

Tenth Joint Declaration by the Four Special International Mandates for Protecting Freedom of Expression on Ten Key Challenges to Freedom of Expression in the Next Decade

This note reviews the Joint Declaration adopted on 3 February 2010 by the four special IGO mandates for protecting freedom of expression – the UN Special Rapporteur on Freedom of Opinion and Expression, the OSCE Representative on Freedom of the Media, the 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. It was adopted with the assistance of ARTICLE 19 and the Centre for Law and Democracy (for former Joint Declarations see IRIS 2009-9: Extra, IRIS 2009-2: Extra, IRIS 2008-4: 2, IRIS 2007-2: Extra, IRIS 2006-3: 3, IRIS 2005-2: 2 and IRIS 2004-2: 6).

The 2010 Joint Declaration looks forward to predict the ten main threats to or challenges facing realisation of the right to freedom of expression over the next decade. This has a standard-setting aspect, since it can be understood as identifying what would constitute a breach of freedom of expression. But it also has an important prioritisation function, pointing to key areas where attention needs to be focused.

The first challenge identified in the Joint Declaration is government control over the media. Specific aspects of this include control over public media, registration requirements for the print media and/or Internet, control over broadcast regulators, abuse of State advertising, ownership of the media by political leaders, politically motivated legal cases and the retention of antiquated legal rules which penalise criticism of government. The second challenge focuses on criminal defamation laws, a particularly problematical genre of antiquated legal rules.

The third challenge is violence against journalists, and the impunity that fuels it. Three particular aspects of this challenge are noted: a failure to allocate sufficient resources to preventing and investigating attacks; the lack of recognition that special measures are needed to redress this problem; and the absence of protection measures for journalists who have been displaced by attacks.

Although great strides have been made over the last decade in recognising the right to information, the fourth challenge recognises that much still remains to be done. Most States and a large majority of inter-governmental organisations (IGOs) have still not adopted right to information laws or policies, many laws that have been passed fail to meet minimum international standards, and implementation efforts remain too weak in many countries.

The fifth challenge concerns equal enjoyment of freedom of expression. Discrimination in relation to the establishment of media outlets, abusive application of hate speech laws to silence disadvantaged groups and the failure of many media to adopt effective self-regulatory measures to redress past injustices are some of the key challenges here.

Commercial pressures on the media are, if not new, a growing threat to freedom of expression, as recognised in the sixth challenge listed in the Joint Declaration. Concentration of ownership, fracturing of the advertising market and other commercial pressures to cut local content and investigative journalism, and the risk that the 'digital

dividend' will go mainly to powerful broadcasting and telecommunications interests at the expense of diversity are highlighted as particularly problematical issues.

Closely related is the seventh challenge – the lack of adequate support for public and community broadcasters. For the former, this takes the form of challenges to often already inadequate public support and the lack of a clear public service mandate. Licensing systems often fail to make appropriate provision for community broadcasting, frequently coupled with a failure to allocate sufficient frequencies or other resources for this broadcasting sector.

National security has historically been abused to unduly limit freedom of expression but, as recognised in the eighth challenge, this has become a particular problem since the attacks of September 2001. This is exacerbated by the use of vague and overbroad terms and definitions, pressures on the media not to report on terrorism, for fear of giving it succour, and expanded use of surveillance.

Challenges nine and ten focus, respectively, on restrictions and access to the Internet. Firewalls, filters, registration requirements, blocking of websites and jurisdictional rules that lead to a lowest common denominator approach have undermined freedom on the Internet. At the same time, pricing structures, the failure to address the 'last mile' gap, and inadequate support for community-based ICT and other public access options have perpetuated the digital divide and left the poor and rural communities without or with limited access to the Internet.

Tenth Anniversary Joint Declaration: Ten Key Challenges to Freedom of Expression in the Next Decade by the United Nations (UN) Special Rapporteur on Freedom of Opinion and Expression, the Organization for Security and Cooperation 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, 3 February 2010
http://www.osce.org/documents/rfm/2010/02/42638_en.pdf

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