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**Statement by Mr. Ahmed Shaheed  
SPECIAL RAPPORTEUR ON THE  
FREEDOM OF RELIGION OR BELIEF**

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Geneva

**Mr President, Excellences, Distinguished Delegates, Ladies and Gentlemen:**

I have great honour in presenting my thematic report on relationships between State and religion and their impact on the role of State as impartial guarantor of freedom of religion or belief for all; and reports on country visits undertaken to Albania in May and to Uzbekistan in October last year.

**Mr President,**

The ever-evolving nature of the relationships States have with religion or belief is of significance to those seeking to promote human rights protection, because the degree to which States are entangled with various religions or beliefs has far-reaching implications for their disposition and ability to guarantee human rights, especially those rights exercised by persons belonging to religious or belief minorities.

The report that I present today employs easily discernible patterns amid the range of relationships States have with religion(s) or belief(s) in order to identify the most salient differences among them, along with the ramifications that such entanglements pose for State's disposition to respect and protect freedom of thought, conscience, religion or belief.

I believe this exercise to be timely given the pressing need to effectively respond to the growing challenges posed by struggles between secular and religious actors over the 'public space' and the 'public agenda', the increasingly complex dynamics this competition generates for harmonizing freedom of religion or belief with other fundamental human rights, and the disturbing trends in government restrictions and social hostilities involving religion or belief globally.

**Mr President,**

Studies conclude that all States support, regulate or limit religion and belief to some extent. Some governments declare official religions; other governments give preferential treatment to one or more religions; governments also control or restrict

religious organizations and practices within their domain; and some governments single out the manifestation of certain religions or beliefs for restrictions that are not placed on all adherents within their territory.

Classifying States according to the relationships they have with religion(s) or belief(s) is highly challenging. Such relationships are diverse; often reflecting a mix of history, culture and tradition, and they are constantly evolving; undergoing a range of minor or dramatic adjustments, typically in response to social or political pressures.

Given such complexities, there is no consensus as to either how the relationships between state and religion should be classified, or on the terminology for labelling the nature of these relationships. For the purposes of these discussions, the present report uses three general categories to characterize these relationships. They include: (a) States that have adopted an official religion or confer favour onto one or more religions, (b) States that do not identify with any religion or belief and (c) those that hold a negative view of both religion and a range of civil and political rights.

However, regardless of the type of relationship between State and religion, many States adopt policies and engage in practices which result in a range of impediments and/or violations of freedom of religion or belief and/or interrelated rights. States that impose official religions on their populations and those that seek to restrict all forms of religion appear most prone to violating the right to freedom of religion or belief, but no governance model for the relationships between State and religion is, of itself, truly immune from unlawfully restricting or unduly interfering with manifestations of religion or belief, either directly or indirectly.

However, based on the communications sent by the mandate to different UN Member States, the analysis shows that some types of entanglement between State and religion are more frequently implicated in violations than others. Of the 660 communications transmitted by the mandate from 2004 to 2017; about 86 per cent (569 communications) were sent to the 81 States with official or favoured religion(s), and to 10 States that maintain a negative posture towards religion. By comparison, 14 per cent (91 communications) were sent to the 102 States that do not identify with any particular religion. Other studies examined for the present report illustrate a strong

correlation between the degree to which a government is entangled with religion and its propensity for protecting or violating freedom of religion or belief and/or for fostering or combatting religious intolerance.<sup>1</sup>

Two particular types of relationships States have with religion appear highly incompatible with the range of States' obligations to uphold freedom of religion or belief. These include those that impose religion or belief in the public and private spheres, and those who take a negative view towards religion. Both models also impose severe restrictions on civil liberties.

States that enforce an official religion tend to exercise very high levels of restrictions on freedom of religion or belief and often discriminate against persons belonging to religious minorities, women, lesbian, gay, bisexual, transgender and intersex persons, as well as converts or apostates and non-believers. While States with a negative view of religion may reject policies for accommodation which may, in some cases, run afoul of their duty to respect the right to manifest one's religion or belief, attempt to "sanitize" the public sphere from any religion or belief, and/or have high levels of restrictions on freedom of religion or belief for any individual manifesting another belief contrary to a restrictive understanding of secularism. In both cases, the State embodies a sacredness where no other religion or belief should rival the State ideology.

Although those States that do not identify with religions(s) or belief(s) appear best positioned to protect religion and the state from each other, and to recognise the universality of freedom of conscience, some of them struggle with upholding this pledge where there is disregard for the rule of the law, and where politicisation and rising xenophobia challenge the neutral or secular foundations of the state. Therefore, like all other models of state-religion relations, the extent to which national religion laws satisfy international standards, the degree of respect for the rule of law, and the level of tolerance and respect for diversity in law and practice are requisite

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<sup>1</sup> Pew Research Center, "Global Restrictions on Religion Rise Modestly in 2015, Reversing Downward Trend," (Washington, DC, April 2017).

determinates for being able to realize the goal to be an impartial and trustworthy guarantor of freedom of religion or belief for everyone.

**Mr President,**

Although international law does not prescribe a particular type of relationship between State and religion, it does impose a duty on States to be impartial guarantors of the right to exercise and the enjoyment of freedom of religion or belief of all individuals and groups within their territory and those subject to their jurisdiction. The differences among States' capacity to generate an environment respectful of this and other interrelated rights invariably lie in the extent to which States are entangled with the institutions of their preferred religion or belief, the manner and degree to which they support, restrict, regulate and limit religion in the public or private spheres, and the extent to which State actions result in protecting or in undermining the equal enjoyment of other underlying human rights by all.

Amid rising diversity, it appears axiomatic that the role of the State as an impartial guarantor of the rights of all is most likely to be fulfilled when the State adopts a posture of cooperation and accommodation without identification. Indeed, it is difficult to conceive of an application of the concept of State Religion that in practice does not have discriminatory effects on the variety of "others" that are so created.

However, when offering a privileged legal status for certain religious or belief groups, such a specific status should be accorded in strict conformity with the principle of non-discrimination and should fully respect the right to freedom of religion or belief of all persons. Privileged positions accorded to religious or belief groups should never be politicized for purposes of identity politics, as this may have detrimental effects on the situation of individuals from minority or even majority communities.

Moreover, there is no hierarchy of human rights and where freedom of religion or belief clashes with the right to non-discrimination and equality, or laws of general effect, the focus should be on ensuring that all human rights are protected, including through the principles of balance of interests and reasonable accommodation. What

increasing diversity of religion or belief calls for is not a retreat from pluralism, but a robust commitment to pluralism.

**Mr President,**

A number of studies show that the protection of the right to freedom of religion or belief contributes directly to the promotion of peaceful, prosperous and inclusive societies. By contrast, without adequate institutions and policies to manage diversity and reconcile the right to freedom of religion or belief with other human rights, whole communities can feel marginalized and oppressed — creating conditions for conflict and violence.

States must, therefore, continue to explore, share and adopt best practices to undertake the progressively complex task of striking this delicate balance between freedom of religion or belief and other human rights amid the indomitable pressures wrought by our increasingly interconnected, mobile and evolving world.

**Mr President,**

I would like to express my appreciation to the governments of Albania and Uzbekistan for the full cooperation they extended to me during my country missions to their respective countries.

Allow me to first highlight some of the key findings from my report on my country mission to Albania.

Freedom of religion or belief is a practical reality in Albania. I was pleased to witness what seemed to be a general consensus among many Albanians, that the Government generally respects the right to freedom of religion or belief and that no serious and systemic shortcomings exist in this area. I noticed that there was a very low number of reported cases of discrimination based on religion or belief in the country, which to a certain extent confirmed what I had been told by many interlocutors, that living together in mutual respect and harmony is a deeply-held value for many Albanians.

I found that there are many examples of government policies and practices promoting communal engagement that are good examples and can be instructive sources of inspiration for other countries. These examples include: (a) the neutral position of the State towards the religious or belief communities in the country; (b) the positive, respectful and inclusive engagement of religious communities with the State; (c) a robust legal framework that guarantees the right to freedom of religion or belief for all persons, in all its dimensions; (d) the promotion of societal attitudes of mutual respect across different religious and belief communities; and (e) a genuine societal commitment to interfaith solidarity and cooperation.

The report also points out certain challenges that the country is facing in ensuring that the right to freedom of religion or belief is fully realized and sustainable. Despite the country's religious neutrality, the State has recognized and entered into agreements with five religious communities in Albania; the Roman Catholic, the Autocephalous Orthodox Church of Albania, the Muslim Community of Albania, the World Bektashi Main Community and the Evangelical Brotherhood of Albania.

Although my assessment did not suggest that the religious minorities are subjected to discrimination on account of their actual or perceived religious identity by the State, the Government of Albania must nonetheless ensure the equal enjoyment of the right to freedom of religion or belief by all individuals, including those religions or beliefs that do not enjoy recognized status.

One of the most difficult challenges facing the Albanian Government relates to the restitution of property seized from Albanians, including religious communities, during the Communist era. I understood that there was frustration in several religious communities over what they perceived to be inordinate delays regarding full or satisfactory restitution or compensation for their communities' lost property. As emphasised in my report, I would like to reiterate the importance of expediting the restitution of properties and the legalization of houses of worship, and to make sure that they are carried out in a fair and transparent manner.

Mr President,

In Uzbekistan, over 136 ethnic communities with different faiths, consisting of at least 16 officially recognised religious confessions are living together peacefully. The Constitution upholds secularism and pledges to guarantee freedom of religion or belief to all. However, in practice, the right is subject to excessive regulation by the State, often in the name of maintaining societal harmony and stability. Laws criminalize unregistered religious activity, control the production and distribution of religious materials and prohibit proselytism and other missionary activities.

The limitations imposed by these laws pit security against freedom. The approach taken by the Government tends to promote “toleration” instead of the positive right to enjoyment of one’s freedom. A model of toleration might appear to maintain interreligious harmony, but it certainly fails to guarantee everyone’s freedom of religion or belief. This poses a fundamental challenge for freedom of religion or belief in Uzbekistan, especially when other fundamental rights to freedom of expression and freedom of peaceful assembly and association are also undermined.

(Religious) extremism or radicalization was seen by many interlocutors as the main challenge for the country, but the concept of extremism is vaguely defined. Undue State control of the manifestation of religion or belief, State-imposed “preventive measures” are often justified by the authorities as necessary to combat “extremism” and protect public security. This has resulted in excessive surveillance of religious activities or practices. These measures come with a high human rights cost. Several thousands of people have been imprisoned for up to 20 years on vague charges of “terrorism”, “religious extremism”, “anti-constitutional” activity or membership in an “illegal religious group” — longer than the maximum prison term for intentional killing.

I would like to stress that the right to freedom of religion or belief is a human right inherent to every human being, and should be recognized in law and in practice. It includes the freedom of conscience and the right to change one’s religion or belief; and the right to manifest one’s faith or belief in worship, observance, practice and teaching, in public or in private, alone or in a group. The starting point of that right is with the individual’s self-identification with religion or belief, and is not contingent

upon recognition by the State or administrative registration. The right to manifest one's religion includes carrying out actions to persuade others non-coercively about one's religion.

Overall, I am encouraged to see the Government implementing a vigorous reform programme that could potentially address some of the challenges identified above. Transitioning from a suppression model to a tolerance one was not easy; moving now from tolerance to a universal human rights model will be challenging. Thus, it is important to ensure that the reform process is participatory, transparent, accountable and sustained with a holistic approach to human rights. What is required is not just the adoption of new laws, but institutional reform backed by a strong political will and a shift in attitude led and encouraged by the Government. It will also require the support of the international community to both the Government and civil society to sustain the momentum. I would like to urge the President to promote the literacies on religions and on freedom of religion or belief through the newly established Al-Bukhari International Research Centre and the Centre of Islamic Civilization. The State should also move beyond the confines of traditional religious or ethnic communities and promote cross-boundary dialogue.

Your Excellencies,

Before I conclude, I would like to thank you all for the cooperation that you have extended to the work of my mandate. I will be conducting a country visit to Tunisia from 9 -19 April this year. Furthermore, the Netherlands has agreed to my country visit request this year as well.

Thank you!