



This report has been prepared at the request the Office of the High Commissioner for Human Rights,
Civil Society Section, by,

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In preparation for

***Secretary General's Report to the General Assembly on Resolution
65/224***

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The European Centre for Law and Justice has prepared this report at the request of the Office of the High Commissioner of Human Rights (OHCHR), and provides input on General Assembly Resolution 65/224, the resolution on “Combating Defamation of Religions.”

General Assembly Resolution 65/224, “Combating Defamation of Religions,” violates Articles 18 and 19 of the International Covenant on Civil and Political Rights (ICCPR), which protects freedom of religion and freedom of expression. Using veiled language, Resolution 65/224 effectively provides international support for domestic blasphemy laws in Islamic countries.

First, Resolution 65/224 is concerned with protecting religious doctrine from “defamation,” rather than protecting the safety and equality of the people who practice those religions.¹ As a result, Resolution 65/224 is primarily intended to suppress critical debate about religions, which is essential to a free and tolerant society. Second, many exhortations in Resolution 64/224 attempt to pressure media around the world to curtail reporting on violence under the veil of tolerance.² Therefore, the ECLJ strongly urges the OHCHR and the UN to reject resolution 65/224 and to uphold the freedoms protected by the ICCPR.

I. Concerning the Implementation of the Resolution Generally

Article 18 of the ICCPR declares:

Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice, and teaching.³

The chief purpose of Article 18 of the ICCPR is to ensure that individuals are free to practice their religions and belief, and to protect individuals from being subjected to hatred or violence on the basis of their beliefs. Resolution 65/224, however, condemns governments that “condone[]” (tolerate) organisations that “creat[e] and perpetuat[e] stereotypes about certain religions.”⁴ It concerns itself with the “vilification of religions” in general⁵—an evil that, however reprehensible, can take the form of free expression and teaching. And perhaps most concerning, it condemns “the use of . . . media, including the Internet, and any other means to incite acts of violence, xenophobia or related intolerance and discrimination against any religion, as well as the targeting and desecration of holy books, holy sites, places of worship and religious symbols of all religions.”⁶ The resolution rightly condemns speech that incites violence or the destruction of religious property. But hidden within this language is a mandate for suppressing virtually any form of speech about religion that could be considered controversial. Rather than protecting

¹ See, e.g., G.A. Res. 65/244, ¶¶ 2, 3, U.N. Doc. A/RES/65/224 (11 Apr. 2011).

² See, e.g., *id.* ¶ 9.

³ International Covenant on Civil and Political Rights art. 18, 19 Dec. 1966, 999 U.N.T.S. 171 [hereinafter ICCPR].

⁴ G.A. Res. 65/244, ¶ 4.

⁵ *Id.* ¶¶ 5, 6.

⁶ *Id.* ¶ 9.

objective individual rights, it protects religious doctrine, symbols, and books from subjectively offensive criticism. This resolution will be especially dangerous in a world where many religions make an exclusive claim to absolute truth. Adherents to these religions will be especially vulnerable to the risk of sounding “intolerant” to other religions, especially if those adherents belong to a religious minority. Far from protecting religion, Resolution 65/224 will provide a mandate for laws that could endanger sincere believers who engage in legitimate, critical dialogue.

Additionally, the free exchange of ideas through media is also fundamentally protected in Article 19 of the ICCPR; yet Resolution 65/224 discourages the media from reporting on acts of Islamist terrorism in several subtle and overt statements. Resolution 65/224 notes with “deep concern” instances of intolerance, “in addition to the negative projection of certain religions in the media and the introduction and enforcement of laws . . . that specifically discriminate against and target persons . . . particularly Muslim minorities.”⁷ The resolution addresses the “vilification of religions, and incitement to religious hatred,” and asserts that “the media [has] an important role to play in promoting tolerance and respect for freedom of religion and belief.”⁸ The exhortations constitute an attempt to pressure the media around the world to curtail their reporting of extreme Islamist violence under the veil of tolerance. The media has a responsibility to report on the violence taking place around the world, but this resolution could be used as tool to stifle the free exchange of information and ideas to promote or cover up the dangers in certain ideologies. Journalists could be prosecuted, as some already have been,⁹ for reporting on true events, under the guise of “intolerance” and “vilification.”

The ICCPR obligates governments to protect the individual right to engage in public dialogue about religion, even when the exercise of this freedom is controversial, offensive, or insulting. In contrast to Resolution 65/224, which condemns governments for merely condoning certain religious expression, the ICCPR lays out the following international standard for freedom of expression in Article 19: “Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.”¹⁰

To preserve the right to freedom of expression under Article 19 of the ICCPR, all individuals and groups (including those holding sincere religious beliefs) must tolerate critical public statements and debate about their activities, teachings, and beliefs. Everyone has a right to express his views on the tenets and application of a faith with which she holds a sincere disagreement. These public expressions of faith or religious morality should not be liable to prosecution simply because the tenets of the faith oppose certain ideas or practices. Such expressions are fundamentally protected by Article 19. Society should encourage constructive debate, because it is through open discussion that misunderstandings about various cultures and religions are countered and respect for diversity is able to flourish.

⁷ G.A. Res. 65/244, pmb1.

⁸ *Id.*

⁹ Human Rights and Labor, Bureau of Democracy, U.S. Dep’t of State, *Int’l Religious Freedom Report 2008 Afghanistan*, available at <http://www.state.gov/g/drl/rls/irf/2008/108497.htm>.

¹⁰ ICCPR, G.A. Res. 2200 (XXI) A, U.N. Doc. A/RES/2200(XXI), at pmb1. (23 Mar. 1976).

II. Concerning the Correlation Between Defamation of Religions and the Intersection of Religion and Race

International law is concerned with the rights of individuals to practice their religions. But Resolution 65/224 is concerned with the protection of ideas and religions generally. These two ideas may sound similar, but while the former allows for a diversity of perspectives, the latter requires the suppression of dissent. The Portuguese spokesman for the European Union expressed in 2007 that people of specific religious groups should not be “viewed as parts of homogenous entities.”¹¹ The spokesman also asserted that “international human rights law protects primarily individuals in the exercise of their freedom of religion or belief, rather than the religions as such.”¹²

General Assembly Resolution 65/224 expresses in paragraph 11 that “the prohibition of the dissemination of all ideas based upon racial superiority or hatred is compatible with freedom of opinion and expression, [and] is equally applicable to the question of incitement to religious hatred.” This assertion is unrealistic considering the very premise on which many religions are based—the belief in an absolute truth. All human beings, regardless of race, are equal; this is an objective truth. Subjectively, however, members of the various major faith groups believe in different religions that teach various versions of absolute truth. This subjectivity naturally leads to genuine disagreement about what constitutes absolute religious truth. Therefore, the resolution makes the correlation between defamation of religions and the intersection of religion and race into an extraordinarily problem. The absolute truth of one faith most certainly defames another faith that does not adhere to the same truth.

III. Concerning the Trend in Incitement, Intolerance and Hatred in Many Parts of the World

Resolution 65/224 expresses “deep concern” about the “serious instances of intolerance, discrimination and acts of violence based on religion or belief, intimidation and coercion motivated by extremism.” Specifically, the resolution expresses that Muslim minorities in particular suffer discriminating laws that threaten to “impede their full enjoyment of human rights and fundamental freedoms.” In reality, similar domestic defamation of religion laws (or simply blasphemy laws) are frequently used to stifle dissent, to harass non-Muslim minorities, and to legitimize violence against non-Muslims in Islamic countries. Minority Muslims in Islamic states, like the Ahmadiyah, also fall prey to the same stifling law against blasphemy.

The Organization for Islamic Conference (OIC) introduced the resolution for Combating Defamation of Religions, and Pakistan has been a key player in its promotion. However, events in Pakistan depict precisely why an international law curtailing the freedom of expression and shielding particular religions from criticism is dangerous. Indeed, numerous examples throughout the world prove that the “deep concern” about the intolerance against Muslim

¹¹ Statement by Portugal on behalf of the European Union to the 18 Dec. 2007 session of the GA, as quoted in a 24 Feb. 2008 statement by the International Humanist and Ethical Union to the Human Rights Council, *available at* <http://www.iheu.org/node/2949>.

¹² *Id.*

minorities expressed in Resolution 65/224 is a misrepresentation; the persecutors are pretending to be victims. This reversal of roles is intended to mislead the international human rights forums, such as the United Nations, to validate discriminatory laws.

On 2 March 2011, Islamic extremists shot and killed Shahbaz Bhatti, the only high-ranking Christian government official in Pakistan, in Islamabad. Mr. Bhatti was murdered due to his outspoken stance against Pakistan's anti-blasphemy laws, which make insulting Islam and its prophet a capital offense. Fliers were left at the scene of Mr. Bhatti's murder that referred to his support of a Christian woman who was sentenced to death for blasphemy. The fliers referred to a Bhatti committee as being formed "in support of blasphemers" and led by a "Christian infidel, a cursed one, Shahbaz Bhatti."¹³

A Muslim extremist assassinated Salman Taseer, the Governor of the Punjab Province in Pakistan on 4 January 2011. A member of Taseer's security force killed him because Taseer supported the repeal of Pakistan's anti-blasphemy laws. Taseer was shot 26 times.¹⁴

Likewise, in Indonesia, on 6 February 2011, Muslim hardliners armed with machetes brutally murdered three members of a "blasphemous" Muslim sect and severely injured five other members in the village of Cikeusik, West Java, Indonesia. The violence was "sparked by a June 2008 Joint Ministerial Decree banning public worship for the Ahmadiyah, whose members believe that their founder, Mirza Ghulam Ahmad, was the last prophet of Islam, rather than Muhammad."¹⁵ The Indonesia police were present but did not intervene.¹⁶

The same threats and violence have taken place in the media as well. In April 2010, the broadcast network Comedy Central was forced to censor an episode of the controversial cartoon South Park, which made references to the Islamic prophet, Mohammed, after an Islamic group criticized and predicted the violent deaths of South Park's producers.¹⁷ The Pakistani government later imposed a ban on the social networking site Facebook, because of a page created by a user in support of South Park's cartoon of Mohammed.¹⁸

On 22 March 2010, in Egypt, Ashraf Thabet, a Christian convert was accused of defaming Islam in violation of Article 98(f) after he expressed his newfound ideas (Christianity) to others. He was assaulted by Egypt's State Security Intelligence service (SSI) in front of his family and jailed for 132 days but never brought to court. The presumption is that an apostate is

¹³ Karin Brulliard & Shaiq Hussain, *Shahbaz Bhatti, Pakistan's Sole Christian Minister, is Assassinated in Islamabad*, WASHINGTON POST, 2 Mar. 2011, <http://www.washingtonpost.com/wp-dyn/content/article/2011/03/01/AR2011030101394.html>.

¹⁴ *Governor of Pakistan's Punjab Province Assassinated*, CNN, 5 Jan. 2011, <http://www.cnn.com/2011/WORLD/asiapcf/01/04/pakistan.governor.killed/?hpt=T2>.

¹⁵ *Indonesian 'Blasphemy' Law a Weapon for Radical Islam*, COMPASS DIRECT NEWS, 12 May 2011, http://www.compassdirect.org/english/country/indonesia/article_112397.html.

¹⁶ *Id.*

¹⁷ *Comedy Central Censors South Park Mohammed Episode*, TELEGRAPH, 22 Apr. 2010, <http://www.telegraph.co.uk/culture/tvandradio/7620854/Comedy-Central-censors-South-Park-Mohammed-episode.html>.

¹⁸ Matthew Shaer, *On Facebook, a Fight Over 'Everybody Draw Mohammad Day' Rages*, CHRISTIAN SCIENCE MONITOR, 19 May 2010, <http://www.csmonitor.com/Innovation/Horizons/2010/0519/On-Facebook-a-fight-over-Everybody-Draw-Mohammad-Day-rages>.

likely to defame Islam on grounds that he or she has abandoned the Islamic faith. There is an unequal enforcement, however, because no convert from Christianity to Islam has ever been charged with Article 98(f) for defiling Christianity.¹⁹

In 2008, Dutch filmmaker Geert Wilders released *Fitna*, a slideshow with images of Islamist violence, displayed alongside quotes from the Quran that he believed urged Muslims to commit violence.²⁰ LiveLeak.com, which hosted the film, was forced to remove the film in response to violent threats. In Pakistan, the government blocked access to YouTube to prevent its citizens from being able to see the trailer to the film.²¹ The Iranian head of the Majlis National Security and Foreign Policy Commission threatened “a wave of popular hate,” predicting further that Iran would reconsider its relationship with the Netherlands if the government did not ban the movie.²² Wilders, who has received a flood of death threats since the creation of the movie,²³ said, “imagine if I would have said last year that I wanted to burn the Bible, that I want to make a movie to show the fascist character of Christianity. Would there be extra meetings of the government? Would there be evacuation plans of our embassies in Rome, Berlin and Brussels? . . . The answer of course is ‘no’.”²⁴

Resolution 65/224 suggests that Islam and Muslims are the victims of violence and discrimination. In reality, examples prove just the opposite. All of this traces back to a fundamental misunderstanding of religious freedom: the belief that religious freedom is designed to insulate ideologies from criticism and not merely to protect individuals in their practice of religion. This flawed reinterpretation of religious freedom is being advanced by Resolution 65/224.

IV. Conclusion

The OHCHR has a special duty to enforce the provisions of the international human rights covenants and to point out actions or resolutions by the Human Rights Council or other bodies that conflict with these provisions. Resolution 65/224 expresses “deep concern” that Muslim minorities, in particular, face threats to their fundamental freedoms. The facts in Pakistan and around the world demonstrate, however, that religious minorities who live under and disagree with Islamic anti-blasphemy laws face a much more dire threat to their fundamental freedoms. Therefore, the OHCHR and the UN must not allow the resolution “Combating Defamation of Religions” to become the international standard. The ECLJ calls upon the OHCHR and the UN to reject resolution 65/224 and to uphold the rights of freedom of religion, freedom of expression, and the free exchange of ideas through the media found in Articles 18 and 19 of the ICCPR.

¹⁹ ‘*Blasphemy*’ Laws in Egypt, Sudan Threaten Converts, COMPASS DIRECT NEWS, 11 May 2011, http://www.compassdirect.org/english/country/egypt/article_112328.html.

²⁰ *Film critical of Islam dropped from Web site*, CNN, 28 Mar. 2008, <http://edition.cnn.com/2008/WORLD/europe/03/28/fitna.reaction/#cnnSTCText>.

²¹ *Id.*

²² *Iran Warns Netherlands Not to Air Controversial ‘Anti-Muslim’ Film*, FOX NEWS, 21 Jan. 2008, <http://www.foxnews.com/story/0,2933,324406,00.html>.

²³ See *supra* 24.

²⁴ *A film-maker who lives in the shadow of a fatwa*, SPECTATOR, 12 Mar. 2008, http://www.spectator.co.uk/essays/all/553681/part_3/a-filmmaker-who-lives-in-the-shadow-of-a-fatwa.thtml.