



## JOINT DECLARATION ON MEDIA FREEDOM AND DEMOCRACY

**The United Nations (UN) Special Rapporteur on the Promotion and Protection of the Right to 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 in Africa ("mandate holders"),**

*Having discussed these issues together with the assistance of ARTICLE 19: Global Campaign for Free Expression and the Centre for Law and Democracy;*

*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, 2 May 2018, 10 July 2019, 30 April 2020, 20 October 2021, and 3 May 2022;

*Deeply concerned* about the growing threats to democracy, freedom of opinion and expression, and media freedom globally, and also the overall lack of understanding of the role of the media as an essential pillar of democracy, human rights and sustainable development;

*Cognisant of* the decline of public trust in democratic governance and institutions as well as in the media, which – in turn – has affected adversely sustainability, independence and diversity of the media and their ability to promote democracy, human rights, rule of law, peace and security;

*Underlining* the mutually reinforcing nature of democracy, the rule of law and media freedom, and the interlinkage between decline in media freedom and weakening of democratic safeguards and human rights protection;

*Acknowledging* that digital technologies have significantly transformed the information and media landscape, and the ways in which information is produced, disseminated, accessed, consumed and processed, creating both opportunities and threats for media diversity, freedom, and independence, as well as pluralism of opinions and well-informed decision-making;

*Alarmed* by authoritarian trends, the growing co-optation of public power, erosion of judicial independence, and backsliding of human rights in many established and emerging democracies;

Also *alarmed* by the global weakening of legal protection of the media, and increasing online and physical attacks against journalists, and judicial harassment of media outlets and journalists, which restrict the space and ability for the media to hold government authorities and other powerful institutions to account;

*Concerned* about the impact on media freedom of the business models and practices of online platforms, including their overall lack of transparency and accountability, especially in relation to their content governance policies and practices, and processes used to moderate and curate news and content to their users;

*Also concerned* about the level of power and control that a few large media corporations and internet intermediaries exercise over public debate, the political agenda and the range of information and viewpoints that individuals can access;

*Recalling* the 75<sup>th</sup> year anniversary of the UN Declaration of Human Rights, the 30<sup>th</sup> anniversary of the Vienna Declaration and Programme of Action and the 30<sup>th</sup> anniversary of the celebration of World Press Freedom Day, and underlining the importance of the protection of human rights and democratic values;

*Adopt*, on 2 May 2023, on the occasion of World Press Freedom Day, the following Joint Declaration on Media Freedom and Democracy

## **Scope**

This Joint Declaration outlines the interrelationship and interdependency of media freedom and democratic values, and the critical role of media freedom in enabling and sustaining democratic societies. It also provides a set of recommendations to States and other stakeholders to secure and facilitate the media's role as a vital institution and pillar of democracy.

Any reference to journalism or the media in this Joint Declaration refers to a definition based on functional criteria, such as of disseminating information and ideas of public interest as it supports informed societies and democratic participation (henceforth "content of public interest").

The term "media freedom" is used in this Joint Declaration to mean the freedom, independence and plurality of the news media, including the production, publication and dissemination of journalistic content across all mediums and platforms. "Media independence" is understood as editorial independence from political interference and/or economic capture, and the upholding of professional journalistic standards through self-regulation and independent regulatory authorities. "Media pluralism" is the existence of multiple actors, spanning public, private and community media, as well as diverse and inclusive content in and through the media.

## **General principles: The role of the media in democracy**

Freedom of expression, which encompasses the right to information, is a fundamental right as well as an enabler of other human rights and a guardian of democratic values. Media freedom is an integral part of the right to freedom of expression. It enables the public to seek and receive information and ideas, make well-informed choices in all areas of life, from political, economic, social, to cultural ones, participate in public affairs and positively contribute to the well-being of society. Free, pluralistic, and independent media are an essential pillar of democracy. The protection of media freedom is essential for the proper functioning of democratic society and institutions.

In this regard, mandate holders wish to stress:

- a) By producing and providing reliable information and diverse perspectives, explanation and analyses, the media can enable public debate and help build an informed and active citizenry. This in turn can facilitate free and fair elections and other forms of public participation, community engagement and inclusive decision-making processes, strengthening democratic governance and institutions.
- b) Democratic societies are stronger when they can rely on voices of reference, which actively disseminate information of public interest and contribute to informed decision-making. Free, independent and pluralistic media can be such voices of reference when they respect established professional standards, follow diligent verification methods and promote intercultural understanding, social inclusion and respect for diversity.
- c) As public watchdogs, the media have a critical role to play in promoting good governance and strengthening democracy. Explaining how democratic and public institutions work helps to build public confidence and trust in them. By scrutinising those in power and exposing corruption, human rights violations, other wrongdoing and mismanagement, the media help to hold governments and other powerful actors in society to account.
- d) Media pluralism, including the availability of a range of public, private, and community media that provides a diversity of information and viewpoints, is essential for democratic discourse. Financial, legal and political obstacles as well as structural and other factors can create excessive media concentration or “media deserts” and undermine pluralism. Minority, local and community media are important elements of media pluralism by ensuring that all of society’s interests, demands and needs are visible and known to the public. Such media are particularly important for those in society who have been historically marginalized, systematically disadvantaged, or excluded from public debate.
- e) Independent and well-resourced public service media, namely media for the public, and funded and supervised by the public, have a special position in fostering pluralism and diversity and satisfying the public’s right to know, especially through responding to informational needs and interests that the commercial sector does not fulfil. They can greatly contribute to promoting civic identity, encouraging informed public participation and an active and responsible citizenry, and fostering a democratic and rights-respecting culture.
- f) Financial sustainability of the media is crucial for building a robust and resilient media sector, free from the threat of being co-opted or otherwise directly or indirectly controlled by State and/or private actors (i.e. media capture), or excessive media concentration that diminishes pluralism.
- g) Transparency of media ownership is of paramount importance. Society has the right to know who owns media and influences the priorities, narratives and content. Transparency of media ownership provides the basis for plurality and diversity of media content.
- h) The media can play a key role in promoting human rights, diversity and equality, including gender justice in society, as well as enhancing social cohesion and peacebuilding. At a time when racial, ethnic, religious, and gender discrimination is accelerated by digital technologies, media efforts to address discrimination are even more important. Through reporting on women’s and various minority perspectives, covering discrimination and violence against

women, minorities, or historically marginalized communities, debunking harmful stereotypes, tackling hate speech and dismantling prejudices, the media can contribute to combating discrimination, exclusion, inequality and injustice. In order to carry out this role effectively, media outlets themselves should be more inclusive and representative of the societies they serve.

- i) Manipulating public opinion through disinformation, misinformation, and hate speech in or by the media erodes social cohesion and democratic governance, and can threaten national, regional and global peace and security. Weaponization of information for spreading hate speech and propaganda, especially propaganda for war, has no place in democracy. On the contrary, free and independent media can play an important role as fact checkers against disinformation and propaganda and so help to repairing declining trust in democratic institutions.
- j) Specific fact-checking initiatives within the media for ex post verification of public interest claims can play a key role in protecting democratic debate and addressing discrimination and/or hate speech.

## **Recommendations: Ensuring media can play their role in democracy**

### **Recommendations for the States**

#### Positive obligation to create an enabling environment for media freedom

In order to promote, protect and create an enabling environment for media freedom, States should:

- a) Ensure that all public bodies, which exercise powers in print, broadcast, other media and/or telecommunications regulation, including bodies that receive complaints from the public, are independent, transparent and effectively functioning in law and in practice. They should be protected from undue interference, particularly of a political or commercial nature. The legal status of these bodies should be clearly defined and their institutional autonomy and independence guaranteed and protected by law. This should include a participatory and transparent appointment process for the governance and senior managerial structures of these bodies, the ability to employ their own qualified staff, and a clear mandate and power of regulation as well as public accountability and adequate funding.
- b) Encourage a diverse and independent private broadcasting sector. In particular, adequate spectrum should be reserved for broadcasting services, and the broadcasting spectrum should be used and managed in the public interest for reliable, diverse and plural programming.
- c) Support and facilitate minority, local and community media that address issues and topics relevant for community needs in local languages, give public exposure to issues that are not covered in the mainstream media and provide local perspective on mainstream issues.
- d) Create and maintain adequately funded public service media and ensure their independence from political or commercial interference within a framework of accountability to the public. All government or State media should be transformed into public service media without further delay.

- e) Adopt comprehensive measures for the safety of journalists and media workers and for their protection from violence and all forms of online and physical attacks, threats and harassment, or illegitimate surveillance. Such measures should integrate gender and intersectionality perspectives. Protection measures should not be misused to unduly undermine journalists' newsgathering activities or the confidentiality of journalistic sources. In particular, States should establish early warning and rapid response mechanisms, continuously monitor, prevent and act upon attacks against journalists in particular by promptly and fully investigating, prosecuting and punishing all attacks against journalists and combating impunity. States should cooperate internationally to share key information and adopt joint measures to tackle transnational threats against journalists.
- f) Take measures to protect journalists and media outlets from strategic lawsuits against public participation and the misuse of criminal law and the judicial system to attack and silence the media, including by adopting laws and policies that prevent and/or mitigate such cases and provide support to victims. In particular, States should consider that legal proceedings against journalists that excessively extend over time or are accumulated in bad faith harm journalistic work and/or the operation of the media. In addition, data protection laws should be designed and applied in ways not interfering with media freedom, for example by establishing disproportionate obstacles to investigations and reporting.
- g) Ensure the full protection of confidentiality of journalistic sources in law and in practice. Any limitations on source confidentiality, including via surveillance, should be pursuant to clearly defined exceptions set out in law, which apply only where necessary to protect an overriding interest, with judicial authorisation, and in compliance with international human rights law. Whistleblowers' ability to resort to the media should be correspondently protected.
- h) Ensure pluralism and diversity of the media, including through human rights-centric regulatory frameworks. Achieving pluralism in the media sector should include but not be limited to:
  - i. Promoting comprehensive transparency of media ownership: Media outlets should directly disclose ownership information and report this information to an independent national media regulatory body or other designated entity, tasked with gathering and collating the information and making it available to the public. Independent media regulatory bodies should be entitled to oversee the disclosure of ownership information and impose sanctions for the failure to meet these obligations.
  - ii. Preventing media mergers and acquisitions that could adversely affect pluralism of media ownership and diversity of media content. The assessment of media mergers should include a public interest test to protect media pluralism.
  - iii. Adopting measures to promote a diversified and decentralised environment for online content curation and news recommender systems where no single entity holds massive power on the information flows in society, nor on the diversity of exposure of individual users. States should create an enabling environment for online pluralism, for example through obligations to unbundle hosting and content curation activities, facilitating availability and access to third-party recommender systems and content curation providers on a fair and non-discriminatory basis, and addressing monopolized market powers over information flows. States should promote other measures that prevent the

prioritisation of profit maximisation at the expense of human rights and democratic values, including through mandated human rights due diligence that include risk assessments and mitigation measures.

- i) Increase multilateral efforts and cooperation to develop a human rights-based framework for a healthier online information ecosystem and global approaches towards rebalancing the power dynamics between independent media and online platforms.
- j) Develop and implement comprehensive national policies and strategies for enhancing media, digital and information literacy. Media, digital and information literacy measures should be tailored and accessible to all demographics, children as well as adults, and should also aim at bridging existing digital divides.

#### Obligation to refrain from violating media freedom

For the media to fulfil their role and watchdog function in a democratic society, States should refrain from unduly interfering with the right to freedom of expression. In particular, States should:

- a) Ensure that any restrictions on the right to freedom of expression comply with international human rights standards. Any restriction should be provided by law, serve one of the legitimate interests explicitly enumerated in international and regional human rights treaties, and be necessary and proportionate to protect that legitimate interest. States should regularly review and, where necessary, reform national laws to bring them into compliance with these standards. Restrictions on freedom of expression, for example in the interest of protecting the right to privacy, should include a public interest exception. Criminal defamation and laws criminalising the criticism of State institutions and officials should be repealed. Overall, legal frameworks should not be abused to illegitimately obstruct the work of independent media.
- b) Undertake a differentiated and graduated approach to media regulation based on the principles of strict necessity and minimum intervention needed to achieve the legitimate interest of such regulation.
- c) Due to the immense impact of the online ecosystem on media production and dissemination, States should incentivize that online content moderation and curation are in full compliance with international human rights standards and include adequate media freedom safeguards. Any measure towards a healthier online information ecosystem should be centred around overarching principles of transparency, accountability, and the protection of human rights – including privacy and data protection – and legitimate public interests as well as addressing the excessive market power of very large platforms.
- d) Refrain from imposing internet throttling and/or shutdowns, which prevent access to information, undermine journalistic work, and often abet the perpetration or cover-up of human rights violations.
- e) Ensure that those whose right to freedom of expression and media freedom is violated have access to effective remedies overseen by independent and functional judiciary under the principles of the rule of law.

- f) Politicians and public officials should demonstrate high levels of tolerance towards critical journalistic reporting bearing in mind that critical scrutiny of those in positions of power is a legitimate function of the media in democracy. In addition, politicians and public officials should refrain from making statements that undermine public trust in media as a democratic institution, or endanger the safety of journalists and media workers.

#### Support economic viability and sustainability of independent media

Economic viability and long-term sustainability of quality journalism is a necessary precondition for the public to access a variety of news and information, including on the local level and in local languages. States, together with the media representatives and all other stakeholders should develop mechanisms to support independent and investigative journalism and a broad range of news production. However, support for media should never be used to attempt to assert control over editorial independence. The measures to support media sustainability could include but are not limited to:

- a) Fair allocation of State subsidies in the media markets: Allocation of public support to the media should pursue legitimate objectives in the public interest. It should be based on clear, transparent, neutral and non-discriminatory criteria including consideration of professional journalistic standards and media's contribution to content of public interest, rather than on political or government viewpoints. State support for the media should not be used to turn media into propaganda instruments of a ruling power. The allocation of State subsidies to the media should be administered by an independent body and be subject to external audit and judicial review. Independent bodies in charge of allocating direct subsidies should be obliged to publish annual reports on the use of public funds to support media actors.
- b) Public advertising: Allocation of public advertising should be subject to clear and non-discriminatory requirements, and based on objective criteria and be managed by independent bodies. States should avoid discrimination on the basis of political or government viewpoints in their decisions over the allocation of public advertising. Public authorities should be fully transparent with regard to the amount, scope, requirements and criteria for the allocation of their advertising.
- c) Incentivize that large online platforms contribute to media sustainability and a vibrant media landscape: A variety of tools should be considered to counterbalance the infrastructural dependency of media on large online platforms. Efforts to increase media sustainability in the digital realm can include taxation, subsidies, competition and anti-trust regulation, as well as licensing, and intellectual property. Any such effort should consider the public interest of content and be fair and non-discriminatory towards the media.

#### **Recommendations for online platforms**

Policies, practices and automated moderation and curation of online content on online platforms, especially large online platforms have a direct impact on plurality, diversity, sustainability and independence of the media as well as on accessibility of public interest information. Online platforms, in particular large online platforms should therefore:

- a) Respect and comply with the Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework. They should ensure that their terms of service and community guidelines are sufficiently clear, accessible

and in line with international human rights standards. In this context, platforms should train their staff on international human rights standards.

- b) Publish comprehensive transparency reports about their decision-making processes, including automated processes of online curation and moderation of media content as well as trusted flagger-schemes. Transparency reports should also include information on removal requests concerning media content by States.
- c) Strengthen user agency and ensure that users are empowered to make well-informed decisions about the use of platform services based on easily accessible and understandable information. In this context, platforms should contribute to digital literacy aimed at providing society with knowledge, awareness and skills to understand and contextualise the information produced and consumed on their services.
- d) Periodically assess the impact of content curation processes on the effective exposure of their users to a broad diversity of media content and improve them to support the exposure of users to a variety of information from diverse sources.
- e) Conduct human rights impact assessments that include media content governance and particularly consider the impact of their business practices, such as data harvesting, targeted advertising and interface design on freedom of expression and media freedom, and mitigate identified risks. In this context, particularly consider the disproportionate risks of online attacks faced by women journalists.
- f) Design robust remedy mechanisms ranging from internal complaints mechanisms including human review to external multi-stakeholder oversight mechanisms for large online platforms, including for the wrongful removal of content or other restrictions on freedom of expression and media freedom. Internal appeal mechanisms and external/public oversight mechanisms should be clear and easy to find on company websites, and be easy to use.
- g) Large online platforms should support an independent and pluralistic media landscape, including by fairly compensating for the use and monetization of media content, and promoting fact-checking initiatives.
- h) If online platforms attach labels to media accounts, such as state-controlled or independent quality media, or adopt other criteria for identifying public interest content, they should ensure that any such identification and labelling is done through transparent and multi-stakeholder processes, which involve, inter alia, independent media regulators, media self-regulatory and standard-setting bodies and media civil society organizations.
- i) Based on such identification and labelling criteria developed in transparent and multi-stakeholder processes, large online platforms should privilege independent quality media and public interest content on their services in order to facilitate democratic discourse. Online platforms should re-centre their algorithmic curation processes on human rights and public interest. Efforts should be made to swiftly and adequately remedy wrongful removals of independent quality media and public interest content, including through expedited human review.



## **Recommendations for the media sector**

In order to maintain legitimacy in the eyes of the public and revive public trust in the media as a watchdog and instrument of democracy, the media proprietors, editors and journalists should:

- a) Through transparent and participatory processes, develop, set and maintain effective self-regulatory mechanisms to uphold codes of conduct. Media entities should undertake effective steps to promulgate and implement such codes including through appropriate enforcement mechanisms. These self-regulatory systems should be suited to the political, cultural and economic environment in which journalists work, and be easily accessible to the public.
- b) Adhere to high standards of information provision that meet recognised professional and ethical standards.
- c) Refrain and clearly distance themselves from disinformation, discrimination, hate speech and propaganda. Media should never serve as a vehicle for propaganda for war. In case of accidental errors in their reporting, media should promptly correct the information.
- d) Commit to and promote pluralism in the media sector.
- e) Be alert to the danger of discrimination or patriarchal and discriminatory stereotypes of women, minorities and groups at risk of discrimination being furthered by the media and in their reporting. Media should proactively work towards identifying and changing harmful stereotypes and should counteract disinformation, hate speech, discriminatory norms and attitudes as well as negative prejudice in their coverage and reporting. Professional codes of conduct for the media and journalists should incorporate comprehensive equality principles. Such codes should also set required minimum standards on how to report on statements or instances related to discrimination in order not to perpetuate or aggravate intolerance.
- f) Address internal structural discrimination and bias in the media sector and ensure that their workforces are diverse and include women and representatives of minorities at all levels of media production and distribution including at the management and decision-making level. In particular, establish and implement internal politics against harassment and discrimination, and promote equality and diversity within the newsrooms.