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**STATEMENT OF MS. ASMA JAHANGIR,
SPECIAL RAPPORTEUR ON
FREEDOM OF RELIGION OR BELIEF
PURSUANT TO DECISION 1/107**

2nd Session of the Human Rights Council

GENEVA, 21 September 2006

Mr. Chairperson,

In Decision 1/107, the Human Rights Council requested us to report on defamation of religions and the implications for article 20 of the International Covenant on Civil and Political Rights. I welcome this decision as there is an urgent need, in this increasingly sensitive climate, for honest discourse. Indeed, it is in times of tension and emerging controversies that it is all the more incumbent on us to uphold principled positions.

The right to freedom of religion or belief, as articulated in article 18 of the International Covenant, is broad in its scope. At the same time, the right to freedom of religion or belief, in line with the fundamental notion of interdependency of human rights, needs other human rights to be fully exercised, including freedom of association and freedom of expression. Indeed, the right to freedom of expression constitutes an essential ingredient of the right to freedom of religion or belief.

Mr. Chairperson,

In our discourse on this issue, I consider it important to draw the distinction between defamation of religions by state actors on the one hand and by non-state actors on the other hand, for obvious reasons. Since I assumed my mandate, I have received a number of allegations about state officials who have made derogatory comments about the beliefs held by members of different religious groups. While these comments may in some cases target major religions, they more often target the beliefs of smaller religious communities. Indeed, it is notable that when such comments do target smaller religious communities, they receive virtually no attention.

Adverse comments about the beliefs of religious groups by public figures and state officials can have significant repercussions and implications. They can give rise to prejudices, particularly against religious minorities or vulnerable religious communities. I encourage states to put in place policies so that all state officials, whether they be government ministers, civil servants or law enforcement officials, respect different religions and beliefs in the course of their official duties. I draw your

attention to resolution 2005/40 of the Commission on Human Rights, which urged states to provide all necessary and appropriate education or training in this regard.

In dealing with the question of defamation of religions by non-state actors, the situation is more complex. It is fundamentally important to clearly differentiate between the different types of expressions about religious beliefs. These range from theological analysis of the content of a particular religion to the most extreme forms of incitement to violence against the members of a particular religious group. Between these two extremes, one can find many types of expressions including satire, disparaging comments and criticism.

The right to freedom of religion or belief primarily protects the individual, and to some extent, the collective rights of religious and belief communities. It is the human beings that adhere to religious beliefs, and not the religious beliefs themselves, that are the subjects of human rights. As such, the right to freedom of religion or belief does not include the right to have a religion or belief that is free from analysis, satire or criticism. Moreover, the internal rules that may exist within a religious community do not of themselves constitute binding obligations of general application to individuals who are not members of the particular religious community.

However, while we may have the right to cause offence, it does not follow that it is right to do so. While offensive expressions may not result in direct human rights violations, they can indirectly stigmatize adherents of targeted religions and encourage a climate of intolerance. In our efforts to maintain diverse and tolerant societies, laws that criminalize offensive forms of expression, which do not amount to direct incitement to violence or discrimination, are not the appropriate recipe. Indeed they may well violate the right to freedom of expression. Rather we should take positive steps to create a tolerant and inclusive environment, in which all religions may be exercised, free of discrimination or stigmatisation so that they acquire the confidence to refute controversial expressions made against their beliefs.

Mr. Chairperson,

The Human Rights Council specifically asked us to address the implications of defamation of religion for article 20 of the International Covenant, which positively requires governments to enact laws to prohibit those expressions that amount to advocacy of national, racial or religious hatred that constitute incitement to discrimination, hostility or violence. It is not always so easy to determine whether a particular expression falls within article 20 or not and different countries have taken different approaches. Indeed, these different approaches are often the result of the historical and political influences in their national contexts.

In view of the fact that there is very little jurisprudence on the threshold and scope of article 20 of the ICCPR, I do encourage the Human Rights Committee to give serious consideration to drafting a detailed general comment on this issue. It is imperative that expressions falling within the scope of article 20 of the ICCPR are not extended any form of impunity.

In this regard, I note that in order for legislation to be effective, it must be applied by independent and non-arbitrary bodies. Accordingly, the prosecution, while retaining their prosecutorial discretion, should rely on transparent and neutral standards when applying such legislation to specific cases. Furthermore an independent judiciary is an absolutely vital component in the process of effectively combating advocacy to religious hatred that constitutes incitement to discrimination, hostility or violence. The need for bodies which comply with international standards on the independence of the judges and lawyers cannot be understated.

Mr. Chairperson,

I would like to finish by drawing your attention to the conclusions and recommendations in our report. In addition, I do urge the Council to give us their co-operation and support in our work in our individual mandates so that we can continue to monitor human rights violations, as well as suggesting strategies and approaches that could be pursued to encourage the promotion of religious tolerance, both domestically and globally.