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**RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED  
FORMS OF INTOLERANCE: FOLLOW-UP TO AND IMPLEMENTATION  
OF THE DURBAN DECLARATION AND PROGRAMME OF ACTION**

**Report of the Special Rapporteur on contemporary forms of racism, racial  
discrimination, xenophobia and related intolerance, Doudou Diène, on the  
manifestations of defamation of religions and in particular on the serious  
implications of Islamophobia on the enjoyment of all rights\***

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\* This report was drawn up by Mr. Doudou Diène, given that the new Special Rapporteur, Mr. Githu Muigai, was appointed on 1 August 2008. The late submission of the document is explained by the concern to include the most up-to-date information.

## Summary

The present report is submitted pursuant to Human Rights Council resolution 7/19 of 27 March 2007 entitled “Combating defamation of religions”, in which the Council invited the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance to report to it at its ninth session on all manifestations of defamation of religions and in particular on the serious implications of Islamophobia on the enjoyment of all rights.

This report is to be read in conjunction with the previous reports that the Special Rapporteur has submitted to the Human Rights Council, namely: the report on the manifestations of defamation of religions and in particular on the serious implications of Islamophobia on the enjoyment of all rights (A/HRC/6/6); the report on incitement to racial and religious hatred and the promotion of tolerance (A/HRC/2/3) submitted to the Council jointly with the Special Rapporteur on freedom of religion or belief; the reports submitted to the Commission on the situation of Muslims and Arab peoples in various parts of the world with special reference to physical assaults and attacks against their places of worship, cultural centres, businesses and properties in the aftermath of the events of 11 September 2001 (E/CN.4/2003/23, E/CN.4/2005/19 and E/CN.4/2006/17); and the report entitled “Defamation of religions and global efforts to combat racism: anti-Semitism, Christianophobia and Islamophobia” (E/CN.4/2005/18/Add.4).

In accordance with the Human Rights Council’s request, the Special Rapporteur will focus in this report on the phenomenon of Islamophobia. However, he wishes to point out that this does not imply the establishment of any hierarchy in the forms of discrimination to which the different religions are subject. As he noted in his previous reports, strategies to combat anti-Semitism, Christianophobia and Islamophobia should promote the idea that it is necessary to treat these different phobias in the same way and to avoid establishing any priorities with regard to combating all forms of discrimination.

The purpose of this report is therefore to summarize and update the main analyses, conclusions and recommendations of the Special Rapporteur in the various thematic reports on the defamation of religions submitted to the Council and the Commission.

The Special Rapporteur draws attention to some of the main recommendations in his previous report, submits three new proposals to the Human Rights Council and concludes by expressing the hope that the Council will invite Member States to promote dialogue among cultures, civilizations and religions, having particular regard to:

(a) The need to accord equal treatment to combating defamation of religions in all its forms so as to avoid establishing any hierarchy in the different manifestations of discrimination, even if they may vary in nature and degree depending on historical, geographical and cultural context;

(b) The deep historical and cultural roots of all forms of defamation of religions and the corresponding need to combine legal measures with an intellectual, cultural and ethical approach that takes account of the processes, mechanisms and representations at the origin of these manifestations of discrimination over time;

(c) The essential link between the different spiritual, historical and cultural forms of religious discrimination and the universal nature of their underlying causes;

(d) The need to create conditions conducive to encounter, dialogue and interaction in order to further social harmony, peace, respect for human rights and development and to combat all forms of racism, xenophobia and discrimination as they relate to all religions and spiritual traditions;

(e) The need to renew the approach to the problem of the defamation of religions by focusing on the principles and norms embodied in international human rights instruments, in particular article 20 of the International Covenant on Civil and Political Rights and article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination.

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## Introduction

1. The present report is submitted pursuant to Human Rights Council resolution 7/19 of 27 March 2007 entitled “Combating defamation of religions”, in which the Council invited the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance to report to it at its ninth session on all manifestations of defamation of religions and in particular on the serious implications of Islamophobia on the enjoyment of all rights.
2. This report is to be read in conjunction with the previous reports submitted by the Special Rapporteur to the Human Rights Council and the Commission on Human Rights, namely: the report on the manifestations of defamation of religions and in particular on the serious implications of Islamophobia on the enjoyment of all rights (A/HRC/6/6); the report on incitement to racial and religious hatred and the promotion of tolerance (A/HRC/2/3) submitted to the Council jointly with the Special Rapporteur on freedom of religion or belief; the reports submitted to the Commission on the situation of Muslims and Arab peoples in various parts of the world with special reference to physical assaults and attacks against their places of worship, cultural centres, businesses and properties in the aftermath of the events of 11 September 2001 (E/CN.4/2003/23, E/CN.4/2005/19 and E/CN.4/2006/17); and the report entitled “Defamation of religions and global efforts to combat racism: anti-Semitism, Christianophobia and Islamophobia” (E/CN.4/2005/18/Add.4).
3. In accordance with the Human Rights Council’s request, the Special Rapporteur will focus in this report on the phenomenon of Islamophobia. However, he wishes to point out that this does not imply the establishment of any hierarchy in the forms of discrimination against the different religions. As he noted in his previous reports, strategies to combat anti-Semitism, Christianophobia and Islamophobia should promote the idea that it is necessary to treat these different phobias in the same way and to avoid establishing any priorities with regard to combating all forms of discrimination.
4. The purpose of this report is therefore to summarize and update the main analyses, conclusions and recommendations of the Special Rapporteur in the various thematic reports on the defamation of religions already submitted to the Council and the Commission.
5. In chapter I, the Special Rapporteur analyzes the phenomenon of defamation of religions and its different forms in the current political and ideological context. In chapter II, he summarizes his main analyses and conclusions concerning particular forms of religious-based discrimination, with special reference to Islamophobia in all its manifestations and particularly since the events of 11 September 2001, to anti-Semitism, to Christianophobia and to discrimination against other religions and spiritual traditions and practices. In chapter III, the Special Rapporteur spells out the relationship between each of these specific forms of discrimination and the universal nature of measures to combat racism, racial discrimination, xenophobia and related intolerance, stressing in particular the need to resituate the problem of the defamation of religions in terms of the principles and norms embodied in international human rights instruments. In chapter IV, he describes provisions aimed at combating incitement to national, racial or religious hatred and possible limitations to freedom of expression contained in various international and regional instruments and national enactments. In chapter V, in conclusion, he submits his recommendations.

## **I. THE CURRENT POLITICAL AND IDEOLOGICAL CONTEXT**

6. The defamation of religions is part of a disturbing worldwide trend marked by the rise of racism, racial discrimination, xenophobia and related intolerance, with its roots in the current political and ideological context. This context is characterized by five major forms of intellectual drift: the equation of the factors of race, culture and religion; a hierarchical rather than dialectical and complementary interpretation of human rights; suspicion of religion; rejection of diversity; and, finally, an excessive emphasis on the factors of identity and security reflecting a defensive and exclusive approach.

7. In his previous reports, the Special Rapporteur underlined that this political and ideological context is marked by three powerful tendencies apparent in all regions of the world. The most serious current manifestation of the regression in the struggle against racism is the resurgence of racist and xenophobic violence in the world. This tendency finds expression in particular in acts of physical violence perpetrated by extremist, neo-Nazi and nationalist groups targeting religious, ethnic or cultural communities.

8. The second powerful trend highlighted by the Special Rapporteur in his recent reports to the Council and the General Assembly involves the political banalization and democratic legitimization of racism and xenophobia. In particular, the Special Rapporteur notes with disquiet the way in which political parties preaching racist and xenophobic platforms manage to introduce and implement these ideas by means of government alliances that guarantee them a place on the political stage and access to the apparatus of the State. This democratic legitimization of racism currently represents the most serious threat to democracy and human rights.

9. The current political and ideological context is also strongly influenced by the intellectual and scientific legitimization of racism, xenophobia and intolerance, which constitutes the third major trend highlighted by the Special Rapporteur in the course of his term of office. This trend is illustrated by a growing number of so-called scientific publications and declarations whose stock-in-trade is historical stereotypes underlying prejudice and racist and xenophobic theories and manifesting themselves in an ethnic, racial or religious interpretation of current problems. Recent illustrations of this phenomenon include: the claims by Nobel Laureate in Medicine, James Watson, that persons of African descent are intellectually inferior, reviving historical stereotypes at the basis of anti-Black racism; the invitation to the negationist David Irving to speak at the Oxford Union Debating Society; the association of Islam with violence; the reductive association of Judaism with domination and power; and the identification of Christianity with Western domination.

10. This process involving the intellectual legitimization of racism, xenophobia and religious hatred springs from a deep-rooted rejection of multiculturalism and diversity, which is one of the main sources of the resurgence of racist, xenophobic and antireligious violence worldwide. The Special Rapporteur points out that, in ideological terms, the Manichean concept of the clash of civilizations and religions - the implicit hierarchization of cultures, races, civilizations and the mistrust of religions - represents the new ideological foundation for political and intellectual elites and erstwhile Cold-War ideologues. The new international context of the fight against terrorism has further strengthened the trend towards ideological polarization and the retreat into separate identities.

11. The political and ideological context thus provides fertile ground for the resurgence of all the old forms of racism and xenophobia, from anti-Semitism to Islamophobia, as well as the emergence of new manifestations. It is against this background of the rise of racism and discrimination that the concept of the defamation of religions must be examined.
12. International ideological polarization is reflected among other things in a hierarchical and political interpretation of human rights and fundamental freedoms, in which connection the Special Rapporteur has noted not only the ideological pre-eminence of freedom of expression at the expense of other fundamental freedoms embodied in the International Covenant on Civil and Political Rights but also ignorance of, or refusal to recognize, restrictions and limitations clearly specified in international instruments. The result of this hierarchization of fundamental rights is to legitimize, in the name of freedom of expression, overt incitement to racial and religious hatred and to promote the rhetorical concept of an inevitable clash of civilizations and religions, setting the West in opposition to other civilizations on the sole issue of the defence of freedom of expression.
13. In this report, the Special Rapporteur stresses that political and ideological polarization on the question of the defamation of religions is artificial. Indeed, analysis of international, regional and national human rights instruments shows that provisions against inducement to national, racial or religious hatred are almost universal. In the view of the Special Rapporteur, shifting the debate away from the sociological concept of the defamation of religions towards the legal concept of incitement to national, racial or religious hatred is not only a way of refocusing on human rights but also a strategy for de-polarizing and de-politicizing the discussion.

## **II. THE FORMS AND MANIFESTATIONS OF RELIGIOUS DISCRIMINATION**

14. The analysis of religious discrimination is inseparable from the ideological context that encourages intolerance, rejection of diversity and discrimination itself, in which political, cultural and intellectual elites play a leading role. Such an ideological climate can ultimately lead to encouragement and justification of physical or intellectual violence. In particular, the justification of discrimination and intolerance tends to encourage the banalization of discrimination and can give rise to other forms of this phenomenon, such as the institutionalization of discriminatory practices or attacks on the followers of a religion or their places of worship and culture and the expression of intolerance and aggression directed at religious symbols.
15. The political and ideological treatment of religion is sometimes institutionalized in the form of written or unwritten rules and behaviour that in practice lead to social discrimination and marginalization and to restrictions on religious freedom. Apart from increasingly openly discriminatory legislation, various practices can compromise the enjoyment of religious freedom, such as restrictions on the building of places of worship or display of religious symbols. Institutionalized discrimination is a major obstacle for religious minorities in various countries; it is reflected in policies such as those making it compulsory for religious communities to register with the authorities through discriminatory procedures, special restrictions on the free distribution of religious texts or bans targeting the practices of minority religions.

16. A third kind of religious discrimination involves physical violence, which tends to take the form of isolated acts of aggression, often committed by individuals or extremist groups. In some cases, however, these individual acts are the reflection of the ideological context, particularly where other forms of discrimination are present, such as institutionalized discriminatory practices. Moreover, physical violence can lead to large-scale religious violence, in the form of massacres and pogroms. The most widespread form of violence is verbal in nature, ranging from individual insults in public places to demonization by the media.

17. These expressions of religious hatred are not mutually exclusive, but are rather the different facets of a wider phenomenon. In most settings where discrimination and religious hatred occur, each aspect of discrimination reinforces all the others, forming a vicious circle of discrimination and violence that, when it attains a certain critical mass, reinforces polarization and antagonisms, lending plausibility to apocalyptic theories of the clash of civilizations and religions.

18. This chapter summarizes the main findings of the Special Rapporteur concerning Islamophobia, anti-Semitism, Christianophobia and other forms of religious discrimination. The Special Rapporteur underlines the need to analyze the context of the increase in all forms of religious discrimination in order to fully understand the emergence of an ideological climate that is conducive to incitement to national, racial or religious hatred and that threaten the enjoyment of all human rights.

#### **A. Islamophobia**

19. In his recent reports on the defamation of religions and on the situation of Arab peoples and Muslims in various parts of the world, the Special Rapporteur has noted that Islamophobia is increasing worldwide, particularly following the events of September 2001. To contribute to a clearer understanding of Islamophobia, the Special Rapporteur has proposed the following definition:

“This term refers to a baseless hostility and fear vis-à-vis Islam, and as a result a fear of and aversion towards all Muslims or the majority of them. It also refers to the practical consequences of this hostility in terms of discrimination, prejudices and unequal treatment of which Muslims (individuals and communities) are victims and their exclusion from major political and social spheres. The term was invented in response to a new reality: the increasing discrimination against Muslims which has manifested itself in recent years.”  
(E/CN.4/2005/18/Add.4, para. 13)

20. Islamophobia is not a new phenomenon, dating as it does from Islam’s earliest contacts with other religions and cultures, in particular the encounter with the Christian world, of which the crusades represent the paroxysm. Its rise in our own time is linked to four major factors: the profound crisis of identity in the Western world consequent upon the development of a non-Western multiculturalism with a strong Muslim component; the movement of political and religious polarization linked to the Israeli-Palestinian conflict; the ideological interpretation of the geostrategic upheavals linked to the petrol crisis; and the emergence of political movements legitimizing the recourse to violence by Islam.

21. The rise of Islamophobia is reflected in the adoption of national policies and laws characterized by the social and political stigmatization of Muslim minorities, religious profiling and security targeting. These policies are legitimized by a conception of identity that excludes Islam, by the electoral success of overtly Islamophobe political platforms, by the rise of ideological secularism among elites suspicious of all forms of religious expression, and by an approach to immigration geared to questions of security and ethnic origin.

22. This is the context for various forms of discrimination and intolerance towards Muslims, including individual acts of physical and verbal violence, recourse to stereotypes and stigmatization, institutionalized discrimination and the appearance of direct or indirect incitement to religious hatred. Freedom of religion is also directly affected. In his previous reports, the Special Rapporteur has noted that “Muslims are finding it increasingly difficult to establish places of worship and observe their religious practices (eating habits, funeral rites). Against this background, political parties with openly anti-Islamic platforms have in a number of countries joined government coalitions and begun to implement their agendas. In other words Islamophobia is in the process of pervading all aspects of social life.”

23. Islamophobia likewise represents a powerful trend in ideological and intellectual terms. It has become the substitute ideology for a number of Cold War theoreticians. Its two main intellectual components are identification of Islam with violence and terrorism, and the inevitability of a conflict of civilizations and religions. The influence of this intellectual basis of Islamophobia, as well as its popular impact, stems from various propagandist strategies. The exploitation of freedom of expression is a particularly effective weapon in justifying and promoting an ideological, selective and hierarchical interpretation of fundamental human rights, ignoring the restrictions and limitations embodied in articles 18, 19 and 20 of the International Covenant on Civil and Political Rights, in particular the crucial restriction of non-incitement to racial and religious hatred. The development and propagation of these notions by the media has the effect of rooting Islamophobia in the collective unconscious. Their exploitation of these concepts as political capital for electoral purposes banalizes Islamophobia. The electoral success of these platforms as effective strategies for combating terrorism and defending national identity and security not only makes Islamophobia common place but also, more seriously, lends it democratic legitimacy, enabling its proponents to put it into practice through participation in government coalitions. The most recent example of this intellectual construction of Islamophobia, typically the product of a Cold War ideologue, is the work by Norman Podhoretz, founder of the highly influential review *Commentary*, entitled *World War IV: The Long Struggle Against Islamofascism* (2007). This work represents a theoretical formulation of Islamophobia, identifying a religion - Islam - with a political ideology of European origin - fascism - thereby lending credibility and substance to Samuel Huntington's thesis of the inevitable clash of civilizations, seen in terms of the opposition between Islam and the West, and anticipating its outcome in the form of World War IV. These two rhetorical concepts - the clash of civilizations and Islamofascism - are gaining intellectual, media and political currency in an increasing number of influential circles.

24. In his previous report on the defamation of religions (A/HRC/6/6), the Special Rapporteur analysed the main forms and manifestations of Islamophobia. He noted in particular the tendency to downplay the Islamophobe character of individual acts of discrimination, such as Muslim

women having their *hijab*, or headscarf, forcibly removed in public places. The Special Rapporteur also drew attention to the increasing number of cases of physical and verbal aggression directed at Muslims. He pointed out that airports remain a focus for individual acts of Islamophobia by passengers and sometimes by crew members, as well as for institutional discrimination on the part of security and immigration officials.

25. The Special Rapporteur also noted with disquiet the collective manifestations of discrimination and intolerance towards Islam, particularly as regards its outward signs. These manifestations are accompanied by an intolerant secularist rhetoric leading to still greater discrimination against Muslims. This powerful trend is particularly marked in relation to the construction of mosques: systematic opposition to the building of mosques and minarets is the most symbolic expression of Islamophobia in terms of the denial of religious freedom in two of its most basic aspects - the visibility of religious practice and the availability of a place of worship. A recent example is the demolition in May 2008 of a mosque in the town of Verona (Italy) following a systematic campaign by a number of leaders of the Northern league, a major political component of the current coalition Government in Italy. The projected referendum on the banning of minarets by a party that is a long-time member of the Government coalition in Switzerland is part of the same current of intolerance and xenophobia. Legal harassment against the construction of mosques or minarets illustrates the crucial nature of this question in the programme of many political parties, particularly those of nationalist and extreme-right persuasion.

26. Throughout his term of office, the Special Rapporteur has emphasized that the place to be accorded to Islam represents a key issue in the construction of the new European identity, as illustrated during the preparation of the draft European Constitution by the proposal - ultimately rejected - that it should include an explicit reference to Europe's Christian roots. A similar line of thought lies behind the arguments of those opposed to Turkey's membership of the European Union, with periodic contributions from certain members of Europe's political and intellectual elites. The Special Rapporteur notes in this connection that the question that is overlooked in the debate on the construction of Europe, largely focused on its political and economic dimensions, is that of the reconstruction of a multicultural identity in the new Europe.

27. The central issues at stake in the manifestations and expressions of Islamophobia are freedom of religious belief and incitement to racial and religious hatred. In its most sophisticated expressions, particularly its ideological justification and theoretical formulation, Islamophobia links these two issues. The challenge to the principle of freedom of religious belief as it relates to Islam, particularly its outward signs and expression, is reflected in a deliberate strategy of incitement to racial and religious hatred. Its legitimization is centred on the "defence" of two particularly sensitive topics - national identity and security. Its rhetorical concepts serve as the basis for intellectual constructions and are exploited in political platforms and nurture media images: suspicion of the believer as backward-looking, irrational and non-modern; association of Islam with violence and terrorism, particularly since 11 September 2001; identification of multiculturalism and immigration as threats to national, ethnic, cultural and religious identity. Its psychological springs are fear, immurement and rejection. The two key issues ultimately at stake here relate to the fundamental freedoms defined and elaborated in the International Covenant on Civil and Political Rights, in particular articles 18, 19 and 20.

28. The ideological context of the rise of religious discrimination and incitement to racial or religious hatred was illustrated once again in March 2008 when the film *Fitna* produced by Geert Wilders, a Dutch parliamentarian and founder of the Freedom Party (Partij voor de Vrijheid - PVV), was broadcast on the Internet. The essentialist association of Islam with violence is the mainspring of the film, which intersperses verses from the Koran with images of terrorist attacks, with the murder of the Dutch producer Theo Van Gogh and with anti-Semitic declarations. When the film was first broadcast, the Special Rapporteur together with the Special Rapporteur on the freedom of religion or belief and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression issued a press release criticizing the fallacious and provocative nature of the film. While recognizing the balanced reaction of the Dutch Government in rejecting the equation of Islam with violence, the Special Rapporteurs had called on national and international human rights mechanisms to initiate a debate on the best way to ensure the complementarity between the right to freedom of expression and non-incitement to racial or religious hatred.

### **B. Anti-Semitism**

29. The Special Rapporteur wishes to restate the essential points made in his previous reports, in particular the resilience of anti-Semitism in its historical heartlands in Europe as well as its development in regions with no corresponding tradition or historical heritage, such as Africa and South America; the profound historical roots of anti-Semitism and its ability to adapt to new social and political contexts; and the need to treat all forms of discrimination on an equal basis.

30. The most recurrent form of modern anti-Semitism involves negation of the Holocaust. The refusal to recognize the historical fact of the Nazi regime's project for a "Final Solution", namely the devising and implementation of the plan for "destruction of the European Jews", highlights two characteristics of anti-Semitism: its deep historical and cultural roots, and the central role of memory in opposing it. The persistence of anti-Semitism in Europe reflects its deep and pervasive roots in cultures, mentalities, representations and psyches. The ritual reference to Judeo-Christian roots masks the historical fact that European identity was to some extent forged on the basis of anti-Semitism. The enlargement of the European Union has reinforced this deep-rooted anti-Semitism with the vitality of the anti-Semitism found in most of the countries of Eastern Europe. The Special Rapporteur wishes here to draw the Council's attention to the disturbing tendency in Europe to conceal this silent and subterranean anti-Semitism, present not only in popular culture but above all in the intellectual and ideological heritage of elites; to relegate it in all events to the ideology of the extreme right; and to overestimate, thereby encouraging a measure of Islamophobia, the existence among immigrant circles of anti-Semitism linked to an ethnic reading of the Israeli-Palestinian conflict. It is indeed among elites that revisionism remains strongly active, in terms of silence over the events of the past as well as the intellectual reinterpretation of history and negation of the Holocaust. It is in this context that the Special Rapporteur has moreover noted a certain exploitation of anti-Semitism in some traditional and religious circles whose opportunistic and much publicized opposition to anti-Semitism masks the persistence of a profound current of anti-Semitism. A recent illustration was provided by an American evangelical pastor who maintained that Hitler had served as the expression of divine will by creating the circumstances for the return of the Jews to Israel.

31. The Special Rapporteur has observed that the systematic equation of anti-Zionism with anti-Semitism has the effect of making it more difficult to combat anti-Semitism. The equation of a political ideology, Zionism, with a form of racism reinforces the essentialist and reductive vision characteristic of a deep current of anti-Semitism denying the political and ideological diversity of the Jewish people and manifesting itself also in relation to Zionism. In its most political form, this identification leads to the characterization as anti-Semitic of any criticism of the State of Israel, in particular the different facets of its occupation of the Palestinian territories as defined by the United Nations. This tendency to construe opposition to a political ideology and the political actions of a State as racism targeted at a whole people is not only a denial of the democratic legitimacy of political criticism but also blurs the analysis and understanding of anti-Semitism, in particular any objective assessment of the anti-Semitism entering into anti-Zionism and criticism of the State of Israel.

32. The slow but pervasive spread of anti-Semitism to parts of the world where it has no historical or cultural tradition is a particularly disturbing manifestation of contemporary anti-Semitism. The globalization of this form of racism is the result of a number of political, cultural and geographical factors. In South America, the growth of anti-Semitism stems from two main causes, the most enduring being the deep historical and cultural tradition of racism, in the sense of racial hierarchization, representing the ideological pillar of the colonial and slave system. This racial ideology, targeting in the first instance the native and black African slave populations, did not spare the figure of the Jew, demonized as part of the cultural and religious heritage of the conquistadors and of the European colonialists. This historical anti-Semitism was given a new lease of life as a result of South America proving the favourite bolt-hole of a large number of Nazi leaders, who brought with them from Hitler's Germany the anti-Semitic ideology at the origin of the Holocaust. This strong racist current was reflected both in ideological influence and in technical support for the acts of mass repression and torture by conservative or fascist political circles engaged in a war against progressive movements, as well as in the development of neo-Nazi groups. In Africa, the emergence - still marginal - of a vein of anti-Semitism is the result of an ethnic interpretation of the Israeli-Palestinian political conflict and the association of the Israeli with the demonized figure of the Jew. This process of identification and stereotyping is also found in Asian countries. The Special Rapporteur stresses that the current worldwide character of anti-Semitism demands a global response. In this connection, he underlines the fundamental importance of examining this phenomenon systematically in the framework of the Durban Agenda review process, with the participation of organizations involved in combating anti-Semitism, particularly at the scheduled regional meetings.

### **C. Christianophobia**

33. Christianophobia, like the other religious phobias, has deep historical and cultural roots reflecting the theological conditions associated with the genesis of the three religions of the Book and the historical circumstances surrounding the construction of their identities. However, its main contemporary political source is the persistent identification of Christianity and the West as a consequence of their close association during the era of European colonization. Three recent phenomena have served to reinforce and legitimize this identification. A decisive turning point was the Islamophobe tone in certain countries of the campaign against terrorism particularly subsequent to the tragic events of 11 September 2001. Christianity adopted the stance of a rational religion opposed to an Islamic faith associated basically with violence and terrorism.

The theory of the clash of civilisations and religions, representing the ideological formulation of this radical difference, developed mainly by cold war theoreticians, postulates the inevitable conflict between the Christian West and the Arab Muslim world. Finally, opposition to the process of social multiculturalization resulting essentially from migratory trends, is reflected in the construction of identities that, among other things, reduce the European identity to Christianity and exclude Islam. Thus the identification of Christianity with the West, one of the sources of Christianophobia, is as much the product of ideologues and even religious figures in the Western Christian world as of religious or political groups hostile to Christianity.

34. The Special Rapporteur has also highlighted the negative role played in the development of Christianophobia by the aggressive proselytism of certain evangelical groups, particularly from North America, which have produced strong reactions of hostility and opposition to Christianity in South America, Africa and Asia. In his previous report on the defamation of religions (A/HRC/6/6), the Special Rapporteur referred to examples in India where the distribution of literature against Hinduism by evangelical groups calling for the destruction of Hindu religious symbols has revived resistance to Christianity going back to the colonial era. This opposition is gradually developing into open and virulent hostility to the mass conversion to Christianity of Untouchables wishing to flee the burdens of age-old discriminatory practices with their roots in Hinduism. In South America, and particularly Brazil, the demonization by certain evangelical groups of Afro-Brazilian religions, such as Candomblé, have produced distrust and hostility towards Christianity in general.

35. In Europe, Christianophobia, like Islamophobia, is linked to a powerful cultural current of dogmatic secularism that nurtures a suspicion of religion justified with reference to the historic conquest of the separation of Church and State. This strong cultural and ideological trend, the radical and influential expression of Nietzsche's proclaimed "death of God", has encouraged the emergence in intellectual and media circles of an anti-religious culture and has favoured a growing intolerance towards any kind of religious practice, expression or symbol. The decline of religious practice and church attendance and the crisis of priestly vocations are illustrations of this phenomenon. This intolerance is even reflected in the denial of the citizen's democratic right to express his or her convictions and spiritual or religious values in pronouncements on political questions or major social issues and crises. Christianophobia is thus at root the expression of an imbalance between the legitimate defence of secularism and respect for freedom of religion.

#### **D. Other forms of religious discrimination**

36. The Special Rapporteur wishes once again, expanding on his previous report on the defamation of religions (A/HRC/6/6), to draw the Council's attention to two important dimensions of religious discrimination and defamation: intra-religious discrimination and defamation, and discrimination and defamation with respect to the spiritual and syncretistic traditions, sects, religious minorities and new religious movements.

37. The intra-religious dimension is one of the most pervasive and historically most violent and tenacious manifestations of religious discrimination and defamation. All the religions and spiritual traditions, in particular the religions of the Book, have experienced theological differences and internal political divisions giving rise to violent conflicts and sustained strategies of reciprocal denigration, demonization and self-justification. Christianity and Islam, from the Inquisition to the fatwa, have been the theatre of conflicts whose violence, scope and persistence

have structured in lasting fashion the identity and culture of many countries. History books, literary works, artistic creations, educational programmes and self-proclaiming scientific research have been the instruments over time of this sustained intra-religious defamation in the collective awareness and popular imagination.

38. The Special Rapporteur also wishes to express his concern at the situation of members of spiritual and syncretistic traditions, sects, religious minorities and new religious movements. These minority groups are often vulnerable to intolerance, discrimination and defamatory statements; and they are frequently subject to various forms of discrimination, notably as a consequence of government policies and national legislation, such as registration procedures, restrictions on places of worship and cultural centres, and various religious profiling operations. Exploitation, legal vacuums and demonization of the notion of sect are pointers not only to the rise of anti-religious ideological intolerance but also of resistance on the part of established religions to the emergence of new spiritual sensibilities and traditions, adding up to a serious erosion of religious freedom.

39. The scope of the issues relating to discrimination, intolerance and defamation among different religions and towards members of spiritual and syncretistic traditions, sects, religious minorities and new religious movements prompts the Special Rapporteur to underline and endorse the importance of a broad understanding of the terms “conviction” and “religion”, as recommended by the Human Rights Committee in its general comment No. 22 (1993).

### **III. THE UNIVERSALITY OF THE STRUGGLE AGAINST DISCRIMINATION**

40. The Special Rapporteur notes that efforts to combat religious discrimination, including incitement to national, racial or religious hatred, should take into account the complex dialectic between, on the one hand, recognition of the theological, cultural, historical and geographical uniqueness of every religion and spiritual tradition and of the forms and manifestations of the discrimination and defamation associated with them and, on the other, the universal nature of the underlying causes of such discrimination and defamation and of efforts to combat them.

41. The struggle against all forms of discrimination poses a fundamental and complex challenge, at once political and ethical. The political challenge addressed to multicultural societies, with their diverse legacies of discrimination and domination, is to devise policies and programmes organized around two principles, namely recognition of and respect for the unique nature of the memory of each group or community, and the construction of a collective or national memory that promotes reciprocal knowledge, interaction, and the sharing of the inner feelings and history of each. It is in the field of religion and beliefs - where feelings and a sense of belonging are most profound - that the challenge is most difficult. Two processes should combine in order to achieve the fundamental and supreme goal of living together in harmony - consisting, on the one hand, of the shared work of memory represented by the writing and teaching of history as a multicultural memory, and, on the other, by the devising of a national system of values perpetually under permanent construction and nurtured by the interactions between the cultural and spiritual values of all the communities, based on respect for the precepts of international law and human rights.

42. The ethical challenge inherent in the tension between the uniqueness of each phobia and the universality of their causes corresponds to the fundamental and difficult choice that the victims must make, whether individuals or groups, between retreat into separate identity or solidarity with all victims. Retreat is the expression of the priority given by the victim of discrimination, including defamation, to the unique character of his or her own experience. It leads not only to a lack of empathy with the sufferings of other communities and respect for their memory, but also to the temptation to create a hierarchy of phobias.

43. The ideologues and theoreticians of the clash of civilizations and religions exploit and derive their legitimacy from the lack of solidarity between the victims of Islamophobia, anti-Semitism, Christianophobia and other forms of defamation of religions and discrimination. This tendency, exploited by political parties, is the main obstacle to the universal and effective struggle against discrimination in general and the defamation of religions in particular. Another approach, more difficult from both the individual and collective standpoint, consists in recognizing the universality of all forms of discrimination, that is to say, transforming the uniqueness of one's experience into solidarity with the cultural, ethnic and religious experience of other communities. This approach is individualistic from an ethical standpoint and collective from a political standpoint. It rests on the following elements: (a) in the legal sphere, equal treatment for all religions; (b) in the political sphere, the achievement of a difficult balance between freedom of expression and freedom of religion; (c) in the cultural sphere, a multicultural approach to education in general and the teaching of history in particular; and (d) in the social sphere, realization of the goal of "living in harmony" in all spheres of multicultural coexistence (housing, urban planning, workplace, etc.).

#### **IV. INCITEMENT TO NATIONAL, RACIAL OR RELIGIOUS HATRED IN INTERNATIONAL, REGIONAL AND NATIONAL HUMAN RIGHTS INSTRUMENTS**

44. In the preceding chapters, the Special Rapporteur has sought to draw the Council's attention to the basic characteristic common to all manifestations of religious defamation and all forms of religious phobia and discrimination, namely incitement to racial and religious hatred. In order to address the question of the defamation of religions from a universal standpoint, it is essential to relate the discussion to international human rights instruments. In particular, the Special Rapporteur notes that provisions relating to incitement to national, racial or religious hatred already form part of the main international instruments to which a large majority of countries are signatory. Linking the political discussion on the treatment of religious discrimination to specific legal provisions will show that combating incitement to hatred is not a North-South ideological question but a reality present in a large majority of national legislations in all regions.

45. With a view to promoting this change of paradigm, translating religious defamation from a sociological notion into a legal human rights concept, namely incitement to racial and religious hatred, the Special Rapporteur will consider the provisions of international, regional and national instruments concerning three fundamental questions, namely freedom of expression, religious freedom and incitement to national, racial or religious hatred.

### A. International instruments

46. The principal human rights instruments contain specific provisions prohibiting incitement to national, racial or religious hatred. Article 7 of the Universal Declaration of Human Rights refers, in more general terms, to incitement to discrimination by affirming that “All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.”

47. The International Covenant on Civil and Political Rights, for its part, deals more specifically with the interdependence of freedom of expression and other fundamental rights. Limitations on the right to freedom of expression are introduced in articles 19 and 20 of the Covenant. Article 19 refers to “special duties and responsibilities” relating to the exercise of freedom of expression, which may be subject to certain restrictions to ensure “respect of the rights or reputations of others” and the “protection of national security or of public order (*ordre public*) or of public health or morals”. However, as formulated by the Covenant, these restrictions are not binding; moreover, to avoid their arbitrary application, the limitations must be “such as are provided by law”.

48. In this connection, the Special Rapporteur also refers to general comment No. 10 of the Human Rights Committee concerning article 19 of the Covenant. In its comment, the Committee expressly underlines that “when a State party imposes certain restrictions on the exercise of freedom of expression, these may not put in jeopardy the right itself. Paragraph 3 lays down conditions and it is only subject to these conditions that restrictions may be imposed: the restrictions must be “provided by law”; they may only be imposed for one of the purposes set out in subparagraphs (a) and (b) of paragraph 3; and they must be justified as being “necessary” for that State party for one of those purposes”. In declaring that restrictions relating to the exercise of freedom of expression may not put in jeopardy the right itself, the Human Rights Committee clarifies the notion of complementarity - and not competition - between the different rights enumerated in the Covenant.

49. The question of incitement to national, racial or religious hatred is addressed more explicitly in article 20 of the Covenant, which contains further limitations to the right to freedom of expression. The Special Rapporteur points out that the limitations prescribed by this article are not optional but binding for all the signatories. According to this article, “Any advocacy of national, racial or religious hatred that constitutes incitement to religious discrimination, hostility or violence shall be prohibited by law.”

50. With regard to the interpretation of article 20 of the Covenant, the Special Rapporteur refers to the joint report submitted with the Special Rapporteur on freedom of religion or belief to the second session of the Human Rights Council (A/HRC/2/3). The report mentions the paucity of jurisprudence on article 20, reiterating that the interpretation of its terms and, in particular, a definition of its threshold of application would be particularly welcome in order to avoid confusion or simplistic conclusions regarding its application. In that regard, the two Rapporteurs encouraged the Human Rights Committee to consider the possibility of adopting complementary standards on the interrelations between freedom of expression, freedom of religion and non-discrimination, in particular by drafting a general comment on article 20.

51. The Special Rapporteur welcomes the response of the Committee, which has indicated that despite the fact that general comments on other provisions of the Covenant are already scheduled the Committee will consider as soon as possible the recommendation of the Special Rapporteurs concerning article 20.

52. In addition to the limitations on the exercise of freedom of expression prescribed in the Covenant, the Special Rapporteur also refers to the International Convention on the Elimination of all Forms of Racial Discrimination. Under the terms of article 4 (a) of the Convention, the States parties: “Shall declare an offence punishable by law all dissemination of ideas based on racial superiority or hatred, incitement to racial discrimination, as well as all acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin, and also the provision of any assistance to racist activities, including the financing thereof.”

53. With regard to the interpretation of article 4 of the Convention, the Special Rapporteur refers to Recommendation XV of the Committee on the Elimination of Racial Prejudice, in which the Committee expresses the opinion that “the prohibition of the dissemination of all ideas based upon racial superiority or hatred is compatible with the right to freedom of opinion and expression. This right is embodied in article 19 of the Universal Declaration of Human Rights and is recalled in article 5 (d) (viii) of the International Convention on the Elimination of All Forms of Racial Discrimination. Its relevance to article 4 is noted in the article itself. The citizen’s exercise of this right carries special duties and responsibilities, specified in article 29, paragraph 2, of the Universal Declaration, among which the obligation not to disseminate racist ideas is of particular importance. The Committee wishes, furthermore, to draw to the attention of States parties to article 20 of the International Covenant on Civil and Political Rights, according to which any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law”.

## **B. Regional instruments**

54. The Special Rapporteur notes that the regional systems for the protection of human rights have also adopted instruments establishing limitations on the exercise of freedom of expression.

55. The European Human Rights Convention, under article 10 on freedom of expression, provides that, since it carries with it duties and responsibilities, the exercise of that freedom “may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others”. However, the European Convention contains no provision equivalent to article 20 of the International Covenant on Civil and Political Rights concerning incitement to national, racial or religious hatred. Moreover, the European Commission against Racism and Intolerance, in its general policy recommendation No. 7 on national legislation to combat racism and racial discrimination, recommends to Member States that the law should penalize public incitement to violence, hatred or discrimination as well as the public expression of an ideology that depreciates or denigrates a grouping of persons on the grounds of their race, religion, national origin, etc.

56. The African Charter on Human and Peoples' Rights contains no direct reference to incitement to national, racial or religious hatred, but declares in article 27 that "The rights and freedoms of each individual shall be exercised with due regard to the rights of others, collective security, morality and common interest." The Declaration of Principles on Freedom of Expression in Africa, adopted by the African Commission on Human and Peoples' Rights, makes no reference to limitations on the exercise of the right to freedom of expression for the protection of the reputation of others.

57. As regards the inter-American human rights protection system, the American Convention on Human Rights recognizes in article 13 limitations relating to respect for the rights or reputations of others. In the same article, it addresses directly the question of inducement to hatred, declaring that: "Any propaganda for war and any advocacy of national, racial, or religious hatred that constitute incitements to lawless violence or to any other similar action against any person or group of persons on any grounds including those of race, colour, religion, language, or national origin shall be considered as offenses punishable by law."

### C. National legislation

58. In addition to the aforementioned international and regional instruments, the Special Rapporteur also notes that most national legislations of countries in all regions contain provisions that protect against incitement to national, racial or religious hatred. A systematic analysis of the national instruments, in particular constitutions and penal codes, cannot be attempted within the scope of this study. However, the Special Rapporteur would note that domestic provisions limiting the exercise of freedom of expression involve various kinds of special restrictions. In the European context for example, the Venice Commission has identified four types of restriction: blasphemy, offending religious feeling or insulting doctrine; obstructing the exercise of worship and/or of religious freedom; disparaging an object of worship; and inducement to discrimination or to religious hatred.<sup>1</sup> Of the 47 European countries considered in this study, 43 have provisions relating to incitement to discrimination or religious hatred. Many countries in other regions of the world also have domestic provisions relating to incitement to national, racial or religious hatred.

59. A more exhaustive analysis of national legislations would show that, contrary to the international polarization concerning the phenomenon of the defamation of religions, there is a broad consensus among Member States in recognizing limitations on freedom of expression so as to prohibit incitement to national, racial or religious hatred. By linking the discussion on the defamation of religions to human rights instruments, in particular the provisions relating to incitement to national, racial or religious hatred, a close correspondence will be found to exist with specific clauses in the domestic legal systems of a number of Member States.

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<sup>1</sup> See the *Recueil des législations nationales d'Europe relatives au blasphème, aux insultes de caractère religieux et à l'incitation à la haine religieuse*, compiled by the European Commission for Democracy through Law (Venice Commission) in 2007.

## V. RECOMMENDATIONS

60. In this chapter, the Special Rapporteur recapitulates for the last time the recommendations made in the previous reports to the Human Rights Council with a view to promoting measures to combat racism, racial discrimination and xenophobia.
61. The Special Rapporteur recommends that the Human Rights Council call upon Governments of Member States to continue to work for implementation of the Durban Declaration and Programme of Action, which should remain the cornerstone of efforts to combat racism, racial discrimination, xenophobia and related intolerance.
62. The Special Rapporteur invites the Human Rights Council to appeal to the Governments of Member States to evince and demonstrate a firm political will and commitment to opposing the rise of racial and religious hatred. In this context, Governments should be particularly vigilant in preventing the political exploitation of discrimination and xenophobia, notably the ideological and electoral insinuation of racist and xenophobic platforms in the programmes of democratic parties, and should strongly reaffirm the principle that respect for human rights, including the eradication of the culture of racism, xenophobia and intolerance, constitutes the main pillar of national security and democracy and should not be placed in the service of ideological or political convenience.
63. The Special Rapporteur invites the Human Rights Council to take greater account than in the past, in combating racism and discrimination, of a twin development: the growing interlinking of the factors of race, ethnicity, culture and religion, which should be deconstructed as a matter of urgency; and the widespread rise of anti-Semitism, Christianophobia, Islamophobia and other forms of religious discrimination.
64. The Special Rapporteur recommends that the Human Rights Council invite Governments, in combating racial and religious hatred, to fully comply with their obligations in relation to freedom of expression and freedom of religion, in keeping with the relevant international instruments and in particular articles 18, 19 and 20 of the International Covenant on Civil and Political Rights, having due regard to their interrelations and complementarity.
65. The Special Rapporteur strongly recommends that the Human Rights Council encourage a shift away from the sociological concept of the defamation of religions towards the legal norm of non-incitement to national, racial or religious hatred, on the basis of the legal provisions laid down in international human rights instruments, in particular articles 18 to 20 of the International Covenant on Civil and Political Rights and article 4 of the International Convention on the Elimination of All Forms of Racial Prejudice.
66. In the light of the divergent and conflicting interpretations of these articles, the Special Rapporteur wishes to recall the recommendation he made to the Human Rights Council in the report submitted jointly with the Special Rapporteur on freedom of religion or belief (A/HRC/2/3), namely to undertake deeper reflection on the interpretation of these

**provisions. In particular, both Special Rapporteurs had encouraged the Human Rights Committee to consider the possibility of adopting complementary standards on the interrelations between freedom of expression, freedom of religion and non-discrimination, in particular in the form of a general comment on article 20.**

**67. The Special Rapporteur recommends that the Human Rights Council invite Member States to promote the dialogue between cultures, civilizations and religions having regard to:**

**(a) The need to accord equal treatment to combating defamation of religions in all its forms so as to avoid establishing any hierarchy in the different manifestations of discrimination, even if they may vary in nature and degree depending on historical, geographical and cultural context;**

**(b) The deep historical and cultural roots of all forms of defamation of religions and the corresponding need to combine legal measures with an intellectual, cultural and ethical approach that takes account of the processes, mechanisms and representations at the origin of these manifestations of discrimination over time;**

**(c) The essential link between the different spiritual, historical and cultural forms of religious discrimination and the universal nature of their underlying causes;**

**(d) The need to create conditions conducive to encounter, dialogue and interaction in order to further social harmony, peace, respect for human rights and development and to combat all forms of racism, xenophobia and discrimination as they relate to all religions and spiritual traditions;**

**(e) The need to be vigilant in maintaining a balance between the defence of secularism and respect for religious freedom. Governments should pay particular attention to safeguarding and protecting the places of worship and culture of all religions and to furthering the free expression of their religious and spiritual beliefs.**

**68. The Special Rapporteur strongly recommends that the practice of intercultural and interreligious dialogue should begin at the national level through the promotion of mutual knowledge and joint action on the major social challenges and the furtherance and observance of human rights. Efforts to promote cultural and religious pluralism within each country are a necessary and meaningful first step towards promoting the dialogue among cultures and religions at the international level.**

**69. The Special Rapporteur recommends that the Human Rights Council invite Member States to promote critical introspection of an historical and theological nature in order to recognize and discover solutions to the intra-religious conflicts that fuel the reciprocal defamation of religions.**

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