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Call for inputs on combating intolerance based on religion or belief: NSS response

Submitted to the OHCHR Registry at registry@ohchr.org (CC: ohchr-minorities@un.org)

Introduction

This response is made on behalf of the National Secular Society.

The National Secular Society is a not-for-profit, non-governmental organisation founded in 1866, funded by its members and by donations. We advocate for separation of religion and state and promote secularism as the best means of creating a society in which people of all religions and none can live together fairly and cohesively. We seek a diverse society where all are free to practise their faith, change it, or to have no faith at all. We uphold the universality of individual human rights, which should never be overridden on the grounds of religion, tradition or culture.

More information about our organisation can be found here:

<https://www.secularism.org.uk/about.html>

We welcome the opportunity to contribute to the High Commissioner's report on combating intolerance based on religion or belief. The NSS opposes sectarianism, bigotry and discrimination against individuals or groups because of their religion or belief. Challenging privilege and discrimination on the basis of religion or belief is part of our mission.

We support the broad principles of Resolution 49/31 and strongly support many of the specific statements in the paragraphs. However, we remain concerned that the proposed strategies to combat intolerance based on religion or belief may be vulnerable to exploitation by those who wish to silence criticism or satire of religion, or otherwise control expression relating to religion.

We also feel Resolution 49/31 leaves the nonreligious vulnerable as it is not sufficiently inclusive of those with nonreligious beliefs.

Freedom of expression

Our vision for a secular democracy is underpinned by the fundamental human right to free speech. Without this, democracy cannot exist. Rather than trying to silence those we disagree with, we believe the answer to speech we don't like to challenge those views with better arguments. We therefore campaign to protect and preserve freedom of expression, including offensive, critical and shocking speech.

Throughout history, up to and including the present day, religious institutions have attempted to maintain their power by restricting any forms of expression they deem offensive or contradictory to their religion. While they still exist in many countries around the world, explicit 'blasphemy laws' are becoming less acceptable as they are increasingly acknowledged as a gross violation of freedom of speech, freedom of conscience and freedom of religion or belief.

For this reason, there are continual attempts by some religious institutions to hijack the cause of combating intolerance based on religion or belief to restrict freedom of expression about religion – in effect, bringing in ‘blasphemy laws by the back door’.

Arguments that free expression should only be exercised where it will not aggravate religious sensibilities must be rejected emphatically; free expression is a fundamental principle of a free, democratic society.

We note that the Organization of Islamic Cooperation (OIC), whose speech at the fifteenth session of the Human Rights Council forms the basis for the call for input, has long supported efforts to curtail speech that is offensive to religion. It campaigned for a global blasphemy law at the UN from 1998 to 2011. In 2012 its secretary-general said the effort would stop, but since then it has repeatedly spearheaded attempts to install ‘backdoor’ blasphemy laws:

- In 2013 the director of cultural affairs at the OIC general secretariat said the OIC “is of the firm view that any religion or its symbols should not be denigrated” and that the OIC was tasked with impressing upon the international community to “take effective measures against such acts of incitement of intolerance”.
- In 2015 the International Federation for Human Rights (FIDH) saw it necessary to warn the OIC against pushing once more for a global blasphemy law at its conference on “combating intolerance”. It said the concept of “defamation of religion” is “incompatible” with human rights.

In a liberal secular society, the rights of individuals should be afforded respect and protection, but ideas and institutions should not. We reject the idea that any set of beliefs should be privileged or protected from criticism. For this reason, we have concerns over the increased official adoption of terms such as “Islamophobia”, “Christophobia”, “Hinduphobia” and “religiophobia”. Accusations of ‘Islamophobia’, for example, have been used to silence debate about Islam, to justify religious privilege, to condone religious violence and even to argue against showing solidarity with Muslim victims of Islamist violence.

Far from combatting prejudice and bigotry, erroneous cries of ‘Islamophobia’ have in fact become a cover for it. LGBT rights campaigners have been called ‘Islamophobes’ for criticising Muslim clerics’ views on homosexuality. Ex-Muslims and feminist activists have been called ‘Islamophobes’ for criticising certain Islamic views on women. Even liberal and secular Muslims have been branded ‘Islamophobes’.

Some ‘back door’ blasphemy laws can take the form of ‘hate speech’ laws or public order offences. The NSS is generally wary of criminalising forms of speech that are not a direct incitement to crime. We see a clear distinction between punishments for crimes that are motivated by hate, and criminalising hateful but otherwise lawful expression itself. We therefore believe ‘hate speech’ should be challenged by civil society, rather than prohibited by law. Some ‘hate speech’ laws can effectively function as blasphemy laws if they criminalise insulting speech about religious groups; robust criticism or mockery of religion can often be interpreted as an insult towards a particular religious group.

We were also concerned with this sentence from Resolution 49/31:

“Reaffirming that terrorism, in all its forms and manifestations, cannot and should not be associated with any religion, nationality, civilization or ethnic group.”

We share the sentiment that members of any religious groups should not be automatically associated with terrorism, and that no individual should be accused of terrorist sympathies simply due to their religious affiliations.

However, it remains a fact that religious ideology, as with political ideology, is frequently a powerful motivator for terrorist activities. Denying links between religion and terrorism merely hampers efforts to tackle terrorism and prevent people from being drawn into terrorism. In the UK, it is well-known that religious preachers play an important role in encouraging support for some forms of extremism and terrorism. States must be free to explore links between religion and terrorism as part of counterterrorism initiatives without hinderance.

Finally, we are concerned that explicit blasphemy laws exist in over 80 countries across the globe; among those, the death penalty may be applied in 6 countries. Moreover, apostasy laws are closely related to blasphemy laws and may be used interchangeably; apostasy is a criminal offence in 17 countries, punishable with death in 12 of them.

Blasphemy laws and apostasy laws are used to target religious and political minorities, and so play a key role in fostering and maintaining intolerance based on religion or belief. This is sometimes described as a 'misuse of blasphemy laws', but we contend that there are never any legitimate uses for blasphemy laws.

Recommendations:

- **Efforts to tackle intolerance based on religion or belief must support the right to freedom of expression, including expression perceived as insulting to religion, rather than undermine this right.**
- **All blasphemy laws and apostasy laws, including 'back door' blasphemy laws such as hate speech or public order offences specific to insulting religion, must be abolished.**

Equality laws

Laws that prohibit discrimination against people on the basis of defined 'protected characteristics', including religion or belief, have a crucial role to play in combatting intolerance, stigmatisation and persecution of all kinds. The UK's Equality Act 2010 is, in general, a model example of an equality law. It robustly defends individuals from discrimination, sends a message that discrimination is not acceptable, and additionally protects freedom of expression.

However, we are concerned that the Equality Act 2010 contains too many religious exceptions that serve to uphold institutional discrimination in the UK. For example, the Act contains several exceptions designed to accommodate state-funded schools with a religious character ('faith schools'), allowing them to discriminate against children, families and staff who do not share the religion of the school¹. These exceptions were included in the Act following lobbying from religious groups, including the established church, that want to maintain their privileges. We believe equality laws should challenge institutional and structural discrimination rather than accommodate it.

¹ For more information see: <https://www.secularism.org.uk/defend-equality-laws/faith-shaped-holes-how-religious.html>

Recommendations:

- **Equality laws must challenge institutional and structural discrimination, including discrimination perpetuated to further religious agendas, rather than upholding and maintaining this discrimination.**

Intolerance of the nonreligious

We are concerned that efforts to combat intolerance based on religion or belief frequently neglect or ignore entirely those who are not religious, even though openly nonreligious people are often subject to extreme hatred, violence and persecution around the world.

We noted that the wording of Resolution 49/31, including paragraphs 7 and 8, refers far more frequently to “religion” than “belief” and makes no direct references to atheists, humanists or nonreligious people at all.

“Freedom of religion or belief” is the language enshrined in the Universal Declaration of Human Rights and is the accepted language by UN Member States: References to “religious freedom” without ‘thought’ or ‘belief’ suggests an interpretation that the right is purely one that protects religious people, rather than all people. Any efforts to promote freedom of religion or belief must recognise that freedom to manifest a religion is not absolute and that a balance must sometimes be struck to protect the rights of others and achieve freedom and fairness for all.

The NSS is frequently contacted by nonreligious individuals seeking asylum from countries where openly declaring to be nonreligious, or leaving a religion, can result in harsh punishment from the state and/or mob violence that is often condoned by the state.

According to Humanists International:

- Government figures or state agencies openly marginalise, harass, or incite hatred or violence against the non-religious in 12 countries.
- Non-religious people are barred from holding at least some offices in 26 countries.
- It is difficult or illegal to run an overtly humanist organisation in 16 countries.²

One of the most high-profile cases of nonreligious persecution in recent years is Mubarak Bala, president of the Humanist Association of Nigeria, who was arrested in 2020 in connection with a series of Facebook posts which some deemed “blasphemous” against Islam. He was held without charge for 462 days and was denied access to a legal team for over five months. In April he was sentenced to 24 years in prison.

Misguided efforts to promote ‘religious tolerance’ or ‘religious literacy’ which are not inclusive of the nonreligious can result in increased oppression and intolerance of nonreligious people. Some religious people think openly rejecting religious beliefs, or being critical of religious beliefs, is a form of religious intolerance that requires suppression. Meanwhile, other religious people think religious freedom should include the freedom to impose their beliefs on others, such as proselytising even where this is highly inappropriate. Where these situations are enabled by ‘religious tolerance’, ‘religious literacy’ or ‘religious freedom’ initiatives, the nonreligious are likely to suffer discrimination and marginalisation.

² <https://fot.humanists.international/>

Finally, we note that interfaith dialogue is regularly referenced in Resolution 49/31. While interfaith dialogue can be useful in tackling religious intolerance, it must be noted that interfaith initiatives are often explicitly or implicitly exclusive of nonreligious people. If interfaith initiatives are supported by the UN to combat intolerance, those initiatives must be fully inclusive of nonreligious people.

Recommendation:

- **Efforts to tackle intolerance based on religion or belief, including the language used when discussing strategies to combat this intolerance, must be fully inclusive of the nonreligious, regardless of whether or not such people openly identify as atheist or humanist.**