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**CIVIL AND POLITICAL RIGHTS**

**Australia\*, Austria\*, Belgium, Botswana\*, Canada, Cyprus\*, Czech Republic, Denmark\*, El Salvador\*, Estonia\*, Finland\*, Germany, Iceland\*, Ireland\*, Italy, Latvia, Liechtenstein\*, Lithuania\*, Luxembourg\*, Malta\*, Mexico, Netherlands\*, New Zealand\*, Norway, Peru, Poland, Portugal, Romania, Senegal, Slovakia\*, Slovenia\*, South Africa, Spain, Switzerland\*, United States of America, United Kingdom of Great Britain and Northern Ireland: draft resolution**

**2001/ ... The right to freedom of opinion and expression**

*The Commission on Human Rights,*

*Guided by the Universal Declaration of Human Rights, which affirms the right to freedom of opinion and expression,*

*Mindful of the International Covenant on Civil and Political Rights, which reaffirms, in article 19, 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 noting that these rights and freedoms are among those which give meaning to the right to participate effectively in a free society,*

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\* In accordance with rule 69, paragraph 3, of the rules of procedure of the functional commissions of the Economic and Social Council.

*Recalling* the Principles on Freedom of Information Legislation (The Public's Right to Know) (E/CN.4/2000/63, annex),

*Mindful* of the need to ensure that unjustified invocation of national security to restrict the right to freedom of expression and information does not take place,

*Recalling* the Johannesburg Principles on National Security, Freedom of Expression and Access to Information adopted by a group of experts meeting in South Africa on 1 October 1995 (E/CN.4/1996/39, annex),

*Noting* that restrictions on the exercise of the right to freedom of opinion and expression could indicate a deterioration in the protection, respect for and enjoyment of other human rights and freedoms,

*Considering* that the effective promotion and protection of the human rights of persons who exercise the right to freedom of opinion and expression are of fundamental importance to the safeguarding of human dignity,

*Deeply concerned* at numerous reports of detention, as well as discrimination, threats and acts of violence and harassment, including persecution and intimidation, against professionals in the field of information as well as other persons exercising their right to freedom of opinion and expression, including human rights defenders,

*Reaffirming* the need to raise awareness about all aspects of the interrelationship between the use and availability of new media of communication, including modern telecommunications technology, and the right to freedom of expression and information, and of the efforts made in this regard in a number of international and regional forums, and mindful of provisions of relevant instruments,

*Taking note* of the joint statement on racism and the media issued by the Special Rapporteur of the Commission, the Special Rapporteur on Freedom of Expression of the Organization of American States and the Representative on Freedom of the Media of the Organization for Security and Cooperation in Europe as a contribution to the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance,

*Recognizing* the positive contribution the exercise of the rights to freedom of expression and to freedom of information can make to the fight against racism, racial discrimination, xenophobia and related intolerance, and at the same time recognizing the importance of combating racism, racial discrimination, xenophobia and related intolerance while safeguarding freedom of opinion and expression,

*Deeply* concerned that for women there exists a gap between the right to freedom of opinion and expression, the right to information and the effective enjoyment of those rights, and that this gap contributes to inadequate action by Governments in the integration of the human rights of women into the mainstream of their human rights activities,

*Reaffirming* the important role of women in the prevention and resolution of conflicts and in peace-building, stressing the importance of their equal participation and full involvement in all efforts for the maintenance and promotion of peace and security, and recognizing that their contributions to these efforts are often constrained by the lack of full and effective enjoyment of their right to freedom of expression,

1. *Reaffirms* the rights contained in the International Covenant on Civil and Political Rights;

2. *Welcomes* the report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression (E/CN.4/2001/64 and Add.1) and welcomes in particular his ongoing and increasing cooperation with other thematic and country-specific mechanisms and with other organizations;

3. *Expresses its continuing concern* at the extensive occurrence of detention, long-term detention and extrajudicial killing, persecution and harassment, including through the abuse of legal provisions on criminal libel, of threats and acts of violence and of discrimination directed at persons who exercise the right to freedom of opinion and expression, including the right to seek, receive and impart information, 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, as well as at persons who seek to promote the rights affirmed in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights and seek to educate others about them, or who defend those rights and freedoms, including legal professionals and others who represent persons exercising those rights;

4. *Calls for* further progress towards the release of persons detained for exercising the rights and freedoms referred to in paragraph 3 of the present resolution, bearing in mind that each individual is entitled to the full enjoyment of all human rights and fundamental freedoms;

5. *Expresses its concern* at the number of cases in which the violations referred to in paragraph 3 of the present resolution are facilitated and aggravated by several factors such as abuse of states of emergency, exercise of the powers specific to states of emergency without formal declaration and too vague a definition of offences against State security;

6. *Recalls* that the International Covenant on Civil and Political Rights states that the exercise of the right to freedom of expression carries with it special duties and responsibilities and may therefore be subject to certain restrictions as set out in article 19 of the Covenant, encourages States to review their procedures and legislation 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 (*ordre public*) or of public health or morals;

7. *Also recalls* that the primary responsibility for promoting and protecting the right to freedom of opinion and expression rests with the State, notes with concern increasing reports of actions, as described in the report of the Special Rapporteur, which are having a negative impact on the ability of individuals and groups fully to enjoy their right to freedom of expression;

8. *Expresses its concern* that high rates of illiteracy continue to exist in the world, and reaffirms that education is an integral component of the full and effective participation of persons in a free society, in particular for the full enjoyment of the right to freedom of opinion and expression, and that the eradication of illiteracy is very important to the achievement of these goals and to the development of the human person;

9. *Urges* Governments to implement effective measures to eliminate the atmosphere of fear which often prevents women who have been victims of violence, either in domestic or community settings or as a result of armed conflict, from communicating freely on their own behalf or through intermediaries;

10. *Recognizes* that effective participation depends on the ability to express oneself freely and the freedom to seek, receive and impart information and ideas of all kinds, and urges Governments to facilitate the effective participation of women in decision-making levels in national, regional and international institutions, including in mechanisms for the prevention, management and resolution of conflicts;

11. *Invites once again* the working groups, representatives and special rapporteurs of the Commission on Human Rights to pay attention, within the framework of their mandates, to the situation of persons detained, subjected to violence, ill-treated, intimidated or discriminated against for having exercised the right to freedom of opinion and expression as affirmed in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and other relevant human rights instruments;

12. *Appeals* to all States:

(a) To ensure respect and support for the rights of all persons who exercise the right to freedom of opinion and expression, including the right to seek, receive and impart information regardless of frontiers, the rights to freedom of thought, conscience and religion, peaceful assembly and association and the right to take part in the conduct of public affairs, or who seek to promote and defend these rights and freedoms, and, where any persons have been detained, subjected to violence or threats of violence or to harassment, including persecution and intimidation, even after their release from detention, for exercising these rights as laid down in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and other relevant human rights instruments, to take the appropriate steps to ensure the immediate cessation of these acts and to create conditions under which these acts may be less liable to occur;

(b) To ensure that persons seeking to exercise these rights and freedoms are not discriminated against, particularly in such areas as employment, housing and social services, and in this context to pay particular attention to the situation of women;

(c) 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 freedom of opinion and expression and can be carried out without fear of legal, criminal or administrative sanction by the State;

(d) To cooperate fully with and assist the Special Rapporteur in the performance of his tasks and to provide all information necessary in order to permit him fully to carry out his mandate, including giving serious consideration to requests from the Special Rapporteur for in-country visits;

13. *Invites* States to submit to the Special Rapporteur comments on their programmes and policies with respect to access to information for the purposes of education on and prevention of HIV infection, and invites the Special Rapporteur, within the framework of his mandate, to consider these comments with a view to sharing best practices;

14. *Draws the attention* of Governments to the Principles on Freedom of Information Legislation (The Public's Right to Know) appended to the Special Rapporteur's previous report (E/CN.4/2000/63, annex II), welcomes the submission of comments on these Principles by several governments and invites other Governments to reflect upon them and to submit their comments to the Special Rapporteur;

15. *Urges* the Secretary-General to ensure that the practices of the United Nations system concerning access to information are consistent with Commission resolutions 1999/60 on public information and 1999/64 on human rights education, of 28 April 1999;

16. *Invites* the Special Rapporteur, within the framework of his mandate:

(a) To draw the attention of the United Nations High Commissioner for Human Rights to those situations and cases regarding freedom of opinion and expression which are of particularly serious concern to the Special Rapporteur, and encourages the High Commissioner, within her mandate, to take into account reports in this regard in the context of her activities to promote and protect human rights with a view to preventing the occurrence and recurrence of human rights violations;

(b) In cooperation with the Special Rapporteur on violence against women, its causes and consequences, to continue to pay particular attention to the situation of women and the relationship between the effective promotion and protection of the right to freedom of opinion and expression and incidents of discrimination based on sex, creating obstacles for women with regard to their right to seek, receive and impart information, to consider how these obstacles impede the ability of women to make informed choices in areas of particular importance to them, as well as in areas related to the general decision-making processes in the societies in which they live and to consider joint reports with the Special Rapporteur on violence against women;

(c) With a view to promoting greater efficiency and effectiveness, as well as enhancing his access to the information necessary for him to fulfil his duties, to continue his efforts to cooperate with other special rapporteurs, special representatives, independent experts, working groups, other United Nations mechanisms and procedures in the field of human rights, specialized agencies, including the United Nations Educational, Scientific and Cultural Organization, and regional intergovernmental organizations and their mechanisms and further to develop and extend his network of relevant non-governmental organizations, particularly at the local level, with a view to ensuring that he has the full benefit of all pertinent information from such non-governmental organizations;

(d) To consider approaches taken to access to information with a view to sharing best practices;

(e) To continue to provide his views, when appropriate, on the advantages and challenges of new information technologies, including the Internet, for the exercise of the right to freedom of opinion and expression, including the right to seek, receive and impart information and the relevance of a wide diversity of sources;

(f) To continue to seek the views and comments of the Governments and others concerned in the elaboration of his report, as well as to continue to carry out his work with discretion and independence;

17. *Stresses* the importance of a diversity of sources of information, including mass media, at all levels, and the importance of the free flow of information, as a way to promote full enjoyment of the freedom of opinion and expression;

18. *Looks forward* to the Special Rapporteur's submission to the United Nations High Commissioner for Human Rights in response to the request contained in paragraph 13 (g) of resolution 2000/38, to be presented as an official document to the Preparatory Committee for the World Conference at its second session as an effective contribution to the process, and encourages the Special Rapporteur to attend the World Conference in order fully to contribute to the proceedings arising from his mandate;

19. *Expresses once again* its concern at the inadequate resources, both human and material, provided to the Special Rapporteur, and accordingly reiterates its request to the Secretary-General to provide the assistance necessary to the Special Rapporteur to fulfil his mandate effectively, in particular by placing adequate human and material resources at his disposal;

20. *Requests* the Special Rapporteur to submit to the Commission at its fifty-eighth session a report covering activities relating to his mandate, and decides to continue its consideration of this question at that session.

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