

9-1-2017

Can the Burning of Holy Books Ever Be Justified?

Waseem Ahmad Qureshi
Advocate Supreme Court of Pakistan

Follow this and additional works at: <https://scholarlycommons.law.wlu.edu/crsj>



Part of the [Civil Rights and Discrimination Commons](#), and the [Human Rights Law Commons](#)

Recommended Citation

Waseem Ahmad Qureshi, *Can the Burning of Holy Books Ever Be Justified?*, 24 Wash. & Lee J. Civ. Rts. & Soc. Just. 63 (2017).
Available at: <https://scholarlycommons.law.wlu.edu/crsj/vol24/iss1/5>

This Article is brought to you for free and open access by the Washington and Lee Journal of Civil Rights and Social Justice at Washington & Lee University School of Law Scholarly Commons. It has been accepted for inclusion in Washington and Lee Journal of Civil Rights and Social Justice by an authorized editor of Washington & Lee University School of Law Scholarly Commons. For more information, please contact lawref@wlu.edu.

Can the Burning of Holy Books Ever Be Justified?

*Dr. Waseem Ahmad Qureshi**

Abstract

While exploring the historical context of the burning of books during the times of Qin Shi Huang, the first emperor of unified China, the European Dark Ages, the colonial era, the Nazi Germany era, Iranian triumphs, and contemporary instances of the burning of literature, comics, and history, philosophy, and religious books, this paper identifies “freedom of expression” as the underlying principle for the burning of holy books, an action that eventually fuels religious hatred, public disorder, and violence in society. Notwithstanding such consequences, Pastor Terry Jones announced an event calling for the burning of the Holy Qur’an on the ninth anniversary of the 9/11 attacks. Simultaneously, European right-wing political and religious leaders also have pronounced hate speech against Islam, which has resulted in enraged mass protests in Muslim countries. Ironically, the United States (“U.S.”) and European (“EU”) media have provided full coverage on hate speech, which has resulted in the intensification of Islamophobia in the EU and the U.S. Articles 19 and 20 of the International Covenant on Civil and Political Rights (“ICCPR”) and Article 10 of the European Convention on Human Rights (“ECHR”), to which the U.S. and the EU have agreed, cover the rights of freedom of religion; but they regard religion as a private matter and do not make state-backed interventions to prohibit any act of hate speech except insofar as it might disrupt public order and national security.

Key-terms: *Burning holy books, Hate speech, Freedom of speech, Freedom of expression, Blasphemy.*

* Advocate Supreme Court of Pakistan.

Table of Contents

Introduction	64
I. Ancient History.....	66
II. Colonization and Displacement.....	67
III. Postcolonial Era	70
IV. Youth Culture and Moral Army	72
V. Rationality of Burning of Books	74
VI. Media and Sociologists	75
VII. Public Disorder and Burning of Religious Books.....	78
VIII. Legality of Religious Hate Speech and Actions in U.S.	80
IX. Legality of Religious Hatred Actions and Speech in Europe	89
X. Banning Hate Perpetrators	95
XI. Conclusion.....	100

Introduction

“Islam is of the devil Eternal fire is the only destination the Qur’an can lead people to”¹ were the defamatory words of Pastor Terry Jones to justify his plans of arranging an “International Burn the Qur’an” event on the ninth anniversary of the 9/11 attacks.² Some fanatics have called for Europe to ban the Qur’an from Europe altogether, which have mainly been driven by the leader of the Dutch Freedom Party, Geert Wilders, who claims that the Qur’an showed some similarities with Nazism and Adolf Hitler’s notions in *Mein Kampf*.³ His ambition was to counter the

1. Lauren Russel, *Church Plans Quran-Burning Event*, CNN (July 31, 2010), <http://www.cnn.com/2010/US/07/29/florida.burn.quran.day/index.html> (on file with the Washington & Lee Journal of Civil Rights & Social Justice).

2. *See id.* (explaining Pastor Terry Jones’ thoughts on Islam and his plans to burn the Quran).

3. *See* Andrew Bostom, *The Koran and Mein Kampf: From Winston Churchill, to Geert Wilders*, ANDREW.BOSTOM.ORG (Mar. 4, 2008), <http://www.andrewbostom.org>

Islamization of Europe.⁴ Although no book was burned by Terry Jones after requests from former President Barack Obama,⁵ the international media furor surrounding him, as for Geert Wilders, put the two in the spotlight and gave them a chance to provoke religious hatred at the international level.⁶

Books can be banned or censored heavily, but the burning of religious books can incite the emotions of masses, raising the prospect of destructive acts being carried out by society.⁷ The burning of holy books symbolizes hate,⁸ intolerance, thought control, and the eradication of culture, faiths, and beliefs that underpin global and local diversity.⁹ This Article will explore the issue of burning books regarding historic instances and debates, and will analyze the evidence to conclude that there can never be any rightful justification for the burning of holy books. Also, this act impinges upon the right of freedom of expression, which itself comes with a responsibility to protect the freedom of expression for others. This Article will also evaluate prominent legislation and

andrewbostom.org/blog/2008/03/04/the-koran-and-mein-kampf-from-winston-churchill-to-geert-wilders (quoting Geert Wilder's statement that "The Koran's core theme is about the duty of all Muslims to fight non-Muslims; an Islamic *Mein Kampf*") (on file with the Washington & Lee Journal of Civil Rights & Social Justice).

4. See *id.* (reciting Geert Wilder's statement that "the Islamic incursion must be stopped If we do not stop Islamification now, Eurabia and Netherabia will just be a matter of time").

5. See Ewen MacAskill & Aunohita Mojumdar, *Barack Obama Appeal Halts Pastor's Plan to Burn Qur'ans—For Now*, GUARDIAN (Sept. 11, 2010), <https://www.theguardian.com/world/2010/sep/10/barack-obama-pastor-quran-burning> (clarifying that Barack Obama requested that Terry Jones refrain from burning books) (on file with the Washington & Lee Journal of Civil Rights & Social Justice).

6. See generally *id.*

7. See generally Jon Henley, *Book-burning: fanning the flames of hatred*, GUARDIAN (Sept. 10, 2010), <https://www.theguardian.com/books/2010/sep/10/book-burning-quran-history-nazis> (on file with the Washington & Lee Journal of Civil Rights & Social Justice).

8. See NICOLETTA KARAM, *THE 9/11 BACKLASH: A DECADE OF U.S. HATE CRIMES TARGETING THE INNOCENT 435* (2012) (claiming that burning holy books symbolizes hatred).

9. See Henley, *supra* note 7 ("So to burn one of any kind, and certainly one that is a representation of a culture and set of beliefs, is to appear to consign it to the flames of eternal damnation.").

litigation against hate speech in the United Kingdom (“UK”) and the U.S.

I. Ancient History

The burning of books is by no means a new phenomenon.¹⁰ It has had a long history and continues to this day.¹¹ The first such instance took place in the reign of the first emperor of unified China,¹² Qin Shi Huang, in 213 BC, when he ordered the burning of each and every book written prior to his rule except those books that were related to agriculture, divinity, and medicine.¹³ Since that time, a social stigma is attached to the burning of books, for whatever reason.¹⁴ Such examples have also occurred in European history. For instance, individuals like Colmcille, who was popularly known as the “Warrior Monk” and had translated and written the Bible for propagating Christianity in the pagan Irish land, were threatened by religious bigots who arranged book burning rituals during the Dark Ages.¹⁵

Incidents of book burning took place in ancient history whenever an establishment or ruler felt antagonistic and fearful toward ideas scripted in a particular book.¹⁶ Allegations were made

10. See *id.* (explaining the long and dark history of book-burning around the World).

11. See *id.* (describing major book-burning events since ancient times).

12. See MATT FISHBURN, BURNING BOOKS 2 (2008) [hereinafter FISHBURN] (“The first recorded state-sponsored book burning is the destruction ordered by Grand Councillor Li Ssu in Ch’in China in 213 BC.”).

13. See DOROTHY PERKINS, ENCYCLOPEDIA OF CHINA: HISTORY AND CULTURE 408 (Alexis Wilson et al. eds., 2013) (“Scholars who disobeyed this order were to be executed, and not long after the book burning, 460 scholars supposedly were buried alive.”).

14. See FISHBURN, *supra* note 12, at 153 (highlighting the stigma that has developed around book burning); see also YOULAN FENG, A HISTORY OF CHINESE PHILOSOPHY: THE PERIOD OF THE PHILOSOPHERS 15 (Derk Bodde trans., Princeton Univ. Press 1983) (explaining the burning of books in China after the 221 BC War).

15. See RAY CORRIGAN, DIGITAL DECISION MAKING: BACK TO THE FUTURE 1–6 (2007) (narrating the account of “Colmcille and the battle of the book”).

16. See FRANCES F. BERDAN, AZTEC ARCHAEOLOGY AND ETHNOHISTORY 154 (2014) (describing how rulers would recast history by burning books to solidify their power); see also REBECCA KNUTH, BURNING BOOKS AND LEVELLING LIBRARIES: EXTREMIST VIOLENCE AND CULTURAL DESTRUCTION 3 (2006) (noting that libraries

against their authors, including bigotry, infidelity, violation of Church or imperial authority, treason, etc.¹⁷ Often, when the writer of the alleged book had no adequate power or time to vindicate his stance regarding his book, he was inflicted with severe punishment after his books were publicly burned,¹⁸ in many incidents including the death penalty or banishment.¹⁹ Such incidents can be seen in ancient and medieval history, and most prominently in the Middle Ages or Dark Ages and in the colonial era.²⁰ Similar actions are pursued by contemporary hatemongers who attempt to burn holy books or symbols or any other artistic work.²¹

II. Colonization and Displacement

The colonial era caused deepening effects on the socioethnic landscapes of the colonized nations.²² The progression of colonization throughout the Enlightenment period—which markedly altered religious and traditional values among European

were routinely destroyed in ancient times as a symbol of conquest).

17. See GUNNAR THOMPSON, *COMMANDER FRANCIS DRAKE & THE WEST COAST MYSTERIES* 25 (2010) (discussing how Emperor Charles V burned “works of the devil” to “cleanse the world”).

18. See WILLIAM ANDREWS, *MEDIEVAL PUNISHMENTS: AN ILLUSTRATED HISTORY OF TORTURE—PUNISHING AUTHORS AND BURNING BOOKS 159–75* (2013) (articulating punishments inflicted on authors whose books were burned during Medieval Times).

19. See GAO XINGJIAN, *THE CASE FOR LITERATURE, 1996–2000*, at 143 (Horace Engdahl ed., 2002) (noting those punishments inflicted on authors whose books were burned during revolutions); see also LAWRENCE FRIEDMAN, *CRIME AND PUNISHMENT IN AMERICAN HISTORY* xviii (2010) (highlighting the punishments to heretics in Medieval Europe).

20. See DAVID HUGHES, *THE BRITISH CHRONICLES: BOOK 1*, at 141 (2007) (exemplifying time periods with which certain punishments were inflicted on authors whose books were burned).

21. See Russel, *supra* note 1 (stating that Pastor Terry Jones wanted to arrange an event to burn several copies of the Holy Quran on the ninth anniversary of Twin Tower attacks).

22. See JAMES JUPP, *THE AUSTRALIAN PEOPLE: AN ENCYCLOPEDIA OF THE NATION, ITS PEOPLE AND THEIR ORIGINS* 159 (2001) (noting the change in socioethnic landscapes of colonized nations as a result of the colonial era); see also A.E. GILLIES, *DEEP IMPACT: KEYS TO INTEGRATING THEOLOGY AND PSYCHOLOGY IN THE TREATMENT OF COMPLEX TRAUMATIC STRESS* Ch. 3 (2016) (discussing effects of the colonial era).

colonizers—forced colonized peoples to transform their cultural values and languages.²³ Thus, colonized peoples were forced to choose between following the values of their colonizers and maintaining their own group consciousness by retaining their own language, culture, territory, and faith.²⁴ Those who redefined their identity to revert their nation to the primary fundamentals of their culture and religion were regarded as extremists by the colonizers and by those who embraced the new language, culture, and values of the colonizers.²⁵

In certain instances, the colonizers burned books and libraries of the natives in the colonized lands in order to weaken the moral and cultural support of the indigenous people.²⁶ The colonizers feared the support²⁷ that the libraries and books can provide to the locals countering the rule of the colonizers.²⁸ Knuth uses the term “ethnocide” in explaining the issue of the burning books during colonization, for it challenges the very existence of the social and cultural fabrics of the indigenous societies under colonial rules, thus causing the destruction of culture there.²⁹ Furthermore, the

23. See generally *Colonialism*, Stanford Encyclopedia of Philosophy (Aug. 29, 2017), <https://plato.stanford.edu/entries/colonialism/> (discussing the struggles during the Enlightenment period and whether “Europeans had the obligation to ‘civilize’ the rest of the world”) (on file with the Washington & Lee Journal of Civil Rights & Social Justice).

24. See A. JEYARATNAM WILSON, *SRI LANKAN TAMIL NATIONALISM: ITS ORIGINS AND DEVELOPMENT IN THE NINETEENTH AND TWENTIETH CENTURIES* 1 (2000) (explaining assimilation after European colonization).

25. For instance, see Rebecca Knuth, *Destroying a Symbol: Checkered History of Sri Lanka’s Jaffna Public Library* 2 (2006), <http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.150.5663&rep=rep1&type=pdf> [hereinafter Knuth] (describing the vitalization of religious extremists) (on file with the Washington & Lee Journal of Civil Rights & Social Justice).

26. See REBECCA KNUTH, *BURNING BOOKS AND LEVELING LIBRARIES* 175 (2006) (discussing the dynamics of library destruction and the phenomenon of ethnic biblioclasm).

27. See *id.* (explaining how support take the form of creating knowledge, consciousness, unity, etc. that the natives could use in countering the colonial rule).

28. *Id.*

29. See REBECCA KNUTH, *LIBRICIDE: THE REGIME-SPONSORED DESTRUCTION OF BOOKS AND LIBRARIES IN THE TWENTIETH CENTURY* 6 (2003). Knuth has also coined the term of “ethnic biblioclasm” to portray the phenomenon of book burning. *Id.* She considers the burning of books and libraries invoked due to ethno-religious or ethno-political hatred as the phenomenon of ethnic biblioclasm. *Id.* Using the term of “ethnic biblioclasm” in during the colonial rule

colonizers imparted their own cultural and civilizational values as superior to those of the natives in the colonized lands.³⁰ These colonial civilizational contributions demeaned the cultural values of the colonized people.³¹ The language, culture, values, etc. of the colonized people were regarded as inferior to those of the colonizers,³² which also ignited the ethnic hatred among the colonizers and colonized.

Arguably, if any colonial ruler exerted force to demoralize and punish local citizens in the colonized land on the basis of their religion or race or due to any socio-political aspect, such an action also resulted in summoning hatred in the hearts of the colonized people against their colonial rulers.³³ Such hatred is still apparent in the contemporary postcolonial era. For instance, a former Indian foreign minister, Shashi Tharoor, spoke at length against Britain in the commentary of his book, stating that British colonial rule looted a significant amount of wealth from India and caused famines, chaos, hostility, and the destruction of peace and economy in colonized India.³⁴ Further, he demanded an apology from

is also relevant, because the issues of poverty, wars, and communitarianism were also rampant in colonized societies alongside the phenomena of cultural destruction. *See id*; *see also* Knuth, *supra* note 25, at 2; *see also* REBECCA KNUTH, BURNING BOOKS AND LEVELING LIBRARIES 71 (2006).

30. *See* KOO DONG YUN, THE HOLY SPIRIT AND CH'I (QI): A CHIOLICAL APPROACH TO PNEUMATOLOGY 30 (2012) (describing the notion based on Colonial Ideology that justifies the superiority of the knowledge, culture and civilization of colonizers).

31. PATRICK COLM HOGAN, EMPIRE AND POETIC VOICE: COGNITIVE AND CULTURAL STUDIES OF LITERARY TRADITION AND COLONIALISM 158 (2012).

32. WALTER HÖBLING, THEORIES AND TEXTS: AMERICAN STUDIES IN AUSTRIA 153 (2007).

33. For instance, see how in India, under the British colonial rule, the hatred against the colonial rule caused civil disobedience against the British rulers, see JEREMY DOBSON, WHY DO THE PEOPLE HATE ME SO?: THE STRANGE INTERLUDE BETWEEN THE TWO GREAT WARS IN THE BRITAIN OF STANLEY BALDWIN 170 (2009). *See also* J. ALBERT RORABACHER, PROPERTY, LAND, REVENUE, AND POLICY: THE EAST INDIA COMPANY, C. 1757–1825, at 94 (2016) (clarifying in the end-notes that this hatred was initiated right after the First Indian War of Independence when the British suppressed with using force the efforts of independence of the Indian people).

34. *See* SHASHI THAROOR, AN ERA OF DARKNESS: THE BRITISH EMPIRE IN INDIA (2016) (writing an “analysis of the iniquities of British colonialism” India’s experience with it); *see also* Anupriya Kumar, Q&A: Shashi Tharoor on Why the British Owe India an Apology, REUTERS (Nov. 15, 2016, 4:32 AM), <http://in.reuters.com/article/shashi-tharoor-ear-of-darkness-book-inte-idINKBN13A0X9>

Britain for its hostile actions toward the Indians during its colonial rule in the Indian subcontinent.³⁵

On a similar note, the majority of Indians also consider Britain their historic foe, responsible for creating a divide between Hindus and Muslims, whose destructive religious conflict ultimately resulted in the partition of united India.³⁶ Prior to the arrival of British colonial rulers in India, no major seeds of conflict were evident in India as the equal rights of all religious and racial groups including Hindus, Muslims, and Sikhs were in mutual protection.³⁷ Hence, the Indians think that the colonial period dented the ethnoreligious landscape of the united India.³⁸

III. Postcolonial Era

Incidents of burning books and the resulting reactions have also taken place in postcolonial history. For instance, when the Iranians conquered Kurdish lands in the 1940s,³⁹ they burned all the literature and shut down the printing presses of the Kurdish government by the time they liberated the Kurdistan and Azerbaijan provinces.⁴⁰ Similarly, the Nazis burned all books

(describing, among other examples that support his claim, conscious attempts by the British to foment unrest between Hindus and Muslims) (on file with the Washington & Lee Journal of Civil Rights & Social Justice).

35. See *id.* (explaining Shashi Tharoor's "research and why he thinks the British owe India an apology").

36. See STANLEY D. BRUNN, *THE CHANGING WORLD RELIGION MAP: SACRED PLACES, IDENTITIES, PRACTICES AND POLITICS* 2203 (2015) (articulating the effect of British colonialism on Indian nationalism).

37. See TARIQ AMIN-KHAN, *THE POST-COLONIAL STATE IN THE ERA OF CAPITALIST GLOBALIZATION: HISTORICAL, POLITICAL AND THEORETICAL APPROACHES TO STATE FORMATION* 42–43 (2012) (discussing the mechanism of causing religious and cultural divide to aid colonization).

38. See *id.* at 44–48 (discussing how the social, economic, and political conflicts emerged in colonial India under British rule and caused a rift among the major religious and ethnic parties in colonial India); see also DOUGLAS E. HAYNES, *RHETORIC AND RITUAL IN COLONIAL INDIA* 3 (1991) (highlighting the changes caused by colonialism).

39. Susan Meiselas, *Kurdistan: In the Shadow of History*, N.Y. TIMES (Apr. 1991), <http://www.nytimes.com/books/first/m/meiselas-kurdistan.html> (on file with the Washington & Lee Journal of Civil Rights & Social Justice).

40. See HAMID NAFICY, *A SOCIAL HISTORY OF IRANIAN CINEMA, VOLUME 2: THE INDUSTRIALIZING YEARS, 1941–1978*, at 53 (2011) (noting incidents of burning

written by Jewish authors, as they were regarded as “un-German” and seen as corrupting the German race and intellect.⁴¹ Notably, the collection of books burned by the Nazis in 1933 also included books written by renowned philosophers and scholars such as Karl Marx, Sigmund Freud, Ernest Hemingway, Friedrich Engels, and Albert Einstein.⁴² This illustrates that the burning of books is not linked only to religion but also is connected to racial and ethnic hatred.

The discussion above further illustrates that books have been burned in historic and contemporary times for no sound reason. Where reasons have been offered, then they have tended to be based on the grounds of racial or religious hatred against a particular idea mentioned in the book or against the writer of the book or against a particular ethnic or religious group of people.⁴³ In addition, the wars also caused destruction of the literature resources, books, and libraries.⁴⁴ Here, it can also be asserted that war is also a particular form or expression of hatred that is instigated either due to racism, calculated political motives, or religious grounds.⁴⁵ Hence, the hatred—whether based on ethnic, religious or political motives—is the fundamental cause of the burning and destruction of books and libraries.

books).

41. See STEFAN IHRIG, *JUSTIFYING GENOCIDE: GERMANY AND THE ARMENIANS FROM BISMARCK TO HITLER 2* (2016) (“Overeager Nazis . . . had piled up books of ‘un-German’ authors and set them ablaze to celebrate the victory of a ‘new spirit.’”).

42. See Stephen Benét, *They Burned the Books: Ten Years Ago the Nazis Lighted the Way to their Own Destruction*, 26 *SATURDAY REVIEW* 3–6 (1943), <http://www.unz.org/Pub/SaturdayRev-1943may08-00003> (listing authors who had book burned during World War II) (on file with the Washington & Lee Journal of Civil Rights & Social Justice); see generally PETER STUPPLES, *ART AND BOOK: ILLUSTRATION AND INNOVATION* 75 (2016).

43. See HELEN FENWICK, *CIVIL LIBERTIES Q AND A* 38–39 (2001) (discussing how the Muslim community feels angered and isolated “when these feelings are expressed through such activities as book-burning and attacks on booksellers”).

44. See GODFREY OSWALD, *LIBRARY WORLD RECORDS* 107 (3d ed. 2017) (discussing historic examples of destruction of books and libraries during wars).

45. See STAN VAN HOOFT, *COSMOPOLITANISM: A PHILOSOPHY FOR GLOBAL ETHICS* 125 (2014) (describing the virtues and values of cosmopolitanism).

IV. Youth Culture and Moral Army

The phenomenon of burning books has also appeared in comic-book culture.⁴⁶ The popularity of comic books among American youth was very high in the mid-twentieth century, and continues today.⁴⁷ There has been a movement of individuals who began a so called moral brigade of civic authoritarianism that asserted that comic books provoked violence and bloodshed, and argued that these books could potentially cause negative effects on impressionable young people.⁴⁸ Astonishingly, the famous Harry Potter fictional series by J.K. Rowling was publicly burned in New Mexico for its suspected relationship and analogy with demonic magical teachings.⁴⁹ Similar treatment has been given to some music albums.⁵⁰ In one instance, Beatles albums were set on fire in several cities in the U.S. after John Lennon commented that the Beatles were more popular than Jesus.⁵¹ His comments enraged orthodox Christians, despite the fact that they were quoted entirely out of context by these radical American interest groups.⁵² These incidents suggest that not only books of other religions that have been targeted in societies and burned by extremist-minded people, but also artistic and literature works.⁵³

46. See generally DAVID HAJDU, *THE TEN CENT PLAGUE* (2009).

47. See *Comics & Culture*, UNIV. IOWA LIBRARIES: EXHIBITIONS (June 2009–Oct. 2009), <http://www.lib.uiowa.edu/exhibits/previous/comics/> (discussing the popularity of comic books throughout the centuries) (on file with the Washington & Lee Journal of Civil Rights & Social Justice).

48. See HAJDU, *supra* note 46, at 235 (noting the views psychiatrist Fredric Wertham had about comic books on impressionable people).

49. ERIN PYNE, *THE ULTIMATE GUIDE TO THE HARRY POTTER FANDOM* 258 (2010).

50. See generally *Brief Timeline on Censored Music*, AM. C.L. UNION, <https://www.aclu.org/other/brief-timeline-censored-music> (last visited Dec. 4, 2017) (on file with the Washington & Lee Journal of Civil Rights & Social Justice).

51. BRAD OLSEN, *SACRED PLACES EUROPE: 108 DESTINATIONS* 41 (2007) (explaining the strong public reaction from the public and how radio stations pulled Beatles songs from the air).

52. See *id.* (noting John Lennon's comments were taken out of context); see also JAMES PERONE, *MUSIC OF THE COUNTERCULTURE ERA* 151 (2004) (discussing John Lennon's comments).

53. See generally *A Brief History of Art Censorship From 1508 to 2014*, HUFFPOST (Jan. 16, 2015 at 9:55 AM), https://www.huffingtonpost.com/2015/01/16/art-censorship_n_6465010.html (on file with the Washington & Lee Journal of Civil Rights & Social Justice).

Another book which has been burned and banned by groups in many countries is Salman Rushdie's *Satanic Verses*.⁵⁴ While not a popular book, it is notorious for having been regarded as antireligious by some of its critics.⁵⁵ The author claimed that he wrote this book on the basis of his right to freedom of expression and freedom of speech; therefore, he appealed to people worldwide to read his book from that perspective.⁵⁶ His statement has been endorsed by a number of scholars who oppose the idea of burning of books;⁵⁷ for instance, Horsfield argued "[t]he burning of books publicly and ceremonially is a bizarre subtext of history, repeated constantly. It's an act of violence, a punishment, a deterrent, a death by proxy."⁵⁸

This statement and the aforementioned incidents of publicly burning books clearly indicate that the burning of books is not a

54. RICHARD WEBSTER, A BRIEF HISTORY OF BLASPHEMY: LIBERALISM, CENSORSHIP AND "THE SATANIC VERSES" 26 (1990); *see also* MARSHALL CAVENDISH, WORLD AND ITS PEOPLES: BAHRAIN, OMAN, QATAR, SAUDI ARABIA, UAE, YEMEN 503 (The Brown Reference Grp. PLC ed., 2006) (discussing the hatred of Rushdie's *Satanic Verses* by the Muslim population in the United Kingdom).

55. *See* MOHAMMAD TAKI MEHDI, ISLAM AND INTOLERANCE: REPLY TO SALMAN RUSHDIE 52 (1990) (highlighting the anti-religious views in Rushdie's *Satanic Verses*); *see also* JAVED KHAN & SHOAIB QURESHI, THE POLITICS OF SATANIC VERSES: UNMASKING WESTERN ATTITUDES, at i (1989) (noting that Rushdie's *Satanic Verses* is unpopular and contains anti-religious views).

56. *See* BARRIE AXFORD, GARY K. BROWNING & RICHARD HUGGINS, POLITICS: AN INTRODUCTION 203 (2002) ("In writing *The Satanic Verses*, I wrote from the assumption that I was and am a free man. What is freedom of expression? Without the freedom to offend, it ceases to exist. Without the freedom to challenge, even to satirise [sic.] all orthodoxies, including religious orthodoxies, it ceases to exist."); *see also* BARRIE AXFORD ET AL., POLITICS: AN INTRODUCTION 136 (2005) (quoting the same passage).

57. *See* Alan Durant & Laura Izarra, *Reading Mixed Reception: The Case of the Satanic Verses*, 24 CAUCE: REVISTA DE FILOLOGÍA Y SU DIDÁCTICA 653, 661 (2001) (emphasizing the need to investigate the reception of Rushdie's *Satanic Verses* and investigating the link between who is interpreting the book and how); *see also* MAHA MERAAY, SALMAN RUSHDIE THE BELIEVER: A SATANIC JOURNEY MIRRORING BELIEF 1–6 (2010) (criticizing Rushdie for his anti-Islamic words in *The Satanic Verses*, but endorsed his right to freedom of expression and freedom of speech).

58. Daniel Schwartz, Timeline, *The Books have been Burning: A Timeline of 2,200 years of Book Burnings, from Ancient China to The Book of Negroes*, CBC NEWS WORLD (Sept. 10, 2010), <http://www.cbc.ca/news/world/the-books-have-been-burning-1.887172> (on file with the Washington & Lee Journal of Civil Rights & Social Justice).

sensible and judicious action, because burning any kind of book or artistic work never produces beneficial results for those who burn it.⁵⁹

V. *Rationality of Burning of Books*

Generally, the books that are publicly burned have been made notorious in the eyes of the general public. It is a fact that a notorious book becomes more popular when people develop a curiosity about its content,⁶⁰ because it has content sufficiently controversial to induce extremists to burn it.⁶¹

Furthermore, it is entirely irrational to publicly burn a book or art work in the current era of technological advancement, where any information can be spread on a large scale through the Internet and smartphones over social media platforms, for example on Facebook or Twitter.⁶² Once the news about a burning of a particular book is spread over the Internet, it very quickly reaches a large number of people, often surpassing international borders.⁶³ Consequently, it will only make more people curious about the content of the book and they will eventually move on to purchase and read it, because they would not feel any danger or fear from those who burned the book in another country that is miles away from them.⁶⁴ Hence, the phenomenon of burning of books, caused by the uncalculated anger and misguided extremism of the people who perform such an action in public, has

59. *Id.*

60. See SABINE KOLLMANN, *A COMPANION TO MARIO VARGAS LLOSA* 87 (2014) (detailing how books generate fame in society).

61. See *THE BOOKWORM: AN ILLUSTRATED TREASURY OF OLD-TIME LITERATURE* 255–56 (1892) (discussing the preservation of literature despite persecution).

62. See MICHAEL C. NEWMAN & SHARON L. ZUBER, *MERCURY POLLUTION: A TRANSDISCIPLINARY TREATMENT* 136 (2011) (discussing the quick spread of information on social media platforms).

63. See *id.* (highlighting how the internet and social media enhanced the quick spread of information); see also ANDREA BARTOLI ET AL., *PEACEMAKING: FROM PRACTICE TO THEORY* 477–78 (2011) (discussing how the internet and social media are revolutionizing society).

64. See BARTOLI ET AL., *supra* note 63, at 478 (noting how the internet makes people more curious).

irrationality associated with it that it never benefits those who publicly burn books.⁶⁵

VI. *Media and Sociologists*

The media is powerful in making or breaking anything.⁶⁶ It can manipulate facts and distort information and can also use the same set of information to portray contradictory meanings and interpretations of the information.⁶⁷ Thus, it can to a great extent, affect the beliefs and viewpoints of people regarding any individual or group.⁶⁸ Media companies are widespread in all countries and are powerful in spreading news, information, and propaganda.⁶⁹ In Europe and the U.S., media corporations, like BBC and CNN, have powerful media tools to propagate information or propaganda at national and international levels.⁷⁰ For instance, they have online news blogs, websites, magazines, and live broadcast news channels and programs, followed by a large number of people worldwide on

65. See HAIG A. BOSMAJIAN, *BURNING BOOKS* 12 (2006) (describing the history of book burning and purported justifications for the act).

66. See LATIKA PADGAONKAR, *MAKING NEWS, BREAKING NEWS* (Latika Padgaonkar & Shubha Singh eds., 2012) (telling stories in which the media made a powerful difference in people's lives).

67. See FREDERICK CUBBAGE, JAY O'LAUGHLIN & M. NILS PETERSON, *NATURAL RESOURCE POLICY* 253 (2016) ("Facts can be manipulated, and news distorted, intentionally or inadvertently.")

68. See JOSEPH TUROW, *MEDIA TODAY: MASS COMMUNICATION IN A CONVERGING WORLD* 35 (5th ed. 2013) (discussing social relations and the media); see also KATHERINE ANNE ACKLEY, *PERSPECTIVES ON CONTEMPORARY ISSUES* 207 (8th ed. 2016) (explaining why Professor Clay Shirley elects to ban devices in his classroom even though he is a professor of social media); see also CINDY GALLOIS, SHUANG LIU, & ZALA VOLCIC, *INTRODUCING INTERCULTURAL COMMUNICATION: GLOBAL CULTURES AND CONTEXTS* 8–9 (2010) (discussing intercultural communication).

69. See PETER GROSS & KAROL JAKUBOWICZ, *MEDIA TRANSFORMATIONS IN THE POST-COMMUNIST WORLD: EASTERN EUROPE'S TORTURED PATH TO CHANGE* 94 (2013) (exploring the role of media in several countries); see also SUSANA SALGADO, *THE INTERNET AND DEMOCRACY BUILDING IN LUSOPHONE AFRICAN COUNTRIES* 60 (2016) (noting that media serves as a vehicle for propaganda).

70. See HANS SLOMP, *EUROPE, A POLITICAL PROFILE: AN AMERICAN COMPANION TO EUROPEAN POLITICS VOLUME ONE* 180 (2011) (discussing commercial television stations in the U.S. and Europe); see also *MEDIA STUDIES: A READER* 680 (Bassett et al. eds., 3d ed. 2010) (highlighting that news media outlets could transmit information internationally).

social media and on their cable television transmissions.⁷¹ In this scenario, any Islamophobic news or program telecasted by such media channels or in articles published on their blogs or in their magazines and propagated by their websites or by social media platforms on a mass scale can shape the views of others regarding Islam as a religion.⁷² For instance, the unnecessarily provoked highlighting of the spread of Islam in Europe by the media—such as the *Telegraph*'s⁷³ questioning of the Islamization of Europe, the *Daily Mail*'s use of the terms “Muslim Intifada” and “French Intifada”⁷⁴—fuel Islamophobia.⁷⁵

Terry Jones and Geert Wilders have used media forums as channels to express their anti-Islamic views, resulting in augmenting Islamophobic perceptions in U.S. and European

71. See THE SAGE HANDBOOK OF POLITICAL COMMUNICATION 403–04 (Holli A Semetko & Margaret Scammell eds., 2012) (discussing how media is able to access consumers using various internet and micro-media); see also ELI M. NOAM, WHO OWNS THE WORLD'S MEDIA?: MEDIA CONCENTRATION AND OWNERSHIP AROUND THE WORLD 19 (2016) (defining types of media outlets).

72. HANS SLOMP, EUROPE, A POLITICAL PROFILE: AN AMERICAN COMPANION TO EUROPEAN POLITICS VOLUME ONE 180 (2011); see generally AHMET ALIBAŠIĆ, ET AL., YEARBOOK OF MUSLIMS IN EUROPE, VOLUME 7, 304 (Brill, 2015); see generally ENES BAYRAKI & FARID HAFEZ, EUROPEAN ISLAMOPHOBIA REPORT 2015, at 233 (2016).

73. See Adrian Michaels, *Muslim Europe: The Demographic Time Bomb Transforming our Continent*, TELEGRAPH (Aug. 8, 2009), <http://www.telegraph.co.uk/news/worldnews/europe/5994047/Muslim-Europe-the-demographic-time-bomb-transforming-our-continent.html> (“Britain and the rest of the European Union are ignoring a demographic time bomb: a recent rush into the EU by migrants, including millions of Muslims, will change the continent beyond recognition over the next two decades, and almost no policy-makers are talking about it.”) (on file with the Washington & Lee Journal of Civil Rights & Social Justice).

74. See Jason Burke, *Fears of an Islamic revolt in Europe begin to fade*, GUARDIAN (July 26, 2009), <https://www.theguardian.com/world/2009/jul/26/radicalization-european-muslims> (“Five years ago bombings and riots fueled [sic.] anxiety that Europe’s Muslims were on the verge of mass radicalization [sic.]. Those predictions have not been borne out.”) (on file with the Washington & Lee Journal of Civil Rights & Social Justice); see also SHAILJA SHARMA, POSTCOLONIAL MINORITIES IN BRITAIN AND FRANCE: IN THE HYPHEN OF THE NATION-STATE 80 (2016) (describing the “intifada” phenomenon in France); see also DAVID JACOBSON, OF VIRGINS AND MARTYRS: WOMEN AND SEXUALITY IN GLOBAL CONFLICT 231 (2012) (providing further detail about intifada).

75. See Burke, *supra* note 74 (highlighting the inaccuracy of the 2004–2006 predictions of religious and identity-based mayhem) (on file with the Washington & Lee Journal of Civil Rights & Social Justice).

society.⁷⁶ Inadvertently, the attention given by media channels to the hate speech pronounced by Terry Jones and Geert Wilders has resulted in making both of them renowned at an international level and has spread hatred against Islam.⁷⁷ Acting upon the notion of freedom of speech, no authority has prevented them from promulgating hate speech against Islam.⁷⁸

Some European sociologists have articulated that the anti-Islamic campaigns of hate, which are fueled by the extreme right-wing political provocative rhetoric of fear that an Islamization of

76. See Ian Traynor, 'I don't hate Muslims. I hate Islam,' says Holland's *Rising Political Star*, *GUARDIAN* (Feb. 16, 2008), <https://www.theguardian.com/world/2008/feb/17/netherlands.islam> (highlighting that Geert Wilders wants an end to mosque building and Muslim immigration) (on file with the Washington & Lee Journal of Civil Rights & Social Justice); see also ADAM AL-HOR, DONALD TRUMP: WE ARE NOT THE ENEMY: A MUSLIM-AMERICAN U.S. MILITARY VETERAN EXPLAINS THE MUSLIM "PROBLEM" AND OFFERS PROPOSALS FOR PEACE 8–15 (2016) (discussing the anti-Islamic biases of Fox News); see also DEAN KRUCKEBERG, DOUG NEWSOM, & JUDY TURK, *THIS IS PR: THE REALITIES OF PUBLIC RELATIONS* 233 (11th ed. 2012) (describing media events and gatherings in Texas).

77. See Adam Taylor, *The Dutch Election Is Bigger than Geert Wilders*, *WASH. POST* (Mar. 13, 2017), https://www.washingtonpost.com/news/worldviews/wp/2017/03/13/the-dutch-election-is-bigger-than-geert-wilders/?utm_term=.97c21578f82b noting how Geert Wilders' political campaign has gained him lots of international attention) (on file with the Washington & Lee Journal of Civil Rights & Social Justice); see Brian Braiker, *Terry Jones Packs a Pistol, Campaign Against Gays and Islam*, *ABC News* (Sept. 11, 2010), <http://abcnews.go.com/US/strange-career-terry-jones/story?id=11606344> (describing Terry Jones's career and how he "caused an international furor when he threatened to burn Korans on today's anniversary of 9/11") (on file with the Washington & Lee Journal of Civil Rights & Social Justice).

78. See Max Bearak, "Prosecuted for what millions think:" *Netherlands hat speech trial restarts for Geert Wilders*, *WASH. POST* (Oct. 14, 2016), https://www.washingtonpost.com/news/worldviews/wp/2016/10/14/prosecuted-for-what-millions-think-geert-wilders-hate-speech-trial-gets-green-light/?utm_term=.0b2d7d670bba ("Whichever way the verdict goes, the trial is likely to bolster the support Wilders already has. And if he is convicted, he will certainly make himself out to be a martyr for freedom of speech.") (on file with the Washington & Lee Journal of Civil Rights & Social Justice); see also Yasmine Hafiz, *Terry Jones, Quran-Burning Pastor, Plans 'Dearborn Freedom Rally' In Front of Mosque*, *HUFF. POST* (June 3, 2014, 1:01 PM), https://www.huffingtonpost.com/2014/06/03/terry-jones-dearborn-freedom-rally_n_5433994.html ("Dearborn Mayor Jack O'Reilly Jr. called his cause "un-American," but noted that Jones has the right to free speech.") (on file with the Washington & Lee Journal of Civil Rights & Social Justice).

Europe is occurring, have gained momentum throughout Europe.⁷⁹ For instance, Bernard Lewis's anti-Islamic rhetoric that "within a hundred years Europe will be Islamic" and Robert Spencer's portrayal of Islam as a violent religion have already propagated fear among Europeans regarding Islam,⁸⁰ which has resulted in the rise of anti-Islamic movements in Europe.⁸¹ However, this intolerance is rooted in the language of plurality, which should be respected when calling on the agency of the persecuted to challenge the legitimacy and validity of knowledge spreading hate against them.⁸²

VII. Public Disorder and Burning of Religious Books

Public disorder can result from the spread of religious hatred. Article 20 of the ICCPR states that "[a]ny advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law."⁸³ This clause discourages any activity or speech that can instigate religious or racial hatred resulting in violence or public disorder.⁸⁴ Despite raising a concern related to this clause,⁸⁵ the U.S. eventually admitted that the provocative actions of religious hatred can create rifts between different religious groups in a society, which can result in extreme cases in violence.⁸⁶ The

79. See FACING HISTORY AND OURSELVES, WHAT DO WE DO WITH A DIFFERENCE?: FRANCE AND THE DEBATE OVER HEADSCARVES IN SCHOOLS 15 (2008) (unpacking the anti-immigrant sentiments in Europe).

80. See Burke, *supra* note 74 (discussing anti-Islamic sentiment in Europe).

81. See AN INTRODUCTION TO ISLAM IN THE 21ST CENTURY, SIDEBAR 15.9 COMMENTARY ON 9/11 (McCloud et al. eds., 2013) ("Anti-Muslim sentiments and Islamophobia have also been on the rise in Europe.").

82. See JEAN-FRANÇOIS LYOTARD, THE DIFFEREND: PHRASES IN DISPUTE: THEORY AND HISTORY OF LITERATURE 13 (Georges Van Den Abeele trans., 1988) (explaining the importance of creating phrases to express feeling).

83. International Covenant on Civil and Political Rights art. 20, Dec. 16, 1996, S. Treaty Doc. No. 95-20, 6 I.L.M. 368 (1967), 999 U.N.T.S. 171.

84. See *id.* at art. 20(b) ("Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.").

85. See *id.* (highlighting the initial objections to the ICCPR's provisions).

86. Kristina Ash, Note, *U.S. Reservations to the International Covenant on Civil and Political Rights: Credibility Maximization and Global Influence*, 3 NW.

burning of a holy book, such as the Qur'an, is also an expression of hatred against a certain religion—Islam—and therefore must be discouraged and criminalized to avert any instigation of violence in the society.⁸⁷ If it is not prevented at any level and instead is given protection under the free speech principle, it can lead to extreme tensions among religious groups in not only the UK but also all over Europe and the U.S.⁸⁸ Anti-state, antisocial, and anti-peace actors can exploit this situation to create unrest and public disorder by stirring antagonism among the followers of major religions.⁸⁹

Ultimately, in relation to burning the Qur'an, David Nash argues that if public order is undermined or could be perceived as undermined by the incitement of religious hatred, then it gives a basis for preventing blasphemous actions because this is easier than protecting individuals from the chaos of public disorder.⁹⁰ On the other hand, in the U.S. there was another way to limit freedom of speech, the “fighting words doctrine,” which was developed in *Chaplinsky v. New Hampshire*,⁹¹ defining insulting and threatening words as words that can provoke violence, public disorder, hatred, etc. Words are “fighting words” depending on their place and context, and these determine the appropriate

U. J. INT'L HUM. RTS. 1, ¶ 17 (2005).

87. See EKMELEDDIN IHSANOGLU, *THE ISLAMIC WORLD IN THE NEW CENTURY: THE ORGANISATION OF THE ISLAMIC CONFERENCE* 313 (2010) (“What is needed is practical local and international mechanisms to address acts of incitement to religious or racial hatred which constitute a dangerous threat for the preservation of peace and harmony among communities.”).

88. See generally Jack M. Balkin, *Free speech helped avert Quran burning*, CNN (Sept. 10, 201, 12:08 PM), <http://www.cnn.com/2010/OPINION/09/10/balkin.first.amendment/index.html> (“Whether one likes it or not, Jones has a First Amendment right to burn the Quran if he wants to.”) (on file with the Washington & Lee Journal of Civil Rights & Social Justice).

89. See generally Kathleen Parker, *Abuse of the First Amendment: Kathleen Parker*, OREGONIAN (May 10, 2015, 12:05 PM), http://www.oregonlive.com/opinion/index.ssf/2015/05/abuse_of_the_first_amendment_k.html (“And though it takes little talent to draw attention to oneself these days, it is sad when someone flaunts America’s first principle as an accessory to ambition or violence.”) (on file with the Washington & Lee Journal of Civil Rights & Social Justice).

90. See DAVID NASH, *BLASPHEMY IN THE CHRISTIAN WORLD: A HISTORY* 73 (2007) [hereinafter NASH] (explaining the public order dimension of blasphemy).

91. See *Chaplinsky v. New Hampshire*, 315 U.S. 568, 572 (1942) (affirming the appellant’s conviction under the statute prohibiting the use of offensive words towards another in a public place).

sanction.⁹² However, this law was overturned by the approval of the *Fallin v. City Huntsville*⁹³ in 2003, which asserted that verbal and non-verbal intentional threats qualify as harassment if the threats endanger the safety of a person who is the target of the threat.⁹⁴

Ultimately, public order is essential for the preservation of peace and security in every society.⁹⁵ As a result, every state takes measures to prevent damage to public order in the form of laws and litigation.⁹⁶ Public safety is maintained through implementing such laws to perturb hatred and harassment incidents in the public, which ultimately maintains public order.

VIII. Legality of Religious Hate Speech and Actions in U.S.

The foremost issue at hand undoubtedly includes the legality of burning holy books. The First Amendment to the U.S. Constitution declares that “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.”⁹⁷

This ruling was further endorsed by the Fourteenth Amendment, agreed upon after the American Civil War in 1868, which covers the rights of citizens.⁹⁸ Although blasphemy statutes

92. See *id.* at 573–74 (1942) (“[The fighting-words doctrine is narrowly drawn and limited to define and punish specific conduct lying within the domain of state power, the use in a public place of words likely to cause a breach of the peace.”).

93. *Fallin v. City of Huntsville*, 865 So.2d 473 (2003).

94. See *id.* at 477 (2003) (“[A] person may commit the crime of harassment even if the words do not rise to the level of ‘fighting words.’ We note that abusive or obscene language must still amount to ‘fighting words’ . . . where the language is merely offensive or distasteful, but does not constitute a threat.”).

95. See JOHN M. SCHEB, II, CRIMINAL LAW 5–6 (7th ed. 2014) (noting the societal interest in public peace, order, and safety).

96. See KATHLEEN A. BRADY, THE DISTINCTIVENESS OF RELIGION IN AMERICAN LAW: RETHINKING RELIGION LAW JURISPRUDENCE 240 (2015) (emphasizing the role of the government to “show that a function essential to peace, safety, or basic order of the state is involved”).

97. U.S. CONST. amend. I.

98. See *id.* at amend. XIV (“No state shall make or enforce any law which

still stand in most states, a U.S. Supreme Court judgment, *Joseph Burstyn Inc. v. Wilson* overrode this as impinging on the right to free speech.⁹⁹ This was an unprecedented move pertaining to an unlicensed, uncensored, and therefore, “sacrilegious” gesture depiction in legal education.¹⁰⁰ The ruling stated that “[i]t is not the business of government in our nation to suppress real or imagined attack upon a particular religious doctrine, whether they appear in publications, speeches or motion pictures.”¹⁰¹ This ruling made it obligatory for all law enforcement authorities to implement policies for religious freedom and for preventing the relevant offenses.¹⁰²

Religious provocation also occurs by other means. For instance, artwork including sculptures, sketches, and exhibitions, as manifested in *Samodurov v. Russia*¹⁰³, which was related to the “Caution Religion!” exhibition held in the Peace, Progress, and Human Rights Museum in Moscow.¹⁰⁴ The suppression of the exhibition was considered as contravening Article 19 of the ICCPR, the Universal Declaration of Human Rights, and Article 10 of the ECHR. Article 19 of the ICCPR emphasizes the “news and information, of commercial expression and advertising, of artistic works, etc.”¹⁰⁵ and it should not be confined to political, cultural, or artistic expression, which includes articles that may cause offense,

shall abridge the privileges or immunities of citizens of the United States.”).

99. See *Joseph Burstyn v. Wilson*, 343 U.S. 495 (1952) (holding that under the First and Fourteenth Amendments, a state may not ban a film on the basis of a censor’s conclusion that it was “sacrilegious”).

100. See *id.* at 505 (“[I]t is enough to point out that the state has no legitimate interest in protecting any or all religions from views distasteful to them which is sufficient to justify prior restraints upon the expression of those views.”).

101. *Id.*

102. See Agnes Callamard, *Freedom of Speech and Offence: Why Blasphemy Laws are not the Appropriate Response*, 18 EQUAL VOICES 7, 9 (2006) (“In the United States, the Supreme Court steadfastly strikes down any legislation prohibiting blasphemy, on the fear that even well-meaning censors would be tempted to favour [sic.] one religion over another.”).

103. *Samodurov v. Russia*, App. No. 3007/06 Eur. Ct. H.R. (2009).

104. See *id.* at 2 (“[T]he exhibition “Caution, religion!” . . . opened in the exhibition hall of the Sakharov Museum The exhibition featured forty-five exhibits by contemporary Russian artists around the theme of the dangers of rising clericalism.”).

105. *Ballantyne v. Canada*, Comm. Nos. 359/1989 & 385/1989, U.N. Doc. CCPR/C/47/D/359/1989 and 385/1989/Rev.1 (1993).

counterfeit, or make controversial, which thus do not warrant the removal based upon another's dislike of the display.¹⁰⁶

In another case, the Catholic Church was very selective in not censoring the film *The Miracle*, which was the subject of *Joseph Burstyn Inc. v. Wilson*, prompting the slogan "Selection not Censorship" based on the blasphemous content, which focused on a young "mad" woman "with child" being viciously attacked until she is eventually cast out by her peers, thus being akin to telling any young women to beware of the aristocracies.¹⁰⁷

Nevertheless, there existed no law in America to counter "hate speech."¹⁰⁸ This is because the fundamental support for freedom of speech was based upon the idea that any speech, discussion, or argument on public issues, concerns, and disputes should be unrestrained, vigorous, and widely open; this ruling was issued in *N.Y. Times Co. v. Sullivan*.¹⁰⁹

Peter G. Danchin argues that definitional conflicts surrounding incitements of hate are notoriously problematic owing to the complexities of distinguishing between freedom of speech and discrimination.¹¹⁰ The overlapping nature of freedom of expression and association, and all other freedoms and rights is highly problematic in certain ways. For instance, Justice Cardozo in *Palko v. Connecticut*¹¹¹ described the freedom of expression as "the Matrix, the indispensable condition of nearly every other form of freedom."¹¹² "Political" hate speech can be considered discriminatory¹¹³ and, similarly, the burning of holy books or the

106. See *id.* (explaining that the Article 9, paragraph 2 should apply more broadly than to "political, cultural or artistic expression.").

107. See *Joseph Burstyn v. Wilson*, 343 U.S. 495, 495–500 (1952) (explaining how the state banned the films because they found them to be "sacrilegious").

108. See NASH, *supra* note 90 (outlining the history of blasphemy as a concept).

109. *N.Y. Times Co. v. Sullivan*, 376 U.S. 254, 270 (1964).

110. See Peter G. Danchin, *Defaming Muhammad: Dignity, Harm and Incitement to Religious Hatred*, 2 DUKE F. L. & SOC. CHANGE 5, 5–38 (2010) ("How to draw the line between protected expression and speech that can be suppressed because it is likely to cause discrimination is . . . a difficult and complex issue.").

111. *Palko v. Connecticut*, 302 U.S. 319 (1937).

112. *Id.* at 327.

113. ANTONIO CASSESE ET AL., INTERNATIONAL CRIMINAL LAW: CASES AND COMMENTARY 189 (2011).

cross, despite being a nonverbal form of expression, is defined as hate speech,¹¹⁴ but the U.S. has meager legislation against it.¹¹⁵

The reasons for scant legislation against hate speech are of a political nature, having their presence in the sociopolitical landscape of U.S. history in the twentieth century.¹¹⁶ Before the 1950s, the Nazis promoted hate speech, which resulted in anti-hate speech legislation in Europe as well as in some states in the U.S.¹¹⁷ For instance, the verdict given by the Supreme Court in *Beauharnais v. Illinois*,¹¹⁸ denounced hate speech.¹¹⁹ Soon after that, support for anti-hate speech efforts was vanquished by the rise of the McCarthyism.¹²⁰ At that time, during the 1950s and 1960s, the civil rights movement was at its pinnacle, and as a result judges in U.S. courts decided to neither ban nor punish any hate speech because this could have defined civil rights leaders as giving hate speeches against the U.S. administration.¹²¹ For instance, the rulings in *N.A.A.C.P. v. Alabama*¹²² and *New York*

114. See Wilson Huhn, *Cross Burning as Hate Speech under the First Amendment to the United States Constitution*, 2 AMSTERDAMLAWFORUM 19, 19–24 (2009) [hereinafter Huhn] (explaining that cross burning is a form of symbolic speech protected by the First Amendment).

115. See DAVID BOROMISZA-HABASHI, SPEAKING HATEFULLY: CULTURE, COMMUNICATION, AND POLITICAL ACTION IN HUNGARY 5 (2013) (comparing competing meanings of hate speech between the United States and Hungary).

116. See DAVID A. SCHULTZ, ENCYCLOPEDIA OF THE UNITED STATES CONSTITUTION 349 (2010) [hereinafter SCHULTZ] (“[S]upport for hate speech laws soon evaporated.”).

117. See *id.* (“The rise of Nazis led several European countries and American states to enact hate speech laws.”).

118. *Beauharnais v. Illinois*, 343 U.S. 250 (1952).

119. See *generally id.* at 349 (“[I]t also reflected a fear that restrictions of speech would be used against opponents of the Civil Rights movement, a possibility Justices Hugo Black and William O. Douglas already suggested in their dissenting opinions.”).

120. See BRIAN FITZGERALD, MCCARTHYISM: THE RED SCARE (2007) (providing that McCarthyism is the practice of accusing someone of treason or subversion without providing any evidence of the claim); see also CHINESE AMERICAN SOCIETY, THE ROCKY ROAD TO LIBERTY: A DOCUMENTED HISTORY OF CHINESE IMMIGRATION AND EXCLUSION 134 (Jielin Dong & Sen Hu eds., 2010); see also JONATHAN MICHAELS, MCCARTHYISM AND POSTWAR AMERICA (2017).

121. See SCHULTZ, *supra* note 116, at 349 (discussing the courts’ reluctance during the Civil Rights Movement to punish hate speech).

122. See *N.A.A.C.P. v. Alabama*, 360 U.S. 240 (1959) (upholding the Court’s previous order forbidding the state from forcing N.A.A.C.P. to produce the names of its Alabama members).

*Times v. Sullivan*¹²³ did not go against free speech by civil rights leaders that was hateful against the administration.¹²⁴

In the Vietnam War era, several U.S. citizens protested against the U.S. government's decision to send troops to Vietnam.¹²⁵ Many of the protestors directed a form of "hate speech" against the government, but their words were not considered illegal by U.S. courts in notable cases such as *Tinker v. Des Moines*¹²⁶ and *Cohen v. California*.¹²⁷ The courts reaffirmed the right to protest and the right of freedom of speech.¹²⁸ In another turnaround, in *Brandenburg v. Ohio*,¹²⁹ the Supreme Court articulated that restrictions on hate speech are mandatory to prevent the provocation of violence.¹³⁰ This ruling countered the effects of McCarthyism and applied restrictions on hate speech.¹³¹ In the 1980s restrictions were applied on hate speech in public places, universities, and colleges.¹³² Some of the restrictions were nullified and ratified as illegal by the courts.¹³³ The efforts to

123. See *New York Times v. Sullivan*, 376 U.S. 254 (1964) (reversing the petitioners claim or libel because of insufficient evidence showing respondent knowingly made false statements or was in any way reckless).

124. See SCHULTZ, *supra* note 116, at 349 ("[B]oth [cases] which pitted the free speech rights of civil rights protesters against southern segregationists.").

125. See ANDREW ROBERT LEE CAYTON, OHIO: THE HISTORY OF A PEOPLE 365 (2002) ("[A]t the center of the campus, approximately two thousand people were public protesting President Richard M. Nixon's decision to send U.S. soldiers to Cambodia. Nixon's action was an expansion of American participation in a long conflict of control . . . of Vietnam.").

126. *Tinker v. Des Moines*, 393 U.S. 503 (1969).

127. *Cohen v. California*, 403 U.S. 15 (1971); see SCHULTZ, *supra* note 116, at 349 (giving examples of certain kinds of hate speech against the government that are protected by the First Amendment).

128. See SCHULTZ, *supra* note 116, at 349 ("[P]rotestors relied on freedom of speech to protect their right to oppose the war.").

129. *Brandenburg v. Ohio*, 395 U.S. 444 (1969).

130. See SCHULTZ, *supra* note 116, at 349 ("[T]he Supreme Court held that restrictions on speech were permissible only to stop direct indictment to immediate lawless action.").

131. See generally *id.*

132. See *id.* ("During the 1980s . . . colleges and universities enacted speech codes.").

133. See *id.* ("[S]ome of these codes . . . were found unconstitutional by lower courts.").

restrict hate speech and antireligious action gained momentum in this era.¹³⁴

The city of St. Paul, Minnesota, has been active in banning hate speech and actions of religious or racial hatred.¹³⁵ It prohibited the burning or disrespect of holy crosses and religious symbols, as well as promoting the Nazi swastika or any other symbols of racial hatred.¹³⁶ In 1992, in *R.A.V. v. City of St. Paul*,¹³⁷ the U.S. Supreme Court articulated that a ban on hate speech, or “fighting words”¹³⁸—the words that come under the category of religious or racial hatred—was not compatible with the First Amendment.¹³⁹ Furthermore, the court did not punish R.A.V.,¹⁴⁰ who was allegedly involved in burning a holy cross in the lawn of a school.¹⁴¹ The Supreme Court overturned the St. Paul city ordinance¹⁴² and ruled that “fighting words” cannot be banned, because doing so would limit free speech; no exceptions can be made to the implementation of the First Amendment.¹⁴³

134. See *id.* (“[T]he momentum for restrictions on hate speech laws grew as municipalities passed laws banning hate speech and adding prison time to those convicted of bias-motivated crimes”).

135. See CRAIG R. DUCAT, CONSTITUTIONAL INTERPRETATION: RIGHTS OF THE INDIVIDUAL 903 (2012) (discussing the context of *R.A.V. v. City of St. Paul*, 505 U.S. 377 (1992)).

136. See JOEL SAMAHA, CRIMINAL LAW 56 (2007) (describing the content of the City of St. Paul’s restrictions on speech at issue *R.A.V. v. City of St. Paul*).

137. *R.A.V. v. City of St. Paul*, 505 U.S. 377 (1992).

138. See *id.* at 56 (detailing the Supreme Court’s construction of fighting words); see also HENRY COHEN, FREEDOM OF SPEECH AND PRESS: EXCEPTIONS TO THE FIRST AMENDMENT 20 (2010) (discussing how the Supreme Court struck an ordinance which “prohibited the placing on public or private property of a symbol . . . ‘which one knows or has reasonable grounds to know arouses anger, alarm or resentment.’”).

139. See DAVID SCHULTZ & JOHN R. VILE, THE ENCYCLOPEDIA OF CIVIL LIBERTIES IN AMERICA 769 (2015) (“[W]ords used in a specific context that are likely to bring about a breach of peace or disorder and that, traditionally, are not protected by the First Amendment.”).

140. See GENELLE BELMAS ET AL., MAJOR PRINCIPLES OF MEDIA LAW 74 (2016 ed. 2015) (noting that R.A.V. are the initials of a teenage student, Robert A. Viktora, who burned the holy cross in the lawn of a school) [hereinafter BELMAS].

141. See *id.* at 73 (“The case involved a Caucasian youth who burned a homemade cross in the front yard of an African-American family’s home.”).

142. See DOMINIC G. CARISTI ET AL., COMMUNICATION LAW 73 (2015) (ruling that the city ordinance was unconstitutional because the First Amendment does not protect a violent act provoked by prejudice).

143. See BELMAS, *supra* note 140, at 71 (2012 ed. 2011) (“[T]he Supreme

The Supreme Court ruling in the *R.A.V.* case instigated controversy at the national level and idealists started questioning the true interpretations of the First Amendment, as, in this case, the interpretations of the First Amendment by the St. Paul city administration and the Supreme Court were contradictory.¹⁴⁴ The former interpreted that the actions of R.A.V. constituted “fighting words” and were illegal and the First Amendment does not endorse or offer such freedom; the Supreme Court overturned this interpretation and maintained that no such a restriction to freedom of speech or action is in accordance with the correct interpretation of the First Amendment.¹⁴⁵ A similar contradiction took place between the Minnesota court and the U.S. Supreme Court in the interpretation of the First Amendment related to the implementation of the St. Paul ordinance.¹⁴⁶

After almost a decade in 2003, in *Virginia v. Black*,¹⁴⁷ the Court gave an important ruling in which it denounced racial intimidation, calling it a “true threat.”¹⁴⁸ The Court stated that any hate speech or action that is motivated by racial or religious intimidation is unacceptable, illegal, and a “true threat” to society.¹⁴⁹ According to the Court, the state has the authority to prevent and counter such racial intimidation.¹⁵⁰ The Court also

Court . . . ruled that ‘hate speech’ cannot be banned on the basis of its content—although violent action can, of course be prohibited.”).

144. *See id.* at 74 (pointing out conflicting interpretations between the Supreme Court and the city of administration of St. Paul).

145. *See generally id.* at 73 (“[G]overnments may not punish those who ‘communicate messages of racial, gender or religious intolerance’ merely because those ideas are offensive and emotionally painful to those in the targeted group.”).

146. *See* DEIRDRE GOLASH, FREEDOM OF EXPRESSION IN A DIVERSE WORLD (2010) [hereinafter GOLASH] (discussing the implementation of the St. Paul ordinance).

147. *Virginia v. Black*, 538 U.S. 343 (2003).

148. *See id.* at 359 (“True threats encompass those statements where the speaker means to communicate a serious expression of an intent to commit an act of unlawful violence to a particular individual or group of individuals.”).

149. *See id.* (“We have consequently held that fighting words . . . are generally proscribable under the First Amendment And the First Amendment also permits a State to ban a ‘true threat.’”).

150. *See id.* at 363 (“The First Amendment permits Virginia to outlaw cross burnings done with the intent to intimidate because burning a cross is a particularly virulent form of intimidation.”).

mentioned the historic racial intimidations by the Ku Klux Klan and also ratified such actions as a “true threat” to society.¹⁵¹

The Virginia law in question did not ban the burning of a cross in general. Rather, the statute banned the cross burning when used with the intent to intimidate.¹⁵² Free speech advocates maintained that the Virginia law was unconstitutional and contrary to the spirit of the First Amendment.¹⁵³ Their stance was that the First Amendment prohibits restriction of freedom of speech or exercise, even if it constitutes racial or religious hate.¹⁵⁴ The Supreme Court ruled that the Virginia “may ban cross burning carried out with the intent to intimidate.”¹⁵⁵ Hence, the Supreme Court allowed states to prohibit and ban the burning of holy religious symbols, such as the cross.¹⁵⁶ Consequently, cross burning with an intent to intimidate anyone is considered outlawed.¹⁵⁷

On the other hand, the state of Vermont levies a penalty on any person who burns or aids in burning the cross or any religious symbol with the intent to intimidate anyone.¹⁵⁸ Here, it is pertinent to note that the Holy Qur’an is a holy religious symbol of

151. *See id.* at 354 (“Often, the Klan used cross burnings as a tool of intimidation and a threat of impending violence.”).

152. *See id.* at 365–66 (banning the burning of a cross when used to intimidate but not when done “as a statement of ideology [or] a symbol of group solidarity”).

153. *See id.* at 351 (“Each respondent appealed to the Supreme Court of Virginia, arguing that § 18.2-423 is facially unconstitutional.”).

154. *Id.* at 359.

155. *Id.* at 348.

156. *See* LUDOVIC HENNEBEL & THOMAS HOCHMANN, GENOCIDE DENIALS AND THE LAW 81 (2011) (“[T]he court held that states could ban ‘intimidatory’ cross burnings.”).

157. *See* GOLASH, *supra* note 146, at 99 (“Since ‘burning a cross is a particularly virulent form of intimidation,’ ‘cross burnings done with the intent to intimidate’ may be outlawed.” (quoting *Virginia v. Black*, 538 U.S. 343, 344 (2003))).

158. ALISON M. SMITH, STATE STATUTES GOVERNING HATE CRIMES 28 (2011) [hereinafter SMITH] (displaying Vt. Stat. Ann. tit. 13. § 1456 (2010)).

Muslims,¹⁵⁹ just as the Holy Cross is for Christians.¹⁶⁰ This means that the Vermont Law also provides protection to the Muslim community and that the burning of the Holy Qur'an is illegal. Same logic can be applied to all religious symbols of all religions,¹⁶¹ since every religion has certain emblems or symbols that are considered venerated by the people of that religion.¹⁶² Therefore, if a person attempts to burn such venerated symbols with an intent to intimidate the followers of that particular symbol related religion, then that person should also be penalized in accordance

159. See Steve Almasy, *Quran much more than a holy book to Muslims*, CNN (Apr. 1, 2011, 4:50 PM), <http://religion.blogs.cnn.com/2011/04/01/quran-much-more-than-a-holy-book-to-muslims/> (“Symbolically and literally this is the most sacred reminder of God on Earth for a Muslim,” said Akbar Ahmed, the chair of Islamic Studies at American University in Washington.) (on file with the Washington & Lee Journal of Civil Rights & Social Justice).

160. RICHARD A. FREUND, *DIGGING THROUGH THE BIBLE: MODERN ARCHAEOLOGY AND THE ANCIENT BIBLE* 163 (2009) (“The cross was famous for perhaps a thousand years before it was a symbol for Christianity.”).

161. Vt. Stat. Ann. tit. 13. § 1456 (2010) (describing penalties for any person who burns or aids in burning cross or any religious symbol with an intention to harass or terrorize a person or a group of persons).

162. To compare Vermont and Virginia’s Law on religious symbols, it is essential to first understand what qualifies as a religious symbol. For instance, Malcolm David considers religious symbols as “objects of religious veneration”. See MALCOLM DAVID EVANS, *MANUAL ON THE WEARING OF RELIGIOUS SYMBOLS IN PUBLIC AREAS* 63 (2008). However, he further elucidates that a religious symbol has not necessarily to be a physical object. See *id.* at 64–65 (“simply because something is considered to be a religious symbol does not mean that there is a right for it to be publicly visible.”). This implicates that there cannot be a single definition or interpretation of the term religious symbol. See ROBERT C. NEVILLE, *THE TRUTH OF BROKEN SYMBOLS* 102 (1996) (articulating that “religious symbols require polysemic interpretations”). Nonetheless, there is a general consensus among scholars regarding certain symbols that have significant religious importance. For instance, Malcolm David Evans considers crucifix as an example of a religious symbol, and several other scholars are also of the same opinion that crucifix or Holy Cross as a religious symbol of Christianity. See EVANS, *supra* note 162, at 68. Similarly, Douglas Hicks considers Quran, Holy Cross, headscarf, Christmas Tree as examples of religious symbols. See DOUGLAS A. HICKS, *WITH GOD ON ALL SIDES: LEADERSHIP IN A DEVOUT AND DIVERSE AMERICA* 25 (2010). On the other hand, Philemon Andrew K. Mushi considers Jesus Christ as a religious symbol of Christianity. See PHILEMON ANDREW K. MUSHI, *HISTORY AND DEVELOPMENT OF EDUCATION IN TANZANIA* 56 (2009). This becomes in-line to what Malcolm David Evans said that a religious symbol has not necessarily to be publicly visible, see Evans, *supra* note 162. Though, we can view the statue of Jesus Christ, but not his physical actual appearance.

to the Vermont Law and such an action should be ‘outlawed’ in accordance to the spirit of the Virginia Law.¹⁶³

IX. Legality of Religious Hatred Actions and Speech in Europe

“Hate speech” is illegal in Europe.¹⁶⁴ However, it can be considered to be imbedded in some of Europe’s agendas led by far-right leaders, for instance Geert Wilders.¹⁶⁵ Europe’s recent wave of far-right members of parliament has served to exacerbate racial intolerance in many EU cities, just as the rhetoric of an Islamization of Europe heightens Islamophobic tensions.¹⁶⁶ The European Parliament also has a fair number of right-wing members.¹⁶⁷ This number includes and has included more far-right politicians such as Nick Griffin, the former leader of the British National Party, who has given hate speech against Islam and termed it “wicked.”¹⁶⁸

Several incidents of religious hatred have occurred in Europe; for instance, in the Netherlands, a publishing agency made a

163. Vt. Stat. Ann. tit. 13. § 1456 (2010).

164. See RAYMOND TARAS, XENOPHOBIA AND ISLAMOPHOBIA IN EUROPE 125 (2012) (“Anti-religious hate speech, including in most countries blasphemy, is illegal in Europe.”).

165. See Nina Siegal, *Geert Wilders, Dutch Politician, Distracts from Hate-Speech Trial With More Vitriol*, N.Y. TIMES (Oct. 31, 2016), <https://www.nytimes.com/2016/11/01/world/europe/geert-wilders-netherlands-hate-trial.html> (“The Dutch government’s prosecution of a far-right lawmaker for hate speech was upstaged by his continued racial vitriol on Monday before the trial could get underway.”) (on file with the Washington & Lee Journal of Civil Rights & Social Justice).

166. See generally *Europe’s Rising Far Right: A Guide to the Most Prominent Parties*, N.Y. TIMES (Dec. 4, 2016), http://www.nytimes.com/interactive/2016/world/europe/europe-far-right-political-parties-listy.html?_r=0 (on file with the Washington & Lee Journal of Civil Rights & Social Justice).

167. See THE EUROPEAN UNION AFTER THE TREATY OF LISBON 172 (Diamond Ashiagbor et al. eds., 2012) (“[T]here is a centre-right [sic.] majority in both European Parliament and the council, and . . . amongst the college of Commissioners.”).

168. See Hani Mohammad, *British Muslims a Success Story in 2004*, ORG. SEC. & COOPERATION EUR. 76 (June 9, 2005), <http://www.osce.org/files/documents/2/a/15618.pdf> (“British police arrested earlier in the month the leader of the extremist British National Party (BNP), Nick Griffin, for describing Islam as ‘wicked, vicious faith.’”) (on file with the Washington & Lee Journal of Civil Rights & Social Justice).

blasphemous drawing of the Holy Prophet Muhammad in August 2007,¹⁶⁹ and then a Danish news magazine published the blasphemous cartoons, which fueled religious hatred, hit the emotions of Muslims, and resulted in mass protests in more than twenty countries.¹⁷⁰ Pertinently, creating such animations as well as any kind of pictures of the Prophet Muhammad is prohibited in Islam.¹⁷¹ Muslims have utmost love for their prophet and they consider drawing any animation or picture of the prophet as an insult to his integrity.¹⁷² Therefore, the aforementioned actions incited anger combined with grief among Muslims.

In another instance, a film producer who had made such films mocking Islam was murdered by someone whose identity was not revealed by the local Police.¹⁷³ Here, the killing of that producer constitutes murder, which is incited due to hatred possessed by the killer for that producer.¹⁷⁴ The murder was taken as a shock in Netherland, as it was an act of putting freedom of speech in restriction.¹⁷⁵ Nonetheless, two years ago, a French Magazine named Charlie Hebdo used its right to freedom of expression and

169. See Eleni Polymenopoulou, *Does One Swallow Make a Spring? Artistic and Literary Freedom at the European Court of Human Rights*, 16 HUM. RTS. L. REV. 511, 524 n.82 (2016).

170. See NERMIN ABADAN-UNAT, TURKS IN EUROPE 139 (2011) (“Intense protests and flag burnings took place all over the world as a result [of the cartoon].”).

171. See JULIE WILLIAMS, ISLAM: UNDERSTANDING THE HISTORY, BELIEFS, AND CULTURE 40 (2008) (“Muslims do not make visual representations of Muhammad or any other revered figure.”).

172. See TORE LINDHOLM & W. COLE DURHAM, ISLAM AND POLITICAL-CULTURAL EUROPE 220 (2016) (discussing generally the making of such an animation); see also LAWRENCE ROSEN, VARIETIES OF MUSLIM EXPERIENCE: ENCOUNTERS WITH ARAB POLITICAL AND CULTURAL LIFE 110 (2008) (providing a discussion related to the prohibition of making animations of the Prophet Muhammad in Islam).

173. See Marlise Simons, *Dutch Filmmaker, an Islam Critic, Is Killed* (N.Y. TIMES (Nov. 3, 2004), <http://www.nytimes.com/2004/11/03/world/europe/dutch-filmmaker-an-islam-critic-is-killed.html> (on file with the Washington & Lee Journal of Civil Rights & Social Justice).

174. See *Van Gogh killer jailed for life*, BBC NEWS (July 26, 2005) <http://news.bbc.co.uk/2/hi/europe/4716909.stm> (“Bouyeri had told the court he had acted out of religious conviction. Clutching a copy of the Koran, he said that ‘the law compels me to chop off the head of anyone who insults Allah and the prophet.’”) (on file with the Washington & Lee Journal of Civil Rights & Social Justice).

175. Simons, *supra* note 173.

freedom of speech by publishing animated mockery of Islam and Muslims' Prophet Muhammad.¹⁷⁶ According to the critics of the magazine, the animation portrayed Islam as a religion of violence.¹⁷⁷ The actions of Charlie Hebdo were considered as religious hate towards Islam, and therefore, the magazine was criticized greatly.¹⁷⁸ Furthermore, in a reply to a question related to the publishing of satirical mockery of Islam, Pope Francis also disapproved such an action of religious hatred by the magazine and asserted that though freedom of expression is a fundamental right, but it cannot be used to insult a religion.¹⁷⁹ He further suggested that there should be limits to religious mockery, by stating that, "[o]ne cannot provoke, one cannot insult other people's faith, one cannot make fun of faith . . . There is a limit. Every religion has its dignity . . . in freedom of expression there are limits."¹⁸⁰

In the United Kingdom, actions of religious hatred such as burning holy books have been considered criminal offenses in the Racial and Religious Hatred Act 2006 ("2006 Act").¹⁸¹

176. See Chloe Farand, *Charlie Hebdo publishes cartoon of Barcelona attack criticised for portraying Islam as inherently violent*, INDEPENDENT (Aug. 24, 2017), <http://www.independent.co.uk/news/world/europe/charlie-hebdo-barcelona-attack-cartoon-islam-violent-inherent-controversial-french-satirical-a7910786.html> [hereinafter Farand] ("The front-page cartoon depicts two people lying on the ground in a pool of blood after having been run over by a white van with the caption 'Islam is a religion of peace . . . eternal.'").

177. *Id.*

178. See *id.* ("Critics of the magazine have seen the cover as suggesting Islam is an inherently violent religion.").

179. *Pope Francis on Freedom of Speech: 'One Cannot Make Fun of Faith'*, NBC NEWS (Jan. 15, 2015), <https://www.nbcnews.com/storyline/paris-magazine-attack/pope-francis-freedom-speech-one-cannot-make-fun-faith-n286631> (on file with the Washington & Lee Journal of Civil Rights & Social Justice); see, e.g., Alexandra Topping, *Pope Francis: freedom of expression has limits*, GUARDIAN (Jan. 16, 2015), <https://www.theguardian.com/world/2015/jan/15/pope-francis-limits-to-freedom-of-expression> (discussing the same issue) (on file with the Washington & Lee Journal of Civil Rights & Social Justice).

180. See ANDREW R. LEWIS, *THE RIGHTS TURN IN CONSERVATIVE CHRISTIAN POLITICS: HOW ABORTION TRANSFORMED THE CULTURE WARS* 30 (2017) (articulating the ideological underpinnings of American conservative viewpoints on key issues such as abortion and religious freedom).

181. See Racial and Religious Hatred Act 2006, c.64, § 29B, (Eng.), <http://www.legislation.gov.uk/ukpga/2006/1/schedule> (last visited Dec. 5, 2017) ("A person who uses threatening words or behavior, or displays any written material which is threatening, is guilty of an offence if he intends thereby to stir up religious hatred.") (on file with the Washington & Lee Journal of Civil Rights & Social Justice).

Furthermore, conduct that amounts to insults to ethnic and religious groups or that can lead to public disorder has been subject to criminal prosecution in many pieces of legislation.¹⁸² Before the 2006 Act, there were several attempts in the UK's legislative history to forbid the provocation of religious hatred.¹⁸³ That is, there have been several laws enacted in this regard in the historic as well as contemporary periods, for instance, the Public Order Act 1936¹⁸⁴ and the Criminal Justice and Public Order Act 1994¹⁸⁵ were adopted primarily to prevent religious and racial hatred.¹⁸⁶ Furthermore, the laws of sedition and public mischief were also present in the common law of England, containing several elements that led to criminalizing such behavior.¹⁸⁷

Social Justice).

182. *See id.* (“[W]hich creates offences involving stirring up hatred against persons on religious grounds.”); *see also* The Public Order Bill 1936, 1 EDW. 8 & 1 GEO. 6 c.6, (Eng.), <http://www.legislation.gov.uk/ukpga/Edw8and1Geo6/1/6> (last visited Dec. 3, 2017) (“[I]f the chief officer of police is satisfied that the wearing of any such uniform as aforesaid on any ceremonial, anniversary, or other special occasion will not be likely to involve risk of public disorder, he may . . . by order permit the wearing of such uniform.”) (on file with the Washington & Lee Journal of Civil Rights & Social Justice); *see also* Criminal Justice and Public Order Bill 1994, c.33, (Eng.), <https://www.legislation.gov.uk/ukpga/1994/33> (last visited Dec. 3, 2017) (“Provided that, if the chief officer of police is satisfied that the wearing of any such uniform as aforesaid on any ceremonial, anniversary, or other special occasion will not be likely to involve risk of public disorder.”) (on file with the Washington & Lee Journal of Civil Rights & Social Justice).

183. *See Racial and Religious Hatred Act 2006*, GUARDIAN (Jan. 19, 2009, 3:52 PM), <https://www.theguardian.com/commentisfree/libertycentral/2008/dec/16/racial-religious-hatred-act> (discussing briefly some past legislation the government has passed in the past to prosecute offenses against individuals motivated by religious or racial backgrounds) (on file with the Washington & Lee Journal of Civil Rights & Social Justice).

184. *See* Peter Cumper, *Outlawing Incitement to Religious Hatred—A British Perspective*, 1 J. RELIGION & HUM. RTS. 249, 252 (2006) (stating that prior to the Public Order Bill of 1936 there had been no bill that successfully outlawed the incitement of religious hatred).

185. Criminal Justice and Public Order Bill 1994, c.33, (Eng.), <https://www.legislation.gov.uk/ukpga/1994/33> (last visited Nov. 18, 2017) (on file with the Washington & Lee Journal of Civil Rights & Social Justice).

186. *See* Cumper, *supra* note 184, at 249, 252 (stating that prior to The Public Order Bill of 1936 there had been no Bill that successfully outlawed the incitement of religious hatred).

187. *See* Clare Feikert-Ahalt, *Sedition in England: The Abolition of a Law from a Bygone Era*, IN COSTODIA LEGIS: L. LIBR. CONGRESS (2012),

The Religious Hatred Act 2006 was supposed to protect religious groups against hatred and violence; it also intended to give them the much-needed security.¹⁸⁸ That security was previously denied them owing to the fact that the common law of England contained a blasphemy law that only protected the Church of England.¹⁸⁹ This Act is applicable to speech and behavior that threaten any religious group.¹⁹⁰ Hence, an analogy can be drawn between hate speech or behavior and the burning of holy books.¹⁹¹ The Act is also consistent with the UK's obligations in international human rights law to enact legislation for prohibiting the provocation of religious hatred.¹⁹² Thus, it can be safely asserted that the common law in England prohibits assaults on religion in various ways even after the abolishment of the blasphemy law.

Although burning a holy book is not explicitly a criminal act in UK law, it can still be viewed as highly undesirable and ought

<https://blogs.loc.gov/law/2012/10/sedition-in-england-the-abolition-of-a-law-from-a-bygone-era/> (“The sedition laws date back centuries and were originally designed to protect the Crown and government from any potential uprising.”) (on file with the Washington & Lee Journal of Civil Rights & Social Justice); *see also Public Nuisance: A Common Law Crime*, INBRIEF, <https://www.inbrief.co.uk/offences/public-nuisance/> (last visited Dec. 3, 2017) (“Public nuisance is traditionally a criminal offence, defined as an unlawful act or omission which endangers or interferes with the lives, comfort, property or common rights of the general public.”) (on file with the Washington & Lee Journal of Civil Rights & Social Justice).

188. *See* YVONNE SHERWOOD, BIBLICAL BLASPHEMING 48 (2012) [hereinafter SHERWOOD] (“With a new even-handedness, the Act protected religion and defended secularity.”).

189. *See* KAMRAN HASHEMI, RELIGIOUS LEGAL TRADITIONS, INTERNATIONAL HUMAN RIGHTS LAW AND MUSLIM STATES 45 (2008) (“[T]he Muslim community in Britain . . . complain[ed] about . . . blasphemies . . . [But] the complaint was dismissed for the reason that the protection provided by English blasphemy law is only to the Church of England, and in some respects to Christianity as a whole.”).

190. *See* NEIL ADDISON, RELIGIOUS DISCRIMINATION AND HATRED LAW 141 (2007) (“‘Religious hatred’ is defined in 29A as ‘hatred against a group of persons defined by reference to religious belief or lack of religious belief.’”).

191. *See generally* Cumper, *supra* note 184, at 249.

192. *See* IAN LEIGH & REX AHDAR, RELIGIOUS FREEDOM IN THE LIBERAL STATE 454 (2013) (stating that the Parliamentary Joint Committee on Human Rights concluded that the legislation was compatible with the European Convention).

to be discouraged by the government and public alike.¹⁹³ The strongest argument in this regard is that, in a diverse society like that of the UK, freedom of expression should take other forms that can lead to an educated dialogue between religions and races rather than to irrational acts of violence leading to disruption of public order. UK has a population comprising of several races, ethnicities, and religious inclinations, each having its own set of values, traditions, and practices which it deems as venerated.¹⁹⁴ Therefore, it becomes essentially a moral obligation of not only the legislative state institutions to enact and apply laws related to preventing racial and religious discrimination, but also an ethical and communal responsibility of every UK citizen to give respect of values, beliefs, traditions, and religion of others.¹⁹⁵ The multi-ethnic attribute of the UK society¹⁹⁶ can make it a more pluralistic, liberal, and truly secular state if the rights of freedom of expression and freedom of speech can be practiced by every individual without harming or hurting any other individual's beliefs, values, and racial or religious identity.

France has the largest European Muslim population in Western Europe.¹⁹⁷ After France, the Netherlands, Germany, and then Britain are the countries with Muslims as the largest proportion of their population.¹⁹⁸ The population of Muslims is

193. SHERWOOD, *supra* note 188.

194. PAUL MICHAEL GARRETT, REMAKING SOCIAL WORK WITH CHILDREN AND FAMILIES 113 (2004).

195. See David Coleman et al., *Demography of Migrant Populations: The Case of the United Kingdom* 5, in PAUL COMPTON, WERNER HAUG & YOUSSEFF COURBAGE, THE DEMOGRAPHIC CHARACTERISTICS OF IMMIGRANT POPULATIONS 502 (2002) (discussing the UK government's enactment of laws preventing racial and religious hatred as well as has criminalized "incitement to racial hatred." This has made the discrimination among races and ethnicities in Britain largely blurred and to some extent, non-existent).

196. See Peter J. Aspinall & Miri Song, *Capturing "Mixed Race" in the Decennial UK Census* 2, in REBECCA CHIYOKO KING-O'RIAIN, STEPHEN SMALL & MINELLE MAHTANI, GLOBAL MIXED RACE 215 (2014) (discussing multiple and mixed ethnicities in Britain).

197. See RONALD TIERSKY & ERIK JONES, EUROPE TODAY: A TWENTY-FIRST CENTURY INTRODUCTION 436 (4th ed. 2011) ("This has not only made the immigrant presence more visible but has also resulted in France developing the largest Muslim minority in Western Europe.").

198. KIRSTEN L. TAYLOR & RICHARD W. MANSBACH, INTRODUCTION TO GLOBAL POLITICS 422 (2d ed. 2013).

growing in these European countries,¹⁹⁹ which demands that the rights of Muslims should also be revered as the rights of other nationals in these states are respected. For instance, Muslim women want to wear veil (hijab) as their religious identity and symbol, which is criticized in some European countries; particularly, Austria and France have banned veil in public places, whereas the German Chancellor has suggested a prohibition on full-faced veils.²⁰⁰ These nations need to accommodate Muslim populations in a way that is equal to Jews, Christians, and atheists to avoid potential public disorder.

X. Banning Hate Perpetrators

Regarding Geert Wilders and Pastor Terry Jones, both have sought to eradicate Islam from their immediate and wider localities in an overt use of their human right to “freedom of expression,”^{201, 202} which, in reality, impinges overwhelmingly upon

199. *Id.*

200. See *The Islamic Veil Across Europe*, BBC (Jan. 31 2017), <http://www.bbc.com/news/world-europe-13038095> (describing the status of the Islamic veil across countries of Europe) (on file with the Washington & Lee Journal of Civil Rights & Social Justice).

201. See *Rabbae v. Netherlands*, ICCPR, CCPR/C/117/D/2124/2011, 6 (Dec. 3, 2016), <https://globalfreedomofexpression.columbia.edu/wp-content/uploads/2017/02/HRC-June-2016-Communications-Rabbae-v-Netherlands-FINAL-as-released.pdf> (discussing the claim that Wilders was using his right to freedom of expression when he criticized Islam through his movie “fitna” and his hateful speeches against Islam, was criticized, because Wilder’s right to freedom of expression was given priority over the actions of racial and religious hatred against Muslims) (on file with the Washington & Lee Journal of Civil Rights & Social Justice).

202. It is a fact that both parties made efforts to eradicate Islam from Europe and portrayed acts of hatred against Islam. They have addressed anti-Islamic processions at numerous occasions, for instance, Terry Jones at the Christian Dove World Outreach Center in Gainesville, Florida where the banners were proclaiming hateful sentences against Islam like “No Mosque at Ground Zero,” “The More Islam, the less Freedom,” and “No Sharia.” Similarly, Wilders addressed the Stop Islamisation of America (SIOA) event and at many other occasions. See HUMAYUN ANSARI & FARID HAFEZ EDS., *FROM THE FAR RIGHT TO THE MAINSTREAM: ISLAMOPHOBIA IN PARTY POLITICS AND THE MEDIA 10* (2012) [hereinafter ANSARI & HAFEZ]. Furthermore, at that time, Wilders had also contributed in the making of the film “fitna” that portrayed Quranic verses as violent. See ASMA T. UDDIN & HARIS TARIN, *RETHINKING THE “RED LINE”: THE INTERSECTION OF FREE SPEECH, RELIGIOUS FREEDOM, AND SOCIAL CHANGE 3* (Nov.

the rights of others.²⁰³ Geert Wilders has continued to exercise his freedom of expression;²⁰⁴ however, this has not been the case with Terry Jones, who announced a public event of burning Quran, was banned from entering Britain by UK government authorities.²⁰⁵ Here, the worrying aspect is that he announced an act of religious hatred despite the fact that he was a Pastor who should have some religious tolerance and who should not take part in activities entailing religious hatred.²⁰⁶ An injunction was required to prevent him from travelling to UK, despite his assertion that his family resides in the UK and the government cannot banish him from entering the country to meet his family.²⁰⁷

On the other hand, the rulings and relevant suggested actions are different in the event of any threat to national security, when freedom of religion and related expressions of freedom are not confined to the private sphere.²⁰⁸ For instance, in the case of *Near*

2013) [hereinafter UDDIN & TARIN].

203. See UDDIN & TARIN, *supra* note 202, at 3 (noting that the Organization of Islamic Countries (OIC) also called such actions by Geert Wilders as an abuse of the right of freedom of expression that constitutes towards religious discrimination).

204. See Sofie Lotto Persio, *Anti-Islam politician Geert Wilders found guilty of inciting discrimination in hate speech trial*, INT'L BUS. TIMES (Dec. 9, 2016, 11:19 AM), <http://www.ibtimes.co.uk/far-right-politician-geert-wilders-guilty-inciting-discrimination-hate-speech-trial-1595670> (describing how Wilders most recently was found guilty of inciting discrimination because of Wilders' use of the term "Moroccan").

205. David Batty, *Pastor Terry Jones Banned from UK After 9/11 Qur'an Burning Threat*, GUARDIAN (Jan. 20, 2011), <https://www.theguardian.com/world/2011/jan/20/pastor-terry-jones-banned-uk> (on file with the Washington & Lee Journal of Civil Rights & Social Justice).

206. See JOHN S. DINGA, AMERICA'S IRRESISTIBLE ATTRACTION: BEYOND THE GREEN CARD 388 (2011) (discussing Dinga's questioning of how Americans could accept Pastor Terry Jones' planned act of religious hatred against Islam, when Pastor Jones thinks that Islamic religion has been hijacked by extremists. He further questions Pastor's action of killing hate with hate).

207. See VANESSA PUPAVAC, LANGUAGE RIGHTS: FROM FREE SPEECH TO LINGUISTIC GOVERNANCE 221 (2012) ("In January 2011, US pastor Terry Jones was barred from entering Britain."); see generally Owen Bowcott, *Pastor Terry Jones Vows to Fight UK Ban*, GUARDIAN (Jan. 20, 2011), <https://www.theguardian.com/world/2011/jan/20/pastor-terry-jones-fight-ban> (on file with the Washington & Lee Journal of Civil Rights & Social Justice).

208. See generally Aileen McColgan, *Religion and (in)equality in the European Framework*, in CAMIL UNGUREANU & LORENZO ZUCCA, LAW, STATE, AND RELIGION IN THE NEW EUROPE 227 (2012) ("An individual's beliefs, religious or other, may demand action that is not regarded as a matter of personal choice in

v. Minnesota,²⁰⁹ emphasis is given to ensure the protection of community life against any kind of provocations of violence in the community and the overthrow of government.²¹⁰

Threats to national security were evident very recently when WikiLeaks provided an array of classified information regarding the film directed by Geert Wilders,²¹¹ which contained an absolute incitement to hatred, as stated in the leak “there is a possibility that the film could generate anti-European/anti-Western protests if it is perceived as part of a worldwide campaign against Islam.”²¹² After this revelation, Geert Wilders was banned from entering the United Kingdom, but this ban was overturned in 2009 by an immigration tribunal and Wilder was allowed to travel to UK.²¹³ Although the decision to overturn the ban was in accordance with Article 2 of the ECHR,²¹⁴ however, arguably, it resulted in empowering Wilders in his attempts to incite religious hatred. This is because, right after the overturn of the ban, Geert Wilders visited the UK and made arrangements for screening of his controversial anti-Islamic film “fitna” in Lords.²¹⁵ Afterwards, he had press conferences and meetings in which he repeated those anti-Islamic words that earlier caused protests and hate speeches

circumstances in which conflict with externally imposed rules cannot be avoided.”).

209. *Near v. Minnesota*, 283 U.S. 697 (1931).

210. See WILLIAM F. EADIE, *21ST CENTURY COMMUNICATION: A REFERENCE HANDBOOK*, VOL. 1, 420 (2009) (describing the Chief Justice’s emphasis in the decision).

211. See *US Embassy Cables: The Documents*, GUARDIAN (Dec. 15, 2010), <https://www.theguardian.com/us-news/series/us-embassy-cables-the-documents?page=12> (showing several different document sets that were link regarding the film) (on file with the Washington & Lee Journal of Civil Rights & Social Justice).

212. *Id.*

213. See Alan Travis, *Geert Wilders wins appeal against ban on travelling to UK*, GUARDIAN (Oct. 13, 2009, 2:32 PM), <https://www.theguardian.com/world/2009/oct/13/geert-wilders-wins-appeal-ban-uk> (“The far-right Dutch politician Geert Wilders intends to travel to London next week after an immigration tribunal ruling overturned a ban on visiting Britain.”) (on file with the Washington & Lee Journal of Civil Rights & Social Justice).

214. Eur. Conv. on H.R. art. 2(1).

215. See Sam Jones, *Geert Wilders anti-Islam film gets House of Lords screening*, GUARDIAN (March 5, 2010), <https://www.theguardian.com/world/2010/mar/05/geert-wilders-house-of-lords> (on file with the Washington & Lee Journal of Civil Rights & Social Justice).

against him.²¹⁶ He particularly re-iterated his comments regarding Islam and the Quran by calling Islam a totalitarian religion and incompatible with democracy and freedom, and by calling the Quran ‘fascist’.²¹⁷ Using such words against Islam and Quran in public press conferences in UK had the potential of fueling anger and protests by the Muslim community in UK against Wilders,²¹⁸ which could have the possibility of shaping public disorder in UK.

Here, Peter Danchin (“Danchin”) poses a question asking why Muslims should not feel encouraged to stay away from the actions of religious hatred and peacefully use their right to practice their religion, which they consider their dominant normative value.²¹⁹ That is even more of a problem in terms of religious hatred and discrimination in the matrix of overlapping human rights contexts.²²⁰ Society as a whole must stop viewing Muslims with suspicion and intrigue, and it should start to be more accepting and inclusive.²²¹ By the same token, Danchin argues that Muslims should not take offense to the blasphemous cartoons and films that are not openly visible and audible.²²² In other words, they should not to go out of their way to view these images so as to be offended by them.²²³ In this way, the freedom of expression can remain

216. *Id.*

217. *Id.*

218. *See id.* (describing the backlash from Muslim citizens of the UK).

219. *See* Peter Danchin, *Defaming Muhammad: Dignity, Harm, and Incitement to Religious Hatred*, 2 DUKE F. L. & SOC. CHANGE 5, 27 (2010) (“Why, for example, should liberal assumptions not now be reversed as many representatives of Islamic states have urged and the right peacefully to manifest one’s religion be regarded as a dominant normative value?”).

220. *See id.* (“Different states in different parts of the world, each with their own unique histories and constitutional settlements, continue to struggle with these questions and reach different forms of accommodation of the rights claims at issue.”).

221. *See generally id.* at 38 (“By contrast, we need to consider what it may mean for a Muslim community to practice and maintain its religion in the conditions of contemporary European or North American society.”).

222. *See generally id.* at 37.

223. *See id.* (“Viewing the Danish cartoon controversy solely through the lens of liberal theory masks the contingency and particularity of the normative assumptions upon . . . avoids an engagement with the internal point of view of a distinct normative system.”).

intact and the protection of religion from hatred can also be maintained rightfully and peacefully.²²⁴

However, it is pertinent to note that the actions and speech of both Geert Wilders and Pastor Terry Jones have been directed against the religion of Muslims, i.e., Islam, and resulted in protests by Muslims against Pastor Jones and Wilders' hateful comments for Islam as well as by the anti-Islamic organizations against Islam.²²⁵ This gave birth to religious hatred against Islam.²²⁶ Therefore, it would also be a wise decision to ban the hate perpetrators who instigate the emotions of masses through hateful speeches or writings.²²⁷

A ban on the actions entailing incitement to racial or religious hatred would discourage individuals from pursuing religiously or racially provocative hateful activities, resulting in the maintenance of harmony, peace, and public order in society. This is essential because the hateful content or activities against a particular religion or race can not only incite anger in the followers of that religion or race but also create racial or ethnic discriminations and prejudices adopted by conservatives in society. Furthermore, a ban would be more beneficial to the public good as it would avert the public disorder that can be caused by either the actions of hate perpetrators or the protests of those who are emotionally hurt by the activities or speeches of the hate perpetrators.

224. *See id.* ("The degree to which rights to dignity and religious freedom may enable the practice of Islam as a religion and way of life free from visible manifestations of hate and incitement to religious hatred are essentially-contested but increasingly important questions.").

225. *See* ANSARI & HAFEZ, *supra* 202, at 10 (describing details of anti-Islamic protests); *see also* Ed Pilkington, *Church's Qur'an Bonfire to Go Ahead Despite Global Protests*, GUARDIAN (Sept. 8, 2010), <https://www.theguardian.com/world/2010/sep/08/quran-bonfire-to-go-ahead> ("Protests against the book burning have erupted from local to global level.") (on file with the Washington & Lee Journal of Civil Rights & Social Justice).

226. *See* Pilkington, *supra* note **Error! Bookmark not defined.** (describing critiques of the "bonfire" from a range of people including David Petraeus and Hillary Clinton).

227. *See generally* EDMOND VOLPE, *THE COMPREHENSIVE COLLEGE: HEADING TOWARD A NEW DIRECTION IN HIGHER EDUCATION* 92 (2001).

XI. Conclusion

The burning of holy books can never be justified on the grounds of freedom of expression, as it would establish a threat to the freedom to practice religion. This is because the consequent effect of burning of holy books would create a direct ideological rift between the followers of holy books and those who burn them. Ultimately, it would provoke violent expressions generated from protests, which could have the potential to cause civil disorder in society.²²⁸ Therefore, the burning of holy books, which is arguably an expression of freedom, ought to be replaced by other forms of expressions of freedom that may not harm the emotions of other religions and may not instigate public disorder and hatred.²²⁹ There can be many other possible means to express freedom in a humane manner that can bring positive results, instead of the burning of holy books, which is entirely negative in its approach, practice, and consequence. No expression that can be deleterious to the peace, harmony, and public order of a society must be allowed to take hold in any circumstances and in any geographical location.

The effect of hate speech also depends on what individual is perpetrating and inciting the hate. For instance, if a person who is followed and esteemed in the society spreads hate against a particular religion or race, then there are more chances that the hatred will spread more quickly and deeply into the society. For instance, Geert Wilders is a political figure in Europe and has had many followers.²³⁰ Therefore, hate speech by him will, in effect, not

228. A. HUNSICKER, BEHIND THE SHIELD: ANTI-RIOT OPERATIONS GUIDE 39 (2011).

229. See Huhn, *supra* note 114; see also *Should the Burning of Holy Books Be Banned*, DEBATEWISE.ORG, <http://debatewise.org/debates/2304-should-the-burning-of-holy-books-be-banned/> (last visited on Dec. 3, 2017) (polling viewers for their thoughts on whether the burning of religious books should be allowed) (on file with the Washington & Lee Journal of Civil Rights & Social Justice).

230. See David Cook, *Identity Multipliers and the Mistaken Twittering of 'Birds of a Feather' 3*, in ANDREW LIAROPOULOS & GEORGE TSIHRINTZIS, ECCWS 2014-PROCEEDINGS OF THE 13TH EUROPEAN CONFERENCE ON CYBER WARFARE AND SECURITY: ECCWS 2014, at 45 (2014); see also @geertwilderspvv, TWITTER (last accessed Nov. 18, 2017), https://twitter.com/geertwilderspvv?ref_src=twsrc%5Egoogle%7Ctwcamp%5Eserp%7Ctwgr%5Eauthor (showing Wilders' number of twitter followers) (on file with the Washington & Lee Journal of Civil Rights & Social Justice).

only propagate the hate, but also give them popularity amid a media circus.²³¹

Both in Europe and in the U.S., personal religious beliefs are not the matters of concern for states, and this apathy has motivated the instigation of notions and actions of religious hatred in the past few years.²³² Nonetheless, legislation has been implemented to prevent the strengthening of racial and religious hatred.²³³ In this regard, UK legislation has been prominently discussed above, which prohibits speech and activities involving religious or racial hatred against a certain class or group of people.²³⁴ On a similar note, in the U.S., the state of Vermont has prohibited burning of holy cross and any other religious symbol, which is carried out with intent of racial or religious intimidation.²³⁵ As elucidated above that Holy Books such as Quran are also religious symbols,²³⁶ therefore, burning of Holy Books becomes an illegal action as per Vermont's law.²³⁷ Nonetheless, the laws in other states of U.S. have not covered this aspect, except in *Virginia v. Black*²³⁸ case which prohibited the burning of Holy Cross if carried out only with intent to intimidate someone.²³⁹ However, simply because it is not illegal to burn Holy

231. See ANJA SEIBERT-FOHR, JUDICIAL INDEPENDENCE IN TRANSITION 269 (2012) (discussing how the Amsterdam Court of Appeal received several hate mail letters from followers of Wilders, after the Court ordered criminal prosecution of Geert Wilders of his hate speech against Islam in 2009).

232. See BRENNAN HILL, WORLD RELIGIONS AND CONTEMPORARY ISSUES 22 (2013) (explaining the separation of religion in U.S. after the First Amendment and the spread of secularism in U.S and Europe where secularists often view religion as irrelevant to society).

233. See *generally Racial and Religious Hatred Bill*, BBC NEWS (Jan. 27, 2006), http://news.bbc.co.uk/2/hi/programmes/bbc_parliament/4652669.stm ("This bill makes it an offence to stir up hatred on religious grounds and amends the law on encouraging racial hatred.").

234. Cumper, *supra* note **Error! Bookmark not defined.**; see also Public Order Act 1994, *supra* note 185; see also Racial and Religious Hatred Act 2006, *supra* note **Error! Bookmark not defined.**

235. SMITH, *supra* note **Error! Bookmark not defined.**, at 28 (displaying Vt. Stat. Ann. tit. 13. § 1456 (2010)).

236. Hicks, *supra* note 162, at 25.

237. See Vt. Stat. Ann. tit. 13. § 1456 (2010) (penalizing any person who burns or aids in burning cross or any religious symbol with an intention to harass or terrorize a person or a group of people).

238. *Virginia v. Black*, 538 U.S. 343 (2003).

239. *Id.* at 365–66.

Books in most of the states in U.S. should not make it right and justifiable. The act can hurt the religious sentiments of those persons whose Holy Books would be burned by those carrying religious hatred sentiments against their Holy Books.