

Declaration on Media Freedom in the Arab World

Preamble

Reaffirming that freedom of expression, which includes media freedom, is a fundamental human right which finds protection in international and regional human rights instruments, including the *Universal Declaration of Human Rights*, the *International Covenant on Civil and Political Rights*, the *Arab Charter on Human Rights* and the *Sana'a Declaration on Promoting Independent and Pluralistic Arab Media*, as well as almost every national constitution;

Supporting the aspirations of the people living in the Arab World to the full enjoyment of their democratic and human rights;

Noting that there are various mechanisms in the Arab World which have a mandate to promote respect for human rights, including media freedom, such as the Permanent Arab Commission on Human Rights of the League of Arab States, the Arab Human Rights Committee, created by the *Arab Charter on Human Rights*, the Arab Inter-parliamentary Union and the Arab Network for National Human Rights Institutions;

Mindful of the positive role played by special international mandates on freedom of expression or media freedom that exist at the global level and in several regions of the world, and of the useful role that such a mechanism could play within the Arab World if it was independent and was empowered to undertake similar activities to these other mandates;

Emphasising that media freedom and independent journalism is important in its own right, and also as a core underpinning of democracy and an indispensable means of ensuring respect for other human rights;

Welcoming the reforms that have been introduced in a number of Arab countries in recent years which enhance respect for media freedom and independent journalism, while also noting that much remains to be done to ensure robust respect for this right in many countries in the Arab World and to align laws and practices in Arab countries with international standards;

Believing that respect for media freedom, independent journalism and the right to information will foster public participation and good governance, as well as sustainable development and economic growth, and noting that the UN Sustainable Development Goals 2030 reflect this by including a target on ensuring public access to information and protecting fundamental freedoms;

Aware of the key role which the print, broadcast and online media can play in giving effect to the wider right to freedom of expression, in ensuring that people have access to both the information they need and opportunities to voice their views and concerns, in exposing corruption and other forms of wrongdoing, in promoting democracy and good governance, and in combating all forms of hatred and discrimination;

Stressing the significant changes to the communications environment brought about by constantly evolving digital information and communication technologies and the potential of

these technologies to democratise communications and to prevent the control of information by the powerful;

With the goal of enhancing respect for media freedom and independent journalism in the Arab World;

We [who this is will need to be spelt out in due course] adopt this Declaration on Media Freedom in the Arab World.

Part I: General Principles

Principle 1: Scope and Nature of the Right to Freedom of Expression

- a. Freedom of expression, including media freedom, is a fundamental human right which includes the right to seek, receive and impart information and ideas of all kinds, through any means of communication, including across frontiers.
- b. Freedom of expression both limits the power of States to restrict media freedom and places a positive obligation on States to create an environment in which the free flow of information and ideas can flourish (including media diversity).
- c. Freedom of expression is not an absolute right, but any restriction on this right conform to the three-part test:
 - i. provided for by a clear, precise and accessible law;
 - ii. serve to protect one of the following interests: the rights or reputations of others, national security, public order (*ordre public*), public health or public morals; and
 - iii. be necessary in the sense that it serves a pressing social need, it is the least intrusive measure which will be effective in protecting that interest, it is not overbroad and it is proportionate.

Principle 2: The Right to Information

- a. The right to information – the right to access information held by public authorities – is an integral part of the right to freedom of expression and an important complement to media freedom.
- b. This right should be guaranteed as a constitutional right and given effect through legislation which is in line with the following principles:
 - i. Everyone has a right to access information held by all public authorities, broadly defined to include all three branches of government, statutory bodies, bodies which are owned, controlled or substantially financed by public bodies, and bodies which undertake public functions.
 - ii. Clear procedures should be put in place for the making and processing of requests for information which do not create undue barriers to requests, including by requiring the timely provision of information and by not imposing unreasonable charges for providing information .
 - iii. Public authorities should be required to publish a wide range of information of public interest on a proactive basis.
 - iv. Exceptions should be clearly and narrowly defined, and apply only where release of the information would pose a definite risk of harm which outweighs the overall public interest in accessing the information. Where there is a

conflict between the right to information law and a secrecy law, the former should prevail.

- v. Any refusal to disclose information should be subject to appeal before an independent administrative body and then before the courts.
 - vi. There should be sanctions for officials who wilfully obstruct access to information.
- c. Individuals who expose wrongdoing, serious maladministration or other threats to public interests should be protected against sanction as long as they reasonably believed that the information was true and exposed wrongdoing.
 - d. Secrecy laws should be amended as needed to bring them into line with the standards on exceptions set out in Principle 2(b)(iv).

Principle 3: Safety

- a. Different stakeholders have a role to play in ensuring the safety of those exercising their right to media freedom, including citizen journalists and bloggers, as recognised in the UN Plan of Action on the Safety of Journalists and the Issue of Impunity.
- b. States have the following obligations:
 - i. To provide protection to those who are at risk of being attacked, whether directly or indirectly, in retaliation for exercising their right to freedom of expression or in the context of reporting in dangerous situations, such as demonstrations or conflict zones.
 - ii. To ensure that rapid and effective investigations take place when attacks do occur or are threatened, so as to be able to bring the perpetrators to justice, as part of their efforts to combat impunity.
 - iii. To provide compensation to the victims in appropriate cases.
 - iv. To provide training to police and other security personnel on the standards which apply regarding media coverage of demonstrations and other potentially dangerous public events.
- c. Other actors – including media outlets and journalists unions – have a role to play in ensuring that journalists receive appropriate training and equipment to enhance their ability to protect themselves in dangerous situations.
- d. Safety goes beyond physical safety and relevant actors should take steps to ensure that media workers benefit from adequate wages and social security benefits.

Principle 4: Awareness

- a. Measures should be taken to ensure that adequate educational and training opportunities are available for both male and female media workers.
- b. Efforts should be made to promote media and information literacy among the general public, including in relation to social media.

Part II: Restrictions on Content

Principle 5: Criminal Measures

- a. States should not establish new criminal restrictions on content unless these can be shown to be genuinely necessary as defined in Principle 1(c)(3), and should exercise careful restraint in applying any restrictions which are in place.

- b. States should repeal or amend any criminal restrictions on content which do not conform to the three-part test for restrictions on freedom of expression noted in Principle 1(c); any special criminal content restrictions for the media, such as those found in some press and broadcasting laws, should be repealed.
- c. Restrictions which are justified on the grounds of protecting national security should be drafted in a clear and narrow manner so as to apply only to expression which poses a real risk of harm to the ability of the State to defend itself from attack.

Principle 6: Protecting Reputations

Laws which are designed to protect reputations should conform to the following principles:

- i. They should be civil rather than criminal in nature.
- ii. They should protect individuals and private parties, and not State or public institutions.
- iii. There should be adequate defences to an allegation of defamation, including that the statement was true or that the statement related to a matter of public concern which it was, in all of the circumstances, reasonable to make.
- iv. Politicians and other public figures should be required to tolerate a greater degree of criticism than ordinary citizens, including by having to prove that any allegations about them regarding matters of public concern are false.
- v. Sanctions for defamation should never be disproportionate to the harm done.

Principle 7: Protecting Privacy

Laws should be in place to protect privacy which are in line with the following principles:

- i. They provide adequate protection to, among other things, communications privacy.
- ii. Mass surveillance of communications and the mass retention of personal data for law enforcement or security purposes are inherently disproportionate; surveillance and data retention should be conducted only on a case-by-case basis, as justified by a law enforcement or security need.
- iii. Conflicts between privacy and freedom of expression should be resolved by applying an overall public interest balancing test.

Principle 8: Hate Speech and Intolerance

- a. States should put in place laws which prohibit the dissemination of statements which represent “advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence” in accordance with Article 20(2) of the *International Covenant on Civil and Political Rights*.
- b. The media has a professional, ethical and social responsibility to combat hatred, intolerance and sectarianism, including through accurate, objective reporting.

Part III: Regulation of the Means of Communication

Principle 9: Roles of Different Actors

- a. The exercise of regulatory powers over the means of communication – including the print and broadcast media, and online communications – should be exercised only by bodies

which are protected against interference of a political or economic nature, including through the manner in which members of the governing boards of these bodies are appointed.

- b. States should promote a general economic environment in which the media can flourish, and adopt clear rules on public transparency in relation to ownership of the media.
- c. There should be clear criteria for the placement of public advertising and public authorities should never use their power over this as a means to influence media content.

Principle 10: Journalists

- a. It is not for governments to decide who is and who is not a journalist and there should be no formal, legal restrictions on who may practise journalism.
- b. Freedom of association is a fundamental human right and journalists have the right to choose freely which associations, syndicates or unions they belong to and should not be required to belong to any particular association or union, noting that the experience of the international trade union movement shows that its strength lies in its unity and solidarity.
- c. Journalists have the right to protect the secrecy of their confidential sources of information.
- d. Systems for issuing professional or press cards to or accrediting journalists should not be used to limit access to the profession.

Principle 11: Public Media

- a. All publicly-owned media should be protected against political interference, enjoy editorial, as well as managerial and financial, independence, and be accountable to the public rather than to the government or any other political actor. This should be achieved, among other things, by vesting overall oversight of these media in an independent governing board, while leaving editorial decisions in the hands of the employees.
- b. Publicly-owned media should have a formal mandate to operate in the public interest, and serve all segments of society, including women, youth and marginalised groups, and benefit from sufficient public funding to be able to discharge that mandate effectively, provided in a manner which does not allow for interference in their operations.

Principle 12: Regulation of the Print Media

Print media should not be required to obtain a licence to operate and any registration system for the print media should not allow for political or other forms of interference, or impose undue barriers, including excessive fees, to establishing a print media outlet.

Principle 13: Regulation of Broadcasters

- a. States have an obligation to promote a diverse broadcasting sector, including through an equitable allocation of licences and frequencies to the three types of broadcasters – public, commercial and community – and by putting in place rules to prevent undue concentration of ownership of the media.
- b. Licensing processes should be fair, including by not imposing excessive fees, and transparent and should, among other things, promote diversity in broadcasting. Applicants should have a right to appeal to the courts against any refusal to grant a broadcasting licence.

Principle 14: Regulation of the Internet

- a. The Internet should not be subject to special forms of regulation beyond those which otherwise apply, for example to telecommunications companies providing Internet access.
- b. Great caution should be exercised when establishing new crimes relating to the Internet. These should not duplicate laws of general application – for example relating to defamation – and should only be introduced to address new crimes which are specially enabled by the Internet (such as cybercrime).
- c. The Internet should never be subject to general filtering or blocking measures or other forms of State censorship.
- d. Everyone, including journalists, should have the right to use encryption tools to protect the privacy of their communications.
- e. States have a positive obligation to promote greater access to the Internet including for poor and marginalised communities, and access to the Internet should never be cut off for whole populations or segments of the public (shutting down the Internet).

Principle 15: Complaints and Self-Regulation

- a. Members of the public should have access to a system of complaints regarding the print and broadcast media.
- b. Different types of complaints systems – including self-regulatory, co-regulatory and statutory systems – may be legitimate, depending on the situation and the type of media, but self-regulatory systems, run by independent sector bodies, are the best approach where they exist and are effective, and complaints systems should never be overseen by the executive or bodies which are subject to executive control.
- c. Complaints should be assessed based on pre-established codes of conduct, which have been developed after consultation with all interested stakeholders.
- d. Complaints systems should aim to protect the public and to promote professionalism rather than to punish media outlets and, to this end, sanctions for breach of the rules should always be proportionate in.

Principle 16: Equality

Equality between men and women, as well as for minorities and marginalised groups, is a fundamental principle that should be supported in media workplaces in the following ways:

- i. Through legal guarantees for equal pay for equal work and equal access to employment opportunities, including promotion to senior decision-making positions.
- ii. Through collective contracts that offer flexible working hours and adequate parental leave.
- iii. Through media outlets providing safe working environments for women and protection to women journalists against sexual harassment, intimidation, bullying and violence.