

Projects advancing the implementation of the Rabat Plan of Action

This submission is based on comments delivered to the “Rabat Plus 5” symposium on “the prohibition of incitement to hatred: follow-up to the Rabat Plan of Action” on 6 - 7 December 2017 in Rabat, Morocco. This segment of the discussion sought reflections on implementation of the Rabat Plan of Action five years on, and specifically examples of civil society initiatives to advance implementation of the Rabat Plan of Action.

ARTICLE 19 is an international human rights organisation, with offices worldwide, which works towards a world in which everyone enjoys the right to freedom of expression and information.

Addressing “hate speech” is a priority for ARTICLE 19’s work under its equality and non-discrimination strategic goal. The violence and discrimination that such expression can incite is clearly a human rights concern, including from a freedom of expression perspective; it has real impacts on the freedom of individuals in minority or marginalised groups to speak out and be heard, as well as on the freedom of others to hear their opinions and ideas.

While governments are obligated under Article 20(2) of the International Covenant on Civil and Political Rights (ICCPR) to prohibit the most severe forms of “hate speech”, i.e. incitement to hostility, violence or discrimination, there is a lack of clarity on what this requires of States in practice. The Rabat Plan of Action recognises a “dichotomy” in this respect: real instances of incitement go unpunished, while minority and marginalised voices are frequently persecuted by States abusing vague “incitement” laws.

The Rabat Plan of Action has normative and practical significance, both for addressing confusion around Article 20(2) of the ICCPR with clear standards on the limitation of expression, and for setting out a range of positive policy measures States should engage in as an alternative to censorship, in order to more effectively address the root causes of hatred.

Five years on, while the Rabat Plan of Action has been referenced in numerous UN resolutions and documents, including HRC resolution 16/18, it is not clear yet that State actors have delivered impact at the national level in the three “action” areas that it is oriented around: legislation, jurisprudence, and policy. How many Parliamentary debates or judicial decisions reference the standards the Rabat Plan of Action outlines? How many governments’ policy initiatives make explicit reference to the Rabat Plan of Action?

Increasingly, we look at non-State actors to fill the “implementation gap” left by States. The Beirut Declaration and its “18 Commitments on Faith for Rights” are a welcome elaboration of the role of religious leaders in this regard. Similar efforts are needed to mobilise other stakeholders, such as the media and technology companies, too. However, in supporting these efforts we must not forget that it is the primary responsibility of States to comply with their international human rights

law obligations and commitments, and to hold them to account on this basis, and the Rabat Plan of Action remains an authoritative guide for this.

ARTICLE 19 seeks to further implementation of the Rabat Plan of Action through various projects at the international, regional and national levels.

UN Advocacy

Our UN advocacy in this area aims to advance progressive interpretations of international human rights law in this area, including to increase understanding of the standards in the Rabat Plan of Action among decision-makers at the international level, as well as defend consensus on related political commitments, such as HRC resolution 16/18. We have participated in other OHCHR-led initiatives, such as the drafting of the Beirut Declaration and 18 commitments on “faith for rights”.

ARTICLE 19 has recently convened, on the side of the UN General Assembly in New York, a roundtable discussion among diplomats and other stakeholders on how to revive an “implementation agenda” around HRC resolution 16/18. Among the conclusions were the need for States to commit to re-energising the Istanbul Process, to ensure the practical exchange of experiences in addressing religious intolerance, so that good practices can be identified and replicated. The need to open up formal reporting processes on the resolution to other stakeholders, such as national human rights institutions and civic society organisations, was also stressed.

At the same time, we engage UN special procedure mechanisms, the Universal Periodic Review, and the treaty bodies, to hold States to account on their international human rights obligations and commitments around addressing “hate speech”.

An ARTICLE 19 guide seeks to demystify HRC resolution 16/18 and the Rabat Plan of Action for national stakeholders. Our “Hate Speech’ Tool Kit” provides a deep-dive read for those engaged in policy-making to tackle hate speech while protecting freedom of expression.

National and regional projects

Our projects at the national and regional level seek to engage the full diversity of stakeholders who must be mobilised to implement the Rabat Plan of Action: law-makers, the judiciary, relevant domestic ministries, the media, social media companies, national human rights institutions, educators, religious leaders and civil society. The experience gained through our national and regional projects contribute to our assessment of challenges to implementation and are key examples for our advocacy.

It is also worth noting that we take a broad interpretation of the protective function of Article 20(2) of the ICCPR in our work. We address advocacy of hatred not only on the grounds of race, nationality and religion, but on any ground of non-discrimination recognised under international human rights law, including sex, sexual orientation, gender identity, disability, and migrant or refugee status.

While ARTICLE 19 has engaged in numerous projects related to challenging “hate speech” over the years, our current national projects are:

Bangladesh

In Bangladesh the space for debate on matters of religion and belief is closing, visible through the number cases of individuals, including human rights activities, journalists, bloggers, attacked for expressing different views on religion, generating a chilling effect on expression and preventing open dialogue in society.

ARTICLE 19 Bangladesh is working to open spaces for inclusive debate, progressive dialogue and/or legal reforms through work with university students, journalists and civil society to build their capacity on identifying and effectively countering “hate speech”. This is complemented by an online blog portal to encourage interaction within and between faith-based youth groups and a young lawyers’ association on these and related issues.

We are strengthening the role of media in promoting tolerance by bringing together leading media houses to discuss and develop internal reporting guidelines consistent with the Camden Principles. ARTICLE 19 will also bring together for focus group discussions, the leadership and members of Hindu, Buddhist, Christian and well known Muslim clergy and academics to discuss the legal and human rights dimensions of “hate speech”, to develop proposals for reforms consistent with international human rights law to reduce intolerance.

European Union

ARTICLE 19 is working as part of a coalition to address “hate speech” targeting migrants and refugees in the media, targeting six European Union member states (Austria, United Kingdom, Germany, Hungary, Italy, Poland).

Through research and engagement with media actors, media regulators, and governments, the project seeks to develop a European campaign to combat “hate speech”, by promoting ethical journalism practices and accountable media reporting. Through identifying good practices in target countries, the project will seek to build cross-border engagement among relevant stakeholders, to enhance ethical journalism on issues related to migration (including discrimination intersecting on grounds of race, ethnicity, and religion), while improving the response of media regulators where media actors depart from these standards.

Malaysia

ARTICLE 19 in Malaysia is working with its partner Projek Dialog to engage moderate and conservative religious groups on issues surrounding “hate speech” on the basis of religion or belief, in an increasingly hostile environment for human rights. Various in-person workshops and discussion forums were held with target groups, with particularly strong engagement from youth groups. An online forum accompanying the project, with regular blog posts in Malay language and English, attracts between 20,000 and 40,000 views per post, with increasing engagement through social media.

We have also engaged the National Human Rights Commission, SUHAKAM, through the project, seeking to increase their understanding of Malaysia's international human rights law obligations in this area. Ongoing work seeks to increase SUHAKAM's capacity to address rising instances of "hate speech", which are accompanied by continuing attempts to crackdown on civil society who engage in dissent and respond critically to "hate speech". Upcoming projects will seek to replicate this approach with media regulators in the country.

Civic space is increasingly restricted by various laws in Malaysia, inhibiting in particular the rights of people with minority and dissenting views to speak out, including against "hate speech".

Through our work in this area, we have released analyses of the laws most commonly used to target freedom of expression (including the Communications and Multimedia Act 1998), and frequently engage in advocacy for their reform.

Myanmar

In Myanmar, with its long history of internal armed conflict, an ideology of homogeneity based on Buddhism and the Bamar ethnicity has marginalised minority groups. The present conflict in Rakhine State had, by 2 December, led to 626,000 refugees fleeing to neighbouring Bangladesh, with the pattern of human rights violations against Rohingya Muslims amounting to possible crimes against humanity. Authorities have failed to condemn this and other violence against Hindu and Buddhist communities.

"Hate speech", including incitement to violence, has been a trigger in this and other recent intercommunal conflicts in Myanmar, including through posts shared on social media. The government has been proactive in limiting access of journalists to conflict affected regions, while engaging itself in spreading misinformation and discriminatory propaganda. A highly restrictive legislative environment for freedom of expression, with the potential to be made worse by a highly problematic draft "hate speech" law, makes accurately reporting nationally on the conflict difficult, and severely limits opportunities for speaking out against discrimination.

ARTICLE 19 Myanmar is working to open spaces for inclusive debate, progressive dialogue and legal reforms, working with the media and journalists, the press council, and civil society. A facebook page and google group has been established to encourage interaction between and within faith-based groups and media lawyers working on these issues. We are active in the "Harmony Working Group", a coalition of 25 organisations seeking to address "hate speech", including engaging the government on its proposed "hate speech" law, which in our view should be withdrawn in favour of other legislative and policy measures.

ARTICLE 19's policy materials on "hate speech" have been translated into the Myanmar language, which we use with media actors and other stakeholders, both to develop internal ethical journalism standards, with plans to reach out to civil society, politicians and the government in upcoming work.

Russia, Ukraine, Belarus, Moldova, Kyrgyzstan

ARTICLE 19's Europe and Central Asia programme is engaged in a project to coordinate and strengthen regional efforts to safely challenge and counter "hate speech" targeting lesbian, gay, bisexual, transgender and intersex (LGBTI) people in five former Soviet countries.

The project responds to recently enacted legislation, or attempted legislative initiatives, to prevent the promotion and protection of the human rights of LGBTI people, and to censor positive coverage of LGBTI people. This has been accompanied by officially-endorsed "hate speech" from public officials, and an increasing climate of impunity for violence and discrimination against LGBTI people. It is therefore increasingly challenging for LGBTI people to organise and speak out against such "hate speech".

The project seeks to create opportunities for knowledge exchange between activists in countries facing similar issues, and equip them with tools on international human rights law standards, so

that they can: (i) monitor hate speech in the media and public discourse; (ii) engage bloggers and journalists on the issue of hate speech and its impact, to encourage more positive coverage; (iii) build support for the rights of LGBTI people among civil society more broadly; (iv) and design campaigns to more publicly challenge "hate speech" against LGBTI people.

Tunisia and MENA region

ARTICLE 19 works in Tunisia to build the capacity of civil society to understand international human rights law on freedom of expression and equality. A broad coalition of civil society actors is being built with the purpose of engaging more people in initiatives to challenge laws that target dissent, and thereby open more space for challenging hate speech.

Currently, a website called "challenge hate" is being developed in Arabic and English with multimedia content to explain the impact of "hate speech", and the importance of freedom of expression to countering it. Relatedly, ARTICLE 19 in Tunisia is working with grassroots organisations across the region to monitor hate speech and supporting those groups to develop their own innovative responses to challenge it.

In relation to government actors in Tunisia, ARTICLE 19 is engaging the ministries of women, education, justice, interior, social affairs and health, so that they better understand "hate speech" and their obligations and responsibilities in countering it. ARTICLE 19 is also engaging media regulatory authorities in the country, to encourage the media to play a more positive role in countering hate speech.