

Commonwealth Principles on Freedom of Expression and the Role of the Media in Good Governance (as revised by the Member Country Expert Working Group)

Emphasising our commitment to the values and principles set out in the Commonwealth Charter and other Commonwealth statements, including the Singapore Declaration of Commonwealth Principles, the Harare Commonwealth Declaration, the Millbrook Action Programme, the Latimer House Principles, and the Trinidad and Tobago Affirmation of Commonwealth Values and Principles,

Reaffirming our core Commonwealth principles of consensus and common action, mutual respect, inclusiveness, transparency, accountability, legitimacy, and responsiveness,

Reiterating our commitment to peaceful, open dialogue and the free flow of information, including through a free and responsible media, and to enhancing democratic traditions and strengthening democratic processes,

Reaffirming that freedom of expression is a cornerstone of democratic societies and essential to good governance and the promotion of transparency, accountability and the rule of law,

Underlining that freedom of expression, online as well as offline, is important for the enjoyment of all human rights, including the right to development, and fundamental to achieving the Sustainable Development Goals, including Goal 16 to promote just, peaceful and inclusive societies,

Acknowledging the critical role of accurate, reliable and accessible information, especially in times of crisis, conflict and emergencies such as that of the Covid-19 pandemic,

Recognising the particular risks and vulnerabilities faced by journalists and media workers, and the specific risks faced by women journalists on account of their gender,

Emphasising the need to ensure a safe and enabling environment for journalists and media workers,

Acknowledging that journalism is continuously evolving to include new forms of media and that media consumption is increasingly online,

Recognising the importance of full cooperation with international mechanisms and processes, such as international and regional rapporteurs, UN treaty body reporting and the UN Human Rights Council's Universal Periodic Review, and UN agencies, such as UNESCO, to advancing the achievement of the Sustainable Development Goals,

Reaffirming the important role that civil society plays in our communities and countries as partners in promoting and supporting Commonwealth values and principles, including democracy, human rights and good governance,

Welcoming, in the spirit of partnership, the valuable contribution made by the Commonwealth Journalists Association, the Institute of Commonwealth Studies, the Commonwealth Lawyers Association, the Commonwealth Legal Education Association, the Commonwealth Human Rights Initiative and the Commonwealth Parliamentary Association,

which together initiated the process of drafting a set of principles on freedom of expression and the role of the media in good governance,

Having resolved to adopt the following Commonwealth Principles on Freedom of Expression and the Role of the Media in Good Governance for effective implementation by member countries of the Commonwealth, in accordance with the laws and customs of each country.

1. Freedom of expression

Freedom of expression is a cornerstone of democracy and underpins good governance, public accountability and respect for all human rights. Everyone has the right to freedom of expression, which includes the right to seek, receive and impart information and ideas of all kinds through any media and regardless of frontiers. Member states should respect the right to freedom of expression and promote the free flow of information and ideas.

2. Restrictions on freedom of expression

Any restrictions on freedom of expression should be in accordance with standards established in international human rights law. Restrictions such as those which are essential to prevent incitement to violence, hatred or discrimination, should be prescribed by law, and necessary in pursuit of a legitimate aim.

Member states should consider repealing or amending laws which unduly restrict the right to freedom of expression. Where criminal sanctions are prescribed by law in respect of defamation, those laws should provide that such sanctions are only applied in instances of serious offences and are necessary and proportionate. Member states should ensure that their laws do not provide for excessive or disproportionate damages in civil defamation cases and that civil proceedings are not used frivolously or vexatiously. Member states should ensure that their defamation laws provide for defences based on truth and public interest.

Member states should ensure that their laws provide for the qualified journalistic privilege not to disclose journalists' sources unless ordered by an independent and impartial judicial or other authority. Journalists' sources should always be protected unless such an authority has accepted that the public interest in disclosure outweighs protection. The rights of whistle-blowers should be protected by appropriate legislation.

3. Access to information

Access to information held by public bodies is key to promoting transparency, good governance and full participation in the democratic process. Member states should enact and implement right to information legislation in line with international standards, taking account of the Commonwealth Freedom of Information Principles which were endorsed by Commonwealth Law Ministers and noted by Heads of Government in Durban in 1999. Laws which provide for official secrecy in matters of national security should be in accordance with relevant obligations under international human rights law and apply only where unauthorised disclosure poses a demonstrable risk of serious harm to national security.

4. Parliaments, legislatures and the media

Open, two-way flows of information between Parliaments, legislatures and the media and the public are essential to enfranchise the public and ensure that legislators are informed about public opinion. Parliaments, legislatures and legislators should protect the right to freedom of expression and respect the role of the media in informing the public and holding elected governments to account. Parliaments and legislatures should facilitate media coverage of their proceedings and provide journalists with information without unreasonable restrictions. Parliaments and legislatures should respect the right of individuals and of the media to comment on their actions and performance. Criminal and defamation laws should not be used to restrict legitimate criticism of Parliaments and legislatures.

5. Judiciaries, courts and the media

The rule of law, including the independence of the judiciary, is essential to uphold the right to freedom of expression, other human rights and the democratic process. Member states should ensure their laws promote open justice and do not unduly restrict media access to the courts or the reporting of proceedings. Member states should ensure their laws protect the judiciary from threats or acts of violence, abuse and other forms of intimidation. The criminal law and contempt proceedings should not be used to restrict legitimate discussion of matters concerning the judiciary and the courts. Media have a responsibility not to undermine the authority or independence of the judiciary, not to prejudice or interfere with pending court proceedings, and to communicate judicial decisions to the public fairly and accurately.

6. The role of the media in elections

The media play an essential role in the democratic process, especially during times of elections and referenda. All relevant public bodies should promote and respect this role. Free, fair and credible elections are possible only where the electorate is well-informed about election matters and has access to accurate, sufficient, diverse and pluralistic information, including election procedures, key electoral issues, and positions of candidates and parties. Where key electoral information is available, this should be proactively disclosed. All political parties and candidates should have access to the media in an equitable way.

7. The safety of journalists and media workers

The safety of journalists and media workers is essential to preserve the fundamental right to freedom of expression. Threats or acts of violence, abuse, harassment or other forms of intimidation, including sexual and gender-based violence against women journalists and media workers, curtail freedom of expression and undermine public trust in, and the credibility of, journalism.

Member states should put in place effective laws and measures to establish a safe and enabling environment for journalists and media workers to work without fear of violence,

abuse, intimidation, discrimination or interference, including online. Member states should take prompt measures to protect journalists and media workers when they face a serious threat of harm or are subject to violence. Protection should extend not only to professional journalists and media workers but also to bloggers and others who engage in forms of self-publication in print, on the internet or other media. Member states should ensure that state organs and agents, in particular law enforcement officers and military personnel, promote and respect international human rights and humanitarian law obligations relating to the safety of journalists and their protection as civilians in situations of conflict. Media owners should provide their employees with adequate training, equipment and support to operate in dangerous environments and appropriate assistance in emergencies.

8. Ending impunity

Member states should act decisively to end impunity through impartial, prompt and effective investigations into all alleged cases of killings, attacks and ill-treatment of journalists and media workers, by prosecutions to bring the instigators and perpetrators of such crimes to justice and by the provision of effective redress for the victims. Member states should uphold United Nations resolutions on the safety of journalists and the issue of impunity, implement the UN Plan of Action and cooperate with requests from UNESCO's Director-General for information on judicial follow-up to the killing of journalists.

9. Media self-regulation and complaints

Media organisations and journalists should set and supervise their professional standards and codes of practice. Journalistic ethics require that the media should report accurately and fairly, issue corrections, allow a fair opportunity to reply when appropriate and, subject to legitimate public interest, respect the right to privacy and personal dignity, particularly of minors.

Media owners should recognise that ownership entails a commitment to inform citizens about matters of public interest and not merely to advance partisan or personal interests. It is part of the media's responsibility to ensure that journalists are adequately trained and that their private interests do not distort their reporting of public issues. Media and journalists' organisations should establish credible complaints systems to adjudicate on alleged breaches of professional codes of practice and to provide members of the public with effective redress for unprofessional conduct.

10. Media regulation

Any system of media regulation should be the least restrictive necessary for a well-functioning democratic society. It should uphold the media's independence and its role in informing people about matters of public interest and encourage media self-regulation. It should promote media plurality and access to the media for all, including those belonging to linguistic and cultural minorities, without discrimination on the basis of race, colour, religion, gender, political or other opinion, or other grounds. It should include mechanisms to prevent undue concentration of media ownership and to make ownership transparent.

Member states should promote universal and affordable access to the internet and refrain from arbitrary shutdowns, blocking, filtering and other measures preventing or restricting access to it. People should enjoy the same rights online as they have offline. Legal and regulatory frameworks for internet development should promote openness and transparency. Internet service providers and social media platforms should do their utmost to protect users from harm and to uphold freedom of expression and access to information. Restrictions on the operations of websites and other online media services should only be imposed when prescribed by law and should be necessary, proportionate, and content-specific. The actions of member states in response to the proliferation and convergence of digital media should not diminish existing safeguards for freedom of expression and privacy.

Any system of registration for print or online news media, or for journalists, should not restrict the right to freedom of expression and should only be applied for such necessary purposes as accreditation.

For broadcasting, member states are encouraged to set up regulatory bodies independent of government to establish and enforce fair and equitable rules. Member states should strive to promote a diverse, independent private broadcasting sector comprising commercial and community broadcasters. Public broadcast services should operate under governance frameworks which guarantee their editorial independence.

Data protection laws and other measures to protect the right to privacy should be applied with appropriate safeguards for freedom of expression.

11. Observance of these Principles

Member states should promote the widest possible awareness of these principles and ensure their observance. Member states are encouraged to consider setting up and supporting independent and accountable oversight bodies free from political and commercial interference or influence, such as information commissions, human rights commissions, election commissions, independent broadcasting authorities, telecommunication regulators, ombudsman offices and appeals procedures in accordance with international norms and appropriate domestic legislation.