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COMMISSION ON HUMAN RIGHTS
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and Protection of Human Rights
Fifty-fifth session
Item 2 and 6 of the provisional agenda

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL
FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND
SEGREGATION, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO
COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES:
REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN
RIGHTS RESOLUTION 8 (XXIII)

SPECIFIC HUMAN RIGHTS ISSUES

Written statement* submitted by 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.

[4 July 2003]

*This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

International Bill of Human Rights: Universality/International Standards/National Practices

1. The Secretary-General's note on Specific Human Rights Issues (E/CN.4/Sub.2/2003/25) indicates that as of 1 June 2003, 146 States had ratified, acceded or succeeded to the International Covenant on Economic, Social and Cultural Rights; and 149 States to the International Covenant on Civil and Political Rights. Section V of this note relates to the: "Effective Implementation of International Instruments on Human Rights, including Reporting Obligations of States Parties to the United Nations Instruments in the Field of Human Rights;" it also mentions the Meeting of Chairpersons of Human Rights Treaty Bodies of 2002, and that of 23-27 June 2003.
2. The principal aim of the 1948 Universal Declaration of Human Rights (UDHR) was to create a framework for a universal code based on mutual consent. The early years of the United Nations were overshadowed by the division between the Western and Communist conceptions of human rights, although neither side called into question the concept of universality. The debate centred on *which* rights — political, economic, and social — were to be included among the Universal Instruments. In the 1960s, with the arrival of a large number of Third-World States that had not been present in 1948, there were discussions as to whether new States were bound by Covenants that had been adopted before they became independent and joined the United Nations. By and large, by 1975 (the Helsinki Accords), consensus was reached on the universality of human rights.
3. A crucial part of the debate has consisted in bringing national legislation into conformity with the universal human rights standards, as defined in what is usually called the International Bill of Human Rights, comprising: the UDHR; the International Covenant on Economic, Social and Cultural Rights; and the Covenant on Civil and Political Rights. Usually, States that ratified, or acceded to, the International Covenants modified their legislation if it was not in conformity.
4. Nevertheless, there are States which consider that the UDHR is not a universal standard for all legislation, and they continue a policy of selective conformity. For instance, the website of Saudi Arabia's Embassy in London contains a new document entitled: 'Saudi Arabia – Questions of Human Rights.' There, in a response to a question whether Saudi Arabia accepts "universally accepted human rights," it is officially stated: "*No, Saudi Arabia doesn't accept that. Some human rights are controversial, and yet others are an anathema to a large portion of humanity.*" (1)
5. Likewise, a bill in the Iranian parliament to raise the marriage age for girls from nine to fourteen was refused three years ago by religious groups on the grounds it would be against Islamic teachings to make changes to the current law, since "*Islamic scholars had put a lot of efforts into these laws.*" (Muhammad Ali Sheikh, quoted in parliament.) Yet, in 1994, Iran had signed and ratified the Convention on the Rights of the Child, whose article 1 specifies: "*For the purposes of the present Convention, a child means every human being below the age of eighteen years unless under the law applicable to the child, majority is attained earlier.*" (2) After the 1979 Islamic revolution, *shari'a* law had effectively halved the girl child's marriage age to nine years.
6. When encouraged to bring their national legislation into agreement with the UDHR some States have responded negatively. In his first report, dated 1 February 1994, the then Special Rapporteur on the Sudan, Dr. Gaspar Biro, called upon "*the Government of Sudan to bring its legislation into accordance with international instruments to which it is a party.*" On 18 February 1994 the Sudanese Ambassador, Ali Ahmed Sahloul, sent a letter to all permanent representatives and observers at the United Nations in Geneva. This followed a similarly worded

text circulated by the Sudanese delegation the previous day at the Commission on Human Rights, boldly entitled: 'ATTACK ON ISLAM'. In its official 'Comments on the Report,' Sudan declared: "All Muslims are ordained by God to subject themselves to Sharia Laws and that matter could not be contested or challenged by a Special Rapporteur or other UN agencies or representatives." (3)

7. The continuing need to have international human rights norms reflected in national legislation has been one of the themes of the World Decade for Human Rights Education, in which the Association for World Education has been active.

8. In addition to the issue of selective conformity within national legislation, there has been a greater challenge to the universalistic framework of the UDHR with the presentation of an alternative, more narrowly based, human rights system. This alternative framework has been presented primarily by the Islamic Republic of Iran, shortly after the 1979 Islamic revolution. (4)

9. Already at the 36th session of the UN General Assembly in 1981 the representative of Iran expressed the Iranian Government's position, reaffirmed at the GA's 39th session in 1984: "It recognises no legal tradition apart from Islamic law (...) conventions, declarations and resolutions or decisions of international organisations, which were contrary to Islam, had no validity in the Islamic Republic of Iran (...) The Universal Declaration of Human Rights, which represented a secular understanding of the Judeo-Christian traditions, could not be implemented by Muslims and did not accord with the system of values recognised by the Islamic Republic of Iran." If a choice had to be made between its stipulations and "the divine law of the country," Iran would always choose Islamic law. Since then, Iran has led the constant effort to modify the UDHR. (5)

10. These efforts led to the 'Universal Islamic Declaration of Human Rights,' proclaimed at UNESCO in 1981, and to the 'Cairo Declaration of Human Rights in Islam' (CDHRI), adopted on 5 August 1990 in Cairo by the 19th Islamic Conference of Foreign Ministers of the 45 (now 57) Member States of the Organization of the Islamic Conference (OIC), subsequent to the Report of the Meeting of the Committee of Legal Experts held in Teheran from 26-28 December 1989. (6)

11. It is significant that article 24 of the English CDHRI states that "All the rights and freedoms stipulated in the Declaration are subject to the Islamic shari'a," and its article 25 confirms that "The Islamic Shari'ah is the only source of reference for the explanation or clarification of any of the articles of this Declaration." Thus, it is clear that the shari'a law has supremacy and the 1990 Cairo Declaration primacy — in the view of its authors — over the International Bill of Human Rights (the UDHR included), and all other UN Covenants.

12. When the CDHRI was tabled for adoption at the Summit Meeting of OIC Heads of State and Government held in Dakar on 9 December 1991, the Geneva-based International Commission of Jurists (ICJ) warned in a press release: "The ICJ wishes, however, to call the attention of the Muslim communities and world public opinion to the negative implications which might follow the Summit's adoption of the Islamic Draft Declaration on Human Rights in Islam, as elaborated on 5 August 1990 in Cairo during the Nineteenth Islamic Conference of Foreign Ministers." In February 1992, its Secretary-General — Adama Dieng, a pre-eminent Senegalese jurist — declared in a joint statement to the Commission on Human Rights on behalf of the ICJ and the Paris-based International Federation for Human Rights, in regard to the 1990 CDHRI:

i) *It gravely threatens the inter-cultural consensus on which the international human rights instruments are based;*

ii) *It introduces, in the name of the defence of human rights, an intolerable discrimination against both non-Muslims and women;*

iii) *It reveals a deliberately restrictive character in regard to certain fundamental rights and freedoms, to the point that certain essential provisions are below the legal standard in effect in a number of Muslim countries;*

iv) *It confirms under cover of the “Islamic Sharia (Law)” the legitimacy of practices, such as corporal punishment, that attack the integrity and dignity of the human being. (7)*

13. Representatives of the Islamic Republic of Iran have continued to present the CDHRI as an alternative framework for human rights. Iranian Foreign Minister Kamal Kharazi — the first speaker at the Jubilee Commemoration of the UDHR to address the Commission on 17 March 1998 — called for a “*revision of the UN’s Universal Declaration of Human Rights.*” On 9-10 November 1998, the Office of the High Commissioner for Human Rights jointly hosted a seminar with the OIC, entitled: ‘*Enriching the Universality of Human Rights: Islamic Perspectives on the Universal Declaration of Human Rights,*’ at which 20 Muslim experts on Islam presented papers. (8)

14. In his opening address the Secretary-General of the OIC, Dr. Azeddine Laraki, stated: “*An elite of Muslim experts in the field of Sharia and Law are thus being offered the opportunity to present researches which expound the Islamic perspective as to human rights and recall the contribution of Islam to the laying of the foundations of these rights through which Islam aimed at leading people out of the obscurities and into enlightenment, at ensuring dignity in their life and non-submission to anyone but God, and at asserting their freedom and their right to justice and equality on the basis of the two sources of Islamic Shari’a: Qur’an and Sunna and on Fiqh jurisprudence, away from politicking, demagoguery or reliance on local practices and mores which are subject to variations according to historical legacies.*” (9)

15. In a prior letter to all delegations, the then High Commissioner for Human Rights, Mary Robinson, explained: “*We have agreed that for the purpose of this seminar, Islam is understood in terms of ‘Shari’a’ (Qur’an and Hadith) and not in terms of tradition or practices that may vary and mix with historical heritage.*”

16. A follow-up seminar, organised by the OIC alone — Symposium of Human Rights in Islam — was held on 14-15 March 2002, just prior to the 58th session of the Commission on Human Rights. It covered much the same ground as the 1998 seminar. The first paper, entitled ‘*War Against Terrorism: Impact on Human Rights,*’ was delivered by Ahmad Al-Mufti; after having threatened Dr. Biro in 1994 and 1995, he had been reprimanded implicitly in a UN General Assembly resolution (5 December 1995). No longer a senior official in the Sudanese Justice Department, he had become Director-General of the Khartoum International Centre for Human Rights. His written paper concluded with an affirmation: “*We believe that Islam adds new positive dimensions to human rights, since, unlike international instruments, it attributes them to a divine source thereby adding a new moral motivation for complying with them.*” (10)

17. On 15 March 2002 the High Commissioner addressed the OIC Conference Symposium. In her statement she declared, under the heading, A greater need for an understanding of Islam:
“No one can deny that at its core Islam is entirely consonant with the principles of fundamental human rights, including human dignity, tolerance, solidarity and quality. Numerous passages from the Qur’an and sayings of the Prophet Muhammad will testify to this. No one can deny, from a historic perspective, the revolutionary force that is Islam, which bestowed rights upon women and children long before similar recognition was afforded in other civilisations. Custom and tradition have tended to limit these rights, but as more Islamic States ratify the Convention for the Elimination of Discrimination against Women, ways forward for women are being found and women are leading the debate. And no one can deny the acceptance of the universality of human rights by Islamic States.”
18. At the back of the room where she spoke could be found various written statements by the participants, as well as copies of the 1990 ‘Cairo Declaration of Human Rights in Islam’ (11) – but not the 1948 Universal Declaration of Human Rights, normally available in five official languages.
19. To date, no other religiously-based human rights declarations have been put forward in discussions at the United Nations. Rather, the universality of the UDHR is increasingly stressed.
20. Moreover, on 14 September 2000 — in a reply to the Association for World Education’s formal request concerning the inexplicable inclusion of the CDHRI in the UN’s 1997 Vol. II of International Instruments — the legal advisor to the then HCHR confirmed the official UN opinion: *“The Member States which have acceded to and ratified United Nations Human Rights Conventions remain bound, under all circumstances, by the provisions of those texts, as well as the erga omnes obligations under customary international law.”*
21. Today, we see a broad international consensus that the UDHR should be the common framework for all States as reflected both in their national legislation and in their dealings with citizens of other States. This consensus was clearly stressed by the new HCHR, Sergio Vieira de Mello, in his ground-breaking Report to the 59th Commission (under item 4: E/CN.4/2003/14):

I. THE NEED FOR STRONGER PROTECTION OF HUMAN RIGHTS. *“In the 55 years since the Universal Declaration of Human Rights was adopted, the international community has developed a solid body of international norms of human rights and humanitarian law aimed at the tangible protection of human rights. A global consensus has been strengthened around the universality and the irreducibility of human rights (para.7) “An adequate national protection system is one in which international human rights norms are reflected in the national constitution and in national legislation.” (para. 11)*

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1. http://www.saudiembassy.org.uk/publications/questions-of-human-rights/questions-of_human-rights.htm, Recent English translation at www.memri.org. Special Dispatch –Saudi Arabia, 26 June 2003, N° 529. For an earlier explanation, see the Memorandum on Human Rights (Riyad, 1972), and “Colloques de Riyad” by the Saudi Ministry of Information (pp. 57), in answer to a request from the UN Human Rights Committee.
 2. ‘Iran Bill to End Marriage at 9. Guardian Consent Still Needed’, [International Herald Tribune](http://www.ihrt.org), 10 August 2000.
 3. The UNSR’s Report: E/CN.4/1994/48 (1 Feb. 1994); and the Government of Sudan’s reply: E/CN.4/1994/122 (1 March 1994).

4. Sami A. Aldeeb Abu-Sahlieh, 'Dialogue Conflictuel sur les Droits de l'Homme entre Occident et Islam,' Islamochristiana 17 (1991) 53-82; Gérard Conac & Abdelfattah Amor (ed. coll.) Islam et Droits de l'Homme, Preface Ibrahima Fall (Paris: Economica, 1994); Anne Elizabeth Mayer, Islam & Human Rights. Tradition and Politics, 3rd ed. (Boulder and San Francisco, CA: 1998); Mahmood Monshipouri 'The Muslim World Half a Century after the Universal Declaration of Human Rights: Progress & Obstacles' Netherlands Quarterly of Human Rights, vol. 16, No. 3, September 1998, p. 287-314.
5. See also A/C.3/37/SR.56, § 53-55 (1982), and A/C.3/39/SR.65, paras. 91-95 (7 Dec. 1984)
6. Written Statement by the Association for World Education: E/CN.4/2000/NGO/3. See Resolution N° 49/19-P on the CDHRI, in Human Rights. A Compilation of International Instruments, Vol II. Regional Instruments (OHCHR, United Nations, New York/ Geneva), 1997, pp.477-484.
7. ICJ press release (Geneva, 5 December 1991) and E/CN.4/1992/ SR.20, paras. 17-20.
8. For fuller details on this question, David G. Littman, 'Universal Human Rights and Human Rights in Islam,' Midstream, Feb. - March 1999, pp.3-7; idem, 'Islamism Grows Stronger at the United Nations', Middle East Quarterly, Sept. 1999, pp. 59-64.
9. HR/IP/SEM/1999/1 (PART I), 15 March 1999, p. 006.
10. OIC/SEM/2002/3 (Part Two: Conclusions), (2) Strengthening compliance, p. 14.
11. ANNEX TO RES. NO.49/19-P (OIC/SEM/2002/2) (LEG1-5. DISK NO.6/24-ICFM).

*With the author's permission, this NGO written statement is based on a published article, 'Human Rights and Human Wrongs. Sharia can't be exception to international human-rights norms' by David G. Littman, a representative of the AWE to the UN in Geneva. (<http://www.nationalreview.com/script/printpage.asp?ref=/comment/comment-littman011903.asp> - National Review Online, 19 Jan. 2003). This text — with additions by the author — was edited with pertinent modifications by René Wadlow, the Main Representative of the Association for World Education to the UN Office in Geneva.

1 *Commentary for the Norms on the Responsibilities of Transnational Corporations and Other Business Enterprises with Regard to Human Rights*, subsection d. at p. 18, last edited April 11, 2003.

2 *Id.* at subsection d.

3 *Id.* at subsections a.-i. on pp. 20-21.

4 Mary Robinson, *The Ways a 'Business Leaders Initiative on Human Rights' Might Add Value*, May 7, 2003 (Brussels, Belgium).

5 Principles 1 and 2 of UN Global Compact available at http://www.unglobalcompact.org/content/AbouttheGC/TheNinePrinciples/prin1_&_prin2.htm.

6 See OECD Watch, Review of National Contact Points: June 2002-June 2003 available at <http://208.55.15.210/OECD-Watch-June-2003.htm>, Oliver Williams, *Major US Companies doubt Global Compact credentials*, Business Day, April 22, 2003 available at <http://www.bdfm.co.za/cgi-bin/pp-print.pl>, and CALIFORNIA GLOBAL CORPORATE ACCOUNTABILITY PROJECT, BEYOND GOOD DEEDS: CASE STUDIES AND A NEW POLICY AGENDA FOR CORPORATE ACCOUNTABILITY 5-7 (2002).

7 BEYOND GOOD DEEDS: CASE STUDIES AND A NEW POLICY AGENDA FOR CORPORATE ACCOUNTABILITY at pp. 23-44.

8 Juan Forero, *Rights Groups Overseas Fight U.S. Concerns in U.S. Court*, N.Y. TIMES, June 26, 2003, at A3.

9 *Id.*

10 *Id.*

11 *Id.*