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**Intervention at the OSCE Human Dimension Implementation Meeting:
Freedom of Expression and “Defamation of Religions” – Session 12**
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This morning we will all take the floor, read a statement, pretend like we are listening to each other, nod a few times, and fly home at the end of the week pleased with ourselves for either criticizing another country or fending off such criticism. But in order for the freedom of expression to work, we must be willing to listen as well as express. Additionally, we must be willing to say what we really think, what we really believe. And sometimes, that is not going to be wrapped with a bow or necessarily be what we want to hear. Expressing truth claims often does hurt feelings and offend. But I hope that in this room today it is the truth that we want to aspire to.

However, that presents a serious contradiction with a concept that is quite literally clamping down on your and my ability to express truth claims – it is known as the “defamation of religions” concept – which says that states ought to be legally protecting religions and ideas rather than the individuals who hold those religious beliefs or ideas...which might I add is a complete inversion of the human rights mechanism. I will make available on the system a law review article just recently published on this topic and entitled “Defamation of Religions: The End of Pluralism?” While this idea of an international anti-blaspemy law has gained flight at the UN, it is also a serious threat to the OSCE, where not only do 10 of 56 OSCE countries vote in favor of this resolution, but it also now threatens to enter force as international law under the semantics of “incitement to hostility.”¹

But what is incitement to hostility? No one really knows. It is certainly not a legal concept. On the other hand it is extremely clear what incitement to violence is. That is when party A encourages Party B to commit a crime against party C. It is also clear that incitement is not provocation, whereby provocative speech has sometimes inspired physical violence by listeners who are offended by the speech and wish to retaliate against the speaker.

Despite the polemics of modern politics and public discourse at times, serious caution ought to be given to lowering the threshold of what incitement really is. A revision of Article 20 of the ICCPR or of Article 4

¹ A conference in Senegal in March of 2008, held under the auspices of the Organisation of the Islamic Conference, “emphasized the need to develop legally-binding international instrument to prevent intolerance, discrimination, prejudice, and hatred on the grounds of ... defamation of religions; and, in this regard, encouraged the OIC [mechanisms] ... to pave the way for developing such an instrument.” See Final Communique of Islamic Summit Conference at <http://www.oic-oci.org/is11/english/FC-11-%20SUMMIT-en.pdf>.

of the ICERD could be catastrophic for the fundamental freedom of expression. And it should concern us all.²

And we should all be concerned because it matters. It matters that we can gather in this room and bicker back and forth in a peaceful manner. It matters that we can engage in debate and dialogue with one another. It matters that we can debate fundamental truths about the way the world works. Because when this right to freedom of expression begins to wither, democracy disappears, the media is handcuffed, civil society evaporates, the public square empties, the reformers are silenced, the dissidents are driven underground where radicalization is more likely, religious debates are forbidden, and our individual consciences are subjected to the will of the state.

And so I ask this esteemed body to take a strong stand for the freedom of conscience and thought and religion while also protecting the right to express those thoughts, ideas, and beliefs without the threat of laws that will empower the state to dictate our consciences. The OSCE member-states should take a strong stand against the concept of international anti-blasphemy laws and other related efforts.

Thank you, Mr. Moderator.

² Article 20 of the International Covenant on Civil and Political Rights reads:

1. Any propaganda for war shall be prohibited by law.
2. Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.

Article 4 of the International Convention for the Elimination of all forms of Racial Discrimination reads:

States Parties condemn all propaganda and all organizations which are based on ideas or theories of superiority of one race or group of persons of one colour or ethnic origin, or which attempt to justify or promote racial hatred and discrimination in any form, and undertake to adopt immediate and positive measures designed to eradicate all incitement to, or acts of, such discrimination and, to this end, with due regard to the principles embodied in the Universal Declaration of Human Rights and the rights expressly set forth in article 5 of this Convention, inter alia:

- (a) 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;
- (b) Shall declare illegal and prohibit organizations, and also organized and all other propaganda activities, which promote and incite racial discrimination, and shall recognize participation in such organizations or activities as an offence punishable by law;
- (c) Shall not permit public authorities or public institutions, national or local, to promote or incite racial discrimination.