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REPORT OF THE UNITED NATIONS HIGH COMMISSIONER
FOR HUMAN RIGHTS AND FOLLOW-UP TO THE WORLD
CONFERENCE ON HUMAN RIGHTS

Written statement submitted by the Association for World Education,
a non-governmental organization on the Roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[20 December 1999]

The 1990 “Cairo Declaration of Human Rights in Islam” (CDHRI) is neither a “regional” instrument nor a United Nations “international instrument”

1. For some time, the Association for World Education has expressed its deep concern in regard to any United Nations body quoting from a religious, non-United Nations “universal instrument”, either in a resolution or otherwise - as if it was official. Two examples are noteworthy: Sub-Commission resolution 1998/17, and Sub-Commission resolution 1999/14.
2. Resolution 1998/17, “Situation of women in Afghanistan”, affirms that the Sub-Commission is “fully aware that in the Cairo Declaration of Human Rights in Islam, adopted by the Organization of the Islamic Conference in 1990, guarantees the rights of women in all fields”. This cannot be affirmed, as this document establishes Sharia law as “the only source of reference” (art. 25) for human rights in Islamic countries, thus giving it supremacy over all the universal international instruments. Regarding the “rights of women”, article 6 (a) of the Cairo Declaration merely states: “Woman is equal to man in human dignity, and has rights to enjoy as well as duties to perform ...”.
3. In resolution 1999/14, “The situation of women and girls in Afghanistan”, the Sub-Commission “gain call[ed] upon Muslim religious leaders and scholars to give special attention to the extremely difficult and unprecedented situation of women in Afghanistan, and to use their authority and their knowledge with a view to bringing the policies and practices of the Taliban into line with the true spirit of Islam and the principles of human rights and fundamental freedoms”. This appeal is perfectly legitimate, but the Sub-Commission had already interpreted article 6 (a) of the Cairo Declaration relating to women in its resolution 1998/17.
4. We have pointed out that the 1990 “Cairo Declaration of Human Rights in Islam” had been published by OHCHR in its *Human Rights: A Compilation of International Instruments. Volume II: Regional Instruments*. Geneva, December 1997 (volume I, Parts I and II, contain the *Universal Instruments*). A year after our first inquiry as to how this inclusion could have occurred, we are still awaiting an explanation as to when, why, and by whom such an important decision was officially made by OHCHR or by another United Nations body.
5. It is all the more difficult to understand how CDHRI was published in such a compilation (being the final document in volume II, under section E. “Organization of the Islamic Conference”), because OIC is not a “regional” body and CDHRI cannot correctly be defined as a “regional instrument”: it is a religious instrument, which is considered by its authors as “universal”.
6. We wish to highlight one example of the confusion that may occur in the future as a result of this ambiguity. At the tenth anniversary commemoration of the Convention on the Rights of the Child, in round table I: Translating law into reality, we raised the question of the relevance of the 1990 CDHRI in regard to the Convention - whether a State party should evoke it, in accordance with the principle of article 27 of the Vienna Convention on the Law of Treaties. We believe that this is apposite, particularly as CDHRI appears in the *Compilation of International Instruments* and it may be translated in subsequent editions, or reprinted.

7. In the Guide to the discussion under *Legislative review* of the Convention, item 6, *Other legal instruments*, there is direct mention of the status of such international instruments and the extent to which the Committee could or should refer to them in a systematic fashion. Any discussion should differentiate between: (a) *United Nations human rights treaties*; (b) *regional human rights treaties*; (c) *other United Nations system international treaties ...*; (d) *other international treaties ...*; (e) *other United Nations documents ...*; (f) *other non-United Nations documents ...*". (our emphasis).

8. The 1993 Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights encouraged (in Part II, para. 5) "States to consider limiting the extent of any reservations they lodge to *international human rights instruments ...*" (our emphasis).

9. We believe that examples can be multiplied and that further confusion might arise in the future (in relation to the forthcoming Year of Dialogue and the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance in 2001), if the status quo concerning the inclusion of CDHRI in volume II of *Human Rights: A Compilation of International Instruments* is not rapidly resolved. Many people and United Nations bodies may be led astray, erroneously considering CDHRI to be an "international instrument" or a "regional instrument", whereas it is neither.

10. The 1990 CDHRI is a specific religious document that is totally "subject to the Islamic Sharia" (art. 24) which "is the only source of reference for the explanation or clarification of this Declaration" (art. 25). In fact, CDHRI makes it very clear that Sharia law has supremacy, and CDHRI has primacy - in the view of its authors - over other international instruments. (See E/CN.4/1992/SR.20, paras. 17-20).

11. Our position would be identical if any future edition of the *Compilation of International Instruments* would contain, in its volume II (Regional Instruments), a rabbinical "Jerusalem Declaration of Human Rights in Judaism", a Catholic "Rome Declaration of Human Rights in Catholicism", a Protestant "Geneva Declaration of Human Rights in Protestantism", etc.

12. The principal aim of the Universal Declaration of Human Rights was to create a framework for a world society that needs some universal codes based on mutual consent in order to function. It is their universal character that makes them a common base for relations between peoples across national and cultural frontiers. The United Nations - and especially the Office of the High Commissioner for Human Rights - should stand resolutely behind the international community's common goal of universality, so clearly enshrined in the International Bill of Rights, and in the other relevant international instruments.

13. The Association for World Education calls on the Commission on Human Rights, the High Commissioner for Human Rights, and all other competent United Nations authorities to examine carefully what should be done to rectify the anomalous inclusion of "Section E. Organization of the Islamic Conference. 49. The OIC's Resolution No. 49/19-P on the Cairo Declaration of Human Rights in Islam; 50. The CDHRI, adopted at Cairo on 5 August 1990" in *A Compilation of International Instruments, Volume II. Regional Instruments* (pp. 474-85). We have already addressed relevant documentation to the chairpersons of the various treaty bodies

and to members of the Sub-Commission. We feel that this matter should be discussed in May 2000 at the next meeting of the special rapporteurs/representatives, experts and chairpersons of working groups of the special procedures of the Commission on Human Rights and of the advisory services programme.

14. The Association for World Education proposes that in all further reprintings of the English edition of volume II - and in any envisaged translations - section E should be omitted. Alternatively, the Office of the High Commissioner should provide an explanation and a legal justification for the retention of an essentially religious document in a volume purporting to contain regional and international United Nations instruments on human rights.
