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Annex 02

“Hate Speech and Incitement to Violence in the Syrian Media” study Hate Speech (Concepts and Legislations)

It was not quite easy to reach a clear concept of hate speech because there is no international legal definition of hate speech. Where hate speech is defined and measured according to local standards and the context contained in it, considering all the details surrounding this context. In this context, UNESCO seeks an accurate and complex approach to ensure a balance between supporting freedom of expression in terms of people's right to express their ideas and countering hate speech when it incites violence. Also, the Syrian Center for Media and Freedom of Expression defends the right of people and media enterprises to express, which was shown in numerous previous publications that documented violations on this freedom¹.

Despite the lack of a clear definition in the beginning, some kinds of speech are required to be prohibited by states. For instance, article (20) of the International Covenant on Civil and Political Rights (ICCPR) calls for the legal prohibition of any call to war or to discrimination or hostility. In addition, article 4 of The International Committee on the elimination of all forms of racial discrimination, prohibits expression of ideas that reflect the superiority or of “racially” classified persons, the dissemination of ideas based on racial hatred, incitement to racial discrimination and incitement to acts of racially motivated violence.

The attempt to define the concept of hate speech was challenged with the possibility of violating freedom of expression, therefore; the Syrian Center for Media and Freedom of Expression (SCM) is cautious about countering hate speech. At the same time, it rejects any violation of freedom of expression. UNESCO also defends the stand that sees the free flow of information and freedom of expression, as the rule and not the exception. The key distinction lies in the fact that article 20 provides for a specific legal response to such speech. This issue was also explored in human rights organization ARTICLE 19's '2009'” The Camden Principles”, which present an advanced interpretation that avoids the potential conflict between freedom of expression, hate speech and incitement to violence.

¹ The Syrian Center for Media and Freedom of Expression, as part of its defense of freedom of expression for people and institutions, issued several publications, such as the case of “Advertising and Press Freedoms - Syria 2008-2009 the silence of the pens and the noise of censorship”. the case of “Media and Freedom of Expression in Syria 2006”.the case of “Advertising and Freedom of Expression, Syria 2007 - A Year of Iron Censorship and Media Against Citizenship, and The State of Media and Press Freedoms in Syria 2010-2011.”

ARTICLE 19's "Camden principles" explain the terms 'hatred' and 'hostility' as referring to "intense and irrational emotions of opprobrium, enmity and detestation towards the target group". As for the term 'advocacy' to violence or hatred, according to "Camden principles", is to be understood as "requiring an intention to promote hatred publicly towards the target group". And the term 'incitement' indicates "statements about national, racial or religious groups which create an imminent risk of discrimination, hostility or violence against persons belonging to those groups". The United Nations Human Rights Council determines that some hate speech require criminal prosecution, and others require following up through civil cases, while some hate speech remains worrying.

In the Syrian context, Article (12) of the Syrian media law published by the legislative decree no. 108 of the year 2011 bans all media outlets from publishing any content that can act to affect "national unity and national security or any offence to heavenly religions and religious beliefs or provoking congregational and sectarian conflicts, or anything that could incite crimes and acts of violence and terrorism or incitement of hatred and racism". Syrian law punishes, according to the penal code, anyone who commits an act of defamation or calumny by means of a media outlet, with a fine that ranges between 200,000 and 1 million Syrian pounds. Additionally, article No.(311) of the Code of Civil Procedure, and legislative decree No. (17) of the year 2012, (including 36 articles) relate to the application of communication law on the cyber network and fighting informational crime. It aims to organize communication on the network, fighting electronic crimes, and declaring the responsibilities of service providers on informational networks, including internet and cellular phone services, and describes crimes related to the use of information networks. It also sets punitive sanctions on those who commit information crimes, as a decision was made in 2018 to establish special courts for this type of crimes, and that they be at all levels of trials starting from compromise and initial courts all the way to courts of review, including a court for information crimes. As much as these legislations seem designed to administer the use of hate speech and incitement to violence within media outlets, they might also be politically employed to restrict freedom of expression and oppress opinions, especially opposing ones, and that is mainly because of the use of general undetermined terms such as (national unity, national security, country's security, etc.).

On the other hand, there is no legal ban on incitement to hatred in most state laws in the world. This point was mentioned by working groups of experts standing up to incitement to hate speech which the United Nations Commission on Human Rights organized all over the world in 2011. The "Rabat Plan of Action" indicated that the dominant practices used in national legislations often; either lack trials against real incitement advocates or use antihate legislations to create tighter restrictions against minorities under the cover of national incitement laws. The "Rabat Plan of Action" also indicated the inefficiency of national legislations in most countries in handling the different forms of hate speech, making the term apply only to religious or racial discrimination, or that these laws are often used selectively in the benefit of the state. The same was mentioned in the report "Countering Online Hate Speech" published by UNESCO in 2015, on how "hate speech continues largely to be used in everyday discourse as a generic term, mixing concrete threats to individuals' and groups' security with cases in which people may be simply venting their anger against authority."

Recently, a number of Arab states started suggesting and making legislations that are supposed to help restrict hate speech, such as the presidential decree of United Arab Emirates number (2) in the year 2015 relating to discrimination and hatred, which "incriminates actions related to disdain of religions and their sacred things, counters all types of discrimination, and rejects hate speech through all tools and ways of expression". Additionally, in Egypt, Al-Azhar muftis proposed a draft law in July 2017 to counter hatred and violence in the name of religion.

Media observation reports conducted in many Arab countries show that hate speech in the region's media has been increasing since the beginning of the political movement in 2011 and the violent response from some ruling regimes, which contributed to the creation of bloody conflicts that were further complicated by the sectarian and tribal nature of Arabic societies, in addition to regional and international interventions. For example, Tunisian published media observation reports showed, through the "Arab Group of Media Observation" in the year 2013, that the hate speech spread ratio within Arabic-speaking newspapers reached (90.3%) and (13%) of observed hate speech included direct or implied calls to violence. In Yemen, incitement (86.3%) took the lead in the editorial space observed by "National Institution of Development and Human Rights" within the year 2013. In the same year, the study "TV Outlets and Ethical Criteria", conducted by the "Arab Network of Media Support" on a sample of Egyptian TV networks showed that all sample participants made grave professional mistakes that amount to the level of hate speech and incitement to violence advocacy.

Operational definitions:

The observation adopted a definition of hate speech as every published/written, audible, visual or digital content provoking a physical or symbolic killing/murder, exclusion or demeaning of others. It includes violations such as insult, slander, stigmatization, discrimination and incitement to murder and violence, which is consistent with the types of hate speech cited in "The Rabat Plan of Action", as incitement to violence, hatred, hostility, or racial discrimination. The three forms of incitement that were established by the International Covenant on Civil and Political Rights as an exception to freedom of expression, are incitement to violence, incitement to hostility and hatred, and incitement to racial discrimination. Within the context of the project, the operational definition of hate speech includes the following practices:

- a) **Calling for murder and violence:** this category includes all the paragraphs, sentences, words, pictures, and drawings on which an inciting speech is based, whether explicit or implicit, a speech that justifies, prompts, or encourages the recipient to commit violent behavior or a murder.
- b) **Discrimination:** all discriminatory language based on gender, race or beliefs mentioned in the Universal Declaration of Human Rights and international covenants.
- c) **Incitement and encouraging revenge** or hurting others; whether it is an individual or group, and whether it is, symbolic or physical harm.
- d) **Stigmatization:** the release of insulting designations and characteristics that deprive the individual of social acceptance. It includes as well drawing or confirming a negative stereotype about the other, whether the other is an individual or group.
- e) **Discrimination against women:** every speech that adopts one or more forms of discrimination mentioned in the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)², which was adopted by the United Nations General Assembly in 1979 as an international bill of women's rights. The Convention defines discrimination against women as "any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field."

This project relies on six criteria to determine whether the speech of individuals or Organizations carries hate speech or incitement to violence. These are: first, the context of the expression; Second: the person who expresses it or controls the means of its transmission to the public; Third, the

² For more information of the convention, see the following link: <https://www.un.org/womenwatch/daw/cedaw/>

intention of the one who produces it (whether verbal or written), because “carelessness” and “recklessness” are not sufficient reasons for the occurrence of hate speech and incitement to violence or discrimination; Fourth, the size and general nature of the expression in the sense of the content or the form in which the speech appeared, and whether the used arguments came for example in the context of description or historical narration- or the presentation of scientific facts; Fifth, the possibility of its spread; Sixth, the probability of occurrence of the consequences of inciting to violence; and the last criterion particularly takes into account the difference in the size of the impact of hate speech and incitement to violence.

The Study Variables:

Based on the types of hate speech presented by the “Rabat Plan of Action” from incitement to violence, hatred, hostility or racial discrimination, and the three forms of incitement established by the International Covenant on Civil and Political Rights that violate the freedom of expression; namely: incitement to violence, hostility, hatred, and racial discrimination, in addition to the six standards that it has been formulated and presented by (Article 19) regarding the reinforcement of freedom of expression (Camden Principles) in 2009 to judge the expression of persons or entities, whether it reflects hate speech or incitement to violence; the Study incorporates the following variables:

1. The dependent variable: hate speech and incitement to violence.

It is divided into the following sub-variables:

- a. Advocating hostility or hatred.
- b. Insulting or stigmatization.
- c. Unjustified and Unfounded accusations.
- d. Discrimination (including discrimination against women).
- e. Inciting to\or justifying violence.

2. Independent variables: The criteria for evaluating hate speech and incitement to violence:

- a. Expression context.
- b. The person who uses the expression or controls the means of transmitting it to the public.
- c. The intention of the person saying the expression (Intentionality).
- d. The size and general nature of the expression.
- e. The Possibility of its spread.
- f. The probability of the consequences of incited violence to occur.

The Syrian Center for Media and Freedom of Expression, with the support of the United Nations Science, Education and Culture Organization (UNESCO), seeks to work side by side with Syrian institutions and media in order to develop local standards to be adopted in the future as a reference material on hate speech, and in order to reach a charter on combating hate speech with the participation of Syrian institutions and media outlets of different orientations, as this is of benefit to the Syrian society of all sects and the Syrian media alike.