

The **United States** appreciates the work of the members at this session and their broad knowledge and interests in the research proposals outlined today. We note with concern, however, the proposal for a study on the concept of defamation of religion. This topic was previously the subject of Human Rights Council resolutions, but it was extremely divisive due to overriding concerns about its incompatibility with the international human rights framework and its use to restrict freedoms of expression and religion. The special rapporteurs for freedom of religion or belief and freedom of opinion and expression have extensively appropriately criticized this concept, and the Human Rights Committee has also noted in general comment 34 the general incompatibility of blasphemy laws with the ICCPR. The defamation of religions concept is outdated and has been superseded by a broader compromise resolution that enjoys consensus of all Council members in the framework of HRC Resolution 16/18.

We believe a study of "defamation of religions" at this time risks further polarizing the issue, rather than offering helpful academic or other insights. We would suggest that the Advisory Committee defer the topic related to defamation of religions unless and until such a study is requested by the Council.

#### **Non-Paper – Human Rights Mechanisms on "Defamation of Religion"**

The Special Rapporteurs on the promotion and protection of the right to freedom of opinion and expression and freedom of religion or belief have criticized and dismissed the concept of "defamation of religion." The Special Rapporteurs have emphasized that the rights to freedom of religion or belief and freedom of opinion and expression are interlinked and are critical to the enjoyment of all other rights. Additionally, the Human Rights Committee has noted the general incompatibility of laws based on the concept of "defamation of religion" with the ICCPR.

#### **SR Frank La Rue:**

Former Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression Frank La Rue provided two reasons in an interview why the concept of defamation of religion should not be included in the freedom of expression mandate: (1) that the concept is an erroneous one, as defamation is something that exists for the honor and reputation of individuals, and only individuals, and cannot be used to protect non-individuals; and (2)

religions are open to debate, though respectful debate should be encouraged. Typically, censorship of speech on the basis of religion is used for political reasons and often is applied to the detriment of religious minorities.<sup>1</sup> He stated, “We have to defend the idea of treating everyone equally. Human dignity is the same around the world. Freedoms are the same. All religions should be practiced freely and all religions should be respected, and we should not criminalize expressions for debate on these issues.”<sup>2</sup>

In his 2012 report, SR La Rue welcomed the shift away from “defamation of religions” to the protection of individuals from religious intolerance “without referring to concepts or notions that would undermine international human rights law.”<sup>3</sup>

#### SR Heiner Bielefeldt:

Special Rapporteur on freedom of religion or belief Heiner Bielefeldt stated in his 2014 report that “Freedom of religion or belief cannot flourish without freedom of expression, and the human rights enshrined in close neighbourhood in articles 18 and 19 of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights mutually reinforce each other.”<sup>4</sup>

In an interview, SR Bielefeldt noted that when religious freedom is used to suppress free speech or other rights, these are “problematic invocations” rather than legitimate uses of religious freedom.<sup>5</sup> The SR’s view is that the push for UN resolutions on “defamation of religion” cast a shadow on religious freedom. During his keynote speech at the European Parliament in Brussels, SR Bielefeldt noted that freedom of religion is often viewed with suspicion and unease due to some using it wrongly to stifle expression<sup>6</sup>, and has made the following recommendation: “States should repeal anti-blasphemy laws, anti-conversion laws and any other discriminatory criminal law provisions, including those based on religious laws.”<sup>7</sup>

#### SR David Kaye:

Current Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression David Kaye stated that governments should put an end to laws designed to deter criticism of religious institutions, such as laws that criminalize blasphemy, and that these laws are regularly used applied to target those working in the media, civil society activists, academics, and others. Such laws, he stated, “are incompatible with freedom of expression and a free press and must be abolished.”<sup>8</sup>

#### Human Rights Committee:

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<sup>1</sup> <http://hatespin.weebly.com/la-rue.html>

<sup>2</sup> *Id.*

<sup>3</sup> A/67/357 para 54.

<sup>4</sup> A/HRC/28/66

<sup>5</sup> <http://brianpellot.religionnews.com/2013/09/06/qa-with-united-nations-religious-freedom-czar-heiner-bielefeldt/>

<sup>6</sup> [http://www.washingtonpost.com/national/religion/us-and-eu-explore-cooperation-on-religious-freedom/2014/02/13/3deec17c-94fd-11e3-9e13-770265cf4962\\_story.html](http://www.washingtonpost.com/national/religion/us-and-eu-explore-cooperation-on-religious-freedom/2014/02/13/3deec17c-94fd-11e3-9e13-770265cf4962_story.html)

<sup>7</sup> A/HRC/28/66

<sup>8</sup> <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15922&LangID=E#sthash.G6RMbIaC.dpuf>

The Human Rights Committee has clarified that generally blasphemy and other such prohibitions of displays of lack of respect for a religion or other belief system are incompatible with the ICCPR, and that it is impermissible “to use such prohibitions to prevent or punish criticism of religious leaders or commentary on religious doctrine and tenets of faith.”<sup>9</sup>

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<sup>9</sup> <http://www.refworld.org/docid/4ed34b562.html>