



Human Rights Council

Resolution 7/36. Mandate of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression

The Human Rights Council,

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,

Mindful also that article 19 of the International Covenant on Civil and Political Rights provides 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, but that these shall be only such as are provided by law and are necessary for respect of the rights or reputations of others, or for the protection of national security or of public order (*ordre public*), or of public health and morals, and that article 20 provides that any propaganda for war or advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law,

Reaffirming resolution 2005/38 on freedom of opinion and expression adopted by the Commission on Human Rights on 19 April 2005, and recalling all its previous resolutions on this issue,

Recognizing that the exercise of the right to freedom of opinion and expression is one of the essential foundations of a democratic society; is enabled by a democratic

environment which, inter alia, offers guarantees for its protection; is essential to full and effective participation in a free and democratic society; and is instrumental to the development and strengthening of effective democratic systems,

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

Deeply concerned that violations of the right to freedom of opinion and expression continue to occur,

Stressing the need to ensure that invocation of national security, including counter-terrorism, is not used unjustifiably or arbitrarily to restrict the right to freedom of opinion and expression,

Stressing also the importance of full respect for the freedom to seek, receive and impart information, including the fundamental importance of access to information, to democratic participation, to accountability and to combating corruption,

Recognizing the importance of all forms of media, including the print media, radio, television and the Internet, in the exercise, promotion and protection of the right to freedom of opinion and expression, and also the importance for all forms of media to report and to deliver information in a fair and impartial manner,

Bearing in mind paragraph 6 of General Assembly resolution 60/251 of 15 March 2006,

Recalling Council resolutions 5/1 entitled “Institution-building of the United Nations Human Rights Council” and 5/2 entitled “Code of Conduct for Special Procedures Mandate-holders of the Human Rights Council” and stressing that the mandate-holder shall discharge his/her duties in accordance with these resolutions and the annexes thereto,

1. *Reaffirms* the right of everyone to hold opinions without interference, as well as the right to freedom of expression, 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;

2. *Takes note with appreciation* of the reports of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression (E/CN.4/2006/55, A/HRC/4/27 and A/HRC/7/14), invites all relevant actors to consider the recommendations contained therein, and welcomes his important contribution to the promotion and protection of the right to freedom of opinion and expression, in particular his ongoing and increasing cooperation with other mechanisms and organizations;

3. *Decides* to extend for a further three years the mandate of the Special Rapporteur whose tasks will be:

(a) To gather all relevant information, wherever it may occur, relating to violations of the right to freedom of opinion and expression, discrimination against, threats or use of violence, harassment, persecution or intimidation directed at persons seeking to exercise or to promote the exercise of the right to freedom of opinion and expression, including, as a matter of high priority, against journalists or other professionals in the field of information;

(b) To seek, receive and respond to credible and reliable information from Governments, non-governmental organizations and any other parties who have knowledge of these cases;

(c) To make recommendations and provide suggestions on ways and means to better promote and protect the right to freedom of opinion and expression in all its manifestations;

(d) To contribute to the provision of technical assistance or advisory services by the Office of the United Nations High Commissioner for Human Rights to better promote and protect the right to freedom of opinion and expression;

4. *Requests* the Special Rapporteur, within the framework of his/her mandate:

(a) To draw the attention of the Council and 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;

(b) To integrate the human rights of women and a gender perspective throughout the work of his/her mandate;

(c) With a view to greater efficiency and effectiveness in promoting and protecting the right to freedom of opinion and expression, to continue his/her efforts to cooperate with other relevant United Nations bodies, including the High Commissioner for Human Rights, the human rights treaty bodies, special procedures and mechanisms, specialized agencies, funds and programmes, regional intergovernmental organizations and their mechanisms, and national human rights institutions, and to develop and extend his/her network of relevant non-governmental organizations, particularly at the local level;

(d) To report on instances in which the abuse of the right of freedom of expression constitutes an act of racial or religious discrimination, taking into account articles 19 (3) and 20 of the International Covenant on Civil and Political Rights, and general comment No. 15 of the Committee on the Elimination of All Forms of Racial Discrimination, which stipulates that the prohibition of the dissemination of all ideas based upon racial superiority or hatred is compatible with the freedom of opinion and expression;

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

(f) To continue to provide his/her views, when appropriate, on the advantages and challenges of new information and communication technologies, including the Internet and mobile technologies, 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, as well as access to the information society for all;

5. *Calls upon* all States to cooperate fully with and assist the Special Rapporteur in the performance of his/her tasks, to provide all necessary information

requested by him/her, to react promptly to his/her urgent appeals and other communications and to consider favourably his/her requests for visits and for implementing his/her recommendations so that he/she may carry out his/her mandate more effectively;

6. *Invites* the United Nations High Commissioner for Human Rights, relevant special procedures of the Council and the human rights treaty bodies to pay attention, within the framework of their mandates, to the situation of persons whose right to freedom of opinion and expression has been violated with a view to avoiding unnecessary duplication;

7. *Requests* the Secretary-General to provide the assistance necessary to the Special Rapporteur to fulfil his/her mandate effectively, in particular by placing adequate human and material resources at his/her disposal;

8. *Requests* the Special Rapporteur to submit each year to the Council a report covering activities relating to his/her mandate;

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

*42nd meeting
28 March 2008*

Adopted by a recorded vote of 32 to none, with 15 abstentions. The voting was as follows:

In favour: Angola, Azerbaijan, Bangladesh, Bolivia, Brazil, Cameroon, China, Cuba, Djibouti, Egypt, Gabon, Ghana, India, Indonesia, Jordan, Madagascar, Malaysia, Mali, Mauritius, Mexico, Nicaragua, Nigeria, Pakistan, Peru, Qatar, Russian Federation, Saudi Arabia, Senegal, South Africa, Sri Lanka, Uruguay, Zambia.

Abstaining: Bosnia and Herzegovina, Canada, France, Germany, Guatemala, Italy, Japan, Netherlands, Philippines, Republic of Korea, Romania, Slovenia, Switzerland, Ukraine, United Kingdom of Great Britain and Northern Ireland.