



**Economic and Social
Council**

Distr.
LIMITED

E/CN.4/2002/L.69
16 April 2002

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Fifty-eighth session
Agenda item 11 (c)

CIVIL AND POLITICAL RIGHTS: FREEDOM OF EXPRESSION

Albania*, Argentina, Australia*, Austria, Belgium, Bulgaria*, Canada, Côte d'Ivoire*, Cyprus*, Czech Republic, Denmark*, Ecuador, Estonia*, Finland*, France, Germany, Greece*, Guatemala, Hungary*, Iceland*, Ireland*, Italy, Japan, Liechtenstein*, Lithuania*, Luxembourg*, Malta*, Mexico, Netherlands*, New Zealand*, Norway*, Peru, Poland, Portugal, Romania*, Slovakia*, Slovenia*, Spain, Sweden, Switzerland*, Turkey*, United Kingdom of Great Britain and Northern Ireland, United States of America*, Venezuela, Yugoslavia*: draft resolution

2002/... 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

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

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,

Mindful also of the need to ensure that unjustified invocation of national security, including counter-terrorism, to restrict the right to freedom of expression and information does not take place,

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, bearing in mind that all human rights are universal, indivisible and interdependent and interrelated,

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 extrajudicial killings, detention, as well as discrimination, threats and acts of violence and harassment, including persecution and intimidation, often undertaken with impunity, 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,

Deeply concerned also at killings of and attacks on journalists in areas of armed conflict, and stressing the need to ensure respect for all human rights and fundamental freedoms as well as international humanitarian law, and to bring to justice those responsible for such attacks,

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 noting the efforts made in this regard in a number of international and regional forums, and mindful of provisions of relevant instruments,

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

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.4/2002/75 and Add.1 and 2) and welcomes in particular his ongoing and increasing cooperation with other thematic and country-specific mechanisms and with other organizations, and his efforts to promote respect for the right to freedom of opinion and expression;

3. *Expresses its continuing concern* at the extensive occurrence of detention, long-term detention and extrajudicial killing, torture, intimidation, persecution and harassment, including through the abuse of legal provisions on defamation and criminal libel as well as on surveillance, search and seizure, and censorship, 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, and calls on States to put an end to these violations and to bring to justice those responsible;

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, and 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. *Calls upon* States to refrain from imposing restrictions on criticism of government officials, policies or institutions, publication of information considered to be anti-patriotic, reporting on corruption in Government, collecting and disseminating dissident views or engaging in peaceful protests or opposition political activities, or expression of religious opinion and belief, which violate international human rights law;

8. *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;

9. *Calls upon* all States to respect all human rights and fundamental freedoms and calls on all parties to armed conflict to respect international humanitarian law, including their obligations under the Geneva Conventions of 12 August 1949 and the two Additional Protocols thereto of 8 June 1977, whose provisions extend protection to journalists in situations of armed conflict; urges all States and parties to armed conflict to protect media professionals; urges States to refrain from imposing restrictions on journalists in areas of armed conflict which violate international human rights law; and requests the Special Rapporteur to recommend steps that can be taken to protect journalists better in armed conflict;

10. *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 for the achievement of these goals and for the development of the human person;

11. *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;

12. *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 right to freedom of opinion and expression, and encourages the facilitation of access to the Internet;

13. *Urges* Governments to respect freedom of expression in the media and broadcasting, and in particular to ensure the editorial independence of the media from government influence or control, to encourage a diversity of sources of information, including through transparent licensing processes and effective rules on undue concentration of ownership of the media, and to refrain from imposing restrictions on the free flow of information and ideas, including refraining from practices such as banning, closing, or seizing publications or other media and the abuse of administrative measures and censorship which violate international human rights law;

14. *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 at decision-making levels in national, regional and international institutions, including in mechanisms for the prevention, management and resolution of conflicts;

15. *Urges* States to refrain from imposing restrictions on access to or use of modern telecommunications technologies, including radio, television and the Internet, which violate international human rights law;

16. *Recognizes* the positive contribution that the exercise of the right to freedom of expression, particularly by the media, and new technologies, including the Internet, and full respect for the freedom to seek, receive and impart information, can make to the fight against

racism, racial discrimination, xenophobia and related intolerance, but expresses regret about the promotion by certain media of false images and negative stereotypes of vulnerable individuals or groups of individuals and about the use of new information technologies such as the Internet for purposes contrary to respect for human values;

17. *Affirms* the vital importance for the promotion and protection of the right to freedom of opinion and expression of compliance by each State with its obligations as assumed under the International Convention on the Elimination of All Forms of Racial Discrimination, including article 4 thereof;

18. *Invites once again* the working groups, representatives and special rapporteurs of the Commission 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;

19. *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, including by ensuring that relevant national legislation complies with their international human rights obligations and is effectively implemented;

(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 right to freedom of opinion and expression and can be carried out without threat of legal, criminal or administrative sanction by the State, and to refrain from the use of imprisonment or the imposition of fines for offences relating to the media which are disproportionate to the gravity of the offence and which violate international human rights law;

(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, to follow up communications received and to consider implementing relevant recommendations of the Special Rapporteur;

20. *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 human immunodeficiency virus (HIV) infection, expresses its appreciation to States which have already done so and invites the Special Rapporteur, within the framework of his mandate, to consider these comments with a view to sharing best practices;

21. *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;

22. *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 the right to 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;

23. *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, including for the translation and dissemination of his reports;

24. *Decides* to extend the mandate of the Special Rapporteur for a further three years;

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