



INTERNATIONAL HUMANIST AND ETHICAL UNION

1 Gower Street, London WC1E 6HD, United Kingdom

E Mail iheu-office@iheu.org

Website www.iheu.org

BRIEFING

for delegates to the

118TH ASSEMBLY

OF THE INTER-PARLIAMENTARY UNION

CAPE TOWN, 13-18 APRIL 2008

Concerns about the

Cairo Declaration on Human Rights in Islam and

Moves to outlaw the Defamation of Religion

19 April 2008 edition

It is expected that updated editions
will be published to reflect developments.

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Section 1

Purpose and context of this paper

1. This Paper examines recent moves to outlaw the “Defamation of Religion” and the context in which they have arisen, and the increasing emphasis within the UN system on the Cairo Declaration on Human Rights in Islam. The Declaration was adopted in 1990 and appears to us to be increasing in stature relative to that of the 1948 Universal Declaration of Human Rights (UDHR).
2. We believe these developments raise fundamental questions about freedom of expression and about the future and primacy of the Universal Declaration, that require urgent, informed and open discussion.
3. The Paper is the first one prepared by the International Humanist and Ethical Union (IHEU) on this topic. It is hoped that the Paper will also be of interest all concerned with the preservation of Human Rights.
4. The Paper is timed to facilitate parliamentarians attending the Inter-Parliamentary Union meeting in Cape Town on 13-18 April 2008 (the 118th Assembly).
5. The UNDHR was inspired by revulsion at the treatment of individuals by fascist regimes which placed their ideological goals above the need to respect individual autonomy and dignity. The Universal Declaration explicitly endorsed the notion that individual rights to autonomy, equality and dignity are so important that they must never again be subjugated to the achievement of ideological and collective goals, no matter how important or dearly held such goals may be.
6. While it has significant cultural elements, religion is also a form of ideology which aims at the organisation of individual and communal life along certain lines. The Cairo Declaration on Human Rights in Islam subordinates human rights to Islamic Law and thus, far from complimenting the UNDHR, it in fact endorses the subjugation of human rights to ideological goals. This represents a repudiation of the most basic underpinnings of both the UN Declaration on Human Rights and the entire post war human rights movement.

The International Humanist and Ethical Union (IHEU)

7. The IHEU is the world umbrella organisation for Humanist, Rationalist and Freethought organisations, representing more than 100 member organisations in over 40 countries. IHEU is formally recognised by the United Nations as an international NGO, and is accredited to a number of UN organisations as well as the Council of Europe. It has maintained a regular presence at the UN, New York, (where its representative is chair of the NGO Committee on Freedom of Religion and Belief) IHEU International Representatives have regularly spoken at, and made submissions to, conferences and functions of the Council of Europe. A more comprehensive statement of IHEU’s formal status with numerous international bodies appears as Appendix G.
8. IHEU is committed to the promotion and protection of human rights as enshrined in the Universal Declaration and the two international covenants, the ICCPR and ICESCR; holding that these rights are inalienable and vested in the individual, rather than the state, culture, society, religion or any other group.

9. IHEU seeks to protect the Human Rights of all. There are those within all societies and all religions who are disadvantaged and without a voice. All too often, women, young people and sexual minorities come into this category, as do those who are not religious, or not practising a religion. IHEU is concerned that the rights of all these groups are especially vulnerable where religious demands are being advanced; it should not be automatically assumed that the demands made by religious leaders are invariably representative of those practitioners of the religion for whom the leaders claim to speak.

Conclusion and Recommendations (in bold)

- A. IHEU considers that the 1990 Cairo Declaration on Human Rights in Islam is incompatible with and falls considerably short of the 1948 Universal Declaration of Human Rights. We fear that religiously- based declarations will deflect the focus from the universal inalienable human rights of the individual.
 - B. Were declarations to be issued by other religions, this could lead to further conflict and confusion.
 - C. We fear that even those nations known for their support of the Universal Declaration are failing to stand up for its primacy. We suspect this may be because of the difficulty of opposing voting blocs intent on promoting the Cairo Declaration and very much less concerned with acknowledging, far less addressing, human rights abuses in their own countries, for example over apostasy and homosexual activity.
 - D. We contend that the growing pressure by the 56 member states Organisation of the Islamic Conference (OIC) for legislation to outlaw ill-defined “defamation of religion” will lead to a serious curtailment of freedom of expression and could even create an environment that will foster extremism.
 - E. The moves to pass resolutions calling for laws against defamation of religion at the UN, and repeatedly pressing for legislation through other international organisations, amount to the imposition of blasphemy laws on the international community through the agency of the UN. We are convinced that defamation laws are likely to be even more harmful to society than blasphemy law since they are even more likely to stifle all criticism, however deserving - of religious practices and religious leaders.
 - F. It seems inevitable that new laws on defamation of religion are likely to result in more executions, as Appendix L bears testimony. Abuses and attacks against the vulnerable that go unchallenged, and continue hidden from public view and hence accountability will grow in number and severity. Without freedom of expression, neither democracy nor civilised society can operate effectively.
 - G. **We call on parliamentarians and defenders of Human Rights throughout the world to oppose defamation of religion laws and any moves to undermine the primacy of the Universal Declaration on Human Rights and the International Covenant on Civil and Political Rights anywhere in the world.**
 - H. **In particular, we are of the opinion that culture- or religion-specific human rights statements of principles or charters is likely to lead to**
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the weakening of compliance with the Universal Declaration and the International Covenant on Civil and Political Rights because such instruments are likely to provide for increased derogation on religious or cultural grounds. They are also likely to result in confusion and conflict where different religions or cultures produce statements competing in content and territorial application.

Section 2

The Cairo Declaration and its Implications

Introduction

1. The Cairo Declaration of Human Rights in Islam (see Appendix 2) was adopted by the Organisation of the Islamic Conference (OIC) on the 5th August 1990 and states it is to “serve as a general guidance for [OIC] member states in the field of human rights”.
2. The OIC’s Secretary-General issued a statement marking Human Rights day in 2007, in which he stated that the OIC is “considering the establishment of [an] independent permanent body to promote Human Rights in the Member States in accordance with the provisions of the OIC Cairo Declaration on Human Rights in Islam and to elaborate an OIC Charter on Human Rights.”
3. We therefore conclude that the Declaration is intended to be used as a basis for the Human Rights legislation in the member States of the OIC, and as expressing the guiding principles of the Human Rights Body that the OIC is hoping to establish.
4. The Cairo Declaration couches Human Rights solely in terms of Islamic belief; its conception of human beings is one in which they are “united by their subordination to Allah and descent from Adam”, asserting that mankind is “in dire need of faith to support its civilization...the true religion is the guarantee for enhancing such dignity along the path to human integrity”. The document makes multiple references to Islamic belief, and significantly, defines Human Rights in terms of Shariah compliance. Its stated aim is affirming mankind’s “freedom and right to a dignified life in accordance with the Islamic Shariah”.

Specific examples

5. Religious freedom is limited by the Cairo Declaration. Article 10 says that “Islam is the religion of true unspoiled nature. It is prohibited to exercise any form of pressure on man or to exploit his poverty or ignorance in order to force him to change his religion to another religion or to atheism...” Not only does the Article breach the spirit of the equality by asserting the truthfulness of Islam and therefore implicitly asserting the falseness of other faiths, it also provides no protection whatsoever of the religious freedom of those who wish to use their religious freedom to leave Islam.
6. The Cairo Declaration states that “All men are equal in terms of basic human dignity and basic obligations and responsibilities, without any discrimination on the basis of ... sex”. Yet, on gender roles, the Cairo Declaration categorises women as necessarily “non-belligerent” in Article 3 while the “husband is responsible for the maintenance and welfare of the family”. We presume that the requirement for Shariah compliance would not just permit but possibly also require lesser credence being given to women’s evidence in court.

7. The rights which the declaration asserts are all declared as subject to Shariah-prescribed reason. For instance, taking life away, protecting asylum seekers, or safety from bodily harm are all guaranteed by the Cairo Declaration except in cases where there is a “Shariah prescribed reason” for it to be otherwise.

Whereas the UNHCR asserts that Human Rights are inalienable, the Cairo Declaration sees them as subject to Shariah. This idea of Shariah law trumping all rights would appear to us to negate the idea of inalienable human rights altogether; instead it merely reinforces the position of Islam as the deciding force.

8. As with the rights mentioned above, freedom to express opinion is also limited by the declaration, to being “in such a manner as would not be contrary to the principles of Shariah”. Under Shariah law – the law that underpins the Cairo Declaration - acts that are considered blasphemous are punished severely; sometimes the punishment is death.

9. The recent episode in Sudan concerning the naming of a teddy bear Muhammad demonstrates the seriousness with which much of the Islamic world regards not only the criticism of religion but even the use of their Prophet’s name¹. On the 29th November 2007 a British school teacher, Ms Gillian Gibbons, who had been teaching in Sudan was found guilty of “insulting religion”² after she had allowed her class to name the class teddy bear Muhammad. Ms Gibbons was found guilty and sentenced to fifteen days’ imprisonment and to deportation³. After her sentencing, hundreds of protestors took to the streets of Khartoum calling for the execution of Ms Gibbons. These protests were the result of Sudanese Imams denouncing the teacher during Friday prayers⁴. Although she was released after spending eight days in custody, this only happened following considerable international pressure and on-the-spot pleading by two British Muslim Peers for the Sudanese President Omar Al-Bashir to pardon the teacher.⁵

10. Ms Gibbons’ life could still be in danger because the guilty verdict was not reversed. Sudanese Muslim authorities strongly opposed the pardon.

Implications and broader issues

11. The Cairo Declaration prescribes a considerably different understanding of human rights from that of the UDHR. The underlying conception of Human Rights in the Cairo Declaration is in many respects irreconcilable with the

¹ [http://www.guardian.co.uk/world/2007/nov/26/uk.religion,](http://www.guardian.co.uk/world/2007/nov/26/uk.religion)
[http://news.bbc.co.uk/2/hi/africa/7112929.stm,](http://news.bbc.co.uk/2/hi/africa/7112929.stm)

² <http://www.guardian.co.uk/uk/2007/nov/30/sudan.schoolsworldwide>

³ <http://blogs.reuters.com/ask/2007/11/29/teddy-bear-teacher-was-she-naive/>

⁴

http://www.nytimes.com/2007/12/01/world/africa/01sudan.html?_r=1&oref=slogi
[n](#)

⁵ [http://www.msnbc.msn.com/id/22076390/,](http://www.msnbc.msn.com/id/22076390/)
http://news.bbc.co.uk/2/hi/uk_news/7124447.stm

importance attached to individual rights and human agency which is central to the UDHR. By limiting rights to those permitted by the Shariah, the Cairo Declaration, rather than complementing the UDHR and the international covenants instead undermines many of the rights they are supposed to guarantee. Whereas the UDHR sees Human Rights as stemming from reason and conscience, and implicitly open to democratic development as circumstances change, the Cairo Declaration considers their existence as interdependent with Islamic belief and rooted in the millennium-old immutable texts of that religion. Whereas the UDHR is a document meant for individual citizens of the world; the Cairo Declaration is meant for Muslims as a group. Given these mutually exclusive perspectives, the Cairo Declaration and the UDHR are therefore incompatible.

12. Specific questions raised by the Cairo Declaration

- a. Where the Cairo Declaration is in conflict with the Universal Declaration and the International Covenants on Civil and Political Rights, we are not clear which takes precedence in OIC countries (in theory and in practice) or, if the former, how conflicts between the instruments are resolved or even who resolves them.*
- b. We invite Parliamentarians and Human Rights experts to enquire of the OIC whether they consider that the Cairo Declaration takes precedence over the Universal Declaration and the International Covenant on Civil and Political Rights, and if so the territorial extent of this precedence and whether it also applies to non-Muslims. We note that where Shariah law has been introduced into northern Nigeria states it applies also to non-Muslims.*
- c. The Cairo Declaration contains a passage “Reaffirming that discrimination on the grounds of religion or belief constitutes a violation of human rights”. To the extent that the Cairo Declaration is considered to take precedence over the Universal Declaration and the International Covenant on Civil and Political Rights in any respect, does this therefore open the door to leaders of other religions to issue their own declarations, and if so, which ones would be permitted to do so and who would decide this?*
- d. If other religions issue their own declarations, how will their Declarations relate in status to the Universal Declaration, the International Covenant on Civil and Political Rights and indeed the Cairo Declaration and how will conflicts over territorial application and content be resolved?*
- e. We are concerned about the vagueness of definition of defamation of religion. Is there anything to prevent such legislation making it unlawful to criticise female genital mutilation, or some aspects of Shariah law such as public stoning, forced marriage, and apostasy and homosexual acts being capital offences, for example?*

Broader Questions about UNHRC

- f. That this Paper needs to be written at all raises uncomfortable questions about the universality of human rights, the role of religion-specific alternatives, the UN Human Rights Council, the UN itself, and some of its appointed officials. It must be said that many officials and special rapporteurs do truly magnificent work in upholding Human Rights, yet often seem to be impeded in their work.*

13. Appendix J (“IHEU “Ambushed” at Human Rights Council 13 March 2008”) provides an example of the obstruction by Islamic states of attempts to discuss defamation laws and the Cairo Declaration objectively, including an extraordinary claim by a Pakistani delegate to the Human Rights Council during a point of order that “it is an insult to our faith to discuss the Shariah here in this forum”

14. Appendix K shows that the High Commissioner for Human Rights, Louise Arbour had welcomed the Arab Declaration of Human Rights, despite the inclusion in its preamble of the phrase “Rejecting all forms of racism and Zionism, which constitute a violation of human rights” and, in Articles 6 and 7, provisions to permit the death penalty in certain circumstances even for persons under 18.

15. We also show in this report that the High Commissioner later recanted her welcome for this report, evidently following protests regarding the phrase about Zionism.

16. We note that the High Commissioner has since resigned, and we welcome the plea calling for a “Strong High Commissioner” and a “Transparent Selection Process” made by Amnesty International and Human Rights Watch.

17. We call on parliamentarians and defenders of Human Rights throughout the world to do all they can to ensure that the New High Commissioner for Human Rights is a strong commissioner absolutely committed to increasing adherence to the Universal Declaration and to the two international covenants: on Civil and Political Rights, and on Social, Cultural and Economic Rights.

g. Similarly difficult questions need to be raised about what appears to be an OIC voting bloc and the role played by some delegations, especially Western nations. In the opinion of some, the UN has become a major impediment to the efforts to create free democratic societies because it has created a forum from where this assault on modern values can be carried on with the connivance or willing acquiescence of some groups within the UN system.

Section 3

The Defamation of Religion(s)

History of the UNHRC Resolution on the Defamation of Religion(s)

1. On the 18th December 2007, the United Nations General Assembly passed a resolution⁶ (see Appendix 1) ‘Combating Defamation of Religions’. This current version of the resolution was introduced by Pakistan on behalf of the OIC and passed by a 108-51 margin, with 25 abstentions.

2. The motion on the defamation of religions had first been introduced in 1999 in the old Commission on Human Rights and has been a priority of the 57-nation OIC since the events of 11th September 2001. This resolution, with varying wording has been adopted every year since by the Commission and by its successor, the Human Rights Council. The campaign against defamation of religions gained fresh impetus following a Danish newspaper's publication of cartoons satirising the prophet Mohammed. The protests and violence surrounding the Danish Cartoon issue (February 2006) arose five months after the first publication of the cartoons themselves, on the 30th September 2005. The internationally-circulated version of the cartoons which fomented the protests and violence appeared to have been altered to make them especially offensive to Muslims⁷. These protests occurred a few weeks before the UNCHR was due to reconsider the OIC’s resolution on “combating defamation of religions”; the OIC presented its resolution to UN Human Rights Council on 30 March 2007.

The Resolution

3. The resolution on Combating Defamation of Religions concerns itself with highlighting and combating “defamation of all religions” but “Islam and Muslims in particular”. It advises that states should - in legal and constitutional terms- take all measures to adequately protect “against acts of hatred, discrimination, intimidation and coercion” which it contends result from the defamation of religion – in particular Islam. It notes that “everyone has the

⁶ <http://documents-dds-ny.un.org/doc/UNDOC/LTD/N07/579/32/pdf/N0757932.pdf?OpenElement>

⁷

<http://www.guardian.co.uk/commentisfree/2008/mar/02/muhammadcartoons.religion>,

<http://www.telegraph.co.uk/news/main.jhtml?view=BLOGDETAIL&grid=P30&blog=newsdesk&xml=/news/2006/02/06/bleurope06.xml&sSheet=/portal/2006/02/06/ixportaltop.html>

http://counterterrorism.typepad.com/the_counterterrorism_blog/2006/02/fabricate_d_cart.html, <http://www.brusselsjournal.com/comment/reply/668>,

right to...freedom of expression” but that “the exercise of these rights carries with it special duties and responsibilities and may therefore be subject to limitations as are provided by law”. Freedom of expression is not absolute and is normally subject to restrictions for reasons of public order and national security, but resolution appears to make the limitations practically open-ended. Furthermore, the current practice in many OIC states is that the requirement that respect be shown for religion is seen as requiring extensive restriction of freedom of expression so that even relatively mild criticism of religion or denial of its tenets is not permitted.

4. Moreover, the restriction of criticism of religion ignores two very salient features of contemporary religion. First “religion” is an extremely broad category. Even within faiths such as Islam and Christianity there are widely differing interpretations of the requirements of faith. Some schools of Christianity, Islam and of other faiths endorse extremely intolerant and violent behaviour such as the attacks of 11 September 2001. Thus, unless the state is to involve itself in mandating official versions of religious truth, (which would itself raise issues of religious freedom) a general prohibition on defamation of religions risks providing protection to beliefs which actively incite hatred and violence.

5. Secondly, while the observation of civility and avoidance of offence in public debate is something to be striven for, religions themselves - including mainstream versions of both Islam and Christianity - hold and express views which are highly offensive to some groups. Both mainstream Islam and the Roman Catholic Church are, for instance, very hostile to the acceptance of homosexuality. Their ability to express these views is, of course, a vital element of a democratic society. However, organised religions must accept that freedom of speech involves a degree of reciprocity and that if they are to be permitted to express views which homosexuals find offensive, they must be willing to permit expression of opinions which Catholics or Muslims find similarly objectionable.

The Relevance of the Resolution

6. Clearly, the concept of freedom of expression is not even engaged if what is expressed is anodyne or respectful, and it is not clear from the resolution how much beyond this (if at all) expression is permitted.

7. The passing of the resolution demonstrates the significant power of the Islamic states within the Human Rights Council. It is not clear why the resolution is on defamation of religions, whereas the only religion actually mentioned by name is Islam. Emphasis is given to victimhood suffered by Muslims, but is silent on Human rights abuses and intolerance by any Muslim States.

8. The Resolution does not give freedom of expression anything like the fundamental and foundational right that is incorporated in the Universal Declaration. It represents a culmination of years of Islamic state pressure upon the very notion of traditional human rights; instead it enshrines a type of cultural relativism that is anachronistic in the context of universal human rights.

Nevertheless, these UN resolutions are not seen as binding. Thus, - as indicated by recent comments by the Iranian foreign minister Manouchehr Mottaki and Kuwaiti National Assembly Speaker Jassem Al-Kharafi - the OIC is now pushing for the implementation of international legislation against the defamation of religions⁸.

9. Perhaps the most disturbing document we have seen in compiling this report is a Reuters news report of 19 March 2008 bearing the headline "Saudi clerics back death fatwa for liberal writers". The report indicates that a revered cleric in Saudi Arabia has issued a fatwa saying that "two writers deserve to die if they did not retract views". According to the cleric they had "questioned the Sunni Muslim view in Saudi Arabia that adherents of other faiths should be considered unbelievers". The cleric said this "implied Muslims were free to follow other religions and their faith was on a par with other religions". Twenty other clerics have supported their revered colleague adding that "The Sheikh's words were clear in placing the issue in the hands of the temporal authorities when he said that there must be a trial. We affirm there should be a trial." A Saudi opposition figure is quoted as saying "This is in my view the largest show of force in the Wahhabi movement in a long time."

The Call for Further International Legislation on the Defamation of Religion

10. Although the OIC itself does not have legislative powers (it has no power beyond drawing attention to rights issues, and any resolutions it passes are non-binding) it holds a great deal of influence within the context of international negotiation. Moreover, it has made considerable progress towards some form of international legislation on this matter. Having seen since 1999 various resolutions relating to penalisation for the defamation of religion passed at the CHR/HRC It is now looking to the Inter Parliamentary Union to press for international legislation against the defamation of religion.

11. This proposed legislation has been put forward at the IPU annual meeting before - in Indonesia in 2007 - as well as at the Islamic Parliamentary Union in Malaysia. At the IPU meeting in Indonesia a resolution on "Ensuring Respect for and Peaceful Co-Existence between all Religious Communities and Beliefs in a Globalized World"⁹ (see Appendix C) was passed with consensus. Also, a proposal to outlaw the *criticism* of religion was recently adopted¹⁰ by the Kuwaiti Parliament and passed by the Arab Interim Parliament's (AIP) Committee on Peace and International Security. Kuwaiti MP, Waleed Al-Tabtabaie called on the Inter-Parliamentary Union (IPU) to unite in the campaign against the defamation of religion by the media¹¹. Mr. Al-Kharafi expressed his hope that the Kuwaiti proposal explicitly demanding the penalisation of those who criticise religion would obtain the support needed at

⁸ http://www.kuwaittimes.net/read_news.php?newsid=ODgzMDc3NjA5

⁹ <http://www.ipu.org/conf-e/116/116-1.htm>

¹⁰ http://www.kuwaittimes.net/read_news.php?newsid=ODgzMDc3NjA5

¹¹ <http://www.arabtimesonline.com/arabtimes/kuwait/Viewdet.asp?ID=10286&cat=a>

the IPU meeting in South Africa in April 2008 so that it could be referred to the UN for approval.

Legislation on the Defamation of Religions and the Secular Perspective

12. The OIC's promotion of the Cairo Declaration and defamation of religion legislation at the UNHRC and Inter-Parliamentary Union appears to us to undermine the Universal Declaration on Human Rights and its focus on universal and individual rights in favour of the rights of groups and societies to force individuals to adhere to traditional viewpoints and ways of life. This pattern is very dangerous in that the very concept of "Human Rights" was originally intended to protect the rights of the *individual* whether part of a majority or minority in any given context.

13. We are profoundly disturbed by the indifference of Western states - who traditionally value individual rights - towards the influence that the OIC is exercising within the Human Rights Council and upon the discourse of human rights generally. The fact that a resolution on the defamation of religions was passed by both the UNHRC and the UN General Assembly, sadly demonstrates the fading influence of universal conceptions of individual rights. It also shows that by sheer weight of numbers a rather authoritarian version of Islam embraced by many OIC states is achieving ever greater political influence within the UN system. Furthermore, those non-governmental organisations keen to express and promote the universality of human rights are increasingly being squeezed and their opportunity to express their support within the context of the UN is consequently being drastically reduced.

"Defamation", The Critique of Beliefs and Democracy

13. In Pakistan, the laws of blasphemy are routinely misused by those seeking to silence critics, rivals, or those they simply wish to exclude from society. All that is needed is to accuse them of blasphemy. It is a capital offence. They are then jailed. If they escape murder in jail, they will have the greatest difficulty in being defended in court, so afraid are the lawyers – and even many judges – of the power of the mullahs who crowd the courts in such cases. We fear that defamation of religion will share all the defects of blasphemy, but be even wider in its scope.

14. The proposed international legislation against the defamation of religions not only suffers from a complete misunderstanding of the non-believer's position (where religious belief is - by definition of a non-believer – *not sacred* to them) it suffers from illegitimately considering belief to be analogous to race. This common conflation between race and religion is an insidious attempt to associate belief with something more fundamental than it is; to associate it with something that we are born with and have no control over. The distinction between the two must be maintained and must be borne in mind when talking of people's rights and actions. Beliefs are subject to rationale and are changeable. They should therefore always be exposed to critique both from within and perhaps more importantly, from outside. Indeed, mutual criticism fosters an atmosphere of reflection and dialogue; "the constant confrontation of ideas, even controversial ones, is a stepping stone to vibrant democratic societies" (Appendix E, Report on Freedom of Opinion and Expression, UN report A/HRC/7/14: paragraph 66). Whereas, "limiting the free circulation of ideals...

undermines democracy entirely” (ibid.). This notion regarding the interdependence of freedom of speech and democracy is further corroborated by the UN’s Special Rapporteur on freedom of religion or belief - Ms Asma Jahangir - who, in a report on the promotion and protection of Human Rights, states that “respect for the right to freedom of expression, as articulated in article 19 of ICCPR, constitutes a pillar of democracy and reflects a country’s standard of justice and fairness” (Appendix F, Report A/HRC/6/5: paragraph 38).

15. We have previously drawn attention to the vagueness of what the term “defamation” is supposed to cover, and reassert that it sets an ominous precedent; does defamation of religions include criticizing abhorrent practices such as female genital mutilation or public stoning? Such vagueness is particularly troublesome when those practices criticized are practices completely contrary to Human Rights.

Section 4

The Role of Secularism

The Secularist Position

1. Contrary to the Cairo Declaration's conception of rights - which appeals to faith and religion, which are a subjective and not universally shared - the Secularist position was created in order to define a neutral public space in which every individual is equal. Indeed, the principles of Secularism appeal to rationality - a tool that all humans possess. The UDHR corroborates the secular conception of the individual when, in Article 1, it states that all human beings "are endowed with reason and conscience and should act towards one another in a spirit of brotherhood." According to the Secular position, the *only* way to ensure that every individual - regardless of his race, culture, ideology or religion - is treated fairly and humanely is to pursue a secular and as far as possible an a-cultural and religiously neutral perspective of human rights. The Secular position therefore should be understood as being in diametric opposition to intolerance or prejudice. Secularism, being neither for nor against religion in general or any individual religion in particular, provides a level playing field for all, religious believers and non-believers alike, and thus the best guarantee of religious freedom for all.

2. The experience in most - if not all - theocracies is that those of other faiths and none are disadvantaged, often severely. Christians in Pakistan come into this category. Human Rights violations are much higher in theocracies than in other countries.

3. It is a tenet of secularism that none should be either advantaged or disadvantaged by virtue of their religion or belief (including non-belief).

4. We affirm that secularists fight for the rights of all freedom to believe what they wish (but also for people to change their religion without penalty) and to the right to manifest their religion, providing in doing so they do not infringe the Human Rights of others. It is these Human Rights that a Secularist system privileges above the interests of any particular group. Secularists oppose allowing any one group to betray Human Rights in the name of personal opinion or faith. Secularism permits all of us to pursue our own beliefs within the private realm. Secular principles require a construction of a framework of equality and liberty for the public realm within which every person is identified through common humanity and citizenship rather than through race or beliefs.

On Freedom of Expression and Religion

5. The question of the freedom of speech and its limitations is particularly pertinent at present, given the recent violent reaction in relation to both the Danish Cartoons and the Sudanese teddy bear Case (as discussed above). Nonetheless, as noted at the outset, Islamic pressure on the international community to produce legislation against the defamation of religions has been evident for many years. The violent reactions that have occurred in response to either the conscious or unconscious critique of religion - in particular Islam - over the past few decades would seem to indicate that many religious people believe that a right of theirs is being violated when their religion is criticised.

However, we contend that no one has a right not to be offended. It should be remembered that “the right to freedom of expression is applicable not only to comfortable, inoffensive or politically correct opinions, but also to ideas that “offend, shock and disturb”. (Appendix E, Report A/HRC/7/14: paragraph 66). We note that few believers fully respect the tenets of any religion but their own, and we believe that no-one has a duty to respect any religion. Furthermore, lack of respect for a belief should not be confused with lack of respect for, or hatred of, the believer. It is the believer that merits protection, not the belief, and we urge parliamentarians to draw this distinction in legislation.

6. It should be noted that there already exists international legislation that limits freedom of speech where necessary; for instance “the International Covenant on Civil and Political Rights provides that “any propaganda for war” and “any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law”.” (Appendix E, Report A/HRC/7/14: paragraph 65). Such instruments as the Covenant on Civil and Political Rights are not in place to “suppress the expression of critical views, controversial opinions or politically incorrect statements” nor are they “designed to protect belief systems from external or internal criticism” (Appendix E, Report A/HRC/7/14: paragraph 85). Rather they are there in order to *protect* individuals, - not belief systems - and guarantee their rights. Indeed, the Ms Asma Jahangir, the Special Rapporteur on freedom of religion or belief for the UN, maintains that “[a]t the global level, any attempt to lower the threshold of article 20 of the Covenant would not only shrink the frontiers of free expression, but also limit freedom of religion or belief itself” and that “such an attempt could be counterproductive and may promote an atmosphere of religious intolerance” (Appendix F, Report A/HRC/6/5: paragraph 39).

Appendix A

Source:

<http://www.eyeontheun.org/developments-item.asp?d=6231&id=8744>

United Nations A/C.3/62/L.35

General Assembly

Distr.: Limited

2 November 2007

Original: English

07-57932 (E) 051107

0757932

Sixty-second session

Third Committee

Agenda item 70 (b)

Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Pakistan:* draft resolution

Combating defamation of religions

The General Assembly,

Recalling that all States have pledged themselves, under the Charter of the United Nations, to promote and encourage universal respect for and observance of all human rights and fundamental freedoms without distinction as to race, sex, language or religion,

Recalling also the relevant resolutions of the Commission on Human Rights in this regard,

Recalling further the United Nations Millennium Declaration adopted by the General Assembly on 8 September 2000¹², welcoming the resolve expressed in the Millennium Declaration to take measures to eliminate the increasing acts of racism and xenophobia in many societies and to promote greater harmony and tolerance in all societies, and looking forward to its effective implementation at all levels, including in the context of the Durban Declaration and Programme of

¹² See resolution 55/2.

Action adopted by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, held in Durban, South Africa, from 31 August to 8 September 2001,¹³

Recalling the proclamation of the Global Agenda for Dialogue among Civilizations,¹⁴ and inviting States, the organizations and bodies of the United Nations system, within existing resources, other international and regional organizations and civil societies to contribute to the implementation of the Programme of Action contained in the Global Agenda,

Welcoming the launch of the Alliance of Civilizations initiative, intended to respond to the need for a committed effort by the international community, in order to promote mutual respect and understanding among different cultures and societies, and the assignment in this regard of the High Representative of the Secretary-General for the Alliance of Civilizations,

Welcoming also the progress achieved in the implementation of the Durban Declaration and Programme of Action,

Underlining the importance of increasing contacts at all levels in order to deepen dialogue and reinforce understanding among different cultures, religions, beliefs and civilizations, and welcoming in this regard the Declaration and Programme of Action adopted by the Non-Aligned Movement Ministerial Meeting on Human Rights and Cultural Diversity, held in Tehran on 3 and 4 September 2007,¹⁵

Reaffirming that discrimination on the grounds of religion or belief constitutes a violation of human rights and a disavowal of the principles of the Charter,

Convinced that respect for cultural, ethnic, religious and linguistic diversity, as well as dialogue among and within civilizations, is essential for peace, understanding and friendship among individuals and people of the different cultures and nations of the world, while manifestations of cultural prejudice, intolerance and xenophobia towards people belonging to different cultures, religions and beliefs generate hatred and violence among peoples and nations throughout the world,

Recognizing the valuable contributions of all religions and beliefs to modern civilization and the contribution that dialogue among civilizations can make to an improved awareness and understanding of common values,

Reaffirming the need for all States to continue their national and international efforts to enhance dialogue and broaden understanding among civilizations, cultures, religions and beliefs, and emphasizing that States, regional organizations, non-governmental organizations, religious bodies and the media have an important role to play in promoting tolerance, respect for and freedom of religion and belief,

¹³ See A/CONF.189/12 and Corr.1, chap. I.

¹⁴ See resolution 56/6.

¹⁵ See A/62/464, annex

Underlining the important role of education in the promotion of tolerance and the elimination of discrimination based on religion or belief,

Deeply alarmed at the rising trends towards discrimination based on religion and faith, including in some national policies and laws that stigmatize groups of people belonging to certain religions and faiths under a variety of pretexts relating to security and illegal immigration,

Alarmed at the serious instances of intolerance, discrimination and acts of violence based on religion or belief, intimidation and coercion motivated by extremism, religious or otherwise, occurring in many parts of the world, in addition to the negative projection of Islam in the media and the introduction and enforcement of laws that specifically discriminate against and target Muslims, particularly against Muslim minorities following the events of 11 September 2001, and threatening the enjoyment of human rights and fundamental freedoms,

Noting with concern that defamation of religions could lead to social disharmony and violations of human rights,

Recalling its resolution 61/164 of 19 December 2006,

1. *Takes note* of the report of the Secretary-General and the conclusions thereof;¹⁶

2. *Expresses its deep concern* about the negative stereotyping of religions and manifestations of intolerance and discrimination in matters of religion or belief still in evidence in the world;

3. *Strongly deplores* physical attacks and assaults on businesses, cultural centres and places of worship of all religions as well as targeting of religious symbols;

4. *Expresses its deep concern* about programmes and agendas pursued by extremist organizations and groups aimed at the defamation of religions and incitement to religious hatred, in particular when condoned by Governments;

5. *Also expresses its deep concern* that Islam is frequently and wrongly associated with human rights violations and terrorism;

6. *Notes with deep concern* the intensification of the campaign of defamation of religions and the ethnic and religious profiling of Muslim minorities in the aftermath of the tragic events of 11 September 2001;

7. *Recognizes* that, in the context of the fight against terrorism and the reaction to counter-terrorism measures, defamation of religions and incitement to religious hatred becomes an aggravating factor that contributes to the denial of fundamental rights and freedoms of members of target groups, as well as their economic and social exclusion;

8. *Deplores* the use of the print, audio-visual and electronic media, including the Internet, and any other means to incite acts of violence, xenophobia or related intolerance and discrimination against Islam or any other religion, as well as targeting of religious symbols;

¹⁶ A/62/288.

9. *Stresses* the need to effectively combat defamation of all religions and incitement to religious hatred, against Islam and Muslims in particular;

10. *Emphasizes* that everyone has the right to hold opinions without interference and to freedom of expression, and that the exercise of these rights carries with it special duties and responsibilities and may therefore be subject to limitations as are provided by law and are necessary for respect of the rights or reputations of others, protection of national security or of public order, public health or morals and respect for religions and beliefs;

11. *Urges* States to take action to prohibit the advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence;

12. *Also urges* States to provide, within their respective legal and constitutional systems, adequate protection against acts of hatred, discrimination, intimidation and coercion resulting from defamation of religions, to take all possible measures to promote tolerance and respect for all religions and beliefs and the understanding of their value systems and to complement legal systems with intellectual and moral strategies to combat religious hatred and intolerance;

13. *Urges* all States to ensure that all public officials, including members of law enforcement bodies, the military, civil servants and educators, in the course of their official duties, respect people regardless of their different religions and beliefs and do not discriminate against persons on the grounds of their religion or belief, and that any necessary and appropriate education or training is provided;

14. *Underscores* the need to combat defamation of religions and incitement to religious hatred by strategizing and harmonizing actions at the local, national, regional and international levels through education and awareness-raising;

15. *Urges* States to ensure equal access to education for all, in law and in practice, including access to free primary education for all children, both girls and boys, and access for adults to lifelong learning and education based on respect for human rights, diversity and tolerance, without discrimination of any kind, and to refrain from any legal or other measures leading to racial segregation in access to schooling;

16. *Calls upon* the international community to foster a global dialogue to promote a culture of tolerance and peace based on respect for human rights and diversity of religion and belief, and urges States, non-governmental organizations, religious bodies and the print and electronic media to support and participate in such a dialogue;

17. *Affirms* that the Human Rights Council shall promote universal respect for all religious and cultural values and address instances of intolerance, discrimination and incitement of hatred against members of any community or adherents of any religion;

18. *Takes note* of the efforts of the United Nations High Commissioner for Human Rights to promote and include human rights aspects in educational programmes, particularly the World Programme for Human Rights Education proclaimed by the General Assembly on 10 December 2004,¹⁷ and calls upon the High Commissioner to:

(a) Continue those efforts, focusing on the contributions of cultures, as well as religious and cultural diversity;

(b) Collaborate with other relevant international organizations in holding joint conferences designed to encourage the dialogue among civilizations and promote understanding of the universality of human rights and their implementation at various levels, in particular the Office of the High Representative for the Alliance of Civilizations and the Unit mandated within the Secretariat to interact with various entities within the United Nations system and coordinate their contribution to the intergovernmental process;

19. *Requests* the Secretary-General to submit a report on the implementation of the present resolution, including on the possible correlation between defamation of religions and the upsurge in incitement, intolerance and hatred in many parts of the world, to the General Assembly at its sixty-third session.

¹⁷ See resolutions 59/113 A and B.

Appendix B

Source: <http://www1.umn.edu/humanrts/instree/cairodeclaration.html>

**Cairo Declaration on Human Rights in Islam,
Aug. 5, 1990, U.N. GAOR,
World Conf. on Hum. Rts., 4th Sess., Agenda Item 5, U.N. Doc.
A/CONF.157/PC/62/Add.18 (1993) [English translation].**

The Nineteenth Islamic Conference of Foreign Ministers (Session of Peace, Interdependence and Development), held in Cairo, Arab Republic of Egypt, from 9-14 Muharram 1411H (31 July to 5 August 1990),

Keenly aware of the place of mankind in Islam as vicegerent of Allah on Earth;

Recognizing the importance of issuing a Document on Human Rights in Islam that will serve as a guide for Member states in all aspects of life;

Having examined the stages through which the preparation of this draft Document has so far, passed and the relevant report of the Secretary General;

Having examined the Report of the Meeting of the Committee of Legal Experts held in Tehran from 26 to 28 December, 1989;

Agrees to issue the Cairo Declaration on Human Rights in Islam that will serve as a general guidance for Member States in the Field of human rights.

Reaffirming the civilizing and historical role of the Islamic Ummah which Allah made as the best community and which gave humanity a universal and well-balanced civilization, in which harmony is established between hereunder and the hereafter, knowledge is combined with faith, and to fulfil the expectations from this community to guide all humanity which is confused because of different and conflicting beliefs and ideologies and to provide solutions for all chronic problems of this materialistic civilization.

In contribution to the efforts of mankind to assert human rights, to protect man from exploitation and persecution, and to affirm his freedom and right to a dignified life in accordance with the Islamic Shariah.

Convinced that mankind which has reached an advanced stage in materialistic science is still, and shall remain, in dire need of faith to support its civilization as well as a self motivating force to guard its rights;

Believing that fundamental rights and freedoms according to Islam are an integral part of the Islamic religion and that no one shall have the right as a matter of principle to abolish them either in whole or in part or to violate or ignore them in as much as they are binding divine commands, which are contained in the Revealed Books of Allah and which were sent through the last of His Prophets to complete the preceding divine messages and that safeguarding those fundamental rights and freedoms is an act of worship whereas the neglect or violation thereof is an abominable sin, and that the safeguarding of those fundamental rights and freedom is an individual responsibility of every person and a collective responsibility of the entire Ummah;

Do hereby and on the basis of the above-mentioned principles declare as follows:

ARTICLE 1:

(a) All human beings form one family whose members are united by their subordination to Allah and descent from Adam. All men are equal in terms of basic human dignity and basic obligations and responsibilities, without any discrimination on the basis of race, colour, language, belief, sex, religion, political affiliation, social status or other considerations. The true religion is the guarantee for enhancing such dignity along the path to human integrity.

(b) All human beings are Allah's subjects, and the most loved by Him are those who are most beneficial to His subjects, and no one has superiority over another except on the basis of piety and good deeds.

ARTICLE 2:

(a) Life is a God-given gift and the right to life is guaranteed to every human being. It is the duty of individuals, societies and states to safeguard this right against any violation, and it is prohibited to take away life except for a Shariah prescribed reason.

(b) It is forbidden to resort to any means which could result in the genocidal annihilation of mankind.

(c) The preservation of human life throughout the term of time willed by Allah is a duty prescribed by Shariah.

(d) Safety from bodily harm is a guaranteed right. It is the duty of the state to safeguard it, and it is prohibited to breach it without a Shariah-prescribed reason.

ARTICLE 3:

(a) In the event of the use of force and in case of armed conflict, it is not permissible to kill non-belligerents such as old men, women and children. The wounded and the sick shall have the right to medical treatment; and prisoners of war shall have the right to be fed, sheltered and clothed. It is prohibited to mutilate or dismember dead bodies. It is required to exchange prisoners of war and to arrange visits or reunions of families separated by circumstances of war.

(b) It is prohibited to cut down trees, to destroy crops or livestock, to destroy the enemy's civilian buildings and installations by shelling, blasting or any other means.

ARTICLE 4:

Every human being is entitled to human sanctity and the protection of one's good name and honour during one's life and after one's death. The state and the society shall protect one's body and burial place from desecration.

ARTICLE 5:

(a) The family is the foundation of society, and marriage is the basis of making a family. Men and women have the right to marriage, and no restrictions stemming from race, colour or nationality shall prevent them from exercising this right.

(b) The society and the State shall remove all obstacles to marriage and facilitate it, and shall protect the family and safeguard its welfare.

ARTICLE 6:

- (a) Woman is equal to man in human dignity, and has her own rights to enjoy as well as duties to perform, and has her own civil entity and financial independence, and the right to retain her name and lineage.
- (b) The husband is responsible for the maintenance and welfare of the family.

ARTICLE 7:

- (a) As of the moment of birth, every child has rights due from the parents, the society and the state to be accorded proper nursing, education and material, hygienic and moral care. Both the fetus and the mother must be safeguarded and accorded special care.
- (b) Parents and those in such like capacity have the right to choose the type of education they desire for their children, provided they take into consideration the interest and future of the children in accordance with ethical values and the principles of the Shariah.
- (c) Both parents are entitled to certain rights from their children, and relatives are entitled to rights from their kin, in accordance with the tenets of the Shariah.

ARTICLE 8:

Every human being has the right to enjoy a legitimate eligibility with all its prerogatives and obligations in case such eligibility is lost or impaired, the person shall have the right to be represented by his/her guardian.

ARTICLE 9:

- (a) The seeking of knowledge is an obligation and provision of education is the duty of the society and the State. The State shall ensure the availability of ways and means to acquire education and shall guarantee its diversity in the interest of the society so as to enable man to be acquainted with the religion of Islam and uncover the secrets of the Universe for the benefit of mankind.
- (b) Every human being has a right to receive both religious and worldly education from the various institutions of teaching, education and guidance, including the family, the school, the university, the media, etc., and in such an integrated and balanced manner that would develop human personality, strengthen man's faith in Allah and promote man's respect to and defence of both rights and obligations.

ARTICLE 10:

Islam is the religion of true unspoiled nature. It is prohibited to exercise any form of pressure on man or to exploit his poverty or ignorance in order to force him to change his religion to another religion or to atheism.

ARTICLE 11:

- (a) Human beings are born free, and no one has the right to enslave, humiliate, oppress or exploit them, and there can be no subjugation but to Allah the Almighty.
- (b) Colonialism of all types being one of the most evil forms of enslavement is totally prohibited. Peoples suffering from colonialism have the full right to freedom and self-determination. It is the duty of all States peoples to support the struggle of colonized peoples for the liquidation of all forms of and

occupation, and all States and peoples have the right to preserve their independent identity and control over their wealth and natural resources.

ARTICLE 12:

Every man shall have the right, within the framework of the Shariah, to free movement and to select his place of residence whether within or outside his country and if persecuted, is entitled to seek asylum in another country. The country of refuge shall be obliged to provide protection to the asylum-seeker until his safety has been attained, unless asylum is motivated by committing an act regarded by the Shariah as a crime.

ARTICLE 13:

Work is a right guaranteed by the State and the Society for each person with capability to work. Everyone shall be free to choose the work that suits him best and which serves his interests as well as those of the society. The employee shall have the right to enjoy safety and security as well as all other social guarantees. He may not be assigned work beyond his capacity nor shall he be subjected to compulsion or exploited or harmed in any way. He shall be entitled - without any discrimination between males and females - to fair wages for his work without delay, as well as to the holidays allowances and promotions which he deserves. On his part, he shall be required to be dedicated and meticulous in his work. Should workers and employers disagree on any matter, the State shall intervene to settle the dispute and have the grievances redressed, the rights confirmed and justice enforced without bias.

ARTICLE 14:

Everyone shall have the right to earn a legitimate living without monopolization, deceit or causing harm to oneself or to others. Usury (riba) is explicitly prohibited.

ARTICLE 15:

(a) Everyone shall have the right to own property acquired in a legitimate way, and shall be entitled to the rights of ownership without prejudice to oneself, others or the society in general. Expropriation is not permissible except for requirements of public interest and upon payment of prompt and fair compensation.

(b) Confiscation and seizure of property is prohibited except for a necessity dictated by law.

ARTICLE 16:

Everyone shall have the right to enjoy the fruits of his scientific, literary, artistic or technical labour of which he is the author; and he shall have the right to the protection of his moral and material interests stemming therefrom, provided it is not contrary to the principles of the Shariah.

ARTICLE 17:

(a) Everyone shall have the right to live in a clean environment, away from vice and moral corruption, that would favour a healthy ethical development of his person and it is incumbent upon the State and society in general to afford that right.

(b) Everyone shall have the right to medical and social care, and to all public amenities provided by society and the State within the limits of their available resources.

(c) The States shall ensure the right of the individual to a decent living that may enable him to meet his requirements and those of his dependents, including food, clothing, housing, education, medical care and all other basic needs.

ARTICLE 18:

(a) Everyone shall have the right to live in security for himself, his religion, his dependents, his honour and his property.

(b) Everyone shall have the right to privacy in the conduct of his private affairs, in his home, among his family, with regard to his property and his relationships. It is not permitted to spy on him, to place him under surveillance or to besmirch his good name. The State shall protect him from arbitrary interference.

(c) A private residence is inviolable in all cases. It will not be entered without permission from its inhabitants or in any unlawful manner, nor shall it be demolished or confiscated and its dwellers evicted.

ARTICLE 19:

(a) All individuals are equal before the law, without distinction between the ruler and the ruled.

(b) The right to resort to justice is guaranteed to everyone.

(c) Liability is in essence personal.

(d) There shall be no crime or punishment except as provided for in the Shariah.

(e) A defendant is innocent until his guilt is proven in a fast trial in which he shall be given all the guarantees of defence.

ARTICLE 20:

It is not permitted without legitimate reason to arrest an individual, or restrict his freedom, to exile or to punish him. It is not permitted to subject him to physical or psychological torture or to any form of maltreatment, cruelty or indignity. Nor is it permitted to subject an individual to medical or scientific experiments without his consent or at the risk of his health or of his life. Nor is it permitted to promulgate emergency laws that would provide executive authority for such actions.

ARTICLE 21:

Taking hostages under any form or for any purpose is expressly forbidden.

ARTICLE 22:

(a) Everyone shall have the right to express his opinion freely in such manner as would not be contrary to the principles of the Shariah.

1.. Everyone shall have the right to advocate what is right, and propagate what is good, and warn against what is wrong and evil according to the norms of Islamic Shariah.

(c) Information is a vital necessity to society. It may not be exploited or misused in such a way as may violate sanctities and the dignity of Prophets, undermine moral and ethical Values or disintegrate, corrupt or harm society or weaken its faith.

(d) It is not permitted to excite nationalistic or doctrinal hatred or to do anything that may be an incitement to any form or racial discrimination.

ARTICLE 23:

(a) Authority is a trust; and abuse or malicious exploitation thereof is explicitly prohibited, in order to guarantee fundamental human rights.

(b) Everyone shall have the right to participate, directly or indirectly in the administration of his country's public affairs. He shall also have the right to assume public office in accordance with the provisions of Shariah.

ARTICLE 24:

All the rights and freedoms stipulated in this Declaration are subject to the Islamic Shariah.

ARTICLE 25:

The Islamic Shariah is the only source of reference for the explanation or clarification of any of the articles of this Declaration.

Appendix C

Source: <http://www.ipu.org/conf-e/116/116-1.htm>

INTERPARLIAMENTARY UNION ENSURING RESPECT FOR AND PEACEFUL CO-EXISTENCE BETWEEN ALL RELIGIOUS COMMUNITIES AND BELIEFS IN A GLOBALIZED WORLD

Resolution adopted by consensus* by the 116th Assembly
(Nusa Dua, Bali, 4 May 2007)

The 116th Assembly of the Inter-Parliamentary Union,

Affirming that tolerance, recognition and acceptance of cultural, ethnic, religious and linguistic diversity, and dialogue among and within civilizations are essential for respect, peaceful co-existence and cooperation among individuals and people in their diversity of belief, culture and language, and that differences within and between societies should be neither feared nor repressed, but rather cherished as a precious asset of humanity,

Underlining the importance of promoting understanding, tolerance, mutual respect and friendship among human beings in their diversity of religion, belief, culture and language, and *recalling* the inherent dignity and the equal and inalienable human rights and fundamental freedoms of all members of the human family, universal respect for which all States have an obligation to observe, protect and encourage,

Recognizing that all religions have made valuable contributions to civilization and that there are common values shared by all humankind,

Recalling the purposes and principles enshrined in the Charter of the United Nations and the Universal Declaration of Human Rights, in particular the rights to freedom of thought, conscience, religion and belief, and in Article 18 of the International Covenant on Civil and Political Rights,

Further recalling the Global Agenda for Dialogue among Civilizations and the Universal Declaration on Cultural Diversity of the United Nations Educational, Scientific and Cultural Organization (UNESCO), as well as the principles contained therein,

Welcoming the entry into force, on 18 March 2007, of the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions,

Recalling that the IPU, through the resolutions it adopted at the 102nd (Berlin, 1999) and 103rd (Amman, 2000) Inter-Parliamentary Conferences and at the 110th IPU Assembly (Mexico City, 2004), has inter alia resolved to promote dialogue among civilizations and cultures, has emphasized the potential contribution of parliaments to the peaceful co-existence of ethnic, cultural and religious minorities and to international reconciliation, and has called upon all States to adopt appropriate measures to ensure mutual respect and cooperation among ethnic, cultural and religious communities,

Recalling the adoption of the 2005 United Nations World Summit Outcome, which acknowledges the importance of respect and understanding for religious and cultural diversity throughout the world,

Welcoming all national, regional and international initiatives which seek to establish or enrich reciprocal knowledge, interfaith dialogue and mutual respect,

Commending the valuable contribution made by initiatives such as the United Nations Alliance of Civilizations, the Bali Declaration on Building Interfaith Harmony within the International Community, the Congress of Leaders of World and Traditional Religions, the Dialogue among Civilizations and Cultures, the Strategy of Enlightened Moderation, the Informal Meeting of Leaders on Interfaith Dialogue and Cooperation for Peace and the Islam-Christianity Dialogue, which are all mutually inclusive, reinforcing and interrelated,

Recognizing that religions often play a central role in society in terms of their contribution to shaping social and family organizations and internalizing fundamental values that can and must help build a more tolerant and respectful society,

Recognizing that interfaith dialogue and understanding, including the awareness of differences and commonalities among peoples and civilizations, contribute to the peaceful resolution of conflicts and disputes, reduce the potential for animosity, clashes or violence and enable people to perceive ethnic, cultural or religious diversity as a source of cultural enrichment,

Emphasizing that interfaith dialogue should focus on what religions have in common instead of what divides them, and serve to strengthen relations between cultures and civilizations and resolve practical problems, while at the same time avoiding the entrenchment, or even creation, of artificial ethnic, cultural or religious identities or fault lines within and between societies,

Stressing that the focus on dialogue between civilizations and cultures must not be invoked to justify discriminatory laws and practices within cultures and civilizations, especially regarding women, children and the elderly, and that respect and tolerance for other cultures and civilizations must always be rooted in the overarching principle of respect for the human rights protecting every human being, regardless of sex, race, religion or political affiliation,

Emphasizing, therefore, the need, at all levels of society and among nations, to strengthen freedom, justice, respect for human rights, democracy, tolerance, solidarity, cooperation, pluralism, respect for diversity of culture and religion or belief, dialogue and understanding, which are important elements for preserving and consolidating peace and security at the national, regional and international levels,

Alarmed by the reappearance of religious extremism and xenophobic expressions worldwide and *noting* that interfaith dialogue and religious freedom are effective means of fighting the scourge of intolerance,

Seriously concerned at all attacks upon religious places, sites and shrines, including any deliberate destruction of relics and monuments,

Alarmed that instances of intolerance and discrimination on the grounds of religion or belief, including acts of violence, intimidation and coercion motivated by religious intolerance, are on the increase in many parts of the world and threaten the enjoyment of human rights and fundamental freedoms,

such as the freedom of thought, conscience and religion, and *recalling* that the use of violence in the name of religion can never be justified,

Alarmed by attempts to attribute acts of terrorism to any religion,

Condemning any display of xenophobia, racism and intolerance towards immigrants and ethnic, cultural and religious minorities, and *emphasizing* that combating hatred, prejudice, intolerance and stereotyping on the basis of religion or culture represents a significant global challenge that requires further action,

Recalling that parliament is the institution that embodies par excellence the diverse attributes and opinions of society and reflects and channels this diversity in the political process, and that its mission is to defuse tensions with the aim of strengthening social cohesion and solidarity,

Underscoring the particular obligation of parliaments and their members to defend and promote the rights of persons belonging to ethnic, cultural and religious minorities, thereby creating a society in which every individual enjoys all civil, political, economic, social and cultural rights, in particular freedom of worship and the right to freely practice a religion, under democratic principles and conditions,

Convinced that parliaments can help facilitate understanding and cooperation among States and peoples and promote dialogue, tolerance, mutual respect and understanding among civilizations, thus helping to prevent and counter armed conflicts and terrorism,

Recalling that, according to its Statutes, one of the purposes of the IPU is to work towards peace and cooperation among peoples, and *recognizing* the significant role that the IPU can play in enhancing interaction between societies and peoples and promoting dialogue among different civilizations,

Further underscoring the growing role played by the press, in particular the global media (satellite television channels and the Internet) in shaping the image that the members of different civilizations and religious communities have of each other,

Reiterating that freedom of expression and freedom of the press are, as undeniable fundamental rights, two pillars of democracy, two long-awaited freedoms for which societies and individuals have long fought against tyranny and oppression,

Reaffirming that freedom of expression should be exercised in such a way as not to incite hatred, racism, xenophobia or human rights violations,

Stressing the crucial role of education in promoting a better understanding of other cultures and civilizations, a spirit of tolerance and the principle of non-discrimination towards all persons,

A. Role of parliaments in ensuring respect for and peaceful co-existence between all religious communities and beliefs on the national level

Calls on parliaments and their members to use all means available to them to promote peaceful co-existence and constructive cooperation between different communities and to prevent any unfavourable or discriminatory treatment arising from their belonging to an ethnic, cultural or religious group, in a spirit of tolerance and dialogue;

Acknowledges that mutual respect and cooperation among ethnic, cultural and religious communities are expressed, for the most part, not in special laws but, more effectively, in the framework of a constitution guaranteeing democracy, respect for human rights, individual freedoms, including religious freedom, and the peaceful co-existence of ethnic and religious groups and minorities;

Calls on parliaments therefore to take effective measures to prevent and eliminate discrimination on the grounds of religion or belief, in the recognition, exercise and enjoyment of human rights and fundamental freedoms in all fields of civil, economic, political, social and cultural life, to make all efforts to enact legislation prohibiting such discrimination and to repeal any existing discriminatory laws, and to take all appropriate measures to combat intolerance on the grounds of religion or belief;

Urges all parliaments to take effective measures to combat incitement to, or acts of, violence, intimidation and coercion motivated by hatred and intolerance based on culture, religion or belief, which may cause discord and disharmony within and among religious and cultural communities, in compliance with relevant international obligations;

Reaffirms that whether or not people profess a religion is a matter of personal choice and therefore *calls on* parliaments to ensure that such a choice is not penalized and, in particular, is not punishable by law;

Calls on all parliaments and their members to take appropriate measures so that the national political and legal systems reflect the multicultural diversity of society;

Stresses that democratic political institutions are a goal, and that hence organizations of all kinds should extend and promote the use of more participatory practices and avoid the marginalization and exclusion of, and discrimination against, specific sectors of society;

Encourages parliaments to ensure, as appropriate, that, in the course of their official duties, members of law enforcement bodies and the military, civil servants, educators and other public officials respect different religions and beliefs and do not discriminate against persons professing other religions or beliefs, and that the necessary and appropriate education or training is provided;

Urges parliaments to ensure that international and regional agreements to preserve the identity of ethnic, cultural and religious minorities are ratified or signed by any States which have not yet done so, and to supervise their effective implementation;

Urges parliaments to adopt political measures and enact legislation aimed at building the capacity to accept diversity among members of different social communities;

Calls on parliaments to ensure that religious and cultural sites are fully respected and protected in compliance with international obligations and in accordance with their national legislation, and to adopt adequate measures aimed at preventing acts or threats of damage to and destruction of these sites;

Invites parliaments to take effective measures to protect freedom of the press and freedom of expression, and *calls on* parliaments to enact legislation which promotes the ethical responsibility that goes with these freedoms, particularly not to incite hatred, racism, xenophobia and human rights violations;

Calls on parliaments, as appropriate, to promote policies designed to nurture understanding, tolerance, mutual respect and friendship among human beings in their diversity of religion, belief, culture and language, and to mainstream the gender perspective in these policies, in recognition that education at all levels is one of the principal means of building a culture of peace;

B. Role of parliaments in ensuring respect for and peaceful co-existence between all religious communities and beliefs in a globalized world

Recognizes that respect for religious and cultural diversity and dialogue between different religions and cultures in an increasingly globalized world promotes enhanced understanding among religions, cultures and civilizations and contributes to international cooperation, peace and security;

Acknowledges that respect for the diversity of religions and cultures, tolerance, dialogue and cooperation in a climate of mutual trust and understanding can serve to combat ideologies and practices based on discrimination, intolerance and hatred and help to reinforce world peace, social justice and friendship among peoples;

Also recognizes that, despite the intolerance and conflicts that are dividing countries and regions and constitute a growing threat to peace, all religions, cultures and civilizations share a common set of universal values and can all contribute to the enrichment of humankind;

Welcomes, therefore, the efforts of States, relevant bodies within the United Nations system, other intergovernmental organizations, civil society, including faith based and other non-governmental organizations, and the media to develop a culture of peace and promote understanding and tolerance among human beings in their diversity of culture, religion, belief and language, and *encourages* them to continue such efforts, including by promoting interfaith and intercultural interaction within and among societies through, inter alia, congresses, conferences, seminars, workshops, research work and related processes;

Calls on parliaments to take all necessary action to combat incitement to or acts of violence, intimidation and coercion motivated by hatred and intolerance based on culture, religion or belief, which may cause discord and disharmony within and among societies globally, in compliance with relevant international obligations;

Invites national parliaments and parliamentarians to take an active part in the programmes of the United Nations and UNESCO for dialogue among civilizations and cultures and to encourage their governments to contribute to such programmes, in particular to the implementation of the recommendations contained in the report of the High-Level Group of the Alliance of Civilizations;

Invites parliaments to enact legislation to counter the dissemination, in the media and via the Internet, of hate messages based on culture, religion or belief;

C. Role of inter-parliamentary cooperation in ensuring respect for and peaceful co-existence between all religious communities and beliefs in a globalized world

Expresses the need for a more intensive inter-parliamentary exchange of information and experience in respect of the implementation of effective measures in this field, and stresses the supportive role played by the IPU;

Urges parliaments and parliamentarians to establish and strengthen parliamentary dialogue among civilizations and cultures, within the framework of the IPU and the various inter-parliamentary assemblies they participate in, and through bilateral initiatives such as the establishment of inter-parliamentary friendship groups;

Recommends that the IPU Secretariat and national parliaments, in coordination with the United Nations Secretariat, UNESCO and other relevant organizations, contribute to the preparation of an international instrument for the implementation of all the provisions of this resolution, as adopted by the 116th IPU Assembly.

** The Arab Group expressed a reservation on operative paragraph 5.*

Appendix D

ADVANCE EDITED VERSION

Distr. GENERAL

A/HRC/7/14

7 March 2008

Original: ENGLISH

HUMAN RIGHTS COUNCIL

Seventh session

Agenda item 3

PROMOTION AND PROTECTION OF ALL HUMAN RIGHTS, CIVIL, POLITICAL, ECONOMIC, SOCIAL AND CULTURAL RIGHTS, INCLUDING THE RIGHT TO DEVELOPMENT

Joint written statement* submitted by the International Humanist and Ethical Union (IHEU), a non-governmental organization in special consultative status, the Association for World Education (AWE) and the Association of World Citizens (AWC), non-governmental organizations 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.

[24 February 2008]

Source: <http://www.iheu.org/node/2949>

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

GE.08-11127

UNITED NATIONS A General Assembly

Distr.

GENERAL

A/HRC/7/NGO/96

4 March 2008

ENGLISH ONLY

A/HRC/7/NGO/96

The Cairo Declaration and the Universality of Human Rights

The International Human Rights Instruments

1. On 10 December 1948 the General Assembly of the United Nations adopted and proclaimed the Universal Declaration of Human Rights¹ (UDHR). The UDHR was adopted by the vast majority of Member States of the United Nations including all of the Islamic States with the exception of Saudi Arabia.
2. The International Covenants on Civil and Political Rights² (ICCPR) and on Economic, Social and Cultural Rights³ (ICESCR), which came into force in 1976, are binding on all signatory States. These include 46 of the 56 Member States of the Organization of the Islamic Conference⁴ (OIC).

The Cairo Declaration of Human Rights in Islam

3. On 5 August 1990, the then 45 member states of the OIC adopted The Cairo Declaration of Human Rights in Islam⁵. In this document all rights are seen as derived from God. The preamble states that “no one as a matter of principle has the right to suspend them in whole or in part or violate or ignore them in as much as they are binding divine commandments”.
4. At the 1993 World Conference on Human Rights in Vienna, Iran, supported by several other Islamic States, pressed for the acceptance of the Cairo Declaration as an alternative to the Universal Declaration of Human Rights. This objective was partly achieved in 1997 when the Cairo Declaration was included by the Office of the High Commissioner for Human Rights as the last document in *Human Rights: A Compilation of International Instruments: Volume II: Regional Instruments*, (New York and Geneva, 1997, OHCHR, Geneva).

Complementary or Alternative?

5. On Human Rights Day, 10 December 2007, the Ambassador of Pakistan, addressing the Human Rights Council on behalf of the OIC, spoke glowingly of the Universal Declaration of Human Rights, noting the contribution made to its creation and to the two international covenants by many Muslim countries. He then went on to claim that the Cairo Declaration of Human Rights in Islam: “is not an alternative, competing worldview on human rights. It complements the Universal Declaration as it addresses religious and cultural specificity of the Muslim countries”.
6. This last statement, however, is difficult to understand. **The Cairo Declaration cannot be in any sense considered complementary to the UDHR.** It makes no reference to the UDHR, while Articles 24 and 25 of the Cairo Declaration explicitly state that: “All the rights and freedoms stipulated in this Declaration are subject to the Islamic Shariah”, and: “The Islamic Shariah is the only source of reference for the explanation or clarification to any of the articles of this Declaration.”
7. Many of the clauses in the Cairo Declaration limit the rights contained therein by reference to the Shariah: in particular, Articles 2, 7, 12, 16, 19, 22 and 23.
8. In this regard, we note the statement to the Human Rights Council by the Ambassador of the Federal Republic of Germany, also speaking on 10 December 2007, in which he sincerely regretted “the tendency within some parts of the international community to roll back the principle of universality in order to

make the enjoyment of fundamental rights dependent on factors such as tradition, culture, religion or the level of development”.

How the Shariah limits Human Rights

9. Under Shariah law, Muslim women and non-Muslims are not accorded equal treatment with Muslim men. The Shariah, therefore, fails to honour the right to equality guaranteed under the UDHR and the international covenants, and thus denies the full enjoyment of their human rights to those living in States which follow Shariah law.

10. By limiting rights to those permitted by the Shariah the Cairo Declaration, rather than complementing the UDHR and the international covenants, undermines many of the rights they are supposed to guarantee. (See references 6 7 8 for additional documentation on this issue.)

Limiting Religious Freedom

11. **Religious freedom is limited under the Cairo Declaration.** Article 10 states: “Islam is the religion of unspoiled nature. It is prohibited to exercise any form of compulsion on man or to exploit his poverty or ignorance in order to convert him to another religion or to atheism.” Since it is a generally accepted view in the Islamic world that only compulsion or ignorance would lead anyone to abandon Islam, **conversion from Islam is thus effectively** forbidden.

12. It is notable that under Shariah law in many countries apostasy and any actions or statements considered blasphemous are harshly punished, in some States by death.

13. At the 6th session of the Human Rights Council in December 2007, the European Union tabled a resolution on the elimination of discrimination based on religion or belief. On December 14, the Pakistani delegate, again speaking for the OIC, said that differences remained in the wording of this resolution on, *inter alia*, respect for all religions and beliefs, and respect for national laws and religious norms about the right to change one’s religion. “Hence, we dissociate ourselves from operative paragraph 9 (a) because of its phrase ‘including the right to change one’s religion or belief’”. Yet this fundamental human right is clearly guaranteed under Article 18 of the UDHR and Article 18 of the ICCPR.

Limiting Freedom of Expression

14. Under the ICCPR, Article 19, freedom of expression may be subject to restrictions but only such as are provided by law and are necessary:

- (a) For respect of the rights or reputations of others;
- (b) For the protection of national security or of public order, or of public health or morals.

15. The **Cairo Declaration goes further however in making this freedom subject to the Shariah.** Under Article 22 of the Cairo Declaration a person may only express their opinion in a manner “as would not be contrary to the principles of the Shariah”, and freedom of expression may not be used to “weaken faith”.

16. On 18 December 2007, the UN General Assembly adopted a resolution “Combating Defamation of Religions” by 108 votes to 51 with 25 abstentions. Similar resolutions had been adopted since 1999 by the Commission for Human

Rights and by the new Council. This was the first time however that such a resolution had been passed by the General Assembly. The resolution expresses once again “deep concern about the negative stereotyping of religions and manifestations of intolerance and discrimination in matters of religion or belief”. But the only religion mentioned by name is Islam. The resolution emphasizes that whilst everyone has the right to freedom of expression, this should be exercised with responsibility – and may therefore be subject to limitations, *inter alia*, “for respect for religions and beliefs”.

17. Many delegations, however, opposed the resolution. The Portuguese delegate, speaking for the European Union, explained clearly why: “The European Union does not see the concept of ‘defamation of religions’ as a valid one in a human rights discourse. From a human rights perspective, members of religious or belief communities should not be viewed as parts of homogenous entities. International human rights law protects primarily individuals in the exercise of their freedom of religion or belief, rather than the religions as such.”

18. Notwithstanding these objections, those opposing the resolution found themselves on the losing side of a two-to-one majority in favour.

19. The implications of this resolution for freedom to criticise religious laws and practices are obvious. Armed with UN approval for their actions, States may now legislate against any show of disrespect for religion however they may choose to define “disrespect”.

20. The Islamic states see human rights exclusively in Islamic terms, and by sheer weight of numbers this view is becoming dominant within the UN system. The implications for the universality of human rights are ominous.

Conclusions

21. The vast majority of the Member States of the OIC are signatories to the UDHR and the International Covenants, the ICCPR and ICESCR. By adopting the 1990 Cairo Declaration those States are in effect reneging on the obligations they freely entered into in signing the UDHR and the two covenants.

22. The Cairo Declaration of Human Rights in Islam is clearly an attempt to limit the rights enshrined in the UDHR and the International Covenants. **It can in no sense be seen as complementary to the Universal Declaration.**

23. The statement by the Ambassador of Pakistan on 10 December 2007 can therefore be seen as misrepresenting the implications of the Cairo Declaration.

24. **The OIC is attempting to limit religious freedom by promoting the Cairo Declaration and by rejecting wording in the Council resolution on the elimination of discrimination based on religion or belief that would permit individuals to change their religion or belief.**

25. **The OIC is attempting to limit both freedom of expression and freedom of religion, and to extend human rights to religions, *per se*,** by its repeated promotion of the resolution “Combating Defamation of Religion” in the Commission on Human Rights, the Human Rights Council and the General Assembly.

26. We urge all states to remain vigilant and to actively resist any attempt to give equal status to the Cairo Declaration, and to oppose any resolution that seeks to limit the rights enshrined in the UDHR and the International Covenants.

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1 Universal Declaration of Human Rights (UDHR)

<http://www.unhchr.ch/udhr/lang/eng.htm>

2 International Covenant on Civil and Political Rights (ICCPR)

<http://www2.ohchr.org/english/law/ccpr.htm>

3 International Covenant on Economic, Social and Cultural Rights (ICESCR)

http://www.unhchr.ch/html/menu3/b/a_cescr.htm

4 Status of ratification of the principal International Human Rights Treaties.

<http://www.unhchr.ch/pdf/report.pdf>

5 Cairo Declaration of Human Rights in Islam

<http://www.religlaw.org/interdocs/docs/cairohrislam1990.htm>

6 David G. Littman, “Universal Human Rights and ‘Human Rights in Islam’”, *Midstream*, 45, no. 2

(February/March 1999): 2-7; *ibid*, “Islamism Grows Stronger at the United Nations,” *Middle East Quarterly*

(September 1999), pp. 59-64; *ibid*, “Human Rights and Human Wrongs: Sharia Can’t Be An Exception to

International Human Rights Norms” *National Review Online*, 19 Jan. 2003. The first two were republished in

Robert Spencer (ed.), *The Myth of Islamic Intolerance: How Islamic Law Treats Non-Muslims* (Prometheus

Books, New York, 2005, chapter 27 (pp. 317-32) and chapter 26 (pp.308-316). For National Review Online

article:

<http://www.nationalreview.com/script/printpage.asp?ref=/comment/comment-littman011903.asp>

7 E/CN.4/Sub.2/2003/NGO/15: *International Bill of Human Rights:*

Universality/International Standards/

National Practices (AWE to the 55th session of the Sub-Commission), and *The Myth*, chapter 42 (pp. 418-25).

[http://www.unhchr.ch/huridocda/huridoca.nsf/\(Symbol\)/E.CN.4.Sub.2.2003.NGO.15.En?Opendocument](http://www.unhchr.ch/huridocda/huridoca.nsf/(Symbol)/E.CN.4.Sub.2.2003.NGO.15.En?Opendocument)

8 Roy Brown, “Combating Defamation of Religions,” *The Myth*, chapter 43 (pp. 426–27), being his oral statement to the 60th session of the Commission on Human Rights on 15 April 2004

Appendix E

ADVANCE EDITED VERSION

Distr. GENERAL

A/HRC/7/14

7 March 2008

Original: ENGLISH

HUMAN RIGHTS COUNCIL

Seventh session

Agenda item 3

PROMOTION AND PROTECTION OF ALL HUMAN RIGHTS, CIVIL, POLITICAL, ECONOMIC, SOCIAL AND CULTURAL RIGHTS, INCLUDING THE RIGHT TO DEVELOPMENT

Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, Ambeyi Ligabo*

Source: <http://www2.ohchr.org/english/bodies/hrcouncil/docs/7session/A-HRC-7-14.pdf>

* The present document is submitted late in order to reflect the most recent information

II. ISSUES

C. Legal restrictions on freedom of opinion and expression

Defamation

39. **Defamation offenses have been one of the main sources of imprisonment of journalists around the world.** Defamation laws were originally designed with a legitimate goal, which was to protect people against false statements of fact that could damage their reputation. In particular, they reflect the legitimate view that the exercise of freedom of expression, in particular by media professionals, should be subject to responsibility, good judgement and professionalism. However, the subjective character of many defamation laws, their overly broad scope and their application within criminal law have turned them into a powerful mechanisms to stifle investigative journalism and silent criticism.

40. The Special Rapporteur is also concerned about the trend of increasing the scope of defamation laws to include the protection of subjective values, such as a sense of national identity, religions, State symbols, institutions or even

representatives such as the Head of State. The Special Rapporteur reiterates that the provisions on protection of reputation contained in international human rights law are designed to protect individuals, not abstract values or institutions.

41. International human rights instruments recognize the right to a reputation (e.g. art. 12 of the Universal Declaration of Human Rights, which states that “No one shall be subject ... to attacks upon his honour and reputation”).

However, three clear-cut conditions must be respected for any limitation on the right to freedom of expression: (a) restrictions must be established in law; (b) they should pursue an aim recognized as lawful, and (c) they must be proportional to the accomplishment of that aim. A number of problems are often present in the actual implementation of these three conditions.

42. The Special Rapporteur is concerned about the large number of cases of journalists who are imprisoned after being convicted on criminal defamation charges. Apart from outright imprisonment and preventive detention, other common measures that have been taken against media professionals include the imposition of heavy fines, often completely inconsistent with a journalist’s income, the suspension of the journalist’s professional licence and even the suspension or closing of media outlets. The Special Rapporteur considers these measures as inconsistent with the principle of proportionality and therefore an undue restriction of press freedom. Furthermore, these measures are even more harmful for independent, local or freelance journalists, who are generally unable to afford the expenses of long judicial proceedings, legal counsel and fines.

43. In this regard, the Special Rapporteur, along with the OSCE Representative on Freedom of the Media and the OAS Special Rapporteur on Freedom of Expression, in a joint declaration issued in December 2002, stated that **“criminal defamation is not a justifiable restriction on freedom of expression; all criminal defamation laws should be abolished and replaced, where necessary, with appropriate civil defamation laws”**. The Special Rapporteur notes with satisfaction that many countries have recently decided to abolish their criminal defamation laws. He reiterates that, while awaiting the entry of force of this legislation, emergency measures such as amnesty or pardon should be taken to ensure that no media profession or any other citizen is incarcerated on charges of defamation. Furthermore, any fines arising from civil defamation procedures should also respect the principle of proportionality and should never surpass reasonable amounts.

Freedom of opinion and expression and freedom of religion

63. In recent years, and with increased frequency, particularly due to events that dominated international politics recently, an alleged dichotomy between the right to freedom of opinion and expression and the right to freedom of religion or belief has been purported. In particular, it has been argued that the dogmatic use of freedom of expression as a fundamental human right has undermined people’s ability to fully enjoy other human rights, in particular freedom of religion. The Special Rapporteur strongly rejects such a view, as it contradicts the clearly established notion and widely accepted principle that **human rights are indivisible rather than rival principles. In particular, the ensemble of human rights can only be fully enjoyed in an environment that guarantees freedom and pluralism.**

64. Practices such as stereotyping and insulting ethnic, national, social or religious groups have serious and damaging consequences for the promotion of dialogue and living together among different communities. To fight intolerance

and discrimination and to create a solid basis for the strengthening of democracy, broad-based and long-lasting programmes and actions need to be developed to promote respect for diversity, multiculturalism and human rights education.

65. **The Special Rapporteur also emphasizes that existing international instruments establish a clear limit on freedom of expression.** In particular, the International Covenant on Civil and Political Rights provides that “any propaganda for war” and “any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law”. The main problem thus lies in identifying at which point exactly these thresholds are reached. The Special Rapporteur underscores that this decision, which is ultimately a subjective one, should meet a number of requirements. In particular, it should not justify any type of prior censorship, it should be clearly and narrowly defined, it should be the least intrusive means in what concerns limitations to freedom of expression and it should be applied by an independent judiciary. The Special Rapporteur reiterates **that these limitations are designed to protect individuals rather than belief systems, guaranteeing that every person will have all of his or her human rights protected.**

66. The Special Rapporteur notes that a broader interpretation of these limitations, which has been recently suggested in international forums, is not in line with existing international instruments and would ultimately jeopardize the full enjoyment of human rights. **Limitations to the right to freedom of opinion and expression have more often than not been used by Governments as a means to restrict criticism and silent dissent.** Furthermore, as regional human rights courts have already recognized, **the right to freedom of expression is applicable not only to comfortable, inoffensive or politically correct opinions, but also to ideas that “offend, shock and disturb”¹⁸.** **The constant confrontation of ideas, even controversial ones, is a stepping stone to vibrant democratic societies.**

III. CONCLUSIONS AND RECOMMENDATIONS

67. The right to freedom of opinion and expression, and the related rights of freedom of association and assembly, are fundamental human rights with far-reaching consequences for the enjoyment of all other rights. When freedom of opinion and expression is respected, Governments are held accountable, public policies are designed more effectively and people’s voices are heard. **Limiting the free circulation of ideals not diminishes plurality and diversity, but undermines democracy entirely.**

¹⁸ *Arslan v. Turkey*, European Court of Human Rights, 1999.

68. The Special Rapporteur urges Governments to conduct an in-depth assessment of existing national legislation as well as of judicial practices related to all forms of freedom of opinion and expression and to commence, whenever necessary, reform processes in order to guarantee conformity with international human rights norms and standards. The Special Rapporteur also recommends Governments to focus on the protection and the promotion of media independence as a priority, in order to ensure a constant advancement in the field of freedom of opinion and expression.

On freedom of expression and freedom of religion

84. The Special Rapporteur urges media professionals, as well as the public at large, to be conscious of the potential impact that the ideas they express may have in raising cultural and religious sensitivities. The dissemination of intolerant and discriminatory opinions ultimately promotes discord and conflict and is not conducive to the promotion of human rights. Media corporations and journalists' associations, in cooperation with national and international organizations, should organize regular human rights training programmes in order to enhance professional ethics and sensitivity to cultural diversity of media professionals.

85. The Special Rapporteur further emphasizes that, although limitations to the right to freedom of opinion and expression are foreseen in international instruments to prevent war propaganda and incitement of national, racial or religious hatred, these limitations were designed in order to protect individuals against direct violations of their rights. These limitations are not intended to suppress the expression of critical views, controversial opinions or politically incorrect statements. Finally, they are not designed to protect belief systems from external or internal criticism.

Appendix F

UNITED
NATIONS

A



General Assembly

Distr.

GENERAL

A/HRC/6/5

20 July 2007

Original: ENGLISH

HUMAN RIGHTS COUNCIL
Sixth session
Item 3 of the provisional agenda

**PROMOTION AND PROTECTION OF ALL HUMAN RIGHTS,
CIVIL, POLITICAL, ECONOMIC, SOCIAL AND CULTURAL
RIGHTS, INCLUDING THE RIGHT TO DEVELOPMENT**

**Report of the Special Rapporteur on freedom of
religion or belief,
Asma Jahangir**

Source: [http://www.eyeontheun.org/developments-
item.asp?d=5397&id=7778](http://www.eyeontheun.org/developments-item.asp?d=5397&id=7778)

D. Intersection of freedom of religion or belief with other human rights

37. Human rights are exercised in a context where rights coexist with each other. In this regard, most international human rights conventions provide that, in the exercise of their human rights, individuals have to respect the rights of others. However, the coexistence of rights does not only imply that rights should be seen in a restrictive manner because of the existence of other rights; it also implies the fundamental notion of interdependency of human rights. This is emphasized by the Vienna Declaration and Programme of Action, adopted by the World Conference on Human Rights in 1993, which proclaimed that “[a]ll human rights are universal, indivisible and interdependent and interrelated”.

1. Freedom of expression including questions related to religious conflicts, religious intolerance and extremism

38. The intersection of freedom of religion or belief with other human rights can be illustrated by the relationship to freedom of expression. In response to the offensive publication of representations of the Prophet Muhammad by the media in some countries starting in late 2005, the Special Rapporteur on freedom of religion or belief, the Special Rapporteur for the promotion and protection of the right to freedom of opinion and expression as well as the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance issued a joint press release.¹⁹ The three mandate holders recalled that religion or belief, for anyone who professes either, is one of the fundamental elements in his or her conception of life and that freedom of religion or belief is protected as one of the essential rights by article 18 of ICCPR. They also recalled that respect for the right to freedom of expression, as articulated in article 19 of ICCPR, constitutes a pillar of democracy and reflects a country’s standard of justice and fairness. Peaceful expression of opinions and ideas, either orally, through the press or other media, should always be tolerated. The press must enjoy large editorial freedom to promote a free flow of news and information, within and across national borders, thus providing an arena for debate and dialogue. Nevertheless, the use of stereotypes and labelling that insult deep-rooted religious feelings do not contribute to the creation of an environment conducive to constructive and peaceful dialogue among different communities. The Special Rapporteurs urged all parties to refrain from any form of violence and to avoid fuelling hatred. They also encouraged States to promote the interrelated and indivisible nature of human rights and freedoms and to advocate the use of legal remedies as well as the pursuance of a peaceful dialogue on matters which go to the heart of all multicultural societies.

39. With regard to religious intolerance and incitement to religious hatred, the report (A/HRC/2/3, paras. 44-47) further to Human Rights Council decision 1/107 notes the following: “According to article 20 of the Covenant, ‘any

¹⁹ “Human Rights Experts call for tolerance and dialogue in wake of controversy over representations of Prophet Muhammad”, UNOG press release HR06006E of 8 February 2006, full text available online at [http://www.unog.ch/unog/website/news_media.nsf/\(httpNewsByYear_en\)/54A59D88BFD753FBC125710F005B08A4?OpenDocument](http://www.unog.ch/unog/website/news_media.nsf/(httpNewsByYear_en)/54A59D88BFD753FBC125710F005B08A4?OpenDocument).

advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law'. In its general comment 11, the Human Rights Committee holds that the measures contemplated by article 20, paragraph 2, of the Covenant constitute important safeguards against infringement of the rights of religious minorities and of other religious groups to exercise the rights guaranteed by articles 18 and 27, and against acts of violence or persecution directed towards those groups. [...] The Special Rapporteur notes that article 20 of the Covenant was drafted against the historical background of the horrors committed by the Nazi regime during the Second World War. The threshold of the acts that are referred to in article 20 is relatively high because they have to constitute advocacy of national, racial or religious hatred. Accordingly, the Special Rapporteur is of the opinion that expressions should only be prohibited under article 20 if they constitute incitement to imminent acts of violence or discrimination against a specific individual or group." She concluded that "[a]t the global level, any attempt to lower the threshold of article 20 of the Covenant would not only shrink the frontiers of free expression, but also limit freedom of religion or belief itself. Such an attempt could be counterproductive and may promote an atmosphere of religious intolerance".

2. Right to life, right to liberty

40. Every human being has the inherent right to life which shall be protected by law and everyone has the right to liberty and security of person. The occurrence of armed conflict and civil wars caused, inter alia, by religious factors, has led to heavy losses of life. Also in countries where there is no prevailing climate of civil war, confrontations between religious communities may lead to violence and cause the death of many persons. The right to liberty is also frequently infringed as evidenced by numerous cases of arbitrary arrest and detention for reasons of religion or belief, including house arrest, internal exile, imprisonment and assignment to a re-education or labour camp. With regard to the reward for the killing of an individual in pursuance of a religious ruling, the first mandate holder d'Almeida Ribeiro recalled article 6 of ICCPR and emphasized "that a decision which has not been issued by an independent tribunal where the accused would be entitled to defend himself with the assistance of legal counsel, to call witnesses and to exercise the right of appeal cannot be accepted. Offering a reward for the killing of such a person constitutes an incitement to crime and a call to religious hatred which is liable to legal prosecution in all countries where the rule of law prevails" (E/CN.4/1993/62, para. 79).

41. Human rights obligations of States are not limited to abstaining from committing direct violations of freedom of religion or belief or other fundamental human rights. Their obligations also consist in ensuring the free exercise of the right to freedom of religion or belief by protecting religious communities and enabling them to practise their faith in all security. States also have a positive obligation to bring the perpetrators of acts of violence or of other acts of religious intolerance to justice and to promote a culture of religious tolerance.

Appendix G

IHEU'S STATUS WITH INTERNATIONAL ORGANISATIONS

IHEU has Special Consultative Status with ECOSOC, which entitles IHEU to appoint Representatives to a number of UN bodies including, the five Regional Commissions and the Human Rights Council. IHEU also has the right to consult with officers of the UN Secretariat, participate in ECOSOC Conferences, circulate brief written statements at ECOSOC conferences/meetings, and in addition also make oral submissions at meetings of ECOSOC subsidiaries. In recent years, IHEU has maintained an active presence at the UN in Geneva, making submissions at the UN Human Rights Council and organising high-profile conferences at the UN during the UNHRC's hearings.

IHEU has Participative Status at the Council of Europe in Strasbourg where it has *amicus curae* status and also has the right to file complaints against state parties for violation of the European Social Charter. IHEU also maintains Operational Relations with UNESCO in Paris and has Special Consultative Status with UNICEF in New York.

Appendix H

<http://assembly.coe.int/Main.asp?link=/Documents/AdoptedText/ta07/EREC1805.htm>



Recommendation 1805 (2007)²⁰

Blasphemy, religious insults and hate speech against persons on grounds of their religion

1. The Parliamentary Assembly recalls its [Resolution 1510](#) (2006) on freedom of expression and respect for religious beliefs and reiterates its commitment to the freedom of expression (Article 10 of the European Convention on Human Rights, ETS No. 5, hereafter “the Convention”) and the freedom of thought, conscience and religion (Article 9 of the Convention), which are fundamental cornerstones of democracy. **Freedom of expression is not only applicable to expressions that are favourably received or regarded as inoffensive, but also to those that may shock, offend or disturb the state or any sector of population within the limits of Article 10 of the Convention.** Any democratic society must permit open debate on matters relating to religion and religious beliefs.

2. The Assembly underlines the importance of respect for, and understanding of, cultural and religious diversity in Europe and throughout the world and recognises the need for ongoing dialogue. Respect and understanding can help avoid frictions within society and between individuals. Every human being must be respected, independently of religious beliefs.

3. In multicultural societies it is often necessary to reconcile freedom of expression and freedom of thought, conscience and religion. In some instances, it may also be necessary to place restrictions on these freedoms. Under the Convention, any such restrictions must be prescribed by law, necessary in a democratic society and proportionate to the legitimate aims pursued. In so doing, states enjoy a margin of appreciation as national authorities may need to adopt different solutions taking account of the specific features of each society; the use of this margin is subject to the supervision of the European Court of Human Rights.

²⁰ Assembly debate on 29 June 2007 (27th Sitting) (see *Doc. 11296*, report of the Committee on Culture, Science and Education, rapporteur: Mrs Hurskainen; *Doc. 11319*, opinion of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Bartumeu Cassany; and *Doc. 11322*, opinion of the Committee on Equal Opportunities for Women and Men, rapporteur: Mr Dupraz). Text adopted by the Assembly on 29 June 2007 (27th Sitting).

4. With regard to blasphemy, religious insults and hate speech against persons on the grounds of their religion, the state is responsible for determining what should count as criminal offences within the limits imposed by the case law of the European Court of Human Rights. In this connection, **the Assembly considers that blasphemy, as an insult to a religion, should not be deemed a criminal offence. A distinction should be made between matters relating to moral conscience and those relating to what is lawful, matters which belong to the public domain, and those which belong to the private sphere.** Even though today prosecutions in this respect are rare in member states, they are legion in other countries of the world.

5. The Assembly welcomes the preliminary report adopted on 16 and 17 March 2007 by the European Commission for Democracy through Law (Venice Commission) on this subject and agrees with it **that in a democratic society, religious groups must tolerate, as must other groups, critical public statements and debate about their activities, teachings and beliefs, provided that such criticism does not amount to intentional and gratuitous insults or hate speech and does not constitute incitement to disturb the peace or to violence and discrimination against adherents of a particular religion.** Public debate, dialogue and improved communication skills of religious groups and the media should be used in order to lower sensitivity when it exceeds reasonable levels.

6. Recalling its [Recommendation 1720](#) (2005) on education and religion, the Assembly emphasises the need for greater understanding and tolerance among individuals of different religions. Where people know more about the religion and religious sensitivities of each other, religious insults are less likely to occur out of ignorance.

7. In this context, the Assembly welcomes the initiative of the United Nations to set up a new body under the theme “Alliance of Civilizations” to study and support contacts between Muslim and so-called western societies, but feels that such an initiative should be enlarged to other religions and non-religious groups.

8. The Assembly recalls the relevant case law on freedom of expression under Article 10 of the Convention developed by the European Court of Human Rights. Whereas there is little scope for restrictions on political speech or on the debate of questions of public interest, the Court accepts a wider margin of appreciation on the part of contracting states when regulating freedom of expression in relation to matters liable to offend intimate personal convictions within the sphere of morals or, especially, religion.

9. However, the Assembly stresses that this margin of appreciation is not unlimited and that any restrictions on the freedom of expression must comply with the case law of the European Court of Human Rights. **Freedom of expression – guaranteed under Article 10 of the Convention – is of vital importance for any democratic society. In accordance with the Statute of the Council of Europe, common recognition of democratic values is the basis for membership of the Organisation.**

10. The Assembly is aware that, in the past, national law and practice concerning blasphemy and other religious offences often reflected the dominant position of particular religions in individual states. In view of the greater diversity of religious beliefs in Europe and the democratic principle of the

separation of state and religion, blasphemy laws should be reviewed by the governments and parliaments of the member states.

11. The Assembly notes that under the **International Convention on the Elimination of All Forms of Racial Discrimination of the United Nations**, signatory parties are obliged to condemn discrimination and take effective measures against it. **All member states signatory to this convention must ensure that members of a particular religion are neither privileged nor disadvantaged under blasphemy laws and related offences.**

12. The Assembly reaffirms that hate speech against persons, whether on religious grounds or otherwise, should be penalised by law in accordance with General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination produced by the European Commission against Racism and Intolerance (ECRI). For speech to qualify as hate speech in this sense, it is necessary that it be directed against a person or a specific group of persons. National law should penalise statements that call for a person or a group of persons to be subjected to hatred, discrimination or violence on grounds of their religion.

13. The Assembly emphasises that freedom of religion as protected by Article 9 of the Convention also protects religions through establishing values for their followers. While religions are free to penalise in a religious sense any religious offences, such penalties must not threaten the life, physical integrity, liberty or property of an individual, or women's civil and fundamental rights. In this context, the Assembly recalls its [Resolution 1535](#) (2007) on threats to the lives and freedom of expression of journalists and **strongly condemns the death threats issued by Muslim leaders against journalists and writers. Member states have the obligation to protect individuals against religious penalties which threaten the right to life and the right to liberty and security of a person** under Articles 2 and 5 of the Convention. Moreover, no state has the right to impose such penalties for religious offences itself.

14. The Assembly notes that member states have the obligation under Article 9 of the Convention to protect freedom of religion including the freedom to manifest one's religion. This requires that member states protect such manifestations against disturbances by others. However, these rights may sometimes be subject to certain justified limitations. The challenge facing the authorities is how to strike a fair balance between the interests of individuals as members of a religious community in ensuring respect for their right to manifest their religion or their right to education, and the general public interest or the rights and interests of others.

15. The Assembly considers that, as far as it is necessary in a democratic society in accordance with Article 10, paragraph 2, of the Convention, national law should only penalise expressions about religious matters which intentionally and severely disturb public order and call for public violence.

16. It calls on national parliaments to initiate legislative action and scrutiny regarding the national implementation of this recommendation.

17. The Assembly recommends that the Committee of Ministers:

17.1. take note of [Resolution 1510](#) (2006) on freedom of expression and respect for religious beliefs together with this recommendation and forward both texts to the relevant national ministries and authorities;

17.2. ensure that national law and practice:

17.2.1. permit open debate on matters relating to religion and beliefs and do not privilege a particular religion in this respect, which would be incompatible with Articles 10 and 14 of the Convention;

17.2.2. penalise statements that call for a person or a group of persons to be subjected to hatred, discrimination or violence on grounds of their religion as on any other grounds;

17.2.3. prohibit acts which intentionally and severely disturb the public order and call for public violence by references to religious matters, as far as it is necessary in a democratic society in accordance with Article 10, paragraph 2, of the Convention;

17.2.4. are reviewed in order to decriminalise blasphemy as an insult to a religion;

17.3. encourage member states to sign and ratify Protocol No. 12 to the European Convention on Human Rights (ETS No. 177);

17.4. instruct its competent steering committee to draw up practical guidelines for national ministries of justice intended to facilitate the implementation of the recommendations contained in paragraph 17.2 above;

17.5. instruct its competent steering committee to draw up practical guidelines for national ministries of education intended to raise understanding and tolerance among students with different religions;

17.6. initiate, through their national ministries of foreign affairs, action at the level of the United Nations in order to ensure that:

17.6.1. national law and practice of signatory states of the International Convention on the Elimination of All Forms of Racial Discrimination do not privilege persons with a particular religion;

17.6.2. the work of the Alliance of Civilizations avoids the stereotype of a so-called western culture, widens its scope to other world religions and promotes more open debates between different religious groups and with non-religious groups;

17.7. condemn on behalf of their governments any death threats and incitements to violence by religious leaders and groups issued against persons for having exercised their right to freedom of expression about religious matters;

17.8. invite member states to take more initiatives to promote tolerance, in co-operation with ECRI.

Appendix I

REUTERS (19:53 12 Mar 08) *By Robert Evans* GENEVA, March 12 2008

<http://www.reuters.com/article/worldNews/idUSL1277265220080312>

Islamic states seek world freedom curbs-humanists

Islamic states are bidding to use the United Nations to limit freedom of expression and belief around the world, the global humanist body IHEU told the U.N.'s Human Rights Council on Wednesday.

In a statement submitted to the 48-nation Council, the IHEU said the 57 members of the Organisation of the Islamic Conference (OIC) were also aiming to undermine the 1948 Universal Declaration of Human Rights.

"The Islamic states see human rights exclusively in Islamic terms, and by sheer weight of numbers this view is becoming dominant within the U.N. system. The implications for the universality of human rights are ominous," it said.

The statement from the IHEU, the International Humanist and Ethical Union, was issued as the U.N.'s special investigator on freedom of opinion and expression argued in a report that religions had no special protection under human rights law.

Ambeyi Ligabo, a Kenyan jurist, said in a report to the Council limitations on freedom of expression in international rights pacts "are not designed to protect belief systems from external or internal criticism."

MOUNTING SUCCESS

But this argument is rejected by Islamic states, who say outright criticism -- and especially lampooning -- of religion violates the rights of believers to enjoy respect.

The IHEU statement and Ligabo's report came against the background of mounting success by the OIC, currently holding a summit in Dakar, in achieving passage of U.N. resolutions against "defamation of religions."

Although several such resolutions have been adopted by the two-year-old Council and its predecessor since 1999, in December the U.N.'s General Assembly easily passed a similar one for the first time over mainly Western and Latin American opposition.

The OIC -- backed by allies in Africa and by Russia and Cuba -- has been pushing for stronger resolutions on "defamation" since a global controversy arose two years ago over cartoons in a Danish newspaper which Muslims say insult their religion.

The "defamation" issue has become especially sensitive this year as the U.N. prepares to celebrate in the autumn the 50th anniversary of the 1948 Universal Declaration, long seen as the bedrock of international human rights law and practice.

The OIC has been actively promoting its own 1990 Cairo Declaration of Human Rights in Islam, which it argues is complementary to the Universal Declaration but which critics like the IHEU say negate it in many areas.

Humanists, who include believers of many faiths supporting separation of religion and state as well as atheists and agnostics, say the "defamation" drive is part of an effort to extend the Cairo declaration to the international sphere.

The IHEU statement argued the December General Assembly resolution means states "may now legislate against any show of disrespect for religion, however they may choose to define 'disrespect'."

Appendix J

IHEU “Ambushed” at Human Rights Council 13 March 2008, obstructing discussion on defamation laws and the Cairo Declaration

IHEU “Ambushed” at Human Rights Council 13 March 2008

In a follow up to IHEU’s written statement to the UN Human Rights Council describing Islamic efforts to undermine the Universal Declaration of Human Rights (<http://www.iheu.org/node/2949>) Roy Brown, IHEU’s main representative at the UN in Geneva prepared an oral statement for Council debate on 13 March but was prevented from giving it in full because of repeated objections from two Islamic delegations.

The prepared statement:

“Attempts to restrict freedom of expression and other human rights”

Mr President,

On Human Rights Day, 10 December 2007, the permanent representative of Pakistan, addressing the Human Rights Council on behalf of the OIC, [the 56 member states of the Organisation of the Islamic Conference] spoke glowingly of the Universal

Declaration of Human Rights, noting the contribution made to its creation and to the two international covenants by many Muslim countries. He went on to state that the 1990 Cairo Declaration of Human Rights in Islam is “not an alternative, competing worldview on human rights. It *complements* the Universal Declaration as it addresses religious and cultural specificity of the Muslim countries”. He also stated that the OIC is considering the creation of an Islamic Charter on Human Rights in accordance with the provisions of the Cairo Declaration. [First interruption]

But, Mr President, it is difficult to see how the Cairo Declaration be considered complementary to the 1948 Universal Declaration. It makes no reference to the Universal Declaration, whilst Articles 24 and 25 of the Cairo Declaration explicitly state that:

[Second interruption]

“All the rights and freedoms stipulated in this Declaration are subject to the Islamic

Shariah”, and: “The Islamic Shariah is the only source of reference for the explanation or clarification to any of the articles of this Declaration.”

But under Shariah law, Muslim women and non-Muslims are not accorded equal treatment with Muslim men. The Shariah, therefore, fails to honour the right to equality guaranteed under the UDHR and the international covenants, and denies the full enjoyment of their human rights to those living in States which follow Shariah law. [Third and fourth interruptions – as a result of which, and following the President’s comments, Brown felt obliged to skip the next two paragraphs and move straight to his concluding sentence]

Regarding freedom of expression, the Cairo Declaration makes clear that whilst information is vital it may not be used “to weaken faith”. Article 22 states that:

- (a) Everyone shall have the right to express his opinion freely in such manner *as would not be contrary to the principles of the Shariah*.
- (b) Everyone shall have the right to advocate what is right, and propagate what is good, and warn against what is wrong and evil *according to the norms of Islamic Shariah*.
- (c) Information is a vital necessity to society. It may not be exploited or misused in such a way as may [inter alia] harm society *or weaken its faith*.

This, Mr President, restricts freedom of expression and elevates faith above human rights.

[Statement continued here]

We urge States to consider very carefully the negative implications for the universality of human rights, and of the derogation from the international covenants, implicit in the Cairo Declaration and the plans of the OIC.

Thank you, sir

Points of Order

The first interruption on a “point of order” came from the Egyptian delegate who objected to any mention of the Islamic Charter of Human Rights because, he said, he was unable to find any mention of this matter on the agenda. (Hardly surprising since this was a general debate on the promotion and protection of human rights). The chairman over-ruled this objection but Brown was interrupted again within seconds, this time for having moved on to discussing the Cairo Declaration. The Egyptian delegate did not think it was open to reconsider documents adopted in 1999. The president responded by pointing out that we constantly refer to the Universal Declaration adopted 60 years ago and we do not have any objections to doing so. He suggested that the argument used “was in need of being reconsidered” and again asked Brown to continue. But within seconds Brown was interrupted yet again, this time by both the Egyptian and Pakistani delegates. The Pakistani said “we are not discussing here the Islamic Sharia”. It is a controversial subject - the balance between freedom of expression and freedom of religion. We are still discussing it in informal session. **“It is insulting for our faith to discuss Shariah here in this forum”**. The Egyptian representative then stated that “Sharia is not under discussion here and I do not believe it is a document that should be discussed in the Human Rights Council.” The president expressed himself to be fully aware of the informal consultations that were going on, but took the point of the Egyptian representative regarding the Sharia law and asked that the NGO should refrain from making judgements or evaluations on this particular “court of legislation” and to “revert to statements made in this room on other issues”. Brown then saw no option but to skip the next part of his statement, saying: Thank you, Mr President. I was attempting to speak in the context of potential restrictions on freedom of expression which have been discussed in this room. But I will move forward and merely suggest, indeed urge, States to consider very carefully the negative implications for the universality of human rights, and the derogation from the international covenants, which are implicit in the Cairo Declaration and the plans of the OIC”. Thank you Sir.

<http://www.youtube.com/watch?v=4RmlyCR1zM>

Negative consequences

Continuing interruptions have a negative effect on any statement because the audience quickly becomes absorbed by the interruptions, and both speaker and

audience can lose track of the speaker's argument. Worse, the speaker is often reduced to simply stating his main conclusion without being able to provide his supporting evidence. In this case, without the benefit of the quotations from the Cairo Declaration, a well-reasoned argument was reduced to sounding like mere polemics. Objections also act as a warning to others against raising sensitive issues and have a chilling effect on those who might wish to cover similar ground. No doubt all of these effects are well understood by the Islamic delegates.

More worrying still are the implications for rational discussion of Islamic interpretations of human rights. Any criticism, indeed, any discussion of Shariah law at the Human Rights Council is now considered an "insult to Islam". The problem is the extremely close relationship between Islam as a faith, and Sharia as a system of law which holds such a central position in that religion. The continuing efforts by the Islamic states at the Human Rights Council, in the UN General Assembly and elsewhere to silence "defamation" of religion can be seen in this context. Should these efforts succeed, any criticism of the Shariah, of its entrenched inequalities or brutal punishments, will be condemned as defamation of Islam. Rational discussion – indeed any mention of the Shariah – will have become impossible.

For the time being, then, the Islamic States can continue to pretend that Islamic declarations of human rights are compatible with international standards. But that claim should be seen for what it is.

"When we want to know about human rights we do not go to the UN, we go to the Holy Qur'an". Ayatollah Khomeini.

The continuing struggle

Unwelcome though censorship at the Human Rights Council might be, it was not entirely unexpected following the extensive coverage of IHEU's written statement in the media during the preceding 24 hours. The report by Reuters, for example, had been widely read.

<http://www.reuters.com/article/worldNews/idUSL1277265220080312?feedType=RSS&feedName=worldNews&rpc=22&sp=true>

Brown believes the whole incident was an ambush. "No doubt forewarned by our written statement they decided to stop us. But IHEU will continue to campaign at the UN and elsewhere for the human rights of all people, and against any attempt to weaken or undermine them."

International Humanist and Ethical Union

Joint statement with the Association for World Education

Human Rights Council, Seventh Session 3 – 28 March 2008

Agenda Item 3 – General Debate – Freedom of Opinion and Expression

Statement by IHEU main representative, Roy W. Brown, 13 March 2008

Attempts to restrict freedom of expression and other human rights

Mr President,

On Human Rights Day, 10 December 2007, the permanent representative of Pakistan, addressing the Human Rights Council on behalf of the OIC, spoke glowingly of the Universal Declaration of Human Rights, noting the contribution made to its creation and to the two international covenants by many Muslim countries. He went on to claim that the 1990 Cairo Declaration of Human Rights in Islam is “not an alternative, competing worldview on human rights. It *complements* the Universal Declaration as it addresses religious and cultural specificity of the Muslim countries”. He also stated that the OIC is considering the creation of an Islamic Charter on Human Rights in accordance with the provisions of the Cairo Declaration.

But, Mr President, in no sense can the Cairo Declaration be considered complementary to the 1948 Universal Declaration. It makes no reference to the Universal Declaration, whilst Articles 24 and 25 of the Cairo Declaration explicitly state that:

“All the rights and freedoms stipulated in this Declaration are subject to the Islamic

Shariah”, and: “The Islamic Shariah is the only source of reference for the explanation or

clarification to any of the articles of this Declaration.”

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Regarding freedom of expression, the Cairo Declaration makes clear that whilst information is vital it may not be used “to weaken faith”. Article 22 states that:

- (a) Everyone shall have the right to express his opinion freely in such manner *as would not be contrary to the principles of the Shariah.*
- (b) Everyone shall have the right to advocate what is right, and propagate what is good, and warn against what is wrong and evil *according to the norms of Islamic Shariah.*
- (c) Information is a vital necessity to society. It may not be exploited or misused in such a way as may [inter alia] harm society *or weaken its faith.*

This, Mr President, restricts freedom of expression and elevates faith above human rights. We urge States to consider very carefully the negative implications for the universality of human rights, and of the derogation from the

international covenants, implicit in the Cairo Declaration and the plans of the OIC.

We are making available our written statement on this issue: A/HRC/7/NGO/96 “The Cairo Declaration and the Universality of Human Rights”.

Thank you.

Appendix K

The High Commissioner for Human Rights welcomes the Arab Declaration of Human Rights, then recants her welcome, then resigns. Concerns are raised about need for strong successor transparently appointed.

<http://www.unhcr.ch/hurricane/hurricane.nsf/0/6C211162E43235FAC12573E00056E19D?opendocument>

STATEMENT BY UN HIGH COMMISSIONER FOR HUMAN RIGHTS ON THE ENTRY INTO FORCE OF THE ARAB CHARTER ON HUMAN RIGHTS

UN High Commissioner for Human Rights, Louise Arbour, issued the following statement today:

Geneva, 30 January 2008—

On 24 January 2008 (incorrectly issued as 24 March statement), I welcomed the 7th ratification required to bring the Arab Charter on Human Rights into force. While emphasizing universal human rights, I noted that regional systems of protection and promotion can help further strengthen the enjoyment of human rights. As the 1993 Vienna Declaration and Programme of Action affirmed "regional arrangements play a fundamental role in promoting and protecting human rights. They should reinforce universal human rights standards, as contained in international human rights instruments, and their protection."

Throughout the development of the Arab Charter, my office shared concerns with the drafters about the incompatibility of some of its provisions with international norms and standards. These concerns included the approach to death penalty for children and the rights of women and non-citizens. Moreover, to the extent that it equates Zionism with racism, we reiterated that the Arab Charter is not in conformity with General Assembly Resolution 46/86, which rejects that Zionism is a form of racism and racial discrimination. OHCHR does not endorse these inconsistencies. We continue to work with all stakeholders in the region to ensure the implementation of universal human rights norms.

Text included in the Arab Charter referring to Zionism:

League of Arab States, Revised Arab Charter on Human Rights, May 22, 2004, *reprinted in 12 Int'l Hum. Rts. Rep.* 893 (2005), *entered into force* March 15, 2008.

Arab Charter on Human Rights (Paragraph 5 of the preamble)ⁱ

“Rejecting all forms of racism and Zionism, which constitute a violation of human rights and a threat to international peace and security, recognizing the close link that exists between human rights and international peace and security, reaffirming the principles of the Charter of the United Nations, the Universal Declaration of Human Rights and the provisions of the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, and having regard to the Cairo Declaration on Human Rights in Islam,

We draw attention to the press coverage of this disturbing debacle, which also involves the Secretary General’s spokesperson.

<http://www.jihadwatch.org/dhimmiwatch/archives/019875.php>

The text is as follows: Fitzgerald: Louise Arbour and human rights

In an unprecedented reversal, UN High Commissioner for Human Rights Louise Arbour has backed off from her earlier endorsement of an Arab text calling for the “elimination” of Zionism, in response to a UN Watch protest. News of the controversy was covered internationally, sparking a series of Canadian newspaper editorials critical of Ms. Arbour’s initial statement and her overall handling of the affair. Following is a timeline of the events as they unfolded around the globe.

Jan. 24, 2008, Geneva: High Commissioner Arbour issues an official statement: “I welcome the 7th ratification required to bring the Arab Charter on Human Rights into force... the Arab Charter on Human Rights is an important step forward [to] help strengthen the enjoyment of human rights.” At U.N. headquarters in New York, Marie Okabe, spokesperson for Secretary-General Ban Ki-moon, highlights Arbour’s statement. When asked, she does not have the text of the charter...

Jan. 30, 2008, Geneva & New York: Arbour changes course. Now she asserts that various Arab Charter provisions are “incompatible” with international norms. The UN headquarters in New York issues a new release, entitled “Arab rights charter deviates from international standard.” Arbour’s new statement:

“Throughout the development of the Arab Charter, my office shared concerns with the drafters about the incompatibility of some of its provisions with international norms and standards. These concerns included the approach to death penalty for children and the rights of women and non-citizens.” “Moreover, to the extent that it equates Zionism with racism, we reiterated that the Arab Charter is not in conformity with General Assembly Resolution 46/86, which rejects that Zionism is a form of racism and racial discrimination. OHCHR [the Office of the High Commissioner for Human Rights] does not endorse these inconsistencies.” -- from this news article

Louise Arbour has since resignedⁱⁱ. A joint representation has been made to the UN Secretary General by Amnesty International and Human Rights Watch in an open letterⁱⁱⁱ about the need for the appointment of her successor to be a “Strong High Commissioner” selected by a “Transparent Selection Process”. We entirely endorse these letters.

The full text is shown below.

Human Rights Watch and Amnesty International Share Ideas on Criteria and Selection Process

March 14, 2008

Dear Secretary-General,

The UN High Commissioner for Human Rights, Louise Arbour, has set a high standard in promoting and protecting human rights throughout the world. As you begin to look for the next High Commissioner, we are writing to emphasize the high expectations which our organizations have for the successor to this important office. Appointing an extremely capable and highly qualified High Commissioner is crucial at this time when fundamental principles of human rights are challenged and the independence of the High Commissioner’s Office

is under attack. We appreciate the strong statement you made in Geneva, supporting the High Commissioner's Office as well as its independence, and we urge you to continue to defend vigorously the office's ability to operate without interference from any source.

Criteria /Qualifications for Appointment

Our organizations believe that the new High Commissioner must be a person of the highest international standing and integrity, and have a proven track-record of public advocacy for human rights. She or he must be a human rights champion ready to be outspoken and independent in fulfilling the office's mandates. The High Commissioner must be a strong leader with a clear vision for the protection of all human rights, and bring dynamism, courage and commitment to the position. She or he must be able to inspire those working for the promotion and protection of human rights and the broader international community. In addition, the next High Commissioner should be someone with proven management skills and the ability to navigate effectively within a complex human rights community which comprises governments, civil society and other stakeholders.

We urge you to look at candidates from all countries and to select an exceptionally well-qualified candidate who would be able to meet the demands of this important post from the moment he or she assumes the post.

Selection Process

The selection process will be very important in ensuring that the best qualified candidate for the position of High Commissioner is identified. You have stressed the importance of accountability, professionalism and transparency for the United Nations, and we urge that you apply these principles as well to the selection of the new High Commissioner. We recommend the following:

- A formal description of the qualifications you are seeking in the next High Commissioner should be formulated relying on the qualities set out above, and should be made public. This description would assist in the identification of candidates and facilitate your assessment of their competencies.
- The process must be transparent and include wide consultation with all stakeholders, governmental and nongovernmental, including civil society, notably NGOs dealing with human rights.
- There should be a set timetable for nominations, shortlists and final selection to provide a framework for the selection process that ensures transparency and accountability.

The appointment processes for both the current UN High Commissioner for Refugees and the Administrator of UNDP provide useful guidance in this regard. In both cases, the shortlist of candidates was made public, an important step in ensuring that the Secretary-General had the broadest possible input in making those appointments. A similar process would greatly enhance the credibility of your ultimate appointment, and assist you in selecting the most outstanding candidate for this crucial post

Human rights, with peace and security and development, are one of the three pillars of the United Nations. It is vital that the next holder of this position be a compelling leader for human rights within the United Nations system and throughout the world. In this year of the 60th anniversary of the Universal

Declaration of Human Rights, we urge you to put in place a process that reflects the gravity and significance of this appointment to human rights victims and defenders worldwide

Yours sincerely,

Irene Khan Secretary General **Amnesty International**

Kenneth Roth Executive Director **Human Rights Watch**

Appendix L

<http://www.alertnet.org/thenews/newsdesk/L19897084.htm>

14:31 19Mar08 RTRS-

Saudi clerics back death fatwa for liberal writers

RIYADH, March 19 (Reuters) –

A group of Saudi clerics has come out in support of a colleague who issued a fatwa saying two writers deserve to die if they did not retract views that he said made them apostates.

Sheikh Abdul-Rahman al-Barrak, one of the kingdom's most revered clerics, said in a rare fatwa last week the columnists should be tried for apostasy for "heretical articles" published in al-Riyadh newspaper and put to death if they do not repent. They questioned the Sunni Muslim view in Saudi Arabia that adherents of other faiths should be considered unbelievers, which Barrak said implied Muslims were free to follow other religions and their faith was on a par with other religions.

A group of 20 clerics, all associated with Barrak, issued a statement on Tuesday asking God to support him in the face of a "wicked attack" by liberals with "polluted beliefs".

"We know the Sheikh's knowledge in religion and status in the Islamic nation and trust Muslims place in his opinions. The fatwa is based on the book of God (Koran) and the path of the Prophet," they said in the statement posted on Web sites.

"The Sheikh's words were clear in placing the issue in the hands of the temporal authorities when he said that there must be a trial. We affirm there should be a trial."

Barrak, who is thought to be around 75, is viewed by Islamists as the leading independent authority of Saudi Arabia's hardline version of Sunni Islam, often termed Wahhabism.

Liberal reformers are engaged in a battle with religious hardliners over the direction of the country, a key U.S. ally and the world's biggest oil exporter.

"This is in my view the largest show of force in the Wahhabi movement in a long time," said Ali al-Ahmad, a Saudi opposition figure based in Washington.

Saudi Arabia regularly executes drug traffickers, rapists and murderers, but it is rare for calls to try or execute people for opinions expressed in public.

Rights groups have accused Wahhabism of a xenophobic attitude which demonises other religions.

(Reporting by Andrew Hammond; Editing by Dominic Evans)
((andrew.hammond@reuters.com, +966 1 463 2603; Reuters Messaging:
andrew.hammond.reuters.com@reuters.net)) Keywords: SAUDI
CLERICS/DEATH

Wednesday, 19 March 2008 14:31:44RTRS [nL19897084] {EN}

i From the University of Minnesota Extracted 17 March 2008

<http://www1.umn.edu/humanrts/instate/loas2005.html?msource=UNWDEC19001&tr=y&aid=3337655>

ii http://www.amnesty.org.uk/news_details.asp?NewsID=17692

iii <http://hrw.org/english/docs/2008/03/14/global18294.htm>