



Miklós Haraszti
In God's name

By adopting the language of human rights, a new UN proposal condemning "defamation of religion" cements oppressive governments' control of free speech while still sounding compatible with the advanced multiculturalism of liberal democracies, writes Miklós Haraszti.

It should no longer be difficult to tackle illegitimate limits to free speech, particularly since so many dictatorships have now made the transition to democracy. The required standards are clear enough: actual instigations to actual crimes must be seen as crimes, but otherwise offensive speech should be handled by encouraging further dialogue — in the press, through media ethics bodies or in civil courts.

What we see instead, despite some progress internationally in decriminalising violations of honour and dignity, is a growing, punitive trend that is introducing new speech bans into national criminal codes.

One of these à la mode speech crimes is defamation of history — committed in some countries by questioning a nation's historical narrative and in others by defending it. While Turkey prosecutes writers for using the word genocide to describe the massacre of Armenians in 1915, Switzerland has prosecuted a Turkish politician for calling the use of the term genocide an "international lie". Yet defamation of religions is proving to be an even more insidious and restrictive pattern worldwide.

On 26 March, the UN Human Rights Council passed a resolution condemning 'defamation of religions' as a human rights violation, despite wide concerns that it could be used to justify curbs on free speech. The Council adopted the non-binding text, proposed by Pakistan on behalf of the Islamic states, with a vote of 23 states in favour and 11 against, with 13 abstentions. The resolution "Combating Defamation of Religions" has been passed, revised and passed again every year since 1999, except in 2006, in the UN Human Rights Council (HRC) and its predecessor, the UN Human Rights Commission. It is promoted by the persistent sponsorship of the Organisation of the Islamic Conference with the acknowledged objective of getting it codified as a crime in as many countries as possible, or at least promoting it into a universal anathema. Alongside this campaign, there is a global undercurrent of violence and ready-made self-censorship that has surrounded all secular and artistic depictions of Islamic subjects since the Rushdie fatwa.

This year's resolution, unlike previous versions, no longer ignores Article 19, the right to free expression. That crucial human right has now received a mention, albeit in a context which misleadingly equates defamation of

religions with incitement to hatred and violence against religious people, and on that basis denies it the protection of free speech. It also attempts to bracket criticism of religion with racism.

On the other hand, the vague parameters of possible defamation cases have now grown to include the "targeting" of symbols and venerated leaders of religion by the media and the Internet. What we are witnessing may be an effort at diplomacy, but it is also a declaration of war on twenty-first century media freedoms by a coalition of latter-day authoritarians.

There is nothing backward looking or historicising in the declaration. It adopts the language of human rights so that the proposal sounds compatible with the advanced multiculturalism of liberal democracies. All the signatories have acquiesced: the late-communist and the post-communist governments among them, along with the post-colonial or predominantly Muslim nations. Yet only very few of the 23, amongst them South Africa and Indonesia, are democracies equipped with a truly pluralistic media. The consistently high number of abstentions, including by nations with free speech guarantees, helps ensure the proposition is officially accepted every year.

Because of this contemporary strategy, I reject the often heard claim that the resolution's backers represent a culturally defined movement. That claim would only serve to offer another excuse to patronise the endeavour, and leniently underestimate its impact. In fact, the drive to criminalise defamation of religions is an entirely post-modern, Orwellian spin crusade against human dignity, ostensibly in its name.

Year after year, the Human Rights Council (HRC) vote lends a double domestic victory to the supporting oppressive governments. It cements their control of speech through cultural taboos and blasphemy laws, and at the same time glorifies and internationally acknowledges them in the vanguard of promoting tolerance.

Of course, one can understand why many democracies condescendingly abstain from the fight and let the game of the Organisation of the Islamic Conference prevail. After all, since the Iranian Revolution and the global debut of al Qaeda, those willing to present the oppressive notion of defamation of religions in human rights terms are by definition moderates, compared to the jihadists who openly reject those rights. The HRC manoeuvres also help the moderates to counter claims by domestic radicals that their governments are not true guardians of the faith.

I happen to remember these games from my time in the closed civilisation of the communist one-party state, where pluralism consisted of factional fights inside the Politburo of the Party. Kremlinologists also knew the game, but they must have had more fun watching it than I had. The technique was called "overtaking from the left", and it meant the recurring scene whereby otherwise pragmatic leaders of the Party started to emanate hardliner slogans, obviously in order to keep the Stalinists at bay. It actually never simply meant just tough talk; it always came with new measures against freethinkers, such as house searches and indictments, 'only' to provide proofs of the leadership's fidelity to the cause. This tactic is a distant relative of the "taking the wind out of the sails" policy of western moderate parties, when they buy into anti-immigration measures in order to preclude a growing popularity of xenophobic platforms that propose... anti-immigration measures.

The trouble is that "taking the wind out of the sails" may help one stay on board, but never succeeds in easing the restrictions. Let me tell you how it really works when the stipulations of the Human Rights Council resolution are applied.

In Azerbaijan, one of the supporters of the resolution, two journalists were given prison sentences in 2007. Rafiq Tagi, a journalist of the intellectual monthly *Senet*, and Samir Sadagatoglu, the newspaper's editor, were sentenced to three and four years respectively, for alleged 'incitement to religious hatred' in a philosophical essay published in 2006. In fact, the essay compared European and Islamic values in a somewhat self-critical vein. (The language was "them and us".) Its thesis was innocent, well-meaning and polite. It was a similar message about a similar subject, "reason and faith", to Pope Benedict XVI's famous Regensburg speech the same year. In my assessment, it was even milder, as there were no Byzantine quotations ascribing violent proselytism to Mohammed. The question of violence did not even turn up in the text.



Fazel Lankarani

Previously, an Iranian grand ayatollah, Fazel Lankarani, had issued a fatwa calling for the two journalists to be killed. Domestic religious activists responded by starting an intimidation campaign against the journalists. Reportedly, they were allowed to shout death threats in the courtroom. The journalists' crime was defamation of religion (their own, apparently) and incitement, by the same act, to religious hatred (against themselves, one must conclude). Yet it was the journalists who sat in the dock, not those who menaced them with violence.

And, most importantly, the Iranian ayatollah who called for their death was never accused of incitement, neither in Azerbaijan nor in Iran — protected as he was by his status as a defender, rather than a defamer, of the faith.

Similar abuses could be cited from several non-Muslim countries as well, all of them, by the way, participating states of the OSCE, and some of them members of the Council of Europe. The commitments of the former and the standards of the latter would forbid any persecution based on 'defamation of religions'. But under the justifying umbrella of the HRC resolutions (and exploiting the lack of resolute opposition to them in Europe) the crisis created around the Danish cartoons was used to get tough on critically minded outlets and journalists.

In Russia, the Vologda newspaper *Nash Region* published a collage of the cartoons on 15 February 2006, as part of an article on the global controversy. The proprietor decided to close the newspaper shortly afterwards in order to ease the legal consequences. Prosecutors had immediately opened a case against the editor, Anna Smirnova, for "inciting religious hatred". In April 2006, she was fined 100,000 roubles (approximately US\$3,000) and given a two-year suspended sentence. Happily, a month later, the Vologda Oblast Court overturned the decision on appeal. It was clear no happy ending would have been possible had the paper still existed. Exactly the same scenario was played out in Volgograd: the publisher of *Gorodskie Vesti* decided to close the newspaper after charges for defamation and incitement were brought by the regional branch of the country's ruling party, United Russia. Criminal proceedings were subsequently dropped. The trigger for the prosecution was a sweet, truly peace-preaching caricature of the four venerated personalities

Moses, Jesus, Mohammed and Buddha. In the cartoon, the religious leaders are watching television and concerned to see demonstrators from different religions hurling insults at each other. "This is not what we have taught you to do," one of the prophets is saying.

In Belarus, Alexander Zdvizhkov, editor of the Zhoda opposition newspaper, was sentenced to three years in prison on 18 January 2008 for incitement of religious hatred. His newspaper was shut down in March 2006 for merely planning to publish the cartoons, and remains closed today. Zdvizhkov went into hiding abroad, was then arrested upon return, and finally released after the Supreme Court reduced his sentence from three years to three months, the term he had already served.

But these were only opportunistic blitzes. Since the cartoons crisis, another new punitive fashion has emerged, also inspired by the HRC resolutions: the extremism package. In Russia (which came up with the idea), Belarus, Kazakhstan, Kyrgyzstan, Moldova and Tajikistan, legislators have bundled the defamation of religions provisions with otherwise legitimate incitement laws, adding also the ban of "offensive criticism" (yes, defamation) of government bodies or officials. This cocktail of legislation is presented as a heightened form of combating a never precisely defined attitude — extremism. There is an echo here of the West's promotion of terrorism provisions, which is helpful in defusing possible criticism. But while western legislation was criticised domestically as being possibly conducive to illegitimate prosecution of political thought, the eastern extremism packages are actually created for that purpose. And they are used, too, especially in retaliation for unwanted coverage of the human rights situation in the Northern Caucasus.

At the time of writing, Slovakia is planning to introduce its own 'extremism' package, ostensibly to fight radicalism. Ireland — while otherwise decriminalising libel — is about to introduce a new crime, "blasphemous libel", described as an act of compliance with a constitutional tenet dating from the 1930s. Is it far-fetched to see here an implicit, perhaps even unconscious, influence of the HRC campaign?

When I referred earlier to the surrounding threat of violence, I meant the disturbing, but untold, connection between the recurring legal drive at the UN Human Rights Council and the fatwas, murders and violent demonstrations against secular or critical depictions of Islamic issues. The grievances expressed by the fatwa authors and the HRC diplomats are in fact indistinguishable. What is missing here is the realisation that combating defamation of religions is not just harmful: it is the wrong fight, the wrong criminalisation.

I do not see any moral difference between ordering a contracted killing of investigative reporters like Anna Politkovskaya and issuing fatwas that call for murdering writers or journalists. Both punish writers for doing their job. And, by the way, the fatwas also offer financial rewards, just like the *zakazchiki* in Russia.

In Pakistan, the main country sponsor of this year's HRC resolution, Mohammed Yousaf Qureshi, prayer leader at the historic Mohabat Khan mosque in Peshawar, announced in 2006 that the mosque and his religious school would give US\$25,000 and a car, while a local jewellers association offered another US\$1m, for the murder of any Danish cartoonist. In India, Uttar Pradesh Minister for Haj and Minority Welfare Haji Yaqoob Qureishi

placed a 510m Indian rupee (US\$11m) bounty on the head of a cartoonist, plus the murderer's weight in gold. I am listing here examples only from inside democracies that signed the HRC resolutions or abstained.

At this point, the resolution is no longer an exercise at taking the wind out of the sails of the radicals. It is turning out to be a cover-up for the murderous instigators of religious tension and reactionary self-censorship.

I find it a scandal that authors of edicts calling for the murder of writers or journalists can still continue to be respected and do not have to face the consequences of their hateful acts, while many journalists have to live anonymously under police protection. So far, none of the names of the instigators of these fatwas has appeared on wanted lists, not even in the countries which, I am sure, would extradite the masterminds of Politkovskaya's murder, if found. That is the HRC resolution's longest shadow.

Caution is somewhat understandable in a country such as tiny Denmark, stricken by calls for a commercial boycott, or in any single nation. But what about the European Union? Has it not been designed to be stronger than its components? What about Interpol and other international law enforcement agencies? Since when have they dropped soliciting murder from their list of crimes? What about at least a travel ban against the well-known *zakazchiki* of religious hate crimes?

The Human Rights Council must be told: if incitement to religious hatred is what you are concerned about, call immediately for the punishment of those who issue fatwas inciting violence. There can be no stronger protection against defamation of Islam or any faith. Promote tolerance by relieving the fear factor from the minds of the world's editors.

Published 2009-06-19

Original in English

Contribution by Index on Censorship

First published in Index on Censorship 2/2009

© Miklós Haraszti/Index on Censorship

© Eurozine