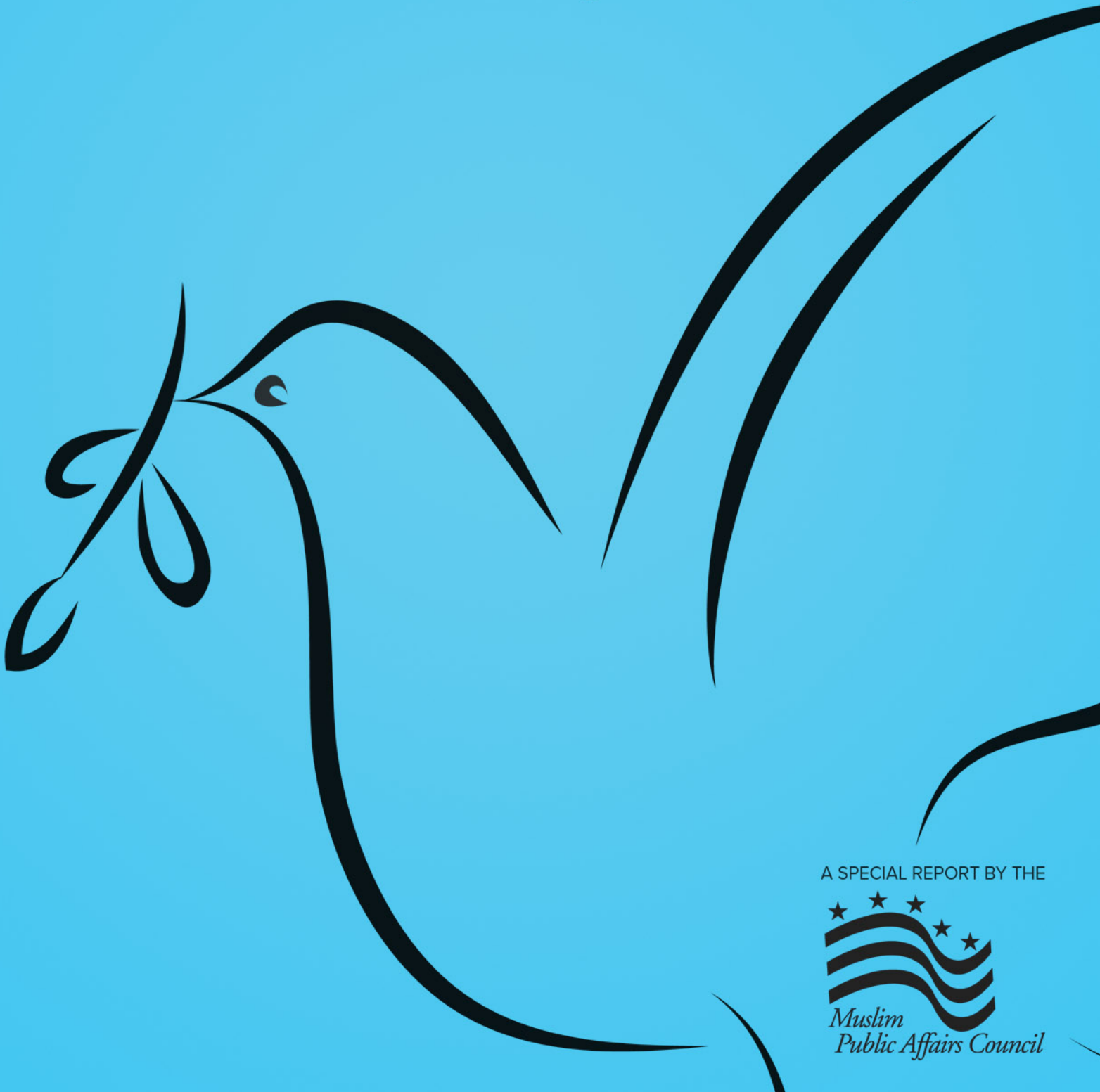


NO COMPULSION IN RELIGION:

A Faith-Based Critique of the 'Defamation of Religions' Concept



A SPECIAL REPORT BY THE



Introduction*

The UN draft resolution to address the issue of “Defamation of Religions” was introduced to the Commission on Human Rights in 1999 on behalf of the Organization of the Islamic Conference. Originally the draft document was entitled “Defamation of Islam.” The document gained little attention until the political aftermath of the September 11 attacks. The aftermath of the 2005 Danish caricatures of the Prophet Muhammad in the Jyllands-Posten newspaper provided further political traction for the draft resolution.

Overtime the language of the resolution and its justifications have evolved. According to Human Rights First’s report, *Blasphemy Laws Exposed*, “those who support the concept of ‘defamation of religions’ argue that prohibitions such as these are necessary to fight incitement to discrimination, hostility and violence, as well as to protect freedom of religion.”¹ In fact, these laws create a climate of intolerance.

Nonetheless, the main thrust of the document remains the same: at its fundamental core the “Defamation of Religions” resolution is an attempt at instituting an anti-blasphemy law which enables governments to determine which ideas are morally acceptable and which are not.

This paper argues against the Defamation of Religions (DoR) concept on both religious and practical policy grounds. Religiously, the DoR resolution runs contrary to Qur’anic verses that emphasize free speech and open civil debate. Furthermore, the premise of the resolution assumes God and His Divine teachings need to be defended notion unsupported by the religion’s teachings, particularly given Islam’s belief in an Omnipotent Deity.

It also argues that the concept is inherently flawed since the concept of DoR’s resolution is so broad. According to Human Rights First, “the loose and unclear language empowers majorities against dissenters and the state against individuals. Governments and individuals have frequently used the blasphemy laws not only to stifle dissent and debate, but to harass rivals, legitimize violence, and settle petty disputes.”²

The paper also argues that the DoR resolution is unfavorable given the following policy implication: *The DoR resolution is antithetical to the concept of human rights protection because it infringes upon the an individual’s right to free speech, shuts down the marketplace of ideas, encourages violence, promotes religious extremism, and leads to preferential treatment of some groups’ ideas and ideologies, therefore enabling state-sponsored discrimination.* The negative implications of the DoR resolution have been highlighted in several countries and these implications should be taken into account when assessing this resolution.

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¹ “Blasphemy Laws Exposed: The Consequences of Criminalizing ‘Defamation of Religions.’” *Human Rights First*, (March 2011). Available at: http://www.humanrightsfirst.org/wp-content/uploads/Blasphemy_Cases.pdf, P. 1.

² Ibid., P. 1.

Religious Implications of DoR Resolution

Defamation of religion is different from defamation of persons. The latter seeks to protect individuals and is concerned with which facts are empirically verifiable. Laws protecting against defamation of persons “are meant to protect individuals from public slander or libel that would negatively affect their livelihood, and is closely aligned with individual and personal, rather than group, rights.”³

Defamation of religion laws on the other hand, “are used to protect a set of beliefs, ideas, and philosophies. Yet religions make conflicting truth claims, and indeed the diversity of truth claims is something that religious freedom as a concept is designed to protect.”⁴ However a defamation of religion court case would force a judge to determine which religious/philosophical/intellectual belief is true. The decision would be based on solely subjective personal beliefs rather than what is empirically verifiable.

The Qur’an is clearly in favor of protection of defamation of persons, but not defamation of religions. In Chapter 49, Verse 12 of the Holy Qur’an, it states: “*O you who believe! Avoid much suspicion, in deeds some suspicions are sins. And spy not neither backbite one another...*” In fact the charge of defamation of persons is so serious that in Chapter 24, Verses 10-13, there is a legislative framework to guard against it:

...Those who brought forth the slander the wife of the Prophet are a group among you. Consider it not a bad thing for you. Nay, it is good for you. Unto every man among them will be paid that which he had earned of the sin, and as for him among them who had the greater share therein, his will be a great torment. Why then, did not the believers, men and women, when you heard it (the slander) think good of their own people and say: "This is an obvious lie?" Why did they not produce four witnesses? Since they have not produced witnesses! Then with Allah they are the liars.

However the Qur’an does not extend protection to defamation of religion. This is because defamation of religion gives the government, rather than individuals, the right to decide which ideas are acceptable and which are not. On the other hand, the Qur’an makes it clear that diversity of thought in the free marketplace of ideas, is part of the Divine plan:

If it had been thy Lord's will, they would all have believed,- all who are on earth! wilt thou then compel mankind, against their will, to believe! No soul can believe, except by the will of God, and He will place doubt (or obscurity) on those who will not understand. (10:99-100)

From an Islamic faith-based perspective, Defamation of Religions is problematic for several reasons: First, it in effect denies a person their free will to choose – one of God’s greatest gifts to humanity – upon which our collective vicegerency is contingent upon. (2:30)

³ “Becket Fund for Religious Liberty Issues Brief: ‘Defamation of Religions.’” *Becket Fund for Religious Liberty*, (June 2008). Available at: www.becketfund.org/files/87155.pdf, P. 6.

⁴ *Ibid.*, P. 6.

Second, it has a negative effect on a society's freedoms of speech and expression. Indeed, blasphemy laws stifle free speech and close discussions, (this point will be discussed later in our paper). However harsh and difficult the marketplace of ideas may be at times, it is most effective to uphold one's ideas through one's right to free speech. In fact, the best way to counter hatred is to confront it through free debate. The desired response to bad ideas and actions is to counter them with good ideas and actions. As the following verses in the Holy Qur'an declare:

- *Invite all to the way of your Lord with Wisdom and beautiful preaching* (16:125)
- *"And do not argue with the People of the Book unless it be in a way that is better, save with such of them as do wrong. But say, 'We believe in the Revelation which has come down to us and in that which came down to you. Our God and your God is One; and it is to Him we submit.'" (29:46)*

Nowhere does God mandate in the Qur'an to shut down a person's right and ability to express themselves. Instead, as the above verses show, the desired response is to confront bad ideas with better ideas through debate and free speech.

Furthermore, as an extension of its support for freedom of speech/expression, the Qur'an goes further to support freedom of religion, thought and belief:

- *Let there be no compulsion in religion, the truth stands out clear from error...* (2:256)
- *Say: O ye that reject Faith,! I worship not that which ye worship, Nor will ye worship that which I worship, And I will not worship that which ye have been wont to worship, Nor will ye worship that which I worship, To you be your Way, and to me mine* (109:1-6)

Furthermore, the Qur'an repeatedly reminds humanity that the Prophet Muhammad's divine mandate was to advise and convince people through moral and intellectual persuasion. He was not permitted to force people to believe. (17:53-54; 88:21-22) In light of these verses about the Prophet vis-à-vis the DoR resolution, one may be tempted to ask: *If the Prophet was commanded directly by God to just advise and persuade, who are we as ordinary human beings to claim a higher mantle of authority and impose our beliefs on others?*

Policy Implications of DoR Resolution

Many of the negative policy implications of the Defamation of Religions Resolution stems from the fact that "defamation" is a vague and ill-defined term, lending the resolution to an selective, arbitrary, and discriminatory implementation.⁵ Inconsistencies and inequalities in enforcement will worsen human rights in countries with weak and unstable institutions and ruin the credibility of full-fledged democratic nations. According to Human Rights First's (HRF) report, *Blasphemy Laws Exposed*, "accusations of blasphemy have resulted in arrests and arbitrary detentions and have sparked assaults, murders and mob attacks."⁶

⁵ Jo-Anne Prud'homme, "Policy Brief: The Impact of Blasphemy Laws on Human Rights." *Freedom House*, (October 2010). Available at: http://www.freedomhouse.org/uploads/special_report/95.pdf. P. 3.

⁶ "Blasphemy Law Exposed," P. 1.

The report documents over 50 cases in 15 countries where blasphemy laws have violated human rights. HRF distinguishes four categories of blasphemy laws: 1) laws that stifle discussion and dissent in the public sphere, 2) laws that have sparked outbreaks of mob violence, 3) laws that violate freedom of religion, thought or belief and, 4) laws that are used as a weapon to settle private disputes.

Jo-anne Prud'homme, in the Freedom House report, *The Impact of Blasphemy Laws*, argues that “blasphemy laws are generally expansive in scope, and virtually any act has the potential to draw an accusation and prosecution.”⁷ The slippery slope associated with the adoption of a broad “Defamation of Religions” resolution will permanently and negatively alter the human rights commitment of all countries that adopt such laws.

The DoR will lead to preferential treatment of some groups, therefore infringing on the rights of others. Extremists have also used blasphemy laws to attack minority religious communities and Muslims who do not share their religious views by bringing frivolous legal action against them. Some have gone so far as to describe anti-blasphemy laws as a form of legalized discrimination.⁸ A resolution that leads to discrimination fosters an environment where intolerance becomes a norm.

One of the problems with DoR is that it will shut down the marketplace of ideas. The concept of human rights is grounded in the understanding and protection of individual rights and international law. The Becket Fund, an international religious freedom advocacy group, argues that “The grounding of human rights in the protection of individuals instead of the protection of ideas or of group identities is well established in treaty and custom, in general principles, and academia.” The group further explains that attempts in the past to challenge or change the idea that human rights coexists with individual rights have been met with dissent.

When the marketplace of ideas is restricted, citizens are not able to fully exercise their freedom of speech resulting in several negative social consequences:

1. Society becomes dominated by one prevailing religious ideology with potentially devastating consequences for those holding religious views that differ from the majority, as well as adherents to minority faiths.
2. Ignorance and intolerance become more prevalent since facts and accurate statements on a particular topic may not be heard.
3. A diverse cultural educational experience is hindered.

Human and individual rights cannot be protected while simultaneously attempting to safeguard the ideology of a particular group.

⁷ Prud'homme, “Policy Brief: The Impact of Blasphemy Laws,” P. 3.

⁸ *Ibid.* P. 6

Two recent examples in the US show how hatred can be effectively overcome through free debate:

- **The Islamic Center of Temecula Valley, California.** This mosque and community center endured a near-six month battle to get approval to build the mosque. The battle was laden with comments such as “The flag of the Muslims will be flown over the White House...we need to wake up. Islam is not a religion, it’s an ideology”.⁹ Despite the hate speech directed at Muslim Americans, the mosque was approved. This shows that the freedom of speech was while also upholding Muslim Americans’ rights to build their place of worship.
- **The Islamic Center of Murfreesboro, Tennessee.** This place of worship and community went through a similar saga of protests and counter protests. The ability to speak out and stage a counter protest was instrumental in swaying the courts to rule in favor of the Murfreesboro Islamic Center.¹⁰ Ultimately, it is the strength of the rule of law that prevailed and the Islamic Center was authorized to be built. The protests/counter protests show that the judicial system can continue to function in a system where there is free speech and vigorous debate.

Despite the bigoted rhetoric coloring the voices of opposition to these mosques, they were able to successfully move ahead with construction plans. Without the ability for people to be able to protest and engage in public discourse the mosques in Murfreesboro and Temecula might not have been built.

In its report *Confronting Hatred While Respecting Freedom of Expression*, Human Rights First recommends that all governments take concrete steps to counter hatred, rather than creating new international norms restricting freedom of expression. For example, governments and public officials must publicly condemn and counter speech that incites violence against group of individuals on account of their religion. Furthermore, adequate security must be provided to all individuals and groups that face threats of violence. Finally, governments must enact laws prohibiting public and private discrimination that are in line with international standards, and they must ensure proper oversight and accountability of the enforcement of these laws.

Another major policy problem that would arise from the Defamation of Religions resolution is the infringement of individual rights, specifically free speech. This resolution allows the state to value a particular ideology above an individual’s right to express their ideas. The Becket Fund argues the defamation of religions resolutions protect “a religion... instead of an individual.”¹¹

⁹ Audrey Wong, “Southern California Mosque Gets Approval Despite Controversy,” *Illume* (December 16, 2010). Available at <http://www.illumemag.com/zine/articleDetail.php?Southern-California-Mosque-Gets-Approval-Despite-Controversy-13397>.

¹⁰ Michelle Willard, “Top 10 headlines from ‘10,” *The Murfreesboro Post* (January 2, 2011). Available at <http://www.murfreesboropost.com/top-10-headlines-from-10-cms-25533>

¹¹ “Combating Defamation of Religions.” *Becket Fund for Religious Liberty*, (June 2008). Available at <http://www.becketfund.org/files/a9e5b.pdf>, P. 1

The preferential treatment of an ideology over the individual is problematic, but even more problematic is the preference of an ideology shared by the power-holding elite. Preferring the ideas of those in power further entrenches their interests against those who dissent.

Examples of legal discrimination and the disproportional effect on religious minorities and other vulnerable communities include:

- **Indonesia.** Ahmadi community members are prohibited from worshipping in public and could face up to five years in prison if discovered.¹²
- **Malaysia.** Women were arrested for being in the presence of alcohol where as men were not.¹³
- **Pakistan.** Ahmadis “are prohibited from using the Muslim call to prayer, quoting the Quran, participating in the pilgrimage to Mecca or the activities associated with the holy month of Ramadan, proselytizing, holding gatherings, or distributing any Ahmadiyya-related literature.”¹⁴

In these cases groups were targeted and prohibited from practicing their religion and although religious practice is not overt speech it is still a form of speech.

The Defamation of Religions resolution restricts the rights of an individual on the basis that their views do not align with views of extremists and power-holding majority. This can lead to a political alignment between authoritarian elites and extremists who share a mutual interest (albeit for different reasons) in limiting freedom of expression. When a state restricts rights of one group while simultaneously protecting the same right of another group they begin to engage in state-sanctioned discrimination. Numerous examples in modern history (the Holocaust, the use of genocide, etc.) have shown us the dangerous path down which state-sponsored discrimination can be lead.

Despite arguments made in support of this resolution, the reality is it will encourage violence rather than dampening it. Speak about the effects of his own country’s blasphemy law, Indonesian legal expert Todung Mulya Lubis noted that, “Conflicts occur when there are coercive actions (to prohibit someone or a group) from worshipping according to their religion and belief.”¹⁵ Islamic Studies Professor Akbar S. Ahmed concurs, asserted, “In the application of the blasphemy law [in Pakistan], intolerance has fed on intolerance.”¹⁶

¹² Prud’homme. P. 50.

¹³ *Ibid.* P. 66.

¹⁴ *Ibid.* P. 81.

¹⁵ Tudong Mulya Lubis, “Discourse: Blasphemy law ‘has not prevented conflict’,” *The Jakarta Post* (April 21, 2010). Available at <http://www.thejakartapost.com/news/2010/04/21/discourse-blasphemy-law-‘has-not-prevented-conflict’.html>.

¹⁶ Akbar Ahmed, “Pakistan’s Blasphemy Laws: Words Fail Me,” *The Washington Post* (May 19, 2002). Available at <http://www.wright-house.com/religions/islam/pakistan-blasphemy-law.html>.

Another form of violence that the defamation of religions resolution could incite is extremist violence. The Freedom House report argues that in some countries religious extremists and radicals are in a position to dictate and force the hand of law enforcement, the judiciary, and state officials.¹⁷

Extremist organizations thrive on the ability to punish those who speak out against them. This resolution coupled with the fact that authorities might be in collusion with extremists, means individuals could be punished and/or tortured for their dissent. The DoR Resolution could allow extremist ideologies to become the pervasive and solely acceptable ideology in a state or community.

The following examples appear to illustrate this point:

- **Pakistan.** In several instances, extremists have rallied mobs to harass and threaten accused blasphemers and in some cases entered into homes of alleged offenders to assault them.¹⁸
- **Egypt.** Hani Nazeer, a Coptic Christian blogger was charged with posing blasphemous material on his blog. While in jail he reports being assaulted and subjected to cruel, degrading and inhumane punishment.¹⁹
- **Indonesia.** A schoolteacher was rumored to have insulted Islam, prompting 500 protesters to gather outside the education agency office. A riot broke out resulting in homes and churches being burned, as well a number of individuals being injured.²⁰

The dangers posed by this resolution are already a reality in Pakistan where blasphemy laws are in place, where some offenses are punishable by death. In Pakistan, extremists have already begun to successfully use the broad scope of blasphemy laws to intimidate religious minorities and Muslims who do not share their religious views, and sometimes punishing them by death. It is therefore unsurprisingly that a report by US Commission on International Religious Freedom found that in Pakistan “unscrupulous individuals have misused them [anti-Blasphemy laws] to settle personal scores. Blasphemy allegations in Pakistan, which are often false, have resulted in imprisonment on the basis of religion or belief and/or vigilante violence.”²¹

Conclusion

The Defamation of Religions resolution would gravely impact international human rights standards. This paper has shown that from both a religious point of view and from a policy stance that the DoR resolution is undesirable.

¹⁷ Prud’homme. P. 6.

¹⁸ *Ibid.* P. 6.

¹⁹ *Ibid.* P. 33.

²⁰ *Ibid.* P. 55.

²¹ “The Dangerous Idea of Protecting Religions from ‘Defamation’.” *USCIRF Report*, (Fall 2009). Available at: http://www.uscifr.gov/images/stories/pdf/uscirf_policy_focus_final.pdf, P. 2.

The resolution goes against the principles of freedom of expression and freedom of religion, as supported by numerous verses in the Qur'an. A resolution that violates the teachings of the religion it is attempting to protect is only extremely inconsistent and therefore fails at first glance.

But the DoR does not only fail on a religious level, it also fails on an implementation and a practical policy level. It would be difficult to implement such a resolution given the lack of anti-blasphemy precedent in international law and give the broad scope of the resolution. A resolution that is this broad in scope will only lead to uneven adoption and implementation.

Although proponents of the Defamation of Religions resolution claim that it will bolster human rights, in reality it will weaken them because it limits the marketplace of ideas by limiting freedom of speech. Currently countries that have enacted anti-blasphemy laws have been exposed to the mistreatment of its own minorities and seen a rise extremist rhetoric and behavior.

Although the goals behind supporting the Defamation resolution – effectively combating hate speech, discrimination and incitement to violence – are laudable, the means to achieve them are not. It becomes clear that this resolution will not protect peaceful ideas and actions; rather it will protect and fortify extremism and embolden extremists to forcibly silence dissenting voices. In it is light of these concerns that MPAC strongly opposes the Defamation of Religions resolution.



Founded in 1988, MPAC is an American institution which informs and shapes public opinion and policy by serving as a trusted resource to decision makers in government, media and policy institutions. MPAC is also committed to developing leaders with the purpose of enhancing the political and civic participation of American Muslims.

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