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Author(s): **Riaz Ahmad Saeed**

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EXPLORATION OF FREEDOM OF EXPRESSION IN ISLAM AND WEST: ITS RELATION WITH BLASPHEMY AND RELIGIOUS DEFAMATION

Riaz Ahmad Saeed

Department of Islamic Studies
Isra University, Islamabad Campus, Pakistan

Abstract

Freedom of expression is considered as one of the fundamental issues of the contemporary socio-political world. It has divided the society into two major groups; one is the follower of infinite freedom and other wants some limits up on it. Definitely, Western thought is the representative of unbounded freedom of speech whereas Islam chooses the second one. Islamic concept of freedom of expression has various moral and legal bindings but in western perspective, only nominal legal restrictions exist, because revealed ethics are not concern of the western thought. These legal restrictions are meant to protect freedom of expression and individual rights and not to curb the acts of civil and religious defamation. Hence, these legal constraints are insufficient because the freedom of speech is unlimited and legal restrictions are either partial or nonexistent. In spite of presence of laws, the so-called racial discrimination and religious defamation have become the most dangerous and lethal weapon against minorities in the West, especially blasphemy of the Holy Prophet (SAW) has become a painful trend and cheap hobby under the banner of freedom of speech. In this regard, the limitless freedom of expression and its link with blasphemy of the prophet (SAW) as become one of the major conflicting issues between Islam and the West. In this study the efforts are made to examine the freedom of expression from Islamic and western perspectives and its link with blasphemy and religious defamation from the western side.

Keywords: freedom of expression, Islamic and western perspective, conflicting issue, blasphemy

1. Introduction

Freedom of expression has become one of the most momentous issues in the contemporary socio-political global scenario. Every field of socio-political life seems affected from its impacts and consequences, due to its significance and controversy. Therefore, freedom of expression is legally protected and defined in almost all of the western's countries and Eastern as well. Practically, the constitution of every western state grants, defines and protects it in any case. Commonly, the freedom of expression and speech means, "The right to express one's own convictions and opinions freely





by words of mouth, writings, printing, pictures or any other mode.”¹ But, in Islamic context, it slightly differs from the west. A Muslim scholar Prof. Muhammad Ali Bhat defines it in this way; “Freedom of expression means the right of an individual to prefer the stances about certain public or private issues and express them before others avoiding any evil when it is obscene, immoral or harmful.”²

Hence, we observe no consensus on its basic definition among Muslim and western scholars it’s not a mere difference of opinion but difference of thought and values as well. It is also observed all modern constitutions and organizations including the UDHR (Universal Declaration of Human Rights) and ECHR (European Convention of Human Rights), UK and USA Laws and OIC documents advocates for its importance. Therefore, majority of the western scholars consider it a fundamental plus right, which should not be violated in any case as, “Freedom of speech is a fundamental human right in the modern democratic societies, and it has meticulous importance in relation to the proper performance of the constitutional democratic procedure.”³

Moreover, unusual interest and key focus of western public and scholar on unlimited freedom of expression is creating some serious issues and problems for religious minorities- this phenomenon is particular to Muslims in the west. This outrageous tendency is creating unrest in Muslim community and disturbs the meaningful dialogue and peaceful relation between Islamic and the western world. In other words, the unlimited freedom of expression without reasonable legal and moral limits has become the most conflicting issue between Islam and the modern west. In this article, attempt is made to elaborate freedom of expression from Islamic and western perspectives with special reference to religious defamation from the western side as a major conflicting issue between Islam and the West.

2. Freedom of Speech from the Islamic Perspective

According to the Islamic teachings, the right of freedom of expression is not due to any struggle or historical incident, but Almighty Allah (SWT) grants all rights and liberties alone as a unique gift to humanity to acknowledge their dignity and capacity to search for truth. The Holy Qur’ān also indorses it as; “So judge between them by what Allah (SWT) hath revealed, and follow not their vain desires, diverging from the Truth that hath come to thee.”⁴ Therefore, in Islamic perspective, the first important

¹M. Stephen, *Human Rights Concepts and Perspectives* (Delhi: Concept Publishing Co., 2002), 104.

²Alī Muhammad Bhat, “Freedom of Expressing from an Islamic Perspective,” *Journal of Media and Communication Studies*, 6:5 (2014):69.

³J. Beatons, *Freedom of Expression and Freedom of Information* (Oxford: Oxford University Press, 2000), 17.

⁴al-Māedah 4:48



source of this fundamental human right is the divine revelation (*Wahī*). Second source is; the last Prophet Muhammad's (*SAW*) sayings (*Ahādīth*) and actions (*Sunnah*). Here, Prof. 'Abdul Jabbār Shākīr truly argues; "Islam grants all reasonable rights and liberties to human being without any historical struggle and efforts as compared to the modern west."⁵ As well as public freedoms, civil liberties and human rights are not sole property of the west, because Islam provides these rights and liberties since its foundation. Similarly, Prof. Khurshīd Ahmad says, "It is not a solid claim but just like a joke that the contemporary west is trying to become the sole proprietor of the human rights and civil liberties, while Islam granted these rights and freedoms fourteen hundred years ago (without any demand)."⁶ In addition, Islamic histories observe the age of caliphate was the standard era of all kind of Islamic liberties and fundamental rights. Thus, Sheikh Hāmid Ansārī absolutely commented;

Hazrat 'Umar's (*RA*) era was the excellent period for freedom of expression and freedom of speech. It is his routine approach that he called people in Masjid of the Prophet Muhammad (*SAW*), when an important issue occurred. Every person freely expressed his opinion in front of the *Khalīfah* (the head of state). Also, He incorporated the spirit of common consultation in the Islamic government.⁷

So, this and many other historical evidences show that the concept and practice of freedom of consultation and thought which is fundamental part of freedom of speech, expression and criticism in Islamic state and society since early ages. It is also a notable point that Islam grants these rights and liberties without any human efforts and struggle. Therefore, these rights and freedom are permanent and no power can alter and terminate them. Mr. Isrār-ul-Haq rightly observes; "The human rights and civil liberties in Islam are granted by Allah (*SWT*); these rights and liberties are not granted by any state or society. Consequently, no state or society, king or assembly can prevent or eliminate them forever."⁸

Contrary to Islamic method, the western rights and freedoms are granted by manmade legislation so they can eliminate and prevent them or they shall allow absolute freedom, and in this way they may harm the society. According to the scholarly comments of Dr. Attiyah Naīm, "Human rights are specific entitlements of different types and spectrum that are enacted by the legislature, under certain

⁵ Abdul Jabbār Shākīr, "Tauhīn-e-Risālat aur Maghrib," (Blasphemy and West, URDU) *Mahnāmah Da'wah* 14:1 (2008):13.

⁶ Khurshīd Ahmad, "Secular Democratic Rights and Blasphemy," *Policy Perspectives* 7:2 (2010): 27.

⁷ Mawlānā Hāmid Anārī, *Islam kā Nizām-e-Hukūmat (The System of Government in Islam, URDU)* (Lahore: al-Faisal Publishers, n. d.), 112.

⁸ Isrār-ul-Haq, *Islam Aur Mgharib kā Tasādum (The Clash of Islam and the West, URDU)* (Lahore: Bait-ul-Hikmat, 2007), 133.





condition of thought, so as to practice by secular arrangements.”⁹ Thus, Islamic Rights and liberties are not absolute, but have some resalable moral, legal and social boundaries to manage human tyrannical behavior. Thus, Islamic freedom of speech is not absolute but responsible. Hence, Mr. Ghulām Hassan Malik writes; “It is necessary to put some reasonable limits and restrictions in a civilized society on freedom of speech. So, in Islam, freedom of speech is not unlimited but some reasonable legal, social and moral restrictions are imposed on it.”¹⁰

The Islamic scholars have consensus on this issue that the absolute and the unlimited freedom of expression is not possible anywhere and if it is provided, then it will definitely create conflict and chaos in the society. Islam grants liberties to a person with this responsibility that he may not harm any other person for his personal interest. For that instance Dr. Anwar al-Jundī says, “Islam by granting liberties to people put a duty that they will not harm or abuse other members of the society.”¹¹ Accordingly, Islam understands that the absolute freedoms are not beneficial for human being but they can harm and damage the society. Likewise, a leading Islamic scholar Mawlānā Mawdūdī argues, “The absolute right to freedom of expression can be harmful and destructive for ethical and moral values of the society and no law of any civilized society can bear it.”¹² Accordingly, it rules out reliable moral, legal and social restrictions which are meant to save the society from chaos and turmoil. In the Islamic context, the number of Muslim scholars counts different approaches and there impacts on freedom of expression and other basic rights and liberties.

Therefore, it is noticed, Islamic scholarly point of view is the representative of reasonable and responsible freedom of expression and speech. It does not ban freedom of speech as a fundamental human right and civil liberty but demands some reliable legal, social and moral restrictions to save the society from any uproar.

It is also an interesting point that the freedom of speech itself has no value - but its objectives and aims make it good or bad. In Islamic perspective, the very first and foremost objective of free expression is discovery of the truth (*al-Haq*). Many of the Qurānic verses and *Ahādīth* of the Prophet (SAW) guide us to this important aspect of Islamic freedom of expression. Allah (SWT) expresses this fact, “This, our

⁹Attayah Naīm, *Contribution in the General Theory of Freedoms* (Cairo: Dār al Ghowmīyah, n. d.), 161.

¹⁰Ghulām Hassan Malik, “Islam aur Āzādī-e-Izhār” (*Islam and Freedom of Expression* URDU), *Monthly Da‘wah* 14:11 (2008): 53.

¹¹Anwar Jundī, *Qadāyā al-‘Asr wa al-Mushkilāt al-Fikrī Zaw al-Islam* (Beirut: Dār al-Fikr, 1984), 177.

¹²Sayed Abū al-a‘lā Mawdūdī, *Khilāfat-o-Malūkīyyat* (Caliphs and Kings, URDU) (Lahore: Idāra Tarjumān al-Qur’ān, 1999), 261.



record, speaks about you in truth. Indeed, We were having transcribed whatever you used to do.”¹³

According to The Holy Prophet Muhammad (SAW) Hadīth, “The best form of Jihad is to tell a word of truth in front of a tyrannical Ruler.”¹⁴ Moreover, the Messenger of Allah (SWT) commands to the believers for speaking of truth in any case; “Speaks truth although it is unpleasant.”¹⁵ Discovery and search of truth in Islam is so important that it goes to extreme measurement for that purpose. In Islamic perspective, freedom of speech is allowed to find out the truth, but if truth is going to be damaged, then the freedom of speech can be restrained. Here, Professor Ali Muhammad Bhat articulates: “In Islamic legal terminology, freedom of expression is controlled only where the failure to do so would result in harming the cause of truth and defaming other societies and their sentiments.”¹⁶ From this way, we can see the evidence of importance and validity of freedom of speech and expression in Islamic teachings.

In Islamic viewpoint, the second vital reason for its significance is human honour and dignity. As a renowned scholar of Malaysia Dr. Muhammad Hāshim Kamālī says; “Freedom of expression also compliments human dignity, for the essence of character and personality is reflected in a person’s opinion and judgment.”¹⁷ Many Qurānic verses and the Prophet’s (SAW) *Sunnah* provide a roadmap regarding to this important aspect. Islam grants a special kind of dignity and respect to humanity. Allah (SWT) honors the human being many times in His Book, “We have honoured the sons of Adam; provided them with transport on land and sea; given them for sustenance things good and pure; and conferred on them special favors, above a great part of our creation.”¹⁸

The Prophet (SAW) emphasized human dignity on the day of last sermon, “The blood, honor and property of a Muslim are forbidden for every Muslim.”¹⁹ According to Dr. Muhammad Hāshim Kamālī views, “Dignity of a person is regarded as fundamental and inalienable right, which is universal and essential for life. It has been evolved and subject to change with the changing times and

¹³al-Jāthiyyah 45:29.

¹⁴Suleiman Abū Dāwūd bin al-Ashath, *Sunnan Abū Dāwūd* (Riyadh: Darussalam,2008), Hadīth no.4334

¹⁵Abdullah bin Husain Bahaqī, *Sunan al-Kubrā* (Beirut: Dār al-Kitāb al-‘Ilmiyah, 2003), Hadīth no.7583.

¹⁶Bhat, “Freedom of Expressing from Islamic Perspective,” 72.

¹⁷Muhammad Hāshim Kamālī, *Freedom of Expression in Islam* (Kuala Lumpur: Berīta & Co., 1994),12.

¹⁸a l-Isrā’ 17:70.

¹⁹ Muhammad bin Salamā Qudhāī, *Musnad Shahāb* (Beirut: Mu’assiah al-Risālah,1986), Hadīth no.121.





generations.”²⁰ So to speak, these comments clearly show that Islam provides all kinds of civil liberties and human rights on the grounds of human dignity. We cannot find this kind of dignity in any other religion or school of thought.

The third very convincing reason for the importance of freedom of expression is that it is a fundamental human right in Islam. Syed Abūal a‘lā Mawdūdī observes alike, “Islam gives the right of freedom of thought and expression to all citizens of the Islamic State on the condition that it should be used for the propagation of virtue and truth and not for spreading evil and wickedness.”²¹ At this point, Dr. Hāshim Kamālī articulates about fundamental human rights in Islam as; “A right which is found in a clear Qurānic injunction, such as the right to life, to property, to privacy, the right of movement, the parents over their Children, the right to justice, the personal dignity and honor and equality before the law and so forth, may be classified as fundamental human rights.”²² Furthermore, various verses of the Qur’ān guide to the importance of this significant right accurately, “And speak fairly to the People.”²³

The Cairo Declaration of Human Rights (CDHR²⁴) is also an important contemporary development in human rights perspective in the Islamic context. It defines Free speech as everyone shall have the right to express his opinion freely in such manner as would not be contrary to the principles of the *Sharī‘ah* (Islamic Law).²⁵ This fact sheds light on the fact that why Islam grants and focuses on rights and liberties. Therefore, according to Islamic standpoint, these are the basic reasons of the importance of the right to freedom of expression. The early Muslim society expressed the deep impact of the freedom of speech as compared to the modern Muslim society. Muslims were more tolerant than others. They gave this right to every community of society without any biased.

3. Freedom of Expression and the Western Context

From the western perspective, the concept and tradition of freedom of expression is somewhat different from that of Islam. The western thought is a man-made and secular thought; therefore, its standpoint on human rights and civil liberties is entirely different from that of Islam. In this scenario it seems a right approach to know about foundations of western freedom of expression. Keeping in view, western scholars link

²⁰Muhammad Hāshim Kamālī, *The Dignity of Man* (Cambridge: The Islamic Texts Society, 2002), 9.

²¹Mawdūdī, *Human Rights in Islam*, 26.

²²Kamālī, *Freedom of Expression in Islam*, 22.

²³al-Baqarah 2:83.

²⁴(CDHR): Stands for Cairo Declaration of Human Rights. A Human Rights Document in modern Islamic context.

²⁵Edward Lawson, ed., *Encyclopedia of Human Rights* (Washington: Taylor & Francis, 1996), 177.



the tradition of human rights and civil liberties to the occidental thought. Professor Heiner Bielefeld comments in this way;

Human rights certainly did not expand in a cultural space. Known that their historic infiltrate happened in America and the west, there are sufficient grounds to presume that the origin of the thought of human rights, in the one way or the other, is connected to the spiritual, philosophical, and civilizational sources of the western tradition.²⁶

However, it is not a complete truth that the human rights and liberties are the production of western thought. The western scholars try to link such things to their thought and search out its roots in the ancient Roman and Greek traditions, which they take as foundational sources of the western thought but it is not a true approach. Syed Abū al-a‘lā Mawdūdī argues; “The western scholars have tendency of featuring every fine thing to them and try to confirm them that it is because of them the world obtained this blessing; otherwise, the world was wrapped in unawareness and was completely ignorant of these gifts.”²⁷ Accordingly, scholars say that the western thought is not the sole founder of rights and liberties in human history but off course they are the founder of unlimited and unrestricted rights and liberties (Maximum liberties and minimum limits is core slogan and value of the west). Thus, since its foundation, the western thought is the representative of unlimited and unleashed freedom of expression.

It is also an interesting fact that the record of freedom of speech and religion is not much older in the west as it is claimed today. Gill Silverman maintains it, “Freedom of speech as we know it today in America (as well as in the western countries) is a new development: the right of individuals and companies to say or convey, or observe everything they wish without interference of the government censorship or punishment, is barring a cleared exception.”²⁸ Additionally, an eminent western scholar Alfredsson says;

The right to freedom of expression is rooted in 17th century struggle of European legislators for freedom of speech (expression). The World has seen a continuing struggle for freedom of expression including freedom of speech and freedom of the Press, often going hand in hand with an attempt to bind the power of the government vs. public.²⁹

Additionally, when we discuss the western liberties and rights then *Magna Carta*, (a British ancient legal document) is considered as the basic document of the western world, however, it is also silent about the provision of this important right

²⁶Bielefeld Heiner, “Western verses Islamic Human Rights Conceptions,” *Political Theory* 28:1 (2000): 90-121 <http://journals.sagepub.com/doi/abs/10.1177/0090591700028001005/>

²⁷Sayed Abū al-a‘lā Mawdūdī, *Human Rights in Islam*, 11.

²⁸“Why-is-Free-Speech-Important.” Accessed September 1, 2016. <https://www.quora.com>.

²⁹Gudmundur Alfredsson, *The Universal Declaration of Human Rights: A Common Standard of Achievement* (London: Martinus Nijhoff Publishers, 1999), 367.



and liberty. Similarly, the most important constitution of the USA also provides freedom of expression to his public through first amendment in 1791 (after 10 years). Even the most recent activity on the forum of the UN is UDHR. It was declared in 1948. Freedom of thought, speech and religion, especially in medieval ages was not found in any constitution, charter and commission of the western country. Rather, the Church punished thousands of people for their struggle to get free to express freely their expression. So, the west calls it the “Dark Ages.”³⁰

Keeping this in view, the west achieved liberties and rights through a long historical journey so; they want absolute freedom and rights and are not ready to compromise on these values. Thus, a group of western scholars, Media persons and social activists have been demanding unlimited freedom of expression throughout the western history. Johan Stuart Mill, a leading scholar of the 18th century opposes any censorship on freedom and advocates absolute freedom of speech. He said, “The peculiar wickedness of silencing on freedom of expression is that it is specially the human being. If the thought is correct, they are depressed of the chance of replacing error for fact; if incorrect, they lose, what is approximately a great advantage, the clearer view and livelier idea of certainty created by its conflict with fault.”³¹

Especially after commencement of the contemporary human rights instruments and postmodern thought, a group of the western scholars focuses on unbounded free speech and rejects all kind of restrictions, even every reasonable and nominal sanction on expression. For example; the leading article of 10³² defines free speech in this way, “Everybody has right to free speech. This right shall include liberty to hold views and to get and communicate information and thoughts without intervention by public power regardless of limits.”³³ Although, the last part of the article makes it mandatory in public and social and state interest but the advocates of the western liberty and rights do not give it any consideration. According to the Islamic perspective this is wrong interpretation and false judgment from the west.

When we go through the history of modern western thought, it is a harsh truth, that there was no concept of rights and freedom before Renaissance. After the Renaissance, the Movement of liberties and rights became anti-religion movement

³⁰Dark Ages: According to the majority of Western scholars, the era from 6th to 8th century in the West, the powerful era of Christendom is called dark ages. Instead of it, in Islam this era is called golden era.

³¹Johan Stuart Mill, *On Liberty* (Boston: Ticknor and Fields Publishers, 1863), 35.

³²Article 10: The 2nd Paragraph of the article 10 of the ECHR bounded the freedom of expression. Article 10 tells: “The exercise of these freedoms(expression), since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety.

³³The Council of Europe, *Freedom of Expression in Europe* (Strasbourg: EU Publishing, 2007), 6.



because the Church opposed it. Therefore, the representative of the Renaissance Movement turned opposite to the religion due to resistance from the Church. Consequently, they rejected it even the most necessary traditions and norms of the religion for their collective life, because they considered it anti rational and anti-humanity. Here, a western historian comments; “In the age, in which the Church implemented its greatest influence; reason (freedom of thought and expression) was enchained in the jail which Christian scholars had made around the human brain.”³⁴ In other words, the Movement of Renaissance shaped a revolt against church and religion. In this development, Dr. Muhammad Hammād Lakhvi rightly observes;

In the name of Renaissance in fact the revolt occurred against religious ideas which eventually offered the western community with liberty from all kind of limits through the means of getting liberty from religious power. This revolution continued in the west in the later centuries in the name of diverse trends of thoughts and practices as secularism, rationalism humanism and so on.³⁵

It was the turning point of the western thought which changed everything in the west. With the passage of time, this thought became a source of a radical change in the west. So, all western laws and institutions understand that the religion is separate from the practical life. They also consider human mentality and experience as the base for solution of every human problem. But, it is wrong perception because the human mentality is too limited and issues are many borders. Therefore guidance of Almighty Allah (SWT) must be there for solutions of all these multi-dimensional issues. Thus, Almighty Allah (SWT) itself recommends this guidance in his Nobel Book the Holy Qur’ān likewise; “A. L. R. A Book which We have revealed unto thee, in order that thou mightest lead mankind out of the depths of darkness into light - by the leave of their Lord - to the Way of (Him) the Exalted in power, worthy of all praise!.”³⁶

But according to the western perception, the concept of freedom and rights is opposite to the religion. So, they understand that the freedom of expression should be free from all kinds of moral and religious restraints. We think it is a big misconception of the west about religion.

In western perspective; freedom of speech and expression is not only a basic right but also works as a base for other human rights, without which these rights cannot exist. Justice Anderson decision remarks in a historical petition against government in protection of the public liberty; “Freedom of expression is the first and last trench in the protection of liberty. Therefore, all the rights affirmed by the New

³⁴J. B. Burry, *History of Freedom of Thought* (New York: International Debate Association, 2007), 67.

³⁵Muhammad Hammād Lakhvī, “Historical Foundations of Western Thought,” *al-Qalam*15:2 (2010):71.

³⁶Ibrāhīm 14:1.





Zealand Bill of Rights Act are protected by that particular right.”³⁷ On the other hand, it is considered as superior to all human rights. A western scholar L. Gearon states; “Freedom of expression is one of the rights, declared, as a result of aforementioned motivation, in the Universal Declaration which takes place in the Article 19 with freedom to seek, receive and impart information and ideas through any media regardless of frontiers.”³⁸

The second scope of its importance in western context is that it is an essential part of every modern constitution of the west. After the (UDHR)³⁹ it has become the most integrated part of every constitution of the western world. According to Article 19 of the UDHR and ICCPR (International Covenant on Civil and Political Rights), “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.”⁴⁰ The European Union considers it more significant for a democratic country. According to the Parliamentary Assembly of the Council of Europe statement; “The Parliamentary Assembly of European Council reaffirms that it cannot be considered a democratic society without the fundamental right to freedom of expression. The progress of state and the progress of individuals depend on the opportunity of getting and communicating information and thoughts.”⁴¹ This activity shows its safety and significance in the contemporary western sociopolitical perspective.

The European Convention of Human Rights (ECHR⁴²) also gives high importance to the free speech, and every country of the Europe is signatory of this most important convention. Article No. 10 of the European Convention of Human Rights states, “Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This article shall

³⁷Nicole Moreham, “Hosking v Runtung and the Protection of Privacy,” *The New Zealand Law Journal*, 12:2 (2006): 265-267; <http://heinonline.org/HOL/LandingPage?handle=hein.journals/newzlnldr2006/>

³⁸L. Gearon *Freedom of Expression and Human Rights* (UK: Sussex Academic Press, 2006), 115.

³⁹UDHR: It stands for the Universal Declaration of Human Rights. In contemporary era it is considered as most important document from the United Nation on international, level. It was announced by the UN on 1948.

⁴⁰“UDHR Documents,” Accessed December 24, 2016. www.un.org/en/Documents/udhr.

⁴¹European Council, *Document Working Papers* (Strasbourg: Council of Europe Publishing, 2006), 5:221.

⁴²ECHR: It stands for European Convention of Human Rights. It is an important western document of human rights. It is considered the most vital document of rights and freedom after the UDHR, in the world.



not prevent states from requiring the licensing of broadcasting, television or cinema enterprises.”⁴³

Freedom of expression is also an essential part of the constitution of the USA. The first amendment of the American Constitution tells us; “Government has no power to restrict expression because of its message, its ideas, its subjects matter, or its content. To permit the continued building of our politics and culture, and to assure self-fulfillment for each individual, our people are guaranteed the right to express any thought, free from government censorship.”⁴⁴ Furthermore, the African Charter of Human and People’s Rights also gives much importance to freedom of expression and speech. According to Article 9 (1&2) of the ACHPR,⁴⁵ “1. Every individual shall have the right to receive information. 2. Every individual shall have the right to express and disseminate his opinions within the law.”⁴⁶ Thus, we may presume from the above discussion that every modern constitution of the west and as well as of the East contain these provision of freedom of expression and press.

Freedom as liberty and equality is another fundamental scope of its importance in western perspective. It means the right of free expression is for social and political liberty and equality. These are two significant concepts of free speech in the western perspective especially in America. According to this vision, the free speech is seen as serving the interest of political liberty. As Professor Kathleen M. Sullivan argues;

This view of free speech as liberty starts from a textual interpretation of the Free Speech Clause as ‘written in terms of ‘speech,’ not speakers, unlike clauses that aim to protect ‘persons’ from state coercion, thus, Congress shall make no law abridging the freedom of speech, without mentioning ‘persons’ or denominating any ontological prerequisites for who or what may invoke its protection.”⁴⁷

Another point of view is that the free speech right serves as an overarching interest and development of a society and individuals. According to an immense observation of the European Court of Human Rights; “Freedom of speech constitutes one of the vital foundations of such a society, one of the essential conditions for its growth and for the progress of every person.”⁴⁸ Freedom of expression makes it easy

⁴³European Convention on Human Rights (Strasbourg: Council of Europe, 1998), Article no. 10:11.

⁴⁴Barian Duignan, *The US Constitution and Constitutional Law* (New York: Britannica Inc., 2013), 15.

⁴⁵CHPR: stands for African Commission of Human and People’s Rights. An important one Human Rights Documents in African Union context.

⁴⁶Evans Malcolm and Murray Rachel, *The African Charter of Human and People’s Rights* (UK: Cambridge University Press, 2008), Article no.9:231.

⁴⁷M. Sullivan Kathlīn, “Two Concepts of Freedom of Expression,” *Harvard Law Review*, 124:1(2010), 143-178; <http://harvardlawreview.org/2010/11/two-concepts-of-freedom-of-speech>.

⁴⁸Brid Moriarty, ed., *Human Rights Law* (Handyside v UK), (New York: Oxford University Press,,2012),283





for person to spread his ideas. Jack Balkan rightly observed; “Freedom of speech allows ordinary people to participate freely in the spread of ideas and in the creation of meanings that, in turn, helps constitute them as a community.”⁴⁹ These basic features also tell about the importance of freedom of expression in the western perspective. At that point, Important issue is that all these aspects are political and legal not social and moral. However, some western scholars consider the right to be heard as moral right due to fear of criticism. J .P. Day comments, “ To be sure, it make sense to talk about a qualified moral duty to listen to those communications which concern us or concern the matters on which we make public pronouncements and neglect this moral duty that may be morally panelized by criticism from others.”⁵⁰ Therefore, the right to be heard has no legal protection in the international and national western laws.

Accordingly, these aspects also differentiate the Islamic thought from the western thought on the scope of freedom of expression. If we try to compare the significance of freedom of speech in two thoughts, then one thing is common and other is different. The common point is that the both thoughts agree on the grant and importance of freedom of expression but differs in its limits and premises. Islam gives freedom of speech with some limits and restrictions to save and protect this vital human right due to its controversy and sensitivity but the western thought grants and advocates maximum freedom of expression with nominal limits. Even if the west put some limits on it, these are not enough to save the society from it demerits and chaos. As well as, in case of liberties including freedom of expression and speech Islam focuses on ethical aspect but the west promotes political phase of it. These major differences lead towards a kind of controversy between Islamic and western point of views and this controversy damages the Islamic and western peaceful relations.

4. Limitless Freedom as Major Controversy between Islam and the West

The previous discussion shows that Islamic and western perception about freedom of expression is entirely different from each other. The west is the representative of absolute freedom of expression but Islam demands some legal, social and moral restraints up on it. That is why, it is observed that the absolute trend of freedom of speech from west and blasphemy of the beloved Prophet (SAW) under this cover has become one of the major causes to create conflict between Islamic and the Western world for peaceful relations and meaningful dialogue. Moreover, it is noticed the infinite freedom of expression creates Islamophobia and blasphemy of the beloved prophet of Islam (SAW) this thing has become a basic hurdle to maintain the peaceful relations with west. With the passage of time, this conflict has shaped an arranged

⁴⁹Jack Balkin, “Digital Speech and Democratic Culture,” *New York Law Review* 79:1(2004):1-53; www.yale.edu/lawweb/digitalspeechanddemocraticculture-pdf.

⁵⁰Day, JP, “The Duty of Listening,” *Philosophy*, 71:277 (1996):461-464; <http://dx.doi.org/10.1017/S003181910004170X>.



attempt of blasphemy and hate speech campaign against Islam. At that point, Professor Khurshīd Ahmad argues;

The global scenario tells us that the present blasphemous cartoons from Denmark is not an unintentional activity from a newspaper but it is part of the global blasphemy movement against Muslims and the Prophet of Islam (SAW). The ultimate target of this movement has to show the Muslims and the beloved personality of Islam as terrorist.⁵¹

Therefore, Muslim's highly respected personality the Prophet Muhammad (SAW) is not safe from this blasphemous speech. The western people outrageously criticize Islam and Prophet of the Islam (SAW) in the name of freedom of speech. It looks more like clash of values, norms and religious beliefs. Here, a western scholar raises the most valid question in his research about religious criticism. Ben Clarke argues, "Does freedom of expression includes the right to openly ridicule the religious values of others?"⁵² It's very simple answerer is obviously no because according to law, if my hand touches to other's nose then it should be stopped. A renowned western scholar Immanuel Kant replies; "I am free to move my hand but the freedom of my hand ends where your nose begins."⁵³ Is west shall try to understand the sensitivity of the matter because their free hands is not only touching but also hurting the Muslim hearts. According to Khalid Manzūr's valuable opinion; "This is the time to revisit the concept of rights of expression and freedom of press. An unlimited freedom should not be allowed at the cost of respect of others religion."⁵⁴ As well as many leading western thinkers have recommended some reasonable limits on freedom of expression for his significance and sensitivity. A renowned western thinker Oliver Wendel argues likewise; "Persecution (limits and restrictions) for the expression of opinions seems to me perfectly logical. If you have no doubt of your premises or your power and want a certain result with all your heart you naturally express your wishes in law and sweep away all opposition."⁵⁵

It is also a noteworthy point that if religion and religious symbols have no value for the west because they are secular, then these criteria should be equal for each community. As we often observe that if someone gives anti comments to Jesus Christ or Holocaust then they implement their laws with complete spirit and power but if the issue is related to Islam then they defend it on the grounds of freedom of

⁵¹Khurshīd Ahmad, "Shaitānī Cartoons," (Satanic Cartoons, URDU) *Tarjumān al-Qur'ān*, 133: 3 (2006):6.

⁵²Ben Clarke, "Freedom of Speech and Criticism of Religion," *Murdoch University Law Journal* 14:2 (2007): 94-121; http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1716558/

⁵³British Broadcasting Corporation, "Law and Order," *The Listener* 53 (1955):1123.

⁵⁴Khalid Manzūr Butt, "Revisiting Concept of Freedom of Expression vis-à-vis Blasphemy," *Journal of Political Studies* 22:1 (2015): 265.

⁵⁵Martin H. Redish, *The Logic of Persecution; Free Expression and the McCarthy Era* (California: Stanford University Press, 2005), 8.





expression. Here, it is observed, it seems like a double standard of the west against religion and religious values in the name of human freedom and secularism. According to Declaration of American Commission of Human Rights, European Union and African Union, "Limits on the freedom of speech and expression, 'should be imposed in scope to the defense of prevailing personal rights and social benefit, and should never be used to defend particular organizations, or abstract concepts, ideas or values, including religious ones.'"⁵⁶ It is clearly an evidence of west's double standards and hostility towards religion and religious values especially for Islam and Muslims. This is the reason, Muslim scholars argue that it is not an issue of freedom of speech and expression but it is western enmity towards Islam and the Prophet of Islam (SAW), which has deep rooted reverence in the History. Here, Prof. A. J. Shākir comments alike;

The tradition of blasphemy against the Prophet (SAW) has a long history in the west. The recorded blasphemous statements of the Orientalists in the name of so called research are eye witness of it. If we carefully search out the roots of present hostile movement against Islam and the Muslims, it is footed in the so called tradition of old Orientalism.⁵⁷

Muslim scholars have their strong reservation on contemporary Islamophobia movement in the western world. They relate it to the historical western hostile movement under the banner of Orientalism. Thus, Parvaiz Manzur truly observes, "The present movement of Islamophobia takes birth from the Orientalism. It's all fake arguments and Europe centered policies get inspiration from the Orientalism. In other words it is a gift of Orientalism."⁵⁸ The present attacks on the sanctity of the Prophet (SAW) of Islam cannot be justified on the grounds of free speech. This hostility now has become Islamophobia⁵⁹ and blasphemy against Muslims and Prophet (SAW) as well as, this Islamophobia and religious Blasphemy has shaped an arranged movement in the so called civilized and multicultural and value based western world.

This confrontation and conflict has affected both major communities of the contemporary world, Islam and the west. It damages Muslim-west relations. Berkley Centre concludes, "The tension between the right to freedom of expression and the desire among many people and countries to prohibit blasphemous or religiously

⁵⁶Emma Psaila, and Virginia Dalla Pozza, eds., *The European Legal Framework for Hate Speech, Blasphemy and its Interaction with Freedom of Expression* (Brussels: European Union Parliament, 2015), 26; [www.europarl.europa.eu/RegData/.../IPOL_STU\(2015\)536460_EN.pdf](http://www.europarl.europa.eu/RegData/.../IPOL_STU(2015)536460_EN.pdf).

⁵⁷Shākir, "Tohīn-e-Risālat aur Maghrib," (Blasphemy and West, URDU) 10.

⁵⁸Parvez Manzūr, "Islam kā Khawf aur Dehshat kā Rāj," *Maghrib aur Islam (The Fear of Islam and Terrorism, Islam and West* (URDU) 18:2 (2015):97.

⁵⁹Islamophobia, Commonly Islamphobia means fear about Islam. It started from a presumed fear that the Muslims are terrorists and opposite to the humanity. With the passage of time, this became an international hostile movement and anti-Muslim against the spread of Islam in the western countries including America.



hurtful speech has become a focal point of relations between the Western and Muslim Worlds, as well as within and between other religious and cultural groups.”⁶⁰

Some say this conflict is also going to be changed into the clash of civilizations. Many Western scholars predict this clash and analyze the Islam as source of every evil. According to Huntington biased analyses, “The underlying problem for west is not Islamic fundamentalism. It (Islam) is a different civilization, whose people are convinced of superiority of their culture and obsessed with inferiority of their power.”⁶¹ Furthermore, the new American president Donald Trump connects Islam with terrorism openly after his oath taking ceremony. He said in an Interview, “There is a fight between Islamic terrorism and the west. You cannot separate them (Islam and terrorism) each other. The (Muslims) hate America and we cannot allow them to entre in America. We must ban them.”⁶² Although, this observation consists of discrimination but also actually presents Muslim sentiments. The original issue of Muslims and the west is the disrespect of Muslims and their religious symbols as well as present Islam as the symbol of fear and terror. Keeping this in mind, the clash is not suitable for any group. Sayed Mawdūdī rightly stated; “The call of our times is that, with a view to achieving world peace and global amity, mutual relationship among different nations be reconstructed on the same footing.”⁶³ In this situation, the west is not supposed to underestimate Islam because it is the second largest religion and the political community of the word and as the second most important civilization of the globe. Here, a leading western scholar Prof. John L Esposito truly articulates; Islam is the second largest of the religious tradition in the world, as well as, in the west. It has over one billion (1.5 billion) adherents. While the Islamic World includes the Muslim countries from the North America to the Southeast Asia, a significant number of Muslims may be found in the entire world.⁶⁴

Therefore it can be perceived from the above study that the freelance right to freedom of expression with hat speech and religious defamation has become a major conflicting issue in peaceful Muslim and western relationships especially after tragic incident of 9/11. Specially, blasphemy of the Prophet of Islam (SAW) has become a cheap hobby and painful approach under the banner of freedom of expression and speech. An Islamic scholar Ali al-Marzuī rightly stated; “The west has sought to

⁶⁰“Blasphemy and Freedom of Expression,” Accessed September 17, 2016.
<https://berkeleycenter.georgetown.edu/resources>.

⁶¹Samuel P. Huntington, *The Clash of Civilization* (New York: Touchstone Books, 1997), 127.

⁶²“Donald Trump Comments,” Accessed December 30, 2016.
<https://www.youtube.com/watch?v=6CBcqN9pdSk>.

⁶³Sayed Abū al a‘lā Mawdūdī, *Islam and West*, ed. Khurshīd Ahmad (Lahore: Islamic Publication, 1957), V.

⁶⁴“The Islamic Tradition,” Accessed December 18, 2016.
<http://www.catholicfidelity.com/islam/the-islamic-tradition>.





protect minority religions through secularism. It has not always worked. The Holocaust in secular Germany was the worst case. And even today, anti-Semitism in Eastern Europe is disturbing, as are anti-Muslim trends in France. (But it is not possible to protect religion by secularism).⁶⁵ As well as the unlimited right to freedom of expression with special reference to religious defamation and blasphemy creating a kind of serious clash between Islamic and western world. A research report of Berkley center explains it as; “The tension between the right to freedom of expression and the desire among many people and countries to prohibit blasphemous or religiously hurtful speech has become a focal point of relations between the western and Muslim Worlds, as well as within and between other religious and cultural groups.”⁶⁶

So, no one knows what will be the solution of these issues and conflicts between Islam and the west. If we want to solve these issues, then it is necessary to limit the freedom of speech with some moral and legal regulations, as well as we should give space to the scholars who want to play a role to cool down the situation. According to Muslim scholar Madam Summer Fanty, “There is a need to provide stronger support for the coalition of educators, writers and book publishers who came together after 9/11 to confront teachings of hatred (limitless freedom of speech) contempt and damaging stereotypes that can be found in religious school classrooms.”⁶⁷ If free expression is an important right then respect of others faiths and religious feelings is also equally important every right and liberty has some duties and responsibilities. It means right and duty and liberty and responsibility have reciprocal relationships. If we do not co-relate these liberties and responsibilities then peace and peaceful coexistence in this globe will be remain a wish rather than a practical.

5. Conclusion

This study concludes that there is no second opinion that human rights and civil liberties are most significant values for human being, especially the freedom of expression as a precious tool for human communication. But Islamic and western point of views is entirely different in scope and limits of freedom of expression. Islam considers this right and liberty as important one but bound it with some legal, moral and social limits but the west leave it unlimited or put some nominal restrictions

⁶⁵“Islamic and Western-Values,” Accessed December 20, 2016.<https://www.foreignaffairs.com/articles/1997-09-01>.

⁶⁶“Blasphemy and Freedom of Expression,” accessed December 22, 2016.<https://berkleycenter.georgetown.edu/resources>.

⁶⁷“Ending Extremism,” Accessed December 28, 2016. <http://english.alarabiya.net/en/views/news/middle-east>.



which are not able to protect human dignity, moral and religious values. West compels Muslim countries, organization and public to obey western theory of freedom of expression. Definitely freedom of speech is very important but you cannot force any one to adopt your point of view. It is also violation of basic human rights.

Moreover, the legal constraints are not sufficient to stop religious defamation because the freedom of speech is unlimited and legal restrictions are either partial or nonexistent. In other words these are not applicable on international levels with its spirit. In spite of the presence of laws, the so-called racial discrimination and religious blasphemy have become the most dangerous and lethal weapon against minorities in the west, especially, against Islam and Muslim community of the west. It is also perceived, the blasphemy of the Holy Prophet (SAW) has become a leisure pursuit and hurting approach from the western community under the banner of freedom of speech. Muslim scholars see it as an organized propaganda and Islam phobia rather than freedom of expression.

It is also perceived, unlimited demand of freedom of speech has produce blasphemy and religious defamation against the sacred books and the beloved Prophet of Islam (SAW). Consequently, this creates unrest for billions of the Muslims. Also, the absolute trend of freedom of speech from the west is creating a kind of swear conflict between Islamic and the Western interests. If we want to solve these issues we must limit the freedom of speech with some social, moral and legal regulations on international level, otherwise establishment of a peaceful world will remain a dream.





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