



Middle East Studies Association of North America, Inc.

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15 August 1996

His Excellency Muhammad Husni Mubarak
`Uruba Palace
`Uruba Street
Heliopolis, Cairo, Egypt

Your Excellency:

The Committee on Academic Freedom in the Middle East and North Africa of the Middle East Studies Association is writing to express shock and very grave concern regarding the ruling by the Court of Cassation supporting a lower court order forcibly divorcing Professor Nasr Hamid Abu Zayd and his wife, Professor Ibtihal Yunis.

The Middle East Studies Association comprises 2600 academics worldwide who teach and conduct research on the Middle East and North Africa. The association publishes the respected *International Journal of Middle East Studies* and is committed to ensuring respect for the principles of academic freedom and human rights throughout the region.

We have already written on behalf of Professor Abu Zayd on July 3, 1995, protesting the lower court order declaring him, a professing Muslim, to be an apostate based on his scholarship and terminating his marriage. We are appalled that this order has been upheld on appeal. Although the decision has been rendered by a court of law, it flies in the face of the most fundamental norms of a modern system of justice, and it is also an affront to the most basic norms of academic freedom.

What you are telling the world by this court decision is that in Egypt the family, in this case of a university professor, is subject to dissolution at the behest of a third party and against the wishes of the spouses -- simply on the grounds that this third party has decided that the husband's scholarly writings are incompatible with religious doctrine and has found a complaisant court to endorse the view that these writings make him an apostate. In context, this act of ruling Professor Abu Zayd an apostate not only severs his marital tie but also exposes him to assassination. Via this court decision, Egypt is saying that the marriages and lives of scholars are not protected if they take positions that some people in the general public may find offensive to their religious views. A more serious threat to academic freedom would be hard to imagine.

The human rights violations inherent in the ruling of the Court of Cassation are also staggering. Marriage is an institution the sanctity of which is protected by human rights principles. The Universal Declaration of Human Rights provides in Article 16.1: "Men and women of full age without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage, and at its dissolution," and in Article 16.2: "Marriage shall be entered into only with the free and full consent of the spouses."

Marriage being an agreement between the spouses, no outsiders have the right to intervene to dissolve it, and especially not on the basis of their personal opinions that persons of certain races, nationalities,

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or religions should not be allowed to be joined in marriage. Even if Professor Abu Zayd were an apostate -- and we note that he has tenaciously maintained that he remains a believing Muslim -- no court would have any right to intervene to dissolve his marriage on the grounds of its opinion of his religious beliefs.

Moreover, we note that this ruling is based on a pattern of sex discrimination still enshrined in Egyptian law that violates human rights principles. The courts have shown complete disregard for the contractual capacity of Ibtihal Yunis -- as if she could be treated like a child or an adult with severe mental retardation who would be subject to the court's guardianship. The courts have acted as if her contracts could be cancelled by outsiders' views of what was in her interests. In the process, not only her wish to uphold her marriage contract but also her continued loyalty to her husband and her confidence in the compatibility of their religious beliefs has been completely disregarded.

Egypt is now seriously derelict in meeting its treaty obligations. A court intervention on behalf of a third party to intervene to sever a valid marriage contract in complete disregard of the wife's rights is in direct violation of CEDAW, which requires that women be accorded full equality in rights. Article 15.1 requires parties to accord to women equality with men before the law and Article 15.2 provides: "States Parties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. In particular, they shall give women equal rights to conclude contracts and . . . shall treat them equally in all stages of procedure in courts and tribunals." Egyptian courts have flagrantly disregarded these principles in the case of Professor Yunis, invalidating her marriage contract on the basis of their views that, as a Muslim woman, she should not have a husband who is considered by some to be an apostate from Islam. To treat any woman in this fashion is a grave breach of principles of equality before the law, and to treat a woman professor in this manner is to suggest that women, however well educated they may be, are no better than children who remain subject to patriarchal authority.

We strongly urge the Egyptian government to take immediate steps to bring Egyptian laws and court decisions into compliance with Egypt's obligations under international human rights law. We respectfully request that it undertake appropriate measures to overrule or cancel the effect of the Court of Cassation ruling. We also call for a ban on all future suits aiming to dissolve people's marriages based on outsiders' opinions of the parties' religious convictions and for a recommitment by the Egyptian State to abide by international human rights law and to respect academic freedom.

Sincerely,



Anne H. Betteridge
Executive Director

cc: Justice Faruq Sayf al-Nasr, Minister of Justice
Fathi Surur, Speaker of the People's Assembly
`Atif Sidqi, Prime Minister
Raga' al-'Arabi, Dar al-Qada' al-'Ulya
The Egyptian Committee for the Defense of Freedom of Thought and Belief