

General Assembly 3 – Social, Humanitarian and Cultural

The Question Of Religious Freedom and Freedom of Speech



Forum:	General Assembly 3 – Social, Humanitarian, and Cultural
Issue:	The question of religious freedom and freedom of speech
Student Officer:	Philine Everts
Position:	Deputy Chair

Introduction

The human rights of freedom of speech and freedom of religion are fundamentally at a conflict. The issue of blasphemy and the defamation of religion has been repeatedly addressed by the UN since 1999 until 2011. Articles 18 and 19 of the ICCPR, International Covenant on Civil and Political Rights, and the UDHR, United Declaration of Human Rights, all outline the innate human right of freedom of speech and/or expression and freedom of belief and/or religion. However, the question lies in that these two articles can either be seen as contradictory or rather complementary. The right to manifest one's opinions may be able to coincide or can be enhanced with the right to express one's love for god or their respective religion, articulating one's right to freedom of expression. However, others believe that the right to freedom of expression opens the floodgates for blasphemy. As stated by UN Special Rapporteur on freedom of religion or belief Heiner Bielefeldt "There is widespread perception that the rights to freedom of religion or belief and to freedom of opinion and expression are in opposition to each other." Meaning that different parties involved can ill informed about the implications and intentions of the rights.

These two complementary or contradictory ideas have come head to head in recent news. For example, the *Charlie Hebdo* attacks in Paris on January 7th 2015. These attacks were prompted by the political and religious caricature of Muslim countries. The split in beliefs on whether freedom of speech or freedom of religion is more important showed the controversy that was sparked. The UN and other international bodies aim to distill the tensions and come to a peaceful agreement and mutual understanding.



Definition of Key Terms

Freedom of Speech

Article 19 of the UDHR states that “everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.”

Freedom of Religion

Article 18 of the UDHR states that “everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.”

Blasphemy

Blasphemy is the action or offense of speaking sacrilegiously about God or sacred things. Furthermore, Blasphemy law is a law limiting the freedom of speech and expression relating to blasphemy, or irreverence toward holy personages, religious artifacts, customs, or beliefs. Blasphemy laws are sometimes used to protect the religious beliefs of a majority, while in other cases, they serve to offer protection of the religious beliefs of minorities.

Hate Speech

This is defined as speech expressing hatred or intolerance of other social groups, especially on the basis of race or sexuality; hostile verbal abuse (though the term is sometimes understood to encompass written and non-verbal forms of expression). Furthermore, anti-hate speech laws are laws with the intent of banning the use of hate-speech.

Stigmatization

Stigmatization is defined as to set some mark of disgrace upon. This can be applied to individuals as well as it can towards groups of people such as races or religions.

Defamation

This is the action of damaging the good reputation of someone. Another synonym of this can be libel or slander, which in many Western countries is illegal.

Sharia law

Sharia law is the body of Islamic law. The term means "way" or "path"; it is the legal framework within which the public and some private aspects of life are regulated for those living in a legal system based on Islam. Saudi Arabia, Yemen, Brunei, Qatar, United Arab



Emirates, Iraq, Iran, Pakistan, Afghanistan, Sudan and Mauritania apply the code predominantly or entirely.

General Overview

In this section, the report will enlighten the reader of the history and context of the issue in order to display the complexity of the issue.

Contradiction within religion

The issues regarding the implementation of free speech arise due to the contradiction that many religious states see with the right to freedom of expression as it may in turn “offend God.” The human right of freedom of speech states that one is allowed to express one’s ideas, whether it be written, spoken, or in artistic form without fear of what anyone else thinks, believes or feels towards those ideas. However, Islamic and other religious groups believe that there is no right to “offend God”. If this were true, there would be no right to free speech for all citizens. Therefore blasphemy laws among Sharia law have been in place in order for acts of speaking against God to be punishable.

This clear contradiction has been the route cause of the issue. Many religious groups and/or countries do not believe that there can ever be entire freedom of speech do to the clear conflict and inconsistency with their faith.

Blasphemy law

As defined above, blasphemy law is limiting the freedom of expression with regards to blasphemy, or offensively speaking about God. Blasphemy laws are used in one of two ways, either to protect the religious views of the majority or to protect the religious views of the minority of a country or state. Blasphemy in Islam relates to the offensive action of utterance concerning Muhammad, God, or anything considered sacred in Islam. These scared things could be holy personages, beliefs and customs, and artifacts. The punishments for different instances vary from each state however may be very austere. In some cases, the person may be subject to the death penalty.

In many Western democracies, there are no laws against blasphemy, or the laws are no longer enforced. Some countries have abolished blasphemy laws such as France, Sweden, The Netherlands, and Iceland. They have done so to allow their country more freedom of the press and freedom of expression.

However, blasphemy law contradicts the right to freedom of expression as it limits the ability of one expressing their true opinions. International standards require the repeal of blasphemy laws. Furthermore, some Western States believe that other countries use



blasphemy laws not to protect their citizens' right to freedom of religion but rather for social control and to discriminate against social minorities and those they deem incorrect and heretic.

Disagreement of Western and Muslim-majority countries

There has been a large amount of distrust between the Western democracies and the Muslim states and in this the controversy lies. As stated previously, Western democracies at times believe that the blasphemy laws are deceitful. On the other hand, some Muslim majority countries, in particular, believe that Western countries do not take the insults to their citizens' and other citizens' beliefs seriously. These beliefs are held closely to them and attacks on these, many see as attacks on their personal identity.

Each side accuses the other of hypocrisy and focusing on what they want to see rather than the objective truth. This only fuels the existing distrust and disagreement. The distrust further feeds off and into more international controversies over what the human rights are and should be, and the ability and power of the individual citizen as compared to the power of the state.

Violence

These tensions have led to extremist religious followers turning violent after being offended by someone exercising their freedom of speech/expression. Famously, the Charlie Hebdo magazine headquarters, in France, was attacked on January 7th, 2015 killing the editor and four other cartoonists. Charlie Hebdo gained attention from many as it mocked and made jokes about Islamic leaders as well as Muhammad. The editors had been receiving death threats and were placed on Al-Qaeda's so-called "hit list" among with others whom they believed had insulted Islam.

Another example of an incident occurred in May of 2015 in Garland, Texas, near Dallas, Texas in the United States. Two gunmen, identified as Elton Simpson and Nadir Soofi, attacked the Muhammad Art Exhibit and Cartoon Contest. The offensive cartoons and depictions of Muhammad prompted the shooters. The event was organized by the American Freedom Defense Initiative, an organization known for its anti-Muslim, pro-Israel American, Islamophobic advertising campaigns. One police officer was injured during the shooting and both gunmen were killed. The men were not officially affiliated with Al-Qaeda but had been radicalized by online chat rooms.

Lastly, Israeli officials have also attacked Palestinian journalists in the ongoing war. According to the PEC, the Press Emblem Campaign, a Geneva-based independent non-governmental organization aimed "at strengthening the legal protection and safety of



journalists in zones of conflict and civil unrest or in dangerous missions” Palestinian journalists are deliberately attacked by the Israeli forces. Many of their houses are targeted and destroyed and others are shot by Israeli drones on the street, such as a Palestinian photojournalist who was taking pictures in the Al-Jineene neighborhood in Rafah.

Controversy and Trust

The UN has had difficulty in establishing a proper framework for countries to prohibit and criminalize speech. The controversy lies in four main areas: The criminalization and prohibition of offensive speech, the cross-border dimension to offensive speech, specific instances of intolerance, and the nature of the response. The first demonstrates that there is continuous debate on the legal prohibition of the limitation of freedom of expression. The second regards how the international legal framework still allows individual states to determine their own boundaries of what is legal and what is not. The presence of the Internet makes this difficult, as one state cannot determine what is legal in another or where it originates when placed on the Internet. The specific instances have proven that it is easier to unite in condemnation of some religious intolerance in the abstract rather than in some specific cases (i.e. Danish cartoons). Lastly, the nature of the response refers to how a country responds to an act of intolerance. This refers to measures that have been objected by Western countries that are taken in Muslim-majority countries such as boycotting goods produced by the country in which the intolerance originated, issuing death threats, and actual violence. These reactions have hence made it difficult for politicians to condemn the original intolerance as with Charlie Hebdo attacks.

Major Parties Involved and Their Views

The Organization of Islamic Cooperation (OIC)

The OIC is an international cooperation founded in 1969 consisting of 57 member states. The organization is the “collective voice of the Muslim world” and works to protect the interests and opinions of the Muslim world in the “spirit of promoting international peace and harmony.” The organization seeks to prohibit the defamation of religion. Therefore prohibiting the expression that could fuel discrimination or stigmatization. The OIC hopes to avoid misperceptions that could lead to polarization and fragmentation with unforeseen consequences. In the past, the OIC has suggested and drafted language to extend the human rights treaty, however, these suggests have been rejected by many Western member states.



Parliamentary Assembly of the Council of Europe (PACE)

The Parliamentary Assembly of the Council of Europe is one of the two statutory organs of the Council of Europe, an international organization dedicated to upholding human rights and democracy. It also oversees the European Court of Human Rights. It has recommended that countries enact laws to ensure the freedom of speech. However, PACE has also stated that it is vital that people strive to find a fair balance between the possibly conflicting interests resulting from exercising freedom of thought, conscience and religion, and other human rights and freedoms such as the right to freedom of expression and the prohibition of discrimination.

Western world and East Asian developed democracies

The United States, the European Union member states, and others cannot agree with the OIC. They believe that the OIC is merely aiming to implement international blasphemy laws that limit the freedom of expression. Similarly in East Asian democracies such as Hong Kong, Japan and Taiwan, blasphemy laws are no longer enacted and are largely a dead letter or defunct in practice. As stated by Eileen Donahoe, the US ambassador at the UN states, "We cannot agree that prohibiting speech is the way to promote tolerance, because we continue to see the 'defamation of religions' concept used to justify censorship, criminalization, and in some cases violent assaults and deaths of political, racial, and religious minorities around the world."

Timeline of Events

Date	Description of event
------	----------------------

- April 1999 Pakistan brought forward a resolution entitled “Defamation of Islam” before the United Nations Commission on Human Rights. Some members of the Commission proposed that the resolution be changed to embrace all religions. The Commission accepted the proposal and changed the title to “Defamation of Religions”. The resolution urged “all States, within their national legal framework, in conformity with international human rights instruments to take all appropriate measures to combat hatred, discrimination, intolerance and acts of violence, intimidation and coercion motivated by religious intolerance, including attacks on religious places, and to encourage understanding, tolerance and respect in matters relating to freedom of religion or belief”. The Commission adopted the resolution without a vote.
- 2000 The CHR adopted another resolution with a similar precedence without a vote.
- 2001 Another resolution entitled “Combating defamation of religions as a means to promote human rights, social harmony and religious and cultural diversity” received 28 votes in favor, 15 against, and 9 abstentions.
- 2002 A resolution with the title “Combating defamation of religion” received 30 votes in favor, 15 against, and 8 abstentions
- 2005 Yemen introduced a resolution entitled "Combating Defamation of Religions" in the General Assembly. 101 states voted in favor of the resolution, 53 voted against, and 20 abstained.
- 2006 The UNHRC approved a resolution entitled "Combating Defamation of Religions", and submitted it to the General Assembly. In the General Assembly, 111 member states voted in favor, 54 voted against, and 18 abstained.



- March 30, 2007 On 30 March 2007, the UNHRC adopted a resolution entitled "Combating Defamation of Religions" and adopted another resolution entitled "Elimination of all forms of intolerance and of discrimination based on religion or belief". The first resolution called upon the High Commissioner for Human Rights to report on the activities of her office with regard to combating defamation of religions while the second resolution called upon the Special Rapporteur on freedom of religion or belief to report on this issue for the Human Rights Council at its sixth session.
- March 2010 Pakistan again displayed a resolution entitled "Combating defamation of religions" on behalf of the OIC. The resolution was heavily criticized as in the eyes of others it was infringing of the right to freedom of expression. The UNHCR passed the resolution narrowly with 20 votes in favor and 17 against with 8 abstaining.
- March 24, 2011 On March 24, 2011, the UN Human Rights Council in a very significant move shifted from protecting beliefs to the protection of believers with the unanimous adoption without a vote of Resolution 16/18 introduced by Pakistan. Resolution 66/167 repeats the language of 16/18 with longer preamble statements.
- January 7, 2015 The Charlie Hebdo attack occurred in Paris, France. The motive behind the shooting is the depictions of Muslim leaders that the cartoons featured.

UN Involvement, Relevant Resolutions, Treaties and Events

As seen in the timeline above, the UN has been involved in this issue since it has been urged by the OIC in 1999. The UN is seen as the only international body, which can influence countries to reject the defamation of religion. Since 1999, the UN has passed numerous non-binding resolutions condemning the defamation of any religions.

The most relevant and recent resolution that has been adopted is the 16/18 resolution entitled "Combating intolerance, negative stereotyping and stigmatization of, and discrimination, incitement to violence and violence against, persons based on religion or



belief". This resolution was again suggested by OIC in 2011 however this time received unanimous votes and was adopted.

The UN has strived to implement this resolution, forming what is referred to as the Istanbul Process. This is a series of inter-governmental meetings initiated to promote and guide the implementation of this resolution. It has the potential of being a forum for exchanging the best practices in handling intolerance on the basis of religion, faith, and belief.

In addition to adopting the non-binding resolution, the UN Human Rights Committee adopted General Comment 34 on the International Covenant on Civil and Political Rights (ICCPR) 1976 that binds signatory countries. This means that countries that have signed must obey to these declarations. Concerning freedoms of opinion and expression, General Comment 34 made it clear that "Prohibitions of displays of lack of respect for a religion or other belief system, including blasphemy laws, are incompatible with the Covenant". This ensured that countries would begin to implement relevant clauses.

Treaties and Resolutions:

- Combating intolerance, negative stereotyping and stigmatization of, and discrimination, incitement to violence and violence against, persons based on religion or belief (A/RES/66/167)
- Universal Declaration of Human Rights
- International Covenant on Civil and Political Rights

Evaluation of Previous Attempts to Solve the Issue

The previous resolutions passed, even those that have been adopted unanimously, have never been met without any controversy. As stated earlier in the report, many different countries have misconceptions over topic as a whole. Furthermore, the international resolutions are non-binding and a country cannot be forced to obey with the non-binding adopted resolution.

The situation is clearly a sensitive one however it must be understood that these rights are not absolute. What many do not understand is that the UDHR does not state that Article 18 or Article 19, the rights to freedom of expression and freedom of speech, are absolute human rights and these rights are and must be "carried with duties and responsibilities". What the UN is aiming to do is give certain parameters in which that responsibility is addressed. In the past, the resolutions, especially those proposed by the



OIC, have been too narrow and focused mainly on Islam and the defamation of this precise religion. The now adopted 66/167 resolution (based largely on the 16/18 resolution) entitled “combating intolerance, negative stereotyping, stigmatization, discrimination, incitement to violence and violence against persons, based on religion or belief” takes the focus away from the controversial subject of blasphemy and defamation and narrows towards violence. The relation to violence is important as many countries deem this as punishable and immoral rather than blasphemy. The relation to stereotyping, stigmatization, and discrimination further allows the resolution to be addressed to multiple and all religions rather than one. This resolution does well in aiming to establish an international framework without the idea of infringing on one’s right to freedom of expression. Rather than relating the resolution directly to the defamation of religion or blasphemy, the newer resolution allows us to think more broadly and relate it to hate speech to communities rather than to hate speech towards a God.

Due to the controversy, the resolutions have had trouble defining their parameters in practice as every situation can be seen as different from the next. It is also difficult to remain impartial and objective in these situations as each culture values their religion differently from the next. Therefore, the UN must be the secular and impartial body that enforces these suggestions or comments on binding treaties such as the ICCPR.

Possible Solutions

As with what the recent resolutions have aimed to do, the focus should be on connecting a mutual understanding between all parties involved. As seen with the previous attempts, the most controversial resolutions have had issues in passing due to the misconception of the value in the rights to freedom of expression and the freedom of religion. Resolution 16/18 and resolution 66/167 are good starting points in resolving this complex issue. These resolutions draw the attention away from the constructs that cannot be easily defined such as what is offensive and what is not, but rather towards the language, which can be defined as stereotyping, discriminatory, and can incite violence.

Furthermore, there have been issues in the implementation of the resolutions and further elaborating on these existing resolutions could resolve this. Secondly, adding these clauses to more binding treaties and documents may help resolve the issue of no implementation. As they have previously done, a comment, comment 34, has been added to the binding treaty of the ICCPR. This means that every signatory state must abide by these declarations. Actions such as these ensure, or set an incentive for, that countries abide by the rules set in place for them.



Raising awareness for these misconceptions will further distill the violence and discrimination that occurs daily. Possibly through NGOs such as IFEX and IFLA, which are international NGOs that are advocating for the freedom of expression and the freedom of religion, populations will be more informed about the real issue at hand and the consequences that may occur, such as more attacks. Allowing people to understand the true meaning of these human rights and how they can complement each other rather than contradict each other can aid in the implementation of these resolutions.

Bibliography

Biddle, Craig. 2016. "Religion Vs. Free Speech - The Objective Standard". The Objective Standard. <https://www.theobjectivestandard.com/issues/2006-summer/religion-vs-free-speech/>

"Charlie Hebdo Attack | World News | The Guardian". 2016. The Guardian. <https://www.theguardian.com/world/charlie-hebdo-attack>

"Hate Speech - Definition Of Hate Speech In English From The Oxford Dictionary". 2016. Oxforddictionaries.Com. <http://www.oxforddictionaries.com/definition/english/hate-speech?q=hate+speech>

"No". 2016. Assembly.Coe.Int. <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=22199&lang=en>

O'Casey, Elizabeth. 2016. "IHEU | "Tense Times": Freedom Of Expression And Religion Or Belief At The UN". Iheu.Org. <http://iheu.org/tense-times-freedom-of-expression-and-religion-or-belief-at-the-un/>

"UN HRC Resolution 16-18: Consolidating Consensus Through Implementation · Article 19". 2016. Article19.Org. <https://www.article19.org/resources.php/resource/38262/en/un-hrc-resolution-16-18:-consolidating-consensus-through-implementation>

"UN News - Freedoms Of Religion And Expression 'Twin Rights' In Fighting Intolerance – UN Report". 2016. UN News Service Section. <http://www.un.org/apps/news/story.asp?NewsID=53403#.V2naDOZ96SN>

Appendices

Appendix I

Useful links:



<https://www.article19.org/resources.php/resource/38262/en/un-hrc-resolution-16-18:-consolidating-consensus-through-implementation>

http://www.ilga-europe.org/sites/default/files/Attachments/the_right_to_freedom_of_religion_or_belief_and_its_intersection_with_other_rights_0.pdf

<http://www.ohchr.org/EN/Issues/FreedomReligion/Pages/FreedomReligionIndex.aspx>

<https://www.indexonensorship.org/2013/03/free-expression-and-religion-overview/>

Appendix II

Useful treaties and resolutions:

http://www2.ohchr.org/english/bodies/hrcouncil/docs/16session/A.HRC.RES.16.18_en.pdf

