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Mr. President,

We thank the Special Rapporteur on Freedom of Religion or Belief for her report, and urge the Council to request Ms. Jahangir continue her mandate, including reporting on the pernicious effects of “defamation of religion” laws.¹

Religious freedom is best preserved through protection of religious exercise of people of all faiths, not through restricting the speech of people of some faiths.

Defamation of religion laws claim to protect vulnerable religious communities. However, there are already laws against assault, false imprisonment, fraud, and even defamation of persons. Defamation of religion laws are mere thought control and in practice work solely to the advantage of religious majorities.²

¹Human Rights Council Decision 2006/107, Incitement to racial and religious hatred and the promotion of tolerance (30 June 2006) (“expressing deep concern over the increasing trend of defamation of religions”).

² Defamation of religion laws are in violation of principles outlined in the United Nation’s founding and legal documents. International Covenant on Civil and Political Rights Article 19(1) states, “Everyone shall have the right to hold opinions without interference.” ICCPR Article 19(2) states, “Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.” ICCPR, Article 18(1) states:

Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice, and teaching. ICCPR, Article 18(2), No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.

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the religious expression of people of all faiths.

We urge the Council to take actions identifying and protecting vulnerable religious minorities, and encouraging civil inter-religious dialogue. But in that endeavour, the state should not be the one to decide which religious viewpoints may be expressed.³

In a current court case in Victoria, Australia, it was argued by Muslims attempting to enforce an anti-vilification law that “truth is not a defense.”⁴ For what are we protecting freedom of religion and belief if we are not protecting the right openly to inquire after the truth?

Defamation of religion resolutions that have come before this Council pervert the very purpose of defamation laws, in which truth traditionally is a defense.

When a Muslim states his belief that Jesus was a prophet, but not the Son of God, that could also be considered defamation against the Christian faith of many believers. But I trust that not a single OIC member state supporting defamation of religion laws would want to strip Muslims of their right to state this Qur’anic teaching.⁵ In that environment,

In contrast, enforcement of defamation of religion laws is typically left to the unbridled discretion of local officials who are free to act on their own prejudices. Defamation of religion laws have allowed prosecution for “unreasonable” and “offensive” speech. These standards have been read to include giving charitable aid, criticising a religious belief, or even telling someone that God would be happier if that person followed a different religion. There is no religious believer—including those who promote such laws—who does not value the ability to assert that his or her beliefs about religious truths are not only better, but true. Indeed, freedom of conscience and its expression is rooted in the *truth* of the inherent dignity of the human person, not in the fickle will of the state.

Defamation of religion laws are an unacceptable – and ineffective – response to inter-religious conflict.

The only thing that defamation of religion laws actually do is target open dialogue, not hatred in the hearts of men.

Countries that have traditionally celebrated free speech as the cornerstone of open society have similarly fallen prey to the suppression of religious expression in order to avoid public tensions. In France, under the law on secularism, Sikh students are studying at private Catholic schools because their religiously mandated turbans are not permitted in public school. In the Victorian province of Australia, two Christian pastors are under criminal prosecution pursuant to the Racial and Religious Tolerance Act for expressing their religious viewpoint and criticizing Islam, even though they explicitly instructed their audience to love Muslims.

³ Just this past February, an Alexandria court sentenced Egyptian blogger “Kareem Amer” to three years in prison for “inciting hatred” of Islam. Free press groups have decried the sentence, but the Egyptian embassy in America published a letter in the *Washington Post* citing international law and Egyptian cultural values as justification for the sentence. See Letter from Kareem Haggag, Press Attaché, Embassy of Egypt, to the Editor, *Washington Post* (5 March 2007, Page A14). The letter emphasised that free speech is a value held dear in Egypt, but also justified specific limitations with regard to religion alone. The letter demonstrated that like all state censorship, Egypt’s is selective.

⁴ The “anti-vilification” law has already been used by local authorities to forbid the reading of the Qur’an in public because ironically, some Muslims deemed those passages to be defamatory of Islam. See <http://www.becketfund.org/index.php/case/101.html>.

⁵ If another Muslim criticises some sects of Satanism for promoting child sacrifice, that could also be interpreted to be “defamation of religion” of Satanists. But I trust and hope nobody on this Council would want protest of child sacrifice to be outlawed.

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we effectively abolish the right to disagree over matters of truth, rendering “freedom of belief” a mere illusion.

We note that Pakistan on behalf of the OIC has proposed a draft resolution combating defamation of religions. Much of the resolution is in a fine spirit. However, the very concept of defamation of religion, as opposed to defamation of persons, forcibly requires the state to determine which ideas are acceptable, and unacceptably violates fundamental religious expression rights.

With respect, the Becket Fund urges that if the Council adopts measures encouraging defamation of religion laws, it should make clear what these resolutions really are – thought control – so that people are aware that their rights as they know them are being stripped by this Council.

Before it does so, we ask the Special Rapporteur on Freedom of Religion or Belief and the Special Rapporteur on the Right to Freedom of Opinion and Expression whether it would be useful to investigate if defamation of religion laws have actually promoted further civility, or merely encouraged persecution of peaceful dissenters.

We urge the Council to return to the mandate of its founding documents, and protect the free expression of people of all faiths, keeping in mind that the freedom of speech is precious to freedom of belief.⁶

Thank you Mr. Chairman.

⁶ Protecting religious sensibilities will be counterproductive unless the Council also effectively addresses the intentional failure by many of the states that proposed these resolutions⁶ to protect religious minorities from violence. Otherwise, promotion of religious tolerance, noble in theory, will merely be a pretext for suppressing dissent.