

A group of people, mostly men, are seen from behind, wearing bright pink caps. They are gathered around and reading a newspaper. The newspaper has several columns of text and small portraits of people. The scene is slightly out of focus, emphasizing the collective activity.

BLASPHEMY

INFORMATION SACRIFICED ON ALTAR OF RELIGION

DECEMBER 2013

INTRODUCTION

When André Malraux forecast that the 21st century “will be religious or it will not be at all,” he almost certainly had not foreseen one of the most dramatic consequences of his prediction. Abuse of religion can be extremely harmful for the free flow of information, ideas and opinions. In the name of religion or “traditional values,” not only cartoons but also the “factual truths” so dear to Hannah Arendt are censored.

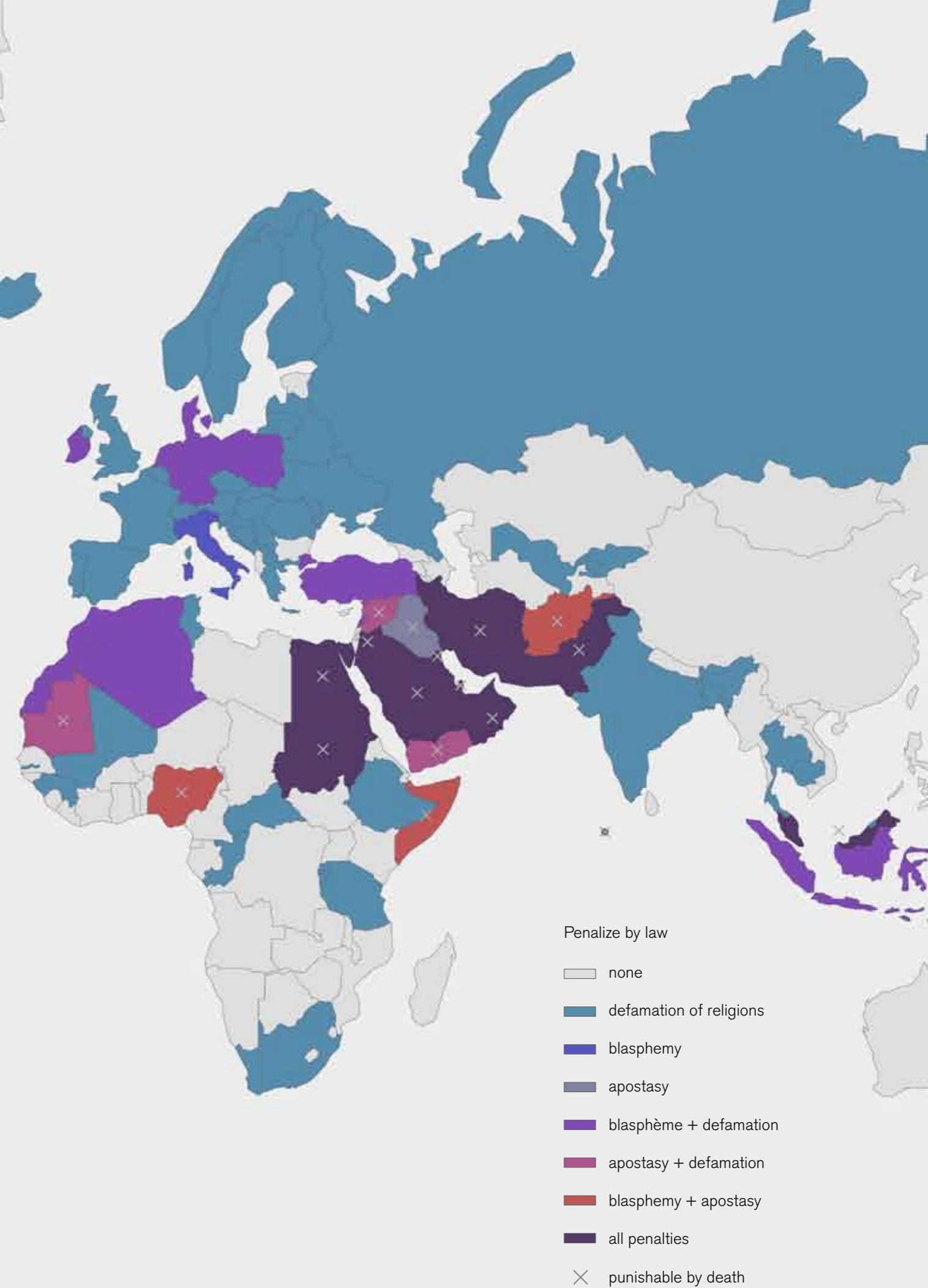
This is happening in Muslim countries where the system of government is controlled or directly influenced by religion – religion understood as a body of beliefs supervised by institutions. It is also happening more and more in secular societies because of a conflict of values resulting from religion’s impact on the public domain (especially through the media). It also results from the use of religion for political ends.

Based on research by Reporters Without Borders, this report highlights two related dangers for freedom of information, a freedom that is fundamental and essential to democracy. The first is the ambiguity of censorship in the name of religion. Does it aim to punish the questioning of dogma? Or supposed attacks on a community’s “religious feelings”? Or challenges to the power of patriarchs and mullahs? This confusion serves the purposes of all those who brand journalists and bloggers as the new heretics.

The second danger lies in the claim, enshrined in the laws of nearly half of the world’s countries (see box) to render religion or “traditional values” untouchable, to put them beyond or above the usual domain of the free flow of information and opinions protected by article 19 of the Universal Declaration of Human Rights. This danger has grown since the turn of the century with an unprecedented diplomatic offense within the institutions of the United Nations, thanks to unexpected alliances. Within the UN Human Rights Council, those who would censor in God’s name refuse to give up.

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1 CONCEPT OF “SACREDNESS” BLOCKS RIGHT TO KNOW

The charge of “offending religion,” which is punished cruelly in some parts of the world, is often used as tool of political censorship or to conceal economic, social or political realities. A straitjacket for journalists and bloggers, religious extremism of all kinds, not just Islamic, is beginning to show the world its true colours.

There are countries where not all truths can be said. In October 2009, three Yemeni parliamentarians filed a complaint accusing Moaz Ashhabi, the editor of the weekly *Al-Thaqafa*, of “falsifying the Koran.” Had his newspaper misrepresented the Koran, deliberately changed a verse, or provocatively challenged the accepted story of Mohammed’s life? Not at all. Its journalists had just done their job by reporting a piece of news, that a debate was taking place among Yemeni clerics about vocalization of the Koran (the addition of diacritic marks indicating vowels).

The parliamentarians found it intolerable that *Al-Thaqafa* had not passed a veil of silence over this debate. As Ashhabi had libelled no one, did the court dismiss the case on the grounds that the report was accurate? No, on the contrary, it sentenced him to a year in prison in January 2010 – simply for referring to the existence of a debate. He ended up serving just under half the sentence. Was this just a “symbolic” punishment? Five months in prison was hardly symbolic for Ashhabi and clearly served as a deterrent for other journalists.

In Bangladesh, the blogger Asif Mohiuddin covered the trial of leaders of the Islamist party Jamaat-e-Islami on charges of war crimes and crimes against humanity during the 1971 independence war. This was a risky story. The most fanatical Islamists could not stand an outspoken critic of religious fundamentalism describing what was taking place in the courtroom or what took place during the independence war.

As a result, Mohiuddin has only just survived two spells in jail in a country where arguing with fundamentalists often leads to a conviction for offending religion. In August 2013, a month after being jailed for the second time, he was bailed on health grounds but he is still facing trial on charges of “hurting religious belief” and “offensive comments about Islam and Mohammed.” Judges refuse to dismiss such charges even when no insults are uttered and religious believers are provoked by nothing more than a description of the facts. It makes life very difficult for journalists.

In the Indian Ocean nation of Maldives, the spectre of religious tension arose in late 2011, promoted by the Adhaalath Party’s Sunni fundamentalists. Although various religious currents coexist in the Maldives, the government reacted by suddenly reinforcing the 1994 *Religious Unity Act*, increasing the penalties for blasphemy and banning the media from promoting any religion other than Sunni Islam, the state religion.

Independent online journalist Ismail “Hilath” Rasheed (see picture below) paid dearly for not complying. Backed by the Ministry of Islamic Affairs, the Communications Authority of the Maldives closed his political and religious blog on the pretext that it contained “anti-Islamic” material. The reason? Rasheed is a Sufi Muslim, not a Sunni, so he was accused of “humiliating Allah, the Prophet and the faith.” He tried arguing that Islam is not a single current and called for peaceful cohabitation between communities. For his trouble, two unidentified men stabbed him in the neck outside his home in the capital in June 2012. Amazingly he survived.

In such societies, you are making a big mistake if you try to do any objective reporting, less still investigative reporting. When Saudi blogger Raef Badawi wrote about the activities of the Committee for the Propagation of Virtue and Prevention of Vice (the feared religious police), the authorities ordered him to remove his blog posts. That is censorship, and he refused. On 29 July 2013, a Jeddah criminal court found him guilty of breaking the cyber-crime law by offending Islam and violating the precepts of the Sharia. In Saudi Arabia, failing to respect the conventions of Internet usage is no small matter (see box). Badawi was sentenced to seven years in prison and 600 lashes. His chances of getting the sentence commuted are slim.



FABRICATED SACRILEGE

These examples show how information is subjected to a religious straitjacket in countries with a theocratic regime or with legislation imposing religious and cultural uniformity. In such countries, there is no recognition of the separation between religion and state that characterizes secular societies. These examples also highlight the cruelty of the punishments for those who “insolently” challenge the status quo, ranging from banishment to the lash and public execution.

Above all, they show how governments or radical factions claiming to be imbued with divine authority suppress alternative views on religion in newspaper columns, on the air or online. The subjective concept of offending the “feelings of believers” is used to justify charges of “blasphemy” or “offences against dogma and traditional values.”

Even scholarly articles about a religion can elicit the censor’s wrath. When the French Catholic magazine *Le Pèlerin* – an unlikely source of impiety – published a special issue entitled “50 keys for understanding Islam” in February 2012, it was banned in Morocco. This was just a few days after a special issue of the French newsweekly *L’Express* entitled “The great history of the Arab peoples” suffered the same fate. Both contained a representation of the Prophet’s face. Morocco also banned two issues of another French weekly, *Le Nouvel Observateur*, around this time for the same reason.

Journalists are often accused of blasphemy for questioning interests or actions that are supposedly endorsed by religion.

In the censor’s view, considering dogma necessarily means submitting to it. This conceptual short-circuit overlooks the original sense of “blasphemy” as applicable solely to the believer who decides to challenge his own religion, a condition that becomes “apostasy” when he decides to renounce it. There are few cases in which “blasphemy” in the true sense can be ascribed to content of a strictly religious nature or content dealing with a religion’s core beliefs (examination of ritual or historical aspects, in-depth theological debate and so on).

Journalists, bloggers and news media rarely have this kind of specialist knowledge or interest. It is usually when they are reporting or commenting on news developments that they arouse the anger of censors and fanatics. Or when they express opinions in editorials or cartoons. Or when they question religion’s influence on society or the legitimacy of those who claim to impose standards in the name of the faith.

Journalists are often accused of “blasphemy” for questioning interests or actions that are supposedly endorsed by religion. In Gao, in northern Mali, Abdoul Malick Maïga, a presenter on Radio *Aïda Koïma* (Joys

FROM CYBER-SHARIA TO “HALAL” INTERNET

Religious prescriptions are having an impact online. Despite the impossibility of imposing total “virtue” on national Internets, the most intransigent Muslim countries are vying with each other to find ingenious ways to drive out “vice.”

The Saudi monarchy, for example, has institutionalized what is called the “electronic *Hisbah*,” which gets its name from a Sharia principle based on a verse in the Koran telling Muslims to “enjoy what is good and forbid what is wrong.”

In order to promote faith-based censorship, Saudi Arabia’s Committee for the Promotion of Virtue and the Prevention of Vice has published handbook entitled “*The Moral Vice of the Internet and How to Practice Hisbah*”

that explains how Internet users can become “*Hisbah cyber-cops*.”

It draws attention to the dangers and threats of “immoral” websites and advises website moderators how to censor or report objectionable content. The committee has reportedly trained 300 volunteers in how to practice *Hisbah* on social networks.

In Sudan, the National Telecommunication Corporation also cites *Hisbah* as grounds for filtering the Internet, which is needed, it says, in order “to protect the moral values of the *Ummah [community of believers] and the principles of virtue and chastity*.” In Egypt, citizen groups invoke *Hisbah* to get the courts to block access to porn sites.

In response to a wave of anti-government protests in 2009, Iran took online censorship one step further by adopting a cyber-crimes law that forces Internet Service Providers to register all data received and sent by users for six months under pain of harsh penalties. Internet users posting illegal content or using roundabout methods to access blocked content can get long jail terms.

The Internet poses a threat to the Islamic faith and society, according to Muslim theologians who have tried to develop a doctrinal approach to the issue. “Cyber-fatwas” have begun to appear, especially against the use of YouTube. In Saudi Arabia, the Permanent Committee for Islamic Research and Issuing Fatwas has given a damning opinion on Internet cafés: “If these places can be used for evil ends that will harm Islamic beliefs (...) then it is sinful to go to them.”

At the same time, religious authorities are promoting the creation of an “Islamic Internet” that is purged of the traditional Internet’s impious content and has its own video-sharing websites such as Naqatube.com, “selective” search engines and single-sex social networks in which all members are Muslim.

In September 2012, the Iranian government inaugurated a “Halal Internet,” a parallel network that has high-speed connections but is completely subject to censorship and surveillance. All Iranian websites will eventually have to be hosted on local servers, while applications and services such as email, search engines and social networks are to be developed under government control. All this, of course, in the hope of erasing all dissent.

of the Hill), took a big risk during his evening broadcast on 4 August 2012 by describing how residents had narrowly saved a youth from having his hand amputated by members of the Movement for Oneness and Jihad in West Africa (MUJAO) for alleged theft.

For this supposed affront to the Sharia, Maïga was dragged from his studio in mid-broadcast and beaten unconscious by MUJAO members who were probably more concerned about defending their role in an anti-government rebellion than defending their religious beliefs.

Committed to “spreading the teachings of the Prophet and Jihad,” the Nigerian radical Islamist sect Boko Haram is very concerned about its media image. Ever since it emerged in the northern states of Kano, Borno and Kaduna in 2002 and declared war on the federal government in Abuja, it has been bombing news media and murdering journalists for “distorting” its activities in their reports.

Its many victims include Zakarya Isa, a journalist who was shot dead in cold blood in Maidaguri in October 2011. It made no difference that he was returning from the local mosque at the time. Such considerations are of little concern to Boko Haram, or Somalia’s Al-Shabaab or the theocrats who murder journalists all over the world (with the notable exception of the Americas). You are damned if you undermine their reputation, regardless of whether you blasphemed.

TOPICS AND TABOOS

Amplified by the Internet, content dealing with social or sexual matters is also liable to be seen as “religiously sensitive” and arouse the censors. Such markers of secularization as discussion of the role of women, gays and sexuality are explosive topics in this conflict of values, when religion’s influence on society is challenged.

Here again, censors often invoke the “feelings of believers” if their authority is questioned, and the strength of taboos often puts journalists and bloggers at the mercy of their own public. There are many examples. Nearly all show how spontaneous outrage acquires religious overtones and the target ends up being accused of offending religion and traditional values. A recent case in Oman shows this gradual development.

The authorities in Muscat announced on 5 September 2013 that they were beginning proceedings against Samir Al-Zakwani, the editor of the local English-language weekly *The Week*, and one of his reporters over an article that had appeared a few days before about gays in Oman. The charges were not specified but the information ministry said it could not allow “harming the fundamentals, principles, and values of the society or undermining its moral and religious values.” As is so often the case, there was nothing in the article that did anything of the sort, but censors have no time for analysis.

For interviewing foreign and Omani gays who said they had more freedom in Oman than in neighbouring countries (although homosexuality is criminalized in Oman), the weekly is being accused of “sullyng the country’s image,” “promoting acts against nature” and “attacking morality and its foundations” – religious foundations, obviously.

Zakwani and his reporter could receive a sentence of six months to three years in prison, but they have already been convicted on the street. The wave of hate unleashed against them on social networks has even been echoed by the Omani Journalists Association, which said *The Week*’s licence should be withdrawn. Bowing to the widespread condemnation, the newspaper quickly issued an apology and withdrew the article from its website.

In Iran, which has even created a “Halal Internet” (see box) to protect the public from such dangerous content, local journalists would never have dared to commit such an editorial sin. As former President Mahmoud Ahmadinejad said several times, “homosexuality does not exist in the Islamic Republic.”



REPRESSIVE ICONS

As in the Persian Gulf monarchies and Iran, it is often not a good idea to criticize the dominant clergy in Christian lands either. That includes Karelia, a Russian republic bordering on Finland. "Karelia is tired of popes," was the headline of a blog post by human rights activist Maksim Ekimov on 31 December 2011. Ekimov was promptly charged with inciting religious hatred, the Federal Security Service searched his home and a court ordered him confined to a psychiatric hospital, leaving him no choice but to flee to nearby Estonia the following May. Rather than inciting religious hatred, he had just criticized the economic and social power of the Russian Orthodox Church hierarchy, which tends to be very close to the government.

Boris Obratsov, the editor of the Kaliningrad-based newspaper *Tridevyaty Region*, was fined 110,000 rubles (2,500 euros) in September 2011 on a charge of "extremism" for criticizing the Orthodox clergy's economic privileges, calling priests "bearded transvestites" and referring to the "vermin that you find at the head of any religious organization."

A well-known Kremlin critic, Obratsov is still being hounded by the courts because his impassioned column was posted online again in December 2012. Eschewing any discussion of beliefs or dogma, his editorial was above all political in nature, targeting the Orthodox Church hierarchy in Moscow and its representatives in the regions, and criticizing religion as an institutional system and guarantor of moral codes. Sometimes the truth just cannot be said and the law is there to remind you of that.



2 LEGAL CONSTRAINTS ON GOD'S LAW

In theocracies, the charge of blasphemy is a legal weapon that is used to maintain social order. Elsewhere, laws referring to the "feelings of believers" may play the same role. Sometimes, as in former Soviet republics, legislation restricts both the expression of religious beliefs and criticism of religion.

Seven students aged 19 to 28 were arrested in a series of raids by the intelligence services in Tehran on 17 and 18 July 2010. Three of them – Mohammad Reza Ghozalideh, Ladan Mostoufi Ma'ab and Hojat Nikoui – are still held. At the time of their arrest and transfer to Tehran's notorious Evin prison, these young dissident netizens appear to have confessed under torture to membership of an "anti-religious network that blasphemes Islam."

The charges initially brought against them were both serious and varied – anti-government propaganda, insulting what is sacred, activities against national security in coordination with organizations hostile to the Revolution, insulting the Prophet and, the supreme crime, "*moharebeh*," which means "rebellious against God" – a charge that carries the death penalty although, in this case, the sentences were limited to jail terms and the lash.

The long list of crimes allegedly committed by these young bloggers was a strange combination of charges of a spiritual and secular nature. What exactly was being punished? What were they supposed to have done? The Islamic Republic's authorities ended up showing their hand in the course of the proceedings by dropping all the most serious charges, those of a directly religious nature.

The sentences were nonetheless harsh. Shaken by protests after President Mahmoud Ahmadinejad's disputed reelection in June 2009 and angered that netizens were able to use social networks to inform international public opinion, the mullahs were determined to display their authority and maintain order. The case of the seven Iranian bloggers was a reminder that in theocracies religion can be used for purposes that are not religious at all. But it would be simplistic to think that religion played no role in this case just because it was not decisive.

THREE LINKED ORDERS

Give outspoken journalists and bloggers a free rein? Allow the development of freely reported news and information? Those who consider themselves imbued with divine right have everything to lose by letting this happen. It leads to the public's intellectual emancipation, the emergence of an independent civil society and ultimately to erosion of the foundations on which the system of government is based.

In the still many countries where the boundaries between the spiritual and temporal have never been demarcated, the government owes its survival to the supposedly inextricable links between divine order, political and institutional order and public order. It is these links that account for the mix of sacred and profane charges that Iran's mullahs bring against dissident journalists and bloggers. To challenge the government is to challenge a power of divine essence and therefore God himself. To challenge God is to insult the faithful, their beliefs and therefore society itself. By penalizing blasphemy and attacks on traditional values, you maintain the established order.

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Represented in its most extreme form in Iran and Saudi Arabia, this reasoning can be found underlying laws, including media laws, elsewhere. Article 41 of Morocco's press law, for example, provides for a sentence of three to five years in prison and a fine of 10,000 to 100,000 dirhams (900 to 9,000 euros) for any "offence against His Majesty the King, and the royal princes and princesses." The same article provides for the same sentence if a newspaper "attacks the Islamic religion, monarchic system or territorial integrity." This combination reflects a regime in which the sovereign, the guarantor of political unity and supreme head of the executive, also heads the religious faith. But in this case only one religion or one set of "religious values" is protected, the state religion.

SOME RELIGIONS, ONE IN PARTICULAR OR RELIGION IN GENERAL?

The situation of journalists and bloggers is by far and away the most critical in the 15 or so countries – all Muslim – where the established religious doctrine is a source of legislation. In these countries, the anti-establishment news provider is readily branded as a heretic, apostate or atheist, or sometimes as a member of a religious minority, which the law also targets.

From Yemen and Egypt to Afghanistan, Pakistan and Libya, the religion reflected in the country's legislation is the one professed by most of the population. Referring to it or defending it as a form of social cement and flattering the religious sentiments of the majority seems to be essential for the state's survival in these countries, especially those that are rebuilding or have been weakened by radical groups, to which concessions must be made.

This explains why governments that are not necessarily religious in essence concede a significant amount of political and legal terrain to ulemas and muftis. The media and communication sphere is a key indicator of this influence. Afghanistan's Hamid Karzai, an elected president and guarantor of a recent constitution that in theory bans censorship and recognizes pluralism, yielded to the Council of Ulemas twice in the space of less than two weeks in the spring of 2013, ordering his information and culture ministry to prevent the "dissemination of films and broadcasts contrary to Islamic values and Afghan society."

In Libya, Sheikh Sadeq Al-Ghariani imposed a fatwa on the journalist Reda Fhelboom and his TV station, *Libya International*, in February 2013, accusing them of "promoting the apostate Shiite doctrine and atheism and defaming Islam and the companions of the Prophet" after Fhelboom interviewed a women's rights defender about the wearing of the veil.

In neighbouring Tunisia, on the other hand, the Islamist Ennahda party-led government that was established after the 2011 revolution has not managed to totally roll back the Ben Ali era's secular heritage, and the constituent assembly, which is struggling to agree on a constitution, has for the time being at least abandoned any plans to criminalize "attacks on what is sacred."

Confronted by the double challenge of maintaining social harmony and containing radicalism, other states have legislation that is better adjusted to a mixed religious demography. In Iraq, article 372 of the criminal code provides for up to three years in prison for "crimes that violate religious sensibilities."

In Bangladesh, where Islam became the state religion in 1988, and in multiconfessional India, the same penal code that has been in force since its adoption by the British imperial authorities in 1860 makes "deliberate and malicious acts intended to outrage religious feelings of any class by insulting its religion or religious beliefs" punishable by two to three years in prison.

The country with the world's largest Muslim population, Indonesia, has a criminal code with an article (No. 156) that penalizes "public defamation [and] hostility and hatred towards certain communities, including religious groups" with four years in prison. Although less discriminatory and more protective of religion in general, such legislation does not however provide any reassurance for journalists and bloggers.

Applicable to any form of "offence against religion," these legal provisions have the effect of restricting treatment of subjects relating to religion in any kind of media. What is particularly grave is the fact that they are based on such subjective concepts as the "sensibilities of believers" or "religious feelings" that are impossible to define. Satire? Criticism? The "sentiments of believers" quickly brand the first as "blasphemy" and the second as an "offence" or "defamation."

The Indonesian weekly *Tempo* had to resort to obsequious apologies to avoid punishment under article 156 after the Alliance of Students and Young Christians (AMPK) filed a lawsuit accusing it of sacrilege for publishing a cover parodying Leonardo da Vinci's *Last Supper* – with former President Suharto in Jesus' place, flanked by his six children – in order to satirize Suharto's corruption and nepotism.

While supposed to guarantee social peace, laws protecting a religion or religion in general are effective in achieving censorship and self-censorship without necessarily realizing the political goal of reining in the demands of religious extremists.

In northern Iraq's autonomous Kurdistan region, Hamin Ary, the editor of the Kurdish and Arabic-language monthly *Chirpa*, failed to appease Islamist anger in May 2012 when he apologized for reprinting a supposedly blasphemous article by Goran Halmat, a Kurdish writer living in Norway. Originally posted on Facebook in 2010 and entitled "Me and God," the article criticized the Islamist armed group Ansar Al-Islam.

On the insistence of the Union of Ulemas and Islamist parties such as Jama'a Islamiya, the magazine was suspended indefinitely, and Kurdistan's prime minister, Nechirvan Barzani, publicly vilified it for "offending Islam." Arrested on 7 May 2002, Ary was briefly charged under article 372 of the criminal code – which penalizes "offences that violate religious sensibilities" and carries a jail term – instead of Law 35, governing media offences, which makes no provision for prison sentences. And the next day, 2,000 people marched through Erbil calling for Halmat's death although, on the eve of the march, Jama'a Islamiya's leadership had said it should be called off.

The anti-establishment news provider is readily branded as a heretic



DOUBLE-EDGED LEGISLATION

The countries with borders inherited from the former Soviet Union do not all have the same majority religion. But, whether it is Islam in Central Asia or Orthodox Christianity in Russian-speaking republics and parts of the Caucasus, they often have dissident religious groups in their midst and the authorities protect the “feelings of believers” in order to guard against what they see as threats to social cohesion and state security.

The goal of public peace nonetheless appears most pronounced in countries with laws that penalize not blasphemy but “inciting religious hatred, enmity and discord,” which is put on a par with inciting racial hatred. Examples include the criminal codes of Russia (article 282), Kazakhstan (article 164), Turkmenistan (article 177), Armenia (article 226), Ukrainian (article 161) and Belarus (article 130), which all have similarly-worded provisions and often long jail sentences for the same crimes.

Some of these countries invoke “traditional values” as the basis of a recently achieved national identity and, above all, to legitimize the authority of the state, and they promote this concept at the diplomatic level in order to dispute the universality of human rights (see next chapter).

RELIGION(S) : LEGAL PROTECTION IN HALF OF THE WORLD'S COUNTRIES

According to a survey published in 2012 by the Pew Research Centre¹ in the United States, 94 of the world's 198 countries – 47 per cent – have laws that penalize blasphemy, apostasy or defamation of religion.

A word that has disappeared from everyday vocabulary in the western world, apostasy means *voluntarily renouncing one's religion* and is regarded as one of the gravest crimes in much of the Muslim world. It is punished – often by death – in 20 countries. Islam is the dominant religion in all of them. The 20 countries are:

- (Maghreb and Middle East) Egypt, Iran, Iraq, Jordan, Kuwait, Oman, Qatar, Saudi Arabia, Syria, United Arab Emirates and Yemen
- (Asia-Pacific) Afghanistan, Malaysia, Maldives and Pakistan
- (Africa) Comoros, Mauritania, Nigeria, Somalia and Sudan.

All but five of these countries – Comoros, Iraq, Mauritania, Syria and Yemen – have laws that penalize blasphemy, that is to say, *insulting or criticizing religious dogma or symbols*. Algeria, Bahrain, India, Indonesia, Lebanon, Morocco², Singapore and Turkey also have laws penalizing blasphemy. So do eight European Union members although their blasphemy laws are little used (see box). They are Denmark, Germany, Greece, Ireland, Italy, Malta, Netherlands and Poland.

There is a much longer list of countries – 86 in all – where the law punishes “defamation of religion.” This more general term may include certain traditional forms of “blasphemy” but only inasmuch as they are perceived as offensive by a religious community.

In this case, “defamation of religion” is based on the highly problematic concept of “religious feelings.” In practice, many countries, especially EU countries (see box) apply this law only when there is a clear case of discrimination

Here the legislation is a two-edged sword. It targets both “extremism” and “religious discord.” Does it seek to define the limits of what is religiously acceptable? The governments of Central Asia and the Caucasus certainly intend to cede no influence to the Islamists, who are seen as internal enemies. In a climate partly inherited from the Soviet era, when it was normal to regulate the population ideologically, autocratic governments are as quick to suspect those who believe a bit too much in heaven as they are to suspect those who make too much fun of it. Journalists, bloggers and government opponents are exposed to catch-all legislation that is no less draconian for being two-sided.

While article 156 of Uzbekistan's criminal code penalizes “inciting religious hatred and discord” with imprisonment, article 216 is equally severe as regards “organizing and participating in a prohibited social or religious movement.” It was used to silence Khayrullo Khamidov, a sports commentator and radio host who is still serving the six-year jail sentence he received from a Tashkent court in May 2010. When chatting on the air with listeners to Nawruz, a small radio station, Khamidov never hid his religious preferences. What he had to say seems to have clashed too much with the discourse of a regime that is one of the most inflexible in the region towards dissidents.

In Tajikistan, Urinboy Usmonov, a correspondent for the *BBC's* Uzbek-language service, was tortured during interrogation after his arrest in June 2011 for alleged membership of the outlawed Islamist party Hizb-ut-Tahrir. He finally received a three-year jail sentence the following October on a lesser charge of being in contact with Hizb-ut-Tahrir without telling the authorities. Under international pressure, the authorities pardoned him but the supreme court upheld the sentence as a warning to all journalists who might be inclined to cover the activities of a banned organization.

In Kazakhstan, Alexander Kharlamov, an outspoken independent journalist and human rights defender, spent six months in preventive detention – of which several weeks in a psychiatric clinic – before finally being released into house arrest on 4 September 2013. In his case it was his critical blog posts about religion that prompted this treatment. Is the religious lowest common denominator destined to be used every time to discourage independent news providers?

against a community or group of individuals for religious reasons. It is offences against persons, not offences against beliefs or dogma that are punished.

“Defamation of religion” figures in the legislation of 24 of the EU's 28 member countries. The exceptions are Italy, which just has “blasphemy,” and Estonia, Bulgaria and Cyprus, which have no laws regulating religion. Only six countries in the Americas have laws penalizing defamation of religion: Brazil, Canada, Chile, Salvador, Trinidad and Tobago, and Venezuela.

1 - See link (figures for 2011): <http://www.pewforum.org/2012/11/21/laws-penalizing-blasphemy-apostasy-and-defamation-of-religion-are-widespread/>

2 - The Pew Research Centre survey lists Western Sahara as a separate entity.

3 DIPLOMATIC CAMPAIGN AGAINST “DEFAMATION OF RELIGION”

On the initiative of the Organization of Islamic Cooperation (called Organization of the Islamic Conference until 2011), no fewer than 10 resolutions condemning “defamation of religion” were presented and voted within the various UN bodies from 1999 to 2010. “Respect for religion” even gained the upper hand over freedom of expression briefly in 2007. Periodically revived by controversial cartoons and videos, the battle is far from over.

*“If the Western world fails to understand the sensitivity of the Muslim world, then we are in trouble,” the Organization of Islamic Cooperation’s Turkish secretary general, Ekmeleddin Ihsanoglu, told the *Associated Press* on 29 September 2012, while lobbying intensively in the corridors of the United Nations during the annual General Assembly. As Ihsanoglu spoke to the AP, Algeria’s foreign minister, Mourad Medelci (who now heads his country’s constitutional council), was delivering an address to the General Assembly in which he called for a ban on blasphemy and insulting religion – in practice, Islam – in international law.*

Medelci’s speech echoed the wave of anger and protests that had been triggered throughout the Muslim world, especially in North Africa and Asia, by the posting on YouTube of *“Innocence of Muslims”*, a crudely-made amateur film that was a scathing attack on Islam. It mocked the Prophet Mohammed and used every stereotype to made fun of his present-day heirs, the planet’s 1 billion Muslims. It had absolutely no informational content but it had an impact on freedom of information. The outcry resounded beyond the Muslim world and revived the spectre of a “clash of civilizations” unleashed via the Internet.

As YouTube’s owner, Google was under pressure and several governments asked it to withdraw the video. Blocking measures followed on all continents. Russia classified it as “extremist” content “inciting religious hatred” (see previous chapter) and banned it on 1 October

2012. The much more liberal Brazil had already yielded to the pressure for censorship six days earlier, before the General Assembly began. A São Paulo court ordered Google to withdraw a video containing passages from the film. “Such provocations pose a threat to international peace and security and the sanctity of life,” Ihsanoglu said at the UN. And they therefore justify worldwide persecution of blasphemy?

In what was clearly the worst possible way, *Innocence of Muslims* revived an old debate within the international community in which a conflict of values turns dangerously into a clash between rival legislative concepts. “The time has come to establish denigration of all religions and their followers as a hate crime,” Turkish foreign minister Ahmet Davutoglu told the UN General Assembly, adding, “We have to take swift measures.”

A statement issued by the foreign ministers of the Organization of Islamic Cooperation’s 57 member countries endorsed his call. Firstly, it urged governments to “*take all appropriate measures including necessary legislation against these acts that lead to incitement to hatred, discrimination and violence against persons based on their religion.*” And then it added: “*We acknowledge the importance of freedom of expression, but at the same time stress the need to ensure that this freedom should be exercised by all with responsibility.*” Unfortunately such “responsibility” is often used to close the public’s eyes to the reality around them.

The fight to have “defamation of religion” recognized internationally as a crime began in April 1999 when Pakistan proposed a resolution for combating “Defamation of Islam” to the UN Commission for Human Rights. Extended to defamation of all religions, the final version, which was adopted, called on “*all States, within their national legal framework,*



“Such provocations pose a threat to international peace and security and the sanctity of life”

Ekemeleddin Ihsanoglu, secretary general of OIC

the community of Muslim believers and using racial and cultural stereotypes to stigmatize this community. In their eyes, attacking beliefs and attacking believers is one and the same thing (see box).

in conformity with international human rights instruments to take all appropriate measures to combat hatred, discrimination, intolerance and acts of violence, intimidation and coercion motivated by religious intolerance, including attacks on religious places, and to encourage understanding, tolerance and respect in matters relating to freedom of religion or belief.”

The commission had adopted five other resolutions of the same kind by 2005. They were drafted by consensus but this did not resolve the basic misunderstanding between the countries of the Organization of Islamic Cooperation and their critics. The OIC countries identify “defamation of religion” with Islamophobia, which for them includes challenging Islamic dogma, offending the feelings of



DIVISIVE CARTOONS

The debate became extremely conflicted at the end of 2005. In September, the Danish daily *Jyllands-Posten* (see picture on the left) printed 12 cartoons of Mohammed, of which the most famous showed the Prophet in a turban in the form of a bomb. Accompanying an article on freedom of expression, the cartoons were intended to be a response to Danish writer Kare Bluitgen's complaint that he could not find an illustrator for his biography of Mohammed.

Quickly picked up by other European publications such as the French weekly *Charlie Hebdo*, the Mohammed cartoons acquired the dimension of symbols of two perceived rights – the right to criticize and make fun of religion and, more broadly, the right to proclaim that one does not believe. The terms of the underlying debate were now established: can the “feelings of believers” (which justifies the concept of “defamation of religion”) be regarded as a human right and, if so, does it take precedence over another human right, the right to freedom of information and expression?

For the OIC countries, the answer was obvious. Their diplomatic response was prepared at an Islamic summit in Saudi Arabia on 7-8 December 2005. It produced a 10-year plan reaffirming the need to combat Islamophobia, in which getting UN bodies to pass binding resolutions on the subject was a key objective. This goal was partly satisfied a few days later when a resolution on “defamation of religion” proposed by Yemen was adopted by the General Assembly. It was not binding, however. The diplomatic offensive has been pursued ever since, despite energetic opposition from western countries and from around 100 national and international NGOs.

The tense discussion became a dialogue of the deaf and contributed to the scuttling of the UN Commission on Human Rights, which was reborn in March 2005 as the UN Human Rights Council with different mechanisms. As far as the western countries are concerned, their own legislation (see box) and international instruments already contain sufficient condemnation of discrimination in all forms, including discrimination on the basis of religion. But in the eyes of the OIC countries, blasphemy or “offending religious values” cannot be dissociated from behaviour, speech and content that is liable to offend believers (in practice, Muslims) and therefore discriminatory. And the abundance of such content in the media and online needs special attention, according to the OIC.

Another (again non-binding) resolution adopted by the General Assembly on 18 December caught the western countries off their guard. Not only did it appear to assign more importance to “respect for religion” than freedom of expression but it won the unexpected support of Russia and such officially atheistic countries as China, Vietnam and Cuba. A common desire to assert a right to be different had combined with geopolitical calculations. The resentment of the western countries was reinforced by growing concern about the fate of religious minorities, especially non-Muslim ones, within OIC countries.

FRAGILE COUNTER-OFFENSIVE

Bolstered by the December 2007 resolution, the OIC continued its offensive. During the UN Human Rights Council's seventh session in March 2008, it tried to obtain a redefinition of the role of the UN special rapporteur for freedom of expression, so that his duties would be largely limited to reporting on instances "where the abuse of the right of freedom of expression constitutes an act of racial or religious discrimination."

This was clearly a step too far. The special rapporteurs for freedom of expression of the UN, Organization for Security and Cooperation in Europe, Organization of American States and African Commission on Human and Peoples' Rights issued a joint statement on 9 December 2008 stressing their opposition to any ban on "defamation of religion" and recommending an end to international resolutions that call for such a ban.

Other resolutions nonetheless followed, although they passed by a narrower margin. They included the resolution proposed, yet again, by Pakistan that the Human rights Council adopted on 25 March 2010. In the meantime, the countries opposed to the OIC had scored another significant point: the final declaration of the UN World Conference Against Racism, also known as *Durban II*, contained no mention of "defamation of religion."

The OIC countries yielded on the issue after talks conducted under US aegis two years later. In return for their abandoning concepts that are incompatible with international standards on freedom of expression, a compromise was reached on a resolution "*Combating intolerance, negative stereotyping, stigmatization, discrimination, incitement to violence and violence against persons, based on religion or belief*," which the General Assembly adopted on 19 December 2011.

But that was not the end of the story. A spark called *Innocence of Muslims* reignited the controversy almost as soon as it had died down. And a complicating factor has emerged from a new quarter. Russia has submitted three resolutions to the Human Rights Council since 2009 calling for the promotion of "traditional values." The third one, adopted in September 2012, defines such values as a way of "promoting human rights and fundamental freedoms." But can it currently be said that the Kremlin regards freedom of information as one of the fundamental freedoms?

NATIONAL LAWS CONTRADICT REGIONAL COURT RULINGS IN EUROPE

Greece's powerful Orthodox Church, which is generously funded by the state, does not like attacks on its symbols. Philippos Loizos, a 27-year-old scientist, learned this to his cost in September 2012 after posting a satire on Facebook about Elder Paisios, a monk who died in 1994 and who is a candidate for canonization because of his talents as a healer.

Loizos was arrested under article 189 of the Greek criminal code on an initial charge of blasphemy, for which the maximum sentence is two years in prison. It was later changed to another charge in article 189 that carries the same sentence – "offence against the Orthodox religion or any other recognized religion."

Almost without precedent in a European Union country, the case has revived a debate in Greece about repeal of such an obsolete law. But although Greece has been the only EU country to prosecute a blasphemy case, blasphemy figures in the legislation of eight of the EU's 28 member countries (see box).

Under very Catholic Ireland's newly adopted defamation law, which took effect in January 2010, blaspheming against any religion or belief is punishable by a fine of up to 25,000 euros. Its adoption provided Pakistan with arguments when responding to EU criticism of its legislation and the fate of religious minorities.

Whether mentioned in laws or not, the concept of blasphemy is tending to fade in Western Europe and to be replaced by "offence against religious feelings." Article 525 of the Spanish criminal code, for example, penalizes "*attacks on religious dogma, beliefs or ceremonies*" with eight to 12 months in prison. Article 196 of Poland's criminal code provides for a

sentence of up to two years in prison for "*anyone hurting the religious feelings of another person by public offence against an object of religious worship or a place dedicated to religions practices.*"

In practice, attacks on religious symbols or feelings are of less concern than the public order disturbances they could cause, and some countries have adapted their legislation to reflect these concerns.

The German criminal code still has a paragraph on "blasphemy or insulting God" that has fallen into disuse. But it also provides for a sentence of up to three years in prison for anyone who "*publicly or in published words offends the religious beliefs or world view of another person, but only in such a way as to disturb social order and public peace.*" Here again, the reference to beliefs is maintained.

As in Germany, the anti-blasphemy provision in Denmark's criminal code is hardly used any more. But Denmark's legislation penalizes discrimination against communities, establishing a two-year jail sentence for public statements threatening or insulting a group of people "*on the basis of race, colour, social or ethnic origin, or religion or sexual orientation.*"

The same legal position survives in the *Racial and Religious Hatred Act* in Britain, which was adopted in 2006. Two years later, the criminalization of blasphemy was repealed in England and Wales.

Judicial practice in secularized societies has resulted in evolution in laws originally designed to protect beliefs. But the continuing inclusion of beliefs under the categories needing protection in such legislation is contrary to European jurisprudence on freedom of expression and information, which makes a clear distinction between offences against *beliefs* and offences against *persons*. The same distinction underlies the UN General Assembly's resolution of 19 December 2011 (see Chapter 3 of the report).

In a September 1994 ruling on *Otto Preminger Institut v. Austria*, the European Court of Human Rights recognized the existence of a right to respect for personal beliefs, all the while pointing out that: "*Those who choose to exercise the freedom to manifest their religion, irrespective of whether they do so as members of a religious majority or a minority, cannot reasonably expect to be exempt from all criticism.*"

This principle was reinforced in two other rulings (*Giniewski v. France and Aydin Tatlav v. Turkey*) in 2006, which referred directly to article 10 of the European Convention on Human Rights on freedom of expression.

The European debate pitting free speech against "defamation of religion" was not as eventful as the worldwide one (see the report). In 2006, amid the international outcry about the Mohammed cartoons, the Parliamentary Assembly of the Council of Europe passed Resolution 1510, which said: "*Attacks on individuals on grounds of their religion or race cannot be permitted but blasphemy laws should not be used to curtail freedom of expression and thought.*"

The European Commission for Democracy through Law (an offshoot of the Council of Europe that is also known as the Venice Commission) issued a similar ruling on this issue in 2008. It took the view that "*criminal sanctions are only appropriate in respect of incitement to hatred*" and that "*criminal sanctions are inappropriate in respect of insult to religious feelings and, even more so, in respect of blasphemy.*"

Elder Paisios' posthumous offensive against Philippos Loizos could well be the last time a "blasphemer" is persecuted in Europe.

RECOMMENDATIONS

In the light of the information and arguments in this report, and in accordance with its mandate and principles, Reporters Without Borders:

- Reaffirms the non-applicability of statutory limitation to the right of all persons to freedom of expression and information, as enshrined in Article 19 of the Universal Declaration of Human Rights, whether or not use of this freedom accords with any body of religious, ideological, political or philosophical precepts.
- Rejects any restriction of this freedom except those envisaged in Article 19 of the International Covenant on Civil and Political Rights, namely to ensure respect of the rights or reputations of others, or to ensure the protection of national security or of public order, or of public health or morals. The criteria for applying any such limitations on freedom of expression and information must be extremely precise.
- Rejects any criminal law restriction of freedom of expression and information except in cases of spoken or written words manifestly inciting hatred, violence or discrimination against a community or individual, or violating a person's privacy.
- Holds that, in this respect, a strict and irrevocable distinction must be made between offences against beliefs, ideas and dogma, on the one hand, and offences against persons, on the other, and that only the second are admissible in law.
- Urges international institutions and their affiliated bodies to reject the attempts by the governments of some countries to have "blasphemy" and "defamation of religion" treated as violations of fundamental human rights.
- Hopes that all restrictions on freedom of information and expression in the name of religion will eventually be dropped from the legislation of European countries that aspire to set an example in respect for human rights and pluralism.
- Points out that the right to caricature – by definition excessive and insolent, and accepted as such – is one of the inescapable corollaries of freedom of expression.
- Approves the UN General Assembly resolution of 19 December 2011 but points out that "*combating intolerance, negative stereotyping, stigmatization, discrimination, incitement to violence and violence against persons, based on religion or belief*" applies as much to non-believers as to believers, whether in the majority or not.



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