

# 2008 Joint Declaration by the Four Special Mandates for Protecting Freedom of Expression

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This note reviews the Joint Declaration adopted by the four special IGO mandates for protecting freedom of expression – the UN Special Rapporteur on Freedom of Opinion and Expression, the 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 – on 10 December 2008 in Athens. This year’s Joint Declaration focuses on two key themes, namely defamation of religions and anti-terrorism legislation.

With the assistance of ARTICLE 19, Global Campaign for Free Expression, the three special mandates at the UN, OSCE and OAS have adopted a Joint Declaration every year since 1999. Since 2006 they have been joined by the Special Rapporteur of the ACHPR (see IRIS 2008-4: 2, IRIS 2007-2: Extra, IRIS 2006-3: 3, IRIS 2005-2: 2 and IRIS 2004-2: 6). Each year, the Joint Declaration focuses on different thematic issues. In the past, it has canvassed such issues as defamation, broadcast regulation, access to publicly-held information, secrecy laws, the Internet, openness of national and international public bodies and diversity in broadcasting.

The preamble of the 2008 Joint Declaration notes the importance in a democracy of both open debate, including about religions and other beliefs, and the right of all to be able to manifest their culture and religion. It distinguishes between criticism of a religion or belief, and attacks on individuals due to their adherence to that religion or belief, calling for restrictions on freedom of expression in this area to be limited to advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence, thereby echoing Article 20(2) of the International Covenant on Civil and Political Rights. The Declaration also expresses concern about blasphemy laws, noting that they are often abused to prevent legitimate criticism, while welcoming the fact that a growing number of countries have abolished such laws.

The Declaration expresses concern about recent resolutions on “defamation of religions” adopted by the UN Human Rights Council and the UN General Assembly (the latter adopted A/RES/63/171 on Combating Defamation of Religions on 18 December 2008). Support for these resolutions is waning in the UN, where they

were originally adopted without a vote (see Resolutions 1999/82 and 2000/84 of the UN Human Rights Commission, the Council's predecessor) while today the votes in favour number less than the sum of the votes against and abstentions (Res. 63/171 was adopted by a vote of 86 to 53, with 42 abstentions). Very significantly, the special mandates call on international organisations, including specifically the UN Human Rights Council and General Assembly, to stop adopting these resolutions, noting that the very concept of defaming a religion does not make sense.

The Declaration puts an emphasis on the positive relationship between respect for freedom of expression, on the one hand, and promoting equality and combating intolerance, on the other. It notes the importance of ensuring that different communities have access to the media to articulate their views and to satisfy their information needs. It also notes that underlying social problems of prejudice can only be addressed through open dialogue that exposes the harm caused by such prejudice.

The Joint Declaration similarly emphasises the positive contribution that freedom of expression can make to combating terrorism, as well as the right of the public to be informed about all matters of public concern, including those relating to terrorism. It also expresses concern about the proliferation of anti-terrorism and anti-extremism laws recently, and the frequent abuse of these laws to suppress political and critical speech.

The Declaration calls for the definition of terrorism to be restricted to violent crimes aimed at inflicting terror on the general public to promote ideological, religious, political or organised criminal objectives. Expression supporting terrorism should only be criminalised where it specifically calls on others to engage in terrorist acts and where such calls are causally responsible for increasing the risk of a terrorist act occurring. The Declaration criticises the use of vague notions - commonly found in current anti-terrorism laws - including terms such as providing communications support to terrorism, or 'glorifying' or 'promoting' terrorism, as well as criminalisation of the mere repetition of statements by terrorists, including by the media.

The Joint Declarations are not formally legally binding. However, as statements by leading official freedom of expression mandates, appointed by inter-governmental organisations, they provide an authoritative interpretation of the scope of international guarantees of freedom of expression. As such, they have proven invaluable to campaigners, lawyers, judges and decision-makers addressing freedom of expression issues.

***Joint Declaration by the UN Special Rapporteur on 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,  
10 December 2008***

<http://www.article19.org/pdfs/other/joint-declaration-on-defamation-of-religions-and-anti-terrorism-and-anti-ext.pdf>

