6, for example, encourages States to:



### 6a

Take effective measures to ensure that public functionaries in the conduct of their public duties do not discriminate against an individual on the basis of religion or belief;



### 6b

Foster religious freedom and pluralism by promoting the ability of members of all religious communities to manifest their religion, and to contribute openly and on an equal footing to society;



### 6c

Encourage the representation and meaningful participation of individuals, irrespective of their religion, in all sectors of society;



### 6d

To make a strong effort to counter religious profiling, which is understood to be the invidious use of religion as a criterion in conducting questionings, searches and other law enforcement investigative procedures.

Additionally, paragraph 8 of the resolution “calls upon States to adopt measures and policies to promote the full respect for and protection of places of worship and religious sites, cemeteries and shrines, and to take measures in cases where they are vulnerable to vandalism or destruction.”

HRC Resolution 16/18 constitutes a common framework 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.<sup>28</sup> A complementary series of resolutions with the same title and containing the same eight-point action plan have been adopted annually at the UN General Assembly, demonstrating universal support among Member States.<sup>29</sup>

Both the HRC and UNGA 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,<sup>30</sup> and to the UN Secretary General.<sup>31</sup> While the number of reporting States increased in 2019 - 2020, response rates remain low, and a lack of geographic diversity among reporting States persists.<sup>32</sup> Recommendations to reduce the frequency of reporting (by biennialising the resolutions), to open



**Both the HRC and UNGA 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.”**

the reporting mechanism to the participation of civil society, and to increase the focus on multiple and intersecting forms of discrimination, including on the basis of gender, have so far not been actioned by States responsible for leading the resolution.<sup>33</sup>

## 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.

After a brief hiatus, the Istanbul Process was reinvigorated in November 2019, with a meeting hosted by the Kingdom of the Netherlands in the Hague. The meeting was one of the most inclusive and participatory yet, and signalled a renewal of political will in the process.

Future meetings of the Istanbul Process should build on this success. They should be cross-regional, participatory, and inclusive of key stakeholders. Participation should be drawn from domestic government ministries and agencies whose mandates encompass efforts to tackle discrimination, to ensure introspection, 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

Alongside HRC Resolution 16/18, there are a number of notable commitments relating to freedom of religion or belief:

- **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.<sup>34</sup> The mandate now known as the UN Special Rapporteur on freedom of religion or belief was created in 1986, tasked with monitoring the implementation of the 1981 Declaration.
- **Annual resolutions on freedom of religion or belief** are adopted at the HRC,<sup>35</sup> and at the General Assembly,<sup>36</sup> 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.

These standards provide the basis for much of the work of the **UN Special Rapporteur on freedom of religion or belief**.<sup>37</sup> The mandate reports annually to the HRC and General Assembly, while also receiving individual complaints and conducting country visits, together with other relevant special procedures, notably the **UN Special Rapporteur on freedom of opinion and expression**.<sup>38</sup>



As part of efforts to increase the visibility of the Istanbul Process, ARTICLE 19, together with the Universal Rights Group, has developed a website and resource hub for interested stakeholders: [istanbulprocess1618.info](https://istanbulprocess1618.info)

Features of the website include a timeline and relevant documentation for all Istanbul Process meetings to date, an interactive map of initiatives at the national level to implement HRC Resolution 16/18, and a range of other resources.

## The Rabat Plan of Action

The Rabat Plan of Action,<sup>39</sup> 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. 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 gender gap

The Rabat Plan of Action and HRC Resolution 16/18 are silent on the gender dimensions of hate and discrimination based on religion or belief. This 'gender blindness' may reflect the narrow focus of both initiatives on discrimination between religion or belief communities, rather than also addressing inequalities and discrimination *within* religion or belief communities, as well as the way people may experience discrimination on multiple, and intersecting grounds.

It is nevertheless essential that States implement UN standards in a gender-responsive manner: undertaking a gender analysis of the underlying causes and impacts of hatred related to religion or belief, and nuancing responses accordingly. This includes proactively seeking to ensure that gendered manifestations of religious intolerance that disproportionately affect women and LGBTQ persons are effectively tackled, and ensuring that the design and implementation of initiatives to tackle religious intolerance include diverse representation and leadership from women and LGBTQ persons. Without taking a gender perspective to addressing religious intolerance, protection gaps are likely to persist and responses to tackling religious hatred may inadvertently entrench gender inequality.

### 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.



**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."**



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. It presents a classification of three "types" of hate speech, namely:

1. Hate speech that States are required by international human rights law to prohibit, such as incitement, per Article 20(2) of the ICCPR;
2. Hate speech that States are permitted to restrict, such as discriminatory threats or harassment against identifiable individuals, provided these measures conform to the requirements of Article 19(3) of the ICCPR;
3. Hate speech that raises concerns in terms of respect for inclusion, pluralism and diversity, but which do not meet the threshold requiring or permitting restriction under Articles 20(2) and 19(3) of the ICCPR.







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).

While Article 20(2) of the ICCPR addresses incitement on the basis of race, religion, and nationality, the obligations should apply by analogy to all other protected characteristics recognised under international human rights law.



**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."**

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 identity of the speaker, i.e. his or her status and influence over their audience;**
-  **3 The intent of the speaker for incited action to occur;**
-  **4 The content and form of the expression;**
-  **5 The extent or magnitude of the expression;**
-  **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.

While the six threshold criteria do not explicitly address gender considerations, it is valuable to apply a **gender lens** across each of the six factors:

**1.** Take into account the place of women in society, and evaluate the extent to which gender-based discrimination or stereotypes is a factor driving advocacy of hatred;

**2.** Consider the gender of the speaker and how this may shape the reception of their message among their audience;

**3.** Consider the speaker’s record of engaging in, and/or supporting gender-based discrimination or violence;

**4.** Analyse any deployment of gender to advocate hatred, in particular where it incites gender-based discrimination or violence, including sexual violence;

**5.** Consider how gender dimensions have contributed to the popularity and spread of the expression;

**6.** Consider how incited action may manifest in gender-specific forms, such as gender-based or sexual violence, and/or how incited action may differently or disproportionately impact individuals based on their gender.

In relation to **sanctions**, it is important to consider gendered barriers in access to justice, and the importance of addressing structural and institutional discrimination in this regard. Ensuring investigations, prosecutions and remedies are gender-sensitive and responsive to the rights of victims, is essential.

It is important to recall that the Rabat Plan of Action does not address *all forms* of hate speech, and that bias-motivated threats and harassment, in particular, may take on gendered forms, and require specific attention.

### 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,<sup>40</sup> and the Human Rights Committee's General Comment No. 34.<sup>41</sup>

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, according to the Rabat Plan of Action:

- **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.
- **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 considering blasphemous expression desirable or inoffensive. Rather, it merely requires acknowledging that it is not legitimate for the State to restrict such expression unless it constitutes "incitement" as defined by Article 20(2) of the ICCPR, and that restrictions comply with Article 19(3) of the ICCPR. This constraint on the coercive power of the State 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.

### Protecting dissent

Civil society space is shrinking globally, as States increasingly clamp down on the freedoms of expression, association, peaceful assembly, religion or belief, and the rights to privacy and public participation. The UN Secretary-General has noted the disproportionate impact of this trend on minorities and those holding dissenting views, connecting the imperative of opening civic space with the conditions required for effectively tackling hate speech.<sup>42</sup>

This requires States to undertake comprehensive reforms to national legal frameworks to protect essential civic freedoms. While this must include the universal repeal of blasphemy prohibitions, this will achieve little if States have recourse to other laws to illegitimately censor expression they do not like.



**Blasphemy laws discriminate against minorities and dissenters, limiting open and robust debate on important matters, including but not limited to religion or belief."**

Provisions such as sedition and lèse-majesté, which have no basis in international human rights law, or over-broad measures to target “incitement” or counter terrorism or so-called “extremism”, disproportionately target minorities and dissenting viewpoints and require urgent repeal or revision.

Any national initiative to implement the Rabat Plan of Action and HRC Resolution 16/18, in particular action point 5h on the open constructive and respectful debate of ideas, should integrate recommendations from the following actors to protect civic space:

- [OHCHR](#),<sup>43</sup>
- the [Special Rapporteur on freedom of expression](#),<sup>44</sup> and,
- the [Special Rapporteur on counter-terrorism](#).<sup>45</sup>

### **Civic space and gender equality**

The closing of civic space is gendered, with States taking measures that specifically target or disproportionately impact on the enjoyment of fundamental freedoms by women and LGBTQ people, in particular women or LGBTQ-led civil society as well as women and LGBTQ human rights defenders. Given the correlation between closed civic space and the prevalence of hate speech, it is essential that concerted action is taken to address the gender dimensions of both.

The UN Special Rapporteur on freedom of religion or belief’s 2020 report to the Human Rights Council addresses rights violations motivated by religion, as well as the potential gendered impacts of discrimination based on religion or belief.<sup>46</sup> It calls on States to “reaffirm that traditional, historical, religious or cultural attitudes must not be used to justify human rights violations”, recommending the repeal of laws and an end to practices that perpetuate or reinforce gender-based violence and discrimination.

The report addresses laws that directly discriminate against women and girls, as well as measures of general application that have gendered impacts.

In relation to blasphemy prohibitions, the Special Rapporteur observes that while on their face they appear to be gender-neutral, their application against dissenting views, in particular within religion or belief communities, presents particular risks to women and advocates for gender equality, as well as LGBTQ people. Similar risks are presented by laws on “traditional values” or “public morals” which seek to criminalise the expression of women and LGBTQ people that diverges from narrow conceptions of “acceptable” or “traditional” gender roles or behaviour.

Other laws are more direct. Mandatory requirements for or bans on face or head coverings clearly target manifestations of religion or belief practiced by women, while other laws specifically seek to target women’s reproductive health and rights, including women’s right of access to information on relevant services, and the freedom of association of organisations providing information on those services.

Individually and cumulatively, these measures constitute human rights violations, but further deter and limit the full and effective participation of women in society. This undermines core principles underpinning UN standards, where the mobilisation of all of society, including the engagement and leadership of women and LGBTQ people, is essential to tackling hate.

## 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 addressing root causes, and supported by open dialogue, rather than through censorship.

The Rabat Plan of Action calls for a variety of further positive policy measures from States, many of which find support 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** on discrimination, including 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 existing international human rights mechanisms** to provide advice and support to States on national implementation.

## Mobilising the whole of 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. As highlighted above, it is essential that these measures address the gender dimensions of intolerance, and also ensure the full and effective participation and leadership of women and LGBTQ persons.

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.<sup>47</sup>

While much attention has been paid in UN discussions to appropriate thresholds for limiting expression, other legislative measures are also essential to creating environments where inclusion, diversity and pluralism are respected.

It is crucial that criminal laws recognise specific categories of bias-motivated offences, including those incited by hate speech. In addition to repealing discriminatory restrictions on civic space, comprehensive anti-discrimination laws are also essential, and must be enforced as part of broader efforts to confront structural and institutional discrimination across society.



**The Rabat Plan of Action takes a “whole of society” approach to promoting inclusion, diversity and pluralism.”**



**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; and,
- ✓ **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:

- ✓ 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; and,
- ✓ 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.

## Human Rights Online

The protection for freedom of expression “through any media of a person’s choice” includes the right to freedom of expression online. The UN Human Rights Council has repeatedly affirmed, in its resolutions on the Internet and Human Rights, that “the same rights that people have offline, must be protected online.”<sup>48</sup>

They have called on States to, inter alia:

- foster “an enabling online environment that is safe and conducive to engagement by all, without discrimination and with consideration for individuals facing systemic inequalities”, calling for “gender-sensitive responses that take into account the particular forms of online discrimination”;
- take a “human rights-based approach to providing and expanding Internet access”, with particular attention to gender digital divides; and,
- refrain from “measures to internationally prevent or disrupt access to or dissemination of information online.”

The resolution further “stresses the importance of combating advocacy of hatred on the Internet, which constitutes incitement to discrimination or violence, including by promoting tolerance, education and dialogue.”

Recognising that international human rights law should guide private sector actors and be the basis for their policies, the resolution implies social media platforms and other intermediaries should shape their terms of service relating



**The UN Human Rights Council has repeatedly affirmed, in its resolutions on the Internet and Human Rights, that “the same rights that people have offline, must be protected online.”**

to hate speech, and content moderation procedures more broadly, in accordance with international freedom of expression standards.

The UN Special Rapporteur on freedom of expression has addressed how both States and intermediaries, such as social media platforms, should respond to online hate speech.<sup>49</sup>

States should, <i>inter alia</i> :	Intermediaries should, <i>inter alia</i> :
<ul style="list-style-type: none"> <li>✓ <b>Ensure</b> that online hate speech is not punished more severely than its offline equivalent;</li> <li>✓ <b>Not demand</b>, through legal or extralegal threats, that intermediaries take action that international human rights law would bar States from taking directly;</li> <li>✓ <b>Adopt laws</b> that require companies to publicly disclose how they define hate speech definitions and how they enforce their rules against it, and encourage companies to respect human rights standards in their own rules.</li> </ul>	<ul style="list-style-type: none"> <li>✓ <b>Follow</b> the Guiding Principles on Business and Human Rights, ensuring their content moderation standards and procedures are based on international human rights law;</li> <li>✓ <b>Ensure</b> the use of automation or artificial intelligence tools keeps involves humans-in-the-loop;</li> <li>✓ <b>Develop tools</b> that promote individual autonomy, security and free expression, and involve de-amplification, de-monetisation, education, counter-speech, reporting and training as alternatives, when appropriate, to the banning of accounts and the removal of content.</li> </ul>

“**The Human Rights Council has also adopted an important resolution on preventing and responding to violence against women and girls in digital contexts.**”

The Human Rights Council has also adopted an important resolution on preventing and responding to violence against women and girls in digital contexts,<sup>50</sup> outlining specific actions that States and intermediaries should take to protect women and girls’ right to freedom of expression and privacy, and ensure there is accountability for gender-based violence against women and girls. Its recommendations can assist States ensure implementation of other UN standards on tackling hate are gender-responsive.

## The Sustainable Development Goals

Agenda 2030 and the Sustainable Development Goals, adopted by UN Member States at the General Assembly in 2015,<sup>51</sup> provide a 15-year plan to achieve 17 Global Goals to end poverty, protect the planet, and ensure a better and more sustainable future for all.

Many of the Global Goals reinforce the actions recommended in HRC Resolution 16/18 through a development lens. The focus across Agenda 2030 on “leaving no one behind” requires States to address discrimination and



structural inequalities across a variety of sectors. Tackling inequality effectively and comprehensively is likely to alleviate structural conditions – such as extreme poverty – that are conducive to hate speech and incitement to violence.

While all of the Global Goals are relevant, **Goal 16** on peace, justice and strong institutions is essential and particularly relevant to tackling hate, including to reduce and prevent violence and violent crime:

- **Target 16.10** commits States to ensure public access to information and protect fundamental freedoms, making clear that effective and inclusive development rests on respect for the human rights outlined above.
- **Target 16.B** specifically commits States to the promotion and enforcement of laws on non-discrimination, while Target 16.3 requires the promotion of the rule of law and ensuring access to justice for all. This is particularly relevant to Goal 10 on reducing inequalities, and Goal 5 on ensuring gender equality.

The targets under Goal 16 of the 2030 Agenda also emphasise the need for inclusive, participatory decision making (16.6) through effective, accountable and transparent institutions (16.7). The Secretary General has encouraged States to connect their reporting on the Sustainable Development Goals to their reporting on the HRC Resolution 16/18 action plan.<sup>52</sup> To date, the potential for synergies in this area is under-explored, including in the context of the Istanbul Process.<sup>53</sup>

## The Global Compact for Migration

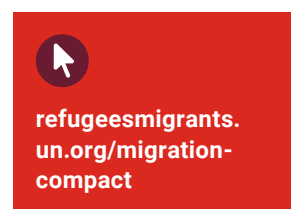
The Global Compact for Safe, Orderly and Regular Migration, adopted in December 2018, also reinforces States' commitments to tackling hate, setting out a positive human rights based agenda that both respects freedom of expression and protects migrants against discrimination.<sup>54</sup>

The 23 objectives in the Global Compact are all relevant to fostering climates where inclusion, diversity and pluralism are respected and celebrated. The Compact's emphasis on the collection of accurate and timely information is essential to ensure evidence-based discussions on migration, and to tackle disinformation that may drive hate speech, discrimination and potentially lead to violence.<sup>55</sup>

The Global Compact underscores that protecting open and free debate is key to ensuring safety and dignity for migrants, reinforcing that non-discrimination and freedom of expression are mutually reinforcing human rights principles.

At the same time, it responds to rising nationalist politics, characterised by anti-migrant and discriminatory rhetoric, which often attack the universality of human rights and the institutions that protect them.

Objectives 16 and 17 of the Global Compact aim to ensure full inclusion of migrants and social cohesion, to eliminate discrimination, and to promote evidence-based public discourse to shape perceptions of migration. These commitments are grounded in States' existing human rights obligations, including on freedom of expression. Objective 17, in particular, calls for measures that allow migrants to tell their own stories, and sets out the imperatives for public and political leaders to counter hatred against migrants, also emphasising the role of an independent media.



The Global Compact for Migration therefore provides an additional resource to States where migration, and political responses to it, are increasingly a point around which tensions are stoked and may rise.

## The Beirut Declaration and 18 Commitments on Faith for Rights

The Beirut Declaration and 18 Commitments on “Faith for Rights”, also convened by OHCHR, has sought to build upon the Rabat Plan of Action, seeking to create a space for cross-disciplinary reflection and action on the deep, and mutually enriching, connections between religions and beliefs and human rights.<sup>56</sup> The Declaration and 18 Commitments broadly outline means for religious leaders, as well as leaders of non-theistic or atheistic movements, to mobilise constituencies in furtherance of human rights, in particular freedom of religion or belief and freedom of expression.

Many of the 18 commitments are framed to appeal to religious leaders, and to encourage them to create and sustain environments where diversity is not just tolerated, but fully respected and celebrated. Commitments include, *inter alia*:

- 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; and,
- Engage with children and youth who are either victims of, or vulnerable to, incitement to violence in the name of religion.

In 2019, the OHCHR launched the ‘Faith for Rights’ Tool Kit, containing 18 modules connected to each of the 18 commitments in the Beirut Declaration.<sup>57</sup> It is intended to be used by faith actors, academic institutions and training experts to (i) engage and ensure ownership among constituencies; (ii) advance critical thinking to address challenges; and (iii) reinforce mutual enhancement between faith and rights.

## The 'Plan of Action' on preventing incitement to atrocity crimes

The UN Office on Genocide Prevention and the Responsibility to Protect has launched a "[Plan of Action](#)" for religious leaders and actors to prevent incitement to violence that could lead to atrocity crimes.<sup>58</sup> 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 and new and traditional media, as well as addressing the intersection between religion and incitement to gender-based violence.

## UN Strategy and Plan of Action on Hate Speech

In June 2019, United Nations Secretary-General António Guterres launched the United Nations Strategy and Plan of Action on Hate Speech.<sup>59</sup> In a powerful foreword, he outlines the human rights challenge the initiative seeks to respond to:

**“Around the world, we are seeing a disturbing groundswell of xenophobia, racism and intolerance – including rising anti-Semitism, anti-Muslim hatred and persecution of Christians. Social media and other forms of communication are being exploited as platforms for bigotry. Neo-Nazi and white supremacy movements are on the march. Public discourse is being weaponized for political gain with incendiary rhetoric that stigmatizes and dehumanizes minorities, migrants, refugees, women and any so-called ‘other’ [...]**

**Hate speech is a menace to democratic values, social stability and peace. As a matter of principle, the United Nations must confront hate speech at every turn. Silence can signal indifference to bigotry and intolerance, even as a situation escalates and the vulnerable become victims.”**

For the first time, the Secretary-General proposes a working definition of hate speech to drive the UN's response. Hate speech is framed for the purposes of the Strategy as:

**“any kind of communication in speech, writing or behaviour, that attacks or uses pejorative or discriminatory language with reference to a person or a group on the basis of who they are, in other words, based on their religion, ethnicity, nationality, race, colour, descent, gender or other identity factor.”**

The Strategy and Plan of Action sets out strategic guidance to the UN system itself, including ways the UN Secretariat can support UN Resident Coordinators at the national level to address and counter hate speech. It therefore sees the UN system as playing a much more active role in the implementation of standards adopted at the international level.

Its objectives are two-fold:

1. To enhance UN efforts to address root causes and drivers of hate speech; and,
2. To enable effective UN responses to the impact of hate speech on societies and victims.

The Strategy consists of 13 commitments for action by the UN system, and is grounded in four overarching principles. Those are:



Respect for freedom of opinion and expression, **supporting more speech, not less**, as the key means to address hate speech;



Tackling hate speech being a **shared responsibility** of all, including governments, civil society, and the private sector;



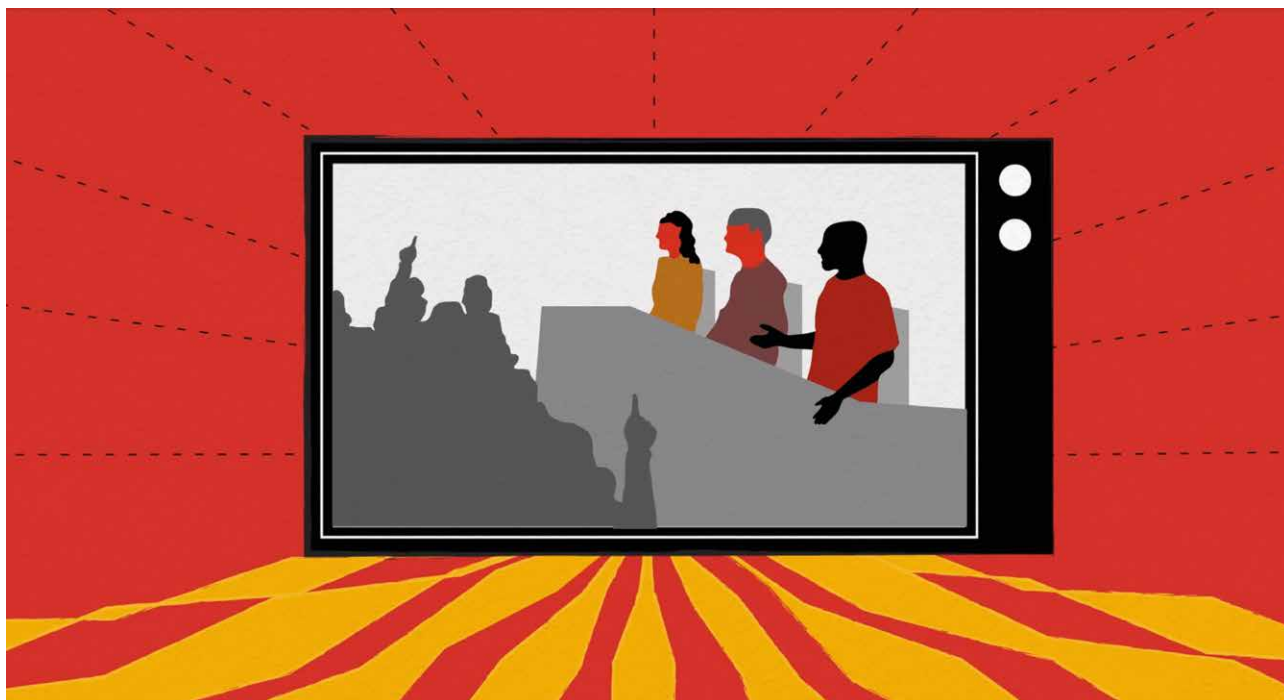
The need to support a **new generation of digital citizens**, empowered to recognise, reject and stand up to hate speech; and,



The need to know more, requiring **coordinated data collection and research**, including on root causes, drivers and conditions conducive to hate speech.

The UN Strategy and Plan of Action on Hate Speech, alongside the closely related Plan of Action to Safeguard Religious Sites, both featured prominently in the Secretary-General's Call to Action for Human Rights.<sup>60</sup>

# Implementation is key



A proactive and positive approach to the challenge of rising intolerance, promoting inclusion, diversity and pluralism in tackling hate and discrimination is essential to effectively advance the implementation of these international commitments through national and local action. The below recommendations are not exhaustive, but are intended as a summary of key actions that are needed from different actors, based on the standards set out above.

## 1. States leading by example at the national level

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

- Adopt comprehensive and evidence-based 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 diverse 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;
- Proactively support, including where appropriate by resourcing, independent civil society organisations engaged in human rights based approaches to tackling the root causes of hatred, recognising that achieving impact is a long-term project;



**A proactive and positive approach to the challenge of rising intolerance, promoting inclusion, diversity and pluralism in tackling hate and discrimination is essential.”**

- 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 and other laws that illegitimately restrict expression, the enactment of comprehensive anti-discrimination legislation, the creation of equality bodies;
- Ensure that human rights are protected online, by refraining from measures that require private companies to take action that international human rights law prevents States from taking themselves, and by legislating for greater transparency from social media companies and encouraging initiatives to bring their practices in line with international human rights law;
- Ensure that all initiatives to counter hate, including on the basis of religion or belief, are gender-responsive, and do not contribute to or otherwise reinforce gender-based discrimination and violence in society, but rather seek to fully address the gender dimensions of intolerance, discrimination, and violence, ensuring the full and effective participation and leadership of women and LGBTQ persons in these processes;
- Explore synergies between initiatives to implement UN standards on tackling hate with the Sustainable Development Goals and Global Compact for Migration, in particular to address the intersection of discrimination on the basis of religion or belief and national origin or migrant status, and the importance of tackling hate to realising Agenda 2030;
- Ensure accountability and redress for all human rights violations, in particular of the right to freedom of religion or belief, freedom of expression and non-discrimination, ensuring equal access to justice.

## 2. Mobilising all stakeholders

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

- 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 human rights responsibilities, as identified in the Rabat Plan of Action and the Camden Principles on Freedom of Expression and Equality;
- All stakeholders should ensure initiatives to promote inclusion, diversity and pluralism are gender-responsive, and seek to address gender-based violence and discrimination *within* as well as *between* communities, ensuring the full and effective participation and leadership of women and LGBTQ persons;
- Online intermediaries, such as social media companies, should bring their policies and practices in line with Guiding Principles of Business and Human Rights, including by aligning their terms of service with international human rights law, and ensure greater transparency in relation to content moderation decisions, and a right for users to appeal decisions;
- All stakeholders should participate in multilateral initiatives to promote inclusion, diversity and pluralism, in particular to share and replicate good practice, such as the Istanbul Process.



**Online intermediaries, such as social media companies, should bring their policies and practices in line with Guiding Principles of Business and Human Rights.”**

### 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, with particular attention to the gender-responsiveness of measures and the safeguarding of human rights online;
- Open reporting on the implementation of the resolution to all interested stakeholders, including national human rights institutions and civil society;
- Biennialise reporting obligations between the HRC and General Assembly, ensuring a focus on quality and comprehensiveness of reporting.

#### **To enhance the Istanbul Process, States should:**

- Build upon recent successes of the reinvigorated Istanbul Process to ensure continuity, building upon inclusive and multi-stakeholder engagement, with a focus on 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;
- Increase attention to the intersection between discrimination based on religion or belief and discrimination based on other characteristics, including gender, and ensure a focus on exchanging best practice to address the gender dimensions of hate;
- Increase attention to the importance of safeguarding human rights online, as well as offline, when countering hate;
- 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;
- Encourage self-evaluation and self-criticism in the Istanbul Process to exchange lessons-learned;
- Build upon cross-regional participation, encouraging more States in underrepresented regions to host and attend Istanbul Process Sessions;
- 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;
- Increase the visibility of the process, including by making use of [www.istanbulprocess1618.info](http://www.istanbulprocess1618.info) as a resource hub on the Istanbul Process.

**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;
- Issue a standing invitation to all UN special procedures to conduct country visits, including the Special Rapporteurs on freedom of religion or belief and on freedom of expression, the Working Group on discrimination against women in law and practice, and the Independent Expert on the protection against violence and discrimination based on sexual orientation and gender identity;
- 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;
- Include information on efforts to implement HRC Resolution 16/18 in reports to treaty bodies, including the Human Rights Committee and the Committee on Eliminating Discrimination Against Women.
- 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;
- Integrate the assessment of States' actions to promote inclusion, pluralism and diversity to measuring implementation of the Sustainable Development Goals, in particular Goal 16, and in reporting on efforts to implement the Global Compact for Migration;
- Ensure adequate resourcing to OHCHR and UN human rights mechanisms, in particular to support the roll out of the UN Strategy and Plan of Action on Hate Speech.



## Endnotes

- 1 Secretary-General's remarks at the launch of the United Nations Strategy and Plan of Action on Hate Speech, 18 June 2019; available at: <https://bit.ly/33HqUmA>
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- 4 'UNGA: Leaders must act on calls to tackle hate and protect rights', ARTICLE 19, 26 September 2019; available at: <https://www.article19.org/resources/unga-leaders-must-act-on-calls-to-tackle-hate-and-protect-rights/>
- 5 Foreword to the UN Strategy and Plan of Action on Hate Speech, *op. cit.*; and, the Report of the Special Rapporteur on freedom of religion and belief, A/HRC/43/48, 27 February 2020; available at: <https://bit.ly/3dpR9CF>
- 6 Secretary-General, "The Highest Aspiration: A Call to Action for Human Rights", March 2020, on Public Participation and Civic Space, at page 8; available at: <https://bit.ly/33HW5P2>
- 7 Report of the Special Rapporteur on freedom of opinion and expression, A/74/486, 9 October 2019, at para. 1; available at: <https://bit.ly/2UiUpbC>
- 8 *Ibid.*
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- 10 "The Highest Aspiration: A Call to Action for Human Rights", *op. cit.*, at page 8.
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**ARTICLE 19**