

## Defending the freedom of expression

### The danger and failure of the Organization for Islamic Cooperation's campaign for global anti-blasphemy laws

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#### Abstract

At the United Nations Human Rights Council, the Organization for Islamic Cooperation ("OIC") is once again lobbying for the creation of globally binding anti-blasphemy laws that would intentionally threaten the ability to exercise the freedom of expression and religion globally, both of which underpin modern Western civilization. These proposed laws would criminalize any criticism of religion, namely Islam, under the guise of preventing the "defamation of religion" for all faiths. Through critical analysis of the OIC's previous failed lobbying campaign to create global anti-blasphemy laws from 1999 to 2011, the author asserts that these laws once more represent a dangerous legislative proposition that must be defeated by Western and allied democracies.

**Keywords** Blasphemy, anti-blasphemy laws, Islam, freedom of religion, freedom of expression, persecution, defamation, Organization for Islamic Cooperation, human rights, Islamophobia.

In September 2012 riots erupted across the Middle East following the release of the American-produced, allegedly anti-Islamic YouTube film *The Innocence of Muslims*. Leaders from the *Organization of Islamic Cooperation*<sup>2</sup> (OIC), an international body comprised of 57 Muslim countries, called upon the President of the United States to ban any and all such perceived "insults to Islam."<sup>3</sup> Other calls for a global "anti-blasphemy law" were echoed soon after at the 2012 UN General Assembly. Leaders from Indonesia and Pakistan appealed to the international community for the creation of a legally binding, global anti-blasphemy protocol. They argued that insults against Mohammed, Islam's prophet, incite violence and are not

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<sup>2</sup> Formerly the *Organization of the Islamic Conference*.

<sup>3</sup> Goodenough, Patrick. "Muslim Leaders Make Case for Global Blasphemy Ban at UN" *CNS News*, 26 September 2012. <<http://cnsnews.com/news/article/muslim-leaders-make-case-global-blasphemy-ban-un>>

legitimate free speech.<sup>4</sup> Gone were the OIC's broad calls for a ban on "defamation of Islam," heard throughout the 2000s. Defense of Islam against "defamation" was replaced by a more modern call for banning "hate speech." The threat to the global freedom of expression is now marketed in a deceptively softer packaging.

The OIC's campaign is not new. Since 1999 the universally recognized freedom of expression<sup>5</sup> has been under threat by the concerted legislative lobbying campaign of the OIC at the United Nations. The OIC has pushed for anti-blasphemy laws that would prohibit the so-called "defamation of Islam." This would include a prohibition on the ability to publicly criticize, debate, assess and otherwise intellectually challenge the religion of Islam. In the face of heavy opposition and widespread Western condemnation of the OIC's proposed anti-blasphemy laws, the OIC managed to pass successive non-binding resolutions<sup>6</sup> on the defamation of religions at the United Nations Human Rights Council (UNHRC). But global support for these "fiercely-contested"<sup>7</sup> resolutions continually declined during the course of the 2000s. Extensive Western scrutiny of existing anti-blasphemy laws in force in Pakistan revealed that the use of these laws was instigating violence, provoking religious persecution and stifling free speech throughout the country.<sup>8</sup> For instance on March 2, 2011, the only Christian in Pakistan's cabinet,<sup>9</sup> Shahbaz Bhatti, was assassinated by the Taliban for his outspoken criticism of Pakistan's blasphemy laws and for allegedly being a "blasphemer of Muhammad."<sup>10</sup> Since the government of Pakistan was the OIC's chief proponent of the resolutions, the OIC's campaign for a similar global anti-blasphemy law quickly became an untenable proposition internationally at the UNHRC. Ultimately, in March 2011 the UNHRC rejected the OIC's final draft resolution,<sup>11</sup> and instead adopted a new consensus-based resolution that

<sup>4</sup> *Ibid.*

<sup>5</sup> UN General Assembly, Universal Declaration of Human Rights, 10 December 1948, 217 A (III), <<http://www.un.org/en/documents/udhr/index.shtml#a19>> ("UDHR").

<sup>6</sup> A Resolution is a formal, non-binding text adopted by a United Nations (UN) body, such as the UNHRC.

<sup>7</sup> Robert Evans, "Islamic bloc drops UN drive on defaming religion", Reuters, 25 Mar 2011. <<http://in.reuters.com/article/2011/03/24/idINIndia-55861720110324>>

<sup>8</sup> Freedom House, "Policing Belief: The Impact of Blasphemy Laws on Human Rights, 3-4 (2010), <[http://www.freedomhouse.org/sites/default/files/Policing\\_Belief\\_Full.pdf](http://www.freedomhouse.org/sites/default/files/Policing_Belief_Full.pdf)> ("Freedom House Report")

<sup>9</sup> Rodríguez, Alex. "Pakistan's only Christian Cabinet member assassinated", Los Angeles Times, 3 March 2011.

<sup>10</sup> "Pakistan Minorities Minister Shahbaz Bhatti shot dead", BBC News, 2 March 2011. <<http://www.bbc.co.uk/news/world-south-asia-12617562>>

<sup>11</sup> Article 19, The Demise of "Defamation of Religions"? Human Rights Council Should Support Resolution On Religious Discrimination, 22 March 2011, <<http://www.unhcr.org/refworld/docid/4d94294c2.html>>

focused on protecting *individuals* from discrimination or violence, rather than protecting *religions* from criticism.<sup>12</sup>

In their book review of *Silenced: How apostasy and blasphemy laws are choking freedom worldwide*<sup>13</sup> in Volume 5:2 of the 2012 *IJRF*, writers Paul Marshall and Nina Shea challenged readers with the admonition that “[i]t is time that the debate about the boundaries of a reasonable critique of religions and their advocates on the one side, and about the social good of a hard-won freedom of opinion and the press that needs to be preserved on the other, be taken up courageously by decision-makers and discussed widely in society.”<sup>14</sup> This paper responds to that call for global discussion.

In order to appreciate why renewed calls for anti-blasphemy laws remain a dangerous proposition that must once again be defeated by Western democracies, it is necessary to specifically analyze the failure of the OIC’s legislative campaign to create a global anti-blasphemy law from 1999 to 2011. Using an analysis of the negative effects of anti-blasphemy laws in Pakistan, it will be shown how these laws create a climate of fear, intimidation, and consequently result in religious persecution rather than prevention. By highlighting examples of threats and violence from radical Islamists against Western critics of Islam, this analysis will frame the palpable Western fear of offending Muslims within the broader debate over anti-blasphemy laws and the concept of “Islamophobia.” This issue was made all the more salient following the January 2015 terror attacks on the French satirical magazine *Charlie Hebdo*. After these attacks, as if oblivious to the debate over freedom of expression, the OIC announced plans to sue the magazine following its publication of a front cover which depicted the Prophet Mohammed. For the benefit of halting the world’s increasingly tenuous grip on free expression and freedom of religion, these topics must be discussed, and without filter or concern for offending those who seek to silence debate.

## **1. Context: Western fear of publicly criticizing Islam and offending Muslims**

Following the events of 9/11, Western governments began to more closely scrutinize Islam and the various sects within it, focusing on any potential affiliations with radi-

<sup>12</sup> UN General Assembly, Combating intolerance, negative stereotyping and stigmatization of, and discrimination, incitement to violence and violence against, persons based on religion or belief, 16 March 2012, A/HRC/19/L.7 <<http://daccess-ods.un.org/TMP/1346064.35894966.html>> (“Combating intolerance resolution”)

<sup>13</sup> International Journal of Religious Freedom, Vol. 5:2 (2012) at p. 169.

<sup>14</sup> Vol. 5:2, *IJRF* (2012) at p. 171.

cal Islamist terrorist groups. In the aftermath of the U.S.-led “war of aggression”<sup>15</sup> in Iraq and the global opposition to that war, however, public criticism of Islam became increasingly taboo, out of fear of offending Muslim populations for being “Islamophobic” or racist. Numerous incidents bore out this Western fear of offending Muslims.

### 1.1 Murder of public critics of Islam, death threats and rioting

In 2004, the brutal murder of Dutch filmmaker Theo Van Gogh in the streets of Amsterdam undeniably had a chilling effect on public critics who spoke out about the perceived problems within the religion of Islam. Van Gogh’s murder highlighted the extremity of the radical Islamist ideology. This extremism was exactly what Van Gogh sought to expose, in part, through his film *Submission*, which focused on the oppression of women in Islam.<sup>16</sup> After receiving months of death threats, Van Gogh was shot eight times, followed by an attempt to decapitate him. The killer then stabbed a note into Van Gogh’s chest, which threatened Western countries, Jews in general, and Ayaan Hirsi Ali (the writer of Van Gogh’s film). While undoubtedly a rare occurrence, the extremity of the murder “set off alarm bells in the West,”<sup>17</sup> as it exposed the malignant existence of radical Islamism *within* Western societies and dramatically highlighted their violent efforts to suppress free expression.

Tarek Fatah is an outspoken Canadian Muslim political activist, writer, and critic of Islamism. Fatah has received several death threats allegedly due to his “socially liberal views” about Islam – views that have been called “diametrically opposed to most Muslims.”<sup>18</sup> His liberal views have “always been controversial within the Muslim community,”<sup>19</sup> as he has called for gay rights for Muslims and for the inclusion of secular voices within the Muslim community. Fatah has also publicly opposed the adoption of Sharia law in Canada. As a consequence of his public criticism of Islamism, in 2006 Fatah resigned his position within the Muslim Canadian Congress out of “concerns for his safety and that of his family.”<sup>20</sup> Fatah also now requires daily police protection.

<sup>15</sup> Aaron Glantz, “Bush and Saddam Should Both Stand Trial, Says Nuremberg Prosecutor”, OneWorld U.S., 25 Aug. 2006. <<http://us.oneworld.net/article/view/138319/1/>>

<sup>16</sup> Rebecca Leung, “Slaughter And ‘Submission’”, CBS News, 11 Feb. 2009. <[http://www.cbsnews.com/2100-18560\\_162-679609.html](http://www.cbsnews.com/2100-18560_162-679609.html)>

<sup>17</sup> *Ibid.*

<sup>18</sup> Sonya Fatah, “Fearing for safety, Muslim official quits”, The Globe and Mail, 3 August 2006. <<http://sonyafatah.com/blog/2006/08/03/fearing-for-safety-muslim-official-quits/>> Accessed: 8 April 2012. (“Tarek Fatah article”)

<sup>19</sup> Paul Marshall & Nina Shea, *Silenced: How Apostasy and Blasphemy Codes are Choking Freedom Worldwide*, Oxford University Press, 2011, at 279.

<sup>20</sup> *Ibid.*

In 2005, the Danish newspaper *Jyllands-Posten* published cartoons depicting the Prophet Mohammed in various allegedly “blasphemous” forms, resulting in global riots causing over 200 deaths worldwide.<sup>21</sup> These riots made it clear that seemingly innocent criticism of Islam could quickly be considered “blasphemy” by significant numbers of Muslims. The fear and fallout from this “Danish Mohammed cartoons” incident continues to this day. The cartoonist, Kurt Westergaard, has had to live with police protection inside a fortified house every single day since the publication, due to threats against his life. Despite this extraordinary level of protection, in January 2010, a full five years later, a Somali Muslim intruder named Mohammed Geele entered Westergaard’s house armed with an axe and knife intent on murdering him. However Geele was subsequently shot and wounded by police. Westergaard was unharmed after he fled to a panic room.<sup>22</sup>

This was not an isolated event. In November 2011, *Charlie Hebdo*, a popular satirical weekly magazine in France had its office firebombed the night before it was to print a cartoon of the Prophet Mohammed on its front cover. The cover depicted a relatively normal looking cartoon character saying, “100 lashes if you don’t die of laughter.”<sup>23</sup> Fortunately, no one was in the office at the time of the firebomb attack. While the satirical magazine was not fearful of offending Muslims in this instance, the unattributed firebomb attack was representative of the aggressive backlash that has consistently ensued when such “blasphemous” material is published. As the January 2015 deadly terrorist attack on the *Charlie Hebdo* offices later made startlingly clear, the 2011 firebombing was an explicit warning of much worse violence that was soon to come. Within the West, those Islamists who seek to silence free expression have shown no limits and no remorse when it comes to achieving their destructive, retrograde goals.

It is evident that those who are publicly critical of Islam – even while living in Western, free democracies – face the potential of fear, violence and death threats from fellow members of society. The seriousness of the death threats emphasizes the extremity of the evil embodied in radical Islamist ideology, which, when coupled with the OIC’s desire for an internationally binding anti-blasphemy law prohibiting criticism of Islam, creates an alarming scenario. It is against this decade-long backdrop of increasing Western fear of offending Muslims – and the resultant threats from radical Islamists for perceived acts of “blasphemy” – that the OIC was leading

<sup>21</sup> Patricia Cohen, “Danish Cartoon Controversy”, New York Times, 12 August 2009. <[http://topics.nytimes.com/topics/reference/timestopics/subjects/d/danish\\_cartoon\\_controversy/index.html](http://topics.nytimes.com/topics/reference/timestopics/subjects/d/danish_cartoon_controversy/index.html)>

<sup>22</sup> John Archer, “Denmark sentences cartoonist attacker to 9 years”, Reuters, 4 Feb 2011 <<http://www.reuters.com/article/2011/02/04/idINIndia-54664020110204>>

<sup>23</sup> Charlie Hebdo, “Charia Hebdo”, Issue 1011, 2 Nov. 2011. <<http://www.charliehebdo.fr/images/couv2011/CH-1011-01.jpg>>

a cooperative effort at the United Nations. Through this effort, the OIC sought to legislatively insulate the Islamic community and Islam itself from all forms of legitimate criticism, philosophical inquiry, expressive acts of so-called blasphemy, and the alleged defamation of Islam.

## 2. Background: Understanding blasphemy, defamation of religion and Islamophobia

### 2.1 What is blasphemy? The Islamic context

Blasphemy, in its broadest terms, is “the act of insulting or showing contempt or lack of reverence for God or the irreverence towards religious or holy persons or things.”<sup>24</sup> By its very definition, blasphemy applies to any and all religions, and is a concept that has existed for centuries. Within the religion of Islam, there is no specific mention of blasphemy in the Quran or the hadiths.<sup>25</sup> Rather, Islamic jurists created the offence, making it part of Sharia law.<sup>26</sup> Sharia law is the moral code and religious law of Islam, which deals with many topics that are covered by secular law.<sup>27</sup> Penalties for blasphemy within Islamic communities can include fines, imprisonment, flogging, amputation, hanging or beheading.<sup>28</sup> Additionally, Islamic clerics may call for the punishment of death for an alleged blasphemer by issuing a *fatwa* (a juristic ruling concerning Islamic law), as famously called for in the case of author Salman Rushdie for his controversial book, *The Satanic Verses*.<sup>29</sup> It is within this context that blasphemy is to be understood, particularly in consideration of the OIC’s efforts to establish a global prohibition against the defamation of religion. However, “defamation of religion” is a concept that must be understood independently of “blasphemy,” as will now be clarified.

### 2.2 What is “defamation of religion”? What is “defamation of Islam”?

At the core of the notion of “defamation of religion”, is the tort of defamation. The tort of defamation is concerned with protecting the reputations of individuals, and the act of defamation is comprised of the communication of a statement that

<sup>24</sup> “Blasphemy - definition of”, Merriam-Webster Online, <<http://www.merriam-webster.com/dictionary/blasphemy>>

<sup>25</sup> Saeed, Abdullah; Hassan Saeed (2004). Freedom of Religion, Apostasy and Islam. Burlington VT: Ashgate Publishing Company, at 38, 39.

<sup>26</sup> Ibid.

<sup>27</sup> Ritter, R.M. (editor) (2005). New Oxford Dictionary for Writers and Editors – The Essential A-Z Guide to the Written Word. Oxford: Oxford University Press, at 349.

<sup>28</sup> Surah Al-Maidah 5:33. See <http://www.islamicvoice.com/April2006/QuestionHour-DrZakirNaik/> for detailed examination.

<sup>29</sup> Alison Flood, “Salman Rushdie reveals details of fatwa memoir”, The Guardian, 12 April 2012. <<http://www.guardian.co.uk/books/2012/apr/12/salman-rushdie-reveals-fatwa-memoir?newsfeed=true>>

makes a claim that may give an individual a negative image.<sup>30</sup> Thus “defamation of religion” is concerned with protecting the reputation of a religion, and more specifically, protecting the followers of that religion from any form of persecution and negative stereotyping that results from someone “defaming” that religion. As will be assessed later, this very notion – defaming an entire religion and its followers – is highly controversial and has been heavily criticized by Western nations who are opposed to the OIC’s “Defamation of Religions” resolutions.<sup>31</sup> Islamic states have expressed concerns that Islam is often associated with terrorism and human rights violations, particularly after 9/11, and argue that the resolutions are necessary to combat the perceived rise of so-called “Islamophobia.”<sup>32</sup> At the UN, the OIC’s resolutions are driven by a fear that specific religious communities – principally Muslim – will become the target of hatred or contempt around the world. The proposed prohibition against the “defamation of Islam” was therefore an effort by the OIC to protect all followers of the Islamic faith, worldwide, from being defamed.

### 2.3 What is “Islamophobia”? Implications for the resolutions

Deeply rooted in the debate over the resolutions is the emergent notion that so-called “Islamophobia” is the driving force behind any and all criticism of Islam.<sup>33</sup> Islamophobia is defined as “prejudice against, hatred or irrational fear of Islam or Muslims.”<sup>34</sup> It is imperative to understand what the OIC itself deems “defamatory” because it helps to frame the debate about the resolutions as pieces of potentially binding international law. This understanding also helps to contextualize the OIC’s focus on the alleged rise of this “new kind of racism”<sup>35</sup> in Western societies and how the OIC attempts to “combat”<sup>36</sup> this rise. The OIC’s claims of widespread Islamophobia are grounded in the philosophical notion of *irrationality*, and are particularly important because these claims buttress support for an international anti-blasphe-my law as both necessary and defensible. Whether or not an international body like the OIC has the authority to determine whether a personal or cultural fear

<sup>30</sup> Brown, *The Law of Defamation in Canada*, 2nd ed. (Scarborough, Ont.: Carswell, 1994) vol. 1 at 201.

<sup>31</sup> Leonard Leo, Felice Gaer & Elizabeth Cassidy, “Protecting Religions from ‘Defamation’: A Threat to Universal Human Rights Standards”, Spring 2011, 34 *Harvard Journal of Law & Public Policy* 769, at 771. [“Leo and Cassidy”].

<sup>32</sup> Paula Schriefer, “The Wrong Way to Combat ‘Islamophobia’”, 9 Nov. 2010. <<http://www.nytimes.com/2010/11/10/opinion/10iht-edschriefer.html>>

<sup>33</sup> 2nd Organization for Islamic Cooperation Observatory Report on Islamophobia, June 2008 to April 2009, at p. 4, para. 5. (“2nd Islamophobia Report”)

<sup>34</sup> Sandra Fredman, *Discrimination and Human Rights*, Oxford University Press, p.121.

<sup>35</sup> *Supra* note 33, “2nd Islamophobia Report”, at 7.

<sup>36</sup> *Supra* note 12, “Combating intolerance resolution”.

of radical Islamism might in fact be rational or logical is simply not contemplated in the context of the OIC's anti-blasphemy campaign.

In 2008, the OIC published its first "Observatory Report on Islamophobia"<sup>37</sup> which sets out examples of what the OIC deems "religiously defamatory speech" against Islam. The report cited the following as examples: the publication of cartoons depicting the Prophet Mohammed or Allah in newspapers in several European countries and South Africa; Pope Benedict's quotation of a fourteenth-century Byzantine emperor's allegation that Mohammed was "bad and inhuman" for commanding his followers to spread Islam by the sword; and comments critical of Islam or Muslims by Dutch, Austrian, Norwegian, Italian, and Swiss politicians, mostly from far-right parties. Also mentioned is right-wing Dutch Parliament member Geert Wilders' production of his then-unreleased film *Fitna*, that the OIC believed would "vilify" the Quran, and an article by a British columnist that called Islam "an uncompromising seventh-century ideology."<sup>38</sup> Subsequent "Observatory Reports on Islamophobia" have been produced by the OIC over the last few years, and will be assessed later.

### 3. Origins: Assessing Pakistan's anti-blasphemy laws

In 1999, Pakistan was the nation to first propose a global prohibition on the "Defamation of Islam"<sup>39</sup> at the UN Commission on Human Rights, the predecessor to the UNHRC. Pakistan's Penal Code contains what are considered the world's strictest anti-blasphemy laws,<sup>40</sup> as it is currently one of the only nations to specifically include the punishment of death for violating the laws.<sup>41</sup> Pakistan's Penal Code prohibits blasphemy against any recognized religion, providing penalties ranging from a fine to death.<sup>42</sup> In practice the laws are only applied to the defamation of Islam.<sup>43</sup> Moreover, the *Freedom House Report* notes "blasphemy falls well short

<sup>37</sup> 1st Organization for Islamic Cooperation Observatory Report on Islamophobia - May 2007 - March 2008. [http://www.theunity.org/en/index.php?option=com\\_docman&task=doc\\_download&gid=8&Itemid=14](http://www.theunity.org/en/index.php?option=com_docman&task=doc_download&gid=8&Itemid=14) ("1st Islamophobia Report.")

<sup>38</sup> Supra note 37, 1st Islamophobia Report, at 38.

<sup>39</sup> Supra note 18, "Tarek Fatah article".

<sup>40</sup> Supra note 7, "Freedom House Report" at 4.

<sup>41</sup> Other nations with the death penalty for blasphemy: Afghanistan and Saudi Arabia. A number of European nations have varying degrees of anti-blasphemy laws. Most notably Ireland recently passed a "blasphemous libel" law in 2009, however this law is currently under review and may be removed from the constitution after a reform process is completed. Some of the greatest opposition to Ireland's law came from atheist groups. See Michael Nugent, "How did the parties and candidates reply to our questions on secular policies?", Atheist Ireland, 23 February 2011.

<sup>42</sup> Pakistan Penal Code (Act XLV of 1860) October 6, 1860. Ch. XV. "Of Offences Relating to Religion." <<http://www.pakistani.org/pakistan/legislation/1860/actXLVof1860.html>> ("Pakistan Penal Code")

<sup>43</sup> Supra note 7, "Freedom House Report" at 6.



of the international standard on crimes for which the death penalty is considered acceptable.”<sup>44</sup> An accusation of blasphemy commonly subjects the accused, police, lawyers, and judges to harassment, threats, and attacks, and is also sometimes the prelude to vigilantism and rioting, which often targets accused blasphemers. Pakistan’s Islamist political parties have strongly resisted changes in the blasphemy laws.<sup>45</sup> Such resistance is an ominous harbinger of the OIC’s behavior.

### 3.1 Specific anti-blasphemy laws in Pakistan

Below are the sections of Pakistan’s Criminal Code which comprise its blasphemy laws and their accordant punishments:

- Section 295 forbids damaging or defiling a place of worship or a sacred object.
- Section 295-A forbids outraging religious feelings.
- Section 295-B forbids defiling the Quran. Defiling the Quran merits imprisonment for life.
- Section 295-C forbids defaming the Islamic prophet Muhammad. Defaming Muhammad merits *mandatory death penalty* with or without a fine.<sup>46</sup>

Except for s. 295-C, the provisions of s. 295 require that an offence be a consequence of the accused’s intent. If a charge is laid under s. 295-C, the trial must take place in a Court of Session with a Muslim judge presiding. Section 295-C is particularly shocking for its mandatory death penalty. The laws also create situations that appear to directly and explicitly violate the rights of religious minorities. Consider section 298-B/C:

- Section 298-B and section 298-C explicitly prohibit the Ahmadiyya from: behaving as Muslims behave, calling themselves Muslims, proselytizing, or “in any manner whatsoever” outraging the religious feelings of Muslims.
- Violation of any part of s. 298 makes the violator liable to imprisonment for up to three years and liable also to a fine.

### 3.2 Who is affected by the blasphemy laws in Pakistan?

The Human Rights Commission of Pakistan (HRCPC) – an apolitical, non-governmental voluntary organization – has been documenting blasphemy cases in Pakistan. The HRCPC says that Muslims constitute a majority of those booked under these laws, followed by the Ahmadiyya community (specifically referenced in the laws,

<sup>44</sup> Ibid. at 6.

<sup>45</sup> “Pakistan Taliban Threaten Christian With Death for Opposing Blasphemy Laws”, Cross Rhythms, 3 Jan 2012. <[http://www.crossrhythms.co.uk/articles/life/Pakistan\\_Taliban\\_Threaten\\_Christian\\_With\\_Death\\_For\\_Opposing\\_Blasphemy\\_Laws/46237/p1/](http://www.crossrhythms.co.uk/articles/life/Pakistan_Taliban_Threaten_Christian_With_Death_For_Opposing_Blasphemy_Laws/46237/p1/)>It was difficult to find “official” Taliban sources.

<sup>46</sup> Supra note 42, “Pakistan Penal Code”.

as set out above).<sup>47</sup> However, as the *2010 Freedom House Report on Blasphemy* notes, “[T]he demographic breakdown of blasphemy defendants in Pakistan represents a prime example of selective application. Although Christians, Ahmadis, and Hindus make up less than 3 percent of the country’s population, they have *accounted for about half of the blasphemy defendants* in Pakistan over the past two decades.”<sup>48</sup> According to HRCP, since 1988 around 1 000 cases have been lodged for desecration of the Quran, while nearly 50 cases have been lodged for blasphemy against the Prophet Muhammad.<sup>49</sup> In these cases, lower courts have handed down hundreds of convictions, however the higher courts have reversed nearly all of them due to lack of evidence, faults in due process or obvious wrongful motives by the complainants. Moreover, hundreds of Christians are among the accused – at least 12 of them were given the death sentence for blaspheming against the Prophet Mohammed since 1988, with two Christians executed for blaspheming in 2010 alone.<sup>50</sup>

### 3.3 Culture of fear: Political assassinations of Salmaan Taseer and Shahbaz Bhatti for their opposition to anti-blasphemy laws in Pakistan

The greatest problem with the anti-blasphemy laws is the culture of fear they create in nations where Islam is the dominant religion. In Pakistan, a country whose Muslim population is over 97 per cent,<sup>51</sup> Islamic radical groups actively target outspoken critics of the blasphemy laws. Notably, prominent figures like Salmaan Taseer (former governor of Punjab) and Shahbaz Bhatti (the Federal Minister for Minorities) were assassinated in recent years for their opposition to the anti-blasphemy laws. Most disturbingly, Malik Mumtaz Qadri, the assassin of Salmaan Taseer, was “hailed as a hero by a large section of people across the country.”<sup>52</sup> As reported in the *Toronto Star*, “[P]ublic reaction to Taseer’s assassination was stunning. Pakistan’s lawyers, praised just three years ago for saving this country’s independent judiciary, showered Taseer’s assassin with rose petals on his way into court. A rally to celebrate his death attracted 40 000 in Karachi and thousands more posted tributes to the killer on their Facebook accounts.”<sup>53</sup>

<sup>47</sup> “The State of Human Rights Report 2010”, Human Rights Commission of Pakistan, 2010, at 65. <[http://humansecuritygateway.com/documents/HRCP\\_StateofHumanRightsin2010.pdf](http://humansecuritygateway.com/documents/HRCP_StateofHumanRightsin2010.pdf)> (“Pakistan Human Rights Report”)

<sup>48</sup> Supra note 7, “Freedom House Report” at 6. [emphasis added]

<sup>49</sup> Supra note 47, “Pakistan Human Rights Report” at 70.

<sup>50</sup> Ibid.

<sup>51</sup> Ibid.

<sup>52</sup> “Q&A: Pakistan’s controversial blasphemy laws” BBC News, 22 March 2011. Accessed: 10 April 2012. <<http://www.bbc.co.uk/news/world-south-asia-12621225>>

<sup>53</sup> Rick Westhead, “Some Christians in Pakistan convert fear into safety” 20 Jan 2011. <<http://www.thestar.com/news/world/article/925715--some-christians-in-paki>> See Appendix A for photos of this event.

Shahbaz Bhatti, Pakistan's late Minister of Minorities, visited Canadian Prime Minister Stephen Harper and former Foreign Affairs Minister John Baird in Ottawa a mere month before Bhatti was assassinated for his outspoken defense of religious freedom. Former Minister Baird reportedly offered Bhatti amnesty to stay in Canada, given the multiple death threats Bhatti had received.<sup>54</sup> Nonetheless, Bhatti returned to Pakistan and soon after was gunned down by the Taliban outside his home. In a video recording Bhatti prepared in the event of his assassination, he remained defiant and stood firm in his Christian faith:

“The forces of violence, militant organizations like the Taliban and al-Qaeda want to impose their radical philosophy in Pakistan, and whoever stands against their radical philosophy is threatened by them. When I’m leading the campaign against Sharia laws, for the abolishment of blasphemy laws, and speaking for the oppressed, marginalized and persecuted Christian and other minorities, the Taliban threaten me. . . . But I want to share that I believe in Jesus Christ who has given his own life for us. *I will prefer to die following my principles and for the justice of my community, rather than to compromise on these threats.*”<sup>55</sup>

Bhatti's conviction to oppose the blasphemy laws prior to his death is made all the more relevant by reports from Pakistan that Christians are converting to Islam out of fear of persecution, in increasing numbers.<sup>56</sup> As noted in the *Toronto Star* article, “[A]n allegation of blasphemy shouted in the streets can, in an instant, whip a crowd into a frenzy and lead to assaults and dubious arrests.”<sup>57</sup> The persecution, violence and intolerance of religious minorities seen in Pakistan emphasize the gross abuses that can result from anti-blasphemy laws. This intolerance helps to frame an understanding of why the OIC's campaign for the “Combating defamation of religions” resolution ultimately failed at the UNHRC.

## 4. OIC's “Defamation of Religion” resolutions

### 4.1 Historic development

The issue of defamation of religion has been repeatedly raised by member states at the United Nations (UN) over the past decade. It is crucial to note the origins of the

<sup>54</sup> Steve Merti, “Harper government will set up controversial office of religious freedom this year”. 2 Jan 2012. <<http://ca.news.yahoo.com/blogs/dailybrew/harper-government-set-controversial-office-religious-freedom-203032535.html>>

<sup>55</sup> “Exclusive footage of Shahbaz Bhatti's interview”, Al-Jazeera English, 2 March 2011. <<http://www.youtube.com/watch?v=oBTBqUJomRE>>

<sup>56</sup> Rick Westhead, “Some Christians in Pakistan convert fear into safety” 20 Jan 2011. <<http://www.thestar.com/news/world/article/925715--some-christians-in-paki>> (“Christians converting”)

<sup>57</sup> Supra note 56, “Christians converting”.

“Combating the Defamation of Religions” resolution that was most recently rejected by the UNHRC. Since 1999, the “Defamation of Islam” resolution<sup>58</sup> has been revised and changed to broaden its scope at the UN General Assembly, culminating in the “Combating the Defamation of Religions” resolution (hereafter the “Defamation Resolution”) as it exists today.

This broadened Defamation Resolution was sponsored by the OIC, and includes the protection against defamation for all religions.<sup>59</sup> Through its motions, the OIC aimed to prohibit expression that would “fuel discrimination, extremism and misperception leading to polarization and fragmentation with dangerous unintended and unforeseen consequences.”<sup>60</sup> However since 2001 there has been an obvious split within the UN over the Defamation Resolution,<sup>61</sup> with the Islamic bloc and much of the developing world in support of them, and Western democracies adamantly opposed.

#### 4.2 What do the resolutions say?

The Defamation Resolution changed slightly each year and is several pages long, but recent versions have included passages such as:

[D]efamation of religions is a serious threat to human dignity leading to *restriction* on the freedom of religion of their adherents and *incitement to religious hatred* and violence.<sup>62</sup>

Defamation of religions and incitement to religious hatred in general could lead to social disharmony and violations of human rights, and [the Council is] alarmed at the inaction of some States to combat this burgeoning trend and the resulting discriminatory practices against adherents of certain religions . . . in general and against Islam and Muslims in particular.<sup>63</sup>

[The Council notes] the various regional and national initiatives to combat religious and racial intolerance against specific groups and communities and emphasiz[es],

<sup>58</sup> UN Econ. & Soc. Council [ESOSOC], Comm’n on Human Rights, Draft Res.: Racism, Racial Discrimination, Xenophobia and all Forms of Discrimination, UN Doc. E/CN.4/1999/L.40 (April 20, 1999). (“Original defamation resolution.”)

<sup>59</sup> L. Bennett Graham, “Defamation of Religions: The End of Pluralism?”, 23 *Emory Int’l L. Rev.* 69, (2009) at 69.

<sup>60</sup> *Supra* note 58, “Original defamation resolution”.

<sup>61</sup> Elizabeth Samson, “Criminalizing Criticism of Islam”, *Wall St. J. Eur.*, 10 Sept, 2008, at 13.

<sup>62</sup> H.R.C. Res. GE.09-12613, A/HRC/10/L.2/Rev/1, 10th Sess., (Mar. 26, 2009). [emphasis added]

<sup>63</sup> *Ibid.*

in this context, the need to adopt a comprehensive and non-discriminatory approach to ensure respect for all races and religions.<sup>64</sup>

The Defamation Resolution is couched in rather broad terms and provides no explicit definition for the term “defamation of religions.” The provisions tend to stress an alleged inherent connection between the defamation of religions and the incitement to religious hatred. This notion will now be analyzed and critiqued.

## 5. Criticism of the Defamation Resolution and opposition

Any resolution passed by the UNHRC is non-binding, and therefore nation state actors are not obligated to implement any of the principles contained therein.<sup>65</sup> Nonetheless, as scholar Jeremy Patrick argues, “Western countries and NGOs have lobbied furiously against the resolutions in recent years, and the 2010 resolution before the Human Rights Council passed by its narrowest margin to date.”<sup>66</sup> The concern expressed by many Western commentators was that the resolutions were merely “paving the way for the formation of a multilateral treaty or customary international law”, and therefore the resolutions “cannot be dismissed as mere opinions.” Recognizing this creeping threat, the resolutions steadily lost support in the face of increased opposition globally. The reasons for this decline in support were principally due to the vagueness of the resolutions, and to the overwhelming stifling of free speech in countries where anti-blaspemy laws exist today.

### 5.1 Vagueness

One of the greatest concerns about the resolutions was the inherent vagueness of “defamation” provisions, which did not “explain who has authority to make that determination.”<sup>67</sup> The *U.S. Commission on International Religious Freedom* found this vagueness to be most alarming, stating:

The “defamation of religions” resolutions purport to seek protection for religions in general, but the *only religion and religious adherents specifically mentioned are Islam and Muslims*. Aside from Islam, the resolutions do not specify which religions are deserving of protection, or explain how or by whom this would be determined.

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<sup>64</sup> Ibid.

<sup>65</sup> John H. Currie, Craig Forcese, Valerie Oosterveld, *International Law: Doctrine, Practice, and Theory*, “Sources of International Law”, Irwin Law Inc., 2007, at 71.

<sup>66</sup> Jeremy Patrick, “The Curious Persistence of Blasphemy”, 23 FLJIL 187, at 192. (“Patrick Article”)

<sup>67</sup> Supra note 31, “Leo and Cassidy” at 771.

The resolutions also do not define what would make a statement defamatory to religions or explain who decides this question. For its part, the [Organization of the Islamic Conference] appears to consider any speech that the organization, or even a single cleric or individual, deems critical of or offensive to Islam or Muslims to automatically constitute religious defamatory speech.<sup>68</sup>

This singular focus on Islam (despite the existence of pluralistic language), and the relative ease with which one could be found to defame a religion, together formed significant grounds for opposition to the resolutions. Religious groups, human rights activists, free-speech advocates, and several countries in the West all condemned the resolutions, arguing that the resolutions amounted to an international blasphemy law.<sup>69</sup> Critics of the resolutions, including several international human rights groups, argued that they were being used to politically strengthen domestic anti-blasphemy and religious defamation laws (such as those in Pakistan), which are presently used to imprison journalists, students and other peaceful political dissidents. This is particularly true of Pakistan, as was assessed earlier.

While the resolutions were later broadened by the OIC to refer to all religions, the text of recent proposed resolutions has remained controversial. The 2009 proposal here before the UN General Assembly refers to “the ethnic and religious profiling of Muslim minorities in the aftermath of the tragic events of 11 September 2001” and regrets the use of “laws or administrative measures specifically designed to control and monitor Muslim minorities.”<sup>70</sup> Likewise, in an October 2009 letter calling for passage of the defamation of religions proposal, Zamir Akram, a Pakistani diplomat, referred to a number of alleged instances of blasphemy. These included the comments of a British politician who had called Islam “a vicious and wicked religion”; the then proposed Swiss ban on minaret construction; and acts in Denmark and the Netherlands where “Prophet Mohammed (PBUH) has been deliberately ridiculed with the intention to violate the sentiments of Muslims.”<sup>71</sup>

<sup>68</sup> “Testimony of Leonard A. Leo before the Tom Lantos Human Rights Commission (TLHRC) on Implications of the Promotion of “Defamation of Religions”, U.S. Commission on International Religious Freedom, 21 Oct. 2009, <[http://www.uscifr.gov/index.php?option=com\\_content&task=view&id=2785&Itemid=1](http://www.uscifr.gov/index.php?option=com_content&task=view&id=2785&Itemid=1)>

<sup>69</sup> The vote breakdown for the 2010 anti-blasphemy resolution was as follows: 79 yes, 67 no, and 40 abstentions, down from 80-61-42 in December of last year.

<sup>70</sup> United Nations General Assembly, Human Rights Council, “Racism, Racial Discrimination, Xenophobia and Related Forms of Intolerance, Follow-up to and Implementation of the Durban Declaration and Programme of Action” A/HRC/10/L.2/Rev.1. 26 March 2009. <<http://daccess-dds-ny.un.org/doc/UNDOC/LTD/G09/126/13/PDF/G0912613.pdf?OpenElement>>

<sup>71</sup> Letter from Zamir Akram, Ambassador & Perm. Rep., Coordinator of the OIC Grp. on Human Rights & Humanitarian Issues, to H.E. Mr. Idriss Jazairy, Chairperson-Rapporteur of the Adhoc Comm. on the Elaboration of Complementary Standards, Office of High Comm’r for Human Rights (Oct. 29, 2009),

While some of these incidents were contentious, they were not indicative of broader national policies or laws designed to enshrine so-called “Islamophobic” doctrines. If this were a concerted policy of the West, such policies would theoretically help to justify the consideration of a global defamation ban. Rather, the examples cited above were isolated events of a varied nature and were in fact different forms of free expression. In consideration of the overarching broadness and vagueness of what the OIC deems “defamatory”, it is evident that the unwillingness of Western nations to support the resolutions was founded in a broader rejection of the OIC’s idea that such incidents were somehow beyond the scope and jurisdiction of existing international and human rights laws.

## 5.2 Conflating “defamation of religions” with “incitement to hatred”

The 2009 version of the Defamation Resolution introduced by the OIC in the UNHRC explicitly linked defamation of religions with a state’s obligations to legally prohibit “incitement to hatred”<sup>72</sup> under Article 20(2) of the *International Covenant of Civil and Political Rights* (ICCPR). The OIC’s move thus represented an attempt to expand existing international norms on incitement. The March 2009 Defamation Resolution made at least seven references to “defamation of religions” as a form of, or catalyst for, incitement to religious hatred. For example:

Stressing that defamation of religions is a serious affront to human dignity leading to a restriction on the freedom of religion of their adherents and incitement to religious hatred and violence.

13. Urges all states to provide, within their respective legal and constitutional systems, adequate protection against acts of hatred, discrimination, intimidation and coercion resulting from defamation of religions and incitement to religious hatred in general, and to take all possible measures to promote tolerance and respect for all religions and beliefs.

While recognizing the very real problem of religious persecution, authors Leo and Cassidy state that the OIC was “erroneously conflating defamation of religions and incitement.”<sup>73</sup> They note that Article 20(2) of the ICCPR does not create a right to be *protected from* incitement on religious grounds, but rather 20(2) *limits* the

[http://www.unwatch.org/atf/cf/%7B6deb65da-be5b-4cae-8056-8bf0bedf4d17%7D/OIC%20DOCUMENT\\_%C20TO%C20AD%C20HOC%C20COMMITTEE%C2029%C20OCTOBER%2009.PDF](http://www.unwatch.org/atf/cf/%7B6deb65da-be5b-4cae-8056-8bf0bedf4d17%7D/OIC%20DOCUMENT_%C20TO%C20AD%C20HOC%C20COMMITTEE%C2029%C20OCTOBER%2009.PDF) “PBUH” was included in the original text.

<sup>72</sup> International Covenant of Civil and Political Rights art. 18, Dec. 16, 1966, 999 U.N.T.S. 171. (“ICCPR”)

<sup>73</sup> Supra note 31, Leo and Cassidy, at 771.

right to advocate hatred, particularly those rights found in Articles 18 and 19 of the ICCPR.

To understand how the OIC conflates (that is, to combine into one) these two concepts, consider Article 18, which states,

[E]veryone shall have the right to freedom of thought, conscience and religion. This right shall include freedom *to have or to adopt a religion of his choice*.<sup>74</sup>

Further consider Article 19, which states:

1. Everyone shall have the right to *hold opinions without interference*.
2. 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. . .
3. The exercise of the rights. . . *carries with it special duties and responsibilities*. It may therefore be subject to *certain restrictions*, but these shall only be such as are provided by law and are necessary:
  - (a) For respect of the rights or reputations of others;
  - (b) For the protection of national security or of public order. . . or morals.<sup>75</sup>

Article 20(2) then limits the rights above, but does not explicitly *protect* people from incitement, stating:

“Any advocacy of national, racial or religious hatred that *constitutes incitement* to discrimination, hostility or violence *shall be prohibited* by law.”<sup>76</sup>

Leo and Cassidy argue that while Article 20 has “always set forth limited exceptions to the fundamental individual freedoms of expression and religion meant to protect individuals from violence or discrimination,” the Article does not explicitly seek to protect “religious beliefs from criticism”<sup>77</sup> as the OIC incorrectly implies and conflates. After deconstructing the OIC’s erroneous conflation, Article 20(2) must then be given an accordingly narrow application so as not to unduly restrict the *positive* rights enshrined in the ICCPR. Leo and Cassidy note that the legal prohibition contained in Article 20(2) refers to “actions that amount to *much more than* the expression of critical or even insulting views on religious matters.”<sup>78</sup> The idea

<sup>74</sup> Supra note 72, ICCPR.

<sup>75</sup> Supra note 72, ICCPR, at Art. 19.

<sup>76</sup> Ibid., ICCPR, at Art. 20(2).

<sup>77</sup> Supra note 31, Leo and Cassidy at 775.

<sup>78</sup> Ibid. at 779.



behind this provision was to prevent incitement of the type used by the Nazis against Jews and other groups targeted during the Holocaust.<sup>79</sup>

As author Nicole McLaughlin notes with respect to Article 20(2), “freedom of expression is *a more limited right* because it is subject to ‘special duties and responsibilities’ beyond the limitations put on other rights.”<sup>80</sup> Since the ICCPR explicitly forbids advocacy of religious discrimination or hatred, the OIC’s push for an additional specific provision for protection against the “defamation of religions” led to Western nations expressing concern about the underlying *intent* of the OIC’s additional limitations on expression. This was particularly troublesome because the “incitement” clause can be and is used to stifle dissent and minority religious views in predominantly Muslim countries like Pakistan.

### 5.3 Stifling free speech: Violating the Universal Declaration of Human Rights

One of the greatest concerns with the Defamation Resolution is that it targeted speech, and not religion. Thus implementing the OIC’s approach to defamation of religion would also violate provisions of the Universal Declaration of Human Rights (UDHR) which protects free speech,<sup>81</sup> as established in Article 19 of the UDHR:

“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.”<sup>82</sup>

The OIC’s proposed blanket prohibition on “defamation of religions” would mean that persons within a religion (and outside of it) would be restricted in their ability to exercise these universal rights to freely express themselves. As Paula Schriefer notes in the *New York Times*,

“[S]uch a campaign [by the OIC] is deeply flawed from a human rights perspective, both in its equation of religious discrimination (a legitimate human rights violation) with the vague concept of defamation, as well as in the proposed remedy of imposing legal limits on freedom of expression.”<sup>83</sup>

<sup>79</sup> See UN Special Rapporteur on Freedom of Religion or Belief and UN Special Rapporteur on Contemporary Forms of Racism, *supra* note 32, at para. 47.

<sup>80</sup> Nicole McLaughlin, “Spectrum of Defamation of Religion Laws and the Possibility of a Universal International Standard”, 30 *Loy. L.A. Int’l & Comp. L. Rev.* 395, at 397. [emphasis added]

<sup>81</sup> *Supra* note 4, UDHR.

<sup>82</sup> *Ibid.* at Art. 19.

<sup>83</sup> Paula Schriefer, “The Wrong Way to Combat ‘Islamophobia’”, *New York Times*. 9 Nov. 2010.

Schriefer's concern is one echoed by Leo and Cassidy in the previous paragraph. Lastly, one of the most common and pertinent concerns expressed by Western nations was that the passage of the "defamation of religions" resolutions would legitimize national blasphemy laws that are used by countries such as Pakistan to silence Christians and other religious minorities, as well as silence Muslims who do not conform to the government's proscribed Islamic doctrine.<sup>84</sup> The existential reality of this legislative suppression was shown to be the case in Pakistan earlier.

## 6. Revising the language of the resolutions: UNHRC Resolution 16/18

In the face of backlash from Western nations and free speech groups, the "defamation of religions" resolutions underwent comprehensive revisions. On March 24, 2011, the UNHRC adopted a new consensus resolution on "combating intolerance, negative stereotyping and stigmatization of, and discrimination, incitement to violence, and violence against persons based on religion or belief."<sup>85</sup> This New Resolution focused on protecting *individuals* from discrimination or violence instead of protecting *religions* from criticism.<sup>86</sup> It also called for the protection of persons identified with all religions or beliefs, instead of focusing on one religion, and did not conflate race and religion.<sup>87</sup> Moreover, unlike the "defamation of religions" resolutions, the New Resolution did not call for any legal restrictions on peaceful expression. In fact, the New Resolution called for criminalization only in the case of "incitement to imminent violence,"<sup>88</sup> which is the United States' First Amendment standard, and is even more protective of expression than Article 20(2) of the IC-CPR.

In a further rejection of the original Defamation Resolutions, in July 2011, the UN Human Rights Committee released a 52-paragraph statement, "General Comment 34", concerning freedoms of opinion and expression. According to paragraph 48,

"Prohibitions on 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 [the

<sup>84</sup> "2009 Annual Report", U.S. Commission on International Religious Freedom, May 2009, at 228-29. <<http://www.uscirf.gov/images/AR2009/final%20ar2009%20with%20cover.pdf>>

<sup>85</sup> Human Rights Council Res. 16/L.38, "Combating Intolerance, Negative Stereotyping and Stigmatization of, and Discrimination, Incitement to Violence, and Violence Against Persons Based on Religion or Belief," 16th Sess., Feb. 18-Mar. 25, 2011, UN Doc. A/HRC/RES/16/L.38 (Mar. 21, 2011). ("New Resolution").

<sup>86</sup> *Ibid.* at para. 6(a).

<sup>87</sup> *Ibid.* at para. 6(b)

<sup>88</sup> New Resolution, at para. 5(f).

ICCPR]. Such prohibitions must also comply with the strict requirements of article 19, paragraph 3, as well as such articles as 2, 5, 17, 18 and 26.”<sup>89</sup>

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 religion. Nor would it be permissible to choose between religious believers over non-believers. Further, it would not 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. The UNHRC’s adoption of the New Resolution represents a complete shift away from the earlier language of the Defamation Resolutions that had provoked such great opposition internationally, particularly in the West.

## 7. Continuing concerns: Recent OIC resolution on Legal Affairs

While the OIC recently backed away from the language of its original Defamation Resolutions at the UNHRC, the language it continues to use in its own internal resolutions remains concerning. Of brief note, a recent OIC Legal Affairs resolution stated the following:

10. Expresses the need to pursue, as a matter of priority, a common policy aimed at preventing defamation of Islam *perpetrated under the pretext and justification of the freedom of expression* in particular through media and internet.<sup>90</sup>

The use of the phrase, “perpetrated under the *pretext* and *justification* of freedom of expression” underscores that the OIC maintains significant internal reservations about the freedom of expression as it relates to defamation of Islam.

## 8. Conclusions

Since 9/11, the debate surrounding the legitimate criticism of Islam and the attempts to suppress free speech by radical Islamists has been intense, and, at times, full of hyperbole. Through a comprehensive assessment of the failure of the OIC’s “defamation of religions” resolutions, it has been shown how anti-blasphemy laws represented an untenable attempt to stifle free speech, which opposition groups and human rights advocates – principally from Western nations – rightly opposed.

<sup>89</sup> “General comment No. 34 – Article 19: Freedoms of opinion and expression”, UN Human Rights Committee, CCPR/C/GC/34, 29 July 2011. Accessed: 14 April 2012. <<http://www2.ohchr.org/english/bodies/hrc/docs/GC34.pdf>> [Emphasis added]

<sup>90</sup> “38th Session of the OIC Council of Foreign Ministers – Resolution on Legal Affairs”, Organization of Islamic Cooperation, OIC/CFM-38/2011/LEG/RES/FINAL, 30 June 2011, at para. 10. <<http://www.oic-oci.org/38cfm/en/documents/res/LEG-RES-38-CFM-FINAL-2.pdf>> [emphasis added]

Driven by an appreciation of the systemic persecution of religious minorities in Pakistan, where the anti-blasphemy laws are most forcefully imposed, other nations began to see the weakness of the OIC's claims for the necessity of these anti-blasphemy laws, culminating in the rejection of the proposed Defamation Resolutions at the UNHRC. While the UNHRC would then adopt a modified version of the New Resolution, the changed language better reflected the OIC's concerns about potential emergent Islamophobia without carrying the rights-infringing baggage of Pakistan's anti-blasphemy provisions.

Religious freedom hinges on the ability of individuals to express themselves, participate in religious gatherings freely and without fear, and possess the ability to convert to any religion without the threat of violent persecution. Efforts to prevent persecution on these fronts are noble, but it has yet to be seen how Western nations will be able to impact the type of persecution seen in Pakistan, as was analyzed in this paper. Moreover, in pluralistic Western democracies it is fundamentally anti-theoretical that any citizen should have to go into hiding for fear of their own safety. Such was the case of Tarek Fatah in Canada, for the simple act of exercising his "socially liberal" free speech as a Canadian Muslim.

There is a deeper underlying problem for the OIC in its campaign against "Islamophobia" and "blasphemy." So long as the preponderance of terrorist attacks around the world are carried out by self-proclaimed "radical Islamist" groups, global perceptions of Islam will unfortunately remain highly skewed and so-called "Islamophobic" sentiments will persist. The latter are founded on nothing more than simple logic and rational concern about the ability of the Islamic community to internally address the Islamist threat. Thus the real challenge facing the OIC's anti-blasphemy campaign is ultimately one to be addressed within the broader Islamic community itself.

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