



JOINT DECLARATION ON FREEDOM OF EXPRESSION AND COUNTERING VIOLENT EXTREMISM

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 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 and 4 May 2015;

Taking note of the global attention paid to programmes and initiatives under the umbrella of “countering and preventing violent extremism” (CVE/PVE), including by the United Nations and national governments;

Acknowledging the importance of frameworks for countering violence and incitement to violence and encouraging participation in political life based on respect for principles of human rights, purposes shared by many CVE/PVE programmes;

Highlighting that CVE/PVE programmes and initiatives that restrict freedom of expression must be based on evidence of their effectiveness and a legal framework to support their necessity and proportionality to achieve legitimate objectives;

Deploring the violence and terrorism that CVE/PVE initiatives aim to address and the impact of such acts on the enjoyment of human rights, including the rights to life and freedom of expression, highlighted dramatically by recent attacks on journalists, bloggers and media outlets;

Reaffirming the critical role that freedom of expression can play in promoting equality and in combating intolerance, and the essential role that the media and the Internet and other digital technologies play in keeping society informed, and stressing that limiting the space for freedom of expression and restricting civic space advances the goals of those promoting, threatening and using terrorism and violence;

Stressing in particular the need to promote media diversity and to ensure that members of all groups in society have access to a range of means of communication so as to be able to express themselves and engage in public debate;

Expressing concerns that some CVE/PVE initiatives negatively impact human rights and specifically the right to freedom of expression, even if inadvertently, including by “balancing” freedom of expression and

the prevention of violence rather than assessing restrictions on expression based on legality, necessity and legitimacy of objective, and that in some cases CVE/PVE programmes and initiatives have not been adopted in a transparent manner and with the effective participation of impacted communities;

Mindful that in some cases CVE/PVE initiatives which aim to target incitement to violence or ‘hate speech’ online risk undermining the potential of digital technologies to foster freedom of expression and access to information and to provide avenues for counter-speech;

Noting that CVE/PVE programmes and initiatives generally offer insufficiently clear definitions of “extremism” or “radicalisation” and that some governments target journalists, bloggers, political dissidents, activists and/or human rights defenders as “extremists” or “terrorists”;

Alarmed at the proliferation in national legal systems of broad and unclear offences that criminalise expression by reference to CVE/PVE, including offences “against social cohesion”, “justification of extremism”, “agitation of social enmity”, “propaganda of religious superiority”, “accusations of extremism against public officials”, “provision of information services to extremists”, “hooliganism”, “material support for terrorism”, “glorification of terrorism” and “apology for terrorism”;

Highlighting that CVE/PVE initiatives are used increasingly to justify profiling, surveillance and other activities that treat certain communities as de facto suspects, promoting a climate of intolerance and alienating members of these communities by scapegoating, thereby deterring robust debate and information-sharing;

Emphasising that CVE/PVE initiatives have in some cases impacted negatively on academic freedom and open debate in schools and universities, undermining the freedom of expression rights of children and young people;

Concerned about pressure on private companies, and especially social media networks, to “cooperate” in reporting on those whom they suspect of radicalization and the fact that CVE/PVE is increasingly being used by companies to justify measures restricting content, sometimes without being transparent or consistent about the rules and the kinds of expression that are being limited;

Aware that in some cases politicians and other leadership figures in society have, under the umbrella of CVE/PVE, made statements which can have the effect of encouraging or promoting discrimination against minorities;

Recalling statements in our previous Joint Declarations which have addressed some of the issues raised here;

Adopt, in Helsinki, on 4 May 2016, the following Joint Declaration on Freedom of Expression and Countering Violent Extremism:

1. General Principles:

- a. Everyone has the right to seek, receive and impart information and ideas of all kinds, especially on matters of public concern, including issues relating to violence and terrorism, as well as to comment on and criticise the manner in which States and politicians respond to these phenomena.

- b. States have an obligation to ensure that the media are able to keep society informed, particularly in times of heightened social or political tensions, including by creating an environment in which a free, independent and diverse media can flourish.
- c. Any restrictions on freedom of expression should comply with the standards for such restrictions recognised under international human rights law. In compliance with those standards, States must set out clearly in validly enacted law any restrictions on expression and demonstrate that such restrictions are necessary and proportionate to protect a legitimate interest.
- d. Restrictions on freedom of expression must also respect the prohibition of discrimination, both on their face and in their application.
- e. Restrictions on freedom of expression must be subject to independent judicial oversight.
- f. A key part of any strategy to combat terrorism and violence should be to support independent media and communications diversity.

2. Specific Recommendations:

- a. Public authorities should respect robust standards of transparency and engagement with all interested stakeholders, in particular affected communities, if they are proposing to adopt CVE/PVE initiatives.
- b. All CVE/PVE programmes and initiatives should respect human rights and the rule of law, and contain specific safeguards against abuse in this regard. They should be independently reviewed on a regular basis to determine their impact on human rights, including the right to freedom of expression, and these reviews should be made public.
- c. The concepts of “violent extremism” and “extremism” should not be used as the basis for restricting freedom of expression unless they are defined clearly and appropriately narrowly. Any restrictions drawing upon a CVE/PVE framework should be demonstrably necessary and proportionate to protect, in particular, the rights of others, national security or public order. The same applies whenever the concept is invoked to limit the activities of civil society, including in relation to their establishment or funding, or to impose restrictions on fundamental rights, including the right to protest.
- d. States should not restrict reporting on acts, threats or promotion of terrorism and other violent activities unless the reporting itself is intended to incite imminent violence, it is likely to incite such violence and there is a direct and immediate connection between the reporting and the likelihood or occurrence of such violence. States should also, in this context, respect the right of journalists not to reveal the identity of their confidential sources of information and to operate as independent observers rather than witnesses. Criticism of political, ideological or religious associations, or of ethnic or religious traditions and practices, should not be restricted unless it involves advocacy of hatred that constitutes incitement to hostility, violence and/or discrimination. States should review their laws and policies to ensure that any restrictions on freedom of expression which are claimed to be justified by reference to CVE/PVE robustly meet these standards.
- e. States should not subject Internet intermediaries to mandatory orders to remove or otherwise restrict content except where the content is lawfully restricted in accordance with the standards

outlined above. States should refrain from pressuring, punishing or rewarding intermediaries with the aim of restricting lawful content.

- f. States and public officials should encourage open debate and access to information about all topics, including where they touch upon issues such as ethnicity, religion, nationality or migration, in schools and universities, and in academic, scholarly or historical texts. Academic institutions should respect pluralism, promote intercultural understanding, and support the ability of members of all communities, and particularly marginalised groups, to voice their perspectives and concerns.
- g. States should never base surveillance on ethnic or religious profiling or target whole communities, as opposed to specific individuals, and they should put in place appropriate legal, procedural and oversight systems to prevent abuse of surveillance powers.
- h. Politicians and other leadership figures in society should refrain from making statements which encourage or promote racism or intolerance against individuals on the basis of protected characteristics, including race, nationality or ethnicity.
- i. Private enterprise initiatives, including those online, that limit expression in support of CVE/PVE goals should be robustly transparent so that individuals can reasonably foresee whether content they generate or transmit is likely to be edited, removed or otherwise affected, or user data is likely to be collected, retained or passed to law enforcement authorities.
- j. States should not adopt, or should revise, laws and policies which involve the following:
 - i. Blanket prohibitions on encryption and anonymity, which are inherently unnecessary and disproportionate, and hence not legitimate as restrictions on freedom of expression, including as part of States' responses to terrorism and other forms of violence.
 - ii. Measures that weaken available digital security tools, such as backdoors and key escrows, since these disproportionately restrict freedom of expression and privacy and render communications networks more vulnerable to attack.