

Panel on racial profiling and incitement to hatred, including in the context of migration

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Oral Statement

Delivered by Andrew Smith, ARTICLE 19

Mr. Vice President,

ARTICLE 19 welcomes the Commemoration of the International Day for the Elimination of Racial Discrimination. We promote the freedom of expression rights for all people without discrimination, and consider the rights to freedom of expression and equality to be mutually reinforcing rights, as outlined in the Camden Principles.

We recognise that “hate speech” that seeks to undermine the dignity of persons on the basis of their race, migration or refugee status, or on other recognised grounds, causes considerable harm that we must all address.

Persons advocating hatred against minorities, including migrants, often self-identify as champions for free speech, when they are anything but. Populist demagogues, in particular, seek to marginalise minorities from public discourse, to silence their voices, and even attack independent and critical media who seek to expose as lies the myths that they peddle. At the same time, the securitisation of human rights is leading to greater surveillance and even greater criminalisation of minority opinion and dissent, compounding problems of marginalisation further.

The OHCHR-led Rabat Plan of Action makes clear that positive measures to open space for dialogue must be our primary response to hatred. The Camden Principles emphasise the role of public figures condemning and proactively speaking out against incitement, the importance of comprehensive laws to protect equality, and the need for public policies to support independence, pluralism and diversity in the media.

The Rabat Plan of Action makes clear that limitations on expression should be an exceptional and last resort measure, and proposes a six-part test to look beyond content, to examine intent and likelihood of harmful impact. It demonstrates that existing international instruments are sufficient to address this real problem.

By clarifying this threshold, Rabat seeks to address a dual challenge: firstly, it acknowledges that States too often fail to address genuine discriminatory acts of incitement to violence, often because these are committed by persons in power against those without power; secondly, it warns that vague and overbroad incitement laws are abused to target dissenting opinions, most often against the very minorities who incitement laws should protect. We remind States that Rabat calls, for

example, for the repeal of blasphemy laws, and is about protecting people from violence and discrimination, and not about insulating ideas or religions from criticism.

In the digital age, we are additionally concerned that governments are illegitimately pressuring private sector actors to remove lawful content and hand over personal information of internet users, often without judicial oversight, without transparency, and without access to remedies for those censored or subject to surveillance.

Thank you.