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FREEDOM OF EXPRESSION AND THE RIGHT TO INFORMATION

***Revised preliminary draft resolution submitted by the co-Rapporteurs
Mr. Karupiya Malaisamy (India) and Mr. Andrew Dismore (United Kingdom)***

The 120th Assembly of the Inter-Parliamentary Union,

- (1) *Recalling* Article 19 of the Universal Declaration of Human Rights (1948), "Everyone has the right to freedom of opinion and expression",
- (2) *Further recalling* Article 19 of the International Covenant on Civil and Political Rights (1966),
- (3) *Taking note* of Article 10 of the European Convention on Human Rights,
- (4) *Taking note* of Article 13 of the American Convention on Human Rights,
- (5) *Taking note* of Article 9 of the African Charter on Human and Peoples' Rights,
- (6) *Welcoming* the Chapultepec Declaration adopted by the Hemisphere Conference on Free Speech (1994),
- (7) *Welcoming* the Aarhus Convention (1998) adopted by the Member States of the UN Economic Commission for Europe and the European Union,
- (8) *Noting* the 1998 Report of the UN Special Rapporteur on the protection and promotion of the right to freedom of opinion and expression,
- (9) *Noting* the 1999 and 2004 Joint Declarations of the UN Special Rapporteur on the right to freedom of opinion and expression, the Organisation for Security and Co-operation in Europe (OSCE) Representative on Freedom of the Media and the Organization of American States (OAS) Special Rapporteur on Freedom of Expression,
- (10) *Noting* the 2002 African Commission on Human and Peoples' Rights (ACHPR) Declaration of Principles on Freedom of Expression in Africa,

(11) *Recalling* the May 2005 IPU Seminar on Freedom of Expression, Parliament and the Promotion of Tolerant Societies,

(12) *Noting* the 2006 Joint Declaration of the UN Special Rapporteur on the right to 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 in Africa,

(13) *Believing* that access to information is an essential tool for strengthening government accountability, transparency and adherence to the rule of law,

(14) *Recognizing* the importance of freedom of expression and access to information in a democratic society for ensuring accountability, checking corrupt practices and enhancing good governance,

(15) *Recognizing also* that freedom of expression should not be used to spread or advocate hatred based on nationality, race or religion, thereby inciting discrimination, hostility or violence,

(16) *Expressing concern* that in some parts of the world, citizens are not sufficiently informed about their rights concerning freedom of expression and access to information,

(17) *Expressing further concern* that in some parts of the world illiteracy may affect citizens' ability to exercise their rights to access to information and their freedom of expression,

(18) *Urging* governments to inform their citizens of their legal rights, including freedom of expression and access to information,

(19) *Concerned*, however, by the fact that certain media, notably computer systems, can be used ill-advisedly or abusively to spread racist or xenophobic propaganda,

(20) *Convinced* of the need to strike a healthy balance between freedom of expression on the one hand and the fight against incitement to hatred based on race, gender, religion or nationality and against affronts to human dignity and the protection of minors on the other,

(21) *Considering* that education and literacy are prerequisites of exercising the right to information,

(22) *Aware* that the relevance of people's right to access to information takes on greater importance today more than ever since modern democracy embraces a wider and more direct concept of accountability,

1. *Believes* that freedom of expression and freedom of information are fundamental to a democratic society;
2. *Underscores* that freedom of expression, freedom of the press, and freedom of religion are precious to democracy and need to be equally safeguarded and considered as a fundamental part of one's identity;
3. *Welcomes* the expansion among States of freedom of information rights;

4. *Welcomes also* the efforts of international institutions and organizations aimed at protecting freedom of expression and the right to information;
5. *Encourages* those parliaments that have not already done so to enact freedom of information legislation at the earliest opportunity;
6. *Urges* parliaments to adopt the legislative measures needed to criminalize under their domestic law incitement to hatred based on race, gender, religion or nationality; affronts to human dignity; and the dissemination or transmission of child pornography through any medium or computer system;
7. *Expresses concern* at restrictions imposed on and victimization of members of parliament, journalists and other opinion shapers in exercising the right of freedom of expression;
8. *Urges* parliaments to ensure that only restrictions on freedom of expression that are absolutely necessary to protect the rights of others and provided for by law are allowed, and that any regulatory regime operates in this context;
9. *Recognizes* that freedom of expression and access to information may need to be restricted during exceptional circumstances to protect the public interest or safety, such as during times of war, but stresses that such restrictions ought to be strictly limited in scope and duration by law;
10. *Expresses its concern* about the concentration of media ownership leading to the marginalization of the right to express unconventional views or views that are not in the mainstream;
11. *Believes* that plurality of media and public-interest broadcasters should be encouraged by parliaments as being essential to freedom of expression;
12. *Urges* the media to exercise their freedom of expression judiciously in all circumstances, particularly during armed conflict, counter-terrorism operations and in other similar situations;
13. *Calls for* an international dialogue to respond to the challenge of fair regulation of the Internet to ensure that it constitutes a democratic medium of expression without interfering with the legitimate rights of others;
14. *Calls on* parliaments to ensure that education is made compulsory and free until the end of secondary school (up to about age 16) and that adult literacy become a widespread practice;
15. *Underscores* the importance of people's right to access information about other religions and the right to convert to another religion without being banned or punished by society;
16. *Believes* that freedom of information is essential to full enjoyment of the right of freedom of expression and meaningful participation in a democratic society;

17. *Requests* the IPU to encourage the exchange of experiences and good practices in the development of the right to freedom of information;
18. *Encourages* the development of freedom of information beyond State actors to encompass significant private-sector companies and bodies;
19. *Believes* that whistleblowers should be protected by law, if acting in the public interest;
20. *Considers* that the basic principle should be in favour of disclosure, with narrowly defined restrictions permissible only in the public interest, or to protect the personal data of individuals;
21. *Urges* parliaments to work with their respective governments to eliminate the barriers to an effective freedom of information regime, including, but not limited to: public awareness, adequate resources, limiting exceptions, effective guidelines, eliminating delays and excessive fees, an independent regulatory regime with sufficient powers to enforce compliance, and to encourage an attitude among public servants of openness rather than unnecessary secrecy.