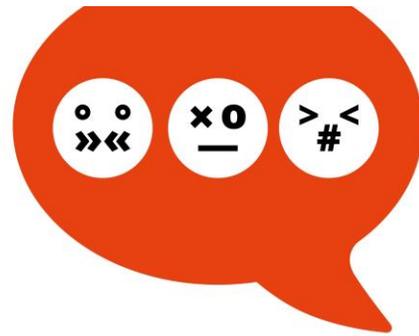


Asia-Pacific Regional Forum on Hate Speech, Social Media and Minorities

**ONLINE EVENT:
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Preamble

Across the world today, discriminatory practices and hateful messages serve to stigmatise and vilify those perceived to be the “other”, the “foreigner” or the “one who does not belong”. Most of those targeted by these messages are minorities – overwhelmingly so.

Such expressions of hatred and discrimination increasingly dominate political agendas and discourses, and are mainstreamed through public life, creating a climate of fear amongst individuals and communities. They can at times also create a climate of rejection, exclusion and even intolerance and racism, threatening societal values and undermining the respect of human dignity and the protection of human rights. This type of speech, often called “hate speech”, in most cases target persons belonging to minorities, who are portrayed as a threat to national unity, societal harmony, national security and public order, or who are subjected to discrimination because of their distinct ethno-cultural identities, religions or languages.

Digital technologies and social media platform owners may play a role in contributing to hate speech and undermining human rights. Indeed, in recent times, there have been numerous and sometimes flagrant examples of the “rallying power” of social media platforms being abused to spread hatred, unfounded and stigmatising rumours, fostering a climate of insecurity and animosity and, in the most extreme cases, leading to violent campaigns against members of minorities. Such unregulated online expressions of hate can result in or increase the chances of human rights violations taking place offline against some of the most vulnerable segments of society.

In response to this issue and as part of a series of regional forums on hate speech, social media and minorities, convened by the UN Special Rapporteur on minority issues, Dr Fernand de Varennes, the Asia-Pacific Regional Forum on Hate Speech, Social Media and Minorities was held virtually on 19 and 20 October 2020. The following set of recommendations were developed as part of the Asia-Pacific Regional Forum. The recommendations were compiled through the submissions of experts and participants of the Regional Forum and were collated and edited by the Special Rapporteur on minority issues and the Regional Forum organising team. Within the recommendations, there are several key terms that merit explanation.

First, the term “minorities” refers to national, or ethnic, religious and linguistic minorities as specified in the United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and

Linguistic Minorities [1992] and further defined in the Special Rapporteur's last two reports to the UN General Assembly in connection of the meaning of the term "minority" [2019] and on the scope and significance of the four categories of minorities recognised at the United Nations (national or ethnic, religious and linguistic) [2020]. In addition, within the text, certain specific forms of discrimination or hatred are enumerated, such as antisemitism, Islamophobia, anti-Gypsyism, caste, as well as other distinctive forms of hatred. This list is intended to be non-exhaustive and open-ended to include all protected characteristics in accordance with international human rights law.

It is also important to emphasise that there is no clear and internationally accepted definition of the term hate speech, as states, social media platforms, or other stakeholders have not come to a consensus as to what hate speech means. However, under international law, various expressions may fall under three different levels of hate speech, which require different responses by states.

The most severe forms of hate speech should be prohibited by states and include the following: (1) direct and public incitement to genocide as indicated by the Genocide Convention and the Rome Statute; (2) advocacy of racial, national or religious hatred, which constitutes incitement to discrimination, hostility or violence under Art. 20(2) of the ICCPR; or (3) the dissemination of ideas based on racial superiority or hatred and incitement to discrimination under ICERD. The Rabat Plan of Action establishes the 6-part threshold test for incitement (context; speaker; intent; content and form; extent of the speech act; likelihood, including imminence).

At the intermediate level, there are certain types of hate speech that may be prohibited by states under international law on freedom of expression, specifically Article 19 of the International Covenant on Civil and Political Rights, even if they do not meet the Rabat Plan of Action threshold test for incitement. Certain types of expressions may be restricted if such restrictions: (1) are provided by law, (2) pursue a legitimate aim, (3) are necessary, and (4) are proportionate (for example, threats of violence or identity-based harassment especially prior to elections may be restricted if they meet these requirements).

Finally, there are expressions that may be considered as the least severe forms of hate speech that should not be subjected to legal restrictions under international law, but may require non-legal responses from various stakeholders. This may include expressions that are shocking or disturbing, blasphemy, condoning or denying historical events, and disinformation.

Recommendations of the Asia-Pacific Regional Forum on Hate Speech, Social Media and Minorities

Thematic Session 1: Causes, scale and impact of hate speech targeting minorities

1. States should uphold the right to freedom of expression, which may only be restricted, in accordance with international law, and more specifically when such restrictions are provided by law and necessary (a) for respect of the rights or reputations of others; (b) for the protection of national security or of public order (*'ordre public'*), or of public health or morals.
2. A multi-dimensional, multi-sectoral and multi-stakeholder approach should be used to counter hate speech against minorities, including minority rights defenders, which requires: the necessary political will, public-private sector partnerships, regulation of social media platforms, criminal justice responses against hate speech, and inter-faith dialogue; root causes of hate speech targeting minorities should be addressed, including, among others, unresolved disputes and conflicts, absence of justice and rule of law, and lack of inclusive socio-economic development.
3. Resources should be allocated for widespread educational, media literacy and awareness-raising campaigns and curricula to strengthen capacities for the public and minorities to work together to identify, record and report hate speech and to recognise that hate speech negatively impacts the whole of society, not just minorities.

4. All stakeholders should encourage innovative, educational, and preventive strategies to counter hate speech that focus on the protection of and respect for diverse communities, while offering a balanced approach towards protecting minorities and the freedom of expression.
5. All stakeholders, including states and international organisations, should launch formal training programmes on the Holocaust in schools, as well as for civil society stakeholders, including journalists and educators; they should encourage dialogue within national communities on matters related to denial and distortion of Holocaust-era crimes.
6. Religious and faith-based organisations and groups should expand their monitoring activities from just focusing on negative comments being made against their religion, to also monitoring negative comments and hate speech arising or emanating from their own religious or faith-based communities.
7. Religious and faith-based organisations and groups should engage with each other to better understand what constitutes “hate speech” from each religion’s internal perspective to help arrive at some form of international consensus on “hate speech” in the context of religion and faith.
8. States, media, social media and civil society should be encouraged to address distortion and systemic biases against Jews and Muslims in a comprehensive manner, as evidence suggests that antisemitism and Islamophobia are pressing challenges today.

Thematic Session 2: International legal and institutional framework

9. An internationally acceptable legal definition of hate speech should be adopted in accordance with international human rights law, particularly on freedom of expression, and through international collaboration and an analysis of existing international, regional, and national laws and norms on hate speech.
10. Discussions should be initiated regarding the adoption of an international instrument to address different forms of hate speech, including through criminalisation, as contained in the [Rabat Plan of Action](#), as well as the [Human Rights Committee Resolution 16/18](#), in particular paragraph 5(f).
11. Until the adoption of a comprehensive international instrument on hate speech, relevant provisions of existing instruments, such as Articles 19 and 20 of the ICCPR, and Article 4 of ICERD, should be used to amend national laws for addressing gaps in interpretation and implementation of hate speech laws. These provisions should be applied to cover a wide range of groups targeted by hate speech, including based on religion, ethnicity, language, nationality, race, colour, descent (including caste), gender, refugee, asylum-seeker or migrant status, involvement in human rights protection, sexual orientation, and other identity factors.
12. Existing international standards and frameworks on hate speech should be used and integrated into the implementation of other existing frameworks, such as the [Sustainable Development Goals](#) and the [UN Guiding Principles on Business and Human Rights](#), to ensure greater respect for freedom of expression and to counter and address hate speech.
13. The [UN Strategy and Plan of Action on Hate Speech](#) should be mainstreamed into the work of relevant UN bodies.
14. The implementation of recommendations in the Rabat Plan of Action should be monitored and specific indicators should be developed for States in relation to their duty to address and counter hate speech and incitement to hostility, discrimination or violence against minorities and protect them against hate crimes.
15. Reports similar to the European Union Countering Illegal Hate Speech Online Code of Conduct Evaluation reports should be developed for the Asia-Pacific region.
16. A mechanism should be established for the reception of complaints and data pertaining to hate speech and violence against minorities at both the regional and national levels to better understand the patterns, targets, and impact of hate speech against minorities.

17. Relevant mandate holders charged with receiving complaints pertaining to hate speech should work with minorities to build their trust and empower them through enhancing access to such reporting mechanisms and to support follow-up and follow-through of their complaints to prevent attrition out of fear, distrust, victim-blaming or retaliation.

Thematic Session 3: Regulation of online hate speech: The role and responsibility of intergovernmental organisations, States, internet companies and social media platforms

General

18. With the cooperation of all relevant sectors, including government agencies, internet companies and social media platforms, civil society organisations, law enforcement, media representatives, educators, and members of minorities, an independent, cross-sectoral, multidisciplinary multi-stakeholder national-level body composed of qualified experts should be established to monitor the dissemination of hate speech and the implementation of relevant laws and policies, to work to counter hate speech against minorities, and to develop a Code of Conduct for the regulation of hate speech in accordance with international human rights law. The body should cooperate closely with international and regional human rights mechanisms and processes.
19. All stakeholders, including governments, international organisations, Internet companies and social media platforms should cooperate to identify popular websites that promote identity-based hate speech, such as antisemitism, Islamophobia, caste-based hate, and other forms of hatred that primarily affect minorities, to enable search engine operators to limit access to websites promoting hate, tropes and symbols to slow the growth of incendiary content rooted in racism, bigotry and hate.

International organisations

20. In line with the UN Strategy and Plan of Action on Hate Speech and its Detailed Guidance, the UN and other international organisations should recognise the degree to which hate speech is enabled and driven by other discriminatory and persecutory state policies; they should strongly condemn such policies and take strong action to support accountability for persecution, genocide and other violations of international criminal law whenever they occur.
21. The UN and other international organisations should urge states that have not ratified or acceded to key international human rights instruments, such as the ICCPR, ICESCR, or ICERD, to do so.
22. The UN and other international organisations should encourage relevant states to withdraw any reservations on Art. 4 of ICERD.
23. The UN and other international organisations should engage in structured dialogue with regional organisations on the issue of hate speech against minorities specifically.
24. The UN and other international organisations should promote dialogue between Internet companies and social media platforms, on the one hand, and affected minority communities and victims of hate speech, on the other, so that there is better and clearer understanding and appreciation of how harm is being experienced.
25. The UN and other international organisations should provide technical assistance and funding to civil society-led initiatives to identify, monitor, and counter hate speech against minorities specifically.
26. UN bodies, officials, and diplomats should avoid promoting—intentionally or unintentionally—state approaches to addressing hate speech that have the potential to undermine international human rights law, particularly on freedom of expression. Such unacceptable approaches would rely on censorship or criminal sanctions to restrict expressions unjustifiably, such as “anti-hate

speech” laws which have been adopted by or are being considered by many countries which criminalise broad classes of speech, including expression that are lawful under international human rights law.

27. The Special Rapporteur on minority issues and other relevant UN Special Procedures mandate-holders should follow-up with states on actions on whether and how they have taken to implement their obligations and responsibilities to address and counter specific cases of hate speech against minorities.
28. The UN Special Rapporteur on minority issues and other UN human rights bodies should be encouraged to engage with existing regional bodies including ASEAN, AICHR, SAARC, etc. and national human rights institutions (NHRIs) or quasi-NHRIs to address issues of regional hate speech on and offline, but more importantly, to develop the language and standards in order for a contextualised and nuanced approach to addressing the problems.

States

29. With the participation of minority communities, states should develop national legislation, policies and institutional and administrative mechanisms, in line with international law, to address and counter hate speech and incitement targeting minorities; and ensure an effective redress mechanism for victims of hate speech, including assurance of appropriate and proportionate action against perpetrators, regardless of their status, to challenge impunity, in particular of political leaders and government representatives.
30. Since regulations by governments at the national level are being rapidly introduced and have unintended consequences, efforts should be made to ensure that these regulations are underpinned by systematic research and are in compliance with international human rights law.
31. States should only use prosecution as a last resort in relation to hate speech, and only in relation to the most severe forms of hate speech, specifically direct and public incitement to genocide and “advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence” (Article 20 (2) of the ICCPR), to ensure that the rights to freedom of expression and access to information are not undermined.
32. State actors must not abuse the freedom of expression to propagate hatred in relation to minorities and other groups.
33. States should take action against disinformation deliberately spread to cause harm to minorities. National human rights institutions and civil society should collaborate to provide collect and disseminate relevant data on the incidence and phenomenon of hate speech against minorities.
34. Law enforcement agencies should be encouraged, where possible, to use restorative justice processes in legal mechanisms to respond to hatred.
35. States should consult, work with, and fund a broad range of civil society organisations and approaches to counter hate speech, in particular by building the capacity of various stakeholders, including media and public administration; the focus on civil society engagement, and support for civil society should extend beyond counter speech and education initiatives, and should also include monitoring of hate speech against minorities.
36. States should address online violence and threats against minority women keeping in mind their commitment to CEDAW, CERD, SDG 5 and the UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities.

Internet Companies and Social Media Platforms

37. Internet companies and social media platforms should implement international human rights standards related to hate speech, based on their responsibilities under the UN Guiding Principles on Business and Human Rights. In particular, they should ensure that their content policies and

decisions are aligned with international human rights law on freedom of expression, especially Articles 19 and 20 of the International Covenant on Civil and Political Rights, as well as soft law sources of international law, notably General Comment No 34, the Rabat Plan of Action and [Human Rights Council Resolution 16/18](#).

38. Internet companies and social media platforms should adopt the IHRA Working Definition of Antisemitism, IHRA Working Definition of Holocaust Denial, and IHRA Working Definition of Antigypsyism/Anti-Roma Discrimination.
39. Internet companies and social media platforms should adopt and make transparent detailed content policies and terms of service that are consistent with international human rights standards. Such policies should include definitions of and guidelines on prohibited hate speech in accordance with international human rights law. Companies should take responsibility to proactively tackle hate speech and not rely on the government to formulate regulations.
40. Internet companies and social media platforms should have policies in place in relation to submitting IP addresses to human rights institutions or law enforcement in cases constituting prohibited forms of hate speech under international human rights law.
41. Internet companies and social media platforms should establish advisory councils with the participation and inclusion of minorities to periodically evaluate their content moderation policies and rules, and the manner in which these policies and rules are monitored and enforced, including the practice of designating cases as “hard cases” and transparency policies.
42. Internet companies and social media platforms should publish regular, detailed reports on the application of their hate speech policies and rules, including country-specific information about specific content modifications, including in relation to minorities, and disaggregated data based on the target groups of hate speech.
43. Internet companies and social media platforms should conduct human rights impact assessments of the impact of their policies, programmes, and practices on minorities, particularly in the context of hate speech, given how hate speech on their platforms has often led to serious harm, including violence, against minorities. The assessment team should be an independent body that is monitored and approved by Internet freedom advocates, civil society organisations, minorities, and the company’s management. Internet companies and social media platforms should conduct transparent dialogue with civil society, especially those representing minority groups, on how they are addressing issues highlighted in human rights impact assessments; and work with civil society to create safer online spaces for minorities.
44. Internet companies and social media platforms should ensure that they employ people from minority groups. Representatives of minorities should be meaningfully represented at all levels of the company, including management.
45. Internet companies and social media platforms should engage with civil society and minorities to identify hate speech and develop lists of language that amounts to advocacy of hatred that constitutes incitement to discrimination, hostility or violence in certain contexts.
46. Internet companies and social media platforms should verify anti-hate organisations with a badge to alert their own staff and algorithms when dealing with mass reporting against these groups which may be trolling or problematic state intervention.
47. Internet companies and social media platforms should assist civil society groups and national human rights institutions in tackling hate on these platforms by offering free boosts and advertising to recognised anti-hate organisations, and should not inhibit efforts by civil society to run campaigns internationally against hate speech and on social justice issues.
48. Hate speech should be addressed across all forms of media through cooperation between traditional and social media.

Thematic Session 4: Towards a safer space for minorities: positive initiatives to address online hate speech: The role of national human rights institutions (NHRIs), human rights organisations, civil society and other stakeholders

49. Independent statutory bodies, such as NHRIs and equality bodies, should expand their work to collaborate with all major internet companies and social media platforms to tackle online hate speech against minorities with public education initiatives, in addition to the enforcement of antidiscrimination laws.
50. Independent statutory bodies, such as NHRIs and equality bodies, should consult, work with and fund a broad range of civil society organisations, including ones representing minorities, and approaches to counter and address hate speech and create safer online spaces for minorities.
51. Civil society actors should be at the forefront in drafting laws and policies and/or codes of conduct related to hate speech, and act as intermediaries to bridge the gap between the state and grassroots actors.
52. Civil society actors should undertake a broad range of activities to counter hate speech against minorities including: monitoring online hate; supporting victims of online hate; monitoring the responsiveness of platforms to reports of online hate; monitoring the response of governments to complaints about online hate; identifying new manifestations of online hate; tracking threats and alerting relevant stakeholders including government; supporting law enforcement by providing data for investigations; supporting other civil society organisations by providing specialist capacities when needed; developing platforms to promote greater coordination in monitoring hate speech; providing information and education to policy makers, platforms, educators, law enforcement, NHRIs, and others; supporting public education through programmes and media engagement; and other approaches.
53. Civil society actors, in particular NGOs with the mandate to protect and promote the rights of minorities, should have a defined, official role to counter and address hate speech on social media and to help content reviewers consistently and fairly identify violations in accordance with the community standards of internet companies and social media platforms.
54. A transnational civil society forum should be established in South Asian countries and in countries where South Asian diaspora communities live to (1) develop an understanding of caste-based hate speech or hate speech in reference to casteism, including derogatory words, slurs and slangs that are used on social media; (2) identify patterns and the impact of relevant hate speech; (3) to collectively develop advocacy.
55. Corporate advertisers on platforms, drawing on the Stop Hate for Profit campaign, should pull advertising from platforms who continue to allow abusive expressions (ie content that must or may be restricted under international human rights law) on their platforms.