

THE ROLE OF ISLAMIC LAWS IN COMBATING HATE SPEECH

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ABSTRACT

The purpose of this study is to examine hate speech in the light of Islamic laws. The study focuses on how traditional Shariah laws (Islamic Laws) are playing a crucial role in eradicating the roots of hate speech and intolerance from society. In this paper, the qualitative method is implemented, and to do so, primary and secondary both are be used. The primary sources are the al-Qur'ān and sunnah. The secondary sources include journals, articles, judicial authorities, and related books on Islamic laws. The study found that, in recent times, the phenomenon of hate speech is increasing dramatically all over the world. Hence, now more than ever; there is a necessity to more concerned about this issue together irrespective of religion, race, and nationality. Islam, however, as a religion of peace and humanity had declared a clear statement against hate speech, even, it is strictly forbidden and a punishable offence in Shariah; since the main essence of the maqāsid al-sharī'ah (objectives of Shariah) is to avoid the evil and uphold the human interest. From the legal perspective, to abate the phenomena of hate speech from the society, Islamic laws can be more effective combined with conventional laws, if it is executed properly.

Keywords: *hate speech, Islamic law, freedom of expression*

INTRODUCTION

Definition of Hate Speech

The term ‘Hate Speech’ has a couple of definitions in modern academia. According to *Webster Dictionary*, *hate speech* is “**speech** that is intended to insult, offend, or intimidate a person because of some trait as race, religion, sexual orientation, national origin, or disability” (Webster, 2019). The ‘Encyclopedia of the American Constitution’ defines hate speech as communication that typically includes animosity or disparagement of an individual or a group on account of a group characteristic such as race, colour, national origin, sex, disability, and religion (Nockleby, 2000). If we consider and analyze above-mentioned definitions, we may attain such a conclusion that, hate speech more or less holds the following common components like:

1. Hating someone’s felling by direct or indirect verbal bullying.
2. Mocking at other people aiming to abuse them.
3. Disparaging a person based on race, colour, religion, and nationality.
4. Dishonouring people and their character assassination.
5. Harassment and misbehave with an individual or a group of people.
6. Provoking religious, racial violence.
7. Taunting etc.

Thus, in the paper, we would like to concentrate on these mentioned contexts and components to present a brief discussion over the subject matter shed lighting on the Islamic point of view and its approaches in dealing with hate speech.

Definition of Islamic Law

Islamic law derived from the Arabic word ‘Sharia’ is translated into the English language “the legal system used by the Islamic people.”¹ Which is used in the Holy *al-Qur’ān*, Allah says to the Prophet Muhammad (peace be upon him): “Then we put thee on the (right) Way of Religion: so follow thou that (Way), and follow not the desires of those who know not.” (Surah al-Jāthiyah, 45: 18). Literally, Shariah means “a way to the watering-place or a path apparently to seek felicity and salvation” (M. Kamali, 2008). Islamic law not only imposed

¹ *The Black’s Law Dictionary*, via <http://thelawdictionary.org/sharia/>, accessed on 25 December 2019.

some legal rules on Muslim's life but also covered all aspects of their life. Hence, Shariah or Islamic law is defined as "a code of law or divine injunctions that regulate the conduct of human beings in their individual and collective lives" (Ayub, 2007).

RESEARCH QUESTIONS

Currently, the whole world undergoing the phenomenon of hate speech, and it is increasing dramatically everywhere. Therefore, this study attempts to answers the questions:

1. Does Shariah criminalize the hate speech's components? And what kind of punishments ordered to implement who commits hate crimes?
2. Does Islamic law accept the absolute freedom of expression?
3. What is the effectiveness of Islamic laws in combating hate speech?

THE OBJECTIVE OF THE STUDY

The purpose of this study is to explore the effectiveness of Islamic laws in preventing hate speech. This research focuses on how Shariah laws (Islamic Laws) are playing a central role in eradicating the roots of hate speech and intolerance from society.

RESEARCH METHODOLOGY

In this paper, the qualitative method is implemented, and to do so, primary and secondary both are to be used. The primary sources are the *al-Qur'ān* and *sunnah*. All Quranic texts' translation that has been used in this study collected from the Noble *al-Qur'ān*, Arabic to English translation online version; I think in this version of the translation, the author has chosen an appropriate and complete meaning for every Arabic word without ambiguity. Conversely, in order to the translation of the *ḥadīth* of Prophet Muhammad (Peace be upon Him), I have relied on Sunnah.com's online version. Moreover, whenever has been used, any verse of the Holy *al-Qur'ān* as a reference mentioned the verse and Sura on the text, and the same method has been implemented in referencing the *ḥadīth* of the prophet. The secondary sources include journals, articles, judicial authorities, and related books on Islamic laws. Due to the nature of this study, the research uses the analytical and descriptive approach to examine the stance of Islamic law concerning hate speech. This approach used to investigate the relationship between hate speech and freedom of

expressions, Islam phobia, and violations of human dignity. Finally, to explore the role of Islamic law in preventing hate speech, I have analyzed the ruling of most prominent schools of thought regarding hate speech, and particularly, I have emphasized the proposed punishments that opined by the Muslim Jurists. Likewise, this study has relied on the most recent surveys and official statistics to illustrate the current phenomena of the different types of hate speech existing all over the world.

DISCUSSION OF THE STUDY

HATE-BASED VIOLENCE AND CRIME IN THE WORLD: AN OVERVIEW

Nowadays, hate-based violations and crimes have risen up all over the world, resulting in many perilous incidents and violations turned up that vividly becoming a colossal threat for all humanity, banishing the world's social security and peaceful co-existence among the different religions, race, and colours.

If we analyze the recent phenomenon of hate speech based violations and crimes in India, we will notice that almost brutal crimes against Muslims initially occurred based upon religious hate speech. The last Delhi violence exhibits one of the largest hate-based violence by the Hindu people in recent times. More than 70 Muslim men and women have been killed through this violence, attacked on mosques, home of the Muslims, and burnt. At least two thousand people have been injured severely (News, 2020).

Besides, if we have a look over the past year's published statistics of hate violation in this country, it clearly will show horrifying circumstances that, indeed, beyond our imagination. According to a survey, 296 hate-based incidents of communal violence occurred just at the beginning of 2017 in India. While 703 incidents have also occurred in 2016 (Times News Network). Moreover, due to carrying beef, minority Muslims have been targeted, and they attacked by the fundamentalist BJP workers. Many videos and pictures of the attack went viral on social media (Dahat, 2017).

The hate-based crimes and violations are growing in the west day by day that devastating social stability, mutual understanding, and harmony among the distinguished faiths and believers in the USA, UK, Canada, Italy, etc. countries. UK police recorded the highest figure of hate crimes in England and Wales according to their recent year's official survey, 2017/18. The police office stated that the 94,098 hate offences had occurred during a year, and 17% increased in the previous years, and 123% increased in 2012/2013

(Home, 2018). Apart from that, online hate crime, particularly social media hate speech, has become a major problem in the UK (Williams et al., 2019). Williams argued that the internet had privileged the amplification of extreme fundamentalist groups to target minority groups through online hate speech (M. Williams, 2019). Home office 2018 data confirmed that 1,605 hate offences ascertained between 2017 and 2018 that symbolizes a 40% growth considering the previous year. The data also demonstrated that majority of the online hate crimes was the based upon racism and the ratio was 52%, followed by the sexual hate crime was 20%, disability-based 13% and religion-based 12% out of 100 % (M. L. Williams, Burnap, Javed, Liu, & Ozalp, 2020).

ONE OF THE ‘MAQĀṢID AL-SHARĪ‘AH’ IS TO PRESERVE HUMAN DIGNITY

Through hate speech, human dignity is violated in several ways that lead to impediments on religious freedom, provoke tribal, and gender discrimination. Thus, Islamic law guaranteed the protection of dignity (*al-ird*) that is one of the most crucial elements in the life of human being. Allah has conferred dignity upon mankind that demonstrates by the *al-Qur’ān* and *sunnah*. The most unequivocal statement of the human dignity (*al-karāmah al-insāniyyah*) is found in the Holy *al-Qur’ān*, Allah says: “We have bestowed dignity on the children of Adam (*laqad karramna bani Adama*) ...and conferred upon them special favours above the greater part of Our creation” (*al-Qur’ān*, Bani Israil: 70). So, human being fundamentally deserves respect. The famous *al-Qur’ān* commentator al-Alūsī remarks that “everyone and all members of the human race, including the pious and the sinner, are endowed with dignity” (Al-Alusi, 1995).

Most of the jurists, including the Ḥanafī School of thought have taken universalists and a positive stand on the recognition of ismah for all humans regardless of religion, gender, race. This stance supported by many great Islamic scholars. For instance, Abū Ḥamīd al-Ghazālī from the Shāfi‘ī school, Ibn Rushd al-Qurṭūbī, Ibrahim al-Shāṭibī, and Ibn ‘Āshūr from the Mālikī school, Ibn Taymiyyah and Ibn Qayyim al-Jawziyyah from the Ḥanbalī all are promoted this position regarding *al-karāmah al-insāniyyah* (M. H. Kamali, 2007). On the other hand, Twentieth-century Shariah experts and jurists have also gone on and commented that the dignity is not obtained by praiseworthy conduct; rather it is recognized as an appearance of Allah’s grace; and at the same time, the dignity is a natural and unconditional right that inheres in every human being from the moment of the birth (M. H. Kamali, 2007). To safeguard human dignity, Shariah emphasized so much on this issue and included it in

one of the *al-ḍarūriyyah al-khams* (five fundamental necessities) of *maqāṣid al-sharī'ah*, which Shariah wants to be achieved to avoid the evil and uphold the human interest (Laldin, 2006). Islamic law has imposed a great punishment on those who violate human dignity. Here given below, some of the initiatives taken by Shariah to preserve the *al-karāmah* of human beings:

1. Punishment of Character Assassination in Islamic Law

Shariah has enacted several injunctions to shelter the dignity of mankind and prohibited its followers from accusing others of mischiefs, such as committing adultery or any crime that violates a person's reputation (*al-qazf*). Based on this principle, Islam, as a complete code of life, has ordered to implement the '*ḥadd*'² those who make a false allegation against others. In the Holy *al-Qur'ān*, Allah warns us concerning this kind of crime and says: "*And those who accuse chaste women, and produce not four witnesses, flog them with 80 stripes, and reject their testimony forever, they indeed are the Fāsiqūn (liars, rebellious, disobedient to Allah*" (Surah al-Nūr, 24: 4). In addition to this, Allah's curse is upon those who commit such crimes "*Indeed, those who [falsely] accuse chaste, unaware and believing women are cursed in this world and the Hereafter; and they will have a great punishment*" (Surah al-Nūr, 24: 23). These Quranic laws particularly prove that Islam does not tolerate hate speech against women that is considered a major problem of the world.

On the other hand, according to Muslim jurist's opinion, if *al-qazf* is against a dhimmi, a non-Muslim living in Muslim territory with security, or a slave, *ta'zīr* is applicable for such case (Marghinānī, 1997). For instance, if anyone says another one an infidel, or thief, *ta'zīr* will be applicable, since the ultimate definition of *al-qazf* is not fulfilled. At the same time, it is to be noted that a particular society can consider or confine themselves to what expressions or words are to be called or entitled as an insult, and *ta'zīr* can be implemented.

Conversely, the Ḥanafī school of thought holds the view that the victim must be officially complaints about the *al-qazf* punishment; if not, no prosecution is procurable. If the *al-qazf* has alluded against a dead person, his ascendants or descendants are entitled to a given penalty by the jurists. Nevertheless, according to Ḥanafī madhhab, if the basic entity of *al-qazf* dies in front of the tribunal, the *ḥadd* becomes invalid. Whilst in the Ḥanafī point

² *Ḥadd* is fixed punishment prescribed based upon the *al-Qur'ān* and *sunnah*. There is no change that can be made in the form of punishment by anyone. Prescribed punishment must be implemented for the following crimes: drinking alcohol, armed robbery, theft, illicit sexual relations, apostasy, and slanderous accusations of promiscuity.

of view, *al-‘afw*, forgiveness the criminal by the sufferer, will not go down the *hadd*, but it will be dropped in the Ḥanbalī and Shāfi‘ī view. According to the Mālikīs view, *al-‘afw* exudes the *hadd* if the case has not been arrayed to the court; but if the case has been received by the court, *al-‘afw* is not accessible (Ibn Qudāmah, 1988; Bilmen, 1969). From the above-mentioned discussion, it can be said that Islamic law has taken the defamation of individuals as a serious issue and enacted several punishments that can play a pivotal role in removing such type of hate speech. While the secular laws largely do not take the case as seriously as Islamic laws took, that resulting in a high volume of hate-based violations and crimes exists and dramatically increases this phenomenon across the world particularly, in western countries. For instance, defamation in the United States, disparaging speech that is a false statement against a person’s character, reputation, or status. Under the U.S. law, it must be a false speech of fact; statement of opinion, but without it cannot be considered as defamation. There are, however, different standards for public officials and private individuals. Even if the courts find defamation, in some cases, they do not execute any criminal punishment; rather, courts may want the speaker to publish a correction to the defamatory statement, or they may order to compensate the victim financially.³ Comparing US law and Islamic law concerning *al-qazf*, it is demonstrated that Islamic law more effective and comparatively malleable considering the play a role in preventing this crime from the globe.

2. Prohibited Backbiting and Spying on People

To conserve human dignity, Islam prohibited backbiting and spying on people that harm man’s reputation and dignity and leads the society into disorder and intolerance. Allah says about the punishment of backbiter in the holy *al-Qur’ān*: “*And spy not, neither backbite one another. Would one of you like to eat the flesh of his dead brother? You would hate it (so hate backbiting). And fear Allah. Verily, Allah is the One Who accepts repentance, Most Merciful*” (Surah al-Ḥujurāt, 49: 12). Narrated Mu‘āwiyah: “*I heard the Messenger of Allah (PBUH) say: If you search for the faults of the people, you will corrupt them, or will nearly corrupt them*” (Abū Dāwūd, 2006). At the end of this discussion from the *al-Qur’ān*, *sunnah*, and jurists’ opinions, we can say that Islamic law plays a pivotal role in preserving human dignity through its several ruling against violation of human dignity.

³ Freedom of Expression in the United States, Embassy of the United States of America, p 3-4, https://photos.state.gov/libraries/amgov/133183/english/1304_FreedomofExpression_UnitedStates_EnglishDigital.pdf, accessed on 02-02-2020.

FREEDOM OF EXPRESSION AND CRITICISM IN ISLAMIC LEGAL SCHOOLS OF THOUGHT

Before getting into a deep discussion, we have to ponder over the definition of freedom of expression in Islamic Jurisprudence. According to the Council of the International Islamic Fiqh Academy, the freedom of expression is: “the full enjoyment of a person with the ability to express what he sees rightly and beneficial to him and the community with regard to private affairs or public issues. This right is safeguarded under the provisions of Sharia law.”⁴ The definition of the Fiqh Academy is a little bit incomprehensible. Dr. Abdul Hakeem Hassan Al-Eili mentions that “The Freedom of expression means to be a free man in the formation of his opinion without depending on others and being free to show his opinion and announcement in a manner that he deems” (Saeed, 2013) This definition also does not illuminate if the freedom of expression is confined by some principles or not.

Ali Muhammad Bhat opined that: “Freed of speech means the right of an individual to prefer the stance about certain public or private matter and express them before others devoid of delinking themselves from the society. Freedom of speech and expression is the person’s right to express his ideas and feelings with his own choice and will, as long as there is no aggression on the rights of others... It is a prerequisite for a Muslim under certain legal conditions so that a person can express his thought freely and religious duty (Ali Muhammad Bhat, 2014).

Under Islamic law, freedom of expression is considered as a fundamental human right. Shariah never rejects the freedom of criticism of individuals in the systematic way that upholds the human interest, rather Islam encourages people to criticize whenever found any violation of moral ethics and values at any stage of the society. Allah says in the Holy *al-Qur’ān*: “*And cooperate in righteousness and piety, but do not cooperate in sin and aggression. And fear Allah; indeed, Allah is severe in penalty.*” (Surah al-Mā’idah, 5: 2). The prophet (Peace be upon Him) gives the ultimate right the Muslims to speak against overall bad activities. Even the prophet proclaimed that as it is a great jihad. The prophet (SAW) said: “The best form of Jihad is to tell a word of truth to a tyrannical ruler” (Abū Dāwud, 2004). The prophet (SAW) said on another place in this way: “If anyone of you comes across an evil, he should try to stop it with his hand (using force), if he is not in a position to stop it with his

⁴ Resolution 176 (2/19) on Freedom of Expression: Its Controls and Provisions, April 2009, The Council of the International Islamic Fiqh Academy, via <http://www.iifa-aifi.org/2294.html>, accessed on 02-02-2020.

hand then he should try to stop it by means of his tongue (meaning he should speak against it). If he is not even able to use his tongue, then he should at least condemn it in his heart. This is the weakest degree of faith” (Muslim, 2004).

Shariah instructions indicate that Islamic law considers the right freedom of expression and criticism, but must be well-maintained the restrictions imposed by the Shariah, such as, taking on fair speaking and avoiding wrong speaking, avoidance laughing at others, leaving out the defamation, refusing abuse the creator and the Prophet, averting hiding the truth, avoiding to circulate the evil, and stating following the exact information, not without it (Saeed, 2013).

As we mentioned before, Islamic law gave the full freedom of religion of each individual, and Shariah believes in interreligious dialogue and a good relationship among the different religions and faiths that is a unique beauty of Islamic law. The Prophet established the state of Madina, where he provided the full freedom of non-Muslims without any obstruction. This prophetic model ought to be the best model of the life of a Muslim. A Muslim never hates any believers and or non-believers. This the teaching of Prophet Muhammad (Peace be Upon Him), but in our society Muslims are abusing the freedom of expression and criticism that lead to hate speech and attack on people’s respective opinions or views without paying any respect for their thought. Subsequently, we notice many clashes happened among Muslim groups through hate speeches. Like Shia-Sunni conflict, Hate speech of Al-Qaeda, ISIS, and other fundamentalist groups that created disorder particularly this leads the western worlds into Islam phobia and suffering the innocent Muslims nowadays (Alzahrani, 2017).

On the other hand, if we investigate the surviving legal schools of thoughts like Ḥanafī, Shāfi‘ī, Mālikī and Ḥanbalī school of thought’s followers’ speech frequently cross the limit of freedom of expression and criticism that lead into head speech. In this situation, naturally, raises a question here how criticized the imams each other in different legal issues? Admittedly, imams of legal schools of the thought expressed their views on jurisprudence and criticized other’s opinions spontaneously with due respect. It is worth noting that all imam of madhhab called their followers to evade radicalism, similarly they also clearly stated that their personal views or *ijtihad* could be wrong. Thus, if anyone notices Imams’ *ijtihad* or thought in a particular issue rejects the primary sources of Islamic law, he must follow the correct one that is supported by basic sources of Islamic law (Alzahrani, 2017).

Imam Abū Ḥanīfah, who was the founder of the Ḥanafī School of thought, said: “This is my opinion, but if someone offers a better opinion, we will

accept that” (IbnTaymiyyah, 1995). Mālik, the founder of the Mālikī school of thought, said: “*I’m a human being who makes mistakes and can be wrong. You should return to the al-Qur’ān and sunnah*” (IbnTaymiyyah, 1995). Al-Shāfi‘ī, the founder of the Shāfi‘ī school of thought, said: “If you see that my words contradict the *ḥadīth*, then apply the *ḥadīth* and disregard my words” (IbnTaymiyyah, 1995). Ahmed, the founder of the Ḥanbalī school of thought, said: “Do not imitate me. Neither imitate Mālikī, Shāfi‘ī, or Athori and learn like we learned” (Ibn al-Qayyim, 1991).

Above mentioned sayings of the Imams of the legal schools of thought, it is clearly exposed that there was an opportunity in expressing the freedom of expressions and criticism that aimed at the variety of thoughts and promoting the disparagement of views. But it does not mean that promoting the doctrinal fanaticism in the name of criticism.

HATING SOMEONE STRICTLY FORBIDDEN IN ISLAM

Shariah has a clear statement against hating others, and It is strictly forbidden by the *al-Qur’ān* and *sunnah* of the Prophet Muhammad (Peace be upon Him). In Islam, speech is not considered just a few groups of words without ramifications. Most of the time, people hurt others by their speeches; therefore, the *al-Qur’ān* and *sunnah* have commanded the believers to speak carefully in all situations of life; because every single word of men and women is being recorded and observed by the almighty Allah.

Unfortunately, in the current world, in the name of Islam hate speech and hate crimes have been occurred by many extremist groups, particularly can be mentioned the name of ISIS, who are claiming that they are trying to establish an Islamic state, but what position of Islamic law concerning theirs activates? Hence, here we will notice the actions implemented by them, and then we will check with the references of the Islamic legal theory.

ISIS has several hate speech and crimes stated by them that considered a controversial speech and led to social violence. After the most dangerous attract in Paris on 13 November 2015, ISIS’s hate speech had been published in all world media. The following day on Saturday 14 November 2015, they claimed their responsibility behind this attack under the name “Paris Raid”. The statement circulated by ISIS is given below:

“In a blessed attack for which God facilitated the cause for success ‘a faithful group of the soldiers of the Caliphate ‘may God dignify it and make it victorious ‘launched out ‘targeting the capital of prostitution and obscenity ‘the carrier of the banner of the cross in Europe (Paris) ‘youths who divorced

the world and went to their enemy seeking to be killed in the cause of God ‘in support of His religion and His Prophet ‘God’s peace and blessings be upon him and.... ‘and to put the nose of his enemies in the ground. So they were honest to the God ‘we consider them thusly ‘and God conquered through their hands and cast in the hearts of the Crusader’s horror in the middle of their land.’⁵

“Let France and those who walk in its path know that they will remain on the top of the list of targets of the Islamic State ‘and that the smell of death will never leave their noses as long as they lead the convoy of the Crusader campaign ‘and to dare to curse our Prophet ‘God’s peace and blessings be upon him ‘and are proud of fighting Islam in France and striking the Muslims in the land of the Caliphate with their planes ‘which did not help them at all in the streets of Paris and its rotten alleys. This attack is the first of the storm and a warning to those who wish to learn.”⁶

Islamic law rejects ISIS’s statements and activities as they violated Islamic speech principles. Allah says in the *al-Qur’ān*: “*Man does not utter any word except that with him is an observer prepared [to record]*” (Surah Qaf, 50: 18). Prominent Islamic scholar Ibn Kathir commented on this verse and said: “The watcher is referring to the angels that watch over every living person and record all their words and movements to be used in their judgment” (Ibn Kathir, 2013).

Further, it is recorded from the Prophet Muhammad, peace be upon him, in which he states:

“Allah’s Messenger said, Whoever believes in Allah and the Last Day should talk what is good or keep quiet, and whoever believes in Allah and the Last Day should not hurt (or insult) his neighbour; and whoever believes in Allah and the Last Day, should entertain his guest generously.” (Al-Bukhārī, 1997).

There are, however, many Shariah injunctions have found concerning not hurting people, even, Islam does not allow hurting idols of the non-Muslims whom they call upon besides Allah, the almighty. In this such Islamic opinion, ISIS’s stance and its methodology in establishing Shariah state is not legal

⁵ For more details, Read Official ISIS Announcement on Paris Attacks via <https://www.paldf.net/forum/showthread.php?t=1180950&page=27>, accessed on 28-03-2020.

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according to Islamic Law, Allah says in the Holy *al-Qur'an*: “*And do not revile those they invoke other than Allah, lest they insult Allah in enmity without knowledge. Thus, we have made pleasing to every community their deeds. Then to their Lord is their return, and He will inform them about what they used to do.*” (Surah al-An‘ām, 6: 108). Allah says in the Glorious *al-Qur'an* in another Ayat: “*And by the Mercy of Allah, you dealt with them gently. And had you been severe and harsh-hearted, they would have broken away from about you.*” (Surah Āli ‘Imrān, 3: 159). The messenger of Allah said: “*Do not hate one another, nor be jealous of one another, and do not desert one another, but O Allah’s worshipers! Be Brothers! And it is unlawful for a Muslim to desert his brother Muslim (and not to talk to him) for more than three nights.*” (Al-Bukhārī, 1997). Abu Hurayrah reported that the Messenger of Allah, may Allah bless him and grant him peace, said, “*Do not hate one another nor contend with one another. Slaves of Allah be brothers*” (Muslim, 2007).

In addition, such speech delivered by the ISIS is a clear violation of the principle of respecting heavenly religions, including respecting other faiths and rituals. According to the *al-Qur'an*, Allah said: “*To you your religion, and to me my religion*” (Surah al-Kafirun, 6). The treaty of Madina, The first agreement in Islamic history, exhibits a model of peaceful social coexistence among multi-religious environment where ensured respecting of others’ right of religion. This pact guaranteed the freedom of every person of the society as it postulated that: “*Jews were recognized as a separate community allied to the Muslim followers*” (John L. Esposito, 2005: 9; Khalid Al Jumaili, 2008: 53, 841).

Above mentioned discussions, typically, prove that hurting others is prohibited in Shariah. Rudeness and aggression are not the characters of Islam. And kindness, compassion, and gentleness are the spirit of Islam (Zubair & Azhar, 2014). Narrated ‘Ā’ishah RA some Jews had come to our beloved Prophet Muhammad, may Allah bless him and grant him peace, and said, “*Death be on you.*” ‘Ā’ishah said, “*And upon you and May the curse of Allah and the anger of Allah be upon you!*”. The Prophet said, “*Be calm, O ‘Ā’ishah, you must be gentle. Beware of harshness and coarseness*” (Al-Bukhārī, 1997). This *ḥadīth* also teaches us clearly that if anyone, Muslims or non-Muslims, hate us, we should not reply with a hating word or speech, because this is not teaching of our prophet. The prophet could use the hating language to reply to that Jew who said the prophet “*death be on you*” but did not do; even the prophet condemned ‘Ā’ishah RA for replying to Jew.

HATE SPEECH BASED ON RACISM AND NATIONALISM: THE POSITION OF ISLAMIC LAW

Racism based hate speech and crime are intensely uprising day by day all over the world. Fundamentally, racism is the belief that groups of humans possess different behavioural traits corresponding to physical appearance, and can be divided based on the superiority of one race over another (Newman, 2012). According to the Home Office Hate Crime survey, 2018/19, the figure of race-based hate crimes increased by 11% (up 7,727 to 78,991 offences) between 2017/18 and 2018/19. Over the same period, religious hate crime increased by three percent in England and Wales.⁷

According to the European Islam phobia report 2018, religious intolerance is dramatically increasing, and the first victim and target people were the Muslims. In Austria, Islamophobia and Anti-Muslim Racism increased by around 74%. In France, recorded an increase of 52%. In the UK, 40% is double the amount of 2015/16. Instances of destruction at places of worship similarly (50%) increased in the same period of time (Bayraklı, 2018).

Recently, through the outbreak of coronavirus pandemic, COVID-19 has been experienced a new shape of racial hate speech that seems to be enflamed the global clash when passing the whole world an acute moment. To enrich the discussion here, we would like to address some racial cases where the Chinese people have been targeted relied on coronavirus as this epidemic first time spreads from Chin. For instance, an Indian Muslim Scholar, Ilyas Sharafuddin, said in a statement that Allah punished the Chinese through Coronavirus on them for their cruel oppression on Uighur Muslims. He stated, “Remember how they have threatened the Muslims and tried to destroy lives of 20 million Muslims. Muslims were forced to drink alcohol, their mosques were destroyed, and their Holy Book was burned. They thought that no one can challenge them, but Allah, the most powerful punished them” (Sharafuddin, 2020).

In the United Kingdom, coronavirus connected hate speech, also increasing. On 30 January 2020, a Chinese postgraduate student who was walking alone wearing a face mask on West Street in Sheffield City Centre, towards the University of Sheffield, was verbally neglected and pushed by people as a student from Chin (Jones, 2020). Racism against Muslim women has followed only because of their traditional wearing stuff like Hijab. They are frequently targeted by many racist people in the whole world, particularly western countries. On 21.03.2019 Anadolu Agency of Turkey, published some

⁷ Home Office hate crime report, *Hate Crime, England and Wales*, 2018/19, <https://assets.publishing.service.gov.uk/>, accessed on 7 April 2020.

worldwide racial discriminations where a Muslim woman in Germany has faced such a comment that was actually racial discrimination. She stated the story by her own words: “Once I asked directions and received a very nice answer, but at the end, the woman said: ‘But without hijab, you would look much more beautiful’” (Fatih Hafiz Mehmet, 2019). Likewise, white, black skin has become the target point of racists. A Guinea Bissauan has been refused to buy something only for skin colour from the shop and said like: “Guineans don’t have money.” (Fatih Hafiz Mehmet, 2019).

In these circumstances, we would like to look over the position of Islamic law concerning racism and Islam how rooted out the phenomenon of racism from the society. It is known that, from the very early time, Islam played a central role to root out the phenomenon of hate speech based on racism that suffered the all societies especially, before the advent of Islam the people of Makka faced a huge amount of intolerable torture and persecution from the privileged societies which lead them to embrace Islam as a religion.

However, if we analyze the central sources of Shariah, we will find that there is no room for superiority and racism in Islam without *taqwā* (fearing of Allah). Allah tells us the diversity of his creation and the various languages and colours. He has created all human beings and divided them into several nations with aiming to know each other’s as Allah mentions in the noble *al-Qur’ān*: “*O mankind, indeed We have created you from male and female and made you peoples and tribes that you may know one another. Indeed, the noblest of you in the sight of Allah is the most righteous of you. Indeed, Allah is Knowing and Acquainted*” (Surah al-Ḥujurāt, 49: 13). The last messenger of Allah had taken a bunch of initiatives, manumitted the helpless people of Makkah, and redeemed them from the chain of slavery’s life. Abū Nadrah reported: “*The Messenger of Allah, peace and blessings be upon him, said during the middle of the day at the end of the pilgrimage, O people, your Lord is one and your father Adam is one. There is no favour of an Arab over a foreigner or a foreigner over an Arab and neither white skin over black skin or black skin over white skin, except by righteousness. Have I not delivered the message?*” (Assiybani, 2011) .

INSULTING OTHERS IS A PUNISHABLE OFFENCE IN ISLAMIC JURISPRUDENCE

Insulting is from one of the most common components or ways of hate speech that more appears in our society. It is impermissible, according to Islamic law, for a Muslim to insult anyone whether they are Muslims or not, even Shariah does not allow disgracing a sinner or a criminal only just his sin or committed crime unreasonably. Narrated Saiyd bin Zayd RA: “*The Prophet said: The*

most prevalent kind of usury is going to lengths in talking unjustly against a Muslim's honour" (Abū Dāwūd, 2006). Any disgraceful expressions and words to insult people are not acceptable in Islam, as this is a sin and an act of disobedience to Allah, the exalted. The Prophet SAW said, "*Reviling a Muslim is fusuq (disobedience of Allah) and killing him is (tantamount to) disbelief.*" (Al-Bukhārī, 1997).

Islamic Jurists and Imams opined that any form of humiliating words attacked on others' feelings by any means of hate speech considered a punishable offence. According to the Mālikī scholars, for instance, the person who says to his fellow Muslim, "You are a pig," should be punished and disciplined by the Muslim ruler. The Mālikī scholar, Muhammad 'Ulaysh, may Allah have mercy upon him, wrote, "*When a person says to another, 'O fasiq,' 'O wicked,' 'O drunkard,' 'O son of a dissolute', 'O consumer of interest, 'O donkey or pig,' or the like of such disgraceful expressions and words, then he should be disciplined.*" (Al-Kharashi, 1900). Besides, according to the Ḥanafī school of thought, it is also punishable, and their fatwa is that *ta'zīr* (discretionary punishment)⁸ will be implemented in this case. The following opinion is stated in al-Fatawa Al-Hindiyyah, a book on the Ḥanafī fiqh: "*In principle, ta'zīr is due for the perpetrator who commits an evildoing or harms a Muslim unlawfully (without a Shariah-approved cause) either by words or action. However, this is not applicable if the person verbally abuses another in a way that involves manifest lying, such as when a person says to another, 'you are a dog, a pig', or something like that*" (Abd al Rahman, 2000).

PUNISHMENT OF CURSING IN ISLAMIC LAW

The phenomenon of cursing has increased intensely in Muslim and non-Muslims countries. It is not permitted in Islamic law even cursing an animal is also strictly prohibited by the Shariah (Muslim, 2007). Abū Hurayrah RA reported that it was said to the Allah's Messenger (may peace be upon him): Invoke curse upon the polytheists, upon which he said: "*I have not been sent as the invoker of a curse rather I have been sent*" (Muslim, 2007). Islamic law has imposed a common punishment on those who curse others regardless of Muslims and non-Muslims. Our great four Imam have agreed that whoever curses ruler and *walī* will be imposed on them *ta'zīr* (A'bidī, 2010). They ruled such a fatwa relay on the following sayings of the prophet Muhammad (may peace be upon him): Rasulullah SAW said: "*A true believer should not be an invoker of the curse*" (Muslim, 2007). Further, narrated 'Abd Allāh bin 'Amr:

⁸ This kind of punishment depends on the judge's decision. He can give the criminal any highest or lowest punishment considering his level of crime.

Allah's Apostle said. *"It is one of the greatest sins that a man should curse his parents."* It was asked (by the people), *"O Allah's Apostle! How does a man curse his parents?"* The Prophet said, *"The man abuses the father of another man and the latter abuses the father of the former and abuses his mother"* (Al-Bukhārī, 1997). Great Shāfi'ī scholar and Imam Ibn Hajar al-Haytami mentioned that cursing a particular believer is a major sin (Al-Haytami, 2011). These *ḥadīth* and the opinions of the Jurists prove that cursing is a major sin in Islamic law. So we should not curse other human beings.

MOCKING PROHIBITED IN SHARIAH

It is not allowed in Shariah to make fun of someone's actions, traits in such a way that people laugh at it. It is a great sin, according to the Shariah laws (Zubair & Azhar, 2014). Moreover, the *al-Qur'ān* and *sunnah* warn us about the ultimate consequences of mocking. *Al-Qur'ān* instructs us not mocking people: *"O you, who have believed, let not a people ridicule [another] people; perhaps they maybe not better than them nor let women ridicule [other] women; perhaps they may be better than them. And do not insult one another and do not call each other by [offensive] nicknames. Wretched is the name of disobedience after [one's] faith. And whoever does not repent - then it is those who are the wrongdoers,"* (Surah al-Ḥujurāt, 49:11). Furthermore, Islam does not tolerate this task whether the mocking is done verbally or by actions or gestures because mimicking by any means of actions or gestures is more reluctant than the verbal mocking, and it contains more deep disparagement. An Aggressive body language is as well considered a medium of mocking (Hafiz Muhammad Zubair, 2014).

Narrated 'Ā'ishah RA: *"I said to the Prophet (PBUH): It is enough for you in Ṣafīyah RA. that she is such and such meaning that she was short-statured. He replied, "You have said a word which would change the sea if it were mixed in it. She said: I imitated a man before him (out of disgrace)." He said: "I do not like that I imitate anyone even if I should get such and such"* (Abū Dāwūd, 2006). 'Ā'ishah RA narrated another *ḥadīth* regarding mocking: *"A woman came to see us. When she left, I gestured with my hand, hinting she was short. At that, the Messenger of Allah said: "You have mocked her"* (Al-Nawawī, 2003). The prophet SAW, mentioned mocking and ridiculing as the characteristics of Jāhiliyyah that proved by his *ḥadīth*. One day Abu Tharr, RA, neglected a man by calling his mother a bad name, which heated this person felling. The Prophet SAW (may Allah exalt his mention) said to Abu Tharr: *"O Abu Tharr! Did you abuse him by calling his mother bad names? You still have some characteristics of Jāhiliyyah in you"* (Al-Bukhārī, 1997).

FINDINGS OF THE STUDY

1. The research found that Hate speech is forbidden by Islamic law, and Shariah has given several injunctions regarding this and imposed a couple of punishments that are significantly effective in combating all sorts of hate speech.
2. There is a relationship between absolute freedom of expressions and hate speech. Thus, Shariah has given the people freedom expression subjected to some basic principles instructed by the Holy *al-Qur'ān* and *sunnah* that playing a pivotal role in eradicating hate speech. The most common terms imposed on freedom of expressions by Islamic law are as follows:
 - The first principle of freedom of expression is any kind of talk must have to true, will not be wrong. *Al-Qur'ān* states to us regarding this: “*O ye who believe! Fear Allah, and say a word directed to the Right*” (Surah al-Aḥzāb, 33: 70). Allah mentions in the Holy *al-Qur'ān* in another place: “*So avoid the uncleanness of idols and avoid false statements.*” (Surah al-Ḥajj, 22: 30)
 - The second principle is expressions must be free from defaming and mocking at others, which not considered as freedom of expression according to Islamic law.
 - The third condition of freedom of expression is to stay away from abusing anyone, since it is forbidden and considered a great sin in Shariah.
 - The fourth term of freedom expression is avoiding religious conspiracy.
3. Islam has emphasized human dignity, and it has taken many initiatives to protect it, especially included human dignity in the *maqāṣid al-sharī'ah (al-darūriyyah al-khams)*.
4. Islamic law plays a central role in eradicating hate speech based on religion, race, and colour through declaring clear statements against racism and, finally, imposing some punishment those who violate the Quranic instructions concerning these.
5. Islam believes in religious harmony and peaceful co-existence among different religions and faiths demonstrated by the Charter of Medina, where the prophet gave Jews, Pagans, Christians communities full freedom to perform their religion without any impediment.
6. Taunting, insulting others is strictly prohibited in Islamic law that proved by the *al-Qur'ān* and the saying of the prophet (peace be upon him).
7. Finally, the research found that Islamic law has imposed both *ḥadd* and *ta'zīr* on hate crimes to root out the phenomenon of hate speech from the society.

CONCLUSION

Hate speech created an appalling turmoil in the current world suffering from all communities regardless of religion, race and colour, threatening for the global peace, religious harmony, and co-existence, provoking religious and racial violence all over the world. Nowadays, more or less all sorts of hate speech have increased in our societies, particularly; religious and racial hate speech produced more intolerance among different religious faiths and believers. For instance, recently, through the outbreak of COVID -19 world community has experienced a new element of racial hate speech across the world particularly in western countries, expressing that it is Chines virus and based upon the coronavirus hating against chines people is dramatically increasing that, undoubtedly, lead the world tendered into the intolerance when all are facing critical moment emerged of pandemic COVID-19. Similarly, ISIS, Islamic legal schools of thought based hate speeches violate the Islamic law's boundary of freedom of expression in some cases through their activities, which created an Islam phobic atmosphere in the European countries, where suffering the innocent Muslim citizens of those states. Islam, however, always believes in religious harmony and co-existence, had declared a clear position against hate speech from a very early time. Thus, those who hate others in the name of Islam will be punished according to Islamic law that demonstrated by the Holy *al-Qur'ān*, *sunnah*, and Islamic jurists' opinions.

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