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Racism, racial discrimination, xenophobia and related forms of intolerance, follow-up and implementation of the Durban Declaration and Programme of Action

Written statement* submitted by the Cairo Institute for Human Rights Studies, a non-governmental organization in special consultative status

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

[23 August 2010]

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

Violations of freedom of opinion and expression within the framework of religious defamation in the Arab region**

The Cairo Institute for Human Rights Studies (CIHRS) and nine partner organizations from throughout the Arab region¹ would like to express grave concern over the arsenal of repressive laws, adopted by most Arab states, which are readily deployed to target freedom of opinion and expression. Among the most dangerous of these is legislation criminalizing the defamation or derision of religion, which is used as a means to harass and suppress bloggers, journalists, writers, and activists.² These laws may be used by fundamentalists, directly by the state, or by close allies to the state filing third-party hisba suits.³ Victims of these laws face sentences that vary from stiff prison sentences to execution, or they may endure constant threat and harassment by extremists and fundamentalists.

Consequently, the undersigned organizations are deeply concerned about the efforts by some Arab member states of the Organization of the Islamic Conference to lobby the Human Rights Council for resolutions that justify criminalizing "defamation of religion". The undersigned organizations warn that these resolutions are primarily an attempt to legitimize national repressive measures.⁴

The following is a brief overview of laws criminalizing religious defamation in various Arab countries and some of the cases that resulted from them:

In Algeria, Yemen, and Jordan, the respective Penal Codes designate prison terms and monetary fines for the crimes of defamation of religion, while in Bahrain, the 2002 constitution upholds freedom of expression with the condition that it should not "infringe on the foundations of the Islamic faith" and the media law (97/1990) prohibits publishing information that violates Islamic morality. In Morocco, Kuwait, and Tunisia, the press law of 1958 and its amendments, the press and publication law of 2006, and the press law of 1975 and their amendments respectively, dictates imprisonment and monetary fine for

** The Bahrain Center for Human Rights, the Egyptian Initiative for Personal Rights, the Palestinian Organization for Human Rights, the Committee for the Respect of Liberties and Human Rights in Tunisia, Damascus Center for Human Rights Studies, Sisters Arab Forum for Human Rights, Human Rights First - Saudi Arabia, Moroccan Organization for Human Rights, and Arabic Network for Human Rights Information, NGOs without consultative status also share the views expressed in this statement.

¹ This Written Intervention is supported by the following human rights organizations: Bahrain Center for Human Rights (BCHR), Egyptian Initiative for Personal Rights (EIPR), Palestinian Organization for Human Rights, Committee for the Respect of Liberties and Human Rights in Tunisia, Damascus Center for Human Rights Studies, Sisters Arab Forum for Human Rights, Human Rights First - Saudi Arabia, Moroccan Organization for Human Rights, and Arabic Network for Human Rights Information (ANHRI).

² For an overview of other oppressive legislations in the Arab see written intervention by CIHRS at the HRC 14 <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/135/18/PDF/G1013518.pdf?OpenElement>

³ Hisbah: or "verification" allows citizens who have no personal link or interest in a case, to bring charges in the name of public interest that are believed to not be in conformity with the Islamic Shari'a law and public interest.

⁴ For an analysis on International law and defamation of religion see written intervention by Article 19, CIHRS and EIPR at the HRC 10th session <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G08/152/28/PDF/G0815228.pdf?OpenElement>

journalists and publishers convicted of libel, slander, and criticism of Islam. Similar laws can also be found in the Press Law of Oman, Sudan, Bahrain, and Yemen.⁵

Applications of penalties prescribed by these laws to crack down on freedom of opinion and expression have occurred throughout the Arab region.⁶

The Arab Republic of Egypt

On February 22, 2007, Egyptian blogger Karim Amer was sentenced to four years in prison, three on the charge of showing contempt for religion and one on the charge of defaming the President of the Arab Republic of Egypt. While in prison, he was subjected to serious abuse, tortured, and denied access to his attorneys. Another blogger, Hani Nazir, was detained by State Security for two years, despite several judgments ordering his release, after he had posted a novel cover on his blog that some argued defamed Islam. During his detention, Nazir faced constant assault, was denied visits from his lawyer and family, and was allegedly told that his release was conditional on his conversion to Islam. Mr. Nazir was released on July 22, 2010.

In 2007 an individual filed a law suit asking that Egyptian writer Nawal al-Saadawi be deprived of her Egyptian citizenship and prohibited from entering the country on the grounds that she had defamed religion and attacked the principles of Islamic law when she wrote a play entitled “God Tenders His Resignation at the Summit Meeting.” Nevertheless, on May 13, 2008, the court refused to deprive Ms. Saadawi of her citizenship.

In April 2009, the Administrative Court issued a ruling canceling the license of Ibdaa magazine, after it published a poem allegedly offending divinity. The High Administrative Court temporarily suspended the ruling in June 2009.

Additionally, on April 17, 2010, a complaint was filed with the Public Prosecutor alleging that “A Thousand and One Nights” contains dialogue that derides religion. The complaint asked the office to confiscate the book and investigate officials at the General Authority for Cultural Palaces for publishing a new edition of it. The Public Prosecutor later closed the investigation.

In May 2006, the Public Prosecutor ordered the trial of Azharites Abd al-Sabour al-Kashef and Mohammed Radwan before a first instance criminal court on charges of deriding Islam. Al-Kashef was tried for his claims of having seen God and was sentenced to six years in prison; and Radwan was tried for denying the existence of heaven and hell and sentenced to three years in prison.

On October 1, and August 28, 2007, the Minister of Interior used its prerogatives under emergency law to issue a detention order for Mohammed al-Darini and Ahmed Mohammed Subh respectively. The State Security Prosecutor charged the detainees with propagating extreme Shiite beliefs with the goal of deriding Islam. They were released in late November and early December 2007. Similarly, the Ministry of Interior referred Mohammed Farouq and 11 others to the High State Security Prosecutor because of their affiliation with the Shiite confession in 2009 in what came to be known as the Hassan Shehata case. Their charges include forming an organization to propagate Shiite beliefs that defame Islam.

⁵ For detailed information on the defamation laws in the Arab Region see: International Federation of Journalists report, *Breaking the Chains: The Arab World and Iran Press Freedom Report 2009*, at <http://www.ifj.org/assets/docs/204/055/3f4e6cc-78c1b37.pdf>

⁶ Most of the information in the cases presented is extracted from CIHRS' Annual report for 2009 and 2008: <http://www.cihrs.org/Images/ArticleFiles/Original/485.pdf>, <http://www.cihrs.org/Images/ArticleFiles/Original/382.pdf> and partner organization findings.

Although the prosecutor and the State Security Courts issued several orders to release all 12 defendants, the Ministry of Interior refused to implement the orders and issued new detention orders for eight of them.

On August 8, 2007, the Egyptian police obtained an arrest warrant from the prosecutor for Dr. Adel Fawzi Faltas and Peter Ezzat. They were brought before the High State Security Prosecutor (emergency division) where they faced several charges, amongst them were exploiting religion in order to publicly disseminate extremist ideas over the internet with the goal of inciting strife and defaming Islam. Both men were detained for three months before their release, and Faltas continued to face harassments, including denial to travel abroad for medical treatment.

On April 26, 2010, Nagib Gibrail, the president of the Egyptian Union of Human Rights Organization, filed a complaint with the Public Prosecutor against author Youssef Ziedan, accusing him of defaming the Christian religion and mocking the Christian tenets of the trinity, unity, and redemption. Gibrail alleged that some statements made by Ziedan constituted “insult and derision of the Christian faith and Christians.” The Public Prosecutor referred the complaint to the High State Security Prosecutor.

Saudi Arabia

On May 5, 2008, the Saudi Prosecutor’s Office charged Raef Badawi with establishing a website that defames Islam. The case was referred to court, where the prosecutor asked for a prison term of five years and a fine of 4 million Saudi riyals (approximately \$800,000). Badawi returned to Saudi, to find his accounts frozen and his right to travel banned.

On May 1, 2008, the Mecca Court of Cassation upheld a death sentence against Sabri Bogday, issued on March 31, 2008, after his conviction for “insulting the divinity.” Bogday, a Turkish national, was accused of having defamed the divinity during an argument with a Saudi citizen and an Egyptian national. Bogday had no defense attorney at his trial.

In February 2007, The Saudi authorities detained Saudi citizen Mohsen Mohammed al-Turki, after being charged with defaming the companions of the Prophet. He had been detained in 1999 on the same charge and sentenced to lashes and eight months in prison.

Hadi Al Mutif, a member of the Ismai'li sect, has remained in a Saudi prison for more than 16 years because of an extemporaneous statement he made in 1993 that a Saudi court considered blasphemous and insulting to the Prophet. Mutif was convicted and sentenced to death in 1996 on charges of apostasy.

Jordan

On February 21, 2010, the Court fined Sudanese writer al-Nil Abd al-Qadir and Ward Publishers and Distributors 10,000 Jordanian dinars each after a suit filed against the publisher and author of the book “Epistles from Sheikh al-Nil: Reconsiderations of Islamic Thought”, on charges of aiding Shiism through the violation of provisions in the press and publication law in such a way as to constitute slander and defamation of religion.

On June 21, 2009, a Jordanian court sentenced poet Islam Samhan to one year in prison after his conviction on charges of defaming Islam, following the publication of a collection of his poems entitled “With the Grace of Shadow” The Publications Circuit said that the poems included phrases from the Quran that constituted defamation of divine law and an insult to religious sentiment.

Sudan

On November 29, 2007, the court sentenced British teacher Gillian Gibbons to 15 days in prison followed by her deportation after she was convicted of insulting religion.

On December 16, 2007, a Khartoum court sentenced two Egyptian workers to six months in prison after they displayed a book for sale that contained material considered derisive of the Prophet's wife.

Morocco

In December 2006, the Prime Minister issued a decree suspending the weekly "Nishan" for two months, after it published a story that was described as defaming religion. In January 2007, a Moroccan court handed down a three-year prison sentence (suspended) against Driss Ksikes, director and editor at the time, and journalist Sana al-Aji, on charges of defaming Islam. The two journalists were fined 80,000 Moroccan dirhams (approximately \$10,400) each.

Yemen

On 16 January 2010, Journalist Moaz Al-Ashhaby was sentenced to one year in prison on the charges of defaming Islam as a result of an article he has written in a newspaper. The hisba case against him was filled by a number of Yemeni parliamentarians and Islamic Sheikhs. He was released during his trial after a presidential amnesty.
