



TWENTIETH ANNIVERSARY JOINT DECLARATION: CHALLENGES TO FREEDOM OF EXPRESSION IN THE NEXT DECADE

The United Nations (UN) Special Rapporteur on Freedom of Opinion and Expression, the Organization for Security and Co-operation in Europe (OSCE) Representative on Freedom of the Media, the Organization of American States (OAS) Special Rapporteur on Freedom of Expression and the African Commission on Human and Peoples' Rights (ACHPR) Special Rapporteur on Freedom of Expression and Access to Information,

Having discussed these issues together with the assistance of ARTICLE 19, Global Campaign for Free Expression, and the Centre for Law and Democracy (CLD);

Recalling and reaffirming our Joint Declarations of 26 November 1999, 30 November 2000, 20 November 2001, 10 December 2002, 18 December 2003, 6 December 2004, 21 December 2005, 19 December 2006, 12 December 2007, 10 December 2008, 15 May 2009, 3 February 2010, 1 June 2011, 25 June 2012, 4 May 2013, 6 May 2014, 4 May 2015, 4 May 2016, 3 March 2017 and 2 May 2018;

Noting that, for twenty years, we, the inter-governmental mandates for freedom of expression and media freedom, have issued Joint Declarations with the aim of interpreting human rights guarantees for freedom of expression, thereby providing guidance to governments, civil society organisations, legal professionals, journalists and media outlets, academics and the business sector;

Stressing that the Joint Declarations have contributed to the establishment of authoritative standards which address a wide range of issues and challenges, and also underline the importance of freedom of expression to democracy, sustainable development, the protection of all other rights, and efforts to counter terrorism, propaganda and incitement to violence;

Alarmed by the ongoing violence against and prosecution of journalists, right to information activists, human rights defenders and others for exercising their right to freedom of expression, as well as the fact that impunity for killings and attacks prevails;

Welcoming the significant contributions that digital technologies have made to expanding global communications and the possibility for people everywhere to access information and ideas and to speak and be heard, while noting the continuing imperative of providing universal and affordable access to the Internet;

Acknowledging the need to address, within the framework of international human rights law, serious problems that arise in the context of digital technologies, including disinformation; incitement to hatred, discrimination and violence; terrorist recruitment and propaganda; arbitrary and unlawful surveillance; interference with the use of encryption and anonymity technologies; and the power of online intermediaries

Expressing concern about the ongoing and deepening threats to media diversity and independence as a result, among other things, of a significant reduction in advertising revenues for legacy media,

undermining news production and especially local and investigative journalism; increased concentration of media ownership; political control over and insufficient financial allocations to public service media; a failure to develop community broadcasting sufficiently ; and ongoing attempts to exert control over the private media, including through regulation;

Denouncing the continued prevalence of undue legal restrictions on online expression and their abusive application, and stressing the importance of States respecting the obligations set out in Article 19 of the International Covenant on Civil and Political Rights when imposing restrictions on freedom of expression, which include ensuring that any restriction is necessary and proportionate, and the availability of independent judicial oversight over the application of these restrictions;

Deploring arbitrary disruptions and shutdowns to restrict access to telecommunications networks and the Internet;

Highlighting the importance of the right to access information held by public authorities, as reflected in the Sustainable Development Goals Target 16.10;

Observing that private companies have responsibilities to respect human rights and remedy violations, and that addressing the challenges outlined above requires multi-stakeholder support and the active engagement of State actors, media outlets, intermediaries, civil society and the general public;

Adopt, in London, on 10 July 2019, the following Twentieth Anniversary Joint Declaration: Challenges to Freedom of Expression in the Next Decade:

1. Creating an Environment that Enables the Exercise of Freedom of Expression

The protection and promotion of freedom of expression, especially but not only in the digital environment, requires protection and appropriate legal rules and regulatory systems. To create enabling environments for freedom of expression, States should:

- a. Take immediate and meaningful action to protect the safety of journalists and others who are attacked for exercising their right to freedom of expression and to end impunity for such attacks.
- b. Ensure protection of freedom of expression as a matter of domestic legal, regulatory and policy frameworks in accordance with international standards, including by limiting criminal law restrictions on free speech so as not to deter public debate about matters of public interest.
- c. Promote media diversity, including by supporting efforts to give voice to groups which are marginalised and at risk of discrimination, developing rules on transparency of ownership of the media and telecommunication infrastructure, adopting and implementing effective rules on access to information, and narrowly defining content restrictions to what is permissible under international human rights law.
- d. Ensure that regulatory bodies for the media are independent, operate transparently and are accountable to the public, and respect the principle of limited scope of regulation, and provide appropriate oversight of private actors.
- e. Address the major economic challenges faced by independent journalists and media outlets, including by supporting local media and regulating to mitigate the negative impacts caused by the dominance of online advertising companies.
- f. Respect international human rights standards, including those of transparency, when seeking to regulate or influence expression on online media platforms.
- g. Refrain from arbitrary or unlawful restrictions on the use of encryption and anonymity technologies.

- h. Take both immediate and longer-term steps to prohibit unlawful or arbitrary surveillance and the unaccountable trafficking in tools of the commercial spyware industry that have substantial detrimental effects on the exercise of freedom of opinion and expression.
- i. Devote significantly greater attention and resources to media-, information- and digital-literacy, over the short- and long-term, to address the particular literacy challenges of the modern digital communications environment.

2. Building and Maintaining a Free, Open and Inclusive Internet

The exercise of freedom of expression requires a digital infrastructure that is robust, universal and regulated in a way that maintains it as a free, accessible and open space for all stakeholders. Over the coming years, States and other actors should:

- a. Recognise the right to access and use the Internet as a human right as an essential condition for the exercise of the right to freedom of expression.
- b. Protect freedom of expression in accordance with international human rights law in legislation that can have an impact on online content.
- c. Refrain from imposing Internet or telecommunications network disruptions and shutdowns.
- d. Expand significantly initiatives to provide universal and affordable Internet access.
- e. Respect and reinforce the principle of network neutrality.
- f. Ensure that major technological developments, such as the transition to 5G mobile networks and expansion of the ‘Internet of Things’ (IOT), respect human rights, particularly through robust human rights due diligence in the development of infrastructure, network service, interoperability, and privacy-by-design.
- g. Avoid measures that risk fragmenting the Internet and limiting access to the global Internet.

3. Private Control as a Threat to Freedom of Expression

A transformative feature of the digital communications environment is the power of private companies, and particularly social media, search platforms and other intermediaries, over communications, with enormous power concentrated in the hands of just a few companies. In order to protect against unaccountable private domination of the environment for freedom of expression, we urge the development of the following:

- a. Independent and multi-stakeholder oversight, transparency and accountability mechanisms to address private content rules that may be inconsistent with international human rights and interfere with individuals’ right to enjoy freedom of expression.
- b. Regulatory measures that address the ways in which the advertising-dependent business models of some digital technology companies create an environment which can also be used for viral dissemination of, *inter alia*, deception, disinformation and hateful expression.
- c. Company implementation of responsibilities under the UN Guiding Principles on Business and Human Rights, backed up by State regulation or oversight, to mitigate human rights harms by developing policy commitments and ongoing human rights impact assessments that are disclosed to the public.
- d. Legal and technological solutions that allow for transparent algorithmic curation and moderation of content, and full disclosure and audit-ability of the data that informs Artificial Intelligence.
- e. Human rights sensitive solutions to the challenges caused by disinformation, including the growing possibility of “deep fakes”, in publicly accountable and targeted ways, using approaches that meet the international law standards of legality, legitimacy of objective, and necessity and proportionality.
- f. Effective rules and systems to address, in relation to companies providing digital communications services, undue concentration of ownership and practices which represent an abuse of a dominant market position.

LIST OF PAST JOINT DECLARATIONS

- 1999: Joint Declaration on Promoting Freedom of Expression
- 2000: Joint Declaration on Censorship by Killing and Defamation
- 2001: Joint Declaration on Challenges to Freedom of Expression in the New Century
- 2002: Joint Declaration on Freedom of Expression and the Administration of Justice, Commercialisation and Criminal Defamation
- 2003: Joint Declaration on Regulation of the Media, Restrictions on Journalists and Investigating Corruption
- 2004: Joint Declaration on Access to Information and Secrecy Legislation
- 2005: Joint Declaration on the Internet and Anti-Terrorism Measures
- 2006: Joint Declaration on Publishing Confidential Information, Openness of National and International Public Bodies, Freedom of Expression and Cultural/Religious Tensions and Impunity in Cases of Attacks Against Journalists
- 2007: Joint Declaration on Diversity in Broadcasting
- 2008: Joint Declaration on Defamation of Religions, and Anti-Terrorism and Anti-Extremism Legislation
- 2009: Joint Statement on the Media and Elections
- 2010: Tenth Anniversary Joint Declaration: Ten Key Challenges to Freedom of Expression in the Next Decade
- 2011: Joint Declaration on Freedom of Expression and the Internet
- 2012: Joint Declaration on Crimes Against Freedom of Expression
- 2013: Joint Declaration on the Protection of Freedom of Expression and Diversity in the Digital Terrestrial Transition
- 2014: Joint Declaration on Universality and the Right to Freedom of Expression
- 2015: Joint Declaration on Freedom of Expression and Responses to Conflict Situations
- 2016: Joint Declaration on Freedom of Expression and Countering Violent Extremism
- 2017: Joint Declaration on Freedom of Expression and “Fake News”, Disinformation and Propaganda
- 2018: Joint Declaration on Media Independence and Diversity in the Digital Age