

NATIONAL REVIEW

U.N. Human-Rights Dissonance: From Religious Freedom to Criminalizing Blasphemy

Aaron Rhodes and Roger Pilon

June 8, 2018

When Secretary of State Mike Pompeo released the State Department's International Religious Freedom Report for 2017 last week, he announced that in July he will host a meeting of "like-minded" foreign ministers to discuss ways to "push back" against countries engaged in religious persecution. That's good news, but the initiative itself may get pushback from the international human-rights establishment, several of whose members he plans also to invite.

It took no time for a taste of that to emerge. Sarah Margon, for example, the Washington director at Human Rights Watch, is reported to have cautioned that elevating the importance of religious freedom could be positive "as long as doing so does not minimize other rights concerns," such as those of the LGBT community, and doing so "truly protects victims of all religious persecution," not just Christians and Jews in Muslim countries.

Such concerns are not entirely unfounded. Both Secretary Pompeo and former Kansas governor Sam Brownback, now U.S. ambassador-at-large for international religious freedom, belong to Christian denominations that opposed same-sex marriage. And President Trump's oft-stated comments on Muslims give pause to many about the possibility of selective attention to religious persecution.

But a much broader pushback lies ahead, and it undercuts religious liberty. Pompeo invoked the natural-rights tradition that America's Declaration of Independence rests on, finding religious freedom "in the American bloodstream." By contrast, the modern human-rights movement rests on the U.N.'s 1948 Universal Declaration of Human Rights. Arising from political compromises between post-war progressives and some of the world's worst tyrannies, the UDHR bows simply to "inherent dignity," making no mention of natural law or natural rights. To be sure, it lists rights in that tradition. But it goes on with a list of so-called economic and social rights — to jobs, housing, "periodic holidays with pay" — which today dominate human-rights debate and practice.

Unlike natural rights to freedom, which require only that we be left alone, these economic and social rights, if rights at all, are not universalizable. They're created by legislatures, requiring endless redistributive schemes. And as demand for them grows, governments grow and liberty yields. More sinister still, the original compromises that elevated these rights to the status of human rights have enabled totalitarian regimes to sit at the human-rights table. After 70 years, a toxic hypocrisy poisons the debate. Russia, China, Cuba, Islamic theocracies, even North Korea boast about their often illusory economic and social programs as evidence of human-rights compliance and their own legitimacy.

Russia, China, Cuba, Islamic theocracies, even North Korea boast about their often illusory economic and social programs as evidence of human-rights compliance and their own legitimacy.

For a time before the Berlin Wall fell in 1989, Soviet and other dissidents focused international attention on the stark differences between rights to freedom and these collective rights. But in 1993, at the U.N.'s massive World Conference on Human Rights, the international community put its imprimatur on a vision of human rights that has influenced discourse and practice ever since. Adopting the doctrine of "indivisibility" between the two kinds of rights, the conference set the stage for the proliferation of rights, including group rights and rights to combat racism, discrimination, xenophobia, and intolerance.

These newest rights evolved in part from earlier efforts to square Islamic law with international human-rights law, echoing even earlier efforts concerning Communist law. Not surprisingly, the focus in both cases was on economic- and social-rights provisions found in all three systems. Rights to freedom, such as freedom of speech, were "contextualized." Thus Article 22 of the 1990 Cairo Declaration on Human Rights in Islam, adopted by the Organization of the Islamic Conference, reads in part: "Everyone shall have the right to advocate what is right . . . according to the norms of Islamic Shari'ah." Fidel Castro was more succinct: "Within the Revolution, everything. Against the Revolution, nothing."

In 2011, the U.N. Human Rights Council memorialized those efforts when it passed 17 resolutions aimed at protecting Muslims from Islamophobia, taking advantage of language that totalitarian states had earlier secured: "Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law." In its definition of "hate speech," the European Union Agency for Fundamental Rights includes "disrespectful public discourse." Language so capacious is an invitation to political prosecutions, of course. Yet today, all European countries outlaw hate speech, echoing the blasphemy laws found in Islamic countries.

And throughout Europe, many prosecutions have followed, often for posts on social media. In fact, even social-media platforms are criminally responsible for users' posts. Predictably, there has been an authoritarian backlash against what many see as "politically correct" prosecutions. Yet as with the U.N.'s earlier bow to the Communist concept of human rights, this gutting of free-speech rights has little affected Islamic countries, where apostates, women, LGBT people, and minority believers continue to suffer.

Even among “like-minded” ministers, therefore, Secretary Pompeo and Ambassador Brownback may face pushback, for which the restoration of freedom is the only answer.

Aaron Rhodes, the president of the Forum for Religious Freedom–Europe, was the executive director of the International Helsinki Federation for Human Rights from 1993 to 2007.

Encounter Books has just published his The Debasement of Human Rights: How Politics Sabotage the Ideal of Freedom. Roger Pilon is the vice president for legal affairs at the Cato Institute. He was the director of policy for the State Department’s Bureau of Human Rights and Humanitarian Affairs (1986–87) during the Reagan administration.