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**UNIVERSAL PERIODIC REVIEW**

**Written statement\* submitted by Cairo Institute for Human Rights Studies (CIHRS),  
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.

[27 May 2008]

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

## **Precedent Set by Arab States Threatens Legitimacy of the Universal Periodic Review Process**

### **Introduction**

1. The first session of the Universal Periodic Review (UPR), held between 7 and 18 April 2008, included four states from the Arab region: Algeria, Bahrain, Morocco and Tunisia. As such, Arab states were in a strong position to contribute to the establishment of procedural and working method precedents of the UPR process.

2. Unfortunately, Arab states under review during the first UPR session, as well as those within the UPR Working Group, instead of setting positive precedents that could have aided and strengthened the UPR process, choose to propose procedural regulations and establish working modalities with the apparent intention of shielding the four Arab states under review from a genuine and open evaluation and recommendation process to improve their human rights policies. As a result, the precedents set during the review of Algeria, Bahrain, Morocco and Tunisia have the potential to greatly undermine the legitimacy of both the UPR process and, by extension, the Human Rights Council if propagated by other states in future UPR sessions.

3. Indeed, NGOs throughout the Arab world and other regions have expressed deep disappointment in the process and results of the first UPR session in relation to the four Arab states reviewed. Unless states ensure that the UPR process is used as a genuine review of the human rights policies and situations within *all* countries under review, the UPR risks rapidly becoming little more than a rhetorical exercise that severely lacks credibility and legitimacy.

4. The following observations highlight the most damaging procedural and working method precedents of the first UPR session, and which primarily resulted from the efforts of individual Arab states, organizations that Arab states and their close allies have majority control over (League of Arab States and Organization of Islamic Conference (OIC)), and/or the African Group at the Human Rights Council which has been lead by North African Arab states since its inception (currently lead by Egypt).

### **Procedural and Institutional Proposals Before and During the First Session of the UPR**

5. A non-paper was issued by Egypt (for the African Group), Pakistan (for the OIC) and Palestine (for the Arab Group) on the 4<sup>th</sup> of April 2008 on the modalities of the UPR. This non-paper constituted a challenge to the UPR modalities set out in the non-paper issued by the President of the HRC on 27 March, 2008. In this non-paper Egypt (as leader of the African Group), the OIC and the Arab Group proposed several “innovations” to be included in a revised edition of the President’s non-paper. The overall effect of these recommendations would have further restricted the ability of civil society organizations to participate in the UPR effectively, and decreased the transparency of the entire process. Proposals in Egypt’s non-paper included restrictions on the distribution of information submitted to the OHCHR, limitations on the distribution of the UPR Working Group

report, and a complete ban on webcasting of the UPR sessions.<sup>1</sup> Moreover, the non-paper attempted to limit the type of UPR Working Group recommendations subject to followed-up actions by HRC. According to the non-paper, only those recommendations which are explicitly accepted by the state under review can be subject to follow-up procedures. Throughout the first session of the UPR, Egypt along with most Arab states continued their efforts to limit the scope and importance of policy recommendations issued by the UPR Working Group.

6. Furthermore, the non-paper was issued to the President on the night directly before the Organizational meeting of 4<sup>th</sup> April 2008, only three days before the first UPR Session was to begin. Many state delegations and NGOs appropriately denounced the late timing of this intervention; a fact which further detracted from the transparency and fairness of its recommendations, and raised serious questions concerning the intentions of the non-paper's primary authors.

7. The most damaging recommendations contained in the non-paper submitted by Egypt and others were largely mitigated or not adopted in practice. However, the primary sponsors of this paper may attempt to impose the restrictions included in the non-paper in future sessions of the UPR.

#### **Working Methods of the First Session of the UPR**

8. The most damaging precedent propagated by the Arab states under review was what appeared to be a pre-negotiated agreement with "friendly" or allied states to conduct the UPR interactive dialogue in an orchestrated manner designed to avoid a genuine review of the states human rights policies. In the case of all four Arab states, though most notably with Bahrain and Tunisia, a large amount of "friendly" states took the floor during the UPR interactive dialogue to praise the human rights accomplishments of the state under review while avoiding giving any critical observations, questions or practical recommendations.

9. Often these "friendly" states came from cross-sections of the groups already mentioned (African Group, OIC and Arab Group). As a result, the interactive dialogue for the Arab states under review assumed a politicized character of regional and organizational favoritism that lacked an objective and balanced consideration of the human rights situation in the country under review. As a result, the discussions, questions, observations and recommendations arrived at through the UPR of Arab states often failed to adequately reflect the actual human rights policies of the country under review or the current on-the-ground human rights situation. In particular, the government of Tunisia, in direct contradiction with information contained in both the UN and Stakeholder compilation reports issued by the OHCHR, asserted that the press/media, civil society organizations and human rights defenders in Tunisia enjoyed full exercise of the rights of expression and association. The limited amount of time left after "friendly" states took the floor to praise Tunisia, meant that this overly positive image of the human rights situation in Tunisia was not adequately questioned or examined during the UPR session.

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<sup>1</sup> For a more detailed analysis of Egypt's non-paper refer to "UPR Alert, 1st session – 4 April 2008," *International Service for Human Rights*, at [http://www.ishr.ch/hrm/council/upr/upr\\_1st\\_session\\_2008/upr\\_alert\\_4\\_april\\_2008.pdf](http://www.ishr.ch/hrm/council/upr/upr_1st_session_2008/upr_alert_4_april_2008.pdf).

10. The practice of friendly and/or allied states using the UPR session in order to paint a favorable picture of the state under review, while at the same time preventing a genuine and substantive examination and recommendation process from occurring presents a fundamental challenge to the UPR process, and currently poses the largest threat to the legitimacy and effectiveness of the UPR. Unless the HRC is able to mitigate or limit the ability of states under review to make political bargains with “friendly” states in order to create a “friendly” review process then the ability of the UPR to carry out its primary purpose of improving the human rights situations in the countries under review will remain highly limited, and the overall legitimacy and relevance of the UPR could rapidly deteriorate.

11. Furthermore, Arab states under review during the first session of the UPR severely limited NGO participation in the UPR process in ways that contradict with the established working methods and principles of both the former Commission on Human Rights and the current Human Rights Council. In particular, NGOs were restricted from holding informal consultations with the Troika members of the UPR Working Group unless such consultations were preapproved by the states which the Troika members were to review. In the case of Bahrain, when NGOs attempted to attain this permission the government of Bahrain simply ignored their requests.

12. The restriction on NGO activities described above contradict with the regular working methods of the HRC in which NGOs have regular access to HRC officials, including Special Rapporteurs. In the case of the UPR, as noted by many NGOs, the Troika members fulfill and carry out a Rapporteur role. The restriction on meeting Troika members is not contained in the institutional text of the UPR. Instead, this restriction represents a dangerous and novel interpretation on the limits of NGO participation within Human Rights Council mechanisms which could lead to further restrictions of NGO participation in other areas of HRC activities. It should be noted this restriction on NGOs was not created solely by Arab states. However, Arab states and the organizations in which they lead or possess a ruling majority do appear to be the primary force behind its creation.

## **Conclusion**

13. All of the above precedents created within the UPR review of Algeria, Bahrain, Morocco and Tunisia, and the proposals on UPR modalities put forward by Egypt (on behalf of the African Group), Pakistan (on behalf of the OIC) and Palestine (on behalf of the Arab Group) constitute various threats to the transparency of the UPR, the effective participation of civil society within the UPR, and the ability of the UPR to create genuine assessments and recommendations to improve the human rights situation within countries under review. These threats to the fair and effective functioning of the UPR process have put the legitimacy of the UPR and the HRC in jeopardy among NGOs based throughout the Arab region and wider world. Unless a real effort is made by states and UN officials to ensure that the UPR process becomes a genuine tool of review and policy recommendation formation with the potential to improve the human rights situation in *all* countries under review then the relevance and legitimacy of the UPR could begin to rapidly deteriorate.