



## TIME TO REDEFINE AND PROTECT FREEDOM OF SPEECH AND EXPRESSION

The world is facing yet another challenge following the *Charlie Hebdo* killings in Paris presumed to be in response to the publication of blasphemous and defamatory caricatures of the Holy Prophet (blessings and peace be upon him) in the magazine. As a reaction to the terrorist attacks, *Charlie Hebdo* decided to republish the caricatures which has sent a wave of anger and protests around the world. Governments and organisations like the United Nation, the International Human Rights Commission and the European Union have failed to address this situation allowing it to spread with no end in sight. This situation has been allowed to spiral out of control and has threatened the concept of peaceful co-existence. If not addressed, it can lead to a potential clash of civilisations, religions and societies.

Freedom of expression is an invaluable part of progressive civilisations. Humanity has achieved its current level of freedom following centuries of sacrifices and struggles. The French nation along with world leaders showed great solidarity and resolve with its freedom march, sending out a strong message to terrorists that they will never be able to force their agenda on humanity. However what also arises from this march is the question of whether freedom of speech should be a right for all, a privilege for some and should it have limits protecting some communities and not others?

The purpose of this memorandum is to bring this issue into perspective and to propose realistic and practicable measures to address it. Much of the debate that has ensued from the *Charlie Hebdo* incident has focused on the 'right of freedom of expression' with its defenders advocating the sacredness of the freedom of speech that needs to be upheld no matter what consequences it bears. However, in reality, the issue is not one of curtailing the right to freedom of expression since this is a right that is not absolute, nor can anyone claim so. Rights are reciprocal and their enforcement is interdependent on other fundamental rights. To insist that a right is absolute is erroneous since such a right can infringe other basic human rights. Every country that claims to be part of the 'civilized and democratic' world has put its own limits on freedom of expression in the interests of society in order to maintain a certain level of human behaviour, be it based on local norms and customs, culture or religion, but in essence to protect the dignity of their moral, religious, social and societal values.

Therefore, to create an outcry now that the right to freedom of speech is being undermined by Muslims is clearly a fallacy. The free propagation of child pornography, for instance, or the incitement of religious or racial hatred in the media is banned in many countries and quite rightly so. In many European countries it is a crime to deny the Holocaust, being a criminal offence in Austria, Belgium, Czech Republic, France, Germany, Israel, Lithuania, Poland, Romania, Slovakia



and Switzerland, and is punishable by fines and a jail sentence. When the British newspaper, *The Independent* (27 January 2003) depicted the Prime Minister of Israel, Ariel Sharon eating the head of a Palestinian child while saying, 'What's wrong, you've never seen a politician kissing babies before?' This caused an uproar in Israel and other parts of the world raising tempers, especially in the Jewish and Israeli community around the world. Whatever the matter of that caricature, the uproar was a natural reaction of a people for their leader. In 2006, when the Italian Prime Minister Silvio Berlusconi compared himself to Jesus Christ, the Vatican including Italian politicians immediately expressed shock and anger at these comments. A senior Catholic Church official added, 'I know he will say he was speaking in jest but such things should not be spoken of in jest.'

Speaking about the Paris terror attacks (January 2015), Pope Francis expressed that there were limits to freedom of expression when it insults someone's faith. He said:

There are so many people who speak badly about religions or other religions, who make fun of them, who make a game out of the religions of others. They are provocateurs. And what happens to them is what would happen to Dr Gasparri; if he says a curse word against my mother, he can expect a punch. There is a limit. I refuse any form of personal insult, and when the insult is related to religions, they cannot be approved neither at a human, nor at a moral and social level. They do not help the peace in the world, and do not produce any benefit. You cannot provoke. You cannot insult the faith of others. You cannot make fun of the faith of others. [*The Christian Post*, January 15, 2015.]

The German newspaper *The Berliner Zeitung* (January 2015) has recently apologised for mistakenly publishing an anti-Semitic cartoon in its issue the day after the French publication *Charlie Hebdo* was attacked. On the same cover were four real *Charlie Hebdo* covers depicting an offensive cartoon of the Prophet Muhammad (blessings and peace be upon him). The question that arises is how one depiction can be seen as offensive and not the other. The two cases cannot and should not be distinguished. Prior to this in 2006, *Charlie Hebdo* sacked the veteran French cartoonist Maurice Sinet in 2008 for making an allegedly anti-Semitic remark. In 2006 *Jyllands-Posten*, the Danish newspaper that published caricatures of the Prophet Muhammad (blessings and peace be upon him), in 2005, reportedly rejected cartoons mocking Christ because they would 'provoke an outcry' and proudly declared it would 'in no circumstances publish Holocaust cartoons.'

The issue here is not one of curtailing freedom of expression but objecting to the ridicule and insult towards the sacred elements of an entire civilisation.

There is also a law of defamation normally under the Law of Tort that can lead to an individual being compensated for offence caused. The absolute right to free expression is curtailed in order to balance the rights of an individual. In the same way, an act that causes offence to a whole community can never be justified under the banner of freedom of speech. Moreover, in many



countries it is illegal or at least discouraged to degrade or abuse the constitution or certain national institutions such as the army, courts of law or parliament. Contempt of court also exists all over the world which severely limits freedom of speech, violation of which can lead to imprisonment. If the right to freedom of expression is absolute, why are there no objections to laws such as these?

To give respect to an individual's honour and dignity is a fundamental human right protected by law as is the prohibition on blasphemy and defamation as well as the right to religious freedom. The UN Charter, constitutions and laws from many countries provide protection to these rights.

The UN Charter recognises this right in Article 1(iii):

To achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion.

It is also recognised in the European Convention on Human Rights, Article 9:

Freedom to manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.

The constitution of the US, Amendment I of Bill of Rights, states:

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.

Some US states have blasphemy laws on their statute books. The US state of Massachusetts General Laws (chapter 272 section 36) states,

Whoever wilfully blasphemes the holy name of God by denying, cursing or contumeliously reproaching God, his creation, government or final judging of the world, or by cursing or contumeliously reproaching Jesus Christ or the Holy Ghost, or by cursing or contumeliously reproaching or exposing to contempt and ridicule, the holy word of God contained in the holy scriptures shall be punished by imprisonment in jail...

Other countries who have developed blasphemy laws are:

1. Austria (Articles 188, 189 of the Criminal Code)
2. Finland (Section 10 of chapter 17 of the Penal Code)
3. Germany (Article 166 of the Criminal Code)
4. The Netherlands (Article 147 of the Criminal Code)
5. Spain (Article 525 of the Criminal Code)



6. Ireland: Article 40.6.1.i of the constitution of Ireland provides that the publication of blasphemous matter is an offence. Prohibition of Incitement to Hatred act 1989—this includes hatred against a group on account of their religion.
7. Canada (Section 296 of the Canadian Criminal Code): Offence against the Christian religion is blasphemy.
8. New Zealand (Section 123 of the New Zealand Crimes Act, 1961)

Churches, for instance, hold sanctity in the Christian world and are protected under the constitution in some European countries. An example is the constitution of Denmark, section 4 (State Church) which states:

The Evangelical Lutheran Church shall be the Established Church of Denmark, and, as such, it shall be supported by the State.

It is evident from the above mentioned laws that freedom of speech is a fundamental right but this right is not absolute. There are hundreds of books and newspaper articles that have been published attempting to criticize Islam and the basic tenets of its faith yet Muslims never object to scholarly debate since they are well aware that this is part of an ongoing debate on Islam and within the tenets of 'freedom of expression'. There have been countless newspaper articles completely misrepresenting Islam, often publishing clear lies and exaggerated stories about Islam and its law yet Muslims are tolerant and appreciate that this is part and parcel of living within societies who claim this to be part of their 'liberal democracies'. However, when this right of 'freedom of expression' is abused and the most sacred elements of Islam are deliberately insulted, this will definitely create great unrest among Muslims around the world. By depicting the Holy Prophet of Islam (blessings and peace be upon him) in insulting ways cannot be justified under the banner of free speech. Moreover, these caricatures are not printed within a vacuum but in an environment of an anti-Muslim bias where tensions are already running extremely high within some European communities.

Besides, many countries have passed anti-terrorist legislation, severely restricting the civil liberties of individuals, with the legislation drafted in a manner that is clearly aimed at focusing upon Muslims in the countries concerned. There is a strong feeling that a substantial minority is being continually abused and misrepresented in the mass media through the portrayal of negative images not based upon reality, and then subjected to humiliating checks and procedures when going about their lives on a daily basis, all in the name of freedom of speech and national interest. It is thus highly surprising that the sacred elements of its faith are ridiculed just in the name of freedom of expression and speech knowing that the reactions will be extremely tense. There is no doubt that the publishing of these caricatures by magazines and newspapers involved is an exercise to demonstrate control and power directed against Muslims, either subscribe to our culture and way of living or suffer the consequences and be ridiculed and debased.





Previously, following the publications of the blasphemous cartoons of Prophet Muhammad (blessings and peace be upon him) by the Danish newspaper *Jyllands-Posten* (September 2005), some world dignitaries at that time condemned the publication of the caricatures and emphasised the restriction of the right of the freedom of speech too.

**Kofi Annan:**

I also respect the right of freedom of speech. But of course freedom of speech is never absolute. It entails responsibility and judgment.

**Jack Straw, British Foreign Secretary:**

There is freedom of speech, we all respect that. But there is not any obligation to insult or to be gratuitously inflammatory. I believe that the re-publication of these cartoons has been insulting; it has been insensitive; it has been disrespectful and it has been wrong. There are taboos in every religion. It is not the case that there is open season in respect of all aspects of Christian rites and rituals in the name of free speech. Nor is it the case that there is open season in respect of rights and rituals of the Jewish religion, the Hindu religion, the Sikh religion. It should not be the case in respect of the Islamic religion either. We have to be very careful about showing proper respect in this situation.

**The US State Department:**

These cartoons are indeed offensive to the belief of Muslims.

**Spokesman, Kurtis Cooper, said:**

We all fully respect freedom of the press and expression but it must be coupled with press responsibility. Inciting religious or ethnic hatred in this manner is not acceptable.

**Philippe Douste-Blazy, French Foreign Minister:**

The principle of freedom should be exercised in a spirit of tolerance, respect of beliefs, respect of religions, which is the very basis of secularism of our country.

Vatican cardinal Achille Silvestrini condemned the cartoons, saying Western culture had to know its limits. It is thus clearly apparent that using freedom of speech to imply that there are no limits to what one can say or do is a myth. An act that offends the religious and moral values of a community such as solidarity, integrity and sanctity, resulting in endangering the world peace, cannot be regarded as a right to express ones freedom of speech. Islam too teaches the principle of tolerance and co-existence, to live and let live. It discourages the defamation of other Gods and religious symbols teaching respect to mankind. [Qur'an, *al-An'am*, 6:108.] Islamic Law lays great emphasis on the security, dignity and respect of all other religions together with their beliefs without any discrimination.

If internationally recognised principles of tolerance and co-existence are put aside and moral



and religious values are dishonoured, then the present situation will worsen and the prevailing tensions will intensify. There needs to be some mechanism to put an end to these occurrences that may prove a potential threat to global peace. Muslims are already feeling alienated and targeted; when magazines and newspapers begin to ridicule the most sacred elements of their faith, reactions will inevitably be high. If publications that denigrate the Prophet Muhammad (blessings and peace be upon him) are not taken seriously, and steps are not taken to resolve the situation, it can spawn socio-political and economic crises that may lead to a conflict between civilizations and nations.

These are the reasons behind the anger and disgust against the publication of these condemnable caricatures and at the disregard shown by the governments towards the rightful protests of the Muslim world against the offence. 1.25 billion Muslims all over the world have been deeply insulted and instead of creating moves to resolve the matter, the act is being continuously justified, protracting world-wide unrest.

The latest incident of the denigration of the Holy Prophet (blessings and peace be upon him) publishing cartoons in weekly magazine *Charlie Hebdo* in France has hurt the already vulnerable Muslim community all over the world and warrants to be redressed as per French law. According to the French Constitution Article 433–5 [Act no. 96–647 of 22 July 1996 Article 19 Official Journal 23 July 1996; Ordinance no. 2000–916 of 19 September 2000 Article 3 Official Journal of 22 September 2000 in force 1 January 2002] and the French Penal Code [Act no. 2002–1138 of 9 September 2002 Article 45 Official Journal 10 September 2002]:

Contempt is punished by a fine of €7,500. It consists of words, gestures or threats, written documents or pictures of any type not released to the public, or the sending of any article addressed to a person discharging a public service mission, acting in the discharge or on the occasion of his office, and liable to undermine his dignity or the respect owed to the office that he holds.

When it is addressed to a person holding public authority, contempt is punished by six months' imprisonment and a fine of €7,500.

When it is addressed to a person discharging a public service mission and the offence is committed inside a school or an educational establishment, or in the surroundings of such an establishment at a time when the pupils are arriving or leaving the premises, contempt is punished by six months' imprisonment and by a fine for €7,500.

When committed during a meeting, contempt under the first paragraph is punished by six months' imprisonment and a fine of €7,500, and the contempt set out in the second paragraph is punished by one year's imprisonment and a fine of €15,000.

So the French law clearly protects the dignity and honour of any person discharging official duties. Also any act detrimental to the honour and dignity, whether it is in the form of a text or picture, is declared as contempt and not considered within the ambit of freedom of speech and



***Dr Muhammad Tahir-ul-Qadri***

**Founding Leader Minhaj-ul-Quran International (MQI)  
Chairman Pakistan Awami Tehreek (PAT)**

expression. The question then arises why similar legislation cannot be made to protect the honour and dignity of the founders of world religions who are followed by millions and billions of people.

In order to resolve this international issue and the serious tension it has caused, I propose that it is time to formally redefine freedom of speech and expression at the level of the United Nations. It is a known fact that international laws have been changed overtime to meet the new challenges. There was a time when state sovereignty had precedence over human rights, but this has changed and the protection of human rights has now taken precedence over state sovereignty. A lot of action has been taken by many countries to eliminate the violations of basic human rights within other states. As explained above, the latest counter-terrorism strategy has taken preference even over basic human rights and civil liberties. Many counter-terrorism legislations have been made in the UK, the US and Europe, affecting basic human rights and civil liberties. Currently, terrorism is the biggest challenge faced by humanity. Nations are united to fight against terrorism. Publication of the caricatures of Prophet Muhammad (blessings and peace be upon him) is not only injuring the feelings of more than a billion peace loving Muslims but is also giving a justification to terrorist elements to retaliate taking it as an alibi.

In the light of the preceding arguments presented in this letter, I suggest with conviction the following solutions to an issue that has put the world peace at stake:

1. Clear legislation needs to be passed at the United Nations level, which will balance the right of freedom of speech with the rights of individuals and communities to faiths and religion and the protection of their sacred beliefs from insult and ridicule.
2. Most importantly, any act of publication or production of any form which is blasphemous in its nature towards the founder of any religion should be declared as an offense and a crime.
3. All Governments should ensure that such a legislation is enforced through the due process of law and chances of incitement and ridicule are made extinct.

I expect that common sense will prevail and responsible leaders will rise to the occasion and repair the damage done to the inter-civilization relations. I also expect that the concerned world leaders will display leadership and bravely extend cordiality to the Muslims of the world.

With best regards,

MUHAMMAD TAHIR-UL-QADRI  
January 20, 2015.

**MINHAJ-UL-QURAN INTERNATIONAL**

**Pakistan:** 365-M, Model Town, Lahore, Pakistan.  
**UAN:** +92 (42) 111-140-140 **Fax:** +92 (42) 3516 8184  
**www.minhaj.org email:** qadri@minhaj.org

**UK:** 292 - 296 Romford Road, Forest Gate, London, E7 9HD  
**Ph:** +44 (20) 8257 1786/7 +44 (20) 8534 4247  
**www.minhajuk.org email:** trustee@minhajuk.org