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

Albania,* Andorra,* Argentina, Armenia, Australia,* Austria,* Belgium,* Brazil, Bulgaria,* Canada,* Costa Rica,* Croatia,* Cyprus,* Czechia, Denmark,* Dominican Republic,* Ecuador,* Estonia,* Fiji,* Finland, France, Georgia,* Germany, Greece,* Iceland,* Ireland,* Italy,* Latvia,* Lithuania, Luxembourg, Malta,* Marshall Islands, Mexico, Monaco,* Montenegro, Namibia, Netherlands, New Zealand,* Norway,* Paraguay, Peru,* Poland, Portugal,* Republic of Moldova,* Romania,* Slovakia,* Slovenia,* Sweden,* Switzerland,* Tunisia,* Ukraine, United Kingdom of Great Britain and Northern Ireland, Uruguay* and State of Palestine*: draft resolution

50/... 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, 38/5 of 5 July 2018, 39/6 of 27 September 2018, 43/4 of 19 June 2020, 44/12 of 16 July 2020, 47/16 of 13 July 2021, 48/4 of 7 October 2021 and 49/21 of 1 April 2022,

Welcoming the work of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and taking note of her reports,¹

Reaffirming that the right to freedom of opinion and 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, 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 for sustainable development, including the 2030 Agenda for Sustainable Development, and that it is critical to combating corruption and disinformation, strengthening democracy, the rule of law and good governance, and 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, both online and offline,

* State not a member of the Human Rights Council.

¹ A/HRC/50/29 and Add.1.



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,

Acknowledging the essential 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 particular affecting women journalists and other media workers and women human rights defenders,

Recalling the United Nations Plan of Action on the Safety of Journalists and the Issue of Impunity, and the important role of the network of focal points throughout the United Nations system in enhancing the safety of journalists and media workers,

Stressing the need to ensure that measures for the respect of the rights or reputations of others and the protection of national security, public order and public health are in full compliance with international human rights obligations, including the principles of lawfulness, legitimacy, necessity and proportionality, and stressing also the need to protect human rights, including the right to freedom of opinion and expression and the right to privacy in accordance with obligations under international law, and safeguarding personal data,

Recognizing the primary responsibility of States, as the main duty bearers, to promote and protect human rights online and offline, including the right to freedom of opinion and expression, and the importance of their support for relevant efforts that strengthen the resilience of societies against the negative impact of disinformation at all levels, in particular through digital, media and information literacy education, and inclusion, intercultural understanding, fact-checking and transparent and accountable technological solutions,

Recalling the Guiding Principles on Business and Human Rights, and acknowledging the important role of business enterprises, including tech companies and social media platforms, in the exercise of the right to freedom of opinion and expression and in enabling access to information, and recalling that all business enterprises have a responsibility to respect human rights, as set out in the Guiding Principles on Business and Human Rights, both online and offline,

Underlining that digital contexts provide opportunities and challenges for exercising the right to freedom of opinion and expression 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, pseudonymization and anonymity, as well as efforts to promote access to information and communications technology, digital and media and information literacy, civic participation and online safety, are important to bridge digital divides and ensure digital inclusion and the enjoyment of human rights, including the right to freedom of opinion and expression,

Expressing concern at the spread of disinformation, 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, and 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 information to counter disinformation and misinformation,

Expressing its concern that many forms of digital divides remain between and within countries and regions, which have a negative impact on the enjoyment of the right to freedom of opinion and expression, and underlining the need for digital, media and information literacy as well as the need to address prevailing challenges to bridge digital divides, including through international cooperation and education, striving to ensure that individuals, especially individuals in vulnerable situations and/or belonging to marginalized groups, are able to connect to and access the Internet in a safe, secure and meaningful way so as to enable

their full economic, political and social participation and to promote the enjoyment of their right to freedom of opinion and expression in an inclusive information society,

Recognizing 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,

Stressing the importance of empowering all women and girls by enhancing their equal access to information and communications technology, promoting digital, media and information literacy and connectivity to enable the participation of women and girls in education and training, which is also essential to respecting and promoting all human rights, including economic, social and cultural rights, and the possibility of women to interact with society at large on equal terms and without discrimination, particularly in the realms of economic and political participation, and reaffirming that the full, equal and meaningful participation of women and girls in the digital age is critical to achieving gender equality, sustainable development, peace and democracy,

Welcoming General Assembly resolution 75/267 of 25 March 2021, in which the Assembly recognized the need for people to have media and information literacy skills and proclaimed a yearly Global Media and Information Literacy Week, and stressing the importance of digital, media and information literacy, including through education, training, the empowerment of all people, the facilitation of digital inclusion, including connectivity, and awareness-raising on the opportunities and risks associated with digital products and services, including for the protection of the right to privacy, in accordance with obligations under international law, and the promotion of digital safety, to support the enjoyment of the right to freedom of opinion and expression and as a means to counter disinformation and to bridge digital divides,

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. *Expresses its continuing concern* that violations and abuses of the right to freedom of opinion and expression continue, often with impunity, and are facilitated and aggravated by the abuse of states of emergency, as well as unlawful or arbitrary surveillance and/or interception of communications, including through digital surveillance technologies;

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

4. *Strongly condemns* the threats, reprisals, harassment and violence against, both online and offline, and the targeting, criminalization, intimidation, arbitrary detention, torture, disappearance and killing of any individual, including journalists and other media workers, artists and cultural workers, human rights defenders, and all women and girls, 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. *Expresses its deep concern* at all forms of discrimination, intimidation, harassment and violence, both online and offline, that prevent women and girls from fully enjoying their human rights and fundamental freedoms, including the right to freedom of opinion and expression, the rights to freedom of peaceful assembly and of association and the right to privacy, in accordance with obligations under international law, which hinders their full, equal, effective and meaningful participation in economic, social, cultural and

political affairs and is an impediment to achieving gender equality and the empowerment of all women and girls;

6. *Stresses* that a democratic society depends on respect for human rights, including the right to 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;

7. *Underlines* that connectivity, access to information and communications technology, and the promotion of open and secure digital access and digital inclusion, including through digital, media and information literacy, are critical for the enjoyment of the right to freedom of opinion and expression and to bridge the digital divides;

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 right to freedom of opinion and expression, 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 all women's and girls' full enjoyment of the right to freedom of opinion and expression, both online and offline, without distinction or discrimination of any kind, and to counter all violence or threats of violence faced while exercising this right;

(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, such as prevention and protection mechanisms, to ensure their safety both online and offline, 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 strengthen measures to ensure that persons with disabilities can exercise the right to freedom of expression and opinion, including the freedom to seek, receive and impart information and ideas on an equal basis and through all forms of communication of their choice, including through the provision of affordable formats and technologies;

(f) To promote digital literacy among children and youth so that they can fully enjoy their right to freedom of opinion and expression and their right to education, including by providing children, youth and their guardians and/or caregivers with the knowledge and skills to safely handle a wide range of digital tools and resources, and to promote awareness among children, youth and their guardians and/or caregivers of the possible adverse consequences of exposure to risks relating to the Internet, including cyberbullying, trafficking, sexual exploitation and abuse, and other forms of violence;

(g) To respect the right to freedom of opinion and expression in the media, in particular editorial independence, 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 by promoting the economic sustainability of media, and to refrain from the use of imprisonment or the imposition of fines for offences relating to the media where such measures are disproportionate to the gravity of the offence, and to take note of the Windhoek+30 Declaration;

(h) To ensure that any limitations on the right to freedom of expression are only such as are provided by law and are necessary to ensure the respect of the rights and reputations of others, or for the protection of national security, or of public order, or of public health, including by ensuring that all measures taken to counter threats related to terrorism, and violent extremism and public health are in full compliance with international human

rights obligations, including the principles of lawfulness, legitimacy, necessity and proportionality;

(i) To underline the need to enable an online environment that is conducive to user safety and engagement by all, and addresses digital divides, especially for all women and girls, and individuals in vulnerable situations and/or belonging to marginalized groups, as well as the need for all people to have digital, media and information literacy skills, which are important for the full and equal economic and political participation of individuals without discrimination in an inclusive information society;

(j) To recognize that digital, media and information literacy includes risk awareness, digital security and self-protection training and guidance, and to acknowledge the particular risks of the digital age, including the particular vulnerability of journalists, other media workers and human right defenders to becoming targets of unlawful or arbitrary surveillance or interception of communications, in violation of their rights to privacy and to freedom of expression;

(k) To acknowledge that digital, media and information literacy includes fostering the knowledge and skills of individuals to discover, access, critically evaluate and disseminate information and communicate their views in various media and contexts to bridge digital divides and ensure equitable knowledge societies, and to note that these issues can be addressed by, among other things, improving people's competencies, including as part of lifelong learning;

(l) To strengthen partnerships among all stakeholders to build the capacity of women and girls, and individuals in vulnerable situations and/or belonging to marginalized groups, to fully participate in and enjoy the benefits of an inclusive information society, including through supporting digital, media and information literacy, and to expand the scope of education and training opportunities ranging from basic digital fluency to advanced technical skills;

(m) To support relevant efforts promoting the right to freedom of opinion and expression that strengthen the resilience of societies against the impact of disinformation and misinformation at all levels, including through digital, media and information literacy, education and inclusion;

(n) To recognize the importance of digital and information literacy in combating all forms of violence, hatred, discrimination and hostility, both online and offline, in accordance with international human rights law, including through the promotion of tolerance, education and dialogue;

(o) To refrain from imposing new restrictions, and to lift existing ones, on the free flow of information and ideas that are inconsistent with article 19 of the International Covenant on Civil and Political Rights, including through practices such as the use of Internet shutdowns and online censorship to intentionally 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, criminalization and censorship, and the restriction on access to or use of information and communications technology, inter alia radio, television and the Internet;

(p) To adopt, implement and, where necessary, reform laws, regulations, policies and other measures concerning personal data and privacy protection online in order to prevent, mitigate and remedy the arbitrary or unlawful collection, retention, processing, use or disclosure of personal data on the Internet that could violate human rights and deter individuals from the full exercise of their rights to freedom of opinion and expression;

9. *Stresses* that many States all over the world need support in expanding infrastructure, technological cooperation and capacity-building, including human and institutional capacity-building, to ensure the accessibility, affordability and availability of the Internet in order to bridge digital divides, to meet the Sustainable Development Goals and to ensure the full enjoyment of human rights;

10. *Encourages* all business enterprises, including technological intermediaries and social media platforms, to meet their responsibility to respect all human rights as stated

in the Guiding Principles on Business and Human Rights and in other applicable standards, including by actively contributing to initiatives aimed at fostering respect for freedom of opinion and expression, including through avenues for remedy and legal protection for users, and by ensuring the greatest possible transparency in their policies, standards and actions that have an impact on the freedom of opinion and expression, privacy and data protection, and to promote digital, media and information literacy and digital user safety as a way to empower all people and facilitate digital inclusion and global connectivity, while underlining the important role that international and multi-stakeholder cooperation can play in this regard;

11. *Encourages* business enterprises, including communications service providers, to work towards enabling solutions to secure and protect the confidentiality of digital communications and transactions, including measures for encryption, pseudonymization and anonymity, and to ensure the implementation of human rights-compliant safeguards, and calls upon States not to interfere with the use of such technical solutions with any restrictions thereon complying with States' obligations under international human rights law, and to enact policies that protect the privacy of individuals' digital communications;

12. *Reaffirms* that article 20 of the International Covenant on Civil and Political Rights provides that any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law;

13. *Requests* the Office of the United Nations High Commissioner for Human Rights, including in consultation with the United Nations Educational, Scientific and Cultural Organization and other relevant United Nations bodies, to convene at its fifty-third session a panel discussion, fully accessible to persons with disabilities, on the role of digital, media and information literacy in the promotion and enjoyment of the right to freedom of opinion and expression, open to the participation of States, members of civil society and business enterprises and relevant private sector organizations, technological intermediaries, including social media platforms, United Nations experts and other stakeholders, and also requests the Office of the High Commissioner to prepare a summary report on the panel discussion and present it to the Human Rights Council at its fifty-fourth session;

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