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**ANNUAL REPORT OF THE UNITED NATIONS HIGH COMMISSIONER  
FOR HUMAN RIGHTS AND REPORTS OF THE HIGH COMMISSIONER  
AND THE SECRETARY-GENERAL**

**REPORT OF THE UNITED NATIONS HIGH COMMISSIONER  
FOR HUMAN RIGHTS ON THE IMPLEMENTATION OF  
HUMAN RIGHTS COUNCIL RESOLUTION 7/19 ENTITLED  
“COMBATING DEFAMATION OF RELIGIONS”\***

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\* Late submission.

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## I. INTRODUCTION

1. In its resolution 7/19 on combating defamation of religions, the Human Rights Council acknowledged the importance of respect and understanding for religious and cultural diversity and expressed concern about the negative stereotyping and manifestations of intolerance and discrimination against all religions, in particular the intensification of the campaign of defamation of religions and the ethnic and religious profiling of Muslim minorities in the aftermath of the tragic events of 11 September 2001. The Council urged Member States to take action to prohibit the dissemination of racist and xenophobic ideas and materials aimed at any religion or its followers that constitute incitement to racial and religious hatred, hostility or violence.
2. In the same resolution, the Council requested the High Commissioner for Human Rights to report to the Council at its ninth session on the implementation of the resolution, and to submit a study compiling relevant existing legislations and jurisprudence concerning defamation of and contempt for religions. The present report is submitted pursuant to the first part of this request regarding the implementation of the resolution. The study compiling relevant existing legislations and jurisprudence is submitted in a separate document (A/HRC/9/26).
3. While the scope of the present report is limited to resolution 7/19, attention is drawn to previous reports of the Secretary-General, the High Commissioner for Human Rights and the special rapporteurs, on issues related to freedom of religion, promotion of tolerance, incitement to racial and religious hatred and violence, and defamation of religions, respectively. Their reports, prepared at the request of the General Assembly and the Council, provide an additional context and useful background for the present one.
4. At its inaugural session in 2006, the Council, in its decision 1/107, requested the Special Rapporteur on freedom of religion or belief, the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance and the High Commissioner for Human Rights to report to the Council at its next session on the increasing trend of defamation of religions, incitement to racial and religious hatred and its recent manifestations, in particular its implications for article 20, paragraph 2, of the International Covenant on Civil and Political Rights, which provides that any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.
5. In their joint report pursuant to decision 1/107 (A/HRC/2/3), the Special Rapporteur on freedom of religion or belief, Asma Jahangir, and the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Doudou Diène, examined the trends and political and ideological contexts of racial and religious intolerance as well as the scope of the rights to the freedoms of religion or belief and opinion and expression with respect to intolerance and incitement to religious hatred. The report of the High Commissioner (A/HRC/2/6) reviewed the status of the law on incitement to racial and religious hatred and concluded, *inter alia*, that limits to speech on account of incitement to racial and religious hatred were generally regarded as an exceptional measure to be applied in strictly defined circumstances on the basis of clearly identified criteria. In the report, the High Commissioner noted that many countries had developed very detailed jurisprudence from which to draw principles.

6. Furthermore, in response to Council decision 2/102, in which the Council requested the High Commissioner to continue with the fulfilment of her activities, in accordance with all previous decisions adopted by the Commission on Human Rights and to update relevant reports and studies, the High Commissioner submitted to the Council a report of the activities of the Office of the United Nations High Commissioner for Human Rights (OHCHR) and those of the human rights mechanisms on efforts to support intercultural dialogue, respect and tolerance (A/HRC/4/50). OHCHR interpreted decision 2/102 as preserving the annual reporting cycle to the Commission in respect of this issue. Subsequently, at the request of the Council in its resolution 4/9, the High Commissioner submitted another report on the activities of OHCHR as well as the human rights mechanisms in combating defamation of religions (A/HRC/6/4).

7. At the request of the General Assembly in its resolution 60/150, the Secretary-General submitted a report (A/61/325) to the Assembly that concluded that the steps taken by Member States, the United Nations system and the wider international community indicated a will to counter religious intolerance, but that continuous allegations of incidents involving intolerance and discrimination on the grounds of religion or belief indicated that much more needed to be done. Pursuant to Assembly resolution 61/164, the Secretary-General submitted a follow-up report (A/62/288) focusing on the activities of States, OHCHR, human rights mechanisms and national human rights institutions to counter defamation of religions.

8. To prepare the present report, on 29 April 2008, OHCHR sent notes verbales to Member States, United Nations bodies and specialized agencies, international, regional and non-governmental organizations, requesting information on the implementation of resolution 7/19 by 2 June 2008. OHCHR received responses from nine Member States,<sup>1</sup> one regional organization and five non-governmental organizations in consultative status with the Economic and Social Council. The responses<sup>2</sup> concerned measures undertaken by States and comments and recommendations on various aspects of defamation of religions. The section below summarizes the responses to the notes verbales sent by OHCHR pursuant to the request of the Council. Section III highlights the main issues and themes raised in the responses.

## II. INFORMATION RECEIVED

### A. Member States

#### Argentina

[Original: Spanish]

9. Argentina stated that freedom of religion is guaranteed under several articles of the Constitution. For instance, article 14 establishes that “all inhabitants of the nation are entitled, in accordance with the laws that regulate their exercise, to profess their religion”. Article 19 establishes that “private actions of men that in no way offend public order or morality, nor injure

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<sup>1</sup> Argentina, Bahrain, Chile, Costa Rica, Cuba, Egypt, Iran (Islamic Republic of), Mauritius and Turkey.

<sup>2</sup> The original replies are available for consultation at the Secretariat.

a third party, are only reserved to God and are exempted from the authority of judges. No inhabitant of the nation shall be obliged to perform what the law does not demand nor deprived of what it does not prohibit". Article 20 establishes that "foreigners within the territory of the nation enjoy all the civil rights of citizens; they may practice freely their religion".

10. Several international human rights instruments related to the freedom of religion apply in Argentina. According to article 75/22 of the Constitution, "treaties and concordats have a higher hierarchy than laws". In this regard, Argentina listed several human rights instruments, including the International Covenant on Civil and Political Rights and the International Convention on the Elimination of All Forms of Racial Discrimination. Argentina also recognizes the 1981 Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief and the religious "cosmovision" of indigenous peoples.

## **Bahrain**

[Original: Arabic]

11. Bahrain reported that its national vision was to construct a forward-looking and closely knit Islamic society based on an Islamic approach characterized by moderation, temperance and support for national unity and dialogue among civilizations. The Ministry of Justice and Islamic Affairs is responsible for promoting this vision. In this regard, the mission of the Ministry is to work in the service of the Holy Koran, disseminating Islamic culture on the basis of a moderate and contemporary conception of Islam, overseeing the organization of mosques, developing *awqaf* (religious endowments) and resources from the *zakat* (alms tax) and improving the quality of services for pilgrims who undertake the *hajj* (annual pilgrimage to Mecca during the pilgrimage season) and the *umrah* (pilgrimage outside the pilgrimage season). Within this overall goal, the strategy of the Ministry is to improve relations among human beings and, to that end, its academic and religious knowledge programmes have been designed to familiarize non-Muslims with Islam and the sacred tenets and noble humanitarian principles of Islam. The Fatih Islamic Centre, overseen by the Ministry, seeks to familiarize the public with Islamic principles as a means of strengthening dialogue and peaceful coexistence among different religions and civilizations.

12. Under the sponsorship of His Majesty King Hamad Bin Isa Al Khalifa, the King of Bahrain, and His Royal Highness Sheikh Abdullah Bin Khalid Al Khalifa, the Deputy Prime Minister, the Ministry of Justice and Islamic Affairs has organized several conferences to promote dialogue. In 2002, an international conference on dialogue between Islam and Christianity organized by the Ministry rejected all manifestations of extremism and affirmed the importance of dialogue in cementing relationships among people of different origins, religions and opinions. At the conference, several recommendations were made on respect for religions and their adherents and symbols. At another international conference on ways of drawing the different schools of Islamic law closer together, it was recommended, inter alia, that greater emphasis should be placed on ensuring and supporting a culture of respect for others, peaceful coexistence and dialogue, while all expressions of contempt for and attempts to misrepresent others should be rejected.

13. The Ministry has also organized workshops and other activities and special events aimed at promoting Islamic discourse and training promoters of the Islamic faith and preachers to contribute positively to the formation of stronger bonds between all members of the human family, whatever their beliefs and without discrimination. At the first conference of preachers and promoters of the Islamic faith, organized by the Ministry in 2006, the importance of freedom of religion and belief, respect for the uniqueness of religions and different schools of religious law and the use of sermons to disseminate the idea of moderate Islamic thought were emphasized. The Ministry has also organized research competitions on religious discourse and contemporary reality and on the rejection of sectarianism, entitled “National coexistence without sectarianism: a path to national unity”, as well as an exchange programme between religious scholars from Bahrain and the United States of America to promote dialogue. In 2008, the Ministry will organize special courses for imams, preachers and promoters of the Islamic faith on themes including dialogue and openness and respect for others, their ideas and the things that they hold sacred. The Ministry is preparing a number of informational programmes, for dissemination via audio-visual and print media, to promote the concept of moderate thinking. The Ministry produces a periodical on moderate thinking and enhancement of dialogue that features articles by Islamic thinkers from a broad spectrum of religious schools across the Islamic world.

#### **Chile**

[Original: Spanish]

14. The Government of Chile reported that its population was composed of 69 per cent Catholics, 15.14 per cent Evangelicals, 1 per cent Jehovah’s Witnesses, 0.3 per cent, Jews, 0.9 per cent Mormons, 0.03 per cent Muslims, 0.04 per cent orthodox Christians, 4.4 per cent designated as other religions and 8.3 per cent who did not profess any religion. More than 1,000 religious entities have been created under the civil code as corporations or non-profit foundations, including the Lutheran Church, the Methodist church, the Church of Christ, the Church of Latter-Day Saints, and diverse communities of Buddhists, Jews and Muslims.

15. The Constitution of Chile recognizes freedom of religion and conscience in relation to all religions and beliefs so long as they do not violate moral standards, customs and public order. All churches and religious institutions benefit from the same rights under law. The National Law on Religions (1999), which establishes the equality of all religions, has been complemented with additional legislation on the registration of religious entities, religious assistance to detainees and religious assistance in hospitals, while a bill on religious assistance in the armed forces and the police is pending adoption. The laws guarantee the right to freedom of thought and religion regardless of religion, and respect for the clergy regardless of faith. Churches and other places of worship created under the National Law on Cults are registered as public entities and are regulated by law. The Government also referred to a 2002 decision of the Supreme Court of Chile that mandated the Government to accommodate the religious education and practice of students belonging to the Evangelical Church in municipal schools.

**Costa Rica**

[Original: Spanish]

16. According to the Government of Costa Rica, the population of the country is composed of 47 per cent practising Catholics, 27 per cent non-practising Catholics, 13 per cent Evangelicals, 9 per cent who do not claim any religious affiliation and 3 per cent belonging to other religions. The faiths represented in the country include Methodists, Lutherans, Baptist, Episcopalians, Jews, Muslims, Mormons, Harikrishna, Jehovah's Witnesses and the Church of Scientology. Religious groups are not required to register under the law, but those composed of at least 12 members who wish to acquire legal recognition must register under the law on associations. Currently, there are 3,000 registered religious associations representing 300 religious groups.

17. The Government of Costa Rica reported that, under article 75 of the Constitution, the religion of the State is Catholicism. However, the same provision of the Constitution guarantees freedom of religion so long as it is exercised in a manner respectful of universal morals and norms. Under the Constitution, no one can be prosecuted because of their faith or belief. Article 28 of the Constitution provides that members of the clergy and secular individuals are prohibited from engaging in political propaganda that makes use of their religious beliefs. The Government stated that no cases had been reported of a religious practice being found to be against the law and that the various religious denominations and sects had been evolving peacefully in the country.

18. The Law on the Elimination of Racial Discrimination in Education Programmes and the Public Media serves as the vehicle through which opportunities are made accessible to all, regardless of ethnic or cultural background. According to the Government, respect for human rights and understanding and tolerance for differences in culture, religion and ethnicity are essential to peace and democracy; the importance of tolerance is thus taught in schools. Action is taken to promote dialogue and tolerance among teachers, students and parents by helping to develop the fundamental value of solidarity, respect and equality of opportunities. Under the supervision of the Ministry of Education, Catholic religious teaching is offered in public schools but is not compulsory, while private schools are free to offer the teaching of a religion of choice.

**Cuba**

[Original: Spanish]

19. Cuba noted that Muslims were increasingly the subject of discrimination individually and collectively since the events of 11 September 2001. In addition to the negative image of Islam projected by the mass media, discriminatory laws directed exclusively at Muslims have been adopted in some countries.

20. According to Cuba, the most visible facets of Islamophobia can be observed in security policies and counter-terrorism measures. Cuba is respectful of all religious beliefs and protects religious practices, and freedom of religion and conscience is guaranteed to every citizen. Article 294 of the penal code sanctions public servants with up to two years of imprisonment for violations of the right to freedom of religion. In 1992, Cuba eliminated from its Constitution references to scientific atheism and established an absolute separation between Church and State.

**Egypt**

[Original: Arabic]

21. Freedom of religion and respect for religions are integral to Egyptian society and are guaranteed by law. This vision is enshrined in the 1971 Constitution, which protects freedom of belief and religious practice and prohibits discrimination of citizens on the basis of religion or belief. Article 40 of the Constitution stipulates the equal rights and duties of citizens before the law, without distinction of race, sex, origin, language or religion or belief; under article 46, the State has the duty to ensure freedom of belief and religious practice. To secure religious freedom and respect religious teachings, matters of personal status such as marriage and divorce and their implications are governed by the religious regulations of the concerned parties.

22. Freedom of religion is protected in several provisions in the penal code, which criminalize disrespect for and contempt of religion. Article 98 of the penal code imposes a penalty of imprisonment or a fine for acts that are deemed to exploit religion in order to promote “extremist thinking with the aim of creating discord, contempt and disrespect for one of the ‘heavenly religions’ and damage national unity and social peace”. Article 160 penalizes the destruction, vandalization or desecration of religious buildings, sites and symbols, cemeteries and graves, as well as the hindering of religious ceremony. Article 161 makes it a criminal offence to print and publish deliberately distorted texts of religious materials for State-approved religions, or to mock and ridicule religious ceremonies in public.

**Iran (Islamic Republic of)**

[Original: English]

23. The Islamic Republic of Iran noted an increase in incidents of intolerance and discrimination against Muslims and insults against Islam which, in its view, have become pervasive and are often condoned in certain countries and communities. The “conflation of race, culture and religion” and the fight against terrorism are among the factors that “provide fertile soil for the defamation of religions”. To confirm this trend, the Government cites the report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance (A/HRC/6/6), who stated that the increasing trend in defamation of religions could not be dissociated from a profound reflection on the ominous trends of racism, racial discrimination, xenophobia and related intolerance. The Government submitted that freedom of expression could not be used as a pretext or excuse for incitement to racial or religious hatred. It also decried the intellectual justification of insults against Islam, which are sometimes endorsed in political platforms, and the indifference of Governments and other authorities to these actions.

24. The Islamic Republic of Iran asserts that intolerance and discrimination on the basis of religion are inconsistent with the spirit of the Charter of the United Nations and relevant General Assembly resolutions<sup>3</sup> all of which seek to promote peaceful coexistence among nations.

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<sup>3</sup> The Government referred specifically to resolutions 62/154 on combating defamation of religions and 55/23 on the Year of Dialogue among Civilizations, as well as Security Council resolution 1624 (2005).

Furthermore, articles 1 and 2 of the Universal Declaration of Human Rights and article 26 of the International Covenant on Civil and Political Rights clearly impose a legal obligation on States to eliminate discrimination and protect against intolerance. It also maintains that the Universal Declaration of Human Rights, and the International Covenant, in particular the provision of article 20 (2), which prohibits the advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence, affirm that freedom of speech entails duties and responsibilities and is subject to limitations. In this connection, the Islamic Republic of Iran referred to general comment No. 11 of the Human Rights Committee, in which it recognizes that the limitations in article 20 (2) are compatible with the right to freedom of expression in article 19 of the International Covenant. The provisions of the International Covenant against incitement to religious hatred are legitimate safeguards against abuse of the right to freedom of expression.

25. The Islamic Republic of Iran also referred to the 2001 World Conference against Racism held in Durban, South Africa, and the unequivocal statement in the Durban Declaration and Programme of Action that “the dissemination of all ideas based upon racial superiority or hatred shall be declared an offence punishable by law”. This statement is consistent with article 4 (b) of the International Convention on the Elimination of All Forms of Racial Discrimination, which places an obligation on States to be vigilant and proceed against organizations that disseminate ideas based on racial superiority or hatred, acts of violence or incitements to such acts. It concluded that the right to freedom of expression should be exercised with the responsibilities and limitations prescribed by law and that the international community should initiate a global dialogue to promote a culture of tolerance and peace based on respect for human rights and cultural diversity. To illustrate the importance that it attaches to the fight against racism, the Government cites several initiatives that it has taken in recent years, including its active participation in the 2001 World Conference against Racism in Durban, its initiation of the idea of “dialogue among civilizations”, which was welcomed by the international community, sponsorship of the resolution on human rights and cultural identity, and the hosting of the 2007 ministerial conference of the Non-Aligned Movement on human rights and cultural diversity.

## **Mauritius**

[Original: English]

26. Section 11 of the Constitution of Mauritius on the protection of conscience provides that, except with one’s own consent, no person shall be hindered in the enjoyment of their freedom of conscience, which includes freedom of thought and religion, the freedom to change one’s religion or belief, and the freedom either alone or in community with others and both in public and private to manifest and propagate one’s religion or belief in worship. The Constitution also provides that no person attending any place of education shall be required to receive religious instruction or to take part in or attend any religious ceremony or relate to a religion to which he does not adhere. Conversely, no religious community or denomination shall be prevented from providing religious instruction to persons of that community or denomination in the course of any education provided by that community or denomination.

27. Under subsection 4 of the Constitution, no person shall be compelled to take any oath in a manner that is contrary to his or her religion or belief. The Constitution specifies that the enjoyment of human rights and fundamental freedoms, which include freedom of conscience, shall be exercised without discrimination by reason of race, place of origin, political opinion, colour, creed or sex, and subject to respect for the rights and freedoms of others and for the public interest.

28. Several provisions of the criminal code cited protect freedom of conscience. For example, section 183 makes it a criminal offence to interfere with the freedom of conscience, section 185 outlaws “outrage on religious worship”, and sections 206 and 282 prohibit “outrage against public and religious morality” and the “stirring up racial hatred”, respectively.

## **Turkey**

[Original: English]

29. The Government of Turkey referred to several provisions of the penal code that criminalize statements or actions that are deemed to attack or impugn individual honour, dignity or prestige. Article (1) of the penal code provides that “any person who attributes an act, or fact, to a person in a manner that may impugn that person’s honour, dignity or prestige, or attacks someone’s honour, dignity or prestige by swearing, shall be sentenced to a penalty of imprisonment for a term of three months to two years or a judicial fine”. The penalty is increased when such statements and actions involve religion. In this regard, the penal code specifies that “where the subject matter is deemed sacred to the religion the person belongs to, the penalty to be imposed shall not be less than one year; where the insult is committed in public, the penalty to be imposed shall be increased by one sixth; and where an insult is made which arises from the duties of public officials who are working as a committee, the offence shall be deemed to have been committed against all members of that committee. In these circumstances, the provisions of the article concerning successive offences shall be applied”.

30. Article 153 of the penal code stipulates in part that “any person who damages buildings, associated buildings (or structures upon such) of a place of worship or the removable property therein, or a structure with the purpose of protecting a cemetery by destroying, damaging or breaking such, shall be sentenced to a penalty of imprisonment for a term of one to four years”. The same article provides that “any person who soils the places or structures listed in the first section shall be sentenced to a penalty of imprisonment for a term of three months to one year, or a judicial fine”, and “where the offences in sections 1 and 2 are committed with the aim of defaming a related religious group, the penalty shall be increased by one third”.

31. Article 216 specifies that “a person who publicly provokes hatred or hostility in one section of the public against another section which has a different characteristic based on social class, race, religion, sect or regional difference, which creates a clear and imminent danger to public security shall be sentenced to a penalty of imprisonment for a term of one to three years”. Moreover, “a person who publicly degrades a section of the public on grounds of social class, race, religion, sect, gender or regional differences shall be sentenced to a penalty of imprisonment for a term of six months to one year”; furthermore, “a person who publicly degrades the religious values of a section of the public shall be sentenced to a penalty of imprisonment for a term of six months to one year, where the act is capable of disturbing public peace”.

## B. Regional organizations

### The Council of Europe

32. The Council of Europe submits that freedom of expression and freedom of religion are among the foundations of democratic societies and are instrumental for pluralism. The Council refers to article 9 of the European Convention on Human Rights, which guarantees freedom of thought, conscience and religion, and article 10, which protects freedom of expression. The Council notes that, in this connection, article 10 does not protect hate speech, speech that incites hatred or violence and discrimination against a specific group of individuals on ethnic, national, religious, sexual orientation or other grounds. Regarding the freedom to manifest one's religion or beliefs, the Council asserts that article 9 protects rights of individuals and cannot be construed as protecting a religion as such from verbal or visual attacks.

33. With respect to the scope of article 10 and its relationship to religion, the Council cites a decision of the European Court of Human Rights, according to which "those who choose to exercise the freedom to manifest their religion, irrespective of whether they do so as members of a religious majority or a minority, cannot reasonably expect to be exempt from all criticism. They must tolerate and accept the denial by others of their religious beliefs and even the propagation by others of doctrines hostile to their faith."<sup>4</sup> The Council points out, however, that the European Court of Human Rights has accepted limitations to the freedom of expression under article 10 if such limitations are justified by a "pressing social need" and are designed to provide protection against offensive attacks on matters which are regarded as sacred by a religious group.<sup>5</sup>

34. The Council also refers to recommendation 1805 of 2007 of the Parliamentary Assembly of the Council of Europe, which concerns religious insults and hate speech against persons on grounds of religion. The recommendation further stipulates that blasphemy as an insult to a religion should not be deemed a criminal offence.

35. The Council also reports that the European Commission against Racism and Intolerance, an independent human rights monitoring mechanism, strongly condemns incitement to violence or hatred and discrimination against individuals or groups on several grounds, including religion, and works to counter religious intolerance. In this connection, Commission general policy recommendation no. 5 "strongly regrets that Islam is sometimes portrayed inaccurately on the basis of hostile stereotyping, the effect of which is to make this religion seem a threat". Recommendation 5 rejects deterministic views of Islam and recommends against distorted interpretations of religious and cultural history in the curricula of schools and institutions of

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<sup>4</sup> *Otto-Preminger-Institut v. Austria*, Judgement by the European Court of Human Rights, application No. 13470/87 of 20 September 1994.

<sup>5</sup> *I.A. v. Turkey*, Judgement by the European Court of Human Rights, application No. 42571/98 of 13 September 2005.

higher learning, in particular the portrayal of Islam as hostile and a menace. It calls on Member States to “direct particular attention towards removing unnecessary legal or administrative obstacles to both the construction of sufficient numbers of appropriate places of worship for the practice of Islam and to its funeral rites”. Recommendation 5 also calls on Member States to take the necessary measures to ensure that the freedom to practice religion is fully guaranteed.

### **C. Non-governmental organizations**

#### **Association of World Citizens**

36. The Association of World Citizens underscores the common citizenship of a common world society, and stresses the importance of and need to protect personal belief. The Association notes the importance of religion as an effort to give meaning to the common reality of life and asserts that religion should be a subject of serious study as an important source of motivation and, because of its instrumental value, as a source of common rules and values. The Association refers to its active participation in the long process of negotiations that led to the adoption, in 1981 of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief.

37. The Association submits that it has been active in promoting religious tolerance and has called the attention of the Commission on Human Rights, the Subcommission, the Working Group on Indigenous Populations and the Special Rapporteur on freedom of religion or belief to situations of religious intolerance regarding Bahá'ís and several other minority religions in several countries, such as Buddhists, Ahmadi Muslims, Christians, the Falun Gong, the International Society for Krishna Consciousness, the Mandaeans and Yezidis.

#### **Bahá'í International Community**

38. The Bahá'í International Community's submission, entitled “Report on incitement to hatred on religious grounds and defamation of religions targeting the Bahá'í Faith in the Islamic Republic of Iran”, provides information on what it states are “widespread, ongoing incitement to hatred on religious grounds and defamation of the Bahá'í faith” in the media, mosques and elsewhere in the Islamic Republic. The report alleges that incendiary sermons preached by Muslim clergy have roused the local population against members of the Bahá'í community; Bahá'í cemeteries have been defiled and extensively damaged, and graves have been vandalized. In some cases, bodies have been exhumed. It also expresses concern about widespread incitement to hatred against the Bahá'ís and attacks on their homes and property.

39. According to the Bahá'í International Community, defamation has been one of the root causes of an upsurge in attacks on Bahá'ís and their homes and property. It reports that it has recently transmitted detailed information to special procedures on severe and recurring violence against Bahá'ís in many localities throughout the country.

#### **Becket Fund for Religious Liberty**

40. The Becket Fund for Religious Liberty contends that the notion of defamation of religion is fundamentally inconsistent with the founding principles of the United Nations and violates the very foundations of the human rights tradition by protecting ideas rather than the individuals

who hold them. According to the Becket Fund, defamation laws are meant to protect individuals from public slander or libel that would negatively affect their livelihood, and are closely aligned with individual and personal, rather than group, rights. Defamation laws are meant to prevent people from using mistruths to harm others, and the traditional defence in a defamation lawsuit is the truth. On the contrary, the idea of defamation of religion seeks to protect a set of beliefs, ideas, and philosophies. Freedom of religion as a concept is designed to protect the diversity of views and beliefs.

41. The Becket Fund further argues that there is no basis in international law for the concept of protection of religious ideas or the collective rights of a sometimes disparate group of people within a larger faith tradition. The grounding of human rights in the protection of individuals instead of in the protection of ideas is well established in treaty law and in customary international law. The Becket Fund maintains that previous attempts to change this paradigm have been rejected and, thus, the idea of defamation of religions cannot have the force of established international law.

42. The Becket Fund also maintains that defamation of religions, as opposed to the defamation of persons, would require the State to determine which ideas are acceptable, as opposed to which facts are true. The notion of “defamation of religions” thus presents a fundamental rule of law problem as belief cannot be empirically proven true. Defamation of religion measures are distinct from traditional defamation laws because they do not protect persons, good faith speech or dissent. Enforcement of defamation of religion measures, including anti-blasphemy and anti-vilification laws, is typically left to the unbridled discretion of State officials, who are free to act on their own prejudices. Ultimately, defamation of religion measures empower majorities against dissenters and the State against individuals.

43. The Becket Fund draws attention to the report of the Special Rapporteur on freedom of religion and belief, Asmah Jahangir (A/62/280), cautioning that the criminalization of defamation of religions may create an atmosphere of intolerance and fear and increase the prospect of a backlash against perceived critics and those who do not agree with mainstream views. In that regard, the Special Rapporteur noted that defamation of religion measures might stifle legitimate criticism or even research on practices and laws that appear to be in violation of human rights but are sanctioned by religion. The Fund also refers to the report of the Special Rapporteur on the protection of freedom of expression, Amyebi Ligabo (A/HRC/7/14), who stated that limitations to article 19 of the International Covenant on Civil and Political Rights were not intended to suppress the expression of critical views, controversial opinions or politically incorrect statements, nor were they designed to protect belief systems from external or internal criticism..

44. The Becket Fund further submitted that the conflation of race and religion has complicated both racism and religious freedom issues. There is a distinction between race, which is immutable, and religion, which, though often exercised and expressed communally, requires and cannot exist without choice guided by individual conscience. Treating racial and religious discrimination as the same thing could lead to the conflation of racist hate speech and the suppression of peaceful, but controversial, discussions of truth claims about and within religions.

45. The Becket Fund concludes that, while religious intolerance and hatred against any religious group are serious issues that need to be addressed, the concept of defamation of religions as a response would restrict more freedoms than it protects. In the view of the Becket Fund, religious freedom is best preserved through the protection of the freedom of religion of all faiths, not by restricting the speech of people of some faiths.

#### **International Humanist and Ethical Union**

46. The International Humanist and Ethical Union expressed concern over the impact of blasphemy legislation on freedom of expression and freedom of religion, including on those who do not practise the predominant religion in a Member State. In this connection, the Union recommends that the study requested by the Human Rights Council in its resolution 7/19 should include both an examination of existing blasphemy laws and an assessment of the implications for human rights of defamation of religion laws. The Union also recommended that a resolution be tabled calling on States in which blasphemy constitutes a capital offence to remove the death sentence. Additionally, the Union suggested that United Nations bodies considering the question of defamation of religions adopt a similar position as the Council of Europe, where freedom of expression is given much greater weight.

#### **International Pen**

47. International Pen submitted a general comment on Council resolution 7/19 and a sample of cases of individuals whose fundamental rights have been severely restricted by the application of legislation aimed at combating offences to religions. Laws aimed at protecting religions from defamation can exacerbate religious tensions and could be abused to dampen legitimate criticism. It is for this reason that it was deeply disappointed by the Council's adoption of resolution 7/19.

### **III. SUMMARY OF ISSUES ARISING FROM RESPONSES**

48. Despite the limited number of responses, they did raise several important issues of relevance to the implementation of Council resolution 7/19.

#### **A. Freedom of religion**

49. Almost all the responses emphasized the importance of religion as an individual right and as a source of common values, inspiration and cohesiveness in society. For Bahrain, Islam provides the basis for national cohesion; for Costa Rica, religion is among the essential elements for peace and democracy. To the Council of Europe, freedom of expression and freedom of religion constitute the foundations of democratic societies and are instrumental to pluralism.

50. The constitutions and national laws in all the countries that responded guarantee freedom of religion, conscience and belief. The Constitution of Chile recognizes freedom of religion and conscience for all religions "so long as they do not violate moral standards, customs or public order". For Costa Rica, freedom of religion is guaranteed so long as it is exercised in a manner respectful of "universal morals and norms". In Mauritius, freedom of religion includes the freedom not to worship or believe or to profess any religion, and there is no requirement for religious education or instruction in any educational institution. Freedom of religion is protected

in different ways among the responding States. In Egypt, marriage, divorce and other matters related to personal status are governed by the religious regulations of the parties, and the penal codes of Egypt and Mauritius have provisions that are designed to protect freedom of religion.

### **B. Religion and the State**

51. In some cases, the State plays a direct role in promoting and protecting freedom of religion, while the role of the State is more indirect in others. For Bahrain, the Ministry of Justice and Islamic Affairs is involved in promoting religious values and religious education and in the construction and maintenance of mosques; in Costa Rica, Catholicism is the State religion, although the Constitution also guarantees freedom of religion for all other religions. In Egypt, the Constitution empowers the State to ensure freedom of belief and religious practice.

### **C. Non-discrimination on the basis of religion**

52. All the countries that responded highlighted the importance of equal protection and non-discrimination on the basis of religion. Two dimensions of non-discrimination were reflected in the responses: the prohibition of discrimination against individuals or communities on the basis of religious belief or practice; and non-discrimination and equal protection for all religions. In the case of Bahrain, for example, the vision of the Ministry of Justice and Islamic Affairs is to construct a “forward-looking and closely-knit Islamic society” centred on Islam and the teachings of the Koran; at the same time, the Government stressed the importance of moderation and dialogue among religions and civilizations, and non-discrimination among beliefs.

53. In Chile, the equality of all religions is guaranteed in several national laws; in Costa Rica, although the Constitution recognizes Catholicism as the national religion, the Law on the Elimination of Racial Discrimination in Educational Programmes and the Media extends equal opportunities to all, regardless of ethnic or cultural background. Tolerance is also taught in schools in Costa Rica, and dialogue is promoted to develop the “fundamental value of solidarity, respect and equality of opportunities”. The Constitution of Egypt stipulates the equal rights and duties of citizens before the law, without distinction of race, sex, origin, language or religion or belief. The Islamic Republic of Iran submits that intolerance and discrimination on the basis of religion are inconsistent with the spirit of the Charter of the United Nations.

### **D. Incitement to religious hatred and violence**

54. Concern with incitement to hatred and violence on the basis of religion and belief is underlined in all the responses. Bahrain reported special efforts to counter extremism and promote dialogue in cementing relations among different religions. The Council of Europe reported on recommendation 5 of the European Commission against Racism and Intolerance which deterministic views of Islam and its negative, stereotypical portrayal are rejected, and the Commission appeals to Member States to take necessary measures to guarantee the freedom to practise religion.

55. The responses also made reference to provisions in national constitutions, laws and regional instruments that define limits to freedom of expression in cases where speech is deemed to provoke or incite religious hatred and violence. Reference was made to article 20 (2) of the International Covenant on Civil and Political Rights, which prohibits the advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence, and article 4 of the International Covenant on the Elimination of Racial Discrimination. The Islamic Republic of Iran submits that freedom of speech entails duties and responsibilities and is subject to limitations under the above provisions. Under the criminal code of Mauritius, stirring up racial hatred is a criminal offence. For Turkey, it is an offence under the penal code to publicly provoke hatred or hostility against a social, religious or racial section of the public, among others, and thus create a “clear and imminent” danger to public security.

56. Referring to the European Convention on Human Rights, the Council of Europe reported that the guarantee of freedom of expression in article 10 of the Convention does not protect hate speech, speech that incites hatred or violence, and discrimination against a specific group of individuals on ethnic, national, religious, sexual orientation or other grounds. The Council pointed out that the European Court of Human Rights had accepted limitations to article 10, if such limitations are justified by “pressing social needs” and is designed to provide protection against offensive attacks on matters that are considered sacred by a religious group.

#### **E. Desecration, vandalism and destruction of religious buildings and symbols**

57. Several States referred to specific provisions in national laws that are intended to protect places of worship, property, cemeteries and religious symbols. Some of the laws in question link the protection of places of worship and religious symbols to freedom of religion as essential to the freedom to practice religion. The penal code of Egypt punishes the destruction, vandalism or desecration of religious buildings, sites and symbols, cemeteries and graves, as well as hindering religious ceremonies. In Turkey, the penal code makes it a criminal offence to soil, damage or destroy places of worship and cemeteries.

#### **F. Defamation of religions**

58. Some of the States made specific reference to the notion of defamation of religions, while others seem to confine their responses to the incitement of hatred and violence. Among the countries that specifically mentioned defamation, defamation of religions is used in different contexts and sometimes in relation to other concepts, interchangeably. For Mauritius, the criminal code outlaws “outrage on religious worship” and “outrage against public and religious morality”, while for Turkey it is an offence under the penal code to “attack” or “impugn” a person’s “honour, dignity or prestige” on, inter alia, a matter that is deemed “sacred to that person’s religion”, or to publicly “degrade” the religious values of a section of the public on the grounds of religion, social class, gender, and so on. In the case of Egypt, with regard to State-approved religions, it is an offence under the penal code to print and publish distorted religious texts or to publicly “mock and ridicule” religious ceremonies.

59. The responses did not provide sufficient information to draw any common elements. Information is also insufficient to determine how the concept of defamation and related ideas are interpreted and applied, or if they reflect international normative standards.

### **G. Caution about defamation of religions**

60. Some of the responses raised concerns about the concept of defamation of religions and caution against its adoption as an international normative notion. For example, the Becket Fund for Religious Liberty submitted that the concept of defamation of religions is not recognized in international human rights law and that it would be inconsistent with the foundation of international human rights law. The Becket Fund stated that the concept of defamation as recognized in national laws is designed to protect against harm to reputation with adverse consequences. As applied in national laws, the concept of defamation strikes a balance with freedom of expression and, in many legal systems, there are reasonably well-defined criteria and an extensive jurisprudence on relevant issues, such as what is regarded as defamatory information, harm to reputation and the element of truth as a defence. These criteria could not be equally applicable to a concept of defamation of religions that would protect ideas, as this would be contrary to the notion of freedom of religion or belief.

61. Some of the critics also noted that terms such as contempt, interference with conscience, outrage and ridicule that are sometimes used interchangeably or synonymously with defamation of religions are too vague and imprecise and, therefore, potentially give unbridled, subjective power to the State to constrain critical, unpopular or disfavoured speech and views. They also pointed out that it would entail the interpretation and some process of ranking of religious texts and of religions in order to determine the truthfulness of a purportedly defamatory statement or view. This would be contrary to the notion of freedom of religion as understood in international human rights law, which includes the freedom not to believe, and raises the risk of discrimination in favour of State-preferred religions.

62. The Council of Europe also cited a decision of the European Court of Human Rights, which made the point that those who manifest religion could not expect to be exempt from criticism and must “tolerate and accept the denial by others of their religious beliefs and even the propagation by others of doctrine hostile to their faith”.

## **IV. CONCLUSIONS**

**63. The sample of the replies presented in the present report is too limited and not sufficiently detailed for conclusions to be drawn about the status of laws related to the implementation of Council Resolution 7/19. Nevertheless, the examples provide some indication of the range of laws related to the protection of freedom of religion, as well as of potential constraints.**

**64. Most of the replies reflected concern that there is a growing trend towards the negative portrayal of religion in the media and in political discourse, and policies and practices that seem targeted at people because of their religion.**

**65. As several of the national examples in the report show, the concept of freedom of religion and how it is interpreted and applied seems to be an important starting point in ensuring appropriate guarantees to the free exercise of religion. All the replies indicated that discrimination against religion and on the basis of religious belief is prohibited in all the countries. A consistent and strict application of the anti-discrimination laws would play an important role in addressing some of the concerns identified by the Council in resolution 7/19.**

**66. The incitement to hatred or violence against an individual or group because of religion is also prohibited in the countries that responded. Other countries also have specific laws that penalize the desecration, damage or destruction of places of worship, religious symbols and other objects related to religion.**

**67. Some countries have specific laws against the defamation of religion. Of the countries that reported on such laws, there does not appear to be a common understanding of what is considered defamation of religion. The reported laws address somewhat different phenomena and apply various terms such as contempt, ridicule, outrage and disrespect to connote defamation. The responses do not provide enough information for an analysis of how these terms are understood or applied. The relationship between these concepts to the international human rights framework related to freedom of religion is also not explicitly addressed.**

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