

Blasphemy Laws and Hate Speech Codes: Threats to Freedom of Expression, Dissent, and Democracy

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Abstract

Research indicates that there has been an increase in the passage of blasphemy laws, hate speech codes, and defamation of religions laws in the past decade. These laws, ostensibly passed to protect adherents of various faiths and minority group members from offensive speech or criticism based on innate characteristics, are actually a direct threat to the ideals of freedom of religion and expression. Blasphemy laws, like hate speech prohibitions, calling for “tolerance and respect for religions” often metastasize into censorship of expression – often accompanied by harsh penalties (including prison and death in some countries) – and have a chilling impact on the democratic traditions of freedom of conscience, expression, and the right to dissent from religious and political orthodoxy. Advocates of democracy must use their freedom of expression to oppose blasphemy laws and speech codes that are anathema to individual freedoms, human rights, and limited government.

Key Words:blasphemy, defamation, speech, dissent, democracy

I. Introduction

Modern multicultural democracies, such as the United States, face a daunting political, legal and social challenge: How do they protect freedom of religion and expression (speech, press, and symbolic speech) and, simultaneously, ensure national security and protect religious, racial, linguistic, and ethnic minority groups from hate speech, violence and discrimination (Smolla, 2002)?Of course, no rights or freedoms are absolute and balancing conflicting rights and interpreting Constitutional language is a highly difficult task charged to the judicial branch of the American federal government. The First Amendment to the United States Constitution protects freedom of religion, speech, press, assembly, and petition; yet Americans often disagree on specific cases and on the interpretation of the Amendment’s language. This is especially true regarding “hate speech” codes and blasphemy laws, which have recently expanded across the globe (Pew Forum on Religion and Public Life, 2012).

For example, in 2013, 34% of Americans said that the First Amendment goes too far in protecting individual freedom, while 64% disagreed (First Amendment Center, 2013).African-Americans (52%) and Latinos (50%) are much more likely to assert that the Amendment goes too far in protecting freedom of expression as opposed to whites (29%). Simultaneously, almost 45% of people ages 18-45 believe the Amendment goes too far, while only 24% of American 46 and older believe that it goes too far (First Amendment Center, 2013). Americans are often divided on freedom of expression issues, such as hate speech codes, violence and vulgarity in entertainment, and censorship of controversial ideas. America’s increasing cultural diversity and the rise of the Internet and various forms of social media complicate America’s legal goals of balancing competing rights, maintaining social order, and adhering to the Constitution.

This profoundly difficult balancing act is exacerbated by the fact that the lines between legally protected expressions – the right to dissent, criticize, debate, ridicule, and disparage any political and religious idea, practice, or institution – and the prohibition of explicit language advocating killing, violence, and discrimination towards specific groups are ambiguous (Marshall & Shea, 2011). Language, especially in legal or political documents, is often designed to obfuscate and is inherently subjective. This is often the consequence of efforts to appease all interested parties, as well as protect powerful interest groups, in attempts to pass controversial laws. Moreover, the primary purpose of some laws, especially in authoritarian or totalitarian regimes, is to restrict individual liberties that serve as a threat to religious or political orthodoxy and power.

Of course, imprecise language and laws that restrict individual freedoms and rights often lead to a wide variety of conflicting interpretations and abuses by authorities.

II. Blasphemy Laws and Speech Codes

Such is the case with blasphemy laws and hate speech codes designed to protect religions and minority groups, respectively, from criticism. Currently, there are bitter debates among scholars, lawyers, policy-makers, United Nations figures, and the general public regarding the impact of these laws on freedom of expression (speech, press, and symbolic speech), a right guaranteed in the 1948 United Nations Declaration of Human Rights document. Specifically, Article 19 states that “Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.” The United States codified its protection of freedom of expression in the First Amendment to the Constitution in 1791.

Unquestionably, contradictions, inconsistencies, linguistic ambiguities and uneven enforcement are often associated with legislative acts, and Europe, Australia, and the United States (there was never a federal law, all laws were enacted by state governments) all enacted blasphemy laws to protect religion, specifically Christianity, from criticism and blasphemy (Marshall & Shea, 2011). For example, in 1636 the Puritans in the Massachusetts Bay Colony made blasphemy – defined as a “cursing of God by atheism, or the like” punishable by death and Maryland’s 1649 “Act of Toleration” made it a capital offense for denying the divinity of Jesus Christ; it also mandated the death penalty for blasphemy (Zimmerman, 2012, p. 1). However, by the end of the late nineteenth century, most of these laws were reformed, ignored, or abolished. This reflected the growing trends of secularization, modernization, and an increasing awareness that democracies – especially the United States with its written Constitution protecting freedom of expression – must allow dissent, criticism, and debate regarding all political ideas and religious traditions.

Yet, since 2001, many Western nations, excluding the United States, have passed, or enforced dormant, blasphemy laws – laws that punish individuals for criticizing or defaming God, religious beliefs, holy doctrines, or ridiculing religious figures – inspired, in large part, by demands from Muslim organizations and countries to castigate people for “defaming or insulting Islam or the Prophet” (Gabriel, 2008; Lebl, 2010; Phares, 2007; Turley, 2009). Advocates of these laws assert that they are necessary to promote tolerance and respect for all religions and prevent all forms of hate speech, discrimination and violence. Many consider these laws as needed measures to protect individuals in pluralistic societies where freedom of expression can be abused to incite religious hatred. Many Western and non-Western nations have passed “defamation of religion” and/or “hate speech” codes – a modern proxy for blasphemy laws – designed to protect minority groups (religious, racial, ethnic, sexual orientation, and gender) from offensive language, exposure to dissenting views, or criticism (Pew Forum on Religion and Public Life, 2012).

However, blasphemy laws, like hate speech prohibitions, calling for “tolerance and respect for religions” often metastasize into censorship of expression – often accompanied by harsh penalties (including prison and death in some countries) – and have a chilling impact on the democratic traditions of freedom of conscience, expression, and the right to dissent from religious and political orthodoxy (Berman, 2011; Marshall & Shea, 2011). In Europe, individuals who have mocked or criticized Islam for its real or perceived abuses of human rights, poor treatment of women, and lack of democracy have been subjected to harassment, discrimination, and violence (Lebl, 2010). In fact, individuals who dare criticize Islam may be labeled “bigots, racists, or Islamophobes” simply for expressing views that offend some Muslims. Simultaneously, Islam is not the only protected religion in Europe; 36 countries (80% of the region’s 45 nations) have laws that penalize defamation of any religion (Pew Forum on Religion and Public Life, 2012).

Almost half of the world’s countries (47%) have laws or policies that punish blasphemy, apostasy (abandonment of one’s religion), or defamation (religious hate speech). These countries include India, Pakistan, Iran, Egypt, Saudi Arabia, Nigeria, and Western nations such as Germany, Greece, Ireland, the Netherlands, and Poland (Pew Forum on Religion and Public Life, 2012). These laws are not simply anachronistic relics from a distant past; individuals have been arrested, detained, and/or prosecuted in many of the countries for blasphemy violations, such as a 14 year-old Christian girl accused of burning pages from a Quran in Pakistan and a man in India who claimed a statue venerated by Mumbai Catholics is a fake (Pew Forum on Religion and Public Life, 2012).

Moreover, 17 people in Pakistan are on death row for blasphemy convictions and some violent extremists have murdered individuals accused of blasphemy prior to trials and legal convictions. Globally, 87 countries have laws that criminalize defamation of religion; these countries include democracies (The United Kingdom and France), theocracies (Saudi Arabia), monarchies (Jordan), and countries fragmented by religious or ethnic violence and conflict (Sudan and The Congo). Thus, laws punishing blasphemy, apostasy, and defamation of religion are ubiquitous and span the political and cultural spectrum (Pew Forum on Religion and Public Life, 2012). In theocracies and authoritarian regimes, blasphemy, apostasy, and defamation laws serve a vital purpose: preventing any criticism of the regime that could imperil its power. Conversely, the growing trend in many Western democracies to ban speech critical of Islam and any other religion is especially disconcerting because these laws are contradictory to the democratic notions of limited government, human rights, and the right to criticize the sacred (religion) and the secular (the state). The world's major religions are characterized by profound differences – monotheism versus polytheism; many Buddhists are atheists; Islam and Judaism reject the Christian belief in the Trinity; disagreements over the fundamental problems and solutions facing humanity – that are not amenable to compromise or moderation (Prothero, 2010).

One religion's blasphemy may be another religion's undisputed truth; thus, it is logically and logistically impossible to grant all religions immunity from dissenting and offensive views and ideas. For example, the central tenet of Christianity asserts the divinity of Jesus Christ; the denial of this doctrine by Islam and Judaism could be deemed blasphemous by Christians. Islam could consider Christianity blasphemous for asserting the divinity of Christ or separating the realm of Caesar from the realm of God. Likewise, the three Abrahamic faiths could consider atheism and polytheism to be blasphemous (and, of course, the opposite is true). Blasphemy and defamation laws are not only anti-democratic barriers to freedom of expression; they are also an intellectual absurdity because all religions articulate a singular vision of ultimate truths, problems, and solutions that are, generally speaking, not open to debate (Prothero, 2010).

Hence, the great danger faced by democracies that submit to blasphemy laws and hate speech codes in misguided efforts to protect all religions and minority groups from being offended or criticized. Ostensibly, these laws are designed to ensure tolerance and respect for religious, ethnic, and racial diversity; in fact, these laws are often intended to silence all criticism and debate of religious and political beliefs, ideas, and practices. Many non-Western countries, particularly majority-Muslim states (secular and religious) have blasphemy laws that criminalize any real or perceived "insults to Islam" and all things Islamic, including political leaders claiming the right to rule in the name of Islam (Marshall & Shea, 2011).

This often grants immunity to political and military leaders who may sanction gross human rights violations, such as torture, murder, imprisonment without any due process, discrimination, and oppression (Marshall & Shea, 2011). There is pressure on Western governments by some Muslims and other supporters of blasphemy laws and hate speech codes to punish individuals who insult Islam. In fact, some advocates of blasphemy laws are primarily concerned with stopping all criticism of Islam as a prerequisite for expanding Islamic control and immunizing leaders from any responsibility for their actions (Spencer, 2008). Of course, insulting Islam is a broad term and can be interpreted to include atheists, critics, heretics, political cartoonists, and others who reject Islam or ridicule its prophets, beliefs, laws, rituals, and obligations (Phares, 2007). Recently, some scholars, such as Dawkins (2006), Harris (2004), and Hitchens (2007) have written books that condemned all religions and religious faith as irrational, anti-scientific, and a primary cause of human misery, religious terrorism, and immoral behaviors. And while all three authors have been pillaged for their views – and threatened – they are considerably more fortunate than others who have mocked Islam or other religions.

III. A Western Challenge: Blasphemy Laws and Islam

For example, on January 2, 2010, a 28 year-old Somali man with ties to al-Qaeda attempted to murder Danish cartoonist Kurt Westergaard in his Copenhagen home in order to extract retribution for Westergaard's unforgivable transgression: in 2005, Westergaard depicted the Prophet Muhammad with a bomb-shaped turban (Associated Press, 2010; Spencer, 2008). Many Muslims found this political cartoon – caricaturing Muhammad as a terrorist – and many others like it, to be very offensive and a critical attack on Islam. Indeed, some Muslims in Denmark and across the Muslim world responded by burning embassies, rioting, calling for boycotts, offering bounties for the assassination of the cartoonist, and calling for the death of anyone who slanders Islam.

Generally speaking, Islamic law considers blasphemy – saying or writing anything critical of Islam or the Prophet Muhammad – as a crime punishable by death (Bukay, 2008; Gabriel, 2008; Harris, 2007; Lebl, 2010; Lewis & Churchill, 2009; Steyn, 2006). Furthermore, any depiction of the Prophet, even one in a favorable light, is prohibited lest it lead to idolatry, which is strictly forbidden in Islam; although, in the past Islamic and Western art depicted Muhammad without consequences; the current prohibition reflects a modern interpretation. This attack, like several previous attempts, on Westergaard's life failed; the cartoonist and his visiting five-year old granddaughter sought refuge in a safe-room and called the police, who responded quickly and subdued the suspect after his failed attempt to kill the police with his ax. However, this incident, and many others like it across the world, is symbolic of one of the most controversial and important issues confronting the United States: Does the First Amendment's protection of freedom of expression protect someone who is critical of any religion and its founders, core beliefs, religious laws, practices, and their roles in history? Of course, this is a complicated question, and scholars, educators, policy experts, lawyers, national security experts, and citizens will offer a plethora of opposing viewpoints.

What is of importance is to have an open and honest conversation regarding the First Amendment and the constitutional right of Americans to openly criticize Islam or any other religion (Spencer, 2008). Furthermore, this discussion must be conducted in light of international events involving censoring freedom of expression in Europe, Asia, the Middle East, and North America. Historically, controlling freedom of thought and expression is an effective method used by totalitarian regimes – secular and religious – to prevent dissent and revolution. Blasphemy laws and speech codes are often justified by advocates as necessary to combat racial, ethnic, and religious hatred and preventing all forms of violence and discrimination against racial, religious, and ethnic minority groups. Using this type of language makes the laws palatable for many people, but the results are always the same – a restriction on human liberty to freely think and express opinions (Marshall & Shea, 2011).

Many countries in the Organization of the Islamic Conference (OIC) have created blasphemy laws that prohibit any criticism of Islam and severely limit the topics that can be discussed in the political, social, cultural, and economic domains. It is important to note that these laws are not the product of democratic processes and may not reflect the will of the masses (Phares, 2007). Consequently, human and political rights articulated by Western democracies and enshrined in the United Nations Declaration of Human Rights are absent in many Muslim countries (United Nations, 1948). The acute restrictions on freedom of religion and expression are accompanied by harsh punishments for individuals who engage in dissent, debate, or independent thought. Not surprisingly, moderate Muslims who advocate for democracy, religious reform, academic freedom, and oppose blasphemy laws are often silenced by intimidation, prison, or death (Berman, 2011; Phares, 2007).

Many powerful Muslim countries, such as Saudi Arabia, Iran, Pakistan, and Egypt, have powerful and broad blasphemy laws. For example, Saudi Arabia asserts that its Wahhabi interpretation of Islam is the only permissible one in the nation and other Muslims, such as Shia, Sufis, and Muslims who advocate for political reform or modernization may be labeled as apostates – individuals who have renounced authoritative Islam – deserving of flogging, imprisonment, or even death (Lebl, 2007; Marshall & Shea, 2011). Some Sunni Arabs have been imprisoned for using “un-Islamic” terminology, such as *democracy* and *human rights* (Marshall & Shea, 2011, p. 7). Iran, the world's most populous Shia Muslim country and a bitter rival of Sunni Saudi Arabia, oppresses Jews, Baha'is, Sunnis, as well as all individuals who dissent from the regime's mandates ((Marshall & Shea, 2011). People have been convicted on unspecified charges such as “friendship with the enemies of God,” and “propagation of spiritual liberalism” (Marshall & Shea, 2011, p. 8). Punishments have included executions, amputations, and starvation. The Iranian revolutionary courts, created in the aftermath of the 1979 Revolution, are characterized by a lack of due process, torture to gain confessions, and defendants have no legal representation.

Many Muslim countries and organizations are attempting to establish and enforce blasphemy laws and hate speech codes in Western societies, including the United States, via education, international conferences, legislative actions, judicial fiats, and codifying restrictions on blasphemy in international law through United Nations (Council of Europe, 2008; Spencer, 2008). In 1989, Iran's Ayatollah Khomeini issued a fatwa against author Salman Rushdie for insulting Islam, the Koran, and the prophet in his 1988 book, *The Satanic Verses*. Khomeini called for the execution of Rushdie and anyone else involved with the novel as just punishment and a deterrent to anyone else who might insult Islam (Berman, 2011; Spencer, 2008).

There were demonstrations, violence, and book burnings as numerous countries, such as India, Pakistan, Saudi Arabia, Egypt, and others banned the novel. Advocates of blasphemy laws throughout the West engaged in activities to suppress the distribution of the book; threats against the U.S. publisher (Viking Penguin), two bookstores in California and a newspaper that published a defense of the book were firebombed, and the Japanese translator of the novel was murdered in his university office in 1991 (Marshall & Shea, 2011). These global incidents generated an intense debate regarding respect for religion and freedom of expression that continues today. The 2004 murder of Theo Van Gogh for blaspheming Islam in his film *Submission*, the 2006 riots precipitated by the Danish newspaper *Jyllands-Posten* publishing cartoons mocking Muhammad, and threats and attempted assassinations against cartoonists and others accused of mocking Islam impelled many countries to ban controversial films, artwork, or books that were deemed blasphemous against Islam (Totten, 2013).

The European democracies (France, Italy, England, and Switzerland, among others) that have established blasphemy and defamation laws that criminalize speech critical of religion have curtailed freedom of expression, no doubt in order to persevere social order and a desire to protect all religions from criticism (Berman, 2011; Gabriel, 2008; Lebl, 2007; Turley, 2009). The violence occasioned by the 2005 publication of political cartoons satirizing Muhammad is instructive: *Shari'ah* law considers blasphemy – saying or writing anything critical or negative about Allah, Islam or Muhammad – a crime punishable by death (Lebl, 2007). Thus, the Danish cartoonist and other critics of Islam, such as Ayaan Hirsi Ali, must go into hiding and take other extraordinary efforts to protect themselves from assassination, which befell Theo Van Gogh for making a film critical of Islam for its treatment of women. Violence and the threat of violence propelled Europe to restrict freedom of expression regarding religion; England's 2006 Racial and Religious Hatred Act made it a crime to threaten or abuse any religion and charged a 15 year old boy under this act for calling Scientology a cult. In 2009, Ireland passed a law calling for the prosecution of anyone who writes or utters views that are seen as insulting to religion (Spencer, 2008; Turley, 2009).

Cartoonists, journalists, religious leaders, legislators, political activists, and comedians have all faced punishments for violating blasphemy laws. Furthermore, the Obama administration supported the efforts of the United Nations Human Rights Council “to recognize exceptions to free speech for any negative racial and religious stereotyping” (Turley, 2009, p. 2). Supporters of the blasphemy laws argue they protect all religious traditions and teach tolerance and respect, which are much needed traits in a highly diverse and contentious world. Moreover, advocates of blasphemy laws assert that the laws prevent social chaos, discrimination, and violence that results from affronts to religious traditions (Turley, 2009).

Conversely, critics of the blasphemy laws avow that no religious beliefs, values, or practices should be exempt from criticism and dissent; advocates of this position condemn blasphemy laws as the ultimate practice of intolerance: criminalizing and oppressing free speech in the name of religious tolerance (Bukay, 2008; Harris, 2007; Spencer, 2008; Turley, 2009). These critics contend that blasphemy laws prohibit the discussion of historically accurate events, contemporary issues, and sacrifice the cherished ideal of freedom of expression in misguided attempts to appease religious groups (Harris, 2007; Lebl, 2007; Turley, 2009). Individuals have the right to criticize any religion, political ideology or policies, laws, cultural practices, or anything else they choose; blasphemy laws, regardless of their motivating factors, have the effect of chilling freedom of expression, reinforcing authoritarian politics, stopping dissent – which is essential in a democracy, and obscures the human inclination to search for truth. Furthermore, critics of blasphemy laws argue that submitting to extremists who engage in violent and criminal behaviors perversely rewards, and encourages, their illegal actions.

It is essential to recognize that while blasphemy laws against Islam are ubiquitous throughout the Muslim world (often defined as North Africa, Southwest Asia, and Southeast Asia), there are Muslims, including many American Muslims, who reject these laws. Since the majority of Muslim countries are not democratic, blasphemy laws may be enacted and enforced without their consent. Islam is not a monolithic religion and Muslims are characterized by enormous racial, cultural, ethnic, linguistic, economic, and ideological diversity (Aslan, 2008; Barrett, 2007; Hasan, 2000). Muslim secularists and reformers desire separation between church and state and argue that Islam is compatible with democracy and its protection of freedoms of expression and dissent. However, there are Muslims who support blasphemy laws, including harsh punishments (including death) and reject the Western notions of separation between church and state, freedom of expression, and the right to dissent and criticize Islam (Calvert, 2008; Gabriel, 2008, Harris, 2007; Bukay, 2008; Pipes, 2003; Spencer, 2008).

IV. The First Amendment: Freedom of Religion and Expression

The United States places a premium on the ideas of liberty and limited government; this is especially true concerning the right to freedom of religion and expression. The five freedoms described in the First Amendment – freedom of religion, speech, press, assembly, and petition – constitute a critical component of American democracy; indeed, the First Amendment promotes individual growth and dignity, the advancement of knowledge, is central to representative democracy, protects individual rights, and acts a conduit to peaceful changes via the processes of dialogue, dissent, compromise, and free elections (Center for Civic Education, 2009). Of course, no freedoms or rights are absolute in our democracy and the judicial branch of our government must balance individual rights and liberties with the rights and liberties of other individuals and groups, as well as the communal rights of society. Thus, there are limitations on freedom of expression; libel, slander, incitement, perjury, and obscenity are not protected under the First Amendment.

Furthermore, when two liberties or rights conflict, such as the right of people to engage in religious practices that may conflict with other laws or community norms, the courts must carefully consider all arguments and issue a decision based on their interpretation of the Constitution. America's Founders, by establishing a system of separation of powers and checks and balances, understood the inherent difficulties in balancing competing rights and liberties. Thus, Muslims, Hindus, Jews, and Christians are free to worship as they please as long as their behaviors – not their beliefs – conform to American laws. Simultaneously, any individual, including people who are bigoted, ignorant, or filled with any anti-religious hatred, are free to express their views as long as they conform to American laws.

Undoubtedly, some critics of Islam are racist or anti-Muslim (most American Muslims are African-Americans, of South Asian or Middle Eastern descent; hence the political advantage to conflating race with religion in a country that has a pervasive history of racism), ethnocentric, and xenophobic. Furthermore, some American critics of Islam stereotype all Muslims as radical terrorists and make statements that reflect a deep hatred of not just Muslims, but the “Other” – anyone culturally, physically, or linguistically different. Education, rather than censoring speech, is a more viable and constitutionally sound attempt to change attitudes and behavior. After the 9-11 terrorist attacks on the United States, some Muslims or people who “looked like” Muslims were subjected to violence or discrimination (Barrett, 2007; Levin & McDevitt, 2002); this is a deplorable fact but it does not negate the First Amendment right to criticize Muslims or Islam. The basis for criticism is irrelevant; it may be based on historical facts, a plethora of empirical data, rational thought, personal experiences or it may be based on personal views, ignorance and/or hatred.

Moreover, not all critics of Islam are racists, filled with hate, attempting to incite violence against Muslims, or anti-Islamic. In fact, many scholars, journalists, political commentators, and others have made comments or written books and articles, while reflecting poorly on Islam, which are historically true or are opinions which are protected by the First Amendment (Bukay, 2008; Calvert, 2008; Fregosi, 1998; Huntington, 1996; Kushner, 2004; Lebl, 2010; Lewis & Churchill, 2009; Pipes, 2003; Spencer, 2008; Steyn, 2006; Wiktorowicz, 2005). Some of these scholars, for example Lebl, Lewis, and Pipes make a vital distinction between Islam (a religion with laws, theological tents, rituals, practices, and obligations) and radical Islam, a politically-motivated movement that has perverted traditional Islam and justifies violence and other terrorist acts in order to achieve its religious and geopolitical goals.

Thus, there is a healthy and spirited debate, in the United States, among scholars regarding the true nature of Islam, its compatibility with democracy, its association with terrorism, and its role in world politics. It is imperative that citizens be exposed to a wide range of perspectives, beliefs, and ideas in order to make informed decisions; this is vital for America's political leadership as they act to protect the United States. However, the American legal tradition of freedom of expression is not universal; in many countries, criticism of the dominant religion (for example, in Saudi Arabia, Islam is the only religion allowed by law) or the political regime can result in fines, imprisonment, government-sanctioned discrimination or harassment, or even death (Gabriel, 2008; Spencer, 2008). Advocates of prohibiting criticism of Islam on grounds that it is offensive, intolerant, or demonstrates anti-Islamic bigotry either don't understand or accept the philosophical underpinnings of the First Amendment or reject the idea that freedom of expression applies to Islam. Interestingly, the Islamic prohibition on criticism of Islam does not apply to any other religion; many Muslims routinely criticize Christianity, Judaism, and other faiths.

Indeed, some radical Muslim leaders openly call for the death of infidels, apostates (Muslims who renounce their faith), heretics, and anyone who insults the Prophet or Islam (Gabriel, 2008; Lebl, 2007; Marshall & Shea, 2011). Regarding freedom of expression in the United States, there is a clear legal and moral distinction between legitimate criticism and advocating the mass murder of individuals or groups holding divergent viewpoints or religious traditions. It is the proper role of the judicial branch of government to decide the constitutional limits on freedom of expression; these decisions are correctly based, not on sensitivity for believers or tolerance for religious diversity, but on a scrupulous interpretation of constitutional law.

However, the First Amendment protects all forms of political speech; there is no requirement that the speech be scholarly, non-racist, informed, rational, or popular. Indeed, the First Amendment exists to protect unpopular, even radical, forms of expression; this is necessary because it is difficult for people to tolerate ideas that they loathe and the urge to suppress freedom of speech is ubiquitous and powerful. For example, some ideas, such as the abolition of slavery, were seen as radical, and several laws in 18th and 19th century America attempted to censor any discussion of the abolition of slavery (Center for Civic Education, 2009). Individuals have the right to criticize any religion, political ideology or policies, laws, cultural practices, or anything else they choose; blasphemy laws, regardless of their motivating factors, have the effect of chilling freedom of expression, reinforcing authoritarian politics, stopping dissent – which is essential in a democracy, and obscures the human inclination to search for truth.

V. Conclusion

Blasphemy laws and hate speech codes (a modern proxy for blasphemy laws that protect minority groups from “hate speech”) are an affront to the democratic notions of freedom of expression and religion and should be a major concern to advocates of individual liberty and human rights. There are laws that protect individuals from violence, discrimination, and harassment that do not conflict with the First Amendment; these laws proscribe criminal behavior. However, the primary purpose of the First Amendment is to protect offensive, radical, and controversial speech. In fact, many scientific achievements and the ascent of modern liberal values (the equality and essential dignity of all human beings, limited government, and individual liberty) started out as blasphemous or radical ideas that so threatened the religious or secular powers to be that they engaged in totalitarian methods (violence, prison, censorship, and fines) to crush all forms of dissent, criticism, or political action.

Freedom of thought and expression is indispensable to the advancement of knowledge, social justice, and is a powerful unifying force in pluralistic democracies. Moreover, participatory democracy requires that all citizens have access to all ideas, information, facts, and multiple perspectives (including radical ideas) in order to make prudent and informed choices that determine the character of a nation. Therefore, blasphemy laws and unconstitutional hate speech codes are anathema to the values of dialogue, dissent, debate, compromise, and the rule of law. The most effective weapon to combat speech and ideas we abhor is not any form of censorship but more speech that can win the minds and hearts of people by exposing them to higher ideals. Advocates of democracy and freedom must be assertive in denouncing the totalitarian nature of blasphemy laws and the human misery that results from punishing blasphemers, apostates, and defamers of religion. The United States must affirm the supremacy of the ideals of freedom of religion and expression codified in the Bill of Rights and defeat all attempts to establish blasphemy laws and unconstitutional speech codes that can destroy individual liberties and the democratic tradition that has proven to be the best antidote to secular and religious totalitarian and authoritarian regimes that oppress all forms of freedom.

References

- Aslan, R. (2008). Islam is Compatible with Democracy. In *Islamic Fundamentalism*, edited by D. M. Haugen, 89-99. New York: Greenhaven Press.
- Barrett, P. M. (2007). *American Islam: The Struggle for the Soul of a Religion*. New York: Farrar, Straus and Giroux.
- Berman, P. (2011). *The flight of the intellectuals: The controversy over Islamism and the press*. New York: Melville House Publishing.
- Bukay, D. (2008). Islam is not compatible with democracy. In *Islamic fundamentalism*, ed. D. M. Haugen, 100-111. New York: Greenhaven Press.
- Calvert, J. (2008). *Islamism: A documentary and reference guide*. Westport, CT.: Greenwood Press.
- Center for Civic Education. (2009). *We the people: The citizen and the Constitution*. Calabasas, CA: Center for Civic Education.

- Dawkins, R. (2006). *The God delusion*. New York: Bantam Books.
- Fregosi, P. (1998). *Jihad in the West: Muslim conquest from the seventh to the twenty-first centuries*. New York: Prometheus.
- Gabriel, B. (2008). *They must be stopped: Why we must defeat radical Islam and how we can do it*. New York: St. Martin's Press.
- Harris, L. (2007). *The suicide of reason: How radical Islam threatens the West*. New York: Basic Books.
- Harris, S. (2004). *The end of faith: Religion, terror, and the future of reason*. New York: W.W. Norton & Company.
- Hasan, A. G. (2000). *American Muslims: The New Generation*. New York: Continuum.
- Hitchens, C. (2007). *God is not great: How religion poisons everything*. New York: Twelve.
- Huntington, S.P. (1996). *The clash of civilizations and the remaking of world order*. New York: Simon & Schuster.
- Kushner, H. (2004). *Holy war on the home front*. New York: Sentinel.
- Lebl, L. (2010). Radical Islam in Europe. *Orbis*, 54 (1): 46-60.
- Levin, J. & McDevitt, J. (2002). *Hate crimes revisited: America's war against those who are different*. Boulder: Westview Press.
- Lewis, B. & Churchill, B.E. (2009). *Islam: The religion and the people*. Upper Saddle River, New Jersey: Wharton School Publishing.
- Marshall, P. & Shea, N. (2011). *Silenced: How apostasy and blasphemy codes are choking freedom worldwide*. New York: Oxford University Press.
- Phares, W. (2007). *The War of Ideas: Jihādism against democracy*. New York: Palgrave.
- Pipes, D. (2003). *Militant Islam reaches America*. New York: W.W. Norton & Company.
- Prothero, S. (2010). *God is not one: The eight rival religions that run the world – and why their differences matter*. New York: HarperCollins.
- Rushdie, S. (1988). *The satanic verses*. London: Random House
- Spencer, R. (2008). *Stealth jihad: How radical Islam is subverting America without guns or bombs*. Washington, DC: Regnery Publishing.
- Steyn, M. (2006). *America alone: The end of the world as we know it*. Washington, DC: Regnery Publishing, INC.
- Wiktorowicz, Q. (2005). *Radical Islam rising: Muslim extremism in the West*. Oxford: Rowan and Littlefield Publishing, Inc.

Web Based References

- Associated Press. (2010). *Somali man charged in attack on cartoonist*. <http://www.msnbc.com/id/34662389/> (accessed September 25, 2013).
- Council of Europe. (2008). Protecting human rights in multicultural societies. Accessed on September 20, 2013 from: <http://www2.ohchr.org/english/issues/racism/rapporteur/docs/SpeechSRCEC121108.pdf>
- First Amendment Center (2013). State of the First Amendment, 2013. Accessed on September 30, 2013 from: <http://www.firstamendmentcenter.org/madison/wp-content/uploads/2013/07/SOFA-2013-final-report.pdf>
- Lebl, L. (2007). Understanding Muslim extremism. Scripps Howard News Service, http://www.leslielebl.com/files/Hs_op-ed.pdf (accessed September 26, 2013).
- Pew Forum on Religion and Public Life. (2012). Laws penalizing blasphemy, apostasy and defamation of religion are widespread. Accessed on October 3, 2013 from: <http://www.pewforum.org/2012/11/21/laws-penalizing-blasphemy-apostasy-and-defamation-of-religion>
- Smolla, R. A. (2002). Speech overview. The First Amendment Center. Accessed on September 30, 2013 from: <http://www.firstamendmentcenter.org/speech-overview>
- Totten, M.J. (2013). Radical Islam's Global Reaction: The Push for Blasphemy Laws. Accessed on October 4, 2013 from: <http://www.worldaffairsjournal.org/article/radical-islam%E2%80%99s-global-reaction-push-blasphemy-laws>
- Turley, J. (2009). Just say no to blasphemy laws. Accessed on January 15, 2010 from: <http://www.blogs.usatoday.com/oped/2009/10/column-just-say-no-to-blasphemy-laws-html>
- United Nations. (1948). The Universal Declaration of Human Rights. Accessed on September 20, 2013 from: <http://www.un.org/en/documents/udhr/>
- Zimmerman, J. (2012). Anti-blasphemy laws have a history in America. Accessed on October 4, 2013 from: <http://www.newsworks.org/index.php/homepage-feature/item/45356-anti-blasphemylaws-have-a-history-in-america>