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**Statement of
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Special Rapporteur on freedom of religion or belief**

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Honourable Chair,

Excellencies,

Distinguished Ladies and Gentlemen,

Two years ago, in my first report to this Council, I argued that the global pushback on human rights, generally, has deepened the worldwide crisis with respect to the right to freedom of religion or belief. Such an assertion is predicated on the view that freedom of religion or belief is both foundational to and dependent on the wider human rights framework for its full enjoyment. Since then, my reports to the General Assembly and this body have documented various challenges presented to freedom of religion or belief by violations of myriad rights. This includes the right to equality, non-discrimination and privacy, among others. Consequently, my reports these last two years have highlighted that freedom of religion or belief exists in a legal continuum with a range of other rights. And they stress that it is vitally important to conceptualize the relationship between these rights as being mutually reinforcing, rather than one of tension or hierarchy. My current report, which examines the impact that excessive restrictions on freedom of expression have had on freedom of religion or belief, persists in promoting this observation in addition to detailing the activities that I have undertaken this past year.

In this regard, I would like to thank all Governments that have replied to my letters and appeals for their cooperation and reiterate my appeal to all States for their timely and substantive responses to the communications transmitted by this mandate. I would also like to thank the government of Tunisia for their facilitation of my visit to the country last April. I had the opportunity to observe, during that visit, the progress made along with the challenges to further consolidating democracy that lie ahead, which I will speak to later in this presentation. I am also grateful to all those civil society actors who have engaged with the mandate.

Honourable Chair,

The current report speaks to growing concern about the implications for freedom of religion or belief of State responses to expression involving religion or belief that may be deemed offensive to some, or that incites discrimination, hostility and violence.

In it, I conclude that freedom of expression is evidently indispensable to the enjoyment of all other rights, including for the meaningful enjoyment of freedom of thought, conscience, religion or belief. The exercise of a core aspect of freedom of religion or belief, namely the peaceful manifestation of religion or belief, relies on the degree of protections afforded to freedom of expression, among other rights. Accordingly, where there is no respect for the freedom of expression, the freedom of religion or belief is likely to face similar challenges. Of course, this is not a novel view. The interrelatedness of the two rights has been widely recognized, including by Human Rights Council resolution 16/18, the Rabat Plan of Action, and in the work of the Human Rights Committee and previous mandate holders.

For many, deeming an affront to religious sensibilities to be a criminal offense stands in stark contrast to the view that freedom of expression is so fundamental, it can only be limited in exceptional circumstances, regardless of its potential to ‘offend, shock or disturb’. For others, some expression can be so egregiously offensive or hateful, that it falls outside the scope of protection.

Consequently, this debate has provoked a range of States to resort to laws which increasingly seek to protect the “feelings” of individuals, or which attempt to legislate civility. In some cases, we are observing a revival of anti-blasphemy, anti-apostasy, anti-conversion laws. In other instances, we are witnessing a proliferation of, and increasing reliance on, public order laws to limit expression deemed to be offensive to religious or belief communities. At the same time, some States have taken steps to eliminate some restrictions on expression involving religion or belief, especially anti-blasphemy laws. Others have been inclined to enact laws that protect religious sensibilities or criminalize ‘hate speech’. The impact that such steps have had on freedom of religion or belief is manifold, and indeed affects the enjoyment of a whole range of human rights.

My present report argues that whether they seek to uphold public order, foster interreligious harmony or combat incitement, laws which punish or prevent criticism of religion or belief per se, or that censor expression which may offend the sensibilities of adherents to a particular belief, effectively undermine the enjoyment of the right to freedom of religion or belief and exceed the limitations regime under international law.

The catalogue of cases highlighted in my current report, while far from exhaustive in unpacking the scope of the problem, are emblematic of the human cost that the use of excessive restrictions on expression involving religion or belief, well intended as some might be, can have on the enjoyment of the right by individual persons and communities, including by legitimizing vigilante attacks.

These cases also demonstrate the extent to which States misconstrue Article 20 of the ICCPR in its application; often, in these cases, failing to distinguish between expression which can provoke violent reactions against the speaker (which would ultimately amount to a “heckler’s veto”), and that which intentionally incites an audience to commit hostile or violent acts against a third party (thus engaging State duties under Article 20). Restrictions on freedom of expression which fail to meet the limitation regime prescribed in Article 19, constitute one of the most serious and frequent obstacles to compliance with the 1981 UN Declaration on the Elimination of all forms of Intolerance and of Discrimination Based on Religion or Belief. Therefore, my report reiterates that on the one hand, all restrictions on expression related to religion or belief must fully comply with the tests of legality, legitimacy, necessity, proportionality and non-discrimination. On the other hand, the report also stresses that, rather than taking an all or nothing approach to extreme speech, governments need to employ a layered approach with a mix of policy interventions and criminal sanctions grounded on evidence-based contextual assessments that satisfies the provisions of Article 19.

To this end, my report also surveys the many tools which recognize the interrelatedness of freedom of religion or belief and freedom of expression and offer guidance for creating favorable conditions for everyone to be able to equally enjoy these rights. These include measures to eliminate all forms of intolerance, stigmatization and negative stereotyping of persons based on their religion or belief, as well as adopting effective policies to prevent acts of violence or incitement to violence.

The Beirut Declaration and its 18 commitments emanating from the OHCHR’s “Faith for Rights” initiative, for example, echoes the Rabat Plan of Action in calling on States that still have anti-blasphemy or anti-apostasy laws to repeal them. I welcome that some countries have recently abolished their former anti-blasphemy laws. The Declaration stresses that such laws

have a stifling impact on the enjoyment of freedom of religion or belief as well as on healthy dialogue and debate about religious issues. In this regard, my report notes the urgent need to improve protections for freedom of religion while respecting the myriad freedoms on which the right depends and offers a number of recommendations which promote consensus approaches proposed by the aforementioned tools. These recommendations seek to offer immediate and practical steps to expedite progress towards eliminating restrictions on expression that violates international human rights law. Finally I wish to stress that positive speech is a healing tool of reconciliation and peacebuilding in the hearts and minds.

Excellencies, Ladies and Gentlemen,

I also have the honour to present a report following a visit to Tunisia from 9 to 19 April 2018, along with the Tunisian Government's comments, which are published in a separate addendum to my main report. During the visit, I noted various indicators of the government's efforts to implement its international and national commitments to human rights. This includes the adoption of laws and policies which effectuate constitutional guarantees of human rights. The adoption of these measures constitutes positive initial steps in the protracted process for consolidating democracy, and will require further, timely action if the norms and standards demanded by the Tunisian people and which form the country's international obligations are to be established and sustained in the country. I am committed to continuing this dialogue with the Government and the country's rich community of civil society actors with the aim of further strengthening the protection of the right to freedom of religion or belief in Tunisia.

Ladies and Gentlemen,

Identifying acts that are incompatible with the provisions detailed by the 1981 Declaration and which constitute obstacles to the enjoyment of the right to freedom of religion or belief has been my focus since being appointed to this mandate. My planned activities for the coming year will continue to further this aim. In this regard, research and advocacy activities will report on the issue of antisemitism, and will explore the challenges to the promotion of freedom of religion or belief in the context of non-discrimination and equality, in a variety of national and cultural contexts. I look forward to engaging with governments and civil society actors

who focus on these matters and trust we will all continue our dialogue and cooperation in this field to find lasting solutions to better protecting this important right.

I thank you for your time and attention.
