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Human Rights Council

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Agenda item 3

**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Albania,* Armenia, Australia, Austria, Belgium,* Brazil, Bulgaria, Canada,* Croatia,* Cyprus,* Czechia, Denmark, Ecuador,* Estonia,* Fiji, Finland,* France,* Georgia,* Germany, Greece,* Honduras,* Hungary,* Iceland,* Ireland,* Italy, Latvia,* Liechtenstein,* Lithuania,* Luxembourg,* Malta,* Marshall Islands, Mexico, Monaco,* Montenegro,* Namibia, Netherlands, New Zealand,* North Macedonia,* Norway,* Paraguay,* Peru, Poland, Portugal,* Romania,* San Marino,* Sierra Leone,* Slovakia, Slovenia,* Spain, Sweden,* Switzerland,* Tunisia,* Ukraine and United Kingdom of Great Britain and Northern Ireland*: draft resolution

44/... Freedom of opinion and expression

The Human Rights Council,

Guided by the purposes and principles of the Charter of the United Nations,

Recalling all resolutions of the Commission on Human Rights and the Human Rights Council relevant to the right to freedom of opinion and expression, in particular Council resolutions [7/36 of 28 March 2008](#), 12/16 of 12 October 2009, [16/4 of 24 March 2011](#), 23/2 of 13 June 2013, [25/2 of 27 March 2014](#), [34/18 of 24 March 2017](#), 38/7 of 5 July 2018 ~~and~~ 39/6 of 27 September 2018 ~~and~~ [43/4 of 19 June 2020](#),-

Welcoming the ~~work reports~~ of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression [and taking note of his reports](#).

Reaffirming that the right to freedom of opinion and expression, both online and offline is a human right guaranteed to all, in accordance with article 19 of the Universal Declaration of Human Rights and of the International Covenant on Civil and Political Rights, that it constitutes one of the essential foundations of democratic societies and development, and that it is critical to combating corruption,

Recognizing 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, and bearing in mind that all human rights are universal, indivisible, interdependent and interrelated,

Acknowledging the important role of business enterprises in the exercise of the right to freedom of opinion and expression and in enabling access to information, and recalling

* State not a member of the Human Rights Council.



that all business enterprises have a responsibility to respect human rights, as set out in the Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework, and that the obligation and the primary responsibility to promote and protect human rights and fundamental freedoms lie with the State,

Underlining that digital contexts provide opportunities for exercising the right to freedom of opinion and expression, regardless of frontiers, for improving access to information and for seeking, receiving and imparting information and ideas of all kinds, and emphasizing that, in the digital age, technical solutions to secure and protect the confidentiality of digital communications, including measures for encryption and anonymity, can be important to ensure the enjoyment of human rights, including the right to freedom of opinion and expression,

Expressing concern that many forms of digital divide remain between and within countries and regions, and recognizing the need to close them, including through international cooperation, and recognizing also that the gender digital divide, which includes significant gender disparities in terms of access to and use of information and communications technology, undermines women’s and girls’ full enjoyment of human rights, including the right to freedom of opinion and expression,

Acknowledging the important role of, inter alia, journalists and other media workers, and human rights defenders, in the promotion and protection of the right to freedom of opinion and expression and, in this context, expressing deep concern that violations and abuses of the right to freedom of opinion and expression continue to occur in the exercise, in particular by women journalists and other media workers and women human rights defenders, of this right

Reaffirming the fundamental role of the right to freedom of opinion and expression in the possibility of women to interact with society at large on equal terms, particularly in the realms of economic and political participation, and reaffirming also that the full and meaningful participation of women and girls is essential to achieving gender equality, sustainable development, peace and democracy,

Stressing the need to ensure that [measures for the protection of national security, public order and public health](#) ~~measures~~ are in full compliance with international human rights obligations, including the principles of lawfulness, legitimacy, necessity and proportionality, and [also stressing](#) the need to protect human rights, including the freedom of opinion and expression and privacy, and personal data in the response to health or other emergencies,

Expressing concern at the spread of disinformation and misinformation, which can be designed and implemented so as to mislead, to violate and abuse human rights, including privacy and the freedom of individuals to seek, receive and impart information, and to incite all forms of violence, hatred, discrimination and hostility, inter alia, racism, xenophobia, negative stereotyping and stigmatization,

Stressing that responses to the spread of disinformation and misinformation must be grounded in international human rights law, including the principles of lawfulness, legitimacy, necessity and proportionality, and underlining the importance of free, independent, plural and diverse media and of providing and promoting access to independent, fact-based and science-based information to counter disinformation and misinformation,

Stressing also the importance of ensuring transparency and accountability in algorithmic, human and technical decision-making, given the risks of undue restriction on access to information and freedom of opinion and expression,

Acknowledging that the promotion and protection of human rights and the implementation of the 2030 Agenda for Sustainable Development are interrelated and mutually reinforcing, and that, in accordance with target 16.10 of the Sustainable Development Goals, all States are to ensure public access to information and to protect human rights and fundamental freedoms, in accordance with national legislation and international agreements,

Recognizing that the freedom to seek, receive and impart information and ideas of all kinds, both online and offline, through any media and regardless of frontiers is one of the central components of the right to freedom of opinion and expression, as reflected in article 19 of the Universal Declaration of Human Rights and of the International Covenant on Civil and Political Rights, and that obstacles to access to information can undermine the enjoyment of civil and political rights, as well as economic, social and cultural rights,

[PP16bis *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*, \[verbatim pp8, HRC 12/16\]](#)

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

Welcoming the adoption of General Assembly resolution 74/5 of 15 October 2019, in which the Assembly proclaimed 28 September as the International Day for Universal Access to Information,

Underscoring the importance of access to information held by public authorities, including on alleged violations and abuses of human rights, for the full and effective participation of individuals, groups and organs of society, including human rights defenders, in consultations, decision-making processes and, where relevant, implementation efforts related to legislation, policies, programmes and projects, with a view to mainstreaming, promoting and protecting human rights,

Recognizing that public authorities should strive to make information available, whether the information is proactively published electronically, or provided upon request, and also that access to information, both online and offline, is necessary for, inter alia, journalists and other media workers, civil society organizations, human rights defenders and trade union activists to conduct their work effectively and meaningfully, and that any restriction on the freedom to seek, receive and impart information must comply with relevant international law,

Strongly condemning the use of Internet shutdowns to intentionally and arbitrarily prevent or disrupt access to or dissemination of information online,

1. *Reaffirms* the rights contained in the International Covenant on Civil and Political Rights, in particular the right to freedom of opinion and expression, which includes 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 one's choice, and the intrinsically linked rights to freedom of thought, conscience and religion or belief, peaceful assembly and association and the right to vote and take part in the conduct of public affairs;

2. *Reaffirms also* that the same rights that people have offline must also be protected online, in particular the right to freedom of opinion and expression;

3. *Reiterates* its continuing concern that violations of the rights referred to in paragraph 1 above continue to occur, often with impunity, and are facilitated and aggravated by the abuse of states of emergency;

4. *Strongly condemns* the threats, reprisals and violence against and the targeting, criminalization, intimidation, arbitrary detention, torture, disappearance and killing of any individual, including journalists and other media workers, and human rights defenders, for their advocacy of human rights, for reporting and seeking information on human rights violations and abuses or for cooperating with national, regional and international mechanisms, including in relation to economic, social and cultural rights, which have increased and are not adequately punished, in particular where public authorities are involved in committing such acts;

5. *Recognizes* that the free flow of information is an important component of access to information, which is essential for advancing the promotion and protection of human rights, including of women's and girls' full enjoyment of human rights and to achieving gender equality;

6. *Underlines* that the right to freedom of opinion and expression and access to information are critical for the implementation and achievement of the 2030 Agenda for Sustainable Development;

7. *Stresses* that a democratic society depends on respect for human rights, including freedom of opinion and expression, and that undue restrictions on the freedom to seek, receive and impart information undermine democracy and the rule of law by preventing efforts aimed at holding public authorities accountable and exposing corruption;

8. *Calls upon* all States:

(a) To promote, protect, respect and ensure the full enjoyment of the right to freedom of opinion and expression, both online and offline, and to take all measures necessary to put an end to, and to prevent, violations and abuses of the rights referred to in paragraph 1 above, including by ensuring that relevant national legislation complies with their international human rights obligations and is effectively implemented;

(b) To ensure that victims of violations and abuses have effective remedy, that threats and acts of violence are investigated effectively and that those responsible are brought to justice, in order to combat impunity;

(c) To promote, protect, respect and ensure women's and girls' full enjoyment of the right to freedom of opinion and expression, both online and offline, without distinction of any kind;

(d) To enable everyone, including journalists and other media workers, and human rights defenders, to exercise their right to freedom of opinion and expression, including by taking effective measures to ensure their safety, and to protect in law and in practice the confidentiality of journalists' sources, including whistle-blowers, in acknowledgement of the essential role of journalists and those who provide them with information in fostering government accountability and an inclusive, democratic and peaceful society;

(e) To respect the right to freedom of opinion and expression in the media, in particular editorial independence, and to promote a pluralistic approach to information and multiple points of view, inter alia by encouraging a diversity of ownership of media and of sources of information, including mass media, and to refrain from the use of imprisonment or the imposition of fines for offences relating to the media that are disproportionate to the gravity of the offence;

(f) To ensure that any limitations on the right to freedom of 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, or of public health, ~~To refrain from using national security and public health laws to restrict the right to freedom of opinion and expression in ways that are contrary to their obligations under international law,~~ including by ensuring that all measures taken to counter threats related to terrorism, violent extremism and public health are in full compliance with international human rights obligations, including the principles of lawfulness, legitimacy, necessity and proportionality;

(g) To refrain from imposing restrictions that are inconsistent with article 19 of the International Covenant on Civil and Political Rights, including on the free flow of information and ideas, including through practices such as the use of Internet shutdowns to intentionally and arbitrarily prevent or disrupt access to or the dissemination of information online, the banning or closing of publications or other media and the abuse of administrative measures and censorship, and on access to or use of information and communication technologies, inter alia radio, television and the Internet;

(h) To adopt and implement laws and policies that ensure the freedom to seek, receive and impart information, including by:

(i) Undertaking all necessary efforts to ensure easy, prompt, effective and practical access to government information of public interest, including online, and encouraging the proactive disclosure of information held by public entities in the broadest possible terms, including on grave violations and abuses of

human rights; and ensuring that grounds for refusing the disclosure of information held by public bodies are narrowly defined;

(ii) Enacting the necessary procedures to allow equal participation in access to information and to facilitate access to and use of information;

(iii) Facilitating and promoting access to and use of communications and digital technologies;

9. *Encourages* all business enterprises to meet their responsibility to respect all human rights as stated in the Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework and in other applicable standards, including by actively contributing to initiatives aimed at fostering a culture of respect for freedom of opinion and expression and by ensuring the greatest possible transparency in their policies, standards and actions that have an impact on the freedom of opinion and expression;

9bis *Reaffirms that any advocacy of national, racial or religious hatred, both online and offline, that constitutes incitement to discrimination, hatred, hostility or violence, shall be prohibited by law, consistent with the right to freedom of expression;*

10. *Stresses* the importance of *-in accordance with States’ obligations under international human rights law, all acts of incitement to discrimination, hatred, hostility or violence*, ~~combating advocacy of all forms of violence, hatred, discrimination and hostility, both online and offline, in accordance with international human rights law,~~ including by promoting tolerance, education and dialogue;

11. *Requests* the Office of the United Nations High Commissioner for Human Rights to prepare a report on good practices for establishing national normative frameworks that foster access to information held by public entities, and also requests the Office, in the preparation of the report, to seek the views of States, non-governmental organizations, national human rights institutions and other relevant stakeholders, including the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and to submit the report to the Human Rights Council at its forty-seventh session;

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