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**RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED FORMS OF
INTOLERANCE: FOLLOW-UP TO AND IMPLEMENTATION OF THE DURBAN
DECLARATION AND PROGRAMME OF ACTION**

**Written statement* submitted by the International Humanist and Ethical Union (IHEU),
a non-governmental organization in special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[28 August 2009]

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

Religious registration in OIC Member States

Religious freedom and the ICCPR

1. The importance of religious freedom cannot be overstated. Freedom of religion or belief is enshrined in Article 18 of the International Covenant of Civil and Political Rights (ICCPR), in which paragraph 18.2 states that: “No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.”

2. It is notable however that certain states, and in particular member states of the Organisation of the Islamic Conference (OIC), have consistently failed to honour their obligations to uphold this right, subjecting citizens who wish to change their religion to coercion.

The requirement to officially register one’s religion

3. We review here the requirement in many of these states to officially specify one’s religion in breach of the right to freedom of religion or belief enshrined in the ICCPR. We note with concern cases in which States limit the freedom of an individual to represent his or her actual religion on official documents, and challenge the legitimacy of States requiring their citizens to report their religious beliefs.

Cases from Egypt

4. Mr Mohammed Higazi is an Egyptian who wishes his official documentation to register the fact that he has converted from Islam to Christianity. At the age of 16 all Egyptians are required to obtain an ID that states their religion as Muslim, Christian or Jewish. These cards are necessary for virtually every aspect of life, from banking, to education and medical treatment.¹ Although born a Muslim, Higazi has been a practising Christian since he was a teenager. Now married, he wishes his child to be registered as Christian – only possible if he can change the religion on his own identity card to Christian. Higazi was the first individual born a Muslim to appeal for official state recognition of his conversion, thus the official recognition of such a conversion was unprecedented. Higazi filed his case on 2 August 2007, and was denied the right to officially convert on 29 January 2008.² By way of justification, the judge appealed to Sharia Law in order to substantiate the claim that one cannot convert to an 'older religion', stating that: “monotheistic religions were sent by God in chronological order... as a result, it is unusual to go from the latest religion to the one that preceded it.”³

5. Mr Maher El-Gohary was the second individual to lodge such an appeal. He converted to Christianity thirty years ago he now needs his religion to be recognised by the state for his daughter to receive a Christian education.⁴ On 16 June 2009, a Cairo judge ruled against his request, despite El-Gohary's production of official baptism papers.⁵ The judge had received a report from the State Council, a consultative body of Egypt’s Administrative Court, expressing

1 <http://latimesblogs.latimes.com/babylonbeyond/2009/06/egypt-converted-muslim-denied-christian-identity-by-court.html>

2 <http://www.compassdirect.org/en/display.php?page=news&lang=en&length=long&idelement=5826>

3 <http://www.religionnewsblog.com/22172/islam-convert-christianity-egypt>

4 http://news.bbc.co.uk/1/hi/world/middle_east/7888193.stm

5 http://www.unitedcopts.org/index.php?option=com_content&task=view&id=3784&Itemid=1

outrage at El-Gohary's "audacity" to request a change in the religious designation on his ID. The report claimed that his case was a threat to social order and violated Sharia law.⁶

6. Both El-Gohary and his daughter have been violently threatened during their 10-month campaign, and have been driven into hiding.⁷ Particularly worrying was the call by Sheikh Yossef El-Badri, a leading Islamic scholar, for Muslims to kill Maher El-Gowhari for apostasy.⁸

7. We have received a copy of a fatwa stamped by Al-Azhar mosque which states that apostates are to be asked to repent and return to Islam, otherwise jurisprudence requires that they be killed.⁹

8. Egypt signed the ICCPR on the 4th August 1967, and ratified it on the 14th January 1982. Egypt is thus committed to Article 18, which states that:

"Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching."¹⁰

This is reinforced by the Human Rights Committee General Comment 22, of 30 July 1993, that

"the freedom to "have or to adopt" a religion or belief **necessarily entails the freedom to choose a religion or belief, including the right to replace one's current religion or belief with another or to adopt atheistic views**, as well as the right to retain one's religion or belief."(Bold formatting added)¹¹

9. The Egyptian constitution enshrines this commitment. Article 46 states that 'The State shall guarantee the freedom of belief and the freedom of practice of religious rites'.¹² Yet the cases of Mohammed Higazi and Maher El-Gohary clearly demonstrate that Egypt is failing to protect its citizens' fundamental freedom to change their religious belief.

10. In Egypt, Sharia courts exist for the resolution of issues regarding the personal status of Muslims, such as marriage and inheritance. However, a non-religious Supreme Court operates above both the Sharia personal status courts and the secular criminal courts.¹³ In rejecting the requests of Higazi and El-Gohary, both judges appealed to Sharia law, a controversial step since neither individual considers himself to be Muslim and therefore not subject to Sharia law. By imposing Sharia law in such cases, the judges interpret the Constitution's provision of religious freedom as inapplicable to Muslim citizens who wish to convert to another religion.^{14 15}

6 <http://latimesblogs.latimes.com/babylonbeyond/2009/06/egypt-converted-muslim-denied-christian-identity-by-court.html>

7 http://www.unitedcopts.org/index.php?option=com_content&task=view&id=3784&Itemid=1

8 http://www.unitedcopts.org/index.php?option=com_content&task=view&id=3952&Itemid=71

9 Private communication from United Copts of Great Britain

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

11 <http://www2.ohchr.org/english/issues/religion/I2.htm>

12 <http://www.uam.es/otroscentros/medina/egypt/egypolcon.htm>

13 http://news.bbc.co.uk/1/hi/in_depth/7235357.stm

14 http://www.unitedcopts.org/index.php?option=com_content&task=view&id=3789&Itemid=73

11. These two rulings, insofar as they set a precedent for future rulings, constitute a crushing blow to Egypt's commitment to the freedom of religion of its citizens.

12. In conclusion, the International Humanist and Ethical Union respectfully requests the government of Egypt to uphold its commitment to Article 18 of the ICCPR and Article 46 of its own constitution, by ensuring that those who wish to convert from any faith to another, or to none, are readily able to do so. We urge the Egyptian courts to rule according to the Egyptian constitution.

A case from Malaysia

13. Every Malaysian citizen over the age of 12 must carry an identification card, a 'MyKad', which states the bearer's religion¹⁶. This requirement is in clear breach of the ICCPR under which States have no right to demand to know the religion of any of their citizens. This point is reinforced by Section 3 of General Comment 22 of the Human Rights Committee: 'In accordance with articles 18.2 and 17, no one can be compelled to reveal his thoughts or adherence to a religion or belief.'¹⁷

14. Lina Joy, a Malaysian who converted to Christianity 10 years ago, recently applied to have the religious status 'Islam' removed from her identification card. On application to the Sharia courts, **the judge ruled against her with the racist claim that 'as the plaintiff is a Malay, she is subjected to the laws of Islam until she dies'**¹⁸. After further appeals and rejections, Joy's lawyer appealed to Malaysia's highest court, the Court of Appeals, arguing that her conversion be considered a right protected under the Constitution, not a religious matter for the Sharia courts.¹⁹ Her appeal was rejected. According to the Court's judgement, the law does not officially recognise Lina Joy's conversion from Islam to Christianity. According to Sharia law within most Malaysian states, apostasy or conversion is a punishable offence; either with a fine, a jail sentence or both.²⁰ However, those who renounce their Muslim faith argue that Sharia courts do not have jurisdiction over them.

15. We call upon the government of Malaysia to honour its commitment to freedom of religion by enabling those who wish to convert from Islam to do so. The freedom protected by Article 11, Section 1 of the Malaysian Constitution should not be interpreted as falling under the jurisdiction of Sharia Law; it is a fundamental human right and cannot be subject to religious interpretation. We welcome reports from the Attorney General's chambers that it was considering establishing a commission to study sensitive cases like Joy's, and hope for a public clarification of the proper jurisdiction of Sharia law.²¹

16. Many states, however, notably member states of the OIC, require citizens to state their religion on official documentation. Of particular concern are the states of Indonesia, Pakistan,

15 <http://www.religionnewsblog.com/22172/islam-convert-christianity-egypt>

16 http://www.asiasentinel.com/index.php?option=com_content&task=view&id=466&Itemid=34

17 <http://www2.ohchr.org/english/issues/religion/I2.htm>

18 http://www.sydneyanglicans.net/news/southerncross/articles/muslim_women_who_share_a_secret_love/

19 http://www.nytimes.com/2006/08/24/world/asia/24malaysia.html?_r=1

20 <http://www.thaivisa.com/forum/Muslim-Muslim-malaysia-t184579.html>

21 http://www.asiasentinel.com/index.php?option=com_content&task=view&id=466&Itemid=34

and Egypt; who, despite either signing or ratifying the ICCPR, still demand registration with a particular religion.

Conclusion and Recommendations

17. The requirement by States that citizens specify their religion on official documents, that only certain religions are officially recognised, and the denial of the right to change one's religion, are all examples of failure of States to honour their commitments to the ICCPR.

18. We respectfully request all States to eliminate laws which require citizens to specify their religion on official documents or, if that requirement cannot immediately be changed, to remove all barriers to the registration of any religion or belief, including "none", and to permit all citizens to freely change their religion or belief without discrimination.

19. Finally, we urge all OIC member States to take immediate steps to end all discrimination against non-Muslims, including Christians, Jews, Hindus, Bahais and non-believers.
