



The Paradox of Hate Speech Legislative Restrictions

World Evangelical Alliance response to:

The United Nations Special Rapporteur for Religious Freedom

**Call for input: Advocacy of Hatred Based on Religion or Belief -
Transformative Responses**

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1. Introduction

We wish to thank the Special Rapporteur for addressing the important issue of hate speech in relation to freedom of religion or belief. In this submission, we show how hate speech is often used to target and marginalize religious minorities. We make a number of recommendations, which we hope will assist the Special Rapporteur in addressing her mandate.

The World Evangelical Alliance (WEA), established in 1846, represents some 600 million evangelical Christians worldwide. These Christians live in a wide range of circumstances. Some live where Christians are in a majority and where government policy may reflect that reality. Others live in secret under government regimes where it is illegal to practice their faith. It is therefore difficult to make generalizations about their collective experience of hatred. However, we would like to take the opportunity to respond to this call for input and illustrate the complexity of the issues.

The WEA has long addressed issues of religious freedom. We have identified a pattern that leads up to outright persecution. This pattern generally starts with disinformation and hate speech. Once the society accepts the disinformation and spread of hatred towards the religious group, policies of discrimination are facilitated. Discrimination is then followed by persecution. Clearly, hate speech can be dangerous for those it targets.

On the other hand, we are currently witnessing a trend among states, particularly in the West, of instituting increasingly strict laws restricting free speech on the grounds that it could constitute hate speech. For evangelical Christians, this causes concern when the restrictions prohibit legitimate religious beliefs, particularly about the sanctity of life and human sexuality. Although courts have upheld the right to religious expression thus far, the fact that some Christian leaders have faced criminal trials for publicly expressing religious views is concerning.

In this submission, we address the paradox of the rise of hatred targeting religious minorities and the adverse impact that anti-hate legislation can have on legitimate religious expression. We end our observations with how this is playing out in real time in the current crisis in the Holy Land.

2. Hatred targeting religious minorities

There are many examples of the use of disinformation campaigns to spread hatred against religious groups. This is currently facilitated by social media.

In Myanmar, the government used propaganda to assert that the Rohingya Muslims are not Burmese. Rather, the state said that they were Bengali immigrants from Bangladesh dating back to colonial times. This narrative was promoted through social media¹ and used to justify expelling citizens from the country.

¹ See "Twitter Rage from Myanmar," *The World*, 11 June 2012. Online: <https://theworld.org/stories/2012-06-11/twitter-rage-myanmar>.

A recent example within the WEA shows how this process happens. The WEA Geneva office hosted a side event on 21 September 2023 on the conflict in Manipur, India. The Director of the WEA's Geneva office, Wissam al-Saliby, moderated a panel that included Kuki Christians and some Muslims who live in the region. After the event, our office posted a video of the panel discussion.² Within a short time, tweets showed up on X with disinformation about al-Saliby. They said he had been a missionary in India in the 1990s and was arrested for illegally converting Hindus to Christianity. Wissam al-Saliby has not travelled to India and would have been 12 years old when these tweets claimed he was hypnotizing Hindus to convert them. But the tweets purported to show legal documents substantiating these claims. These social media posts are shared by bots and can spread very quickly. The goal was to spread hatred against al-Saliby and delegitimize the information shared in the side-event.

Recommendation 1: We urge the Special Rapporteur to continue to call out governments that incite hatred against religious minorities in their countries.

Thus far, we have addressed situations where governments spread hatred through disinformation campaigns. It is also common for other groups in society to spread hatred in order to marginalize another group.

In Pakistan, for example, the recent outbreak of violence in Jaranwala started with Muslims inciting hatred against Christians. Two Christian men allegedly defaced pages of the Quran, thereby violating blasphemy laws. However, the evidence was very flimsy.³ Rather than the matter being referred to the police for them to investigate and consider whether to bring charges against the Christian men, certain Muslims went on a violent rampage against Christians, destroying churches and homes. The Pakistan government is conducting an investigation and has compensated Christians for their losses. But this does not address the social factors that allow such violence to spread rapidly in Pakistan, fanned by the flames of hatred.

This incident highlights the inherent problems with blasphemy laws. Currently, 10 countries have the death penalty for blasphemy on their books. When USCIRF surveyed blasphemy laws in 2017, it defined them as “provisions that sanction insulting or defaming religion and seek to punish individuals for allegedly offending, insulting, or denigrating religious doctrines, deities, symbols, or ‘the sacred,’ or for wounding or insulting religious feelings.”⁴ Pakistan, for example, has laws that penalize insulting religion or wounding religious feelings. These concepts are very vague and subject to abuse. Rather than protecting religions, they are used to stir up hatred against religious minorities who are seen as a

² Online: <https://www.youtube.com/watch?v=O5aF0k22HNO>.

³ See, for example, Bilal Ahmad Tantray, “Jaranwala Church Attacks Another Example of the Misuse of Blasphemy Laws in Pakistan,” *The Diplomat*, 6 September 2023. Online: <https://thediplomat.com/2023/09/jaranwala-church-attacks-another-example-of-the-misuse-of-blasphemy-laws-in-pakistan/>.

⁴ Joelle Fiss and Jocelyn Getgen Kestenbaum, United States Commission on International Religious Freedom, *Respecting Rights? Measuring the World's Blasphemy Laws*, July 2017. Online: <https://www.uscirf.gov/sites/default/files/Blasphemy%20Laws%20Report.pdf>, p. 5.

threat to the majority religion. IRFBA recently called for the repeal of blasphemy laws, particularly where the death penalty can be imposed.⁵

Recommendation 2: We recommend that the Special Rapporteur make a strong statement against blasphemy laws and urge their repeal.

We are aware that some clergy of different religions promote hatred in their religious communities. Buddhist leaders promote violence against Christians in Sri Lanka. Christian leaders in Sweden, Germany and the USA have promoted hatred against Muslims by burning the Quran. The WEA was encouraged by the High Commissioner for Human Rights to publicly condemn Christians who engage in such promotion of hatred, and we did so in a joint statement with the World Council of Churches and Caritas.⁶

Recommendation 3: We urge that the Special Rapporteur encourage global religious bodies to speak against promotion of hatred by those in their religious tradition.

3. Restrictions on hate speech that limit FoRB

Countries in the West, including Canada, Sweden, Finland, and many European countries, have passed laws criminalizing hate speech. The goal behind these laws is to protect minorities from disinformation and violence. These are laudable goals in a pluralistic society. However, they can be interpreted in ways that restrict legitimate religious expression.

Canada provides a good case study of such a law. The Canadian Criminal Code⁷ contains this provisions criminalizing the public incitement of hatred, wilful promotion of hatred, and wilful promotion of antisemitism. There are defences for statements that are true, if they are based on a religious text or if they are in the public interest.

There have been few convictions under this law. The first was against James Keegstra,⁸ a high school teacher who taught his classes antisemitic material and expected them to reproduce it on tests. In that case, the Supreme Court of Canada interpreted the promotion of hatred as follows:

Hatred is predicated on destruction, and hatred against identifiable groups therefore thrives on insensitivity, bigotry and destruction of both the target group and of the values of our society. Hatred in this sense is a most extreme emotion that belies reason; an emotion that, if exercised against members of an identifiable group, implies that those individuals are to be despised, scorned, denied respect and made subject to ill-treatment on the basis of group affiliation.

⁵ International Religious Freedom Belief Alliance, *IRFBA Statement on Blasphemy and Related Offenses*, 7 Nov. 2022. Online: <https://www.state.gov/irfba-statement-on-blasphemy-and-related-offences/>.

⁶ 11 July 2023. Online: <https://un.worldidea.org/wea-wcc-and-caritas-jointly-condemn-religious-hatred-in-urgent-debate-at-the-human-rights-council/>.

⁷ R.S.C. 1985, c. C-46.

⁸ *R. v. Keegstra*, [1990] 3 SCR 697 (S.C.C.).

In a subsequent case, Mark Harding,⁹ a Christian, spread anti-Muslim leaflets that stated, “In other countries Muslims persecute Christians and it is no different in Canada.” Harding argued that his statements were expressions of his religious belief and that he did not wilfully promote hatred. The court gave an interesting interpretation to the criminal law, stating that “the appellant did express opinions of religious belief that he appeared to sincerely hold but that the opinions expressed went above and beyond the expression of religious belief and were not made in good faith.” It further stated, “Merely because some of the appellant's statements were legitimate expressions of religious belief, his other statements are not shielded from scrutiny.”

In Sweden, Pastor Åke Green faced criminal charges in 2003 for preaching a sermon with controversial statements on sexuality. The pastor was deliberately provocative although the sermon was consistent with Christian teaching on sexuality. The sermon was later printed in the local newspaper. Green was initially convicted and sentenced to one month in prison. He appealed. In 2005, the Supreme Court of Sweden overturned the conviction. The court ruled that Green’s sermon violated the Swedish criminal law. The court further ruled that the law prohibiting hate speech was constitutional even though it restricted Green’s freedom of expression and of religion. However, it would likely be overturned by the European Court of Justice under the European Convention on Human Rights, so the conviction was overturned.¹⁰

In Finland, Päivi Räsänen, a medical doctor who has been a member of the Finnish Parliament since 1995 and has served as minister of the interior and party leader of the Finnish Christian Democrats, was charged in 2019 with violating hate speech laws for a tweet expressing her faith-based views about her church’s support for a Pride event.¹¹ The tweet included several Bible verses regarding homosexuality. She was acquitted but the prosecution appealed. The Helsinki Court of Appeal decision is pending.

Such laws and cases can be found in several Western countries. Issues of human sexuality are very current with the recent report by the UN Independent Expert against violence and discrimination based on Sexual Orientation and Gender Identity, focused on the relationship between SOGI rights and FoRB.

Recommendation 4: We urge that the Special Rapporteur encourage Western countries to include exemptions for religious expression in their hate speech prohibitions.

4. Hate speech in the context of the current Middle East conflict

Since the 7 October 2023 attack on Israel by Hamas and the ensuing siege and bombing of Gaza, hate speech, including genocidal discourse, on social media as well as by politicians, media and social influencers spiked all over the world with real world consequences. In Canada, Jews have been targeted by violent protests, including one at a Jewish school. In the

⁹ *R. v. Harding*, [2001] O.J. 4953.

¹⁰ Supreme Court Press Release 2005-11-29 (in Swedish). Online: <https://web.archive.org/web/20060217161725/http://www.hogstodomstolen.se/pressmeddelanden.htm>.

¹¹ See WEA’s Secretary General, Prof Dr Dr Thomas Schirrmacher’s commentary on this case here: <https://www.thomasschirrmacher.net/blog/the-secular-state-religion/>.

United States, a 6-year old Palestinian-American was killed by his neighbor.

It is bad enough that those in Israel and Gaza are in fear for their lives, but the fact that Jews and Palestinians living elsewhere are also at risk shows the power of hate speech.

Recommendation 5: We urge that the Special Rapporteur to publicly recognize the role of the spread of hate speech in fueling the ongoing conflict in the Middle East and the ensuing violence around the world, particularly as it endangers Jews and Palestinians all over the world.

5. Final comments

In this submission, we have sought to raise the paradox of restrictions on hate speech. On one hand, hate speech is used to target, marginalize and persecute religious minorities. On the other hand, it can restrict legitimate religious expression. One approach to resolving this is to allow free expression unless it advocates violence. This does not resolve the problem, however, as hate speech can be harmful even when it does not advocate violence. Consider the example of the Rohingya Muslims. Government propaganda arguing that they are not Burmese does not advocate violence but it allows people to take the next steps of marginalization, exclusion and, ultimately, expulsion from the country.

The balance between protecting minorities from hate speech and protecting religious free speech is challenging. It is important to recognize that laws are not the only mechanism to foster FoRB. It is, of course, vital that religious minorities be protected from government promotion of hatred. But within states, inter-religious dialogue can be encouraged and facilitated to promote healthy pluralism. States should be encouraged to grant equal treatment of all religions rather than promoting and protecting the majority religion, which usually does not require protection against minority religions.

What emerges from examining hate speech and prohibitions on hate speech is that there is not a single approach that works in all circumstances. As the WEA has national alliances in 143 countries, we are aware of the multiplicity of situations. We would be pleased to continue the dialogue with the Special Rapporteur on particular situations and connect her with local and regional Christian leaders who have first-hand experience.