**Public Consultation Questionnaire on Freedom of Expression and Unprotected Speech**

The Office of the Special Rapporteur for Freedom of Expression of the Inter-American Commission on Human Rights (IACHR) is preparing a thematic report that seeks to analyze the interaction between freedom of expression, equality and non-discrimination of groups historically marginalized from public debate, meaning those identified by the IACHR and whose experiences are interrelated, such as LGBTI+ people, women, Afro-descendants, indigenous peoples, people in mobility situations, people with disabilities, older adults, among others. This analysis aims to advance standards regarding the content and scope of Article 13.5 of the American Convention on Human Rights through a legal study consistent with the Inter-American *corpus iuri*s. The study aims to reflect on relevant legal issues, such as the definition of hate speech and the consequent international obligations of States regarding these issues.

This report is part of the Program on Freedom of Expression and the Fight against Discrimination and Exclusion that RELE is leading. In this sense, RELE conducts this study with the understanding that freedom of expression and the rights to equality and non-discrimination are mutually reinforcing and that clarifying their normative interaction in the Inter-American system will positively impact the promotion of a more inclusive public debate.

In this context, the Office of the Special Rapporteur invites civil society organizations, international organizations, human rights defenders, academic organizations, institutions and interested individuals to submit in writing information that they consider relevant to the purpose of the study and to register to participate in the public consultation that will take place on **July 1, 2024**. In this regard, the following questions are provided as illustrative reference points to guide the submissions.

1. Scope of the term "lawless violence or to any other similar action" in Article 13(5) of the ACHR. Can the term violence be interpreted to encompass hostility and/or discrimination?
2. Scope of other key terms in Article 13(5) such as hatred, advocacy, incitement, groups of persons, as well as criteria for their determination.
3. Criteria to be used to interpret Article 13(5) of the ACHR, given the discrepancies in terms and content between the English, Spanish, Portuguese and French versions of the ACHR.
4. Criteria for the harmonization of the inter-American *corpus iuris* based on the relationship between the ACHR and the Inter-American Convention Against All Forms of Discrimination and Intolerance and the Inter-American Convention Against Racism, Racial Discrimination and Related Forms of Intolerance, and other regional anti-discrimination treaties adopted after the ACHR.
5. The most appropriate approach to the polysemy of the term "hate speech" in light of Article 13(5) of the ACHR.
6. Does Article 13(5) impose an obligation to criminalize unprotected speech? Would prohibition through other spheres - such as civil or administrative - be sufficient?
7. Relevance and applicability of the UN Rabat Plan of Action criteria under the threshold of Article 13(5) of the ACHR.
8. Is there a need to identify that the victim(s) falls within one of the "suspect categories" - whether explicitly set out in ACHR Article 13(5), such as race or religion; or another category, such as LGBTI persons - for speech to be considered unprotected by Article 13(5)?
9. Implications of other speech not protected under other international instruments for the scope of Article 13(5). In that sense, just as child pornography or incitement to genocide were identified as speech not protected by the Inter-American legal framework in 2009, could other speech be considered unprotected today beyond that explicitly outlined in Article 13(5)?
10. Implications of the provisions of Article 29 of the ACHR in the interpretation of other rights, including the prohibition of suppression of the enjoyment of rights (Article 29.1 in the context of hate speech, stigmatizing speech, and speech that seeks to dehumanize and undermine human rights.
11. Should expressions by public officials that promote intolerance, discrimination, or misinformation be considered unprotected, even if they do not necessarily fall under Article 13(5) of the ACHR? Should a different standard be used in these cases?
12. Should the special duties to which persons exercising public functions are subject at the time of making a statement also apply to other categories of persons - such as candidates, political party leaders, journalists, private persons with high influence in the public debate, etc.?
13. Criteria for addressing unprotected speech on the Internet and the role of private actors in the Inter-American legal framework.
14. Implications of Article 13(5) of the ACHR regarding unprotected speech online and the obligations of States in that context.
15. Domestic experiences addressing stigmatizing and hate speech, including challenges and best practices.
16. Comparative experience in other human rights systems as relevant;
17. Existing proposals and best practices to prevent and combat stigmatizing and hate speech in a manner consistent with the ACHR, including on the Internet.
18. Inputs regarding specific historically discriminated groups and the specific approaches that Article 13(5) should address concerning them.
19. Other relevant issues identified by stakeholders.

Submissions may partially or fully address the issues outlined above. In addition, other supporting materials may be attached to the submission, such as reports, academic studies and other types of reference materials already prepared and/or published that are relevant to the topic. The Office of the Special Rapporteur is already grateful for the contributions to this report.

**Written submissions instructions**

* Deadline for written submissions: **July 1, 2024** (Washington, D.C. time)
* E-mail address: CIDHexpresion@oas.org
* Email subject line: "Submission of written input - freedom of expression and unprotected speech".
* Word limit: 3,000 words.
* File formats: Word, PDF
* Accepted languages: English, Spanish, French or Portuguese.

**Registration instructions for virtual public consultation to be held on July 1, 2024**

In addition to receiving written submissions for the preparation of the report, the Office of the Special Rapporteur will facilitate a virtual public consultation to be held on July 1, 2024, where registered and confirmed organizations and individuals will have the opportunity to present information orally. If you wish to participate, you must submit a registration request in accordance with the following instructions:

* Deadline to apply to participate in the virtual public consultation: **June 21, 2024** (Washington, D.C. time)
* E-mail address: CIDHexpresion@oas.org
* Subject line of the e-mail: "Registration request for public consultation July 1".
* The email should contain the following information:
  + Name of the organization or interested person wishing to participate in the hearing.
  + Brief description of the work of the organization or interested person.
  + Brief paragraph describing the specific legal issues you will address in the public consultation and the language of your intervention. The consultation, with prior agreement, will allow interventions in Spanish, English, French, or Portuguese.
  + In the case of an organization, indicate, if it has been determined, which natural person would be intervening in the consultation.

Due to the large number of requests expected, the Office of the Special Rapporteur will allocate the available spaces to ensure a plurality of perspectives and geographical and linguistic diversity, as well as specific areas of expertise. In this regard, organizations and individuals interested in participating in the virtual public consultation are urged to also submit written information per the instructions in the previous section. The Office of the Special Rapporteur will inform civil society organizations and interested persons who participate in the registration process about the allocation of spaces, speaking time and the agenda of the consultation promptly.

The Office of the Special Rapporteur thanks in advance the valuable contributions of civil society organizations, international organizations, human rights defenders, academic organizations and institutions, scholars and interested persons in general.