

A Call For Respect: Analyzing Quran Burning, Human Rights, and The Islamic Law Perspective

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Abstract

The burning of the Quran, widely regarded as the holy book of Islam, has sparked significant outrage and debate across various European Union states, particularly in Sweden. This provocative act raises critical questions about the balance between individual freedom of expression and the respect for religious beliefs. The European Union, through its commitment to democratic principles, often upholds freedom of expression as a fundamental right. However, this raises the issue of whether such expressions can rightfully include acts that are deeply offensive to large segments of the population, particularly religious communities. This paper explores these tensions within the framework of the development of the international human rights system, providing a nuanced analysis of responses from Muslim scholars, organizations, and associated states. It also scrutinizes the impact of Western human rights paradigms on global practices, specifically in contexts such as Indonesia. This paper found a fundamental crisis of western based of human rights and the lack of sound argument from muslim world to contribute to this lacking.

I. Introduction

The principle of freedom of expression is considered a cornerstone of democratic societies. However, instances of Quran burning challenge the limits of this right. While it is essential to protect individual expression, it is equally crucial to recognize that such expressions can lead to societal discord, especially when they target specific religious groups. The absence of governmental intervention in these instances raises concerns about the implications of unbridled freedom of expression.(Rajajan,2023) The question arises: does the advocacy for freedom of expression in this context overshadow the need for respect for religious sentiments?

In response to these acts, many Muslim scholars and organizations have articulated a spectrum of viewpoints ranging from calls for dialogue to declarations of condemnation. This paper will analyze these responses in detail, exploring how they reflect a broader opposition to the Western interpretation of human rights, which often seems indifferent to the feelings of religious communities. For instance, Islamic organizations advocate for a more culturally sensitive approach to human rights that recognizes the importance of religious beliefs and practices. Furthermore, allied Muslim-majority states often challenge the validity of Western human rights norms, arguing that they do not accommodate the complexities of non-Western perspectives on liberty and personal dignity.

The predominance of the Western model of human rights in international law influences the legal frameworks and societal norms in various nations, including Indonesia. While Western principles have played a crucial role in advancing human rights globally, they often lack an inclusive framework that respects religious diversity. This paper will argue that the Western-centric view may inadvertently contribute to a marginalization of alternative viewpoints, particularly those expressed by Muslim majority countries. This is exemplified in Indonesia, where the principles of freedom and respect for religion must coexist. However, the inclination to adhere strictly to Western definitions of rights can create friction within Indonesia's own socio-religious fabric. This examination reveals a fundamental crisis in the Western-based human rights framework, specifically its inability to resonate universally, particularly with Muslim communities. The paper posits that there is a lack of robust arguments and contributions from the Muslim world to effectively challenge and enrich the ongoing debate on human rights, especially when it comes to sensitivities surrounding religious texts like the Quran.(AF, Gaus, et. al, 2014)

Qur'an is the ultimate holy book that serves as a guide for all humanity.(QS. Al-Baqarah Ayat 185) Qur'an define as the main source and the souls of Islam, for around two billions people in the world.(World Population Review) According to Yusuf Al-Qardawi, faith (Aqidah), worship, moral and the principles of law and Shari'a are interpreted by the Qur'an.(Syukran, 2019) This unambiguously indicates that Qur'an is an essential and inseparable part of Islam and Muslims. Thus, if the attacks like burning Qur'an claimed are not illegal because the aim of the attack is not directed against a protected group of people but against a belief (an idea)(Marten, 2021), its called a logical fallacy. The fact that Qur'an is an inseparable part of Islam, burning a Qur'an is not only against a belief but also against the people who believe on it.

The transatlantic journey of the Qur'an-burning began when a group of men allegedly burned a Qur'an in Gate-shed, England. The incident was videotaped and shared on social media. Following incidents occurred in Michigan and France. While racial-incitement laws in England and France permitted charges against the individual, the Ingham County Prosecutor in Michigan did not charge the man because he could not find a violation of any state law and concluded that burning a Qur'an is constitutionally protected.(Catherine, 2021)

Furthermore, recurrence for burning the Holy Qur'an under the guise of "secular Western values" such as individual liberty and freedoms are now state-sponsored in some European Unions.(Rajajan, 2023) The latest incident was planned by Salwan Momika which held in July in Stockholm.(Boxerman, Aaron and Kwai, Isabella, 2023) Momika with Najem who join to burn the Qur'an under Sweden police permitted for freedom of speech law in Sweden. The action taken place at Mynttorget, a central square surrounded by Government buildings and the palace.(Aljazeera, 2023) Momika is an Iraqi refugee in Sweden who also burned Qur'an pages on June 28 in front of Stockholm's largest mosque during the Islamic Eid al-Adha festival.(Rankin 2023) Before Momika, In the same year, January 2023, Rasmus Paludan known as a far-right politician and anti-Islam provocateur burned the Qur'an in front of Turkey embassy in Sweden. He have a reputation for carrying out similar acts.(OIC Journal, 2023)

Based on the Organization of International Cooperation (OIC), the recurrence of the Qur'an burning considered that the Sweden authorities' failure to take measures to prevent such acts runs counter to the UNSC Resolution 2686 (2023) adopted on June 14, 2023 pertaining to International tolerance, peace, and security.(B.K.S.A.P., 2023) In addition, those actions condemned by Muslim majority country, Muslim scholars and Islamic organization in the world as an offensive and disrespectful and a clear provocation.

For instance, Indonesia as one of the majority Muslim population country also strongly condemned the Qur'an burning and urged the Sweden's parliament and government to take action against the burning because it violates people's freedom to engage in their faith. Indonesia believed that burning incident hatred and was part of smear campaign against Islam and the Muslim community. The actions reflect Islamophobia and potentially destroy good relations between countries.(Aljazeera, 2023)

However the Sweden government shown their omission to the Qur'an burning at the first until after an International Islamic body called for measures to prevent future desecration of the Muslim holy book. Lastly, Sweden's government condemned Qur'an burning as "Islamophobic" act.(Aljazeera, 2023) Then, the Police claimed that the Qur'an burning was motivated by more than religion and specifically targeted the Muslim community. Thus, the activist was fined by police because the existing hate speech law focuses on incitement against minorities rather than religious.(Langer, 2023)

Permitting the burning Qur'an in Sweden exist in accordance to the first rule in the Swedish human rights catalogue which differs from those in other jurisdictions in that it protects freedom of expression. Its related to the statement of the ministry when condemned the action that Sweden has constitutionally protected right to freedom of assembly, expression and demonstration.(The Jakarta, 2023) It is noteworthy that this rule comes before any rules

protecting the right to life, privacy, or property. Thus, freedom of expression plays an unusual role as a superior human right in Swedish legal culture.(Marten, 2023)

On the other hand, Sweden has laws prohibiting hate speech against ethnic, national, and religious groups, as well as people based on their sexual orientation. However, burning holy scriptures has not been classified as hate speech and is considered acceptable criticism.(Ahlander johan & Reuters, 2023) Nevertheless, The UN Human Rights Council has approved and adopted a resolution entitled “Countering religious hatred constituting incitement to discrimination, hostility or violence”.(UN, 2023) In contrast the resolution was strongly opposed by the United States, The European Union, and other western countries which claimed that it violated free speech laws.(Henley, 2023)

According to the Universal Declaration on Human Rights (UDHR) the right to freedom of opinion and expression is guaranteed to everyone without limit.(Article 19 of Universal Declaration of Human Rights) But the restriction to the right of freedom of expression then regulated in the International Covenant on Civil and Political Rights (ICCPR).(Article 19 Paragraph 3 of ICCPR) In addition, the drafters Article 20 of ICCPR undermine value judgment in Article 19 that freedom expression is an important individual right that should be safeguarded, asserting that some ideas are so destructive that they should not be protected. Thus under the covenant, the laws of any country that ratified the ICCPR are subject to review which implies that while France, UK, and others have passed their own laws, they must conform to the ICCPR as well as any applicable national constitution.(Catherine, 2012)

After the first incident of burned Qur'an in 2023, the report on the work of a process of revision of Swedish legislation on amendment of the Swedish criminal code and freedom of the Press Act in March 2023 emerged. According to the Swedish ministry of justice, the amendments have nothing to do with the recent burning of the Qur'an and other religious texts. The report says that the amendments will not make the criminal area wider. They refer to statements or “Nor would the amendments place any additional restrictions on freedom of expression. In short, therefore, our proposals would not prohibit any acts that are currently permitted.”(Apelblat, 2023)

Understanding the discourse of international human rights legislation and its relationship to the legality of this case reveals that there are gaps and limitations in ensuring social welfare, particularly in the protection of universal human rights. Because the burning of the Qur'an continues as a result of a misunderstanding of human rights. Despite the fact that numerous people denounced this conduct. In fact, Condemnation shows something wrong was occurred. In physiology, the theory of condemnation elaborated by Jennifer Robet, John M Darlet and Robert J MacCoun arises when there has been an incursion onto a community's sacred values. Sacred values, however, are not only products of community consensus; they also hold deep, personal meaning for individuals.(Sharon Lamb, 2003)

Thus, the final conclusion the incidents of recurrence burned Qur'an actually because of the belief that people have absolute rights to the freedom of expression in which an insult against religion is not an exceptional and this belief exist due to the ambiguity of the existing laws relating to the protection of religion itself. Furthermore, the separation of the laws protect the individuals or groups of people from blasphemous insult and the laws that protect the

religion being considered to this issue. The laws that protect the individuals or groups enacted in the Western countries thus there is no worldwide consensus whether the insult against religion is an exception to the freedom of expression where the author believe that this is the main cause of Qur'an burning still happening in the European union countries.(Rajudddin, Ainun Syafiqah & Yakoob Adzidah, 2017)

In addition, the international human rights instrument such as UDHR and ICCPR has a considerable impact on later human rights deals. Meanwhile, there is no explicit international law exist to shield religion from criticism. The only law that has something to do with protection of religion is the ICCPR by Virtue Article 20. However it must be noted that the ICCPR is international human rights treaty, thus it only protect the rights of individual or group but not religion. Thus in general, for religion there is no immunity from religion insult against it under the existing international law.(United Nation Treaty on Article 7)

2. Research Method

This approach includes an analytical review of both primary and secondary sources related to international human rights law, Islamic teachings, and contemporary case studies, specifically focusing on incidents of Quran burning in Sweden. The paper begins with an extensive literature review, including historical and philosophical perspectives on freedom of expression and religious respect within various international human rights frameworks, such as the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR).

Additionally, it incorporates a comparative analysis of Western and Islamic views on human rights, assessing the impact of Western-dominated frameworks on Muslim-majority countries, with a particular focus on Indonesia. This method enables the study to explore how different legal cultures perceive the boundaries of freedom of expression, especially regarding religious symbols. It also includes an exploration of policy statements and resolutions from international Islamic organizations and opinions from Muslim scholars, providing a balanced perspective on global responses to religious desecration.

Through a combination of these qualitative methods—literature review, comparative analysis, and case study examination—the paper seeks to understand the implications of Quran burning incidents within the broader context of freedom of expression, religious respect, and international human rights. The qualitative approach allows for a nuanced examination of this complex issue, emphasizing context and cultural sensitivity over quantitative data.

3. Results and Discussion

Freedom of religion is one of the human rights that has implications for religion as an idea, and it becomes the object of the right for people to choose what and how they believe. If religion is an object of rights, there should be regulations in place to ensure that not only is everyone allowed to choose which religion to practice, but also the fact that the elements which provide religion existence, such as symbols, ways of worship, and supporting facilities, are protected from persecution. However, there is one right that is essential and regarded a

fundamental right in international human rights system called freedom of expression, which frequently crosses with other rights and is especially sensitive to religious values. Thus for having deep discussion on this issue the author consider its important to set back at the definition of religion, expression and freedom itself. Then how religion and free of expression under the international dan regional legal system.

Religion under western human rights system

Emile Durkheim defines religion as a unified system of beliefs and practices relative to scared things, that is to say, things set apart and forbidden beliefs and practices which unite onto one single moral community called a Church, all those who adhere to them. He also affirmed religions are organized systems which hold people together. The further question then arises why are these system necessary? Religions, according to socibiology, are ancient and successful protective mechanisms linked to the potentialities of the brain and body, as well as the necessity of survival. Thus therefore becomes obvious: once successful protection measures are implemented, people get the confidence and security to perform a variety of other things. In addition, religions are methods for monitoring, coding, safeguarding, and transferring information that have shown to be of the utmost value from person to person and, more importantly, from generation to generation.(Bowker, 2003)

On the other hand, myth, ritual and symbol are mentioned as the most powerful intellectual tool of religious innovation in John Browker books “The Concise Oxford Dictionary of World Religions. Relating to our discussion about recurrence of burning Qur’an in which Qur’an is classified as a symbol of muslim, the author just focus on citing how symbols define on the book. John argue that symbols are at least important as much as language in expressing religious beliefs and idea. In his statement, meanwhile symbols rarely attempt to portray what they purport to be about, but its very crucial for the religion and the believers itself.(Bowker, 2003)

Nevertheless,based on IPSOS surveys nearly half of 47% from 26 countries on surveys say religious does more harm in the world than good. Actually this view firstly spread in India then is most common in western Europe and in Japan where it has grown widely since 2017. In contrast, t is least common in Latin America, South Africa, Turkey, and Southeast Asia. In addition 40% believes in God as described in holy scriptures e.g., the bible, the Qur’an dan Torah, etc. Also in the same report say 54% (meaning it is higher than those who believe that religion is bad) believes that religious practices are an important factor in the moral life of country’s citizens.(Lpsos, 2023)

In the sum, this data demonstrates that religion does play an essential role in people’s social lives around the world, although as previously said in Western Europe, the idea that religion is bad has grown over time. However, these data reveal that normative religious secularization has taken the shape of rejecting or denial of religious standards in and out of the world, a phenomenon known as secularism. Secularism is a worldview that opposes the existence of sacred anti-religious legislation.(A. Pachoer, 2016) This concept is fast expanding in Western and European countries, altering the role of religion in people’s social lives and, as a result, impact on legal system related to religion.

Human rights from a western perspective are anthropocentric, which means

everything is human-centered.(Gufron, 2017) As a result, the most obvious feature of human rights is the universal nature that humans possess simply by virtue of their humanity. Indirectly, this trait demonstrates that race, gender, religion, socioeconomic position, and citizenship are irrelevant to the question of whether or not someone holds human rights.(Ahmad Zein, 2015) In an Islamic discussion at the Muhammadiyah University of Yogyakarta, Prof. Bambang Cipto also explained that human rights in Western countries are evolving from an understanding of individualism to totalitarian individualism, which means that no individual is restricted in their activities. Even religion and the state cannot justify restricting freedom of expression.

On the other hand, according to the Universal Declaration of Human Rights (UDHR), the competence of a religion in the world is based solely on one's own choices (Article 18 UDHR) and on family issues.(Article 26 (3) UDHR) However, religion does not have any competence in matters of law because law must be applied to everyone regardless of whether they practice religion or not. The UDHR makes no explicit reference to a specific philosophical or religious rationale; religion cannot be characterized as an order that binds society, the state, or international relations. Law is seen as secular, devoid of any religious authority.(Abdi, 2002) However as an international declaration, UDHR has been weakened by secularism, resulting in a more serious situation for Muslims and the other believed groups who believe that protection from religious persecution is critical.

Furthermore, human rights in particular to religion have been tasted in recent time. Some of groups or peoples do not agree that religious blasphemy is a violation of human rights. For instance, Jeroem Temperman in his writing titled *A Freedom of Expression and Religious Sensitivities in Pluralist Societies Facing the Challenge of Extreme speech* argued that an intensified focus on protecting religions against defamation may very well be counterproductive as far as the right to freedom of religion or belief itself and limit someone's freedom of expression. He continued on to say that the counter-defamation discourse is not the best way to address current concerns of religious intolerance. It value tries to move the emphasis from the protection of individual rights to the protection of religions in general.(Temperman, 2011)

Another perspective come from Filimon Peonidis on his writing realted to cases of the Charlie Hebdo. He commented that the publishing of Charlie Hebdo not violated Muslim french basic rights, and no violation actions were committed against them as a result of their publication. He argue the right to criticize religion derives from these two defining normative tenets of the secular and liberal polity. Thus he conclude a liberal and secular state should not ban publications like charlie hebdo which are engaged in defaming particular religions or religion in general. And for people who disagree with the content of charlie hebdo publications have to come to terms with the fact that only legitimate way to express their opposition is through criticism, condemnation or indifference not criminalized the actions.(Peonidis, 2019)

Although the right to practice one's religion is a human right protected by Article 18 of the UDHR and also ICCPR and this intersection of this right with Article 19 which protects freedom of expression and Article 20 which requires states to prohibit hate speech necessitates a careful balancing around speech which related to religious matters. Unfortunately, under

international law, Blasphemy law that prohibit the incitement to hate speech by adherents of a particular religious belief and apply to denigration of that religious beliefs or symbols are no longer considered legal.(UNHCR states in 2011 General Comment no 34) Thus, there are two problems in which religion just regulate in one Article with general clause and there is no law on the act of the persecution of religion.

Nevertheless, the statement that blasphemy law must always represent an unacceptable interference with international right to freedom of expression is questioned on the writing of the Professor Neville Cox, Professor of Law and Dean of Graduate Studies at Trinity College Dublin. According to him, the bigger problem in international legal discourse in interpreting religious blasphemy lies in the erroneous way of interpretation by bodies such as the UNHRC. The two concurrent findings that blasphemy laws are fundamentally incompatible with the right to free expression and that public morality cannot be founded on a single faith tradition are not warranted, instead of driven, by the ICCPR text.(UNHCR states in 2011 General Comment no 34)

He also highlighted international human rights, on the other hand, must be truly international in nature if they are to be described as such, and any interpretation of such rights that fails to recognize this fact must be suspicious. As a result, the UNHRC's General Comments 22 and 34 are quite troublesome. At best, they demonstrate a failure to address the complications posed by the ICCPR's wording. At worst, they appear to be an elitist, secular takeover of rights language - one that challenges the ostensibly international nature of what is at stake and, as a result, has the potential to destroy the entire rights effort.

In addition, such countries that still have laws on restrict wounding of religious feeling or offense against religious belief considered against the international human rights norm in OHCHR Statement that the right to freedom of religion or belief “does not include the right to have religion or belief that is free from criticism or ridicule.”(George, 2016) Historically, the perspective on inappropriate of blasphemy law move to protect some religions at the expense of individual which have always been intersected with incidents of persecution against Islam.(Cox N., 2020) The recurrence of Qur'an burned is the exactly instance of kinds of persecution.

Meanwhile there is no blasphemy law in most of European union countries but under international law freedom of expression remind not an absolute right and that it may, in appropriate cases, be restricted for respect of the right or reputations of others and for the protection of national security, or of public order or of public health or morals.(Article 19 (3) ICCPR) Thus how this article does exist in international stage and how implemented in national legal system of each state?

Individual Freedom of expression in regulation

Expression in Cambridge dictionary states as the act of saying what you think or showing how you feel using words or action. Freedom defines as the condition or right of being able or allowed to do, say, think, etc whatever you want to, without being controlled or limited. Furthermore, in the US history the right to say and write what you believe or thinks, with some limitation also stated in the Cambridge dictionary.

Based on what mentioned in Catholic Encyclopedia, the origin of freedom of speech

was founded in the 1950s to reaffirm the right of the House of Commons of England to freedom of speech in the face of King James I's which belief that they had no right to debate foreign policy. Over time, freedom of expression elaborated by many scholars (by European legislators) and by some dictionary even the terms added to basic human rights which later leads to hate speech and humiliation. (Waqas Khan, Hafiz,, et. al. 2023)

Nowdays, the right to freedom of expression is recognized in all of the main international and regional human rights treaties. The most notably is the Universal Declaration of Human Rights (UDHR). Especially in Article 19 stated "everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interfere and to seek, receive and impart information and ideas through any media and regardless of frontiers." Similar provisions is regulated in Article 19 of The International Covenant on Civil and Political Rights (ICCPR) and its legally binding for 173 states that ratified the covenant of the latest update. (United Nations Treaty Collection)

On the other hand, freedom of expression also regulated in regional human rights treaties, including the African Charter on Human and people's Rights, The American Convention on Human Rights and the European Convention on Human rights. (Center for Law and Democracy International Media Support (IMS)) In further, complementary declarations also was developed by Organization of Islamic Cooperation (OIC), Muslim states revisited these concept in the 1980s to draft their own instrument. (Kayaoglu, Turan & Brookings, 2020) As the result, the 1990 Cairo declaration on Human Rights in Islam was declared and conducted a set of rights informed by conservative Islamic values and "Sharia", or Islamic law. (The Organisation of Islamic Conference, 1990) According to those covenant, both form UN and OIC have regulated the freedom of expression as a crucial human rights and highlighted that the exercise of the rights carries with special duties and responsibilities and may be subject to certain restrictions. (Article 19 Number 3 of ICCPR, Article 21 number b of CDHRI) According to John Rawls, public reason is the specific context of justifying limitations on the freedom of expression. (Gunatilleke, 2021) He elaborated that the reason can classified as "public" when citizens who are equal accept them as valid. The key here is to recognize that there is no satisfaction within the community group so that acts for public purposes can be carried out, not simply by the majority of those who believe that shares are beneficial. Not in terms of quantity, but in a culture that already shares the belief that wisdom in some areas is correct and beneficial.

In addition, in Gehan Gunatilleke's article elaborated when individual actions are related to freedom of expression, the state is responsible for that individual's expression, and if restrictions are imposed, they must fulfill the element of an obligation of justice to others, which must be fulfilled by the individual involved in behavior or expressing himself. From here, there are aspects of rights and obligations in free expression, which are the key to whether an expression can be regulated or not. (Gunatilleke, 2021) Thus, how the UN and OIC instruments regulate the restrictions of freedom of expression?

UN instrument of Human Rights

In this section, the writing focus on the UN instrument relating to the right to free expression in Article 29 of UDHR, Article 19 Number 3 of ICCPR that highlighted the rights

of free expression subject to certain restriction provided by law, or respect the other rights and for the purpose of the national security. Furthermore, Article 20 (2) of ICCPR which is the only provision that requires states to prohibit certain speech, specifically “advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence”.

Related to the General Comment of UN Commission for Human rights (UNCHR) No.34, the acts mentioned in Article 20 (2) must also comply with Article 19 Paragraph 3.(Human Rights Committee, CCPR/C/GC/34, July 2011) In the meantime, the UNCHR noted in the same comment that this notion cannot be used to impose norms derived from one culture on another. As this would constitute obscenity in law, in part because words that are offensive to certain individuals are protected.(Equality and Human Rights Commission, 2019) However, it closely related to the indirect discriminatory acts, because some condition appear neutral on the surface but disproportionately affect certain groups and do so without any objective justification.

On the other hand, the adopted of the International Convention on the Elimination of all Forms of Racial Discrimination (ICERD) by the UN in 1965 bring the incitement to racial discrimination and the other provision in Article 20 (2) clearly stated as the hate speech.(UNHR, ICERD) Unfortunately, the statement of the UN still contra productive because when the hate speech linked to the offensive act to religion its justified in the name of freedom of expression.(CERD/C/GC, 2013) Thus, the author conclude that the law merely specifies the ground for limited freedom of expression without elaborating on what freedom of speech or hate speech entails. There is no consensus on what constitutes hate speech, and that is reflected in different countries’ legal and regulatory policies.(Anindyajati, 2021)

For instance, European Convention on Human Rights (ECHR) especially in Article 10 that regulated about the right to freedom of expression defined the freedom of expression as a fundamental right and essential expression for the democratic political process and the development of every human being. In the case of such conflict to the Article occurs, the responsibility to strikes a balance in order to establish the pre-eminence of one right over the other is the court. They apply the proportionality test when evaluating the permissibility of limitation. Nevertheless, hate speech directed towards different minorities is not protected under Article 10 by the court.(Siniarska & Dominika Byhchawska, 2017)

In the explanation of The European Court of Human Rights in a definition adopted by the Council of Europe’s Committee of Ministers mentioned racial hatred, ethic hatred, aggression, intolerance, and discrimination against ethnic minorities as the hate speech.(Council of Europe Committee of Ministers) Thus the misses of mentioned religious hatred shows that offensive act to religions is not a things to considered. Then the implication is on how the constitution of Sweden regulate freedom of expression. Unfortunately, the crisis of international human rights system in regulating the offensive act to religion in their instruments makes countries like Sweden failed to fully understand the best way to held the freedom of expression.

In the cases of burning Qur’an in Sweden the police can not refuse to allow demonstrations because the limitless restriction of freedom of assembly and the right to demonstrate in the the Swedish Constitution. And the blasphemy is not a crime in Sweden

also the burning of religious text is protected by the freedom of speech clause in the Swedish Constitution. In addition burning Qur'an does not constitute hate speech under Swedish law because the act does not necessarily contain a hateful statement or target special population group.(Hofverberg, 2023) Unfortunately Sweden's minister also said that not everything that is legal is necessarily appropriate.(Anadolu Ajansi, 2023)

On the other hand, the omission of Sweden's government in the cases of burning Qur'an also seen as an act of protecting human rights, the right to freedom of expression of the person who burned the Qur'an. In contrast, states as parties to the international human right treaties assume obligations and duties under international law to respect, to protect and to fulfill human rights. Through adopting the treaties, governments agree to implement domestic policies and laws that are consistent with their treaty obligations and duties.(UN, The Foundation of International Human Rights Law) Therefore, in international law discourses when the government is not present and does not attempt to prevent or punish the perpetrator when a violation occurs by an individual who has no connection with the state's power towards another individual, there has been a human rights violation caused by the state's negligence.(Gaus AF, et. al., 2014) Despite of considering the Qur'an burning as an hate speech and violated Muslims rights, Sweden government more focused into the issue of the increasing and escalation the threat of terrorism and violent civil unrest in their security environment after the massif protest to the Qur'an burning. Thus fearing an increasing external threat, authorities have imposed harsher border restrictions. Foreign travelers may face greater scrutiny at border checkpoints and within the country.(Crisi, 2023)

Lately after the condemnation of the Muslims countries the Sweden's minister of justice said that the government is analysis the situation and whether the law needs to be changed to allow the police to deny such request.(Reuters, 2023)

The condemnation to the Qur'an burning

The author found one writing in media that stated that "the the lack of a formal condemnation of Qur'an burning occurrences has implication under both Article 1 and Article 4 of the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)". Thus, The ICERD calls on states parties to condemn racism and ethic intolerance in all of their forms, as well as the inciting of prejudice or hatred based on race. Such discrimination violated the norm of the UN Charter and diminishes human dignity.(Dash & Kashyap, 2023) Nevertheless, the lack sound of the states parties to the conditions occurred in Sweden is shows how the manner of such countries to crisis of human rights in international stage. On the other hand, the Qur'an burning damaged the diplomatic relations between Sweden and Muslim countries. The several protest have triggered by the incidents. Some perspective of islamic scholars, associated islamic states and international islamic organisation on the act of burning quran as a freedom of expression are below:

Islamic scholars perspective

Prof. Mohammad Mukri, Chairperson of the Nahdatul Ulama (NU) Management, believes that the action of burning the Al-Quran is a form of provocation that should not be responded to with actions that do not reflect Islamic religious values. The government's stance must be firm in conveying its protest to the Swedish government considering that the majority

of Indonesia's population is Muslim Kiai Chalil Nafis stand as Chairman of the da'wah and ukhuwah division of the Indonesian Ulama Council (MUI) urged that the act of burning the Qur'an in Sweden is a form of insult to the Islamic religion and cannot be tolerated. He asked the Organization of Islamic Cooperation (OIC) to speak out at the UN forum on this issue. He consider a needed to prevent similar Islamophobic and he do believed the actions opposed the reason freedom of expression. He highlights a person's freedom is limited by the honor of other people as well.(Islamic Center, 2023)

Dr Omar Sulaiman, Founder of Yaqeen Institute strongly condemned the burning Qur'an and stated that the islamophobia business is a dumpster fire of many people and ideas, all of which are motivated by ignorance. It is a global phenomenon that aims to otherize, isolate, and annihilate Muslims and Islam. For situations of Qur'an burning, we must address it as a policy issue, both inside countries and internationally, rather than focusing our response on individuals such as Jones or Paludan, who in the end only target Muslim minorities to display their own tribes' alleged superiority.(Suleiman, 2023)

Dr Muhammad Hamad Khoder: Rights are not an end themselves: they are simply a means to fulfill the duties of life. In western perspective there is found a kind of clash in rights and freedom due to unlimited concept of freedom and rights. There are many controversies between freedoms other fundamental human rights in western theory of rights and freedom. Example freedom of speech and freedom of religion.(Saeed, 2013)

Assistant Professor professor of the Tafsir at Usak university, Nurullah Denizer comment that sacred values are crucial and indispensable in the lives of people in every faith. He added that for Instance Al-Qur'an in Surah 3:134 defines virtuous Muslims as those who control their wrath and forgive others. The Qur'an also explicitly instructs Muslims to avoid people who ridicule Muslims or Islam. There is also a string warning in other lines.(Thus, Al-qur'an not just as a symbols of religion. Its contains the values for every muslims. Cited on the same media, Mustafa Ozel a professor of Tafsir at Faith Sultan Mehmet Vakif University elaborated that religion plays a constructive role in society and inter-communal interactions. Furthermore, it should not be overlooked that the most sensitive topic for people and communities is their religion and spiritual values.

Dr Farid hafez, a senior research fellow at the Bridge Initiative at George University explained when the targeted people are missing or deceased, and their representation is destroyed, book burning becomes a symbolic persecution. He added, book burning is a symbolic death or devastation if the people these books represent cannot be eradicated.(Solmaz, 2023)

Rashid Musa, former chairman of the Muslim Swedish Youth Organization said that the historical background of the most recent event must also be considered in situation of Qur'an burning. A tragic tragedy occurred in the Bosnian capital of Sarajevo in August 1992, when over 2 million books were deliberately set on fire. This unfortunate destruction of Ottoman-era manuscripts and delicate 500-year-old pamphlets as Serb forces shelled and burned Bosnia and Herzegovina's national liberties. Actually, this instance of how a book burning incident might set off a chain reaction that leads to systemic violence against a certain group of people.

Islamic associated states condemned the Qur'an burning

Turkish foreign minister Mevlut Cavusoglu stated "Turkey condemned in the most severe terms the awful attack on the holy book permitting this anti Islam act which targets Muslims and violet the sacred values under the guise of freedom of expression is completely unacceptable. In addition, Turkish Presidential spokesman, Ibrahim Kalin also condemned the demonstration as a clear crime of hatred. In his perspective, the allowing such behaviour despite our warnings is encouraging acts of hatred and Islamophobia. The assault on fundamental ideals is modern barbarism , not freedom of expression.(Aljazeera, 2023)

Iraq through the foreign prime minister also condemned the attack of the Swedish embassy and said it would sever diplomatic ties with Sweden if such an incident was to take place again. Iraq also suspended the working permit of Swedish telecommute company Erickson on Iraqi soil. They also expel Swedish ambassador from their countries. On the other hand, Pakistan request a report on the matter from the UN rights chief and urges stated to assess and eliminate gaps that many impede the prevention and prosecution of acts and advocacy of religious hatred. Also Jordan expressed its displeasure to Sweden's ambassador and calling the act of Qur'an burning as a racist act of serious hate.(Jordan News Agency, 2023) The protest also shown by the Government of Indonesia through the foreign minister which called the Sweden's ambassador and ask them to condemned the act of burned Qur'an. Indonesia also show their commitment together with the Islamic organization Cooperation and the other member states to the OIC to protest to the burning Qur'an as a desecration of Islam.(Aqil & A. Muh, 2023)

Furthermore, Malaysia highlighted the burning Qur'an violated the universal principle of respect and understanding towards all religion and their holy scriptures. The Swedish court's decision in the first Qur'an burned in 2023 in Swedish enable such a heinous conduct to be repeated is, alas, not a positive step forward in our effort to improve mutual tolerance and understanding for the sake of humanity.(Official Portal Ministry of Foreign Affair Malaysia, 2023)

United Arab Emirates,(UUAEE Ministry of Forein Affairs, 2023) Pakistan,(Mliistry of Foreign Affairs Government of Pakistan, 2023) Bahrain,(Ministry of Affairs, 2023) Qatar(Ministry of Foreign Affairs, 2023) and the other member to the OIC through their official portal ministry of foreign affairs called the burning Qur'an as the hate speech and violence under the religious symbols and the action cannot be justified under pretext of freedom of expression and protest. These countries also seeks the condition into serious question legal framework which permits such hate-driven actions.

Islamic Organisation response to the Qur'an burning

Organisation of Islamic Cooperation (OIC) urges the collective measures are needed to prevent acts of desecration to the Qur'an burning and International law should be used to stop religious hatred.(Reutersm 2023) Mr Hissein Brahim Taha as the representative of the Secretary-general of the OIC warns that Qur'an burning is a provocation action as further example of the alarming level reached by Islamophobia, hate, intolerance and xenophobia. Furthermore, the OIC created the Resolution on the Repeated Crimes of Desecration and Burning of Copies of al-mus'haf ash-sharif in the Kingdom of Sweden and the Kingdom of

Denmark Approved by the 18th Extraordinary Session of the Council of Foreign Ministers of the Organization of Islamic Cooperation on July 31, 2023.(The OIC, 2023)

The Arab Observatory for Human Rights (AOHR) stressed in a statement that the recurrence of Qur'an burning aim to disrupt worldwide efforts to combat hatred and violence, which endanger security and peaceful coexistence. The AOHR is also urging the international community to adopt a robust and stringent stance against such actions, which are indirect violation of all international humanitarian agreements and laws.(The Federation of Arab News Agency, 2023)

In Indonesia, the Islamic Organization Nahdatul Ulama (NU) calls fellow muslims to not be provoked by the burning Qur'an and remind that everything must be dealt with accordingly and adhering to Islamic teachings.(Ricky, 2023) Hizbut Tahrir Malaysia hold a peaceful demonstration in front of Swedish Embassy to issue an apology to Muslim for the cruel insult to Islam.(Aziat Noorshahrizan, 2023)

The Implication of Condemnation of recurrence of Qur'an burning in European Union Legal system

After the condemnation from the first and recurrence of Qur'an burning in Sweden, The Human Rights Council adopted a resolution entitled" Countering religious hatred constituting incitement to discrimination, hostility or violence". It also claim to calls upon states to adopt national laws, policies and law enforcement frameworks that address, prevent, and prosecute acts and advocacy of religious hatred that constitute incitement to discrimination. In contrast, there are 12 members against the resolution from 28 in favor and 7 absent.

Unfortunately, Sweden still not take a next step to ban Qur'an burning or prohibiting religious hatred. Meanwhile Denmark which is still a member of the European Union, is likewise well-known for the escalation of al-Quran burnings, in late 2023, the 179-member Danish parliament enacted a measure prohibiting Islamophobia with 94 votes in favor and 77 votes against. This happened after a string of Koranic desecration provoked fury in Muslim countries over the summer.(Le Mone, 2023) From the Danish minister statement the law is aimed to combat systemic mockery which raises terror threat levels in Denmark.(Midle East Monitor, 2023)

Especially the bill prohibits inappropriate treatment of writing with significant religious importance for a recognised religious community. In practical terms, it will be forbidden to burn, tear or otherwise defile holy text publicly or in videos instead to be disseminated widely. On the other hand this bill rises some domestic critics that argued any limitations on critising religion including by burning Quran, undermine hard-fought liberal freedoms in the region.(Aljazeera, 2023) For instance, the Leader of Denmark Democrats claimed that history will judge them harshly for the law. Sweden also reacted and criticizing the Danish Government and they loudly say do not want to go the same way as Denmark and outright ban Qur'an-burning.(Semonsen, 2023)

Furthermore, the human rights organization known as Article 19 disagrees with Denmark's decision to enact anti-Islamophobic legislation because restrictions on freedom of expression do not allow for the exercise of the right to freedom of expression for the purposes

of ensuring respect for religions, religious values, or the sanctity of religious objects. Only humans have rights and reputations that merit protecting. Then they remind themselves that abstract concepts like faiths or religious feelings are not protected by international human rights norms.(Article 19, 2023)

In contrast, civil society in Denmark, half of them support the law on banning Qur'an burning. Cited from Anadolu Ajansi, based on survey from Voxmeter on behalf of Ritzau, some 50.2 % of 1000 people asked whether they wanted the proposed law change to be adopted answered "yes", 35% of them said "no" and 14.8% did not know. (Ahmed, Ebad & Andolu Ajansi, 2023) Furthermore, this steps very welcomed by Islam community like The Islamic World Educational, Scientific and Cultural Organization (ICESCO). In ICESCO perspective, the law is token of responsibility towards the disdain of holy texts and a sign of the seriousness of the Danish authorities in containing extremist and racist speech that incites hatred. ICESCO reponses that this path is optimal way for societies to restore peace and security and hope the other countries where holy place and texts are being desecrated to follow Denmark.(ICESCO, 2023)

Some Muslim majorities country like Qatar showed their appreciation to the step taken by Denmark government. The Qatari Ministry of Foreign Affairs said as well as its desire for similar steps from governments in countries where copies of the Qur'an have been burned, in order to help stop crimes that fuel hatred and incite violence. It endangers the harmonious coexistence of peoples.(UNA, 2023)

The OIC Instruments on Human Rights

Such as mentioned above, The Organization of Islamic Cooperation (OIC) has declared a Declaration on Human Rights named Cairo Declaration on Human Rights in Islam (CDHRI) 1990 as revised in line with the universal human rights standards.(OIC, 2020) In the legal instrument from OIC, freedom of expression is also regulated as stated in Article 21 that the right for freedom of expression is for everyone and carries with special duties and responsibilities. In addition, for protecting and facilitate the exercise of the right is the state obligation's. This article also mentioned harmony, welfare, justice and equity within society as the goals to achieve especially for the state in protecting freedom of expression.(Article 21 of OIC Declaration on Human Rights)

Furthermore, there are also any restrictions on the exercise of freedom of expression. In point number ii stated the Advocacy of hatred, discrimination or violence on ground of religions, belief, national origin, race, ethnicity, color, language, sex or socio-economic status are the following categories shall be limited from critics as freedom of expression. In addition Article 21 (c) emphasize the position of religion as crucial value and should not be used for denigration of religions and prophets or to violet the sanctities of religious symbols or to undermine the moral and ethical values of society.

The reason why OIC directly mentioned religions shall not be violated by the freedom of expression are because the OIC do the effort in the face of racism and xenophobia, including Islamophobia, which was the result of intellectual and political resistance to multiculturalism. The Secretary of the OIC said the OIC has developed a comprehensive and consensual approach to counter incitement to hate, discrimination and violence based on one's

religions.(OIC, 2020) In addition, Muslims believe that fundamental rights and universal freedoms in Islam are an integral part of the Islamic religion and that no one as matter of principle has the right to suspend them in whole or in part or violate or ignore them. This perspective not adopted in the Universal declaration of Human Rights.

Turning back to the time of drafting process of the UDHR, Muslim states actually voted in favor of the UDHR in minimum participation. I mean, Muslim states were not in a position to form a political camp in the UN and religious affiliation could hardly have an impact on political positions of Muslim states. There was only 10 Muslim states among 58 members of the UN at the time of adoption of UDHR.(Hosseini Mozaffari, 2021) In fact there is the lack of sound argument from Muslim world to contribute to fundamental crisis of western based of human rights . it also concerned as the reason why CDHR emerged.

The existence of the CDHRI serves as a general guidance for Member states of OIC in the field of human rights. The CDHRI also has been implemented for the settlement of various disputes by UN, one of them in Blasphemy case of Sudan. The Commission adopted resolution 1994/79 calling on the government of Sudan to comply with applicable international human rights instrument and to bring its national legislation into accordance with the instruments to which Sudan was a party that is the CHDHRI, 1990.(Azeez Abdul, et. al., 2015)

On the other hand, relating to the Article 21 of the CDHRI, The Special Rapporteur on freedom of religion or belief emphasized in his most recent report to the Human Rights Council that criticism of ideas, religious leaders, symbols, or activities should not be forbidden or criminalized. In another report to the General Assembly, the Special Rapporteur on freedom of opinion and expression reaffirmed the Human Rights Committee's ruling that this right includes expressions that may be considered extremely offensive, such as blasphemy.(UN Human Rights Press Release, 2021)

Thus, even if the CDHRI is acknowledged as an international human rights instrument at the UN, the debate over religion's protection and prosecution for offenses that make religion the target of persecution is still not fully recognized in international consensus. As a result, countries continue to pursue policies that are consistent with their decisions and membership in both the OIC and the UN.

The implication of using dominant paradigm of western approach to Indonesian human rights law

According to Zainal Abidin Bagir et al, they seek the lack of clarity and even inconsistencies related to limitation of freedom of expression and belief of Indonesia government to the limitations in global discourse of UDHR. On the other hand, Indonesia has ratified various international agreements related to human rights and seen from the impact of their implementation in national law, especially regarding freedom in religion and belief.

In Indonesia, the religion adhered to will determine whether a particular religious group is entitled to recognition, protection or funding from the state. This recognition from the state will greatly influence other rights for citizens. From the principles of Pancasila "belief in one and only God", which means that all citizens have the right and must have a God. So there is no recognition of groups that do not have a God (religion).

Furthermore, in Law No. 1 concerning PNPS 1965 it is directly stated that religions are

recognized by Indonesia. As a result of the influence of the ICCPR, the Constitutional Court finally stated its position that the religion column on ID cards could be left blank for groups who do not have a religion or belief inherited in the law. However, several human rights activists still expressed motions of disapproval and made petitions and finally in 2017 the MK issued a decision to grant rights to those whose beliefs could not previously be stated as part of their rights as individuals so that they were allowed to be mentioned on their KTP. However, the Constitutional Court's decision was opposed by Nahdatul Ulama.(Bagir Z.. A., et. al., 2020)

Begin to consider how Indonesia may more seriously regulate the protection of religion from blasphemy. Religious blasphemy is regulated through article 1 of Law 1/PNPS/1995, Article 156a of the Criminal Code, and Article 28 paragraph (2) of the ITE Law, and each of these articles contains orders for law enforcers to prove that the action is in the form of expressing an opinion or statement of disagreement or disagreement. Like a religion or group of religious adherents is an attempt. As a result, the right to express opinions and freedom of expression is unaffected. However, each provision of the article must take into account the ramifications for society's prosperity and peace. Whether or not freedom of expression will reduce other people's religious rights and freedoms. And whether an expression will elicit a large negative response.

In recent years, Indonesia has faced several cases of blasphemy against religion and the most well-known and receiving massive attention is Basuki Tjahaja Purnama or known as Ahok cases. At the time, Ahok in a regional election speech and speak aloud on one of the Surah in the Al-Quran, namely Al Maidah verse 51 concerning the prohibition of choosing leaders from non-Muslim circles for Muslims. This speech made the Muslim community angry and felt that the value of the Qur'an had been diminished. Finally, Ahok was reported to the police.

The court interpreted the judge's interpretation of Ahok's statement "use surah al maidah" to mean that using it clarifies the meaning of blasphemy. If surah al maidah is simply a verse, it is passive, but with the word "use," the meaning of blasphemy becomes clear. Apart from that, Ahok confessed that the comment about Surah Al Maidah in his speech was made knowingly and without any pressure from external parties, demonstrating that his actions were both intentional and planned.(Direktori Putusan MA No 11 PK/PID/2018)

In this situation, while religion is an idea and the Quran is a symbol, their existence is not viewed solely as ideas and symbols. There are specific circumstances, such as when the Koran is used as a symbol for criticism, it must be understood further under the conditions, as well as how the critique of the symbol is carried out. What is more relevant is if it contains features such as "advocacy of national, racial, or religious hatred that constitutes an invitation to discrimination, hostility, or violence." Despite the fact that the UDHR and ICCPR identify these components, the states can interpret them differently due to their broad scope.

This is what we are seeing these days, where, as in the instance of burning Al-Quran in Sweden and other European countries, agreements at the regional and national levels in some countries, such as the ICCPR, also define them broadly. In contrast to Indonesia, which is culturally with most population are Muslim, approved international instruments are

examined from multiple aspects, including religious interests, and then regulate the circumstances under which religious criticism is classified as blasphemy. This is primarily intended to maintain peace and security in state affairs.

In the context of religious thoughts and beliefs, every citizen is responsible for avoiding expressions that may insult other people or groups. Everyone is also responsible for ensuring that varied points of view, ideas, and practices are expressed, practiced, and promoted in ways that adhere to human rights norms. (Komnas HAM, 2022) From the instance above, Indonesia demonstrates the importance of striking a balance between free expression and protecting religious rights from objectionable conduct. Even though its implementation has been heavily criticized both locally and internationally.

According to the recurrence of burning Qur'an in European union, Indonesia government believed that burning incident hatred and was part of smear campaign against Islam and the Muslim community. The actions reflect Islamophobia and potentially destroy good relations between countries. (B.K.S.A.P., 2023) This is consistent with past explanations, namely that, despite its status as a country with a predominantly Muslim population and a diverse society with numerous religions and cultures, Indonesia continues to regard the blasphemy provision as severe. Despite repeated criticism from the West, Indonesia maintains its stance.

For instance, in 2010, the constitutional court received a visit from the United States Commission on International Religious Freedom (USCIRF), which questioned why Indonesia maintained its blasphemy law when other countries had repealed it because it was thought to create social inequality and was frequently used for personal gain. The Constitutional Court explained that the blasphemy law is consistent with the provisions of the 1945 Constitution, which ensure full freedom of religion and worship according to one's faith. (MK, 010)

In addition, Indonesia and others countries in asian does not have a regional mechanism and regional charter on human rights like the Council of Europe. Therefore if there any challenges or discretion to universal human rights provision in any respected Asian countries, there will be no further clarification and justification. Furthermore, since mostly national laws are always more powerful than the international law regime, the correction and clarification are mostly cannot be made by international regime. (Susetyo, 2019)

4. Conclusion

The recurrence of Quran burning incidents in Sweden highlights a significant failure of the Universal Declaration of Human Rights (UDHR) to establish a comprehensive framework for a global society founded on mutual respect and consent. While the UDHR aims to serve as a cornerstone of the international human rights legal system, it struggles to fulfill its primary objective: to create a unified set of universal standards that prioritize the well-being of all individuals, irrespective of their cultural or religious backgrounds. The right to freedom of expression, often heralded as a fundamental human right, warrants careful reconsideration. It is essential to establish limitations on this right that align with the obligations of states to prohibit certain forms of expression, particularly those that advocate "national, racial, or religious hatred that constitutes incitement to discrimination, hostility, or violence." This

necessity is underscored by the recognition that while the United Nations acknowledges advocacy of racial or religious hatred in its international instruments, the phrase remains open to interpretation by member states. Consequently, this interpretative flexibility fails to provide unequivocal protection against acts of religious persecution. In practice, harsh criticisms of various religions, especially Islam, proliferate within Western and European nations that adopt a secularist stance towards faith. The prevailing notion in these countries is that religion should remain separate from the legislative and legal frameworks governing society. This separation, however, overlooks the reality that cultures and nations are increasingly interconnected, influencing one another in their quest for international relations and global peace.

Therefore, regulations governing freedom of expression must account for cultural contexts and the influence of religious values. A more nuanced understanding of freedom of expression would recognize the necessity of respecting religious beliefs while also providing a platform for constructive dialogue. In this respect, finding a balance is not just a matter of legal interpretation; it is also about fostering an environment where diverse perspectives can coexist harmoniously without inciting hatred or violence. To promote true mutual respect and understanding among cultures and religions, it is imperative to re-evaluate the application of human rights standards. This entails acknowledging that a one-size-fits-all approach is insufficient and that a more culturally sensitive framework is essential for mitigating tensions and fostering a stable and peaceful world. Only by integrating respect for religious values into the discourse on human rights can we hope to create a shared global society characterized by empathy and understanding.

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