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Racism, racial discrimination, xenophobia and related forms of intolerance, follow-up and implementation of the Durban Declaration and Programme of Action

Report of the United Nations High Commissioner for Human Rights on the implementation of Human Rights Council resolution 10/22 entitled “Combating defamation of religions”

Summary

By resolution 10/22, the Human Rights Council requested the High Commissioner for Human Rights to report to the Council on the implementation of the same resolution, including on the possible correlation between defamation of religions and the upsurge in incitement, intolerance and hatred in many parts of the world.

The present report is submitted pursuant to this request of the Council. Information is provided about measures taken to address acts of violence, discriminatory practices, profiling, stigmatization, derogatory stereotyping based on religion or belief, the desecration of places of worship or spirituality, the targeting of religious symbols, incitement to religious hatred and instances of religious intolerance, including Islamophobia and anti-Semitism.

The report contains information from Member States and regional organizations. In addition, the report updates the Secretary-General’s report of 31 July 2009 to the General Assembly at its sixty-fourth session on combating defamation of religions¹ by giving information on the latest developments at the level of human rights treaty bodies, special procedures and the United Nations.

¹ A/64/209.

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I. Introduction

1. In its resolution 10/22 on combating defamation of religions of 26 March 2009, the Human Rights Council (hereafter “the Council”) expressed deep concern over the negative stereotyping of religions and manifestations of discrimination in matters of religion or belief. The Council strongly deplored all acts of violence, and incitement thereto, against persons on the basis of their religion or belief, and against their businesses, properties, cultural centres and places of worship, as well as the targeting of holy sites, religious symbols and venerated personalities of all religions. Deep concern was also expressed over the frequent and wrong association of Islam with terrorism, the ethnic and religious profiling of Muslim minorities in the aftermath of the tragic events of 11 September 2001, and the stigmatization of Muslim minorities.

2. In paragraph 19 of resolution 10/22, the Council requested the High Commissioner for Human Rights to report to the Council at its twelfth session on the implementation of the resolution, including on the possible correlation between defamation of religions and the upsurge in incitement, intolerance and hatred in many parts of the world. In implementation of this request, notes verbales were sent by the Office of the High Commissioner for Human Rights to Member States, United Nations entities and regional organizations to solicit information on measures and activities undertaken to combat defamation of religions. To be able to include the broadest number of contributions in her report, the High Commissioner, in a note by the Secretariat on 9 July 2009,² requested that the submission of her report to the Council be delayed to its thirteenth session. Hence, the present report is submitted accordingly to the thirteenth session of the Council pursuant to the request contained in resolution 10/22.

3. Similarly, in paragraph 24 of its resolution 63/171, the General Assembly requested the Secretary-General to submit a report at its sixty-fourth session on the implementation of that resolution on combating defamation of religions, including on the possible correlation between defamation of religions and the upsurge in incitement, intolerance and hatred in many parts of the world. In his report of 31 July 2009, submitted pursuant to this request,³ the Secretary-General recalled the relevant international legal framework and focused on the implementation of General Assembly resolution 63/171 by the Office of the High Commissioner for Human Rights, as well as on developments at the level of human rights mechanisms and treaty bodies which, although not necessarily addressing defamation of religions directly, had a bearing on the phenomena described in the resolution.

4. In the Secretary-General’s report, it is noted that the voting on resolution 63/171 attested to the diversity of views among Member States. The same is true of the Council’s resolution (which was adopted by a vote of 23 in favour to 11 against and 13 abstentions). Those who voted against the resolution either invoked that religions could not and should not be subjects of international human rights law or denounced what they perceived as the resolution’s predominant focus on one religion.

5. While the scope of the present report is limited to Council resolution 10/22, attention is drawn to previous reports by the High Commissioner, the Secretary-General and relevant special procedures on combating defamation of religions,⁴ incitement to racial and religious

² A/HRC/12/39.

³ A/64/209.

⁴ Ibid.; A/HRC/9/12; A/HRC/12/38.

hatred and violence,⁵ the promotion of tolerance,⁶ the protection of minorities,⁷ human rights and counter-terrorism,⁸ intercultural and interreligious dialogue,⁹ and the elimination of religious intolerance.¹⁰ These reports, prepared at the request of the Council and the General Assembly, provide additional context and useful background to the present report. For instance, in her report to the third substantive session of the Preparatory Committee for the Durban Review Conference, the High Commissioner for Human Rights confirmed that religious minorities had been frequent targets of abusive, violent and repetitive criticism against their group, often as a result of entrenched stereotypical attitudes, and that this had deepened discrimination against them.¹¹

6. Specific reference is also made to the study of the High Commissioner for Human Rights compiling existing legislation and jurisprudence concerning defamation of and contempt for religions¹² and the report by the High Commissioner for Human Rights pursuant to resolution 7/19 on combating defamation of religions,¹³ both submitted to the Council at its ninth session. Compiling contributions from States, regional and non-governmental organizations (NGOs), the latter report concluded that most replies reflected concern that there was a growing trend towards the negative portrayal of religion in the media and in political discourse, and policies and practices that seemed targeted at persons because of their religion.¹⁴

7. The present report contains information¹⁵ from States, regional organizations and the United Nations on various elements described in Council resolution 10/22 on combating defamation of religions. In addition, the report updates the Secretary-General's report of 31 July 2009 to the General Assembly at its sixty-fourth session on combating defamation of religions¹⁶ by giving information on the latest developments at the level of human rights treaty bodies and special procedures.

II. Member States

Algeria

[Original: French]

8. Algeria gave information on relevant constitutional provisions and international human rights instruments that it had ratified which were directly applicable and could be invoked by citizens and migrant workers. In the area of national legislation, it was noted that Ordinance 06-03 established the conditions for practising religions other than Islam. The Ordinance guaranteed freedom of religion, as well as tolerance and respect among different religions and the protection by the State of non-Muslim religious organizations.

⁵ A/HRC/2/3; A/HRC/10/31/Add.3.

⁶ A/HRC/12/36.

⁷ A/HRC/10/38.

⁸ A/HRC/4/26; A/HRC/8/13; A/HRC/6/17; A/64/186; A/HRC/12/22.

⁹ A/64/325.

¹⁰ A/HRC/6/5; A/64/159.

¹¹ A/CONF.211/PC.4/5, para. 3.

¹² A/HRC/9/25.

¹³ A/HRC/9/7.

¹⁴ A/HRC/9/7, para. 64.

¹⁵ The original replies are available for consultation at the Secretariat.

¹⁶ A/64/209.

9. Article 298 of the Criminal Code declares punishable, either with imprisonment or a fine, all instances of defamation or insults committed against one or more persons belonging to an ethnic or philosophic group, or to a religion, provided such defamation is intended to incite to hatred among citizens or residents. Voluntary degradation, destruction or profanation of places of worship is also punishable with deprivation of liberty and a fine, in accordance with article 160 ter of the Criminal Code. Any offence of the Prophet or denigration of Islam and its teachings, by whichever medium, is punishable with three to five years' imprisonment, as well as a fine. Prison sentences and fines are also established for the desecration of cemeteries.

10. Algeria also reported on Ordinance 90-07 on the right to information imposing an obligation on reporters to refrain from directly or indirectly disseminating racist, intolerant or violent messages. Article 77 of the Ordinance establishes fines and prison sentences for the insult of Islam and other holy religions. Article 99 grants tribunals the authority to order the provisional or definitive closure of information outlets acting in violation of the ordinance.

Guatemala

[Original: Spanish]

11. Guatemala reported that the spiritual practices of the indigenous people of Guatemala had historically been prohibited or disdained, but that, at the present time, freedom of religion was an integral element of the country's vision of a culture of peace and the creation of a multicultural, multi-ethnic and multilingual State. In the period from 2004–2008, the national human rights institution of Guatemala had received 17 complaints invoking negative stereotyping of indigenous spirituality, accusations of witchcraft, and disrespect for places and symbols of worship.

12. A number of constitutional, legislative, institutional, public policy and programmes measures had been adopted by Guatemala to guarantee freedom of religion and belief. The specificity and importance of the spirituality of the Maya had also been acknowledged in the Peace Agreement on the Identity and Rights of Indigenous Peoples signed by the Government of Guatemala. Article 202 bis of the Criminal Code, adopted in implementation of the Durban Declaration and Programme of Action, further criminalized discrimination, including on the basis of religion, and established penalties from fines up to prison sentences of one to three years.

13. Guatemala reported that Catholics, Protestants, Jews and followers of Maya spirituality participated in an interreligious dialogue. Guatemala had also established the Presidential Commission on Discrimination and Racism against Indigenous Peoples in Guatemala (CODISRA), which sought to overcome cultural racism, negative stereotyping and discriminatory practices through information campaigns and media monitoring. In 2008, a public information campaign touted the message "Overcome prejudice and celebrate diversity" and advocated the acceptance of all aspects of identity, including language, dress, spiritual practice, religion and cultural traditions. From 2006 through 2009, CODISRA also organized workshops for opinion makers. The workshops addressed religious bias and bigotry in general, and racist speech about indigenous peoples, their beliefs and spirituality in particular.

14. The Guatemalan Ministry of Culture and Sports was working to foster a culture of peace and respect for diversity, including religious diversity. Typically, its cultural programmes were opened with a prayer for peace by a religious leader. The Ministry also raised awareness about the existence of holy sites in indigenous communities in order to

secure their preservation. Last, but not least, it was working with public and private schools to educate students about the spiritual beliefs and practice of the Maya.

Kazakhstan

[Original: English]

15. Kazakhstan reported that it was historically at the crossroads of religions, cultures and civilizations. It reported that 40 confessions and denominations, as well as 130 nationalities and ethnic groups, coexisted peacefully and that Kazakhstan ensured religious freedom for Muslims, Christians and Jews.

16. It was reported that, in 1992, the Freedom of Belief and Religious Organizations Act had been adopted, in compliance with international human rights standards. Additions and amendments to this law were currently being discussed by Parliament. Also at the national level, the Government's Council on Relations with Religious Unions had organized round tables on interconfessional dialogue and religious tolerance. The Committee on Religious Affairs of the Ministry of Justice of Kazakhstan, as well as the Ombudsman, in cooperation with NGO and religious groups, further worked to resolve conflicts between non-traditional religious organizations and local authorities.

17. Kazakhstan reported it had hosted three Congresses of Leaders of World and Traditional Religions in 2003, 2006 and 2009. Kazakhstan had also initiated the Forum of the Organization for Security and Co-operation in Europe on Interreligious, Inter-ethnic and Intercultural Understanding in 2006. In 2007, Kazakhstan had adopted the Programme on Guaranteeing Religious Freedom and Improving State-Religion Relations. Within the framework of the programme, international conferences on religious legislation and the fight against religious extremism were being organized. Kazakhstan had also actively advocated for the designation by the United Nations of 2010 as the International Year for the Rapprochement of Cultures.

Pakistan

[Original: English]

18. Pakistan, in its submission, gave an overview of global events affecting Muslims in the world, Islamophobia as a rapidly increasing phenomenon, the basic principles governing the relation of Islam with Christianity and Judaism, and the centrality of peace and dialogue in Islam.

19. It further reported that article 33 of the Constitution of Pakistan stipulated the discouragement by the State of parochial, racial, tribal, sectarian and provincial prejudices among its citizens. Sections 295–298 of the Pakistani Criminal Code addressed defamation of religions, providing sanctions of imprisonment, fines, or both, for the following: acts of vandalism in a place of worship with the intent of insulting a religion, deliberate and malicious acts intended to outrage religious feelings or beliefs, disturbance of religious ceremonies or assembly, trespassing of places of worship or burial, and speech or gestures deliberately intended to hurt religious feelings.

20. At the district level, it was reported that the provincial governments of Pakistan had established district interfaith harmony committees — with religious leaders of minority and majority communities represented — to target the sources of prejudice. The committees were meeting on a monthly or quarterly basis to review the situation in the district with regard to the security and welfare of minorities, the promotion of interfaith harmony and the fostering of a better understanding between majority and minority communities.

Qatar

[Original: Arabic]

21. Qatar reported that it had undertaken legislative, institutional and awareness-raising activities to promote and protect religious freedoms and combat defamation of religions as part of its efforts to promote and protect human rights. Articles 18, 19, 34 and 35 of the Constitution of Qatar prohibited discrimination on the grounds of sex, origin, language or religion. Article 50 of the Constitution further guaranteed freedom of worship for all.

22. It was reported that article 256 of the Criminal Code of Qatar prescribed up to seven years' imprisonment for any person who vandalized, damaged, destroyed or defiled places of worship, or insulted a Prophet in speech, writing, through imagery or gestures, or by any other means. Article 263 of the Criminal Code provided a prison sentence of up to one year or a fine, or both, for any person producing, selling, circulating, buying, possessing or advertising products, goods, prints or cassettes containing images, slogans, words, symbols, songs or any other material defaming Islam or the religions protected under sharia law. Qatar also reported that article 266 of the same Code provided a sanction of up to one year's imprisonment or a fine, or both, for any person desecrating a place of burial.

23. Qatar reported that it had organized a number of international conferences and forums with a view to promoting religious tolerance and combating defamation of religions. The US-Islamic World Forum, organized annually since 2004, was bringing together leading religious scholars and politicians to break down barriers between the Muslim world and the United States of America. Since 2003, Qatar had also organized annual conferences for interfaith dialogue. As a result hereof, the Doha International Centre for Interfaith Dialogue was established in 2008 to promote a culture of dialogue and peaceful coexistence of humanity.

24. The State further reported that it was working on the creation of an international standing committee to address religious issues affecting non-Muslims. In 2005, agreements had been signed for the construction of six churches. The first Christian Church, known as the Church of Our Lady of the Rosary, had been inaugurated by the Deputy Prime Minister.

Serbia

[Original: English]

25. Serbia reported on its legal guarantees against discrimination on the grounds of religion or belief, in particular articles 21, 43 and 49 of the Constitution. Serbia noted that while according to article 50, paragraph 3, of the Constitution censorship was not allowed, a competent court could prevent the dissemination of information when this was necessary to prevent advocacy of racial, ethnic or religious hatred inciting discrimination, hostility or violence.

26. It was noted that a number of relevant national laws contained provisions guaranteeing freedom of religion and prohibiting religious discrimination. Religious intolerance was criminalized by article 131 of the Criminal Code with a fine or imprisonment of up to one year, and article 383 of the Criminal Code declared punishable the destruction of religious facilities or institutions in time of war or armed conflict by imprisonment of between 5 and 15 years.

27. Serbia also referred to its Public Information Act which, in its article 38, prohibited the publication of ideas and opinions which incited discrimination, hatred or violence against an individual or a group of individuals on account of their religion (among other grounds). The independent Republic Radio Broadcasting Agency was established per the

Radio Broadcasting Act to detect any such information and to take appropriate measures. In addition, the Advertising Act prohibited direct and indirect incitement to discrimination on the basis of religion.

28. Preventive measures, such as religious education and cultural programmes, were considered important by Serbia. In that context, article 81 of the Constitution prescribed that, in the field of education, culture and information, a spirit of tolerance, intercultural dialogue, and mutual respect regardless of ethnic, cultural, linguistic or religious identity was to be promoted. In order to prevent religious prejudice, the Commission for Religious Education in Primary and Secondary Schools, established in 2004, comprised representatives of all churches and religious communities, together with educational experts. The commission proposed textbooks for studying Christianity, Judaism and Islam.

29. On a broader scale, Serbia reported that it organized conferences and gatherings to foster interreligious dialogue and eliminate religious prejudice. Furthermore, the Government funded research seeking to reveal similarities among monotheistic religions, as well as publications contributing to a better understanding of all religious communities in the country.

Singapore

[Original: English]

30. Singapore reported on its approach to fostering harmonious interreligious relations and combating defamation of religions in Singapore. The principle of meritocracy was enshrined in the Constitution and prohibited discrimination or disadvantage on the basis of religion. Within the context of a secular State, religion was generally considered as having a positive influence on society. Multiracialism, it was noted, was a key feature of the national identity of Singapore. Therefore, each community could practise its own beliefs as long as the rights and sensitivities of other groups were not infringed.

31. Singapore reported on a number of legislative measures that had been put in place to ensure racial and religious harmony. The Presidential Council for Minority Rights, created in 1973, scrutinized legislation to ensure that proposed laws did not discriminate against any ethnic or religious community. The Maintenance of Religious Harmony Act gave the Government the option to issue restraining orders and other measures against individuals stirring up hatred between ethnic and religious communities. The Criminal Code considered racial or religious motivations an aggravating factor in offences, leading to enhanced penalties. It also criminalized defiling a place of worship, trespassing in a burial place with the intent of insulting a religion and deliberately offending religious feelings. The Undesirable Publications Act made it an offence to make, distribute or sell publications that were likely to cause feelings of enmity between different racial or religious groups. Two court cases were cited to illustrate the concrete application of legislation.

32. In its contribution, Singapore gave information on different programmes to promote racial and religious harmony, including a quota scheme for public housing and positive measures to ensure minority representation in Parliament. The Community Engagement Programme, started in 2006, was a key initiative that involved leaders from a cross section of Singaporean society, including grass-roots organizations, businesses, unions, the media, educational institutions and religious and community leaders. Under the programme, the National Steering Committee on Racial and Religious Harmony had been set up to provide a national platform for ethnic and religious leaders and the political leadership to establish dialogue, build confidence, and formulate strategies to strengthen community interaction and engagement. Another key component of the programme was the creation of 84

interracial and religious confidence circles throughout Singapore with the participation of local religious leaders.

33. National institutions and civil society organizations, such as the Inter-religious Organisation, an interfaith NGO, also contributed to fostering social cohesion and religious harmony. Following the adoption of the Administration of Muslim Law Act, the Islamic Religious Council of Singapore had been created to advise the President on Muslim affairs. Sikh and Hindu advisory boards also existed.

34. The Declaration on Religious Harmony resulted from extensive consultations with all major religious and ethnic organizations. On 21 July every year, Singaporeans were encouraged to reflect on the Declaration and activities on religious harmony were organized at places of worship. It was noted that Singapore actively supported interfaith efforts at the national, regional and global level and a list of recent interfaith dialogues and activities was provided.

Switzerland

[Original: French]

35. Switzerland reported on article 8 of its Federal Constitution prohibiting all forms of discrimination based on origin, race, language and religion. Article 15 of the Swiss Constitution protects freedom of religion. Article 261 bis of the Criminal Code has placed limitations on freedom of expression for the protection of the dignity and honour of others and declared punishable public incitement to hatred or discrimination towards individuals or groups for reasons of race, ethnicity or religion.

36. Since 2001, the Service against Racism has funded projects against racism, anti-Semitism and xenophobia. Since 1995, the Federal Commission against Racism has strived to eradicate racism and hatred through awareness-raising initiatives. Switzerland added that the website of the Federal Commission against Racism included a compilation of jurisprudence related to article 261 bis, containing summaries of all sentences on the basis of that article.

37. Article 28 of the Swiss Civil Code protected individuals from illicit attacks on their personality. The concept of “personality” is construed as the set of values inherent to every human being. This article also protects individuals from defamation.

38. In its contribution, Switzerland rejected the notion of defamation of religions as a contemporary form of racism, noting that human rights ought to protect individuals only and that existing standards sufficiently addressed incitement to hatred. Switzerland further expressed the view that recognizing the concept of defamation of religions as a contemporary form of racism would de facto alter the definition of racism by adding a religious dimension which it did not at present include.

Ukraine

[Original: Russian]

39. Ukraine reported that, because of its diverse population, increasing understanding among different religious denominations and eliminating prejudice was a priority for its Government. Meetings between State officials and representatives of religious organizations frequently led to humanitarian projects. The All-Ukrainian Council of Churches and Religious Organizations also played an important role in fostering harmony and tolerance among religious organizations.

40. It was reported that national legislation, compliant with international human rights standards, was being introduced to protect freedom of religion. The bill was expected to include provisions addressing the spread and advocacy of xenophobia, racism and anti-Semitism, as well as other manifestations of intolerance and discrimination on the basis of religion.

United States of America

[Original: English]

41. The United States of America, in its contribution, affirmed that the concept of defamation of religions was inconsistent with international human rights law and risked being abused by Governments to restrict the human rights of religious minorities or dissidents. While sharing the concerns underlying Human Rights Council resolution 10/22, such as the negative stereotyping of religious groups, particularly minority groups, and the contribution of such stereotypes to disrespect and discrimination, the United States considered that placing limitations on freedom of speech was unacceptable and, moreover, inadequately addressed genuine concerns.

42. After 11 September 2001, the Justice Department had implemented the Backlash Initiative to combat violence and threats against Arabs, Muslims, Sikhs and South Asians, or individuals perceived as such. More than 700 incidents had been investigated and 34 federal convictions obtained. The initiative had also assisted local law enforcement agencies in bringing over 160 criminal cases to justice. Since 2001, the Department of Justice Community Relations Service had held over 250 community meetings around the country to address backlash issues and deployed conflict resolution specialists to over 50 communities. Likewise, based on feedback and input from the Arab, Muslim, Sikh, South Asian and Middle Eastern American communities, cultural competency training had been developed for personnel of the Department of Homeland Security. The United States also actively encouraged civil society actors, including religious groups, to participate in interfaith dialogue, education efforts and alliance-building with domestic and international religious groups and leaders to foster understanding within and among communities and promote conflict prevention.

43. The United States also reported on its strong belief in and vigorous defence of the freedoms of religion, belief and expression. As a result of its protection of freedom of religion, the Department of Justice had won the right for a Muslim school bus driver to have his schedule adjusted so that he could attend Friday prayers.¹⁷ As a result of its protection of freedom of speech, United States courts had upheld the rights of neo-Nazis, Holocaust deniers and white supremacist groups to march in public and distribute literature.¹⁸ The United States expressed the view that Government censorship or prohibition of speech based on stereotypical or intolerant content only forced hateful ideology to find new and alternative outlets. Instead, the United States advocated concrete action in support of tolerance and individual rights as the best way to combat hateful ideologies.

¹⁷ While that case was settled out of court, examples of similar cases are available online at the First Freedom Project website: <http://www.firstfreedom.gov>.

¹⁸ *National Socialist Party of America et al. v. Village of Skokie* (97 S. Ct. 2205).

Bolivarian Republic of Venezuela

[Original: Spanish]

44. The Bolivarian Republic of Venezuela reported its attachment to ethnic, cultural and religious diversity at the domestic and international levels. Article 59 of the Constitution guaranteed freedom of religion and religious practice. Articles 169–171 of the Venezuelan Criminal Code established offences for infringement on freedom of worship, vandalism of places of worship and burial, and other violations of freedom of religion.

45. It was reported that article 57 of the Venezuelan Constitution outlawed discriminatory messages and messages promoting religious intolerance. With respect to the media, the Bolivarian Republic of Venezuela reported on its Social Responsibility in Radio and Television Act, which addressed discriminatory practices and incitement to hatred, including religious hatred. The Bolivarian Republic of Venezuela submitted that article 28 of the Act stated that, without prejudice to civil and criminal prosecution, media providers could be sanctioned with broadcasting licence suspension or even closure for spreading discriminatory messages. Article 29 provided sanctions for promoting incitement to violence, discrimination and religious intolerance.

III. Regional organizations

European Commission against Racism and Intolerance of the Council of Europe

46. The European Commission against Racism and Intolerance (“the Commission”) is an independent human rights monitoring body of the Council of Europe specialized in questions relating to racism and intolerance. It is composed of independent experts, appointed on the basis of their moral authority and recognized expertise in dealing with racism, xenophobia, anti-Semitism and intolerance. In its annual report covering the period from 1 January through 31 December 2008, the Commission provided information with respect to contemporary forms of racism and racial discrimination in the geographic area covered by the Council of Europe. It pointed to a negative climate in public opinion which, it noted, played a key role in the appearance of manifestations of racism or intolerance. Such a climate, according to the Commission, was fuelled by some media and also by the increasing use of racist and xenophobic arguments in political discourse. Faced with this situation, ECRI advocated strengthening legal protection against racist acts and discrimination on the grounds of race, colour, language, religion, nationality or national or ethnic origin. The Commission welcomed the fact that member States of the Council of Europe were continuing to adopt and fine-tune criminal law provisions against racist acts and anti-discrimination legislation. However, it noted that many States were yet to fill remaining gaps in their legislation.

47. The Commission also reported that, in 2008, the negative portrayal of Muslims in the media continued to be one of the main obstacles to their integration in member States of the Council of Europe. Islamophobia manifested itself through prejudice and stereotypes against Muslims, which in turn led to acts of discrimination and intolerance against them in everyday life. While some European Governments had taken initiatives to encourage greater tolerance of religious diversity, such as the establishment of forums for intercultural dialogue, the Commission noted that greater efforts were necessary to remove legal and psychological barriers which still existed in some countries with respect to Muslims practising their religion. Particular reference was made to the construction of mosques.

48. In 2008, the year which marked the commemoration of the seventieth anniversary of the Night of the Broken Glass, the Commission had also continued to be concerned by manifestations of anti-Semitism in Europe. Attacks on synagogues and Jewish cemeteries, and sometimes physical assaults, continued to take place. Anti-Semitic rhetoric was increasing through the use of modern technologies such as the Internet. In some countries of the Council of Europe, political parties and leaders fuelled this rhetoric. Based on this finding, the Commission strongly recommended that member States continue and reinforce their cooperation in order to find solutions to anti-Semitism and other forms of intolerance on the Internet.

49. In the framework of its statutory activities, in 2008, the Commission also conducted country-by-country monitoring, analysing the situation regarding racism and intolerance in several countries and drawing up suggestions and proposals for addressing challenges, including for dealing with incitement to hatred, Islamophobia and anti-Semitism.

European Union

50. On 28 May 2009, the Fundamental Rights Agency of the European Union released, as part of its European Union Minorities and Discrimination Survey series, a report examining discrimination against Muslims in the European Union under the title, "Data in Focus – Report 2: Muslims".¹⁹ The report reflected the views of Muslim respondents of diverse ethnic origins.

51. On average, one in three respondents reported having experienced discrimination in the previous 12 months, while 11 per cent reported having experienced a hate crime. The overwhelming majority of victims (79 per cent) had not reported the discriminatory incident or hate crime to any organization. Twenty-five per cent of respondents stated that they had been stopped by the police in the previous 12 months and 40 per cent of them considered they had been stopped because of ethnic profiling.

52. While the overwhelming majority of Muslims surveyed (89 per cent) stated that religion played a "fairly important" to "very important" role in their lives, they did not consider religion to be the main reason for their discrimination. The findings also showed that wearing traditional or religious clothing did not increase the likelihood of discrimination. Of those Muslim respondents who reported having experienced discrimination in the previous 12 months, the majority believed this was due mainly to their ethnic background or to a combination of their ethnicity and their religion. Only 10 per cent stated that the discrimination they had experienced was based solely on their religion. In addition to their personal experiences of discrimination, the survey also inquired about general perceptions regarding the extent of discrimination. Although perceptions varied from country to country, overall 51 per cent of the Muslims surveyed believed that discrimination on grounds of religion or belief was "fairly" to "very" widespread.

53. Based on the survey findings, the Agency called on European Union Governments to raise awareness about how to lodge a complaint, to improve the recording of discrimination and racist crimes, to better inform individuals and groups of their rights, to allocate more resources to integration measures, especially for youth, and to strengthen the role, capacity and accessibility of mechanisms where incidents can be addressed and followed-up.

¹⁹ Available online at: <http://fra.europa.eu/eu-midis/>.

Organization of the Islamic Conference (OIC)

54. The Organization of the Islamic Conference (OIC) did not provide information on defamation of religions or measures adopted to address this problem in the geographical region covered by the organization. However, in its Second OIC Observatory Report on Islamophobia, issued at the thirty-sixth Council of Foreign Ministers in May 2009 submitted to the Secretariat,²⁰ the OIC provides an account of manifestations and incidents of Islamophobia in Western societies, as monitored by the Observatory from June 2008 to April 2009, including incidents related to mosques, desecration of Muslim graves, incidents related to the *Hijab* (headscarf), political and social campaigns against Islam and Muslims, intolerance against sacred symbols of Islam, and discrimination against Muslims in education, the workplace and airports. In addition, the report cites good practices to combat Islamophobia.

55. In the report, it is stressed that, despite some encouraging developments, racial hatred and intolerance against Islam and Muslims continue to be issues of major concern to the Muslim world. According to the report, anti-Islam rhetoric, negative stereotyping and discrimination against Muslims have continued unabated. The report proceeds to provide a list of detailed recommendations to stem Islamophobia.

56. The report also elaborates on the importance of the human rights framework as a concrete basis for engagement between the Muslim world and the West aimed at countering incitement to religious hatred. In this context, the OIC position on United Nations resolutions on combating defamation of religions is explained in detail.

57. An overview is also given of activities undertaken by the OIC General Secretariat, including visits to some Western countries and its convening, co-sponsoring or participation in international conferences to raise awareness about the adverse implications of Islamophobia. For example, the OIC Secretary General attended the Third International Conference on the Muslim World and the West in Kuala Lumpur in June 2008, a forum aimed at closing the gap between the Muslim world and the West. The OIC General Secretariat also participated in the Astana Forum on Progress through Diversity in October 2008 which culminated in the adoption of the Astana Declaration and three World Conferences on Dialogue among Religions in Makkah, Madrid and New York. In the same year, the OIC Secretary General attended the Rabat Follow-up Conference on Fostering Dialogue among Cultures and Civilizations in Denmark dedicated to the theme of "Education for Intercultural Understanding and Dialogue". Also in 2008, the OIC co-sponsored an NGO round table on intolerance and discrimination against Muslims with the Office for Democratic Institutions and Human Rights of the Organization for Security and Co-operation in Europe. In April 2009, a Memorandum of Understanding was signed between the OIC and the Alliance of Civilizations.

IV. The United Nations

Economic and Social Commission for Western Asia

58. In its report on the implementation of Human Rights Council resolution 10/22, the Economic and Social Commission for Western Asia ("the Commission") focused on a pilot study undertaken between December 2008 and January 2009 to shed light on ethno-sectarian coexistence, ethno-sectarian tensions and manifestations of incitement,

²⁰ Available at http://www.oic-un.org/document_report/Islamophobia_rep_May_23_25_2009.pdf.

intolerance and hatred among religious communities. The pilot study, conducted in the Lebanon, involved 15 focus group discussions with 113 youths aged 18–25 years.

59. The study brought to light the profound contempt of participants of all confessions towards one another. Participants frequently used harsh and offensive terminology when asked to share their impressions of other confessions, while using highly inspirational terms for their own confessions. Misperceptions about other religions developed into selective collective memories, virtual boundaries and negative attitudes that could potentially degenerate into acts of violence. While participants of all confessions resented what they perceived to be a systemic stigmatization and victimization because of their religion, they nevertheless did not refrain from stigmatizing other confessions. According to the Commission's findings, the study revealed that, in the case of the Lebanon, strong religious identities played an important role in fuelling ethnic, regional and interreligious tensions.

Department of Public Information

60. On 17 June 2009, the United Nations appealed to parents, the Internet industry and policymakers to join hands to eradicate hate speech from cyberspace. Addressing a day-long seminar titled "Unlearning Intolerance" on the danger of cyberhate, the Secretary-General lauded the benefits of the Internet but regretted that some used information technology to reinforce stereotypes, spread misinformation and propagate hate. He warned that some of the newest technologies were being used to peddle some of the oldest fears, decrying what he called "digital demonization" which targeted innocents because of their faith, their race or their ethnicity. The Secretary-General said that the Internet industry could help ensure that hate speech did not proliferate online and he urged policymakers to safeguard people while balancing basic freedoms and human rights. The United Nations began its "Unlearning Intolerance" series in 2004 with a forum on anti-Semitism and Islamophobia and has since continued the programme with lectures and seminars.

Office of the High Commissioner for Human Rights

61. Reference is made to the chapter on the Office of the High Commissioner for Human Rights ("the Office") in the report of the Secretary-General to the General Assembly at its sixty-fourth session on combating defamation of religions.²¹ On 2 and 3 October 2008, the Office organized an expert consultation on the links between articles 19 and 20 of the International Covenant on Civil and Political Rights entitled, "Freedom of expression and advocacy of religious hatred that constitutes incitement to discrimination, hostility or violence". Participants included 12 experts and over 200 observers, including from Governments, United Nations agencies, regional organizations, the media and NGOs.

62. In 2008–2009, the Office served as the Secretariat for the Durban Review process which culminated in the adoption of the outcome document by the Durban Review Conference.²² Although the document did not refer to the notion of defamation of religions, it made a number of provisions to address the scourges described in resolution Human Rights Council 10/22, including paragraphs 12, 68, 69 and 134.

63. The outcome document also emphasizes the critical importance of intercultural and interreligious dialogue as a means to prevent, combat and eradicate racism, racial discrimination, xenophobia and related intolerance. Intercultural and interreligious issues

²¹ A/64/209.

²² A/CONF.211/8.

are considered in various forums and bodies of the United Nations system, as reflected in the report on the subject by the Secretary-General to the sixty-fourth session of the General Assembly,²³ to which the Office contributed. A major initiative, relevant for the implementation of the Council's resolution 10/22, is the declaration of 2010 as the International Year on the Rapprochement of Cultures.

64. As part of its programme against racism, racial discrimination, xenophobia and related intolerance, the Office took, in the course of 2009, a number of initiatives to raise awareness and encourage measures to combat discrimination, intolerance and prejudice. From 29 September to 1 October 2009, the Office organized a seminar for Central Africa on national action plans and other good practices against racism and related intolerance in Yaoundé, during which participants stressed the importance of involving all religious denominations in the development of such national action plans.

65. On 14 October 2009, the Office organized, in collaboration with the European Union, a seminar entitled "Strengthening European Union–United Nation Cooperation in the struggle against all forms of discrimination". At this seminar, the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Mr. Githu Muigai, was invited by the Office to address the subject of intolerance and discrimination against Arabs and Muslims.

66. From 8 to 10 December 2009, the Office organized a seminar for West Africa on national action plans and other good practices against racism and related intolerance in Lomé. At this seminar, a number of participants identified religious intolerance as a direct source of discrimination.

67. The High Commissioner for Human Rights took up the profiling of Muslim minorities in the aftermath of the tragic events of 11 September 2001 with the Counter-Terrorism Committee of the Security Council. In her address to the Committee on 29 October 2009, she expressed concern over profiling based on national or ethnic origin or religion with respect to the right to privacy and the principles of equality and non-discrimination. She emphasized that the latter were central to human rights law and allowed no derogation. She warned that discriminatory and stigmatizing measures affected the rights of entire communities and might lead to further marginalization.

68. In a press release issued on 1 December 2009, the High Commissioner for Human Rights regretted the ban by Switzerland on the building of minarets which she called "deeply divisive". Noting that the Government of Switzerland did not support the referendum initiative, the High Commissioner stated that banning an architectural structure associated with one religion was clearly discriminatory.

V. Human rights treaty bodies

69. Reference is made to the study of the High Commissioner for Human Rights, submitted to the Human Rights Council at its ninth session and compiling jurisprudence concerning defamation and contempt for religions,²⁴ as well as the chapter on treaty bodies in the report of the Secretary-General to the General Assembly at its sixty-fourth session on combating defamation of religions.²⁵

²³ A/64/325.

²⁴ A/HRC/9/25.

²⁵ A/64/209.

70. At its ninety-fourth session from 13 to 31 October 2008, the Human Rights Committee decided to revise its general comment on article 19 (freedom of expression) of the International Covenant on Civil and Political Rights. A first reading of the draft general comment was initiated by the Human Rights Committee at its ninety-seventh session, held from 12 to 30 October 2009.

71. In recent times, as it has consistently done in past years, the Human Rights Committee has called on States parties to the International Covenant on Civil and Political Rights to fully comply with relevant provisions of the Covenant, including article 20. It has also expressed concern about intolerance towards minority groups which may manifest itself in such forms as hate speech, but also discrimination, harassment, insults, threats and physical violence, and which constitutes a serious social problem in many States.

72. Consequently, the Human Rights Committee has stressed that States should intensify their efforts to prevent, combat and prosecute hate speech violating article 20 of the Covenant. The Committee has called on States to adopt hate speech laws of the form envisaged by article 20 of the Covenant, to ensure that relevant criminal law provisions and policy directives are effectively implemented, and to significantly increase their efforts to tackle the problem among youth. States are recommended to evaluate the effectiveness of hate-crime hotlines where they exist, vigorously combat any advocacy of racial or religious hatred — including political hate speech — by, inter alia, intensifying public information and awareness-raising campaigns, and effectively investigate any and all threats of violence against minority religious communities. The Committee has further encouraged States to reinforce, when required, the mandate of the national institution in charge of investigating all cases of incitement to national, racial or religious hatred, or to create an independent mechanism with competence to initiate legal action in such cases. States parties are also called upon to increase efforts to promote tolerance and cultural dialogue among their population.

73. Article 20, paragraph 2 (establishing limitations on freedom of expression and information), of the International Covenant on Civil and Political Rights was invoked in the case *Vassilari v. Greece*²⁶ by the claimant, who alleged a violation of the State party's obligation to ensure the prohibition of any advocacy to hatred that constitutes incitement to discrimination, hostility or violence. The Human Rights Committee declared the communication inadmissible for failure to substantiate the claims, without determining whether article 20 could be invoked under the Optional Protocol. However, a dissenting opinion was presented by three Committee members who contested the inadmissibility decision, expressing the view that article 20, paragraph 2, afforded protection to individuals and groups against incitement and regretting that, by declining to give an opinion on this aspect of the communication, the Committee allowed uncertainty to persist on the scope of article 20, paragraph 2.

74. In the case *Kasem Said Ahmad and Asmaa Abdol-Hamid v. Denmark*,²⁷ the complainants alleged that they were denied an effective remedy for incitement to hatred against Muslims, prohibited under article 20 of the International Covenant on Civil and Political Rights. Such denial, they claimed, led to further violations of article 20 of the Covenant relating to protection against attacks on honour and reputation, against racial and religious discrimination, and against incitement to racial and religious discrimination. Also in this case, the Human Rights Committee declared the case inadmissible under the Optional Protocol of the Covenant, for failure to exhaust domestic remedies.

²⁶ Communication No. 1570/2007, Views adopted on 29 April 2009.

²⁷ Communication No. 1487/2006, Admissibility decision adopted on 1 April 2008.

75. In case *P.S.N. v. Denmark*,²⁸ the Committee on the Elimination of Racial Discrimination found that discrimination based exclusively on religious grounds did not fall within the purview of the International Convention on the Elimination of All Forms of Racial Discrimination. However, it did recognize the importance of the interface between race and religion and considered that it would be competent to consider a claim of double discrimination on the basis of religion and another ground specifically provided for in article 1 of the Convention, including national or ethnic origin.

76. In its concluding observations, the Committee on the Elimination of Racial Discrimination has made numerous references to phenomena such as Islamophobia (including reports thereof following the attacks of 11 September 2001), discrimination against Jews and Sikhs, discrimination against indigenous religions, desecration of sacred sites and other cases where it has found an overlap between religion and ethnicity. Hence, incitement, stereotyping, profiling, stigmatization, and the legitimization of discrimination are accounted for in the practice of the Committee on the Elimination of All Forms of Racial Discrimination.

VI. Human rights special procedures

77. Reference is made to the chapter on special procedures in the report of the Secretary-General to the General Assembly at its sixty-fourth session on combating defamation of religions²⁹ which gives an overview of the positions of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, the Special Rapporteur on freedom of religion or belief, the independent expert on minority issues and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression. Specific reference is made to a joint statement³⁰ by three mandate holders stating that “difficulties in providing an objective definition of the term ‘defamation of religions’ at the international level make the whole concept open to abuse”.

78. During his presentation of his interim report before the General Assembly,³¹ the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Mr. Githu Muigai, noted that the terminology controversy around the concepts of “defamation of religions” and “incitement to racial or religious hatred” had unfortunately detracted the attention from real problems affecting the persons to be protected. He therefore recommended focusing on the rights of individuals affected by racial and religious intolerance, discrimination or violence, as well as on the best ways to prevent and combat such deplorable acts. In doing so, he took the view that it was necessary to rely on existing human rights norms in order to find a way out of the terminology controversy. The debate obviously needed to be continued and he expressed his sincere hope that its outcome would provide effective and concrete responses to individuals who are victims of discrimination or violence on the grounds of ethnicity, religion or belief.

79. During a seminar on the strengthening of cooperation between the European Union and the United Nations in the struggle against all forms of discrimination held in Brussels on 14 October 2009, the Special Rapporteur on contemporary forms of racism, racial

²⁸ Communication No. 36/2006, Opinion adopted on 8 August 2007.

²⁹ A/64/209.

³⁰ Available online at: http://www2.ohchr.org/english/issues/racism/rapporteur/docs/Joint_Statement_SRs.pdf.

³¹ Available online at: <http://www2.ohchr.org/english/issues/racism/rapporteur/docs/SpeechGA64.pdf>.

discrimination, xenophobia and related intolerance was invited to speak about intolerance and discrimination against Arabs and Muslims. In his statement,³² he noted that discrimination targeting Muslims fell within the remit of his mandate when linked to discrimination on the ground of ethnic origin. While he focused his presentation mainly on intolerance and discrimination against Arabs and Muslims in Europe, he stressed that other regions were also affected by instances of racial and religious discrimination and incitement to hatred. Moreover, he underlined that discrimination and incitement to hatred affected members of other religious and ethnic groups and should also be addressed.

80. The Special Rapporteur on freedom of religion or belief, Ms. Asma Jahangir, in her report to the General Assembly at its sixty-fourth session,³³ identified the dissemination of religious intolerance and stereotypes via new information technologies as a new challenge of the twenty-first century. The Special Rapporteur stressed that religious or belief communities had been the object of critical analysis ranging from merely theological points of view to the most extreme forms of incitement to violence or hatred against members of a religious group. The Special Rapporteur emphasized that impunity in cases of incitement to religious hatred emboldened forces of bigotry.

81. Another general pattern identified by the Special Rapporteur on freedom of religion or belief was the targeting of places of worship and other religious buildings and properties. The Special Rapporteur expressed concern about reports of frequent attacks on places of worship, the desecration of cemeteries and the exhumation of dead bodies. Attacks or other forms of restriction of places of worship in many cases violated the rights not only of a single believer, but also of the community attached to the place in question.

82. Finally, the Special Rapporteur on freedom of religion or belief regretted that, eight years after the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, she continued to receive frequent and worrisome reports of religious intolerance and acts of violence against members of virtually all religious or belief communities. The Special Rapporteur also criticized counter-terrorism measures based on discriminatory profiling, implemented according to perceived religious affiliation.

83. On 30 November 2009, the Special Rapporteur on freedom of religion or belief issued a press release regretting the outcome of the vote to ban the construction of minarets in Switzerland and expressing her concern over its negative consequences for members of the Muslim community in Switzerland. She called for education and awareness-raising measures to help eliminate the grounds for irrational fears towards Muslims.

VII. Conclusions

84. **The information from States, regional organizations, United Nations entities, human rights treaty bodies and special procedures raises concern about acts of violence, protracted discrimination and stigmatization on the basis of religion or belief. Some contributions also suggest a negative portrayal of religion, as well as incitement to ethnic and religious hatred by some political parties and some media. Indeed, religious minorities seem to be frequent targets of abusive, violent and repetitive criticism against their group, often as a result of entrenched negative stereotypes.**

³² Available online at: <http://www2.ohchr.org/english/issues/racism/rapporteur/docs/SpeechBrussels141009.pdf>.

³³ A/64/159.

85. Initiatives to combat the human rights violations described in Human Rights Council resolution 10/22 include measures in the constitutional and legislative areas, in the areas of law enforcement and the administration of justice (including access hereto), policy measures, prejudice-reduction programmes for key professionals (including the media), intercultural dialogue and awareness-raising initiatives, as well as the creation of specialized bodies at the national level or the establishment of focal points within existing national human rights institutions to monitor trends and/or assist victims.
