

***Concept paper on OHCHR's
Expert workshops on the prohibition of incitement to national, racial or
religious hatred***

***Follow-up to the expert seminar on articles 19 and 20 of the ICCPR with
regard to freedom of expression and incitement to hatred***

I. Executive Summary

As noted in the Durban Review Conference Outcome Document and in follow-up to the 2008 OHCHR Expert Seminar on the links between articles 19 and 20 of the International Covenant on Civil and Political Rights (ICCPR) with regard to freedom of expression and incitement to hatred, the Office will organize a series of expert workshops on the prohibition of incitement to national, racial or religious hatred which will explore legislative patterns, judicial practices and policies in this regard. The quality of this technical exercise is intended to be achieved through the wide range of qualified and representative experts and well as through collaboration with all stakeholders throughout the process.

II. Scope

The expert workshops are to focus on legislative and judicial practices as well as policies conducive to effectively prohibit and prevent advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence. While the manifestations of hatred can differ, the emphasis of the workshops is being placed on what constitutes “incitement” in the sense of article 20 of the ICCPR and on how to effectively address it while ensuring full respect for freedom of expression as enshrined in article 19 of the ICCPR.

III. Objective

By grounding the debate around incitement to hatred in international human rights law, the objective of the series of expert workshops is to gain a better understanding of legislative patterns, judicial practices and policies in the different regions of the world with regard to the concept of incitement to national, racial, or religious hatred, while ensuring full respect for freedom of expression as outlined in articles 19 and 20 of the ICCPR; to arrive at a comprehensive assessment of the state of implementation of this prohibition of incitement in conformity with international human rights law; and to identify possible actions at all levels. Ultimately, this would widen the policy options for the creation of more equal societies.

IV. Methodology

The space created for meaningful and substantive dialogue will be founded on an empirical and legal basis achieved through research, analysis and mapping of legislative patterns, judicial practices, and policies in preparation for, during and following the expert workshops.

A. Pre-workshops

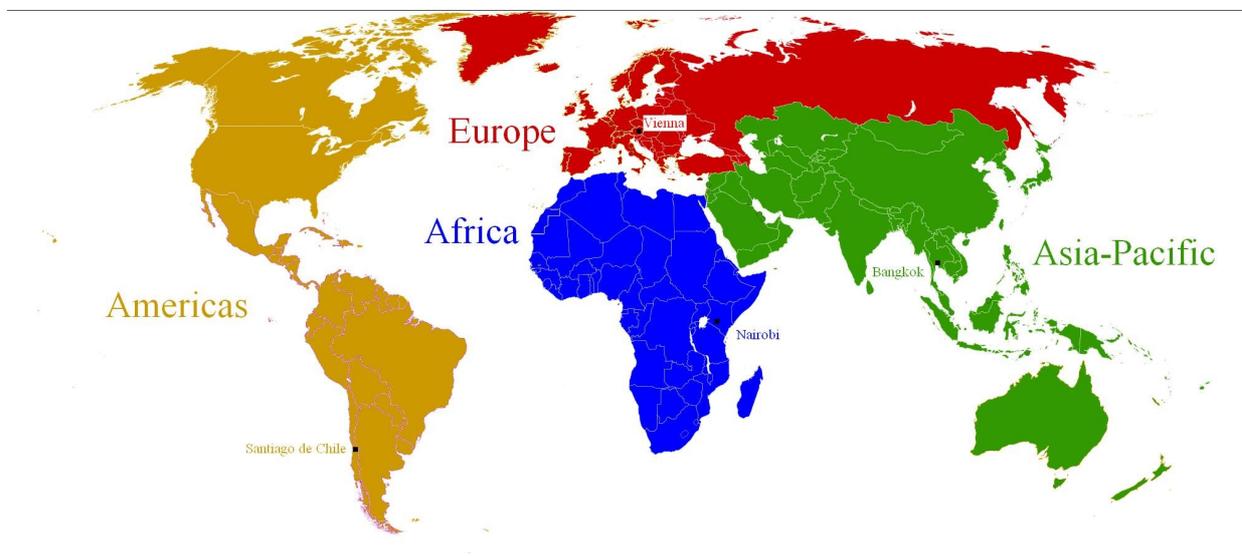
Four consultants with recognized technical expertise will be identified, with due regard for an adequate gender and geographic balance, to research, analyze and present studies on the

prohibition of incitement to national, racial or religious hatred in each of the following areas: 1) legislation, 2) judicial practices, and 3) policies. Each consultant shall produce a study encompassing the above three areas in the assigned region and which will lay the foundation for the workshop discussions. He or she will also produce a compilation of relevant legislation, jurisprudence and policies. The studies, together with the compilations, will be made publicly available prior to each workshop following review and approval by OHCHR.

Each of the four consultants will be the Rapporteur of the workshop for which he or she has produced the preparatory study.

B. The workshops

The workshops will be organized in four regions at the following United Nations centers: Vienna (for Europe), Nairobi (for Africa), Bangkok (for Asia-Pacific) and Santiago (for the Americas). Workshops are to focus on relevant national practices and developments in the various regions.



Each workshop will consist of two and a half days of meetings, during which experts will make brief presentations, followed by discussions. Representatives from Member States, United Nations departments, funds and programmes, specialized agencies, relevant regional and international organizations, national human rights institutions and civil society organizations will be able to take the floor as observers. During the last meeting, participants will formulate and compile suggestions.

The first workshop (Vienna) is to be held early 2011 while all workshops will be concluded by the end of that year. Interpretation as relevant for each workshop will be provided. Following each workshop a report will be prepared by OHCHR.

C. Participation of experts

In each of the 4 workshops, twelve experts and the consultant for that workshop will participate. A number of Treaty Body members and Special Procedures mandate holders will be invited to attend as experts. The remaining experts will be selected further to expertise required for the workshop and taking into account gender balance. In advance of the workshop,

each expert will be expected to prepare and submit a paper of up to 10 pages on legislative patterns, judicial practices and policies regarding the prohibition of incitement to national, racial, or religious hatred, as stipulated in article 20 of the ICCPR, and regarding ways and means to effectively address it while ensuring full respect for freedom of expression as enshrined in article 19 ICCPR. These papers are expected to draw on the study/compilation prepared by the consultant for that workshop and be guided by the programme of work for the workshop.

While States, relevant international and regional organizations as well as non-governmental organizations may suggest experts, the selection of experts will be made by OHCHR on the basis of the candidates' individual expertise while taking into account an adequate gender and geographic balance.

Possible expert profiles are:

- Treaty body experts
- Special Rapporteurs
- NHRI representatives
- NGO representatives
- Academics
- Media experts
- Regional organization experts

D. Member State engagement

States will be involved in this process in the following manner:

- The process will be launched and explained through a briefing for Member States.
- Prior to the workshops, Member States will be invited by OHCHR to provide updated information regarding the prohibition of incitement to hatred in national legislation, judicial practices, and policies. The information thus gathered will feed into the consultant studies in the relevant areas.
- Member States will be invited to participate in the workshops as observers, and are encouraged to include experts from their capitals in their delegations.

E. Participation of relevant UN, international and regional organizations

While OHCHR will be the sole organizer of the workshops, relevant UN departments, funds and programmes as well as relevant international and regional organizations will be invited to assist with the identification of experts; might be represented by an expert and can participate as observers.

In preparation for a given workshop, relevant agencies and organizations will also be asked by OHCHR to provide a contribution which could consist of a compendium of relevant legislative, and – where applicable – judicial practices, as well as relevant policies.

F. Participation of civil society

Civil society actors and organizations play a fundamental role in creating diverse and tolerant societies free of incitement to national, racial or religious hatred. In recognition of this, a minimum of two expert slots at every workshop will be reserved for civil society experts. In addition, relevant civil society organizations or their representatives will be invited to participate and contribute to the workshop as observers.

Civil society organizations will be regularly briefed about the series of workshops and will be invited to submit contributions. For the purpose of this exercise “civil society” is interpreted broadly and may include academia, journalists and faith-based organizations.

G. Outcome

The outcome of each expert workshop will be a report reflecting the discussions and suggestions made during each workshop, and, as addendum, the expert papers prepared for that workshop. OHCHR will decide on how to make the outcome of the workshops available to all stakeholders.