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Statement at the second regular session of the Human Rights Council
(18 September 2006 - 6 October 2006)
United Nations, Geneva
4 October 2006

Mr. Chairman,

Regarding the resolution concerning Decision 2006.107 of the Human Rights Council, “Incitement to racial and religious hatred and the promotion of tolerance,”¹ the ‘defamation of religions’² cannot be explored without consideration for the fundamental rights of religious expression and free speech.

Under the guise of public security or cultural preservation, **anti-conversion and anti-defamation laws** have proliferated in response to the outcry of religious communities that find offense at the free expression of others. These laws **enable religious majorities to persecute religious minorities**, and are an unacceptable—and ineffective—response to inter-religious conflict.³

¹ Human Rights Council Decision 2006/107, Incitement to racial and religious hatred and the promotion of tolerance (30 June 2006).

²*Ibid.*

³ Further, they 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.

The **overbreadth of these laws** allows criminal prosecution for so-called “forced conversion,” or “unreasonable” and “offensive” speech.⁴ Nobody likes to hear their beliefs criticised, but the state should not be the one to decide which religious viewpoints may be expressed. Notably, **people who exploit such laws are always members of the prevailing religious majority.**⁵

As a diverse body, this Council can appreciate the importance of critical dialogue. We will have no freedom to search for the truth where anti-defamation laws criminalize based on whether a person of one religion takes offence at the expression of another.

There are legal remedies already in place to address tactics violent, coercive, or defamatory that do not stifle freedom of conscience. There are laws against assault, false imprisonment, blackmail, defamation, and fraud. The only thing that anti-conversion and anti-defamation laws actually do is target open dialogue, not hatred in the hearts of men.⁶

In India, the Hindu majority has passed anti-conversion laws in several states that have only enabled persecution of Muslims, Buddhists, Sikhs, Christians, and other religious minorities. In Buddhist-dominated Sri Lanka, despite growing religious violence, Special Rapporteur Asma Jahangir has reported that “in only a very few cases have perpetrators been prosecuted.”⁷ In ethnically and religiously diverse Malaysia, Shariah law, originally legislated to apply only to Muslims, has been imposed on even non-Muslims.⁸ Lawyers of many faiths promoting the freedom to choose what to believe in these countries have been accused of pandering to foreigners. But freedom of conscience is neither Western nor Eastern, modern nor traditional, foreign nor domestic. Some values are always and everywhere dear to what makes us human.

⁴ 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.

⁵ Further, enforcement of such laws is typically left to the unbridled discretion of local officials who are free to act on their own prejudices.

⁶ 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.

⁷ The Special Rapporteur cites prolific reports of “attacks...committed against religious minorities, in particular Christian groups.” Report of the Special Rapporteur on freedom of religion or belief at its sixty-second session (E/CN.4/2006/5/Add., ¶¶ 79, 85) (12 December 2005).

⁸ See Legal Opinion of The Becket Fund for Religious Liberty in the case of Catholic convert and ethnic Malay *Lina Joy* (No. K.P. 640108-10-5038), at <http://becketfund.org/index.php/case/107.html>.

Protecting religious sensibilities will be counterproductive unless the Council also effectively addresses the intentional failure by many of the states that proposed this resolution⁹ to protect religious minorities from violence. Otherwise, promotion of religious tolerance, noble in theory, will merely be a pretext for suppressing dissent.

The Becket Fund for Religious Liberty urges the Council to consider the fundamental necessity of preserving the dialogue about truth in any further work on offences to religious sensibilities.

Thank you Mr. Chairman.

⁹ The voting was as follows:

In favour : Algeria, Argentina, Azerbaijan, Bahrain, Bangladesh, Brazil, Cameroon, China, Cuba, Ecuador, Gabon, Ghana, Guatemala, India, Indonesia, Jordan, Malaysia, Mali, Mauritius, Mexico, Morocco, Nigeria, Pakistan, Peru, Philippines, Russian Federation, Saudi Arabia, Senegal, South Africa, Sri Lanka, Tunisia, Uruguay, Zambia.

Against : Canada, Czech Republic, Finland, France, Germany, Japan, Netherlands, Poland, Romania, Switzerland, Ukraine, United Kingdom of Great Britain and Northern Ireland.

Abstaining : Republic of Korea.

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