

STATEMENT BY THE SOUTH AFRICAN DELEGATION ON THE
PRESENTATION OF THE REPORT OF THE SPECIAL RAPPORTEUR ON THE PROMOTION AND
PROTECTION OF THE RIGHT TO FREEDOM OF OPINION AND EXPRESSION

03 JUNE 2010

Mr President,

South Africa wishes to thank the Special Rapporteur for the presentation of his report and the thematic focus area chosen in this respect, which we view as key to the current challenges faced in the exercise of this right. We particularly find the report very interesting and thought provoking.

South Africa is of the view that the exercise of the right to freedom of opinion and expression is compatible with democracy and good governance. In this context, we have taken positive measures in our democratic dispensation to ensure that these Constitutionally entrenched rights are practically enjoyed, through enacting the enabling domestic legislative provisions.

It is similarly critical for us to highlight that we subscribe to the provisions on international human rights law with respect to the exercise of this right. Hence, we agree with your view expressed in paragraph 72 with regard to the exercise of the right to freedom of expression and its non-absolute nature. In our view, the assertion that the prohibition of the dissemination of all ideas based on racial superiority or hatred is **Incompatible** with the exercise of the right to freedom of opinion and expression, is not only baseless but flawed and seeks to erode the well established international human rights norms and standards. In South Africa, we can assure the Special Rapporteur that we have jurisprudence that we can provide to illustrate this point. We are similarly worried about the rise in the incidents of incitement to racial, ethnic and religious hatred worldwide, **and would be interested in hearing the views of the Special Rapporteur in this regard, particularly the role of the media in the negative stereotyping and inciting racial, ethnic and religious hatred, and possible interventions in this regard.**

Mr President,

In paragraph 38 of the report, the Special Rapporteur makes an interesting intersectionality between the exercise of the right to freedom of opinion and expression and the realisation of the Millennium Development Goals (MDGs). **We would appreciate further clarification by the Special Rapporteur in this regard.** In our view, the gap between the rich and the poor countries remain ever so wide and the realisation of the MDGs remain an unrealisable dream for many of the world citizens and remains at the core of this gap a key concern, particularly as we approach 2015. We are however concerned by an assertion by the Special Rapporteur on making the achievement of the MDGs dependant on the exercise of the right to freedom of opinion and expression in general, almost putting it at the centre of everything. This assertion in our view goes against the spirit of the Vienna Declaration and Programme of Action of treating all human rights in a fair and equal manner and with the same emphasis and on equal footing.

The negative impact of the digital divide on many developing countries, especially in Africa, cannot be overemphasised. To many countries, access to the internet is limited and at best expensive. To request Governments to subsidise this facility which in some developing countries is considered a luxury due to the lack of basic amenities such as electricity and telephone systems, appears to be non-realistic. However, the recommendation is noted in the context of what Member States strive for when the basic economic, social and cultural rights have been progressively realised.

The Special Rapporteur further identifies certain categories in “need of particular attention and the role of freedom of opinion and expression”. It would have been particularly helpful to also add the refugees, asylum-seekers, People of African Descent, victims of trafficking, whose exercise of this right is of concern, particularly in the context of the Durban Declaration and Programme of Action.

I thank you