



PROJECT on Middle East Democracy

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“Implications of the Promotion of Defamation of Religions”

Tom Lantos Human Rights Commission

House Rayburn Building, B-318

October 21, 2009. 11:00 – 1:30 pm

The Tom Lantos Human Rights Commission held a meeting, attended by Chairman **Frank Wolf** (R – VA), **Trent Franks** (R-AZ), **Anh "Joseph" Cao** (R-LA), and **Sue Myrick** (R-NC), to discuss recent movements in the international community to create resolutions against the defamation of religion. The meeting consisted of three panels, the first of which hosted **Joseph Cassidy**, Director of the Office of Multilateral and Global Affairs in the Bureau of Democracy, Human Rights and Labor (DRL) at the U.S. State Department. Cassidy opened with a statement explaining that since taking up his position he had spent much of his time on the recent Egypt-US resolution against the defamation of religion. The State Department, in addition, has sent representatives around the world to conduct “defamation diplomacy”. The issue of defamation poses two threats: first, certain countries use the principle to undermine free speech and second, not upholding the protection of speech and religion is inconsistent with the U.S. Constitution. Accusations of defamation have been used to silence oppositions. The State Department has coordinated with the U.S. Commission on Religious Freedom and is building partnerships to avert these worst case scenarios. Following the diplomatic impasse in Geneva between the Canadian resolution and the Organization of the Islamic Conference (OIC), the U.S. worked with Egypt to propose a new draft resolution against the defamation of religion. Cassidy was satisfied to report that the Human Rights Council has passed that draft, and he sees this process as a model to deal with these types of issues and a model for U.S. diplomacy. Ultimately, the U.S. commitment to freedom of expression should not be seen as a withdrawal from confronting extremism and stereotyping.

Under questioning from Rep. Cao, Cassidy explained that the State Department considers the issue of religious freedom with a variety of approaches, including the report on religious freedoms in which the U.S. does not “pull its punches.” He also explained that Vietnam is a priority for **Michael Posner**, the new Assistant Secretary of DRL, and he explained that Posner would appreciate the opportunity to meet with the commission. Franks focused his questions on the meeting in Geneva, asking about the impact of including limitations on religion on existing conventions and the OIC’s use of defamation language to criminalize religious speech. Cassidy said that the agreement reached in Geneva will have greater legal standing because many of the countries involved will push for the treaty to become international law. Regarding the freedom of expression compact with Egypt, the U.S. does not agree with Pakistan’s interpretation of the treaty. Instead, the U.S. intended to recognize the existence of pernicious, hate speech and develop greater government cooperation to speak out against such stereotyping and in favor of human rights, rather than to limit speech. In creating the Egyptian compact, the U.S. looked for a natural partner and they hope this resolution will bolster embattled Egyptian civil society groups. Wolf closed the panel expressing his frustration that the U.S. has given Egypt \$50 billion without seeing any changes and that **President Obama** could have spoken about this issue in Cairo.

Wolf introduced the second panel featuring **Leonard Leo**, chair of the U.S. Commission on International Religious Freedom. He opened the session stating that defamation of religion resolutions do not solve

issues of tolerance and they only specifically protect Islam. There is no universal state approach to defamation and defamation agreements are OIC attempts to export their practices to the international level. The new freedom of expression agreement focuses on negative stereotyping, but does not put forth action. Many, including the EU, were surprised by the U.S. support for the compact because “it condemned “any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence.” The language on incitement comes from Article 20(2) of the International Covenant on Civil and Political Rights and requires states to take action to prevent incitement mobilization, which the U.S. has always held reservations against. He concluded that the U.S. should oppose defamation resolutions and instead capitalize on building international momentum to reexamine blasphemy laws, as is the case in Pakistan where there have been reports that the president is possibly considering reforming the laws.

Under questioning from Wolf, Leo explained that his commission was part of the U.S. delegation in Geneva, but attended the U.N. General Assembly meeting on their own initiative. This new agreement with the OIC has put many American anti-hate speech allies on the defensive. The OIC is attempting to adopt a global blasphemy law, however defined, that gives states a free reign to enforce its anti-blasphemy laws, which is quite contrary with U.S. tradition and international law. Franks expressed his frustration that the U.S. was on the wrong side of this issue. Responding, Leo said that the E.U. was surprised the U.S. was willing to compromise on the defamation issue and it seems obvious that the Egyptian approach was a veiled approach at anti-defamation. The U.S. should promote changes in Pakistan because this could have good feedback efforts. Lastly, he talked about the difficulty to create consensus about this issue, but international law is clear: human rights protect individuals, not ideologies; but the defamation resolution is completely different and ambiguous as it focuses on protecting Islam.

The final panel hosted **Angela Wu**, international director of The Becket Fund for Religious Liberty; **Tad Stahnke**, director of Policy and Programs at Human Rights First; **Zainab al-Suwaij**, cofounder and president of the American Islamic Congress; and **Felice Gaer**, director of the Jacob Blaustein Institute for the Advancement of Human Rights of the American Jewish Committee. Wu spoke about the conceptual framework of creating defamation legislation and noted that there are conceptual differences among countries about what qualifies as defamation or about the appropriate response. She argued we need to promote an active public square that occasionally allows for defamation. Stahnke agreed that laws of this type engender abuse and said there has been a serious growth in pressure on minorities. It is time to come up with a new approach and the U.S. needs to become central to the debate, promoting its history of civil society groups working with the police as an example to other countries. Suwaij believed the U.S. should block the U.S.-Egypt resolution because it violates the U.S.’s first amendment and because members of repressive states, such as Pakistan and the Sudan, support it. Gaer argued that the language of this resolution, which has shifted to focus on “incitement,” is explicitly designed to weaken other U.N. resolutions on human rights. We must examine the U.S.-Egyptian resolution in light of Obama’s calls to maintain the protection of human rights. The Egyptian resolution is a welcome political statement, but any initiative should begin with a “rallying of friends of freedom.”

Responding to a set of questions put forth by Franks, the panelists highlighted a number of issues. Suwaij said that she doesn’t see OIC countries taking steps to protect minorities. Gaer reiterated that the EU is very upset about the US-Egypt resolution because it creates a slippery slope in terms of its commitment to free speech. Stahnke said the freedom of expression resolution represents a discordant change in strategy, as the U.S. is willing to work with leaders on the other side to create unpleasing results. Lastly, Wu said that laws already exist within countries to protect minorities and so we do not need to create law against the concept of defamation of religion.