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REPORT OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS AND FOLLOW-UP TO THE WORLD CONFERENCE ON HUMAN RIGHTS

Addendum

Expert seminar on the links between articles 19 and 20 of the International Covenant on Civil and Political Rights: "Freedom of expression and advocacy of religious hatred that constitutes incitement to discrimination, hostility or violence" (Geneva, 2-3 October 2008)

Report of the Office of the United Nations High Commissioner for Human Rights* **

* The report is circulated in all official languages. The annex to the present document is circulated as received, in the language of submission only.

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Summary

The demarcation line between freedom of expression and hate speech, especially in relation to religious issues, has recently been subject to discussion at the international level. In order to contribute to this debate, the United Nations High Commissioner for Human Rights convened an expert meeting to address freedom of expression in the context of advocacy of religious hatred that constitutes incitement to discrimination, hostility or violence.

The expert seminar was held in Geneva on 2 and 3 October 2008 with the participation of 12 experts and over 200 observers, including from Governments, United Nations agencies, regional organizations, the media and non-governmental organizations.

Four main topics were discussed during the seminar:

(a) Analogies and parallels with other types of “incitement” (part I);

(b) Analysis of the notion of advocacy of religious hatred that constitutes incitement to discrimination, hostility or violence (part II);

(c) Limits to the restrictions to freedom of expression: criteria and application (part III);

(d) The international legal framework and the interrelatedness between articles 19 and 20 of the Covenant and States’ obligations (part IV);

At the end of the seminar, the experts briefly summarized their main ideas and comments on the substantive issues discussed (see part V).

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Introduction

1. Whereas a series of incidents related to freedom of expression continue to polarize societies, some ambiguities seem to exist with regard to the demarcation line between freedom of expression and hate speech, especially in relation to religious issues. Against this background, the United Nations High Commissioner for Human Rights decided to convene an expert meeting to address freedom of expression in the context of advocacy of religious hatred that constitutes incitement to discrimination, hostility or violence within the framework of articles 19 and 20 of the International Covenant on Civil and Political Rights. The objective of the expert seminar was twofold: to address the underlying human rights concerns behind the concept of "defamation of religions", presenting an approach based on human rights law; and to ensure a sound legal interpretation of articles 19 and 20 of the Covenant. The expert seminar was tasked to explore the legal limitations to freedom of expression and the mandatory prohibition of advocacy of religious hatred that constitutes incitement to discrimination, hostility or violence, as a means to protect individuals and groups. As a result, the seminar should offer guidance on how to address these issues in increasingly multicultural societies and to provide information on best practices and comparative legislative and judicial approaches. The approach was to focus the debate on a human rights law perspective.

2. The expert seminar, held in Geneva on 2 and 3 October 2008, was attended by 12 experts and over 200 observers, including from Governments, United Nations agencies, regional organizations, the media and non-governmental organizations.[1]

3. The High Commissioner for Human Rights opened the expert seminar on 2 October 2008 by referring to the forthcoming sixtieth anniversaries of both the Universal Declaration of Human Rights and the Convention on the Prevention and Punishment of the Crime of Genocide. She emphasized that the historical circumstances under which provisions on freedom of expression and its limitations were developed in the International Covenant on Civil and Political Rights highlighted the need to devise forms of protection against incitement to discrimination and violence. While the existence of carefully defined limitations in international human rights law was indisputable, ambiguities over their precise meaning and concrete application remained. The High Commissioner recalled that, in many parts of the world, freedom of expression unfortunately remained a distant dream and that this right had all too often been denied to those most vulnerable to arbitrary excesses of power, such as members of religious minorities. Without the freedom to openly profess one's religious affiliation, the ability to honour religious traditions and transmit them from one generation to another was curtailed. She emphasized that freedom of expression and freedom of religion were not contradictory but interdependent. Likewise, freedom of expression was essential to creating an environment in which a constructive though sometimes critical discussion about religious matters could be held. In the era of globalization, ever-increasing migration and intersection of cultures, freedom of expression was the best defence against the enemies of diversity. In international law, as in the jurisprudence of most national courts, it was clearly stated that well-defined and narrowly

[1] The seminar agenda is available at www2.ohchr.org/english/issues/opinion/articles1920_iccpr/agenda.htm.

limited classes of speech, such as the hate messages transmitted in Rwanda by Radio Mille Collines, could be legitimately restricted to safeguard against these transgressions. The High Commissioner stressed the importance of focusing on these types of extreme cases, but acknowledged that problems of interpretation lie in less clear-cut situations. Defining the line that separates protected from unprotected speech was ultimately a decision that was best made after a thorough assessment of the circumstances of each case. This decision should always be guided by well-defined criteria and in accordance with international standards.

4. After concluding her initial remarks, the High Commissioner gave the floor to the Chairperson of the expert seminar, Bertrand Ramcharan. The Chairperson welcomed the experts and observers and gave the floor to H.E. Martin Ihoeghian Uhomoibhi, President of the Human Rights Council.

5. The President of the Council recalled that the issue of "defamation of religions" had been raised many times in the Council in recent years. It had been the subject of many resolutions, reports and studies and diverging views, and concerns had been expressed each time. He acknowledged the need to address the issue outside the Council so that it could be dealt with in a more appropriate manner in the Council. Mentioning the proposal to shift the present discussion from "defamation of religions" to the legal concept of "incitement to religious hatred", the President noted the possible emergence of a positive convergence of views regarding the overall contours of this discussion, with general acceptance of a focus on the latter concept. He raised the questions of how to combat incitement to religious hatred without jeopardizing freedom of expression and the role of media and civil society organizations in ensuring interfaith dialogue and cooperation. He referred to initiatives by the Alliance of Civilization; lastly, he emphasized that many steps had to be taken to promote dialogue in a number of areas, such as education.

6. The Chairperson read the address of the United Nations High Representative for the Alliance of Civilizations, H.E. Jorge Sampaio. The Alliance was launched to stave off the threat of polarization and extremism by promoting cooperation across religious and cultural divides. While political conflicts could only be solved through political negotiations, the High Representative stated that it was equally true that peace agreements rarely held if they were not strongly backed by the communities involved. Creating the necessary conditions for sustainable peace required efforts of a different kind, to generate a mindshift in divided communities. Furthermore, when the peaceful coexistence of different communities was threatened by simmering tensions, these efforts could help prevent conflicts developing in the first place. The Alliance also acknowledged the constructive role of religious communities in mediation and conflict resolution. Addressing prejudice and stereotypes, which increase polarization among cultures, was equally important. As an initiative with a global scope, the Alliance aimed at consolidating its role within the United Nations Global Agenda as its pillar for good governance of cultural diversity and as a tool for conflict prevention and peacebuilding.

7. Before the opening of the first thematic discussion, the Chairperson asked each of the experts to provide a brief biographical background (see annex). The Chairperson then introduced the topic, emphasizing the need to approach the discussion from a human rights law perspective. Since an important part of the discussion referred to the interpretation of certain provisions of the Covenant, he recalled articles 31 and 32 of the Vienna Convention on the Law of Treaties on the general rule and supplementary means of interpretation of treaties.

I. THE INTERNATIONAL LEGAL FRAMEWORK AND THE INTERRELATEDNESS BETWEEN ARTICLES 19 AND 20 OF THE INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS AND STATES' OBLIGATIONS

A. Expert presentations

8. Frank La Rue, made a presentation concerning the right to freedom of opinion and expression and how limitations to this right should be applied.[2] He referred to the context in which the right to freedom of expression had been formally recognized, with particular emphasis on the drafting of the Universal Declaration of Human Rights and the underlying principle that the coexistence of divergent opinions could only be accommodated if everyone's right to hold and express these opinions was protected. He added that the main challenge ahead was to recognize freedom of expression as the main mechanism to fight authoritarianism and dictatorship.

9. Mr. La Rue stated that, when the Covenant was drafted, it was clear that all human rights had to be managed with responsibility. However, specific criteria needed to be followed when considering limitations to freedom of expression: (a) these limitations must be established by law; (b) they should refer to the protection of the rights of others or public order; and (c) they must prohibit any advocacy of violence, based on racism, racial or religious discrimination. He argued that there was a need today to harmonize freedom of expression, without censorship and impositions from the State, with the fight against all forms of violence, including child pornography and incitement to hatred or war.

10. Mr. La Rue explained that the right to freedom of expression could be exercised passively, but required a permanent commitment by States. He highlighted two basic premises for the exercise of this right. First, the precondition to invoke any limitations to freedom of expression was to permanently guarantee the full scope of this right. Second, expressions of hatred and violence needed to be clearly understood and defined. Mechanisms for criticism, particularly of political leaders, were deemed important so that leaders were held to account. Freedom of expression was not limited to statements considered appropriate or beneficial; limitations needed to be strictly limited to the wording of the Covenant. Definitions of hate speech had to recognize that incitement must be directly related to individuals or groups. In particular, the targeting of State symbols or subjective values could not be regarded as hate speech. In his view, the basic principle was respect for the rights of others. Freedom of expression was the manifestation of cultures, cultural diversity, religion and ideologies. Therefore, it was important to approach the right to freedom of expression with the positive understanding of defending it.

11. Agnès Callamard then discussed the role of law and of criminalization in combating hatred and hate speech.[3] She explained that, owing to the historical context after the Second World

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[2] www2.ohchr.org/english/issues/opinion/articles1920_iccpr/docs/experts_papers/LaRue.doc.

[3] www2.ohchr.org/english/issues/opinion/articles1920_iccpr/docs/experts_papers/Callamard.doc.

War, non-discrimination was a cross-cutting issue in most treaties. The central role played by freedom of expression in the international human rights regime came from the recognition that humanity's greatest calamities, including genocide, had required full control over expression, opinion and conscience. She added that the courts had highlighted that freedom of expression was not only a right on its own, but also a cornerstone or empowerment right protecting the exercise of other rights.

12. Ms. Callamard also stated that, while article 19 of the International Covenant on Civil and Political Rights was fundamental, it was not an absolute right. The restrictions enumerated under article 19 were optional, not compulsory. They therefore offered a margin of appreciation for States as to how far they may go in limiting the right. She suggested that restrictions on speech should follow strict parameters, and pass a three-part test: (a) the restriction must be provided for by law; (b) it must pursue a legitimate aim; and (c) it must be necessary and proportionate to secure one of those aims. Governments must emphasize their responsibility to provide equal treatment, for example in education, health and housing.

13. Regarding article 20 of the Covenant, Ms. Callamard recalled that the limitations were mandatory; it was therefore the duty of States to protect against incitement to hatred. However, she pointed to a large variation of interpretations among Member States of how article 20 should be implemented, for example with regard to the motivation or the medium through which hate speech was made. In particular, she recalled the views of the Human Rights Committee in *Ross v. Canada*,[4] in which the Committee recognized that articles 19 and 20 should be read together. In this regard, Ms. Callamard concluded that the above-mentioned test should also be applied to limitations invoked under article 20.

14. Ms. Callamard emphasized that criminalization of hate speech should be but one of the tools. Furthermore, she argued that there was little evidence that strong hate speech regulations resulted in better protection and enforcement of the principle of equality. She emphasized the need to look at the panoply of options rather than concentrate on any single legislative option. She highlighted the importance of minority media as a fundamental element, mentioning that minorities had often been silenced by their exclusion from mainstream media.

15. Nazila Ghanea continued with the discussion on the international legal framework and the interrelatedness between articles 19 and 20 of the Covenant and States' obligations, in particular regarding the protection provided by international law on this issue and its interpretation by international, regional and national bodies.[5] She argued that, while article 19 did not establish an absolute right, case law and literature did not indicate that sanctioning hate speech necessarily meant prohibiting such expressions from taking place. States were required to justify why any withdrawals of expression would be necessary.

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[4] *Official Records of the General Assembly, Fifty-sixth Session, Supplement No. 40* (A/56/40) (Vol. II), annex X, sect. F.

[5] www2.ohchr.org/english/issues/opinion/articles1920_iccpr/docs/experts_papers/Ghanea.doc.

16. Regarding article 20 (2), Ms. Ghanea stated that the reference to “advocacy” meant that private speech could not be sanctioned; a public element should be present. Furthermore, the speech had to reach a certain level of gravity for it to be prohibited. She explained that this condition meant that hate speech had to incite to discrimination, hostility or violence for it to be prohibited. She noted that discrimination was very different from hostility and violence, therefore different thresholds applied. Furthermore, discrimination was covered also by provisions in the Covenant, for example in article 26. Ms. Ghanea argued that States should therefore show that the harm of discrimination could not be ameliorated by means other than suppressing the expression deemed hateful. She also argued that there was less clarity regarding the definitions of “hostility” and “hatred” as opposed to “violence”, which was more readily defined. She recommended an approach that looked at the historical context and asked what were the likely “soft targets”. In this sense, a history of violence or persecution against a particular ethnic or racial group could be a meaningful indicator of the vulnerability of such groups, pointing to the need for a context-specific approach. In this regard, she emphasized that the legal framework of minority rights could be helpful in these discussions, for example the degree of access by minorities to public positions, their standing in courts or involvement in public life. With regard to the question of subsuming “hostility and violence” under the term “violence”, Ms. Ghanea pointed out that the existence of hatred needed to be demonstrated first, then prohibited only if it incited to discrimination, hostility or violence, and not the reverse.

17. Ms. Ghanea drew five preliminary conclusions: (a) the discussion on limitations to freedom of expression could not be dissociated from the overall obligations under the Covenant as a whole, such as full equality before the law, due process and rights of minorities; (b) random or orchestrated acts of violence that have no reasonable link to expression should not justify limitations to freedom of expression; (c) where hatred itself incited to violence, it showed a broader pattern of violations; triggering article 20 demonstrated a failure of the State to guarantee the right to non-discrimination under article 26; (d) article 20 also required a careful and calibrated range of sanctions; at a minimum, it should not infringe expression itself and at a maximum it could trigger sanction; care had to be taken for the limitations not to have a chilling effect on freedom of expression in general; and (e) other actions in the national sphere were needed.

B. Expert discussion

18. Most experts concurred that legal measures, in particular criminalization of hate speech, should be seen as only one specific tool in an array of policy options available to address the phenomenon. In this regard, the role of education, including intra- and inter-religious education, was highlighted. Some experts, expressing a different view, pointed to the important educational effect of criminalizing hate speech, in particular its role in deterring it. Others emphasized that the prohibition of hate speech did not necessarily lead to the eradication of discrimination, as evidenced by the situation in countries with very robust hate speech legislation. A plethora of options was discussed, including education, strengthening the professionalism of the media and its ability to self-regulate.

19. Most experts also supported the view that it was inaccurate to refer to a conflict between the right to freedom of expression and the right to freedom of religion, emphasizing the principle of universality and indivisibility of all human rights. Attention was also called to the difficulty of

interpreting or judging cultural particularities and religious sensitivities. The need for attention to be paid to the specific context and the vulnerability of particular communities was also raised.

C. General discussion

20. The expert discussion was followed by a general debate, during which observers took the floor. Some States expressed the view that protection against incitement to racial and religious hatred was needed and highlighted that hate speech was targeting specific communities, particularly Muslims, since 11 September 2001. It was also emphasized that most States agreed that freedom of expression was not unlimited, which had been reinforced in recent debates at the Human Rights Council. One State suggested that an optional protocol to the International Convention on the Elimination of Racial Discrimination should be envisaged to protect human dignity against hate speech.

21. Other States expressed the view that the elimination of religious hatred and intolerance required a global approach, emphasizing action in the realm of dialogue, education and pluralism. It was also stated that articles 19 and 20 of the Covenant constituted an important legislative framework to prevent advocacy of religious hatred that constitutes incitement to discrimination, hostility or violence, and that it was essential that States fulfilled their obligations in this regard.

22. A number of States also called attention to the difficulties in interpreting and assessing allegations of defamation of religions and cultures. In particular, a question was raised as to who should decide whether a given statement was defamatory. While recognizing the need to protect cultural rights and religious freedom, observers also pointed to the fact that these arguments may be used in a protectionist manner to stifle criticism.

II. LIMITS TO THE RESTRICTIONS TO FREEDOM OF EXPRESSION: CRITERIA AND APPLICATION

A. Expert presentations

23. Asma Jahangir pointed out that the State had an obligation to act in cases of advocacy of religious hatred that constitutes incitement to discrimination, hostility or violence.[6] Advocacy of religious hatred already existed before 11 September 2001, including against religious minorities and between religious factions. She cautioned that, in a heightened state of tension, solutions should not be rushed. Each particular case could only be adjudicated according to its specific circumstances. She also emphasized that Governments had several tools at their disposal to counter discrimination based on religion or belief and to lower the temperature of the debate, for example via inter-religious and intra-religious dialogue or education.

24. Ms. Jahangir stressed that violent acts perpetrated in the name of religion must not enjoy any form of impunity and that the role of the judiciary was vital in providing legal redress. She cautioned against excessive or vague legislation on religious issues, which could create tensions

[6] www2.ohchr.org/english/issues/opinion/articles1920_iccpr/docs/experts_papers/Jahangir.doc.

and problems rather than solve them. She argued that States had a delicate role to play and that any legislation or policies designed to combat religious discrimination had to be all-inclusive, carefully crafted and implemented in a balanced manner to achieve their objectives. She added that reference to cultural particularities was often made to undermine the rights of women and religious minorities. She questioned whether the genocide in Rwanda had taken place for lack of legislation or rather due to a lack of action, judicial or otherwise. The basic lesson was not to divide the world in discourses of "us against them". Lastly, she pointed to important differences between race and religion and asked whether these would have any legal implications.

25. Abdelfattah Amor presented a paper dealing mainly with article 19 (3) of the Covenant.[7] He discussed the scope of freedom of expression and legitimate ways to restrict it. He argued that article 19 (3) was reinforced by article 20; however, there was incertitude and a lack of clear interpretation. He referred to the need for clarification of the provisions in article 19 (3) and the question of who should define them. Furthermore, he argued that these provisions included responsibilities and duties of individuals and groups which opened the door for States to interpret article 19 (3) to impose restrictions.

26. Mr. Amor emphasized that these responsibilities and duties had to comply with the desired objective so as to promote freedom of expression. He demonstrated that article 19 (3) provided exactly the grounds for restrictions. Restrictions, however, must not be imposed in general but had to be proportional, exceptional and born out of necessity, such as national security, public order and public health or morals. He added that the meaning of "necessity" was influenced by the context and varied from State to State and between cultures. Looking at the scope of restrictions possible under article 19 (3), he argued that restrictions were not as far-reaching as they appeared.

27. Mogens Schmidt examined article 19 of the Covenant with special reference to the UNESCO mandate to enhance mutual understanding, ensure peace, freedom of thought, conscience and religion, expression and opinion.[8] He noted the interdependence between freedom of expression and freedom of the press. He also stated that censorship would undermine the fundamentals of democracy. In this regard, respect for freedom of expression and respect for religious beliefs and symbols were two inseparable principles that went hand in hand to build peace and established a dialogue among cultures, civilizations, religions and peoples.

28. Mr. Schmidt stated that any restriction of the freedom of the press stemming from civil or criminal law had to meet two conditions: the limitations had to be provided by law and should be necessary to protect a number of public areas as well as the rights of others. They also had to be clearly and narrowly defined and must be applied by an independent body. He also argued that restrictions had to respect the principle that no one must be penalized for statements that were true, and that nobody should be penalized for the dissemination of hate speech unless it had been proven that they did so with the intention of inciting discrimination, hostility or violence. He added that prior censorship should not be used as a tool to restrict the room for debate and

[7] www2.ohchr.org/english/issues/opinion/articles1920_iccpr/docs/experts_papers/Amor.doc.

[8] www2.ohchr.org/english/issues/opinion/articles1920_iccpr/docs/experts_papers/Schmidt.doc.

discussion and that care should be taken to apply the least intrusive measures to minimize any deterrent to freedom of expression. He finally urged the need of capacity-building so as to empower civil society organizations, and in particular journalists.

B. Expert discussion

29. In the ensuing discussion, one expert expressed concern at the prevailing trend of highlighting the exceptional nature of restrictions, overlooking the fact that the Covenant struck a careful balance between freedom of expression and other rights. In particular, the political context in which the discussions about hate speech were taking place was considered to be highly relevant, particularly since 11 September 2001. The scope of actors involved in such a discussion should be expanded, involving not only legal experts but also, for example, media professionals, politicians and religious leaders. Other experts believed that, while the political context might be a significant indicator, it was important to approach the issue within a human rights and legal framework. Yet others questioned the idea of "new manifestations" in the aftermath of 11 September 2001, arguing that those forms of discrimination, which were heightened after 9/11, had already existed.

30. Some experts made reference to the need to differentiate between racial and religious hatred, highlighting the differences between the concepts of "race" and "religion". Others deemed it possible to draw parallels between any form of discrimination against a group of individuals if these were clearly identifiable as a group and were discriminated against as such.

31. Several experts highlighted that there was a high threshold for restrictions to freedom of expression, such as grave or imminent threat or peril. Different views were expressed among the experts regarding how to determine what was "necessary" under article 19 (3) of the Covenant.

C. General discussion

32. Some observers expressed the view that additional protection against incitement to religious hatred was warranted since new forms of discrimination now exist. Such a view raised the concern of other observers, who saw no need to adopt complementary standards to existing international norms, which already offered adequate protection against hate speech.

33. In addition to legal measures, there was agreement on the importance of having a wider strategy to include cross-cultural education, intercultural dialogue and promotion of tolerance of diversity. In this regard, limitations to freedom of expression should be seen as just one of many alternatives to deal with this phenomenon.

34. One observer argued that restrictions to freedom of expression to combat incitement to religious hatred could not be considered a "necessary evil", as they were designed to uphold the full range of human rights. Other observers noted that the use of subjective and overly broad limitations could deter freedom of expression and that the focus should remain on the full promotion of this right rather than on its possible limitations.

III. ANALYSIS OF THE NOTION OF ADVOCACY OF RELIGIOUS HATRED THAT CONSTITUTES INCITEMENT TO DISCRIMINATION, HOSTILITY OR VIOLENCE

A. Expert presentations

35. Vitit Muntarbhorn made a presentation on the criteria that should be used to define the notion of advocacy of religious hatred that constitutes incitement to discrimination, hostility or violence.[9] He insisted on the relationship between the notions of freedom of expression and religion, stressing that freedom of religion or belief depended on freedom of expression and that elements of "expression" were externalized by the manifestation of a religion. Both freedoms also depended on a degree of tolerance, mutual respect and diversity inherent in human existence, including non-believers. He added that the notion of freedom of expression was linked to respect for a variety of different opinions and the ways through which they were communicated, and that such plurality should not be diluted. He explained that any attempt to analyse the relationship between expression and religion must take into consideration historiography, implying an understanding of "who writes history and for whom", and that there should be no monopoly of sources in that regard. That the originator of a religion or belief may have had a very broadminded approach, but not the subsequent interpretation of the said religion or belief, should also be taken into consideration.

36. Mr. Muntarbhorn, noting the debate on "defamation of religions", stressed that, at the national level, the common term used was "blasphemy". He emphasized that many countries had had laws prohibiting blasphemy for centuries and that, in recent years, some countries had reformed or repealed such laws while others continued to use them. The various applicable human rights provisions should be read together, bearing in mind the cross-cutting principle of equality and non-discrimination. He also stated that limitations to the manifestation of religion and expression should remain the exception, not become the rule. Adding that prevention was better than cure, he stressed the importance of multicultural and intercultural education. In the context of the United Nations, it was necessary to clarify the relationship between freedom of religion and freedom of expression by means of general comments from the Human Rights Committee.

37. Lastly, Mr. Muntarbhorn indicated that various parameters should be taken into consideration to clarify the content of article 20 (2) of the Covenant; in particular, the interconnection between articles 19 and 20 had to be recognized. Article 20 must also be read in a holistic manner, taking into consideration human rights law as a whole, including the principle of due process and non-derogable rights, and all its elements that provided for high thresholds. This was the case in particular of the term "incitement", which was close to the concept of "public provocation", and the term "hatred", which did not mean "dislike" but rather a "high degree of opprobrium". Among the concepts of discrimination, violence and hostility, the latter opened the door to more interpretation and carried the notion of "enemies". Furthermore,

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[9] www2.ohchr.org/english/issues/opinion/articles1920_iccpr/docs/experts_papers/Muntabhorn.doc.

according to Mr. Muntarbhorn the prescriptive element included in article 20 should not lead to automatic criminalization although he acknowledged the value of legal deterrence. Criminalization required the existence of the element of intent by the author of the crime, although evolution of international law brought some degree of objectification in this respect. Mr. Muntarbhorn also stated that, under article 20, prohibition also meant accountability and combating impunity.

38. Patrice Meyer-Bisch then presented his analysis of the notion of advocacy of religious hatred that constitutes incitement to discrimination, hostility or violence.[10] He indicated that various sanctions of a criminal, civil and social nature were available to combat such acts. When criminal law was used, the publicity given to the law was important. Sanctions had not only to impede illegal acts, but also remedy the harm done to mutual trust. Underlining the adoption by UNESCO of the Universal Declaration on Cultural Diversity in 2001 and of the Convention on the Protection and Promotion of the Diversity of Cultural Expressions in 2005, he stated that tolerance entailed respect. Tolerance also implied more, not less, freedom, as each human right involved the notions of both freedom and responsibility. The issue was not to restrict freedoms but to develop their indivisible substance.

39. Mr. Meyer-Bisch also insisted on the notion of "respectful criticism" of persons on the one hand, and of religious diversity, which was part of the common heritage of humanity, on the other. According to Mr. Meyer-Bisch, cultural freedom cannot be achieved when cultural resources are under attack, while criticism should always be possible, provided it was respectful of persons and acquired knowledge, and grounded on the principle of good faith. Religions themselves were places of interpretation, since no human being can assert the definitive meaning of a religious text.

40. Mr. Meyer-Bisch also emphasized the cultural content of freedoms. Strict interpretation of articles 19 and 20 of the Covenant did not mean that only these provisions should be looked into; other provisions were also relevant, such as article 27 of the Covenant, and articles 13 to 15 of the International Covenant on Economic, Social and Cultural Rights. Freedom of expression must be understood in relation to the issue of access to cultural heritage and resources. The cultural content of the twin rights to education and information must also be elucidated. To this end, one should take into consideration article 15 (2) of the latter Covenant, which called for steps for the conservation, development and dissemination of science and culture. Lastly, he called for the development of national observatories to gather information on the respect for cultural rights and cultural diversity, including diversity of religions and convictions, and proposed that national human rights institutions address the issue of cultural rights, perhaps through a national monitoring scheme.

41. Mohamed Saeed M. Eltayeb made a presentation on the admissible scope of limitations on critical thinking on religious issues.[11] The main premise, he proposed, was to frame the debate

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[10] www2.ohchr.org/english/issues/opinion/articles1920_iccpr/docs/experts_papers/Meyer-Bisch.doc.

[11] www2.ohchr.org/english/issues/opinion/articles1920_iccpr/docs/experts_papers/Eltayeb.doc.

on the complementarity of freedom of expression and freedom of religion or belief in consideration of context, local conditions and political tensions, rather than presenting the issue as an inherent conflict between two freedoms. He stated that it was necessary that an approach that endorsed the principle of universality, indivisibility and interdependence of these two interconnected and interdependent freedoms, on the one hand, and to strike the balance and complementarity between them, on the other, be adopted. He added that freedom of religion or belief did not protect religions or beliefs per se; however, this was not to suggest that the protection of religious symbols from insult and denigration did not fall within the scope of freedom of religion. In his view, the question whether criticism, derogatory comment, insults or ridicule of a religion encroached on the believer's right to freedom of religion or belief could only be determined by examining whether such acts negatively affected the various aspects of religious freedom of the believer.

42. According to Mr. Eltayeb, the definition of the scope of limitation of critical thinking of religious issues must take into consideration articles 18 to 20 of the International Covenant on Civil and Political Rights. While deciding which forms of expression amounted to acts that should be prohibited under article 20 was a contextual question, it was important that general criteria or parameters be defined. In particular, Mr. Eltayeb pointed to the need to distinguish between speeches that advocate religious hatred that constituted incitement to discrimination, hostility or violence, and those that did not. He added that guaranteeing both freedoms of expression and of religion or belief should be a prerequisite to implementing restrictions on those freedoms. It was also important to identify potential abuse by Governments when invoking article 20 of the Covenant, the main objective of which is to protect minorities. A broad application of article 20 may have far-reaching implications, not only on freedom of expression but also on freedom of religion or belief, for example with regard to honest debate and research on religious issues. Lastly, an independent judiciary was crucial in the process of effectively assessing cases related to incitement to religious hatred according to article 20.

43. In his concluding remarks, Mr. Eltayeb emphasized that article 20 of the Covenant was not self-executing and that States parties had to enact appropriate laws. Stressing that article 20 could be used as a pretext for persecuting and oppressing religious minorities, he stated that alternatives to the use of criminal law in order to implement article 20 may be more suitable. The implementation of human rights required different kinds of strategies, and legal measures might be seen as part of wider strategies. Mr. Eltayeb concluded that new standards were not required, but the development of the interpretation of existing standards was needed; the Human Rights Committee might therefore revisit its general comment on article 20.

B. Expert discussion and general discussion

44. Owing to time constraints, the discussion of topics III and IV was held at the end of the seminar.

IV. ANALOGIES AND PARALLELS WITH OTHER TYPES OF "INCITEMENT"

A. Expert presentations

45. In his presentation, Doudou Diène analysed the issue of analogies between advocacy of racial and religious hatred, with particular emphasis on the underlying political context in which such violations take place.[12] He called for the debate on freedom of expression to be put in the context of dialogue of civilizations. Mr. Diène made reference to the intellectual context in which discussions of hate speech were taking place, recalling the controversial publication of the cartoons of the prophet Mohammed. He warned against a Manichean approach, for example, of artificially distinguishing between regions of the world where freedom of expression was defended and others where obscurantism and intolerance reigned.

46. Mr. Diène argued that the debate on limitations to freedom of expression should be located within the present context. In particular, he referred to an ideological reading of human rights since 11 September 2001, with the tendency to give primacy to freedom of expression. In his view, this ideological capture was a cause of the present tension. He argued that one cannot approach freedom of expression without analysing discrimination. He stated that a number of countries had been able to find legal strategies against discrimination but had failed to address the root causes of a racist and discriminatory mentality. He argued that the fight against racism had to go beyond non-discrimination and should promote interaction among communities. This would allow for the emergence of more pluralistic concepts of national identities, which were closely linked to the exercise of freedom of expression.

47. Mr. Diène also made reference to what he saw as three trends in racism: (a) the surge in racist violence and discrimination, including the joint increase of anti-Semitism and Islamophobia; (b) the political instrumentalization of racism by political parties in democratic societies; and (c) the intellectual and scientific legitimization of racism. Regarding possible solutions, Mr. Diène recommended that the amalgamation of race, religion and culture should be addressed. He also called for the debate to be resituated in the framework of human rights and the Covenant, in particular with regard to the notion of incitement to racial and religious hatred. He argued that freedom of expression would be strengthened if the limitations were respected.

48. Patrick Thornberry then made a presentation on forms of hate speech and the International Convention on the Elimination of All Forms of Racial Discrimination.[13] He explained that the Convention had emerged in a different historical environment, as it was drafted in the light of Nazi practices, and forged in the area of the cold war as well as the struggle against apartheid and colonialism. The Convention, to which 173 States are today party, is the result of the decision of the General Assembly to separate the drafting of legal instruments on racial and religious discrimination.

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[12] www2.ohchr.org/english/issues/opinion/articles1920_iccpr/docs/experts_papers/Diene.doc.

[13] www2.ohchr.org/english/issues/opinion/articles1920_iccpr/docs/experts_papers/Thornberry.doc.

49. Mr. Thornberry indicated that, although the five grounds of discrimination set out in article 1 of the Convention - race, colour, descent, or national or ethnic origin - did not specify religion, the Committee on the Elimination of Racial Discrimination searched for elements of "intersectionality" between racial and religious discrimination when considering individual cases. Furthermore, article 5 of the Convention called for the enjoyment, without discrimination, of the right to freedom of thought, conscience and religion. In consequence, the Committee had made numerous references in its concluding observations to phenomena such as Islamophobia, discrimination against Jews and Sikhs, discrimination against indigenous religions, desecration of sacred sites and other cases where it had sensed an overlap or intersection between religion and ethnicity.

50. Mr. Thornberry stated that article 4 of the Convention, which addresses the issues of hate speech and the banning of racist organizations, had triggered a large number of reservations by States parties. The Committee, which regarded this provision as central, had made use of article 4 by for example recommending that the crime of incitement cover offences motivated by religious hatred against immigrant communities or by recommending that religious hatred be designated as aggravating circumstances. He added that the basic principles of criminal liability in many - if not most - jurisdictions would be violated if hate speech was penalized even when no intention to incite could be shown.

51. Mr. Thornberry stated that the Convention was a living instrument that could take into consideration new conceptions of rights. Noting that there seemed to be a move away from the concept of "defamation of religions", he stressed that the Convention and the Committee aimed at protecting individuals and communities. Finally, noting the proposal for an optional protocol to the Convention on religion, he stressed that the practice of the Committee had already resulted in extensive coverage of discrimination against religious communities.

52. Natán Lerner made a presentation on analogies and parallels to be drawn from situations where limitations were imposed to freedom of expression to protect against incitement to, or advocacy of, hate crimes, and the applicability of such limitations to advocacy of religious hatred.[14] He stressed that freedom of expression was a fundamental right that may be subject to limitations determined by law in a democratic society. No new international standards were necessary, since articles 19 and 20 of the Covenant, article 4 of the International Convention on the Elimination of all Forms of Racial Discrimination and article 3 of the Genocide Convention provided sufficient protection and were compatible with freedom of expression.

53. According to Mr. Lerner, some terminology needed to be clarified, such as the words "intolerance", "hate speech" and "hostility", and suggested that the Committee on the Elimination of Racial Discrimination and the Human Rights Committee might wish to re-examine their relevant general recommendations or general comments to further the understanding of the legal provisions. Mr. Lerner preferred to use "respect" instead of negative terms such as "intolerance".

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[14] www2.ohchr.org/english/issues/opinion/articles1920_iccpr/docs/experts_papers/Lerner.doc.

54. Mr. Lerner explained that there should be no distinction in the treatment of incitement to national, racial or religious hatred and the protection afforded by the law. He argued that abundant jurisprudence already existed on these matters, and that religious groups could invoke protection against racist acts because of the close relationship between the concepts. He also stated that criminal law had a powerful educational impact and could lead to changes in attitudes on types of speech. However, societies should be careful when distinguishing between criminal activities against religious groups and criticism of religion, which could be seen as offensive. "Defamation of religions" was a term that should be re-examined and Mr. Lerner recommended that its use be avoided.

B. Expert discussion

55. One expert mentioned the experience of UNESCO in setting up community media as a positive way to respond to mainstream media. In defence of the Internet, the expert recalled the many opportunities it offered and argued that its misuse by a small number should not detract from its benefits.

56. In relation to so-called "hate media", another expert added that the example of Rwanda, where there had been clear incitement to violence, was not about freedom of expression being instrumentalized but rather about the violation of this freedom in practice.

C. General discussion

57. Freedom of expression was characterized by most observers as not the problem but rather part of the solution; it was felt that free confrontation of ideas and exposure of intolerance should prevail over prohibition and censorship. There was broad consensus that the concepts of "incitement" and "discrimination" were preferable to the notion of "defamation of religions". The re-examining and strengthening of legislation at the national level were deemed important, especially with regard to the right of reply for minority groups targeted by slander. Lack of or insufficient national legislation could sometimes be compensated by referring cases to regional mechanisms that had the capacity to adjudicate rapidly.

58. Some States expressed their concern that a number of countries applied double standards when advocating for freedom of expression while having enacted "denial laws" that curtailed freedom of expression on historical events. Several speakers referred to the idea of a new international norm, and preferred clarifying existing norms rather than drafting new standards.

59. A call was made to follow-up with another meeting to strengthen the implementation and protection of freedom of expression.

V. CONCLUDING SESSION

60. At the conclusion of the seminar, the Chairperson invited the experts to summarize their main ideas and comments on the substantive issues discussed.

61. Mr. La Rue stated that limitations under articles 19 and 20 were clear and should be implemented accordingly. He stressed the importance of prevention through education and by promoting ethical values for journalists on a voluntary basis. In particular, he argued that dialogue and mutual comprehension were the long-term solution to the problem.

62. Ms. Callamard expressed the hope that the seminar had helped to depolarize the debate on the issues it tackled. She suggested further follow-up events of this nature, specifically referring to the need to discuss the issue of Islamophobia. A number of questions, complexities and cases of polarization remained; consequently, a technical, non-political setting might allow for a better understanding of this phenomenon. In the context of the relationship between freedom of expression and the fight against discrimination, she recommended that the European Court of Human Rights and the Human Rights Committee consider the need to unpack some of the key concepts and terminology contained in the relevant legal instruments.

63. Ms. Ghanea recommended that a victim-centred approach be adopted in all circumstances leading to the enjoyment of all human rights for all. She suggested that any follow-up activities should be based on three premises: (a) actual instances of incitement to religious hatred should be acted upon when channelled by civil society rather than by States; (b) local remedies needed to be exhausted first; and (c) existing international mechanisms, such as under the universal periodic review, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination and inter-State mechanisms, needed to be exhausted before considering new standards.

64. Ms. Jahangir affirmed that more consultation was needed, especially concerning the implementation of existing standards at the domestic level. She suggested that the Human Rights Committee, whenever it saw fit, could revisit its general comment No. 11 (1983) on article 20 of the International Covenant on Civil and Political Rights. Implementation of specific national legislation had often fostered more polarization rather than protect religious minorities. She recommended that the Office of the United Nations High Commissioner for Human Rights (OHCHR) should consider organizing regional workshops in order to explore this issue also at the grass-roots levels. She concluded by stating that international human rights instruments were designed to protect individuals and groups.

65. Mr. Schmidt suggested a peer-reviewed analysis of regional and international case law on incitement to religious hatred. He expressed the commitment of UNESCO to continue focusing on these issues. He further pointed to the importance of keeping the debate as open and constructive as possible.

66. Mr. Amor proposed for follow-up that (a) an inventory of national legislation and policies to identify best practices be conducted; (b) another international consultative conference on freedom of expression and the fight against intolerance, which could draw from the experience of the 2001 Madrid conference on school education in relation to freedom of religion or belief, tolerance and non-discrimination, be convened; (c) the Human Rights Committee be encouraged to consider updating its general comments on articles 19 and 20 of the International Covenant on Civil and Political Rights; and (d) OHCHR capacity to work on “communication and culture” to monitor and raise alarm on tensions that could lead to crisis be strengthened.

67. Mr. Muntarbhorn recommended various forward-looking, mutually respective dialogues, including consultations with national human rights institutions, civil society and the media; inter-denominational consultations; consultations between treaty bodies and special procedures; Internet dialogues, including engagement with software and hardware manufacturers and Internet service providers; and identification, compilation and sharing of programmes for cross-cutting understanding.

68. Mr. Meyer-Bisch emphasized the issue of multiple or aggravated forms of discrimination, for example based on religion, race and gender. He also underlined the importance of bearing in mind the implications of discrimination related to poverty.

69. Mr. Eltayeb highlighted that existing international norms were adequate, although a review of their interpretation was needed. In this regard, the role of the Human Rights Committee was crucial. In addition, he expressed his agreement with the shifting of the debate from the notion of "defamation of religions" to the legal concept of "incitement to religious hatred". As a follow-up initiative, he suggested considering the establishment of an expert working group on the links between articles 19 and 20 of the Covenant.

70. Mr. Diène affirmed that to face the present-day challenges of conflict among civilizations, it was important that freedom of expression be strengthened while respecting the delicate balance between freedom of expression and its limitations and restrictions. Finally, he proposed that the current debate be enlarged to involve other stakeholders, such as political and religious leaders and media representatives.

71. Mr. Thornberry stated that new challenges were emerging, for example in the context of immigration. He contended that an adaptive and evolving interpretation of international norms was needed. In this context, suggestions for revisiting interpretations by treaty bodies were valid when circumstances required. He emphasized the importance of multiculturalism and recommended that follow-up activities should involve civil society organizations as well as minorities and other affected communities.

72. Mr. Lerner affirmed that the expert seminar showed that there was a basis for common understanding of key concepts. He further recommended that OHCHR take the lead by producing a manual on legislation related to racial or religious discrimination.

Annex

LIST OF EXPERTS AND BIOGRAPHICAL INFORMATION

Mr. Abdelfattah Amor is professor emeritus in public international law and political science. Mr. Amor has been member of the United Nations Human Rights Committee since 1999, which he chaired from 2003 to 2005. He was also United Nations Special Rapporteur on freedom of religion or belief from 1993 to 2004 and submitted more than 30 reports to the Commission on Human Rights and the General Assembly concerning the elimination of all forms of intolerance and discrimination based on religion or belief. He is Honorary Dean of the Faculty of Legal, Political and Social Science of Tunis since April 1993. He was President of the International Consultative Conference on Freedom of Religion or Belief, Tolerance and Non-discrimination (Madrid 2001) and President of the UNESCO Prize for Human Rights Education (2000-2008).

Ms. Agnès Callamard is the current executive director of ARTICLE 19, an international human rights organization promoting and defending freedom of expression and access to information globally. Ms. Callamard has evolved a distinguished career in human rights and humanitarian work. She has founded and led HAP International (the Humanitarian Accountability Partnership) where she oversaw field trials in Afghanistan, Cambodia and Sierra Leone and created the first international self-regulatory body for humanitarian agencies committed to strengthening accountability to disaster-affected populations. She is a former *Chef de Cabinet* for the Secretary General of Amnesty International, and as the organization's Research Policy Coordinator, she led Amnesty's work on women's human rights. Ms. Callamard has conducted human rights investigations in a large number of countries in Africa, Asia, and the Middle East. Ms. Callamard has worked extensively in the field of international refugee movements with the Center for Refugee Studies in Toronto. She has published broadly in the field of human rights, women's rights, refugee movements and accountability and holds a PhD in Political Science from the New School for Social Research in New York.

Mr. Doudou Diène was born in Senegal in 1941 and holds a law degree from the University of Caen, a doctorate in public law from the University of Paris and a diploma in political science from the Institut d'Études Politiques in Paris. Having joined the UNESCO Secretariat in 1977, in 1980 he was appointed Director of the Liaison Office with the United Nations, Permanent Missions and United Nations departments in New York. Prior to this, he had served as deputy representative of Senegal to UNESCO (1972-77) and, in that capacity, as Vice-President and Secretary of the African Group and Group of 77. Between 1985 and 1987, he held the posts of Deputy Assistant Director-General for External Relations, spokesperson for the Director-General, and acting Director of the Bureau of Public Information. After a period as Project Manager of the 'Integral Study of the Silk Roads: Roads of Dialogue' aimed at revitalizing East-West dialogue, he was appointed Director of the Division of Intercultural Projects in 1993 (currently Division of Intercultural Dialogue). In this capacity, he directed various projects on intercultural dialogue, including the Slave Route, Routes of Faith, Routes of al-Andalus, and Iron Roads in Africa. In 1998 he was placed in charge of activities pertaining to inter-religious dialogue. In 2002, he was appointed by the Commission on Human Rights as Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, a mandate in which he served until July 2008.

Mr. Mohamed Saeed M. Eltayeb is a human rights lawyer, scholar and consultant. He holds a Bachelor of Laws from the University of Khartoum, two post-graduate Diplomas in international relations and international law (University of Khartoum and Institute of Social Studies, The Hague) and two Masters Degrees in international relations and international law from the University of Amsterdam and Lund University (Sweden) respectively. He obtained his Ph.D. in international human rights law from Utrecht University (The Netherlands). Mr. Eltayeb has worked, inter alia, at the Netherlands Institute for Human Rights (SIM), International Commission of Jurists (ICJ) and Faculty of Law of the University of Khartoum and the Institute for Women, Gender and Development Studies of the Ahfad University (Sudan). He currently works as a legal expert for the Bureau of Human Rights of the Qatari Ministry of Foreign Affairs. Mr. Eltayeb also served as a visiting researcher at several institutes in Europe and the United States of America, including the Swiss Institute of Comparative Law of the University of Lausanne, the Human Rights Centre at Essex University, the Law and Religion Program at Emory University School of Law, the Islamic Legal Studies Program al Harvard Law School and Raoul Wallenberg Institute of Human Rights and Humanitarian Law at Lund University. He has published several works on human rights in Muslim countries.

Ms. Nazila Ghanea is a Lecturer in International Human Rights Law at the University of Oxford. She also serves as the Editor-in-Chief of the international journal of Religion and Human Rights. She was previously the MA Director and Senior Lecturer in International Law and Human Rights at the University of London. Her publications include five books (including *Human Rights, the UN and the Bahá'ís in Iran*, 2003); articles in the journals International and Comparative Law Quarterly, Human Rights Quarterly, International Affairs; publications with the UK Economic and Social Research Council (ESRC), Minority Rights Group International and the UN publication *Ethnic and Religious Minorities in the Islamic Republic of Iran* (E/CN.4/Sub.2/AC.5/2003/WP.8). Her publications span minority rights, freedom of religion or belief, women's rights, and human rights in the Middle East. She is a Trustee of the One World Trust, held an OSI International Policy fellowship (2006-2007) and initiated and now serves on the board of the international network "Focus on Freedom of Religion or Belief".

Ms. Asma Jahangir was appointed United Nations Special Rapporteur on Freedom of Religion or Belief in July 2004. In this function she has submitted several reports to the Commission on Human Rights, to the General Assembly and to the Human Rights Council. Previously she had already served as United Nations Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions from 1998 to 2004. In her two mandates she has conducted a total of 22 country visits. Presently, she is also Commissioner of the International Commission of Jurists, Executive Member of the International Crisis Group and Chairperson of the Human Rights Commission of Pakistan. In her home country Pakistan she is Director of AGHS Legal Aid Cell, a NGO set up in 1980 to provide free legal aid to women. Over the years, the mandate of AGHS has expanded to respond to the needs of a growing civil society and the demands made by various groups for legal recourse. Ms. Jahangir represents clients in the High Court, Federal Shariat Court and the Supreme Court of Pakistan.

Mr. Frank La Rue has worked on human rights for the past 25 years. He is the founder of the Center for Legal Action for Human Rights (CALDH), both in Washington DC and Guatemala, which became the first Guatemalan NGO to bring cases of human rights violations to the Inter-American System. CALDH was also the first Guatemalan NGO to promote economic, social and cultural rights. Mr. La Rue also brought the first genocide case against the military

dictatorship in Guatemala. As a human rights activist, his name was presented to the Nobel Peace Prize committee in 2004. Mr. La Rue has previously served as a Presidential Commissioner for Human Rights in Guatemala, as a Human Rights Adviser to the Minister of Foreign Affairs of Guatemala, as President of the Governing Board of the Centro-American Institute of Social Democracy Studies and as a consultant to the Office of the High Commissioner for Human Rights. Mr. La Rue holds a B.A. in Legal and Social Sciences from the University of San Carlos, Guatemala and a postgraduate degree from Johns Hopkins University.

Mr. Natán Lerner was born in Poland and educated in Argentina, where he obtained his law degree in 1950 and his doctorate in Law and Social Sciences in 1958, both from Buenos Aires University. He was a practicing lawyer in Buenos Aires until 1963. From 1963 to 1966 he worked in New York for the World Jewish Congress. In Israel since 1966, he was director of the Israeli office of the World Jewish Congress until 1983. From 1984 to 1989 he was director of the International Center for the University Teaching of Jewish Civilization. Simultaneously, he taught International Law and Human Rights at the university level. Since 1989 his main activity is university teaching. Since his retirement from Tel Aviv University, after more than 20 years, he teaches at the Interdisciplinary Center Herzliya. His main course is International Law and he also conducts seminaries on State and Religion, Racial Discrimination, Minorities, and Genocide. Mr. Lerner is the author of the following books in English: *Religion, Secular Beliefs and Human Rights* (Leiden, 2006); *Religion, Beliefs and International Human Rights* (New York, 2000); *Group Rights and Discrimination in International Law* (The Hague, 2003); *The UN Convention on the Elimination of All Forms of Racial Discrimination* (Alphen an den Rijn, 1980); *The Crime of Incitement to Group Hatred* (New York, 1965). He also published several books in Spanish. He is the author of many articles in Spanish, English and Hebrew, published in books and journals of Israel, the USA, Spain, Argentina and other countries.

Mr. Patrice Meyer-Bisch is coordinator of the *Institut interdisciplinaire d'éthique et des droits de l'homme* and of the *Chaire UNESCO pour les droits de l'homme et la démocratie* at the University of Fribourg, Switzerland. Born in 1950, Mr. Meyer-Bisch studied in Nancy, Fribourg and Paris, and obtained his Ph.D. in Philosophy from the University of Fribourg. Mr. Meyer-Bisch is very active in various fields of research, conducting in particular studies on cultural rights, the ethics of economic activity and human rights, the theory of subject and democracy, the methodology of social science and pluridisciplinarity, and cultural indicators of development.

Mr. Vitit Muntarbhorn is a Professor of Law at Chulalongkorn University, Bangkok. He has served in various capacities for the United Nations system. From 1990 to 1994, he was Special Rapporteur on the sale of children, child prostitution and child pornography and since 2004 he is Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea. He was awarded the 2004 UNESCO Prize for Human Rights Education in recognition of his outstanding contribution to education for human rights and diverse activities at national, regional and international levels in favour of promotion and protection of all human rights for all.

Mr. Bertrand Ramcharan (Chairperson of the expert seminar) was Deputy High Commissioner for Human Rights and Assistant Secretary-General when Mr. Sergio Vieira de Mello, then High Commissioner, was killed on 19 August 2003 during the attack on the

United Nations headquarters in Baghdad. Mr. Ramcharan then assumed the post of acting High Commissioner for Human Rights, which he held until July 2004. During his three decades with the United Nations, Mr. Ramcharan served in the Centre for Human Rights as Special Assistant to the Director, as the Secretary-General's Chief Speechwriter, as Director of the Office of the Special Representative for the Secretary-General in UNPROFOR, the largest-ever United Nations peacekeeping operation, as Director of the International Conference on the Former Yugoslavia, as political adviser to the peace negotiators in the Yugoslav conflict, and as a Director in the United Nations Political Department, focusing on conflicts in Africa. A barrister of Lincoln's Inn, with a Doctorate in international law from the London School of Economics and Political Science earned in 1973, Mr. Ramcharan was a Commissioner of the International Commission of Jurists from 1991 to 1998 and has been a member of the Permanent Court of Arbitration since 1996. He was Adjunct Professor of International Human Rights Law at Columbia University and has written or edited some twenty books and numerous articles. He holds the Diploma in International Law of the Hague Academy of International Law, where he has also been Director of Studies.

Mr. Mogens Schmidt is Deputy Assistant Director-General for Communication and Information and Director of the Division for Freedom of Expression, Democracy and Peace at UNESCO since 2003. At UNESCO he is also responsible for the organization's activities in post conflict and post disaster environments. Born in Denmark in 1950, Mr. Schmidt has since 1974 been active as lecturer at the University of Aarhus, Denmark, Director of the Danish School of Journalism, Director of the European Journalism Centre, Maastricht (The Netherlands), and Assistant Director General of The World Association of Newspapers, Paris (France). Mr. Schmidt has extensive experience with research, training and management of media development programmes from a large number of countries all over the world.

Mr. Patrick Thornberry is Professor of International Law at Keele University (United Kingdom) and a Fellow of Kellogg College, University of Oxford. Mr. Thornberry has been a member of the United Nations Committee on the Elimination of Racial Discrimination (CERD) since 2001 and was rapporteur of that Committee from 2002 until spring 2008. He currently chairs the Early Warning and Urgent Action Group in CERD, dealing with a range of pressing situations notably including land and resource questions involving indigenous peoples. He is a former Chairman of Minority Rights Group International and has acted as consultant and adviser to a range of international organizations. Mr. Thornberry is the author of numerous works in the field of minority rights, rights of indigenous peoples and racial discrimination, notably *International Law and the Rights of Minorities* (Clarendon Press, Oxford, 1991), *Indigenous Peoples and Human Rights* (Manchester University Press, 2002) and (with M.A. Martin Estebanez) *Minority Rights in Europe* (Council of Europe Publishing 2004). He is currently working on a commentary for Oxford University Press on the International Convention on the Elimination of All Forms of Racial Discrimination, to be published in 2010.
