



## STATEMENT

For immediate release – 26 March 2008

### Human Rights Council should protect special mandate on Freedom of Expression

**ARTICLE 19** and the Cairo Institute for Human Rights Studies (CIHRS) call on member states of the Human Rights Council to protect the terms of reference of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, and reject the amendment proposed by the Organisation of the Islamic Conference (OIC).

During the 7<sup>th</sup> session of the Human Rights Council (HRC), the OIC formally introduced an amendment to the mandate of the Special Rapporteur on Freedom of Expression which, if passed, would require the Special Rapporteur to “*report on instances where the abuse of the right of freedom of expression constitutes an act of racial or religious discrimination, taking into account Articles 19(3) and 20 of the International Covenant on Civil and Political Rights and General Comment 15 of the Committee on Elimination of All Forms of Racial Discrimination which stipulates that the prohibition of the dissemination of all ideas based upon racial superiority or hatred is compatible with the freedom of opinion and expression.*” Member states of the HRC will vote on the proposed amendment and the mandate at the end of the week.

ARTICLE 19 and CIHRS are deeply concerned that the proposed amendment undermines the mandate of the Special Rapporteur on freedom of expression, at a time when it most needs protection and strengthening.

The proposed amendment is particularly problematic for the following reasons:

1. It goes against the spirit of the mandate: The role of the Special Rapporteur is not to look at abusive expression, but to consider and monitor abusive limits on expression. There are several other United Nations bodies which have a specific role in relation to incitement to racial hatred, such as *Committee on Elimination of All Forms of Racial Discrimination* (CERD), which has devoted a lot of attention to it.
2. It lacks balance: The amendment only focuses on restrictions to freedom of expression, rather than on the idea of an appropriate balance between the positive protection for the right to freedom of expression and the need to limit incitement to racial and religious hatred. This lack of balance is reflected, for example, in the opening language, as well as in the reference only to Article 19(3), which is about restrictions on freedom of expression, rather than to Article 19 as a whole.
3. It is unnecessary: It is inherent to the mandate that the Special Rapporteur should consider and comment on appropriate limitations to the right to freedom of expression, as the current post-holder Ambeyi Limbago has done many times before (as well as his

- predecessor). Furthermore, by focusing specifically on one type of restriction, the proposed amendment puts undue emphasis on it.
4. It can be misinterpreted: The convoluted wording of the amendment may leave international human rights law generally and the special mandate specifically open to various misleading interpretations.
- International law provides for a clear and carefully calibrated framework of standards in this area, found in Articles 19 and 20 of the *International Covenant on Civil and Political Rights*, which rule out incitement to hatred on the basis of nationality, race or religion but which protect criticism, including criticisms of politics, beliefs systems or religion. In particular, the provisions on protection of reputation contained in international human rights law are designed to protect individuals, not abstract values or institutions.
  - While international law permits certain restrictions on speech to protect reputation of individuals, these restrictions are not extended to cover religions *per se*. International law does not entirely rule out restrictions on speech to protect religion but circumscribes the precise scope of such restrictions. Religious believers have a right not to be discriminated against on the basis of their beliefs, but religion itself cannot be set free from criticism.
  - The equality of all ideas and convictions before the law and the right to debate them freely is the keystone of democracy. As international human rights courts have stressed, freedom of expression is applicable not only to “information” or “ideas” that are favourably received, but also to those that may offend, shock or disturb any or all of us. The current amendment may be understood as an attempt to undermine this well-established framework.

CIHRS and ARTICLE 19 are particularly troubled by the repeated attacks against the mandate of the Special Rapporteur, and freedom of expression.

In view of the recent global rise in intolerance, the Human Rights Council should instead insist that freedom of expression itself is one of the most effective recourses and tools against abuses of human rights, including abuses of the right to equality. It should invite all relevant UN mandates to strengthen cooperation amongst such bodies towards promoting a better understanding of the indivisibility of human rights and what that principle means in practice. The Human Rights Council should also urge all member states to reinforce the international protection of the human rights of every people and every person – in particular, the individual rights to life, equality and justice, as well as the rights of minorities, including religious minorities, against acts of hatred, oppression and violence.

#### **NOTES TO EDITORS**

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- The United Nations Commission on Human Rights, in its resolution 1993/45 of 5 March 1993, appointed a Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression. The
- mandate was extended by the Commission on Human Rights in 2002, at its 58th session<sup>1</sup>.

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<sup>1</sup><http://www.unhchr.ch/html/menu2/7/b/expression/>

- ARTICLE 19 is an independent human rights organisation that works around the world to protect and promote the right to freedom of expression. It takes its name from Article 19 of the Universal Declaration of Human Rights, which guarantees freedom of expression.
- Cairo Institute for Human Rights Studies is an independent regional non-governmental organization. It aims at promoting respect for principles of human rights and democracy, analyzing the difficulties facing the application of International Human Rights Law and disseminating Human Rights Culture in the Arab Region.