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HUMAN RIGHTS COUNCIL  
Twelfth session  
Agenda item 3

**PROMOTION AND PROTECTION OF ALL HUMAN RIGHTS, CIVIL,  
POLITICAL, ECONOMIC, SOCIAL AND CULTURAL RIGHTS,  
INCLUDING THE RIGHT TO DEVELOPMENT**

**Resolution adopted by the Human Rights Council\***

**12/16. Freedom of opinion and expression**

*The Human Rights Council,*

*Recalling* Council resolution 7/36 of 28 March 2008 and all previous resolutions of the Commission on Human Rights on the right to freedom of opinion and expression,

*Recognizing* that the exercise of the right to freedom of opinion and expression is one of the essential foundations of a democratic society, is enabled by a democratic environment, which offers, inter alia, guarantees for its protection, is essential to full and effective participation in a free and democratic society, and is instrumental to the development and strengthening of effective democratic systems,

*Recognizing also* that the effective exercise of the right to freedom of opinion and expression is an important indicator of the level of protection of other human rights and freedoms, bearing in mind that all human rights are universal, indivisible, interdependent and interrelated,

*Deeply concerned* that violations of the right to freedom of opinion and expression continue to occur, including increased attacks directed against, and killings of, journalists and

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\* The resolutions and decisions adopted by the Human Rights Council will be contained in the report of the Council on its twelfth session (A/HRC/12/50), chap. I.

media workers, and stressing the need to ensure greater protection for all media professionals and for journalistic sources,

*Stressing* the need to ensure that the invocation of national security, including counter-terrorism, is not used unjustifiably or arbitrarily to restrict the right to freedom of opinion and expression,

*Stressing also* the importance of the full respect for the freedom to seek, receive and impart information, including the fundamental importance of access to information, democratic participation, accountability and combating corruption,

*Recognizing* the importance of all forms of the media, including the printed media, radio, television and the Internet, in the exercise, promotion and protection of the right to freedom of opinion and expression,

*Recalling* that the exercise of the right to freedom of expression carries with it special duties and responsibilities, in accordance with article 19 (3) of the International Covenant on Civil and Political Rights,

*Recalling also* that States should encourage free, responsible and mutually respectful dialogue,

1. *Reaffirms* the rights contained in the International Covenant on Civil and Political Rights, in particular the right of everyone to hold opinions without interference, as well as the right to freedom of expression, including the freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art or through any other media of their choice, and the intrinsically linked rights to freedom of thought, conscience and religion, peaceful assembly and association and the right to take part in the conduct of public affairs;

2. *Takes note* of the report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression (A/HRC/11/4), as well as his presentation and the interactive dialogue thereon at its eleventh session;

3. *Expresses* its continuing concern that:

(a) Violations of the rights referred to in paragraph 1 above continue to occur, often with impunity, including extrajudicial killing, arbitrary detention, torture, intimidation, persecution and harassment, threats and acts of violence and of discrimination, including gender-based violence and discrimination, increased abuse of legal provisions on defamation and criminal libel as well as on surveillance, search and seizure, and censorship against persons who exercise, seek to promote or defend these rights, including journalists, writers and other media workers, Internet users and human rights defenders;

(b) These above-mentioned violations are facilitated and aggravated by the abuse of states of emergency;

(c) Threats and acts of violence, including killings, attacks and terrorist acts, particularly directed against journalists and other media workers in situations of armed conflict, have

increased and are not adequately punished, in particular in those circumstances where public authorities are involved in committing those acts;

(d) High rates of illiteracy continue to exist in the world, especially among women, and reaffirms that full and equal access to education for girls and boys, women and men, is crucial for the full enjoyment of the right to freedom of opinion and expression;

(e) Media concentration is a growing phenomenon in the world and can limit a plurality of views;

4. *Also expresses* its concern that incidents of racial and religious intolerance, discrimination and related violence, as well as of negative racial and religious stereotyping continue to rise around the world, and *condemns*, in this context, any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence, and urges States to take effective measures, consistent with their obligations under international human rights law, to address and combat such incidents;

5. *Calls upon* all States:

(a) To respect and ensure the respect for the rights referred to in paragraph 1 above;

(b) To take all necessary measures to put an end to violations of these rights and to create the conditions to prevent such violations, including by ensuring that relevant national legislation complies with their international human rights obligations and is effectively implemented;

(c) To ensure that victims of violations of the rights referred to in paragraph 1 above have an effective remedy, to investigate effectively threats and acts of violence, including terrorist acts, against journalists, including in situations of armed conflict, and to bring to justice those responsible in order to combat impunity;

(d) To ensure that persons exercising the above-mentioned rights are not discriminated against, particularly in employment, housing, the justice system, social services and education, with particular attention to women;

(e) To facilitate the full, equal and effective participation and free communication of women at all levels of decision-making in their societies and in national, regional and international institutions, including in mechanisms for the prevention, management and resolution of conflicts;

(f) To enable children to exercise their right to express their views freely, including through school curricula that encourage the development of and respect for different opinions, and to have their views taken into account in all matters affecting them, the views of the child being given due weight in accordance with the age and maturity of the child;

(g) To respect freedom of expression in the media and broadcasting, in particular the editorial independence of the media;

(h) To promote a pluralistic approach to information and multiple points of view by encouraging a diversity of ownership of media and of sources of information, including mass media, through, inter alia, transparent licensing systems and effective regulations on undue concentration of ownership of the media in the private sector;

(i) To create and permit an enabling environment in which training and professional development of the media can be organized in order to promote and protect the right to freedom of opinion and expression and can be carried out without threat of legal, criminal or administrative sanction by the State;

(j) Consistent with their human rights law obligations, to refrain from the use of imprisonment or the imposition of fines for offences relating to the media, which are disproportionate to the gravity of the offence;

(k) To adopt and implement policies and programmes that aim to effectively raise awareness of, and disseminate information and education on, prevention and treatment of HIV/AIDS and other diseases through effective and equal access to information and all appropriate means, including through the media and availability of information and communication technologies, and targeted at specific vulnerable groups;

(l) To adopt and implement laws and policies that provide for a general right of public access to information held by public authorities, which may be restricted only in accordance with article 19 of the International Covenant on Civil and Political Rights;

(m) To facilitate equal participation in, access to and use of information and communications technology, such as the Internet, applying a gender perspective, and to encourage international cooperation aimed at the development of media and information and communication facilities in all countries;

(n) To review their procedures, practices and legislation, as necessary, with a view to ensure the full and effective implementation of all their obligations under international human rights law, including to ensure that any limitations on the right to freedom of opinion and expression are only such as are provided by law and are necessary for the respect of the rights and reputations of others, or for the protection of national security or of public order (*ordre public*) or of public health or morals;

(o) To refrain from using counter-terrorism as a pretext to restrict the right to freedom of opinion and expression in ways that are contrary to their obligations under international law;

(p) While noting that article 19, paragraph 3, of the International Covenant on Civil and Political Rights provides that the exercise of the right to freedom of opinion and expression carries with it special duties and responsibilities, to refrain from imposing restrictions that are not consistent with paragraph 3 of that article, including on:

- (i) Discussion of government policies and political debate; reporting on human rights, government activities and corruption in government; engaging in election campaigns, peaceful demonstrations or political activities, including

for peace or democracy; and expression of opinion and dissent, religion or belief, including by persons belonging to minorities or vulnerable groups;

- (ii) The free flow of information and ideas, including practices such as the banning or closing of publications or other media and the abuse of administrative measures and censorship;
- (iii) Access to or use of information and communication technologies, including radio, television and the Internet;

6. *Stresses* that condemning and addressing, in accordance with their obligations under international human rights law, including those regarding equal protection of the law, any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence is an important safeguard to ensure the enjoyment of human rights and fundamental freedoms of all, including persons belonging to minorities;

7. *Calls on* all parties to armed conflict to respect international humanitarian law, including their obligations under the Geneva Conventions of 12 August 1949 and, where applicable, the Additional Protocols thereto of 8 June 1977, the provisions of which extend protection to journalists in situations of armed conflict, and to allow, within the framework of applicable rules and procedures, media access and coverage, as appropriate, in situations of international and non-international armed conflict;

8. *Recognizes* the moral and social responsibilities of the media and the importance that the media's elaboration of voluntary codes of professional ethical conduct can play in combating racism, racial discrimination, xenophobia and related intolerance;

9. *Also recognizes* the positive contribution that the exercise of the right to freedom of expression, particularly by the media, including through information and communication technologies such as the Internet, and full respect for the freedom to seek, receive and impart information can make to the fight against racism, racial discrimination, xenophobia and related intolerance and to preventing human rights abuses, but expresses regret at the promotion by certain media of false images and negative stereotypes of vulnerable individuals or groups of individuals, and at the use of information and communication technologies such as the Internet for purposes contrary to respect for human rights, in particular the perpetration of violence against and exploitation and abuse of women and children, and disseminating racist and xenophobic discourse or content;

10. *Reaffirms* the positive role that the exercise of the right to freedom of opinion and expression and the full respect for the freedom to seek, receive and impart information can play in strengthening democracy, combating racism, racial discrimination, xenophobia and related intolerance, in line with relevant provisions of international human rights law;

11. *Recognizes* that the open public debate of ideas, as well as interfaith and intercultural dialogue at the local, national, and international levels, can be among the best protections against racism, racial discrimination, xenophobia and related intolerance, and can play a positive role in strengthening democracy and combating national, racial or religious hatred;

12. *Invites* the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, within the framework of his mandate, to carry out his activities in accordance with its resolution 7/36 and all relevant Council resolutions and decisions, in particular his cooperation with other mechanisms and human rights treaty bodies and organizations, including regional organizations and non-governmental organizations;

13. *Appeals* to all States to cooperate fully with and assist the Special Rapporteur in the performance of his tasks, as contained in its resolution 7/36, to provide all necessary information requested by him and to consider favourably his requests for visits and for implementing his recommendations;

14. *Invites once again* the United Nations High Commissioner for Human Rights, the working groups, representatives and special rapporteurs of the Council and human rights treaty bodies to pay attention, within the framework of their mandates, to the situation of persons whose right to freedom of opinion and expression has been violated;

15. *Reminds* States of the possibility of seeking technical assistance if needed, including from the Office of the High Commissioner, to better promote and protect the right to freedom of opinion and expression;

16. *Requests* the Secretary-General to provide the assistance necessary to the Special Rapporteur to fulfil his mandate as contained in its resolution 7/36 effectively, in particular by placing adequate human and material resources at his disposal;

17. *Requests* the Special Rapporteur to submit an annual report to the Council and the General Assembly on the activities relating to his mandate;

18. *Decides* to continue its consideration of the issue of the right to freedom of opinion and expression in accordance with its programme of work.

*31st meeting  
2 October 2009*

[Adopted without a vote.]