



Freedom of Expression: A Comparative Study of Ideological Conflict between Islam And the West

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Abstract

Freedom of expression (FOE) is a basic human right, unanimously accepted all over the world; however it has no universal definition. The Islam condemns the Blasphemy strongly, whereas the West takes it as an offshoot of FOE and a symbol of democracy. This paper is an attempt to investigate, to what extent the Islamic concept of FOE is consistent with the Western concept? Its main objective is to point out the real cause of the rift and to discover recipe which could be used in curing the bleeding sore of humanity. Methodologically, qualitative research technique is used; analytical approach is adopted. Principal books, Scholarly articles, and academic writings are especially consulted. It is concluded that all the basic human rights have limits; therefore FOE must also be aligned. In this way, a common socio-religious definition of FOE is suggested for a peaceful and tolerant democratic global society.

Key Words: Freedom of Expression, Ideological Conflict, Islam and West.

Introduction

A human being is the best of creations; all the people have different human rights, specially designed for their protection from unnecessary interfering. It is the main feature of private life and daily activities of the people. When there is a harsh pitch, human rights can only be limited. In case there is a conflict in different rights, the “indivisibility rule of the rights” is applied. This rule declares that there is an equal weight of each human right - one right can never trump the other, so alternate techniques can be utilized for the resolution of the inconsistency through a suitable approach (Smet, 2011).

Whereas conflict is defined as a tough disparity and clash of needs, values, interests, or objectives of different nations, communities, groups or persons or social organizations (Hovatter, 2011). According to Zucca (2007) when there is such a situation in which one norm allows to do an action X while the other refutes; it refers that measures taken to resolve the dispute of rival rights are unachievable at the same time, and this position is known as a conflict.

When the World War Second (WW2) ended, different declaration, resolutions, and accords were created to protect all basic human rights, on an international level, for the betterment of the global population.

It is believed that the intention of developing international human rights was to constitute a code to defend self-respect and human dignity from unlawful oppressions carried out by different forces, after the WW2 (Merry, 2011).

States are bound to respect the obligations set out in the International human rights laws when they properly join an International accord. When a state becomes a party to the treaty the respect, protection and fulfillment of human rights become its duty (UNHRO, 2011).

When a state endorses a codifying treaty, a regular statute takes form. It is believed that liberty to adopt a religion and right to express freely is a general tradition and under various covenants it is protected. This legal protection is also incorporated by the constitution adopted by different countries.

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Today we are living in modern heterogeneous society. Internet has squeezed the world, and globe has been changed into a small village. Different religions, cultures and socio-political ideologies are in conflict, but it is natural. This change needs to develop new socio-political contracts. The ideological conflict between West and Islam, on the issue of freedom of expression (FOE), has created a lot of questions in every mind. In this study we have tried to address three most commonly raised questions:

RQ1: What is the concept of Freedom of Expression in Islam and the West?

RQ2: To what extent these concepts are consistent and where have a discord?

RQ3: How it is possible to have a common definition of Freedom of Expression?

What is Freedom of Expression?

Freedom of expression has a variety of definitions in different ideological and geographical reigns, and we have no unanimous definition on the global level. Scholars, institutions and different organizations have defined it in their own way. Legally, it is liberty in exchange of thoughts without any restriction, whether it is communicated by means of written, verbal or printed form the message (Legal Dictionary).

The Encyclopedia has its own definition; it writes that freedom of expression is an ability to talk without any restriction or external control. It includes the spoken and written words and depicted art disseminated through the print, broadcast, telecast or Internet media (Newworld Encyclopedia). FOE is the basic human right that consents a person to articulate any point of view about any person, place, thing or event in the absence of all interferences in a freestyle (The Catholics Encyclopedia, 1966).

According to the UNDRH (1948), every person has liberty in holding opinions, seeking, receiving and imparting ideas or information by means of any media, without considering any border. A prominent western Scholar (Baily, 1964) defines that, nonexistence of the restrictions upon the capabilities of the people in sharing the point of view and opinion with each other, depending on the perceptive that does not force anybody to take interest successively and never attack other people's self-respect.

According to the Cairo Declaration of Human Rights (CDHR, 1990), everyone is free to express his viewpoint but it must not be in denial of "Shariah", the Islamic law base upon the principles of the Quran and the Sunnah. Freedom of expression is the basic right which has been granted to human beings by God and due to this freedom everybody is accountable. Quran declares that Allah has created life and death to test your deeds, And He has directed to follow the right path. Those who will obey God and his messenger will succeed. This notion categorically announces that everyone is fully free in his all acts of life, and this freedom is a test, and those who will succeed will be awarded in both lives. However those who will fail will be punished in both lives (Quran, 2:286; Quran, 110:1-4).

Freedom of Expression in Islam and the West

Freedom of expression has been defined differently by the philosophy of Islam and the West. Islam has defined it according to the divine law-based principles whereas the West defines it on human law based philosophy. Detailed discussion is here in the following paragraphs.

Western Concept of Freedom of Expression

The term 'west' refers to Europe and the domain of major European settlement like North America which is viewed on the world level as the post-colonial and colonial American and European supremacy (Patel II, 2018; World Economic Forum, 2018). Freedom of expression (FOE) as a concept of an Individual's rights can be seen in Plato and Euripides' writings (Magnuson, 2010). In Europe this right emerged as an outcome of the 16th century's reformations where the right to dissidence was reclaimed by the Protestants (Zoller, 2009). In the west, the French Declaration of the Rights is an initial document which affirms that FOE as a collective right of a society and an individual right of a person. After the first amendment of US Constitution in 1791, FOE was acknowledged as an individual's right in a large number of states around the globe (Magnuson, 2010).

In 1945, by the end of WW2, the UNO was established. According to the UN charter, its plan was to 'encourage, respect and promote the human rights and liberty without any discrimination of religion, language, sex, and race.

Universal Declaration of Human Rights (UDHR, 1948) has recognized a set of laws to identify the right of freedom to adopt, stay or leave religion and their regional and international acknowledgments (Vanderschiff, 2004). With special reference to their teachings, religions have helped in the progress of international law, for example, all religions believe that you must treat others as you would like to be treated, and it is the philosophy that created a polite and legalized policy (Bahiyih, 1996). To enforce and protect human rights, three regions of Europe, Americas and Africa have constituted their own conventions and declarations. FOE is viewed differently in different states; diversity is found in documents on regional and global levels. This diversity can be observed in the European Convention of Human Rights (ECHR), the International Covenant on Civil and Political Rights (ICCPR), African Convention on Human Rights (ACHR) and the American Convention on Human Rights (ACHR) (Wimmer, 2006). FOE is a complicated human right that is tempered through acceptable limitations to protect an individual's privacy, national security and the neutrality of the courts (Licuta, 2009).

Today in our social order the right to express freely is considered as a significant right; and if it is not available one cannot achieve firstly democracy; and secondly personal autonomy (Jorgensen, 2006). The ICCPR is a mandatory agreement; mainstream states of UNO follow this Covenant in different spheres (Magnuson, 2010; Clarke, 2007).

Furthermore, the UDHR has taken shape of common law on the world level and it is taken as a leading principle of international and domestic laws that are activated in their domains (Magnuson, 2010). The article 18 and 19 of UDHR and ICCPR protects fundamental human rights, like the right to accept and embrace any religious beliefs and to express freely the personal opinion about any person or ideology (UDHR, 1948).

To assist state parties on different articles, of the ICCPR, the UN Human Rights Committee has developed various universal commentaries. Comment number 22 treats the right to embrace or leave a religious belief or ideology without restraint and have a sense of right and wrong without any outsider's pressure (Clarke, 2007). Its paragraph (1) exclusively elaborates that Article 18 is substantial and extensive, it includes self-determination of thinking, the obligation to belief or religion and individual conviction, is conspicuous on individual level or the community level. In its Paragraph (2a) it is described that all beliefs are protected evenly, it comprises atheists and non-religious viewpoints and it clarifies that article 18 protects atheistic, nontheistic, and theistic ideologies, and the right not to admit a belief, faith or religion (UNHRC, 1993). According to article 18, choice is very significant and the right to select replace or prefer any belief is protected and assured (Cherry, 2011). Paragraph (3) makes it lawful that article 18 does not impose restrictions on the liberty to have any thinking or belief and adopt any religious philosophy, these freedoms are entirely guaranteed in article 19.1 (UNHRC, 1993).

Finally, this liberty to believe or not believe in any faith protects a person not the religion of the person (Cherry, 2011). The UNHRC's general comment 10 and Article 19 of ICCPR protect the right to express the opinion freely (ICCPR, 1976). The UNHRC believes that there are no limitations, restrictions, and exceptions on the right to embrace a belief because nobody has ability to control the thoughts dwelling in the mind of an individual. The second paragraph of the General Comment 10 needs the safety of FOE, which encompasses the liberty to communicate any idea or information without any discrimination of the state and nation. It may be through any media of his choice, either orally, in the form of art, in writing or in print (UNHRC, 1983). In democracy and liberalism the freedom of expression is a cornerstone however it is not absolute, it can be limited in terms of Article 19(3) which explains that a State can control the freedom when and where it is necessary.

A democratic society shows that freedom of expression is an overriding right however, any restriction must meet a firm requirement with the principle of legality and be imposed for legal reasons illustrated according to article 19(3). General Comment (10) paragraphs 3 point out the conditions and whenever these conditions are met, the limitations are considered acceptable. These limitations should necessarily have legal justification and these should be applied only to achieve the target set in subparagraphs (a) and (b) (UNHRC, 1983).

In Article 20, FOE is also limited when it is considered as propagating for the confrontation or religious hatred and national or racial advocacy, which can be resulted in stimulation to hostility, prejudice, hate, and aggression (ICCPR, 1976). Any person, group, institute or society that claims that according to the European Charter of Human Rights, his (any) right has been violated, can request straightforwardly to the European Court for Justice. But it is allowed only after the completion of each and every one appropriate domestic remedy in the concerned member state (Voorhoof & Cannie, 2010). However, after the "fatwa of Khomeini", issued against

Rushdie, the nine-eleven attack, the Danish Cartoon controversy, war on terror, Innocence of Muslims issue, the movement of freedom of expression has lost its worth and has become suspicious (Kierulf & Roning, 2009).

Islamic Concept of Freedom of Expression

The Holy Book of Islam (the Quran) and practical life of the prophet Muhammad (the Sunnat-Rasool) are two foundation stones of Islamic code of life. The Holy Quran is the last book of God, revealed to his last Prophet. The Sunnah is the way in which the Holy Prophet acted upon the revealed code of life. Muslim societies obey the Quranic obligations and believe that following the divine teachings will produce a humble, progressing, tolerant and peaceful human being (Noori, 1986). All the people are free by birth; they are naturally capable of making their choices in every field of life. God never puts the burden upon a person which is beyond his capability to lift that (Quran, 2:286). Every person is accountable to the extent that he is free; and the progress is only possible when a person is fully free and autonomous in his practical life (Bhat, 2014).

Islam is a complete code of life. In the last revelation, it is clearly announced while addressing the prophet that today I have completed “your Deen” for you, all blessings are granted and Islam is approved as “cod of life” for you (Quran, 5:3). In Islam FOE is declared as the basic human right, as it is clearly announced that life and death are created to judge that who performs the best deed (Quran, 67:2). Islam has clearly explained all the bright and dark aspects of human behaviors, thoughts, and actions; and has demanded not to create disturbance on the earth (Quran, 2:11; Quran, 7:56).

Humanity is advised only to follow the guidelines given by the creator of the Universe for eternal success in both lives. To know, how does the Islam deal with the term “freedom of expression”, it is necessary to understand three different forms of opinion, the doubtful, the blameworthy and the praiseworthy (Kamali, 1994).

Doubtful

It is the opinion that generates distrust in Law and disturbs the collective life of society. Nobody has right to harm any other person without a solid justification; FOE should not be used to create misconception. Doubtful opinion creates disturbance in the society and harms to others; so it is not declared as good practice in Islam. Islamic philosophy clearly pronounces that human beings are all in a clear loss except those who believe (in Islam), do good deeds, and advise others to follow the right manners and advise to show the patience (Quran, 110:1-4). The Holy Quran has exclusively stated the importance of the FOE is due to some vital reasons which can be enumerated as “Discovery of truth, Honor of Human Being and Fundamental Human Right” (Saeed, 2013).

Blameworthy

It is the opinion that is not according to the traditions of Islam. Besides this, an opinion which is not according to the verdict of authentic scholars/rulers of Islam is blameworthy in Islam (Quran, 3:159).

Praiseworthy

The opinion which has a clear reflection of Islam is praiseworthy. God declares a notion Praiseworthy in which a person invites the people towards “Allah”, performs good deeds and proclaims that I am a from the Muslims (Quran, 36:58).

In Islam, freedom of criticism is an essential duty of everyone. But this duty has completed an outline to follow. Nobody is allowed to violate it. It is an exclusively positive and goal-oriented activity, insult or mockery is strongly condemned and strictly forbidden.

Islam orders to stop the social evils, it is an order, not a suggestion (Quran, 31:7; Quran, 3:110). Freedom to criticize is a significant form of FOE and it is declared as the best struggle (Afzal-ul-Jihad). The Holy Quran orders the followers to lend a hand to boost good values and faithfulness and never assist in hostility and wrongdoing; and fear from God, in fact, God is harsh in punishment to those who are disobedient (Quran, 5:2).

Discussion and Conclusion

The freedom of expression does not mean to abuse wrongdoers, Islam guides to its followers to carry the dialogue

with opponents in a polite, argumentative and soft language (Quran, 16:94). Islam strongly condemns the insult and abasement of anybody especially rivals (Quran, 6:108).

According to the “religious norms” insult of the God, Prophet, Holy Book and sacred personalities is blasphemy. It is not only the stance of the Muslim but is also the verdict of other Semitic religions (Adil & Dad, 2015). When Salman Rushdie’s case of blasphemy (2005) was accused was not found accountable for blasphemous libel and seditious libel because that rule was applicable only in case of aggression against Christianity (WLR, 1990). It proves that for a global society the rules must be universal. Regional and national rules create problems in a modern global society.

It is a fact that Islamic laws are “Divine Laws” whereas Western rules are manmade, and this difference is main reason for ideological conflict between the Muslims and the “Modern West”. Through this study we can conclude that:

- Islam does not compel the people to adopt it, obliges them to do so. Everyone is free whether he believes in Islam or not. To embrace faith is one’s personal choice.
- According to the Islamic law insulting the God or His messengers and making a disapproving speech that offends the religious sensitivities of the believers is declared as profanity and blasphemy. In all divine religious teachings blasphemy is forbidden (Goolam, 2006).
- Islam prefers right of an individual upon his duties whereas the western law stresses the right of an individual on his duties. It is the main reason for conflict and it demands its reasonable solution in the global society (Khan, 2017).
- For the first time in 1999, the UN passed a resolution on “Defamation” to stop the insult of religions and in the following years some other related resolutions were also assumed (Combating Defamation of Religions, 2017)
- After the Jayllands Posten’s derogatory campaign of Cartoons in 2006, the insult of religions took the shape of a hot topic of debates on the global level.
- In the General Assembly of UNO, the proponent states of the resolution were generally Muslim. The resolution provided podium for the respect of religion and tolerance without any discrimination, whether it is Islam, Christianity or Hinduism (Combating Defamation of Religions, 2017).
- Now it is a clear fact that the conflicting traditions of Islam as compared to the West are the main root of the problem.
- Islam strongly recommends the following of the legal and moral restrictions imposed on FOE. In the light of Islamic theology, nobility and self-respect of an individual are indispensable. Ridiculing, back-biting, exposing the weak points of others and telling lie is against the bright teachings of Islam and its freedom of expression (Goolam, 2006).
- A peaceful society is an agreed-upon objective of all the civilizations and nations, the Islam grants right to utter freely any opinion to project the goodness and not for immorality, and it is better and more comprehensive than the concept of FOE introduced by the West (Nazir, 2012).

It is clear now that the Islamic and the western concept of the freedom of expression have several radical differences. In short, these differences are as following:

1. Islam declares FOE as a basic human right that has its specific line of demarcation.
2. The right of FOE does not allow a person to cross the borders especially defined by the law of shariah.
3. Islamic concept of FOE is a Divine rule which does not contradict other divine religions. Islam claims that it is the final Divine religion. It started from the Holy Prophet Adam (AS) and completed at the final Prophet of God the Muhammad (PBUH).
4. It is now complete and final; it can neither be amended nor disobeyed. Its explanation is allowed only in the light of the principles outlined by the law of the Shariah.
5. Democracy respects the opinion and notion of the majority. Today, the majority of the world population (more than 77%) belongs to different religions and it is a fact that everyone likes that his religious beliefs must be respected or at least not be insulted (Pew Research Center 2016). The facts prove that it is

unjustified to believe that blasphemy, defamation or hate speech is a commonly known expression which can be delivered freely. In fact these are symbolic faces of the extremism of expression.

6. The democratic values demand to respect the majority. It is a proper way to resolve the problem through democratic principles of respect for the majority. It is also evident that the driving force behind the concept of the FOE is the betterment of the society in both philosophies. With some exceptions, both belief in democracy and a Peaceful social system. A “uniform rule of law” is their final agreed-upon objective. So, it is not a difficult task to outline a single definition of FOE; like:

“Freedom of Expression” is a unique and prominent human right. It is absolutely God gifted and no one is allowed to abridge or amend it (Quran, 67:2). All the ‘Globeans’ deserve equally to articulate their point of view freely. However, it should be the truth, change, tolerance, and peace-oriented activity and must be categorically avoiding the insult and ridicule. A sober, philosophical and positive goal-oriented dialogue and discussion is a laudable symbolic freedom of expression and its negation is “Treason of Expression”.

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