

## ***Western Parameters of Freedom of Expression: A Critique from Islamic Perspective***

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### **Abstract**

*This study explores Western parameters and principles of freedom of expression from an Islamic perspective. Western thought advocates infinite freedom of speech but it also has some regulations, limits and restraints. Every Western human rights instrument and convention guarantee freedom of expression, but in fact, the excess of freedom is bringing the society to a harsh kind of clash and conflict. In simple words, freedom without sufficient legal and moral restrictions cannot be managed. It is also observed that without strict legal and moral boundaries, it cannot become fruitful for the state and society. Even the Western world, which is representative of maximum freedom of speech, also bounds freedom of expression with some parameters and restrictions. However, it is propagated that the Western laws provide outclass freedom of expression and speech. The actual situation is not as good as it is expressed, because on one hand, the international instruments provide freedom of speech and on the other, they limit it through certain laws. It means freedom of expression is not free of boundaries in the West also. In other words, it is only a mythology and controlled propaganda that the Western thought and civilization provides absolute and unlimited freedom of expression and press in their countries. Instead, Islamic teachings categorically agree to provide the right to freedom of expression but on the other hand, it binds them with some social, moral and legal boundaries to save the society from any kind of clash and conflict. It is perceived Western legal instruments limit freedom of expression with some legal boundaries and laws rather than ethics and morals. It is recommended on behalf of this study that the Western world also puts moral and religious boundaries on freedom of expression for its safety. An analytical & critical approach with qualitative research methodology is adopted in the study.*

**Keywords:** Western parameters, Freedom of Speech, Analytical Study, Islamic Context

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## **Introduction**

Contemporary Western thought and legal system extraordinary claim to offer all kinds of human freedom and liberties, including freedom of speech and expression. Obviously, Western thought provides and advocates maximum amount of freedom of speech and freedom of press, but it also has some regulations, limits and restraints. It should be remembered that all important global Western human rights instruments and conventions guarantee freedom of expression. They also protect it through a complete legal, social and political system. But it is a harsh truth that excess of freedom is bringing the society to a severe kind of clash. The Western legal system definitely has a capacity and eligibility to manage it, but the actual condition is not as good as claimed by their society. In simple words, freedom without legal and moral restrictions cannot be proved to be fruitful for society. Even the Western world, which is representative of maximum freedom of speech, also bounds freedom of expression with some limits and restriction. It is propagated continuously from liberal NGO's and secular lobbies that the West<sup>1</sup> provides infinite freedom of expression. The actual situation is not so, because if on the one hand, the international instruments provide freedom of speech, on the other hand, they limit it through some strict laws. Ultimately, if we do not regulate it, then it will prove harmful to the public. In simple words, it is just a mythology and controlled propaganda that the Western thought and civilization provides absolute and unlimited freedom of expression and press in their countries. In fact, they actually limit freedom of expression with some legal boundaries and laws rather than ethical and moral values.

In this study, efforts are made to express the important Western restrictions and regulations about freedom of speech and expression and attempt to evaluate them in the light of Islamic teachings.

## **Defamation**

The most important and credible legal restriction on freedom of expression is under defamation or law of libel. In a general sense, defamation means to insult or harm others

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<sup>1</sup> West: In this research, the West is not considered as a piece of land. Rather it is approached as a dominant thought and civilization which was developed in the context of Judaism, Christianity, Roman Laws, Greek Philosophy, Secularism and Modern Sciences. In previous three hundred years it gets boom and rime and now it has become an antagonist of Islam for past many years.

through utterances and writings. In more clear words, it is the act of causing harm to somebody by saying or writing bad and false things about them. There are many laws available in the international and regional Western human rights' instruments. Before I go forward in my discussion, it seems necessary to explain the defamation law. The general meaning of defamation law is that it is "used to refer to any law associated with the defense of individuals' status or feelings. All countries have different defamation laws, a variety of terms are used to express these laws, including libel, slander, insult, offences."<sup>2</sup> There are two major types of the defamation laws, 1-Civil Defamation, 2-Criminal Defamation. We shall discuss the civil and criminal defamation under this point and religious defamation under blasphemy. It should be made clear that legally, every international and regional human rights convention has legislation against defamation or has defamation and reputation laws. According to article 12 of the UDHR:<sup>3</sup> "No one shall be subjected to arbitrary interference with one's privacy, home or correspondence, nor to tack up on one's honour and reputation. Everyone has the right to the protection of the laws against such interference or attacks."<sup>4</sup>

The International Convention on Civil and Political Rights (ICCPR)<sup>5</sup> protects the reputation of a person as well. As we read in the ICCPR article no. 17; "No one shall be subjected to arbitrary or unlawful interference with privacy, family, home or correspondence, nor to unlawful attacks to his honour and reputation".<sup>6</sup> Furthermore the ICCPR legally protects the nation and public interest and considers it criminal defamation. According to article no. 19 of ICCPR, "(The freedom of Expression shall be legally restricted) for the protection of national security or public order or of public health or

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<sup>2</sup> Defamation ABC: *An Introduction to Key Concepts of Deflation Law* (London: Defamation Campaigning Tools, 2006), 1, [http://www.concernedhistorians.org/content\\_files/file/TO/226.pdf](http://www.concernedhistorians.org/content_files/file/TO/226.pdf), accessed on 08-07-2019.

<sup>3</sup> UDHR stands for United Nation's Declaration of Human Rights. It was presented and accepted in 1948. It is considered as Nobel document on human rights from the Western world.

<sup>4</sup> Gudmundur Alfervsson, *Universal Declaration of Human Rights: A Common Strand of Achievement* (Boston: The Hague, 1999), Article no.12; 251.

<sup>5</sup> ICCPR stands for International Convention on Civil and Political Rights. It is an international significant human rights instrument which firmly manages to provide and respect the fundamental human rights and civil liberties for its signatories. It was adopted by the General Assembly of the UNO in 1976.

<sup>6</sup> Nihāl, J. Wikrma, *The Judicial Applications of Human Rights Law* (Cambridge: Cambridge University Press, 2002), ICCPR, Article no.19 597.

morals”.<sup>7</sup> Defamation is also prohibited in European Convention of Human Rights, ECHR. As we read in article no. 8, “Everyone has a right to respect his private and family life, his home and correspondence”.<sup>8</sup> In the United States of America, the defamation laws are also known as slander, libel and malice laws etc. Even the section 230 of the constitution deals with the online or internet defamation. The regional and country laws of a member state of the commonwealth and the UN member states also have defamation and reputation laws.

The discussion tells us that in Western perspective, we find many defamation and libel laws and regulations. Almost every Western constitution and human rights instrument contains many laws about defamation and protection of human respect and honour. However, the most terrible point is that a person cannot protect his respect and personal dignity due to their complication. It is a very difficult task to prove defamation according to these laws. From the above discussion, it can be concluded that the international defamation laws have proved to be most defective to protect the personal respect and dignity of a common person. It is also observed that the Islamic and Western concept and standard of human respect and dignity are also different due to difference of thoughts and social decorum.

### **Religious Blasphemy**

The second most important but controversial limit in the West is blasphemy or religious defamation. In general perception, blasphemy means insulting behavior or language towards religion, and figures (As God, Prophet, Book and Church etc.). The Oxford learners dictionary defines it likewise, “Behavior or language that shown insults or lack of respect for God or religion.”<sup>9</sup> The Islamic and Western points of view about blasphemy are different from each other. Both religions (Muslims and Christians) believe on it but in an opposite way. We can find this difference in their academic discussion. According to a renowned Muslim lawyer Muhammad Ismail Qureshi; “According to the Christian theology, it is to deny the existence of God and the truth of Christianity or to slander the Redeemer (Jesus Christ) or to desecrate and ridicule the Bible, whereas in

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<sup>7</sup> Ibid, ICCPR, Article no.19, 598.

<sup>8</sup> ECHR, *European Convention on Human Rights* (Strasburg: Council of Europe Publishing, 1998), Article no.8, 10.

<sup>9</sup> Allen, RE (ed.), *The Concise Oxford English Dictionary* (Oxford: Clarendon Press Oxford, 1990), 116.

Islam, blasphemy is sacrilege and contempt of God and his Messenger (and his Book).”<sup>10</sup> In common law, blasphemy is defined as; “The publication or matter which vilifies or is contemptuous of or which denies the truth of the Christian religion or the bible or the Book of Common Prayer.”<sup>11</sup> It is also felt that the blasphemy laws have been under discussion due to their sensitivity and importance. According to Mark Hill’s valuable point of view; “The criminal offence of blasphemy and blasphemous libel has long and complex history, which is of equal attention to the social historians and to the jurists”.<sup>12</sup>

In contemporary Western legal system, the term blasphemy was not used those days, but they used alternately the religious defamation instead of blasphemy. Here, Scharff writes; “The Blasphemy laws, in Europe and America (West), are mostly a historical object. In 1952, in *Joseph Burstyn, Inc. v. Wilson* case, the US Supreme Court held that criminalization of blasphemy violates the First Amendment.”<sup>13</sup> The blasphemy laws were very strong in Europe before the first quarter of the 20<sup>th</sup> century, but later on, they were demolished gradually. Now in Europe, there is not a single blasphemy law. They are gradually finished or changed into religious defamation and commonwealth laws. According to the Western history of blasphemy legislation, the last person was punished by the law of blasphemy in Europe around one century ago. According to some research reports, the last person was persecuted (jailed) under the blasphemy act in England in 1922. This and many other studies open this fact that the law of blasphemy and its execution in West is near to end.

When we try to research blasphemy and religious defamation laws in the West, we find lot of legislation. According to a legal expert of blasphemy law; “Blasphemy laws present round all countries of the globe in variety of forms depending upon the religious beliefs and faith of the majority of the people of that country.”<sup>14</sup> Some important blasphemy and religious defamation laws in the Western International and Regional legal instruments are as follows. Before I start to mention the blasphemy laws in the West, it seems necessary

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<sup>10</sup> Muhammad, Ismail Qureshi, Muhammad: *The Messenger of God and the Law of Blasphemy in Islam and the West* (Lahore: Naqūsh Publishers, 2006), 87.

<sup>11</sup> Qureshi, *The Messenger of God and the Law of Blasphemy in Islam and the West*, 89.

<sup>12</sup> Mark Hill, *Blasphemy and Human Rights* (Cardiff: Centre for Law and Religion, 1998), 145-171.

<sup>13</sup> Brett G. Scharffs, “International Law and Defamation of Religion Conundrum,” *The Review of Faith and International Affairs* 11, no. 1 (2013), 66-76.

<sup>14</sup> Qureshi, *Muhammad: The Messenger of God and Law of Blasphemy in Islam and the West*, 85.

to point out the law of blasphemy from the Bible<sup>15</sup> because the majority of Christians and Jews are living in the Western countries. Many verses of the Bible declare the blasphemy as unforgiving sin in this world and the hereafter. According to the Gospel of Mathew: “Whosoever utter a single word against the Ghost (Christ), it shall not be forgiven him, neither in this world, and nor in the world hereafter.”<sup>16</sup>

The Old Testament (Holy Book of the Jews because they do not believe on whole Bible) also declares death punishment to the blasphemer. The Book of Jeremiah expresses the Blasphemy law likewise: “And he that blasphemed the name of the Lord (God), He shall be surely put to death and all congregation shall certainly stone him.”<sup>17</sup>

According to UK law of blasphemy, the capital punishment of death was put down to this charge till the end of 19<sup>th</sup> century, but now it is changed into life’s detention. Now the maximum sentence for blasphemy is life imprisonment. The punishment for sedition and seditious libel is also the same as that for blasphemy. Eight countries of Europe have blasphemy laws in some shape. Even Britain law considers it a criminal offence. According to the historical judgment of a British Chief Justice Lord Scarman in 1978;

The blasphemy belongs to a group of criminal offences designed to safeguard internal harmony of state. Especially, in an increasingly pluralist society such as that of modern Britain, I think it is the case for legislation expanding blasphemy law. It is compulsory not only to respect different religious beliefs and feelings of all but also to protect them from defamation, ridicule and contempt.<sup>18</sup>

The United States of America although is considered as a secular state, but blasphemy laws are also applied here as in Christian Britain. In USA, constitutionally the blasphemy is defined especially. We can see it in Corpus Juris Secundum (CJS)<sup>19</sup>; “Blasphemy is the insult of God, wantonly attacking the Christian religion, contumelious

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<sup>15</sup> *The Holy Bible* (New International Version. English) (Michigan: Zondervan, Biblica Inc., IBS, 2011)

<sup>16</sup> Mathew 12:32.

<sup>17</sup> Jeremiah 24:16.

<sup>18</sup> Richard Webster, *A Brief History of Blasphemy* (New York: The Orwell Press, 1990), 64-65.

<sup>19</sup> CJS stands for Corpus Juris Secundum. It is an official encyclopaedia of United States law and court judgments at federal and state levels. It covers over more than 430 topics. It has many volumes.

criticisms on Jesus Christ or the revealed scriptures to disrespect and deride them”.<sup>20</sup> Many academic studies and legal observations depict this issue very clearly. According to the momentous judgment of USA Supreme court about blasphemy law, “The law of Blasphemy with reference to the law of liberty, freedom of speech and Press as guaranteed by US constitution”.<sup>21</sup> It is further said from the honorable judges of the United States of America in their historical judgment about blasphemy; “It is farthest from our thought to claim superiority for any religion, sect, society, or denomination or even to admit that there exist any distinct, avowed connection, between church and state in the United States of America or in any individual state”.<sup>22</sup> It has been stated earlier that the laws of blasphemy are interpreted according to their own desires and requirements and additionally are not actively implemented in religious issues, especially in case of Islam and Muslims. The reason of misinterpretation of the blasphemy laws is also due to lack of international interest in religious defamation issues. It is also a big dilemma that there is no single law of Blasphemy in international conventions and charters as; UDHR, ICCPR and ECHR etc. Furthermore, every sensible effort for international blasphemy laws was made to fail due to political interference of world powers.

Moreover, due to lack of active international blasphemy laws, the Muslims of the West feel trouble and unsaved. So we suggest the international legislation against blasphemy and defamation of all religions. Saudi Arabian government rightly suggested UNO to make laws against religious defamation and ideological vilification. It would be appropriate to say that the absence of international blasphemy laws gives benefit to potential blasphemers. Hate speech and religious blasphemy activities are increasing day by day. It is high time to initiate laws against rapidly growing religious defamation and vilification all over the world and especially in the Western countries. Accordingly, Director of Saudi Arabia international religious affairs rightly demanded; “Efforts should be made to bring to book the persons who insult religions, Prophets, the holy books, religious symbols and places of worship, he said, pointing out such abuses that have led to

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<sup>20</sup> Robert J Owens (ed.), *Corpus Juris Secundum: A Contemporary Statement of America Law* (New York: West Publishing Company, 1997), 11:358.

<sup>21</sup> *Notes of Cases*, “US Supreme Court Judgment (State v Mockus),” *Virginia Law Register* 7:11 (1922):855- 858.

<sup>22</sup> Owens, *Corpus Juris Secundum: A Contemporary Statements of American Law*, 11:359.

intolerance, extremism and violation of human rights.”<sup>23</sup> There is a prompt need to stop this hatred and hostile movement against religion in this respect, and particularly against Islam, because Islam is the most affected. The question is that how it is possible while many groups of Western social, political parties and NGO’s are running international campaigns against blasphemy laws with the support of politician? They consider blasphemy laws threat to human rights. Global Freedom house report states; “Freedom of speech is constantly controlled by blasphemy laws, through straight enforcement as well as the self-censorship they provoke, this report recognizes a mass of other fundamental rights that are harmfully affected by such laws”.<sup>24</sup> Some social and political parties are attempting collectively against blasphemy laws. According to IHEU<sup>25</sup> reservation about laws of blasphemy; “We desire to see the left behind laws against blasphemy and religious offense in Europe, Canada and New Zealand repealed. Clear international human rights consensus is found against blasphemy laws”.<sup>26</sup>

Under the impact and pressure of this campaign, the blasphemy laws in England were abolished in 2008. According to Nick Gisburne’s views about blasphemy laws; “Blasphemy as a criminal offence was finally abolished from the UK laws books in July 2008 after an amendment in British Common law.”<sup>27</sup> In other words, now you are free to abuse any religion without any fear of law. In fact, nowadays, the blasphemy laws in Europe and America are not protectors in this case but have become ineffective to protect religious minorities. Till today, whenever a serious effort is made by any group or country, the European Union and America veto against it. Many Muslim countries on the forum of OIC have submitted resolutions and requisitions against blasphemy, hate speech and defamation of religion but they are rejected and objected due to freedom of expression. According to a research article of Scharaffs; “No one desires to defend Islamophobia”<sup>28</sup>,

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<sup>23</sup> <http://www.arabnews.com/saudi-arabia/news/781736/>, accessed on January 12, 2019.

<sup>24</sup> Jo-Ann Prud’homme, *Policing Belief; Impacts of Blasphemy Laws* (USA: Freedom House, 2010), 2, [https://www.freedomhouse.org/sites/default/files/Policing\\_Belief\\_Full.pdf](https://www.freedomhouse.org/sites/default/files/Policing_Belief_Full.pdf), accessed on 01-12-2019.

<sup>25</sup> IHEU is an International Humanist and Ethical Union. A secular collision against Blasphemy and religious defamation laws in Europe. They are running a campaign to repeal the blasphemy laws worldwide.

<sup>26</sup> <http://iheu.org/end-blasphemy-laws-a-new-campaign/>, accessed on 02-27-2019.

<sup>27</sup> Nick Gisburne, *Blasphemy Anthems for Atheists* (London: UNCT Press, 2008), 9.

<sup>28</sup> Islamophobia literally means fear from Islam. It is a form of intolerance and discrimination motivated with fear, mistrust and hatred of Islam and its adherents. It is often manifested in

defamation of religion and hate speech. The American government constantly opposes such resolutions in the UNO on the reasons that their implementation risks limiting both the freedom of expression and the freedom of religion”.<sup>29</sup>

On the basis of these reservations and pressure, the UNO rejected these resolutions and gave its controversial judgment against defamation of religion and blasphemy in 2010. According to the UNO; “All resolutions are basically at prospect with the modern human rights regime in that they protect belief system rather than believers, ideas rather than people.”<sup>30</sup> It means when they allow a person to defame Islam or to blaspheme the Prophet of Islam they are protecting 1.5 billion Muslims of the World rather than Islam. The 1.5 billion Muslims of this globe have no worth any rights because the people are only the American and Europeans. More than 20 resolutions have been submitted from Muslims in UNO from 1999 to 2010 against defamation of religion. Here another question arises, after 9/11, some laws are made on national and international levels against their so called freedom rights and liberties to protect their internal and external security, as well as, there are many laws which clearly contradict the freedom of speech, press and human rights, but they insist on them on the grounds that these laws save the people and maintain law and order situation in the state and society, for example laws about Holocaust, British royal family, contempt of court, contempt of Constituent and blasphemy of Jesus Christ. Why do they not implement these laws about Islam and the kind Prophet Muhammadﷺ? I think, one of the major facts is that the West considers it attack on the group not individual and Western laws are individual based rather than community. According to Paul Cliteur and Tom Herrnberg views’;

The court deemed these statements to be insulting and degrading to the adherents of Islam, though to some this was not seen as an attack on individuals or a group of people but as criticism of an ideology. The man was acquitted by an appeals court, but the

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combination with racism, xenophobia, anti-immigrant sentiments and religious intolerance. Manifestations of Islamophobia include hate speech, violent acts and discriminatory practices, which can be manifested by non-state actors & state officials.

<sup>29</sup> Scharaffs, *International Law and Defamation of Religion*, 68.

<sup>30</sup> Ibid., 69.

incident shows that it may be difficult even for professional judges to draw clear lines between blasphemy and incitement to religious hatred.<sup>31</sup>

This statement shows that in the West, individuals have more importance and weightage than any group, ideology or even Prophets of a religious community. Actually, it is their legal framework and political strategy that they protect individuals rather than communities. Moreover, it is observed that in all over the West, there is no absolute freedom of expression. Many laws and convention of Europe related to human rights and civil liberties have been narrowed down or frankly limit these freedoms with laws and responsibilities. The New Book of Knowledge affirms the boundaries to use these fundamental rights and liberties. Isadora Starr writes; According to the (American) law, we may use these right (and liberties such as freedom of religion, speech and press) only as long as they do not harm others. When there is an apparent and present threat to public security, these liberties may be reduced by the local State or federal government.<sup>32</sup>

Why are these laws not implemented to protect the honour of Islam for public security? In other words, why do these laws fail to protect religious minorities and their religious freedom and rights? Here, Dr. Mazari rightly replies, “These are the laws that put restrictions on freedom of expression. The real issue, however, is the weak implementation of these laws to punish those responsible for breaking it by publishing the blasphemous cartoons”.<sup>33</sup> This means issues are not related to laws but it is related to implementation and activism of laws with full justice and true spirit regarding religions.

### **Hate Speech (Racism, Anti-Semitism and Xenophobia)<sup>34</sup>**

The third most important principle and restriction in Western perspective of freedom of expression is hate speech. In common words, hate speech means the words or discussion which creates hatred and repugnance in the society and state for individual or

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<sup>31</sup> Paul Cliteur and Tom H, *The Fall and Rise of Blasphemy Laws* (Leiden: Leiden University Press, 2016), 11.

<sup>32</sup> Willaim E. Shaprio, *The New Book of Knowledge* (Danbury: Grolier International Inc., 1983), 6:457.

<sup>33</sup> Shireen Mazari, “Multiculturalism and Islam in Europe”, *Policy Perspectives* 7, no. 1 (2010):91-101.

<sup>34</sup> Xenophobia means to dislike or perjure the people of other countries. This term is used to determine the phobic attitude towards other countries and races. Xenophobia is increasing in Europe day by day.

groups. Legally it is defined as, “Hate speech is a communication (in any format or form) that carries the expression of hatred for some group or individual, especially in circumstances in which the communication is likely to provoke violence”.<sup>35</sup> There are many laws, legislation and treaties found in the international and regional human rights conventions, commissions and legal instruments. Although some measures were taken in UDHR article No.7 of the UN, but they were not enough to eliminate the hate speech and racial crimes. The (ICERD)<sup>36</sup> of the UN in 1965 is directly related to deal with the hate speech and racial crimes of all forms. According to the article No. 4 of the ICERD: States Parties condemn all misinformation and all organizations which are founded on thoughts or theories of dominance of one race or group of persons of one colour or racial origin, or which effort to defend or encourage racial hatred and prejudice in any form, and assume to adopt urgent and constructive steps planned to wipe out all stimulation to, or conducts of, such discrimination.<sup>37</sup>

The joint declaration on religious demotion suggests limiting the freedom of expression to save the religion from defamation. This declaration was the joint venture of American Commission, European Union and African Union. According to this declaration; “Limits on freedom of speech 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.”<sup>38</sup> Furthermore, some important steps are recommended to eradicate all kind of racial and ethnic discrimination. As we read in Article No. 4 (Section A , B and C) of ICERD; “A)- All kind of racial and ethnic discrimination is considered a criminal offence punished by law, B)- Promotion of all kind of racial discrimination and activities is declared illegal and C)- All public authorities and institutions are prohibited to promote racial discrimination and incitement”.<sup>39</sup> Therefore, the ICCPR legally prohibits hate speech; “Any support of

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<sup>35</sup> <http://definitions.uslegal.com/h/hate-speech/>, accessed on 02/26/2019.

<sup>36</sup> ICERD stands for International Convention on the Elimination of all Forms of Racial Discriminations. A hallmark measure was taken to overcome hate speech and racial crimes of all forms by the UNO in 1965.

<sup>37</sup> <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CERD.aspx>, accessed on 03-01-2018.

<sup>38</sup> Emma, *The European legal framework for Hate Speech, Blasphemy & Its Interaction with Freedom of Expression*, 26.

<sup>39</sup> *International Convention on the Elimination of all Forms of Racial Discriminations*, Article no.4.

national, racial or religious hatred that comprises encouragement to discrimination, hostility or violence shall be forbidden by law.”<sup>40</sup>

All the important regional conventions and charter of human rights (ACHR, ECHR and ACHPR) also provide legislation against hate speech and racial crimes. Even in USA, where the racial crimes are at high levels, have an excellent legislation on racial crime hate speech and defamation issue. As we read in the ACHR<sup>41</sup>, an International Human Rights Instrument of USA; Every misinformation about war and any encouragement of national, racial, or religious hatred that constitute stimulations to unlegislated aggression or to any other similar illegal action against any person or group of persons on any grounds including those of race, color, religion, language, or national derivation shall be considered as crimes punishable by law.<sup>42</sup> The Article 10(2) of the ECHR restricts freedom of expression to protect public and national interest including hate speech and racial discrimination. According to European Union Convention of Human Rights observation; “The exercise of these fundamental freedoms (Freedom of expression, opinion and the Press), 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, for the prevention of disorder or crime.”<sup>43</sup> Under national and international laws in different countries of Europe, the hate speech, racial discrimination, anti-Semitism and xenophobia legislation is strictly implemented. Even in some Western countries, the denial of holocaust is also considered a racial discrimination. So, you do not even talk, express or publish anything about the authenticity of the Holocaust.<sup>44</sup> The court of Vienna sent a British historian to jail for three years in 2006 due to his denial of the holocaust. According to BBC News; “David Irving has been found guilty in court of Vienna denying the Holocaust in front of European Jewry and punished to three years in

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<sup>40</sup> *The Judicial Applications of Human Rights Law*, ICCPR, Article no.20, 599.

<sup>41</sup> ACHR stands for American Commission on Human Rights. It is an international instrument for human rights and liberties, implemented and ratified by the United States of America on July 18, 1978.

<sup>42</sup> Rohana Smith, *Textbook on International Human Rights* (Oxford: University Press, 2012), ACHR, Article no. 13(5), 306.

<sup>43</sup> *European Commission of Human Rights*, Article no.10 (2), 11.

<sup>44</sup> Holocaust, according to the Jewish claim and documentation, millions of Jews were persecuted and killed with poisonous Gas chambers by Hitler and his forces of Nazi Germany during the World War II. Some reputed scholars and researchers considered it myth of the modern Israelite politics.

prison.”<sup>45</sup> This clear double standard in implementation of laws shows Western discrimination to the Islam and Muslim community. Just like this example, we can see many such cases in modern West.

People are not free to say everything, even in Europe in the name of freedom of expression except against Islam and Muslims. Here a question arises about the nature of the values of freedom of expression in Europe. Because when they say or publish something against Islam and the Prophet of Islam, and the Muslim community feels hurt, they say it is our principle of freedom of expression. Actually, in legal framework the issue is not so but it is treated in different way. According to innovative judgment of European Court of Human Rights that freedom of speech can be restricted against human dignity;

Patience and honour for the equal decorum of all humanity comprises the basics of a democratic, pluralistic society. That being so, as a matter of principle it may be measured necessary in certain democratic societies to permit or even stop all forms of expression which extend, incite, promote or justify hate based on prejudice.<sup>46</sup>

Some controversial decisions were also taken by the European Courts of Human Rights. It was clearly observed in the controversial decision against the book: *The Founding Myths of Modern Israeli Politics*.<sup>47</sup> The said book was banned on the grounds that it spread racial discrimination against Jews. So, the freedom of expression was limited and restricted in favor of the Jews in the modern Europe while the hateful cartoons of Prophet Muhammad (ﷺ) were considered legal on the grounds of free speech. This is a clear discrimination and double standard of the West in enmity of Islam. The difference is clear because in this book Jews were convicted but in cartoons the Muslims were affected. Therefore, on the grounds of above decision, we can say that the international and regional laws and conventions failed to protect all communities, especially the Muslim community.

Here we should also try to understand the double standards of Western laws and its implementation about local and Muslim perspectives. According to a joint work of Esposito and Dalia; “The political aware Muslims (even the mainstream) do believe that

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<sup>45</sup> <http://news.bbc.co.uk/2006/02/4733820.stm> 2/hi/Europe/, accessed on March 03, 2019.

<sup>46</sup> Michel Herz (ed.), *The Content and Context of Hate Speech* (ECHR Judgment on Erbakan v Turkey Case) (UK: Cambridge University Press, 2012), 475.

<sup>47</sup> This book is written by a French scholar, Roger Garaudy. He exposed some myths of Israelite politics in the modern era which contradict the humanity.

the West uses double standard in its promotion of democracy and human rights and fear of Western intervention and domination.”<sup>48</sup> For example, in the contemporary West, loud music is prohibited legally because it disturbs the privacy of other people. Penalty will be enforced to the violators. According to some authentic newspaper reports, the majority of the people appreciate it for protecting the personal rights and privacy. In UK, in the contemporary Britain, there are many laws about noise and pollution protection. According to a booklet from UK government, the Noise Act of 1996 and the Environmental Protection Act of 1990, the local councils (Metropolitans) have authority to grasp instruments causing noise. They have authority to capture noisemaking instruments and enforce net fines to those accountable.”<sup>49</sup> In the current legislation by European Union courts, this was circulated to all over Europe. Every country of Europe which is part of European Union is bound to follow it otherwise he cannot remain member of the European Union.

Here we compare the mentality behind this legislation and appreciation from the public. They curtailed the right to freedom expression and opinion in the favor of public interest, but when it comes to religious interest, they leave the accused only with a warning or rather sometimes avoid it. Professor Khurshīd rightly observed; Contrary, the same Europe becomes noticeable to its civilizational and cultural commitment but not so when it arrives to such disgraceful acts of blasphemy are as being commended in its different parts beside the most blessed and sacred personality of the Prophet Muhammad ﷺ.<sup>50</sup>

It is also a dilemma that there is no common and united definition of hate speech in the West as well as in America. A renowned Western Scholar Ann Webber affirms; “Unfortunately, there is no commonly accepted meaning of the term ‘Hate Speech’ found, despite its numerous practices. However, most of the states have accepted legislation for the prohibition of the words amounting to ‘Hate Speech’; the definitions vary vaguely when shaping what is being restricted”.<sup>51</sup> Consequently, they take benefit from this confusion and interpret it according to their whims and wishes.

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<sup>48</sup> Johan L. Esposito and Dalia Moghed, “Who Will Speak for Islam,” *World Policy Journal* 25:3 (2008), 47-57.

<sup>49</sup> Adrian Belcham, *Manuel of Environmental Management* (London: Rutledge, 2015), 111-113.

<sup>50</sup> Khurshīd Aḥmad, “Secular Democratic Rights and Blasphemous Caricatures”, *Policy Perspectives* 7:2 (2010), 20-53.

<sup>51</sup> Ann Webber, *Manual on Hate Speech* (Strasburg: Council of Europe Publishing, 2009), 3.

Here the researcher's investigation does not agree to this theory that there is no proper law in the European, American and international law, but rather there is a lack of will and sometimes discrimination against Muslims and Islam as a competitive and rival thought and civilization. There are many decisions of the European and the American courts about hate speech and defamation, but these are not implemented regarding Islam. If the issue is related to Islam and its sanctity of the Prophet of Islam, ﷺ they are treated as issues of freedom of expression but if the issue is related to others, especially the Jews, they declare it anti-Semitic crimes. This matter shows an alarming situation for religious minorities, especially for Muslims community in multicultural and secular Europe. An important decision of the Human Rights Court of Europe about Jews and Judaism in *Faurisson V France* case exposes their bigotry towards Muslims and their favor towards Jews:

Since the statements made by the author were of a temperament as to increase the anti-Semitic feelings, the limits served the value of the Jewish population to live free from terror of an environment of anti-Semitism. The committee therefore winds up that the limitation of the author's freedom of speech was permitted under article 19 of the convention.<sup>52</sup>

Another most significant decision of the European Court of Human Rights is also admirable. The ECHR Court decided historically a case; "Free speech comprises one of the vital bases of such a society. (Accordingly), it is valid not only for information or thoughts that are positively received or observed as harmless or as subject of unconcern but also to those that insult shock or upset the state or any part of the community".<sup>53</sup> These laws and decisions can become valid foundations of constructive initiative to protect the honour of religions and religious communities, such as Islam. But they do not consider Muslims as part of the Western society.

It is observed that these laws are also implemented in case of Jews and Christians only and not valid or implemented in case of Islam and Muslims. At that point, Shireen Mazari raised a valid question; "It brings up the issue as to why accessible laws, designed to protect the freedoms and life styles are not applied for (for Islam and Muslims) after all Austria

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<sup>52</sup> Laurenz Langer, *Religious Offence and Human Rights* (United Kingdom: Cambridge University Press, 2014), 110.

<sup>53</sup> Francisco F. Martin (ed.), *International Human Rights & Humanitarian Law* (New York: Rights International Inc., 2006), 670.

firmly implemented its laws concerning the denial of the holocaust and punished British writer David Irving by the count.”<sup>54</sup> It means these international laws against hate speech and racial discrimination consist of unfair. It is also clearly observed that the issue of hate speech against Muslims and Asians in the West and the USA is not the issue of legislation, but this is issue of mind set against Islam and fear or unfair implementation of laws for every person and group. If we want global peace and prosperity in pluralistic societies, we will have to change this mind set and to ensure fair depiction of laws.

### **National Interests (State Security)**

The fourth very important restriction and limit on freedom of expression in Western perspective is due to national interests and state security. National interests or state security is very important for every country. National security is a wide term. Tuttle and Cohn’s opine; “A protective condition which statesman takes as measure either to try to attain or protect their polities from either external or internal threats”.<sup>55</sup> The majority of the Western countries have some restriction on freedom of expression in the name of national interests and state security. Even international laws defend it on valid legislative grounds, “The application of the rights granted from article 19 in paragraph (b) (Freedom of expression, opinion press and information) may be subject to limit definite reasons, as recognized by the international law, including the protection of national security”.<sup>56</sup> The ECHR also protects national security in its freedoms and rights conventions and commissions. As we read in article 10 (b) of the ECHR;

The application of these freedoms (Freedom of speech and press), since it carries with it obligations and responsibilities, may be subject to such procedure, circumstances, limitations or sentences as are approved by law and are essential in a democratic society, in the interests of national security, territorial integrity or public safety, for the obstacle of disorder or crime.<sup>57</sup>

The abovementioned two international human rights instruments give much importance to national security that even they limit the freedom of expression for the sake

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<sup>54</sup> Mazari, “*Multiculturalism and Islam in Europe*”, 101.

<sup>55</sup> Ira Tuttle and Andrew Cohn, *National Security Affairs* (New York: Seton Hall University Press, 1972), 13.

<sup>56</sup> *International Convention on Civil and Political Rights*, Article No.19(C), 597.

<sup>57</sup> *European Commission of Human Rights*, Article 10 (B), 11.

of national security and state interest. Therefore, all over the Western world, including America, there are many laws which give priority to national security over fundamental freedoms and human rights. Even a permanent convention, named as Johannesburg Principles on National Security, is available on national security and freedom of expression. According to Johannesburg Principles on national security and freedom of expression; “The restraint on freedom of expression or information that a government requests to validate on grounds of national security must have the authentic reason and comprehensible effect of protecting a genuine national security interest.”<sup>58</sup>

During war and crisis environment, state adopts some special laws and rules in every country. These laws restrict and even ban the freedom of expression during emergencies. Douglas maintains it in a research;

The USA Sedition Act of 1798 was the first key attempt from government to limit free speech for national security reasons, but it would not be the last. The claim that free expression should be sacrificed is usual during times of war and crisis. Free speech was endangered during the Cold War, the Vietnam War, and the most recent times in the aftermath of the World Trade Centre attacks on September 11, 2001 in America.<sup>59</sup>

The Johannesburg principles on national security and freedom of expression of United Nation also allow restraining free speech during crisis times to ensure security. According to the third principle of the Johannesburg principles; “In public crisis times and state of emergency which intimidates the life of the country and the existence of which is officially and lawfully proclaimed in accordance with both national and international law, the state may implement restrictions on freedom of expression and information.”<sup>60</sup> The prominent advocate of the freedom of expression, Mr. Zachariah Chafee, also recommended some restrictions on freedom of expression in special circumstances. He said; “It is becoming rising significant to decide exact limits of free speech, so that the speakers and writers may know how much they appropriately say and write and government may be sure how much

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<sup>58</sup> Sandra Coliver (ed.), *The Johannesburg Principles on National Security and Freedom of Expression* (Michigan: UDHR Article 19 Publishers, 1996), Principle no.1, 8.

<sup>59</sup> Douglas, M. Farleigh, *Freedom of Expression in Market Place of the Ideas* (London: SAGE Publications, 2010), 87.

<sup>60</sup> Coliver, *The Johannesburg Principles on National Security*, Principle no.3, 9.

they can legally and judiciously restrain”.<sup>61</sup> This vital statement of a freedom lawyer also suggests some limits and regulation to judge fair and hate (vulgar) speech.

Due to these principles and laws, many Western countries, including USA, made special legislation regarding its national security after 9/11. In this perspective, they made immigration laws strict and limited civil rights and freedoms. In this scenario, the American president permitted to make a special prison in Guantanamo Bay for the prisoners of war on terror and nobody had access to these prisoners. Even these prisoners had no rights and access to appeal in any court of the modern world; “The Constitution gives no power to the president to reject human rights in wartime. We have long since made clear that a state of war is not a plain check for the President when it comes to the civil rights of the Nation.”<sup>62</sup> The Guantanamo Bay prison was the worst torture cell of the US army and it remained working till 2013 and was closed on strong protest by the human rights organization. Most of such European and American laws were enforced after 9/11 incident to provide justification to ban and to limit the right to free speech. The New Book of knowledge exposes it; “In times of war liberty of speech and Media has been limited in the interest of national security”.<sup>63</sup> The American Patriot Act of 2001 after the incident of 9/11 seizes and bans some fundamental rights and liberties of the American society in the name of the war on terrorism. According to the USA Patriot Act of 2001 Section 215; “(This Act gives) Access to the Records and Other Items (internet, phone and verbal speech) under the Foreign Intelligence Surveillance Act.”<sup>64</sup> The advocates of civil freedom and human rights have been showing their reservation on this act from various social, ethical and legal grounds since its implementation. Therefore, Allen Robins commented;

The promoters and advocates of civil liberty, privacy (and fundamental rights) have criticized the American Patriot Act of 2001 for several reasons since it was passed in the wake of the World Trade Center attacks on 9/11 in 2001.<sup>65</sup>

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<sup>61</sup> Chafee, *Freedom of Speech in Wartime*, 3.

<sup>62</sup> *Constitutional Commentary US Supreme Court Judgment* (California University Press, 2003), 20:409.

<sup>63</sup> Shapiro, *The New Book of Knowledge*, 6:457.

<sup>64</sup> <https://www.gpo.gov/fdsys/pkg/BILLS.../pdf/BILLS-107hr3162enr.pdf>, accessed on 1-15- 2019.

<sup>65</sup> Allen Rubel, “Privacy and the USA Patriot Act: Rights, Value of Right and Autonomy”, *Law and Philosophy* 26, no. 2 (2007), 119-59

Since then the American security agencies have been collecting record not only of the American citizens but also of the world. The question is that where do their fundamental rights and civil liberties stand now? This exercise tells that the governments of the Western countries may restrict freedom of expression and other fundamental rights and liberties under the banner of national security. If they can do it in the name of state security, then why they do not stop the hostile movement against Islam, which hurts the Muslims and causes law and order situation. So for social peace and prosperity, the government should limit the freedom of expression without any ethnic, racial and religious discrimination.

### Privacy and Freedom of Expression

Another important restriction on freedom of expression is privacy and free speech. As we know privacy and freedom of expression are the most vital human rights and guarantor of the human dignity and respect. In a general sense, privacy means one's private and personal right which must not be interrupted by others in any case. The Oxford Dictionary defines privacy; "The state of being alone and not watched and disturbed by other people or the state of being free from attention of the public, freedom of speech and right to privacy."<sup>66</sup> Although no actual definition of privacy is found, scholars have different views on privacy. However, we can define privacy as; "Privacy means referring to some mixture of isolation and solitude, secrecy and discretion, intimacy and domesticity."<sup>67</sup> According to international laws and human rights instruments, privacy is considered the most imperative right. As we read in article 12 of the Universal Declaration of Human Rights; "No anybody shall be exercised to illogical intervention with his privacy, family, home or correspondence, or to attacks his respect and repute. Every person has the right to the safety of the law against such intervention or attacks."<sup>68</sup> This right is also recognized in article 17 of the International Convention on Civil and Political Rights, "Nobody shall be questioned to illegal interfering with his privacy, family, home or correspondence or to unauthorized attacks on his respect and repute."<sup>69</sup>

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<sup>66</sup> Ellen, *The Concise Oxford English Dictionary*, 1006.

<sup>67</sup> Annabelle Lever, *Privacy, Democracy and Freedom of Expression* (Oxford University Press, 2014), 4.

<sup>68</sup> *The Universal Declaration of Human Rights*, Article no.12, 251.

<sup>69</sup> *International Convention on Civil and Political Rights*, Article No.17, 595.

Protection of right to privacy is one of the most significant international human rights instruments, which illustrate its legal importance and value in the global human society. Consequently, other regional and state laws also give it weight and value. There is a great deal of legislation in the UN and the EU member's countries regarding right to privacy. But the conflict between privacy and press is increasing in the modern world; "Doubtlessly the right to privacy is the most cherished rights of all and guaranteed by laws but more and more lately it is coming into conflict in the courts with the press right to report freely."<sup>70</sup> The European Convention on Human Rights (ECHR) protects right to private and personal life in article 8; "Everybody has the right to safeguard his honour, his personal and family life, his home and his correspondence."<sup>71</sup> The United States of America constitution has revolutionary significance on right to privacy. According to the Private Act of 1974; "The USA private Act of 1974 makes sure the protection against attack of individual privacy through the mistreatment of records by the Federal Security Agencies of America."<sup>72</sup> So, the member states of the European Union and the United States of America give high regard to the right to privacy. But in spite of this regards and legislation, the right to privacy is very much violated in all the Western countries including America after 9/11 incident with special reference to the Muslim community under the banner of national security. According to the EUMC<sup>73</sup> Islam phobia research report after 9/11 in 2002; "The acts of violence including verbal abuse, harassment and aggression were much more widespread. Especially the Muslim women, the refuge seekers and others, including those who seem like Muslims or Arabs were at times under attack with hostility."<sup>74</sup>

Therefore, the media reports show that no Muslim family remains safe by the hands of American and European security agencies. Paradoxically, in most Western societies where women put on headscarf not only to go to the church but often as merely part of dress, it now has come to characterize a refusal of citizenship especially if worn on a Muslim head. After 9/11 from all over the West and especially from America, due to this

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<sup>70</sup> SK Sharma, *Privacy Law: A Comparative Study* (Delhi; Atlantic Publishers, 1994), 6.

<sup>71</sup> *European Convention on Human Rights*, Article no.8 (1), 10.

<sup>72</sup> <http://foia.state.gov/Learn/PrivacyAct.aspx>, accessed on March 09, 2019.

<sup>73</sup> EUMC stands for European Union Monitoring Centre for Racism and Xenophobia and official organ of ECHR on racism and xenophobia. The Report comprises the violence and aggression against Muslim community in Europe after 9/11 incident.

<sup>74</sup> Christian Allen, *Summary Report on Islamophobia in the EU After 9/11* (Vienna: EUMC, 2002), 7, [fra.europa.eu/sites/default/files/fra.../199-Synthesis-report\\_en.pdf](http://fra.europa.eu/sites/default/files/fra.../199-Synthesis-report_en.pdf), accessed on 02-26-2019.

discrimination and bigotry, a number of Muslim families were arrested and a number of them were deported to their home countries. Even the students of higher education were not safe. Even now Muslims are compelled to hide their Muslim identity.

Especially in western world and generally in all over the world, it is a rising quest of the modern day, that either freedom of expression can be restricted through law or moral values to prevent sedition and conflict with other socio-religious and socio-political values or it should be left free for everyone. In most of the constitutions of the countries, in international and regional conventions and in public sphere, most of the opinion is in favor of maximum freedom of speech but in courts and academic sphere, the scholars are seen to suggest some reasonable terms and condition regarding freedom of expression.

### Critique from Islamic Context

It is categorically observed that every civilized and lawful country has some reasonable limits and boundaries on freedom for check and balance. If we demand limitless freedom of expression, it means we do not want to say anything. According to a Western scholar comment; “If freedom (of expression) means everything at all it means the exactly to inform people what they do not would like to listen to.”<sup>75</sup> This is observed and heard daily in various cases of privacy, contempt of court, libel, blasphemy and hate speech from all over the world. Therefore, this is an ultimate truth that freedom of expression cannot be left unlimited in any civilized country of this world having different faiths and interests, even in the modern Western countries including the United States of America. No doubt, freedom of speech is measured as a precious right in the civilized human societies throughout the centuries. Professor Shākir maintains:

Freedom of expression is counted the most significance social and political value in the West. Muslim has no objection to it but there should be reasonable limits on this right. There is a universal principle that you can move your stick until it does touch to another nose, but there is a dilemma that the West is injuring our heart from this stick.<sup>76</sup>

Freedom is not a property of the West as they consider it but Islam has a bright history of these liberties. One clear difference between Islamic and Western freedom is that

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<sup>75</sup> Bindrup Lars, “Global Freedom of Speech”, *TRAMES* 11, no. 4, (2007), 403-418, [www.kirj.ee/public/trames/2007-4-5.pdf](http://www.kirj.ee/public/trames/2007-4-5.pdf), accessed on Mary 04, 2019.

<sup>76</sup> Shākir, ‘Abdul Jabbār, “Tohīn-e-Risālat awr Maghrib”, *Mahnāmah Da‘wah* 14:11(2008), 6.

Islam limits it with some duties and responsibilities and sometimes restrict it partially, but in the West, practically freedom of speech is not bound, and everyone has right to say what he wants and wishes to. Here, Professor Khurshīd Aḥmad rightly suggests, “The sole claim of capturing the freedom is a humiliation of history. Freedom does not mean unlimited and uncounted freedom. The actual and positive freedom is possible when it has some reasonable conditions and boundaries”.<sup>77</sup> Blasphemous speeches cannot be controlled if the same situation prevails in the Western countries. According to a renowned Christian scholar, Dr. Charles’ valuable comments; “I hold the freedom of speech as blessed right, to be cosseted in all societies, that I must denounce the publication of these and hurtful caricatures and ask the states to treat this hate speech and racism as crimes that must be persecuted by law.”<sup>78</sup>

Moreover, the objectives of the Islamic freedom of expression and speech are different from the western objectives. One of them is to construct the society and not to destroy it just for the sake of human entertainment and liberty. According to Dr. Muhammad Ismail, “According to Islamic teachings, freedom of expression is an important duty as well as a fundamental human right for construction of the society not for the destruction and human entertainment only.”<sup>79</sup> Contrary to this, the western thought considers philosophy of civil liberties and rights as human entertainment and abstract right. The majority of western scholars allow everything to be expressed and illustrated in the name of freedom of expression and speech. Even most of them advocate the freedom of pornography and obscenity and demand its rights openly as human entertainment. Most interesting thing is that according to Islamic scholars it is craziness, radicalism and abuse to humanity in the name of freedom of expression, but the western thought considers it as a right of entertainment for human being. Here, Mubashir Naẓīr argues rightly, “Islam grants the right to free speech for transmission of goodness not for evil and this concept of freedom of expression is better than from the west.”<sup>80</sup>

It is also an interesting thing that the terms related to freedom of expression are similar, but their interpretation and implementation are entirely different from each other.

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<sup>77</sup> Khurshīd Aḥmad, “Shaitānī Cartoons,” *Tarjumān al-Quran* 133:3 (2006), 13.

<sup>78</sup> Charles Amjad ‘Alī, “Hate Speech is Hate Speech”, *Quarterly Al-Mushīr* 48, no.1 (2006), 23-38.

<sup>79</sup> Muhammad Ismail Chine, *Questions on Islam* (Lahore: al-‘Atīque Publishers, 2009), 43.

<sup>80</sup> <http://www.mubashirnazir.org/human> rights in Islam and west, accessed on 01-27-2019.

Moreover, the Western legal system does not accept limits related to blasphemy of religion and Islamophobia. The Western legal system allows blasphemy under the title of freedom of expression. Or in other words, the Western legal system considers it freedom of speech, but the Islamic teachings and Muslim world consider it blasphemy of religion and prophet of Islam. The conflict on freedom of speech is creating a harsh clash between Islam and the West day by day because the sanctity of Prophet Muhammad ﷺ is a Muslim core value and the freedom of expression is a Western value. Therefore, we should be careful when the issue is related to other values and their sensitivity. Hence, Mr. Uffe rightly recommended, “We must avoid situation where dissimilar values confront each other in ways that cause violence. We must try to build link between faiths, morals and norms.”<sup>81</sup> Consequently, we find, on one side, they consider the Prophet’s ﷺ cartoons as freedom of expression but on other side they do not allow even joke on Charlie Hebdo. If Charlie Hebdo hurts 1.5 billion Muslims all over the world by publishing these notorious cartoons of the Prophet of Islam ﷺ, then it is freedom of speech and if Muslims in reaction burn the French flags, it is a violation of laws and needs to be apologized for. I think such circumstances compel Muslim world to rethink about Western world having hypocrisy, double standard and injustice against Islam, Prophet of Islam and Muslims community. Moreover, if the West does not stop this, then they will never achieve peace and prosperity because if they want limitless freedom of expression, then they should be ready to face freedom of action. Therefore, it is concluded after this debate that the Islamic freedom of speech and expression has some moral, legal and social limits and boundaries but the Western freedom of expression has some nominal legal limits which is not sufficient to eliminate hate speech, religious defamation and blasphemous speech.

Therefore, it is noticed, the western (infinite) concept of freedom of expression is basically a right to defame other’s values, religions and ethics and that kind of freedom is not compatible with Islamic divine teachings. In illustrious words, we can say it is right to abuse rather than right to freedom of expression and speech. Therefore, if we wish for a peaceful, harmonized, modest and humble society in contemporary era and do not want clash of civilization, then it is necessary to adopt the universal principles of the Holy Quran

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<sup>81</sup> Uffe Alenam Jensen , “*Coexistence or No Existence*”, 3;  
<https://www.project-syndicate.org/commentary/coexistence-or-no-existence/> accessed on 6-3-2019

and Noble Sūrah of the Prophet ﷺ during conversation, writings and communication. It is difficult to justify that you defame Islam and Prophet of Islam (ﷺ) openly and yet, you expect olive trees from Muslim world. Therefore, it is recommended on behalf of this study that as discussion against Holocaust is forbidden in the western world for the sake of Jewish community, then the defamation of the Prophet ﷺ should be prohibited for the sake of Muslim community.

## **Conclusion**

It is perceived from above study that it's not more than a mythology and misconception that in the western legal and social discourse, the right to freedom of speech is free from all kinds of boundaries. Some western scholars actually claim and demand unlimited freedom of expression. Especially the postmodern movement in the West is an advocate of this slogan. All Western laws and instruments recognize the freedom of expression within legal boundaries. Actually, the religious blasphemy, religious violation and Islamophobia have no sufficient legal protection due to some political issues; especially the increasing trend of Islamophobia and blasphemy of the Prophet of Islam has become cheap fashion from the Western world under the umbrella of freedom of expression. The West should not overlook that there is a slight difference between freedom and abuse when you provide absolute freedom without any kind of limits and boundaries; it creates abuse, conflict and chaos in the society. Therefore, it should be restricted duly for the sake of society, especially when you have to clear contradictions with others. Sometimes it seems a political slogan by the Western politics or government against the people of the third world countries. Sometimes it seems a strategy of the West and America to counter Islam and Muslims, especially in the Western world and generally in all over the world. Their foreign and interior policies towards third world countries, especially for Muslim world, show their poisoning and cunning future aims.

## **Recommendations**

- Therefore, it is suggested on behalf of this study that the western world stops exploitation, interference and double standards regarding rights and liberties issues towards third world countries and especially for Muslim world.
- In addition, there is a dire need to revise western policy and international laws of free speech regarding sacred books, religious personalities and religious rituals.

## **Western Parameters of Freedom of Expression: A Critique from Islamic Perspective**

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- It is also suggested that if to speak freely is my right, then to respect others' beliefs, thoughts and respect others' sentiments is also my responsibility and duty.
- There is an urgent need to make some important laws in which blasphemy and defamation of religious personal ties, books and rituals should be declares as hate speech and crime.
- If protection of state, security, health care and physical damages are necessary, then protection of moral values are even more necessary than them.