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U.N. condemns religious intolerance, drops 'defamation'

Louis Charbonneau

Reuters India (19.12.11) / HRWF (19.01.12) - For the first time in more than a decade, the U.N. General Assembly on Monday condemned religious intolerance without urging states to outlaw "defamation of religions," an appeal critics said opened the door to abusive "blasphemy" laws.

The call on countries to prohibit "defamation" had been included in a non-binding resolution on combating religious intolerance passed annually by the 193-nation assembly.

The resolution approved on Monday declares that "discrimination on the grounds of religion or belief constitutes a violation of human rights." It also expressed concern about the incitement to religious hatred and the failure of some states "to combat this burgeoning trend."

The General Assembly adopted the resolution by consensus without a vote. The versions passed in previous years had enjoyed increasingly less support in assembly votes due to Western and Latin American opposition to the "defamation" idea. The resolution barely received a majority of yes votes in 2010.

The New York-based rights group Human Rights First welcomed the resolution prior to its adoption, describing the new version as "a decisive break from the polarizing focus in the past on defamation of religions."

"Governments should now focus on concrete measures to fight religiously motivated violence, discrimination and other forms of intolerance, while recognizing the importance of freedom of expression," Human Rights First's Tad Stahnke said.

Earlier this year Western countries and their Latin American allies joined Muslim and African states in backing a new approach that switched the focus from protecting beliefs to protecting believers. That new approach led to Monday's resolution.

Since 1998, the 57-nation Organization of the Islamic Conference OIC.L had won majority approval in U.N. rights bodies in Geneva and at the U.N. General Assembly for annual resolutions on "combating defamation of religions."

Critics said the concept ran against international law and free speech and left the way open for tough "blasphemy" laws like those in Pakistan that have been invoked this year by the killers of two moderate politicians there.

They argued that it also allowed states where one religion predominates to keep religious minorities under tight control or even leave them open to forced conversion or oppression.

United Nations affirms the human right to blaspheme

By Austin Dacey*

Religion Dispatches (11.08.2011) / HRWF (16.08.2011) - <http://www.hrwf.net> - Having followed the debates on religion and freedom of expression at the United Nations over the last several years, I have become accustomed to passing on bad news, such as a decade of resolutions by the Human Rights Council and the General Assembly "combating the defamation of religions." Now that there is some good news, almost no one has noticed.

Late last month, the UN issued a new statement on the extent of freedom of speech under international law. It says that laws restricting blasphemy as such are incompatible with universal human rights standards.

The statement came from the Human Rights Committee, the body of eighteen "independent experts" mandated to monitor compliance with the International Covenant on Civil and Political Rights, or ICCPR, the 1966 human rights treaty that provides for freedom of opinion and expression and other fundamental rights. The Committee's general comments represent authoritative interpretations of the provisions of the ICCPR. Unlike the highly-publicized resolutions produced by the Human Rights Council and the General Assembly, the provisions of the ICCPR are legally binding to its more than 165 parties.

The detailed 52-paragraph statement, General Comment No. 34, is the outcome of two years of intense debate among representatives of governments and civil society organizations. The Committee's previous comment on freedom of opinion and expression, in 1983, was only four paragraphs long. In addition to taking up such matters as treason, defamation of heads of state, "memory laws" enforcing an official version of history, and the rights of bloggers, Comment 34 comes down strongly against religious limitations on speech. It does so not only by asserting that the right to free speech is foundational to a free and democratic society as well as to the protection and promotion of other rights. It also appeals explicitly to the values of freedom of conscience and equality before the law.

According to paragraph 48, "Prohibitions of displays of lack of respect for a religion or other belief system, including blasphemy laws, are incompatible with the Covenant, except in the specific circumstances envisaged in article 20, paragraph 2, of the Covenant." Article 20, paragraph 2 calls on states to prohibit "advocacy of national, racial, or religious hatred that constitutes incitement to discrimination, hostility, or violence." The Comment is careful to require that any restrictions must not violate the Conventions' guarantees of equality before the law (Article 26) and freedom of thought, conscience, and religion (Article 18).

Thus, for instance, it would be impermissible for any such laws to discriminate in favor of or against one or certain religions or belief systems, or their adherents over another, or religious believers over non-believers. Nor would it be permissible for such prohibitions to be used to prevent or punish criticism of religious leaders or commentary on religious doctrine and tenets of faith.

Laws against blasphemy or "religious insult" (found throughout the world, including half of all Council of Europe member states) are inherently discriminatory against secularists and religious dissenters. They are discriminatory in that secularists have no legal

recourse—nor should they—when the words of believers offend their moral sensibilities, nor can gays take the publishers of Leviticus to court for the spiritual affront to them that it surely is. Skeptics and heterodox believers, on the other hand, do have an Article 18 right to live and speak according to their conscience even when it offends the orthodox.

Paragraph 32 of the new comment also cautions states against employing a narrow notion of so-called public morals to restrict speech, effectively ruling out laws that defer to a particular faith tradition: “the concept of morals derives from many social, philosophical and religious traditions; consequently, limitations... for the purpose of protecting morals must be based on principles not deriving exclusively from a single tradition.”

The implication of these recommendations is that controversies over blasphemy are not just conflicts between “free speech” and faith, but clashes between competing claims of conscience. This stance is defended by the International Humanist and Ethical Union and elaborated in my forthcoming book, *The Future of Blasphemy: Speaking of the Sacred in an Age of Human Rights*.

The message of General Comment No. 34 is not only a clear condemnation of the blasphemy laws of countries such as Pakistan, which despite having ratified the ICCPR in 2008, continues to impose the death sentence for blasphemy and “defiling” the name of Prophet Muhammad. The Comment equally repudiates the decisions of the European Court of Human Rights in Strasbourg, which has upheld Austrian, British, and Turkish laws against blasphemy and religious insult by invoking a sui generis right to “respect for the religious feelings of believers.”

The major disappointment in the comment, in my view, is its failure to address hate speech laws, which in many countries function as de facto restrictions on blasphemy and sacrilege. Theoretically, we can distinguish between bashing a belief and bashing its adherents. Yet, absent some precise international norm, “advocacy of religious hatred” could mean anything from provoking imminent violence against individuals (criminalized even under the First Amendment) to the effectively unverifiable standard of being motivated by religious hostility, as under the UK’s Crime and Disorder Act of 1998. Convictions against writer and activists such as Paul Giniewski in France, Lars Hedegaard in Denmark, and Elisabeth Sabaditsch-Wolff in Austria demonstrate that hate speech laws are ripe for abuse even in liberal democracies.

Civil society activists now have the final legal authority of the United Nations on their side as they press governments to come into compliance with their treaty obligations and bring an end to the criminalization of blasphemy.

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UN High Commissioner for human rights condemns religious attacks around the world

OHCHR (07.01.2011) / HRWF (08.01.2011) - <http://www.hrwf.net> - The UN High Commissioner for Human Rights Navi Pillay on Friday condemned recent attacks targeting religious groups in various countries across the world, and urged States to show determination in combating such violence and in rooting out discriminatory laws and practices affecting religious minorities.

"Recent deadly attacks on religious groups in various countries have been carried out by extremist groups," Pillay said, "and it is clear that this rise in fanaticism poses particular difficulties for States. I believe that there are a number of important actions they can take that would help promote religious tolerance, and reduce the number of such attacks in the long term."

Pillay praised the widespread condemnation by many Egyptian religious, political and civic leaders, as well as media commentators, of the bomb attack on a Coptic church in Alexandria in the early hours of New Year's Day that killed at least 21 people and injured dozens of others. She said she was particularly heartened by the strong reaction of many ordinary Egyptian Muslims, who rallied to the support of Christian congregations as they prepared to celebrate Coptic Christmas amid fears of further attacks.

"Attacks on churches, mosques, synagogues, temples and other religious sites around the world, as well as targeted attacks against individuals, should act as a wake-up call to all of us," the High Commissioner said.

In Nigeria, repeated sectarian attacks on both Christian and Muslim communities, resulted in hundreds of deaths during 2010, including those of around 40 people on Christmas Eve in the cities of Jos and Maiduguri, despite a concerted effort by religious leaders of both groups to reduce inter-communal tensions after earlier killings.

Religious minorities in Pakistan have been subjected to an increasing number of attacks in recent years, with Shi'a, Christian and Ahmadi minorities targeted by deadly bomb attacks on the same day in early September, resulting in a total of more than 40 deaths.

Over the past year, there have also been attacks on members of religious groups in a number of other countries around the world. These have included: attacks, mostly involving arson, on 11 churches, a convent school, a Sikh temple, a mosque and several Muslim prayer rooms in Malaysia in January 2010; a bomb attack on a mosque in Iran on 15 December; a continuation of murderous attacks against Shi'a Muslims as well as Christians and other religious groups in Iraq; and continued attacks on Christians and Ahmadis in Indonesia.

"This is not a challenge limited to one region or religion," Pillay said. "All countries have religious minorities, and many of their members face discrimination to a greater or lesser degree. All States have not only a moral, but also a legal, obligation to ensure they are protected. The recent attacks are a tragic reminder that protection of minority rights is not only a human rights imperative but also a key element in preventing conflict, before it gets out of hand."

"States can and should resist the calls by members of one religion to uphold discriminatory measures against those who belong to different persuasions," the High Commissioner said. "States everywhere can and should ensure that their educational approach, legal systems and political policies promote tolerance of different beliefs. They must also ensure that incitement to religious hatred is punishable by law."

"Freedom of religion should be protected for all. I am concerned that divisive or weak state laws and policies in many countries foster the religious discrimination that feeds extremism," Pillay added. "It is also vital that authorities discourage the exploitation of religions for political agendas."

The High Commissioner said states should encourage conditions for the expression and promotion of the identity of minorities and remove obstacles to the establishment of such conditions in line with the UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities and other key international standards.

“The findings of UN human rights mechanisms – including the Universal Periodic Review, treaty bodies and special procedures – show that such obstacles are still common,” she said. “I urge all States to redouble their efforts to remove them, thereby giving their populations a clear indication of the paramount importance of providing protection to religious minorities.”
