

FREEDOM OF EXPRESSION AND THE RIGHT TO INFORMATION

*Resolution adopted by consensus * by the 120th IPU Assembly
(Addis Ababa, 10 April 2009)*

The 120th Assembly of the Inter-Parliamentary Union,

Recalling that under Article 19 of the Universal Declaration of Human Rights (1948), "Everyone has the right to freedom of opinion and expression",

Further recalling Article 19 of the International Covenant on Civil and Political Rights (1966),

Taking note of Article 10 of the European Convention on Human Rights (1950),

Taking note of Article 13 of the American Convention on Human Rights (1969),

Taking note of Article 9 of the African Charter on Human and Peoples' Rights (1981),

Taking note of the Chapultepec Declaration adopted by the Hemisphere Conference on Free Speech (1994),

Recalling the 63rd General Conference of the International Federation of Library Associations and Institutions (IFLA) held in Copenhagen (1997) on access to information and freedom of expression,

Taking note of the Aarhus Convention (1998) adopted by the Member States of the UN Economic Commission for Europe and the European Union,

Noting the 1998 Report of the UN Special Rapporteur on the protection and promotion of the right to freedom of opinion and expression,

Noting the 1999 and 2004 Joint Declarations of the UN Special Rapporteur on the right to freedom of opinion and expression, the Organisation for Security and Co-operation in Europe (OSCE) Representative on Freedom of the Media and the Organization of American States (OAS) Special Rapporteur on Freedom of Expression,

Noting the 2002 African Commission on Human and Peoples' Rights (ACHPR) Declaration of Principles on Freedom of Expression in Africa,

Recalling the May 2005 IPU Seminar on Freedom of Expression, Parliament and the Promotion of Tolerant Societies,

Noting the 2006 Joint Declaration of the UN Special Rapporteur on the right to freedom of opinion and expression, the OSCE Representative on Freedom of the Media, the OAS Special Rapporteur on Freedom of Expression and the ACHPR Special Rapporteur on Freedom of Expression and Access to Information in Africa,

Noting the outcome of the World Summit on the Information Society, held in two instalments (Geneva, 2003 and Tunisia, 2005), which seeks to build an information society with a humane and inclusive dimension that is conducive to development, in which each individual has the possibility to create, obtain, use and share information and knowledge, in keeping with the aims and principles of

the Charter of the United Nations and the Universal Declaration of Human Rights,

Welcoming the Medellin Declaration on Securing the Safety of Journalists and Combating Impunity adopted on the occasion of the UNESCO Conference on Press Freedom, Safety of Journalists and Impunity in 2007,

Believing that the people's right to information as well as the generation and dissemination of information are indispensable elements of a functioning democracy and that access to information is an essential tool for strengthening government accountability, transparency and adherence to the rule of law,

Believing furthermore that the new digital communication tools, notably the Internet, can constitute powerful tools likely to facilitate the exercise of freedom of expression, access to information, transparency and diversity of opinions in the information society,

Recognizing the importance of freedom of expression and access to information in a democratic society for ensuring accountability, checking corrupt practices and enhancing good governance,

Recognizing also that freedom of expression should not be used to spread or promote hatred inciting to discrimination, hostility or violence,

Convinced that the protection of journalists' sources is an indispensable condition of press freedom,

Expressing concern that in some parts of the world, citizens are not sufficiently informed about their rights to freedom of expression and of access to information,

Expressing concern that denial of access to information on matters of public concern remains widespread in many government bureaucracies,

Expressing further concern that in some parts of the world illiteracy may affect citizens' ability to exercise their right to access information and freedom of expression,

Urging governments to inform their citizens of their legal rights, including freedom of expression and access to information,

Considering that education and literacy are crucial to the full enjoyment of access to information rights,

Concerned, however, that computer systems and new digital communication tools can be misused or abused to spread child pornography and racist or xenophobic propaganda,

Convinced of the need to strike a balance between freedom of expression, on the one hand, and the fight against incitement to hatred, on the other,

Convinced of the need to clearly define the lawful limits to freedom of expression that are necessary and proportionate in any democratic society,

Aware that appropriate measures should be taken, especially in the new information and communication environment, to protect minors from the harmful effects of content and behaviour likely to affect their well-being negatively,

Concerned about the widening digital divide between developing and developed countries, which

impedes equal enjoyment of freedom of expression and the right to information by all people,

Aware that people's right to access information is more relevant today than ever, as modern democracy embraces a wider and more direct concept of accountability,

1. *Believes* that freedom of expression and access to information are fundamental to a democratic society;
2. *Welcomes* the expansion among States of freedom of information rights;
3. *Welcomes* the adoption and modernization of rights-based access to information legislation throughout the world;
4. *Welcomes also* the efforts of international institutions and organizations aimed at protecting freedom of expression and the right to information;
5. *Encourages* those parliaments that have not already done so to enact freedom of information legislation at the earliest opportunity, and *underscores* the need for the parliaments of States that already have such a legal framework in place to ensure that it is implemented effectively;
6. *Calls on* parliaments to enact laws that ensure respect for intellectual pluralism;
7. *Urges* parliaments to adopt the legislative measures needed to criminalize the dissemination or transmission of child pornography through any medium;
8. *Invites* parliaments to take legislative action to protect journalists from being compelled to reveal their sources;
9. *Condemns* restrictions imposed on, violence suffered by, victimization and even assassination of members of parliament, journalists and other opinion shapers in exercising the right of freedom of expression;
10. *Urges* parliaments to ensure that only those restrictions on freedom of expression that are absolutely necessary to protect the rights of others and provided for by law are allowed, and that any regulatory regime operates in this context;
11. *Recognizes* that freedom of expression and access to information may need to be restricted in case of war or other serious threat to public security, but *stresses* that such restrictions ought to be strictly limited in scope and duration by legislation that is proportionate to its purpose and whose implementation is subject to independent judicial oversight;
12. *Expresses its concern* that the concentration of media ownership will lead to the marginalization of the right to express unconventional views or views that are not in the mainstream;
13. *Invites* those parliaments that have not already done so to pass laws to guarantee the plurality of media, including public-interest and community broadcasters, as being essential to freedom of expression; furthermore *calls on* parliaments to combat arbitrary sanctions by the State on the media, press agencies and their agents;
14. *Believes* that plurality of media and public-interest broadcasters should be encouraged by parliaments as being essential to freedom of expression;
15. *Urges* the media to exercise their freedom of expression judiciously in all circumstances, particularly during armed conflicts, counter-terrorism operations and in other similar situations;
16. *Believes* in the importance of promoting a society in which a diversity of broadcasters, publishers, artists, and other persons or organizations can exercise their freedom of expression and participate fully and in which the public has access to a variety of opinions, perspectives and views;
17. *Invites* the Security Council to adopt a resolution recalling the scope of international humanitarian law for journalists present in conflict zones;
18. *Further calls* for parliaments to participate actively in an international dialogue on the future governance of the Internet to ensure that it constitutes a democratic medium of expression that respects the legitimate rights of others, particularly in the framework of the UN Internet Governance Forum (IGF), and of emerging networks linked to the IGF on the national and regional levels;
19. *Calls on* parliaments to ensure that education is compulsory, free and equally available to boys and girls until at least age 16 and that adult literacy and mastery of new information

- and communication technologies become widespread practices;
20. *Believes* that freedom of information is essential to full enjoyment of the right of freedom of expression and meaningful participation in a democratic society;
 21. Encourages parliaments to take effective measures to narrow the digital divide, including by providing technical and financial assistance to developing countries and by strengthening international cooperation in this field;
 22. *Urges* the IPU to encourage the exchange of experiences and good practices in the development of the right to freedom of information and to give technical support to parliaments wishing to take action to enhance the exercise and enjoyment of the right to freedom of information;
 23. *Encourages* the development of freedom of information beyond State actors to encompass significant private-sector companies and bodies;
 24. *Believes* that whistleblowers should be protected by law, if acting in the public interest;
 25. *Stresses* that, in public administration, the basic principle should be in favour of transparency so that disclosure is subject only to narrowly defined restrictions permissible only in the public interest, or to protect the personal data of individuals;
 26. *Urges* parliaments to eliminate the barriers to an effective freedom of information regime, including, but not limited to, public awareness, sufficient resources, limiting exceptions, effective guidelines, elimination of delays and excessive fees, and an independent regulatory mechanism to enforce compliance, and to encourage a culture of openness in the public service.

* The delegation of Australia expressed reservations on operative paragraph 23.