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Important Expert Meeting on Freedom of Expression and Regulations Against Advocacy of Religious Hatred

Geneva - On 2-3 October, twelve experts from around the world, including ARTICLE 19 Executive Director, Dr Agnès Callamard, participated in a ground-breaking seminar on freedom of expression and advocacy of religious hatred.

Organised by the Office of the High Commissioner for Human Rights (HCHR), against the background of a series of recent incidents relating to freedom of expression, including the so-called “defamation of religion” resolutions within the Human Rights Council, the meeting sought to move the acrimonious debates to a sounder international human rights basis, through a focus on articles 19 and 20 of the International Covenant on Civil and Political Rights (ICCPR).

Introduced by the High Commissioner for Human Rights, Navi Pillay, and President of the Human Rights Council, Martin Uhomoibhi, and chaired by Bertrand Ramcharan, the meeting facilitated a technical reading and discussion of freedom of expression and its permissible restrictions under international human rights law. A particular focus was article 20 of the ICCPR which prohibits, among other things, advocacy of religious hatred that constitutes incitement to discrimination, hostility or violence.

In Ms Pillay’s words: “Denying that freedom of expression, freedom of religion and freedom from discrimination are universally valid and mutually reinforcing principles that transcend cultural specificities is to negate core values of humanity. Finding the appropriate ways to ensure that this set of rights is respected can only benefit from the exchange of experiences and sharp legal thinking in a multicultural setting.”

Some of the key points highlighted by the experts in their presentations included:

- It is essential to move the debate and discussion from the concept of “defamation of religion” to that of “incitement to religious hatred”, and to recognise and emphasise the indivisibility and interconnectedness of human rights.
- It is vital to avoid any “conflict of civilisation” standpoint on the current tensions: no one “civilisation” has a prerogative over respect for freedom of expression, religion, or combating intolerance.
- A recognition that incitement to hatred must be prohibited (it is an obligation placed on states) but that such restrictions must be provided in law and be *necessary* to a democratic society: there was a clear understanding among the

experts that governments should take action in cases of advocacy of religious hatred that constituted incitement to discrimination, hostility or violence.

- There is convergence between freedom of expression as per article 19 of the ICCPR, and the restrictions imposed by article 20: there is no contradiction between the two articles as highlighted by General Comments of the Human Rights Committee, and international and regional case law.
- Discussion as to the role played by the criminalisation of hate speech: for some, it sets a society's normative standards and may have an educational function. But we need to consider a range of sanctions against hate speech, not only those resulting in a restriction of freedom of expression; we need to take into account the possible misuse of criminalisation, including against religious minorities.
- A range of other mechanisms and options should be considered, such as those aiming at: strengthening the participation of all minorities to the public and political life of the nation; strengthening human rights education and knowledge, including on religion; minority and community media; ethical journalism and particularly diversity reporting in a globalised and multi-cultural information world; intra-religious dialogue.
- The 2001 UNESCO declaration on cultural diversity and the 2005 Convention on the Protection and Promotion of the Diversity of Cultural Expressions should be promoted.
- An agreement that there was no need for additional norm setting, but we need to concentrate instead on better interpretation and guidance of existing norms, in particular by the Human Rights Committee.

Over 200 observers from governments, other UN agencies, regional organizations, the media and non-governmental organizations also took part in the seminar.

“Comments from the state delegates sadly mirrored division and polarization within the Human Rights Council, between the so-called Muslim and Western blocs. At the same time, they were an important reminder of the complex post 9/11 context within which we, the experts, were asked to provide our input,” remarked Dr. Callamard, after the meeting.

“I deeply hope that the technical and legal opinions put forward by experts that came from very different legal traditions, thematic focus (anti-racism, religion or freedom of expression), and regional or national origin contributed towards instilling some crucial human rights elements to what has become a highly divisive debate, threatening human rights.”

All the participants emphasised the need to continue this kind of dialogue and exchange: follow up meetings were required to build on this first one and its key findings and preliminary learning.

NOTES TO EDITORS:

- For the full text of Dr. Callamard's presentation, see:
<http://www.article19.org/pdfs/conferences/iccpr-links-between-articles-19-and-20.pdf>
- For all presentations, please see:
http://www2.ohchr.org/english/issues/opinion/articles1920_iccpr/experts_papers.htm
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- 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 free speech.