

ARTICLE 19

**Freedom of expression
and women's equality :**
Ensuring comprehensive rights
protection

2020

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ARTICLE 19 works for a world where all people everywhere can freely express themselves and actively engage in public life without fear of discrimination. We do this by working on two interlocking freedoms, which set the foundation for all our work. The Freedom to Speak concerns everyone's right to express and disseminate opinions, ideas and information through any means, as well as to disagree from, and question power-holders. The Freedom to Know concerns the right to demand and receive information by power-holders for transparency good governance and sustainable development. When either of these freedoms comes under threat, by the failure of power-holders to adequately protect them, ARTICLE 19 speaks with one voice, through courts of law, through global and regional organisations, and through civil society wherever we are present.

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Contents

Contents	3
Executive summary	4
Introduction	6
Applicable human rights standards	8
The right to freedom of expression	8
Right to privacy	9
Gender equality and women's rights in international law	9
A framework for protection of the rights to freedom of expression and equality	12
Strengthening the legal framework for protection of the right to freedom of expression and information	12
Strengthening anti-discrimination legislation and implementation	13
Building institutional knowledge and responses to gender discrimination	14
Providing equality training	15
Speaking out against discrimination, public education and information campaigns	15
Role of an independent, pluralistic, and self-regulated media	16
About ARTICLE 19	18
Endnotes	19

Executive summary

All around the world, women and girls suffer from various and intersecting forms of discrimination that deny them their full enjoyment of fundamental human rights. The right to freedom of expression and information (the right to freedom of expression) has an essential role in ending inequality and other forms of gender-based discrimination.

In recent years, the Internet has grown substantially and has created new spaces for exercising the right to freedom of expression. It has offered women and girls new opportunities to make their voices heard. However, discrimination against women and the violation of their rights is also occurring online and has created new ways to perpetuate discrimination, harassment, and abuse. Technology has been used to silence women and lock them out of public debates through different forms of attacks. Not only do these attacks reinforce inequality but they have a severe impact on freedom of expression as they drive women offline, limit their journalistic reporting and, inevitably, their ability to challenge discrimination and inequality in society.

ARTICLE 19 believes that the full enjoyment of the right to freedom of expression is essential to tackle these problems. Creating an environment where women can participate in online and offline debates will not only counter online harassment but also protect their freedom of expression, benefiting women and society at large.

The briefing paper offers an overview on how to ensure the protection of the right to freedom of expression and the protection of women's rights and balance possible conflicts between two rights. In the paper, ARTICLE 19 reminds States of their international obligations set out in international and regional human rights treaties and encourages digital companies to abide by the rules set out in the UN Guiding Principles on Business and Human Rights. It describes the legal and policy framework relating to freedom of expression in the context of women's rights and provides recommendations to States and private actors on how to protect the right to freedom of expression alongside the right to equality and non-discrimination.

Finally, ARTICLE 19 recommends that States:

- Ensure that the right to freedom of expression and information, through any medium of communication, is enshrined in domestic constitutional provisions or their equivalent, in accordance with international human rights law. In particular, domestic constitutional provisions should set out clearly the scope of permissible restrictions on the right to freedom of expression, including that such restrictions must be provided by law, be narrowly defined to serve a legitimate interest recognised in the constitution, and be necessary in a democratic society to protect that interest.
- Establish a clear legal and policy framework for the protection of the right to information, the right to information and gender equality, through the development of comprehensive legal frameworks. This should be followed by a comprehensive implementation of legal and policy measures which are equitable and remove barriers to women's access to information, including by challenging social and cultural norms that entrench discriminatory attitudes towards women.

- Ensure equal representation of women in government leadership roles, decision-making and within governing bodies, and enable their full public participation.
- Strengthen anti-discrimination legislation and implementation. In particular, all domestic laws should guarantee gender equality before the law and offer equal protection of the law.
- Build institutional knowledge and responses to gender discrimination by creating independent equality institutions to promote and protect gender equality and non-discrimination with respect to freedom of expression. These institutions should not work in isolation but be encouraged to develop partnerships across public sector agencies and, where appropriate, the private sector and civil society to tackle the root causes of inequality and discrimination.
- Ensure equality training for all public workers, speak against discrimination and develop public education and information campaigns.
- Guarantee an independent, pluralistic, and self-regulated media. Specifically, States should focus on ending the 'digital gender divide' and ensure that women have equal access to, use and enjoyment, technologies and media platforms.

Introduction

All over the world, women and girls are faced with multiple and intersecting discriminations and restrictions, which deny them their full enjoyment of fundamental human rights. These include pervasive and damaging gender stereotypes, gender-based violence, limited access to education, economic participation, and positions of economic power, and restrictions on ability to participate in debates and political processes.

The right to freedom of expression and information (the right to freedom of expression) and the ability of women and girls to exercise it has been, and continues to be, an essential means to tackle this discrimination, inequality, and patriarchal attitudes. In many contexts, it has enabled women to speak out and organise in civil, political, social, economic and cultural spheres and contexts, participate in their own emancipation and improving their status. Women's exercise of freedom of expression has also brought them with new hard-fought freedoms such as the right to vote, the right to control their own bodies, the right to unionise, and the right to equality before the law. The right to Information also enabled women to have the means to understand their rights in general, and give them the arguments to push for change, participate in decision-making and hold governments to account.

In the last decades, the Internet and digital technology have presented new opportunities for women and gave them new or stronger ways to organise, protest, raise awareness of discrimination as well as to simply widen the space for women's sexual and artistic expression. Women's ability to organise online and call for change has been seen through movements like #MeToo, which saw women across the world use the Internet and social media to speak out against sexual harassment and abuse, call out perpetrators and push for systematic change.

At the same time, discrimination and violations of women's rights have played out online or through digital technology and created a powerful platform for further discrimination, harassment and abuse.¹

The use of technology, for example by abusive partners or repressive governments, to silence and intimidate women out of the public space remains a challenge. This often results in attacks on women's equality and also has a chilling effect on their exercise of freedom of expression, whether as journalists, social media users, human rights defenders, politicians or activists. The attacks include various forms of complex abusive behaviour, ranging from hacking of accounts to threats of physical violence. Often these types of attacks are closely linked to offline violence against women. They are intended not only as an attack on women's right to equality, and their dignity, but often also as a direct attack on their freedom of expression – driving them offline, limiting their journalistic reporting, or their ability to collectively organise and challenge discrimination.

At times, these attacks appeared to pit the right to freedom of expression and the right to non-discrimination and equality against each other. However, ARTICLE 19 believes that these rights are mutually reinforcing rights. It is essential that online harassment and abuse against women are tackled in a way that not just counters discriminatory abuse, but protects freedom of expression, and creates an enabling environment for women to contribute to online and offline debate, and making sure their voices are

heard. Responses to online harassment and abuse must have dual focuses: protecting women's equal access to online spaces, to engage in debate and exercise freedom of expression, as well as preventing and addressing violations of their right to be free from discrimination and violence. All in all, freedom of expression safeguards must be prioritised when developing responses to the issue, to prevent responses from unintentionally (or intentionally) further restricting women's rights online.

In this briefing paper, ARTICLE 19 outlines the importance of protecting women's freedom of expression when tackling online harassment and abuse, setting out applicable international human rights standards, and how governments must act on this issue in a freedom of expression compliant way. The briefing paper is accompanied by two other briefings, one examining States' responsibilities to respond to online harassment and abuse against women journalists, and another examining role of social media companies to address online harassment and abuse against women on their platforms.

ARTICLE 19 hopes that this briefing paper will offer clear answers to the question of how to strike the right balance between the protection of the right to freedom of expression and the protection of women's rights as well as robust measures that States must adopt to promote and protect both rights.

Applicable human rights standards

The right to freedom of expression

The right to freedom of expression is protected in Article 19 of the Universal Declaration of Human Rights (UDHR) and Article 19 of the International Covenant on Civil and Political Rights (ICCPR), as well as in regional human right treaties.²

These treaties require 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, including through the Internet and digital technologies. The scope of the right to freedom of expression is broad and made up of a number of important elements:

- It includes the right to freedom of opinion, which is absolute and can never be restricted.
- It belongs to all people, regardless of their race or ethnicity, nationality, sex, gender identity or sexual orientation, religion, or political opinion.
- It includes the right to seek, receive, and impart information.
- It applies to ideas of all kinds, including political discourse, commentary on one's own and public affairs, discussion of human rights, journalism, cultural and artistic expression, teaching, and religious discourse. It even embraces expression that some people find deeply offensive or unpopular.
- It applies regardless of geographical, political, or cultural frontiers or borders.
- It can be exercised through any media, including oral, written or printed communications; artistic expression; and audio-visual, electronic and internet-based modes of communication. It applies online just as it does offline.

However, the right to freedom of expression is not absolute, and the State may, under certain exceptional and narrowly drawn conditions, restrict it. International and regional human rights standards provide that the restriction must comply with a so-called three-part test; which consists of the following, cumulative, requirements:

- The restrictions must be "**provided by law**": the restriction must be based on a precisely drafted law, and be accessible, to enable individuals to modify their conduct accordingly.
- The restrictions must pursue a specific **legitimate aim**: – meaning the restriction must have the purpose of protecting the rights or reputations of others, or for protecting public health or morals, national security, or public order.
- The restrictions must be **necessary and proportionate** to the sought aim: the measure must be necessary in a democratic society, and be the least restrictive means of achieving a legitimate aim. It must be clear in the balance of rights that that the benefit to the protection of women's rights exceeds the harm to freedom of expression, and that no other, less restrictive measure could achieve the same effect.

Additionally, under Article 20(2) of the ICCPR, States must also prohibit 'any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence.' The Human Rights Committee, a body that interprets the ICCPR, has not stated whether or not the protected grounds under Article 20(2) should be interpreted expansively to include sex, gender, sexual orientation or gender identity. The selectivity of the text may be attributed to the political context of the negotiations and the specific historical events they were responding to. However, the Rabat Plan of Action³ elaborated on the obligations under Article 20(2) and stated that the grounds for incitement should be interpreted broadly and include such characteristics as sex, sexuality, and gender identity.

Hence, based on the aforementioned standards, the right to freedom of expression can be restricted to protect gender equality and to protect women's rights to be free from discrimination; provided that the restrictions on freedom of expression meet the three-part test. Additionally, States must restrict the speech that reaches the level of severity mandated under article 20(2) of the ICCPR.

In addition, ARTICLE 19, together with high-level inter-governmental officials, civil society representatives and academic experts, also developed The Camden Principles on Freedom of Expression and Equality (the Camden Principles),⁴ a progressive interpretation of international law and standards concerning the balance between the rights to freedom of expression and equality. The Camden Principles spell out in greater detail the measures that States should adopt and implement in this area.

Right to privacy

The right to privacy is also recognised in international human rights treaties, including the UDHR,⁵ the ICCPR,⁶ and the regional treaties.⁷ Under these treaties, privacy is a broad concept relating to the protection of individual autonomy and the relationship between an individual and society, including governments, companies and other individuals. It is commonly recognised as a core right that underpins human dignity and other values, such as freedom of association and freedom of opinion. It is also understood to be essential to provide breathing space for individuals to be able to realise their other rights, including freedom of expression.

The wording of Article 17 of the ICCPR prohibits "arbitrary and unlawful" interferences with the right to privacy. Under international human rights law, restrictions to the right to privacy can only be permissible if the same three-part test is met as that applicable to Article 19 of the ICCPR.⁸

Gender equality and women's rights in international law

Article 2 of the ICCPR sets out the right of all people to equality, and requires States to guarantee human rights to all people, "without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status." Under international human rights law, these provisions should be viewed to include sexual orientation, gender identity, and sex characteristics. The provision means States have an obligation to protect women's equal enjoyment of the right to free expression, privacy, association, and all other human rights.

Additionally, the Convention on the Elimination of Discrimination against Women (CEDAW),⁹ creates specific obligations for States to end discrimination against women, defined as “any distinction, exclusion or restriction” based on sex characteristics which has the effect or purpose of restricting or negating women's enjoyment of human rights. The Convention sets out the legal and practical actions States must take to do this.

Additionally, a number of international norms and standards relate to ending violence against women:

- While CEDAW does not explicitly mention violence against women, the CEDAW Committee's General Recommendations 12¹⁰ and 19¹¹ clarify that CEDAW includes violence against women and make detailed recommendations to States parties.
- The Declaration on the Elimination of Violence against Women¹² explicitly addresses violence against women. It defines violence against women as «any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life.»¹³ It recognises that violence against women is both a cause and consequence of women's inequality and restrictions on their enjoyment of other rights. It acknowledges that since violence against women is a “manifestation of historically unequal power relations between men and women,” it presents a serious barrier to the enjoyment of all human rights for women. It requires States to take action to prevent and redress it, including by enacting positive measures to challenge harmful gender stereotypes and discriminatory cultural norms.
- Provisions regarding violence against women were included in the 1995 Beijing Platform for Action,¹⁴ which also identifies specific action for governments to take to prevent and respond to violence against women and girls. The UN General Assembly adopts bi-annual resolutions on the issue.
- Various regional instruments also address the issue, such as the Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa (Maputo Protocol),¹⁵ Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Convention of Belem do Para),¹⁶ and Council of Europe Convention on preventing and combating violence against women and domestic violence.¹⁷

A number of UN resolutions and reports in recent years have tackled the issue of **online gender-based harassment and abuse**, both in terms of the impact it has on women's freedom of expression and access to digital technologies, as well as its contribution to the continuum of gender-based violence in the online and offline worlds, and therefore its contribution to serious and persistent discrimination. In particular,

- In 2017, the CEDAW Committee noted that gender-based violence against women manifests in a range of settings and forms, including technology-mediated settings – acknowledging this as a new and prevalent space for violence against women and discrimination to occur.
- In 2017, the UN Special Rapporteur on freedom of expression and the UN Special Rapporteur on violence against women, its causes and consequences, called

on governments, companies and civil society to urgently address the issue of online gender-based abuse and violence.¹⁸ The Special Rapporteurs noted that an Internet free of gender-based abuse is vital to women's freedom of expression, but warned of the need to ensure efforts to address it complied with human rights laws, to avoid undue censorship "undermining the rights of the very women for whom governments and corporate actors may seek to provide redress". The Special Rapporteurs highlighted the need to ensure effective preventive measures as well as access to appropriate remedies.

- A 2018 report by the UN Special Rapporteur on Violence against Women, its causes and consequences, called on States to recognise online and ICT-facilitated violence against women as a human rights violation amounting to a form of discrimination and gender-based violence against women, and set out recommendations to States and internet intermediaries to tackle it.¹⁹
- In 2018, the UN Human Rights Council adopted Resolution 38/5 on Accelerating efforts to eliminate violence against women and girls: preventing and responding to violence against women and girls in digital contexts.²⁰ The Resolution, while not legally binding, represents a political commitment from States, and calls on States to take a multipronged approach to tackling violence against women and girls in digital contexts, through policy measures aimed at tackling discrimination as well as taking steps to improve women's access to and involvement in the development of digital technologies. The Resolution also notes the role of business enterprises in tackling this issue.

Companies' responsibilities

Digital companies, especially social media platforms, albeit not bound by international treaties, have their responsibilities to respect human rights set out in the UN Guiding Principles on Business and Human Rights.²¹ These Principles require companies to, at a minimum, respect the rights set out in core human rights treaties, including the right to freedom of expression, and women's rights. In particular, the Principles require businesses to:

- Avoid causing or contributing to adverse human rights impacts through their own activities, and address such impacts when they occur;
- Seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts.

This requires digital companies to conduct due diligence to identify, prevent and mitigate potential human rights impacts, and implement processes to enable a remedy for those affected.

In the context of social media companies and others, obligations regarding the protection of women's rights online mean social media companies should ensure they implement policies that protect women's rights on their platforms. They should also improve transparency in the application of the rules governing content allowed on their sites, and make sure that these rules are in compliance with human rights laws, as well as providing clear and accessible means for women to report this, and to seek redress for violations of their rights through the platform.

A framework for protection of the rights to freedom of expression and equality

Under international human rights treaties, outlined in the previous section, States are obliged to ensure that women and girls fully enjoy both the right to freedom of expression and the right to equality. They should also challenge the prejudice and discriminatory stereotypes that lead to discrimination of women and girls, and to prevent and respond to violence against women. This should be done through a combination of legislative and policy measures and action, and in collaboration with all stakeholders, including the civil society and the media.

Underpinning these recommendations is the notion that addressing gender inequality, gender-based discrimination and violence against women cannot be achieved by suppressing the right to freedom of expression. As international human rights law does not recognise a hierarchy of rights, in which one trumps the other, it is essential that States balance human rights in a fair manner without giving precedence to one over the other. This includes refraining from adopting measures that would protect one right where that would constitute an undue restriction on another.

ARTICLE 19 recommends that States should adopt – at minimum - the following legal and policy measures.

Strengthening the legal framework for protection of the right to freedom of expression and information

States should ensure that the right to freedom of opinion and expression, through any medium of communication, including the right to information, is enshrined in domestic constitutional provisions or their equivalent, in accordance with international human rights law. In particular, States should ensure that domestic constitutional provisions set out clearly the scope of permissible restrictions on the right to freedom of expression, including that such restrictions must be provided by law, be narrowly defined to serve a legitimate interest recognised in the constitution, and be necessary in a democratic society to protect that interest.

Legal framework placing restrictions on freedom of expression on the basis of protecting gender equality must satisfy each element of the three-part test of freedom of expression. It is also important to keep in mind that not all 'hate speech' may legitimately be subject to restriction, and much will be protected under the right to freedom of expression, even if it is deeply offensive. Prohibitions that censor offensive viewpoints are often counter-productive to the aim of promoting equality, as they fail to address the underlying social roots of the kinds of prejudice that drive 'hate speech.' In most instances, equality is better promoted through positive measures which increased understanding and tolerance, rather than through censorship.

States should refrain from adopting criminal approaches to broad and open-ended concepts such as online abuse or online harassment, as well as to expressions such as insults, offensive or false content. Broadly defined terms and concepts are easily abused and can be used against the very interests of women, particularly in highly patriarchal societies where women attempt to challenge the status quo.

States should also establish a clear legal framework for the protection of equal access to information, through the development of comprehensive legal frameworks on gender equality and the right to information, and the implementation of legal and policy measures which are equitable and remove barriers to women's access to information, including by challenging social and cultural norms that entrench discriminatory attitudes towards women.

States must also ensure legal frameworks on the right to information are fully implemented in a way that genuinely guarantees this right to women, including by taking measures to ensure information reaches women, and is produced in formats and through mediums accessible to all women in society. They should develop and strengthen, including through increased funding, existing and new multi-stakeholder and civil society initiatives to enhance access to information as a means for advancing gender equality and empowering women.

Importantly, States should also ensure the equal representation of women in government leadership roles, decision-making, and within governing bodies and enable their public participation.

Strengthening anti-discrimination legislation and implementation

ARTICLE 19 recommends that in addition to guaranteeing the right to equality and non-discrimination in domestic constitutions or their equivalent, States must ensure that all domestic laws guarantee gender equality before the law and equal protection of the law. ARTICLE 19 recommends, to ensure that the right to equality and non-discrimination are fully protected in practice, that States should:

- Incorporate into domestic laws all core international human rights treaties, including the ICCPR and CEDAW. The full protection of the right to freedom of expression and the right to equality, online and offline, set out in constitutional provisions would create a framework for addressing violations;
- Repeal all laws and policies that formally or informally institutionalise discrimination and exclusion of women and girls, as the mere existence of such laws creates environments in which discrimination is ignored or even tacitly encouraged.
- Enact or strengthen anti-discrimination legislation, and in particular ensure that such laws, at minimum:
 - Protect against *direct discrimination*, i.e. the unfavourable treatment of women compared to how men would be treated in a comparable situation, due to their gender;

- Protect against *indirect discrimination*, i.e. where a neutral rule, criterion, or practice affects women in a significantly more negative way than it would men, by comparison, in a similar situation;
 - Enable temporary *special measures* to be undertaken to tackle indirect discrimination and ensure substantive equality, for as long as such measures are necessary and proportionate;
 - Apply to a broad range of specific contexts, including: employment; social security and access to welfare benefits; education; the provisions of goods and services; housing; access to justice; private and family life, including marriage; political participation, including freedom of expression, association and assembly; and law enforcement;
 - Include defences for cases in which differential treatment is based objectively upon a legitimate aim, and the means of achieving that aim are appropriate and necessary;
 - Provide for a range of remedies primarily in civil and administrative law, as well as non-legal mechanisms for redress such as mediation and alternative dispute resolution, which may be provided through equality institutions.
- Ensure women have access to legal aid in seeking legal remedies for violation of their rights, as well as access to appropriate support.

Building institutional knowledge and responses to gender discrimination

ARTICLE 19 recommends that States create **independent equality institutions**, with proper financial support, to promote and protect the right to equality and non-discrimination, including with respect to the right to freedom of expression. Such institutions should be properly resourced with mandates, as appropriate, to:

- Develop data collection mechanisms on the extent and impact of discrimination in priority areas to inform the development, monitoring and evaluation of laws and policies, and to promote empirical and other research on the subject. This should include systematic collecting disaggregated data on reports of violence against women and online harassment and abuse. Any comprehensive policy for tackling inequality, discrimination, and other forms of prejudice against women and girls should be evidence-based. Information collected by equality institutions is important for identifying policy priorities, identifying key actors as well as obstacles, and for monitoring and evaluating the effectiveness of policies;
- Assist legislatures and the government with the development of laws and policies that comply with States' international human rights obligations, including in relation to freedom of expression and non-discrimination, encouraging the full and effective participation of civil society in these processes;
- Receive complaints regarding gender discrimination, and where appropriate provide alternative/voluntary dispute resolution mechanisms;

It is important that equality bodies do not operate in isolation: they should be empowered to build partnerships across public sector agencies, and where appropriate with private actors and civil society, to tackle the root causes of gender discrimination. In this regard, they should play an integral role in developing and implementing national action plans to tackle the root causes of inequality and discrimination of women and girls in the society.

Civil society organisations can and should be encouraged to play an active role in monitoring incidents of discrimination and prejudice and providing data to equality bodies.

Providing equality training

ARTICLE 19 believes that all public authorities and public officials should be fully committed to promoting gender equality. Hence, States should provide trainings for public officials, public figures, and state institutions on the right to equality and non-discrimination, particularly where discrimination is institutionalised, or has historically gone unchallenged. Priority contexts should include schools and other educational settings, the armed forces, the police, the judiciary, the medical profession, legal services, political associations or religious institutions. Gender equality, gender-sensitivity and awareness training may form part of a broad range of measures designed to tackle institutionalised discrimination and should be clearly communicated to the public to demonstrate where efforts are underway to build trust in institutions.

Public institutions, law enforcement and the judiciary should also be specifically trained to improve their ability to respond to and address gender-based violence and online gender harassment and abuse and improve women's access to legal remedies.

Speaking out against discrimination, public education and information campaigns

Public officials, including politicians, have a key role to play in recognising and promptly speaking out against gender-based inequality, discrimination, violence against women and online gender harassment and abuse. This requires recognising and rejecting the conduct itself, as well as the prejudice of which it is symptomatic, expressing sympathy and support to the women who are targeted, and framing such incidents as harmful to gender equality and society as a whole.

In particular, political leaders should publicly condemn all forms of violence against women as well as online gender-based harassment and abuse. They should support positive measures to promote a culture of respect and non-discrimination online and offline, including through education and media campaigns.

Importantly, public officials should be instructed on the importance of avoiding statements that might promote gender discrimination or undermine equality, and must understand the dangers of trivialising discrimination and violence against women,

as well as the possibility of silence in the face of such challenges equating to tacit endorsement. In this regard, public bodies should have in place clear rules governing the conduct of individuals speaking in their capacity as public officials. Ethical codes and “no discrimination” policies adopted by political parties should also be considered as positive policy measures.

Role of an independent, pluralistic, and self-regulated media

Media have an important role in promoting gender equality and non-discrimination, in covering violence against women, enabling platforms for women's perspectives, reporting more on women's experiences, and ensuring that discrimination against women journalists is tackled.

States should ensure that any policy measures directed at the media should respect the fundamental principle that any form of media regulation should be undertaken by bodies independent of political influence, which are publicly accountable and operate transparently. Editorial independence and media plurality should not be compromised, as these are essential to the functioning of a democratic society.

In respect of broadcast media, any regulatory framework should promote the right of women to freely access and use media and information and communications technologies.

In respect to **digital technologies** States should specifically undertake:

- Efforts to tackle the 'gender digital divide', and inequalities in women's access to, use and enjoyment of digital technologies, through promoting digital literacy for women and equal access to education and training in science, technology, engineering and mathematics subjects; as well as enabling equal access to digital technologies themselves. Special measures should be developed for women with disabilities, and women living in remote and rural areas;
- Ensuring the integration of gender perspectives in the development and implementation of state policies, programmes, legislation, initiatives and approaches to digital technologies and encouraging companies to integrate a gender perspective into the development, implementation and use of digital technologies;
- Protecting women's privacy online to enable them to fully exercise their rights to free expression and access to information online, including when reporting or responding to abuse, in particular through the protection of encryption and anonymity;
- Ensuring the full participation of women, in particular women's rights organisations, in the development of responses to online gender-based harassment and abuse;

- Encouraging private companies to effectively implement the UN Guiding Principles on Business and Human Rights, establish improved response mechanisms, develop policies that promote gender equality in the design, implementation and use of digital technologies and improve their transparency reporting on online gender-based harassment and abuse, its prevalence and responses.

In addition to States' responses, all forms of media should recognise that they have a moral and social responsibility to promote gender equality and non-discrimination, including based on sexual orientation and gender identity. In respect of their own constitutions, steps taken by mass media entities should include but not be limited to:

- Ensuring that their workforces are diverse and includes women at all levels of media production and distribution.
- In their coverage, counteracting the discriminatory norms and attitudes, including unconscious biases, that contribute to ongoing failures to address gender inequality effectively. The media should be alert to the danger of discrimination or patriarchal and discriminatory stereotypes of women being furthered by the media and their reporting, and raising awareness of the harm caused by discrimination and gender stereotypes as well as violence against women. They should proactively work towards identifying and changing these narratives. They should avoid to stereotype "women's issues," but instead stress the importance and impact of these issues on the society as whole.
- Adhering to high standards of information provision that meet recognised professional and ethical standards. Professional codes of conduct for the media and journalists should reflect equality principles, as well as guidance for reporting on violence against women. Media entities should also undertake effective steps to promulgate and implement such codes.

Civil society must also be part of these efforts, ensuring not only that women's experiences of discrimination are reflected in these efforts, but that women's voices form a key part of these initiatives and of their work across society.

About ARTICLE 19

ARTICLE 19: Global Campaign for Free Expression (ARTICLE 19), is an independent human rights organisation that works around the world to protect and promote the rights to freedom of expression and information. It takes its name and mandate from Article 19 of the Universal Declaration of Human Rights which guarantees the right to freedom of expression.

ARTICLE 19 has produced a number of standard-setting documents and policy briefs based on international and comparative law and best practice on issues concerning the right to freedom of expression. Increasingly, ARTICLE 19 is also examining the role of international internet technical standard-setting bodies and internet governance bodies in protecting and promoting freedom of expression.

If you would like to discuss this brief further, or if you have a matter you would like to bring to the attention of ARTICLE 19, you can contact us by e-mail at info@article19.org.

Endnotes

- ¹ Whilst varying definitions of online abuse make clear statistics challenging, there are numerous studies that demonstrate prevalence of online harassment and abuse faced by women. See, e.g. Amnesty International, *Amnesty reveals alarming impact of online abuse against women*, 20 November 2017.
- ² See Article 9 of the African (Banjul) Charter on Human and Peoples' Rights, 27 June 1981, OAU Doc.CAB/LEG/67/3 rev.5; Article 10 of European Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention), 4 November 1950, ETS 5; and Article 13 of the American Convention on Human Rights (American Convention), 12 November 1969, OAS Treaty Series No. 36.
- ³ Rabat Plan of action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence, UN Doc. A/HRC/22/17/Add.4, 5 October 2012. The Rabat Plan was developed by international experts with the support of the UN Office of the High Commissioner on Human Rights.
- ⁴ ARTICLE 19, *The Camden Principles on Freedom of Expression and Equality*, April 2009.
- ⁵ UDHR, Article 12.
- ⁶ ICCPR, Article 17.
- ⁷ C.f. European Convention, Article 8 and American Convention, Article 11.
- ⁸ Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, 28 December 1999, A/HRC/13/37; HR Committee, General Comment No. 16: Article 17 (Right to Privacy), *The Right to Respect of Privacy, Family, Home and Correspondence, and Protection of Honour and Reputation*, 8 April 1988; UN Commission on Human Rights, *The Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights*, 28 September 1984, E/CN.4/1985/4.
- ⁹ Convention on the Elimination of All Forms of Discrimination Against Women, 18 December 1979, UN Treaty Series, vol. 1249, p. 13.
- ¹⁰ UN Committee on the Elimination of Discrimination Against Women (CEDAW Committee), *General Recommendation No. 12: Violence against women*, 1989.
- ¹¹ CEDAW General Recommendation No. 19: *Violence against women*, 1992.
- ¹² Declaration on the Elimination of Violence against Women (VAW Declaration), A/RES/48/104, 20 December 1993.
- ¹³ VAW Declaration, Article 1. Under Article 2, violence against women encompasses but is not limited to a) physical, sexual and psychological violence occurring in the family, including battering, sexual abuse of female children in the household, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence and violence related to exploitation; b) physical, sexual and psychological violence occurring within the general community, including rape, sexual abuse, sexual harassment and intimidation at work, in educational institutions and elsewhere, trafficking in women and forced prostitution; c) physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occurs.
- ¹⁴ UN Beijing Declaration and Platform of Action, *The Fourth World Conference on Women*, 27 October 1995.
- ¹⁵ Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa, 11 July 2003.
- ¹⁶ Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women, 9 June 1994.
- ¹⁷ Council of Europe Convention on preventing and combating violence against women and domestic violence, 11 May 2011.

- ¹⁸ OHCHR, UN experts urge States and companies to address online gender-based abuse but warn against censorship, 8 March 2017.
- ¹⁹ Report of the Special Rapporteur on violence against women, its causes and consequences on online violence against women and girls from a human rights perspective, A/HRC/38/47, 18 June 2018.
- ²⁰ Human Rights Council (HRC), Accelerating efforts to eliminate violence against women and girls: preventing and responding to violence against women and girls in digital contexts, A/HRC/38/L.6, 2 July 2018.
- ²¹ Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework (The Ruggie Principles), A/HRC/17/31, 21 March 2011, Annex. The UN Human Rights Council endorsed the guiding principles in HRC resolution 17/4, A/HRC/RES/17/14, 16 June 2011.



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