



Sacred Flames: the Burning of Quran in the Context of Free Speech

Gergely Ferenc Lendvai | ORCID: 0000-0003-3298-8087

Faculty of Law and Political Sciences, Pázmány Péter Catholic University,
Budapest, Hungary and School of Arts and Sciences, University of Richmond,
Richmond, VA, USA

Corresponding author

gergelyflendvai@gmail.com

Gergely Gosztonyi | ORCID: 0000-0002-6551-1536

Faculty of Law, Eötvös Loránd University (ELTE), Budapest, Hungary
gosztonyi@ajk.elte.hu

Received 10 December 2024 | Accepted 4 March 2025 |

Published online 10 April 2025

Abstract

The study aims to add to the discourse on Quran burning via examining its legal and sociopolitical dimensions. We analyse the ECtHR case law, and policy debates to understand the liaison between individual freedoms, religious rights, different cultural values, and societal norms. Findings highlight that Quran burning, often “framed” as free speech, causes challenges in protecting individual rights and public order. Although, the ECtHR’s doctrinal reasonings can be applied to Quran burning, there are still deep-rooted issues in Europe especially in terms of outdated blasphemy laws, contradictory national legislation, and the lack of guiding standards. The article identifies gaps in policy frameworks, emphasizing the need for culturally sensitive approaches that uphold freedom of expression while mitigating societal polarization. The study proposes policy recommendations to ease the tensions between free speech and religious respect. Our findings provide a foundation for future comparative research in addressing “symbolic” provocations and their implications.

Keywords

Quran burning – desecration – freedom of expression – ECtHR – European law – Islam

1 Introduction

The burning of the holy Quran, a text of principles and moral teachings guiding the personal and social lives of those who identify themselves as Muslim,¹ has emerged as a deeply contentious issue, igniting international tensions and diplomatic crises. In recent years, particularly in Scandinavia, far-right groups in countries like Norway have turned to Quran burning as a provocative tactic to incite hatred against Islam and its adherents, often framing their actions under the guise of “free speech”.² Acts like this, which are followed by an overwhelming reaction on social media, and which are steeped in historical blasphemy practices, challenge the boundaries of freedom of expression within Western societies. The repercussions have been significant, leading to violent protests and fervent reactions, especially in Muslim-majority nations, where such acts are seen as direct assaults on religious sanctity.³

This phenomenon is not isolated to Scandinavia, where national legislation on the issue Quran burning is sparking heated debates, especially in Sweden and Denmark,⁴ but is deeply entwined with a broader historical and legal context. In Western countries, where freedom of expression is a cornerstone of democratic values,⁵ the act of burning religious texts like the Quran raises

1 Abdulai Abukari, ‘Education of Women in Islam: A Critical Islamic Interpretation of the Quran’, 109:1 *Religious Education* (2014), pp. 4–8; Attahir Shehu Mainiyo, ‘The Qur’an and Other Divine Books’, 59 *Islamic Quarterly* (2015), pp. 363–365.

2 Sindre Bangstad and Marius Linge, ‘Qur’an Burning in Norway: Stop the Islamisation of Norway (SIAN) and Far-Right Capture of Free Speech in a Scandinavian Context’, 47:5 *Ethnic and Racial Studies* (2023), pp. 941–942; Maya Khater, ‘Insulting Religions from the Perspective of International Law: A Descriptive and Analytical Study’, 25 *International Journal of Islamic Thought* (2024), pp. 70–77.

3 Al-Rawi Ahmed, ‘The Online Response to the Quran-Burning Incidents’, in Niga Mellor and Khali Rinnawi (eds.), *Political Islam and Global Media: The Boundaries of Religious Identity* (Routledge, London, 2016), pp. 105–121.

4 In Denmark, for instance, a bill has recently been passed where the “inappropriate treatment” of sacred texts is banned.

5 Mogens Schmidt, ‘Limits to the Restrictions to Freedom of Expression: Criteria and Application’, 5:2–3 *Religion & Human Rights* (2010), pp. 147–151; Stefan Kirchner and Vanessa Maria, ‘The Freedom of Expression of Members of the Armed Forces Under the European Convention on Human Rights in *Jokšas v. Lithuania*’, 7:1 *Baltic Journal of Law & Politics* (2014), pp. 12–28.

critical questions about the limits of this freedom, particularly when it intersects with deeply held religious beliefs. The incidents have not only provoked immediate, visceral reactions but have also sparked intense scholarly debate. Where should the legislator draw the line between blasphemy and freedom of expression? After all, is there even a discourse about the possibility of blasphemy in countries like Sweden or Norway that have practically removed this legal concept from the laws?⁶

A further issue emerges from the discussion over the ever-lasting dilemma as to what makes a provocative, instrumentally offensive, and deeply, inexcusably revolting act that is knowingly hurting the integrity of a group of people free speech, or, on the other hand, hate speech. One may rightly cite Mill's enigmatic harm principle (individuals should be free to act as they wish unless their actions cause harm to others),⁷ or Feinberg's more nuanced and contextualised offense principle (the state may restrict actions if they cause serious offense to others, even if no direct harm is caused) in this regard.⁸ Nonetheless, the burning of Quran holds a deeper, cultural layer—not only is it a clash, or rather, collision of fundamental rights, essentially, it is a clash of cultural norms and societal expectations. The controversy also highlights the problematic balance between protecting individual rights and maintaining public order, a balance that is becoming increasingly difficult to achieve in today's interconnected, multicultural, and—unfortunately—highly polarized world.⁹ Moreover, the issue also has profound implications for religious tolerance and extremism, as it can exacerbate radicalism on both sides of the divide resulting in a hostile, prejudicial, and discriminative environment.¹⁰ The burning of Quran, therefore, is more than an act—it questions the limits of free speech, and more importantly, how we value and understand free speech in a contemporary, modern, and multicultural society.¹¹

The present research explores the burning of the Quran through multiple lenses, including historical, legal, and social perspectives. The structure of the

6 Göran Larsson, Iselin Frydenlund and Torkel Brekke, 'Burning Affair', 60:1 *Temenos: Nordic Journal for the Study of Religion* (2024), pp. 5–26.

7 John Stuart Mill, *On Liberty* (1859).

8 Joel Feinberg, *The Moral Limits of the Criminal Law Volume 1: Harm to Others* (Oxford University Press eBooks, 1987).

9 See Amitai Etzioni, *The New Normal: Finding a Balance Between Individual Rights and the Common Good* (London: Routledge, 2014).

10 Kazeem Oluwaseun Dauda, 'Islamophobia and Religious Intolerance: Threats to Global Peace and Harmonious Co-Existence', 8:2 *QIJS: Qudus International Journal of Islamic Studies* (2020), p. 257.

11 Cf. Gavan Titley, *Is Free Speech Racist?* (New York: Wiley, 2020).

article is as follows. First, the historical context of Quran burning is explored to provide a foundation for understanding its contemporary significance. Next, the legal challenges posed by such acts are examined, with a focus on ECtHR case law. The final section discusses policy recommendations to address the tensions between freedom of expression and religious respect, emphasizing the need for cultural sensitivity, legal clarity, and conflict prevention. As the examination of free speech and its limitations with regard to religion and religious speech looks back at an extremely rich literature, our aim is limited to the examination of the European Court of Human Rights' case law and its free speech doctrines in relation to Islamophobic acts. Therefore, the present study does not undertake the analysis of various acts of national legislation regarding Quran burning, nor does it set as an objective to scrutinize the complex relation between offensive and hateful speech on a doctrinal level related thereto.¹² Nonetheless, the research, does aim to underline that the burning of the Quran is more than just a provocative act; it is a complex issue with far-reaching implications for diplomacy, legal standards, religious tolerance, and global security. Furthermore, the research also takes on to provide a comprehensive assessment of these various dimensions, shedding light on the broader implications of this deeply controversial phenomenon in view of the practice of the European Court of Human Rights.

2 The Historical Context of Quran Burning

The burning of the Quran is anything but a novel problem; much rather, it is a deeply rooted issue that has echoed through centuries, resurfacing time and again in various cultural and political contexts. Svensson proposes that the act of desecrating the Quran, resonates deeply across different cultures and religions, as it taps into a universally shared understanding of the sanctity of these sacred objects.¹³ It is also justifiable to assert that the act of burning sacred texts, particularly the Quran, is not merely a modern expression of far-right

12 For an excellent comparative summary on this issue, see: Catherine B. Holmes, 'Quran Burning and Religious Hatred: A Comparison of American, Quran Burning and Religious Hatred: A Comparison of American, International, and European Approaches to Freedom of Speech International, and European Approaches to Freedom of Speech', 11:2 *Washington University Global Studies Law Review Washington University Global Studies Law Review* (2012), pp. 459–481.

13 Jonas Svensson, 'Hurting the Qur'an: Suggestions Concerning the Psychological Infrastructure of Desecration', 53:2 *Temenos: Nordic Journal for the Study of Religion* (2017), pp. 243–264.

extremism or an isolated tactic used by groups seeking to incite hatred. Instead, it is part of a long, fraught history where religious texts have been targeted as symbols of ideological and religious conflict. To fully grasp the implications of the contemporary incidents of Quran burning, it is crucial to understand the historical precedents that have shaped the perception and significance of this act across different eras and societies.

Religious texts hold *value*. Defining value, in this regard, is complex but it is defensible to claim that it comprises of cultural and historical significance. Alontseva and colleagues, as well as Klingenberg and Sjö, argue that religious texts play a crucial role in the socialization of individuals by imparting moral and spiritual values, while also preserving cultural identities and protecting them from the adoption of features from other world cultures that could introduce immoral or anti-spiritual ideas.¹⁴ Destroying such literature, therefore, is more than just an act of subversive conduct—rather, we argue that it is an act of authority. Literature on the burning or destroying of religious text is wide-ranging. In the Roman Empire, instances of book burning were uncommon and typically involved the destruction of religious texts considered subversive, with such acts being infrequent and generally viewed with disdain, though not unprecedented as demonstrated by the Diocletian Bible burnings in 303 AD.¹⁵ Though literature is scarce on the destruction of sacred texts between the fall of the Roman Empire and the early Middle Ages, Cristopher Melchert mentions that in the ninth century CE and earlier, traditionists destroyed books primarily out of a deep distrust of written records, driven by a desire to preserve orthodoxy and ensure the accuracy of transmitted teachings.¹⁶ This attitude seemed to continue in the Middle Ages, especially in Europe; during that period, the destruction of books, particularly religious texts, became a prominent and widespread practice. Simultaneously, and adversely to the highly aggressive acts of Christian authorities, within the Muslim world, debates arose regarding the proper disposal of worn-out sacred texts, influenced by the historical destruction of noncanonical copies

14 Natalia Vladimirova Alontseva *et al.*, 'Worldview Orientations of Religious Literature as an Agent of Socialization in the Modern Society', 15:3 *European Journal of Science and Theology* (2019), pp. 157–166; Maria Klingenberg and Sofia Sjö, 'Theorizing Religious Socialization: A Critical Assessment', 49:2 *Religion* (2019), pp. 163–178.

15 For one of the most thorough and comprehensive overviews on this matter, see Dirk Rohmann, *Christianity, Book-Burning and Censorship in Late Antiquity: Studies in Text Transmission* (Berlin: De Gruyter, 2016) and also G.A. Williamson, *The History of the Church from Christ to Constantine* (London: Penguin Books, 1984).

16 Christopher Melchert, 'The Destruction of Books by Traditionists', 35:1 *Al-Qanṭara* (2014), pp. 213–231.

of the Quran which led to the development of practices that emphasized the respectful burial of such texts to preserve their sanctity.¹⁷ These actions highlight the period's intense concern with controlling religious and intellectual discourse, as both Christian and Muslim societies sought to protect and define their spiritual and cultural identities through the regulation of written works, however, as literature notes, the two philosophies served different intentions: one aimed at the marginalization of *other* religious texts, while the historical Muslim approach's objective lied in paying homage and technically preserving the sacred nature of the text.

Destroying religious texts has become an even greater issue later on. David Price in his renowned book also underlines the efforts to seize and eradicate all Jewish books in Renaissance Germany which marked a significant crisis in Christian-Jewish relations,¹⁸ highlighting the deep-seated religious and political tensions of the time, while in the Protestant cities of Upper Germany, the removal and destruction of pre-Reformation books took place as part of the emerging religious and cultural distinctions characteristic of the early Reformation period.¹⁹ The number of events concerning the burning of religious texts have multiplied in the 18th and 19th century: from the so-called “Bible Riots” in Philadelphia to the infamous burning of Bibles on 9 October 1861 in Barcelona, the burning of texts—particularly the Christian Bible—has become a popular form of discontent, activism, or vandalism. The 20th century, and particularly the Nazi regime, served as a pinnacle period for such events when thousands of Jewish religious texts were destroyed systematically.²⁰

The desecration of the Quran, and the history thereof, is not without uncertainties. Though there were cases highlighting the destruction of Quran during the Middle Ages, the more notable cases in relation to our scope of study occurred in the 21st century and onwards. The polemic event often referred to as the “Guantanamo incident” in 2005 can also be mentioned where reports emerged that U.S. military personnel at Guantanamo Bay had desecrated the Quran. Though not many scholarly literatures cover this event, per Moazam

17 Ahmed El Shamsy, ‘The Death and Disposal of Sacred Texts’, 99:1 *Der Islam* (2022), pp. 97–112.

18 David Price, *Johannes Reuchlin and the Campaign to Destroy Jewish Books* (Oxford: Oxford University Press, 2010).

19 Marc Mudrak, ‘Zensiert Und Zerrissen: Alte Bücher Und Religiöse Differenzierung in Zürich Und Biberach, 1520–1532’, 106:1 *Archiv Für Reformationsgeschichte—Archive for Reformation History* (2015), pp. 39–66.

20 Jacqueline Borin, ‘Embers of the Soul: The Destruction of Jewish Books and Libraries in Poland during World War II’, 28:4 *Libraries & Culture* (1999), pp. 445–460.

Begg's interview, those who witnessed the act told that soldiers deliberately used Islamophobic language during the event, disrespected prisoners during prayers and one American soldier reportedly pressed on Muslim prisoners' necks declaring "I'm your God here."²¹ The interview suggests that the incident occurred as an act of revenge or violence towards Muslims during a period where multiple engagements have transpired between United States and the "Muslim world." Another example is the burning of the Quran by Pastor Terry Jones. The case a fundamentalist Christian pastor from Florida, who gained international notoriety in 2010 when he threatened to burn 200 copies of the Quran on the anniversary of September 11.²² Although he initially backed down, in 2011, Jones followed through with his threat by burning a copy of the Quran, live-streaming the event, which sparked violent protests in Afghanistan, Iran, and Somalia leading to multiple injuries.²³ His actions drew widespread condemnation, including from high-ranking U.S. officials, who warned that his actions endangered American troops abroad; however—despite the backlash—Jones continued his anti-Islam activities, including further Quran burnings, which led to ongoing controversies and death threats against him. Though not directly related to the "burning" of Quran, in a literal sense, it would be imprudent to overlook the significance of the Charlie Hebdo case in 2015. As András Koltay and Jeroen Temperman note, the satirical French magazine has been notorious for disseminating profoundly offensive cartoons targeting religions, including Christianity, Judaism, and most importantly for our case, the Muslim religion.²⁴ The editorial board worked under continuous threats and hacker attacks, however, until 2015, no tragic event occurred.²⁵ On January 7, 2015, France experienced a devastating terrorist attack on the offices of Charlie Hebdo in Paris, resulting in twelve fatalities, under the hands of the members of the members of al-Qaeda in the Arabian Peninsula. Also, over the following two days, additional attacks led to the deaths of a policewoman and

21 Moazam Begg, 'Guantanamo Bay and the Securitization of Islam', 28 *Brown Journal of World Affairs* (2021), p. 119.

22 Carlo A. Pedrioli, 'Is Incitement on the Internet Easier to Punish than Incitement on Television? A Case Study of the Koran-Burning of Florida Pastor Terry Jones', in Russell L. Weaver *et al.* (eds.), *Free Speech, Privacy and Media: Comparative Perspectives* (Durham: Carolina Academic Press, 2020), pp. 49–62.

23 *Ibid.*

24 András Koltay and Jeroen Temperman, 'Blasphemy and Freedom of Expression in Western Liberal Democracies', in Jeroen Temperman and András Koltay (eds.), *Blasphemy and Freedom of Expression: Comparative, Theoretical and Historical Reflections after the Charlie Hebdo Massacre* (Cambridge: Cambridge University Press, 2017), pp. 1–21 and for a more detailed analysis also see the entire book itself.

25 *Ibid.*

four individuals in a Jewish supermarket. As Savelkoul and colleagues note, this attack was the precursor to a series of similar incidents in European cities in the subsequent years.²⁶

Lastly, it is critical to revisit the introduction and highlight the case of Scandinavia, specifically in the context of Quran burning as a far-right activism in view of two instances. In 2005, Danish newspaper article *Jyllands-Posten* published twelve editorials of Muhammad. The set of cartoons was intended to convey a subliminal message about the problems with self-censorship regarding Islam.²⁷ The cartoons, however, provoked a much larger controversy; the publication of the cartoons as well as the intensified and extensively dramatized reports thereon in global media outlets have led to sizeable protests in- and outside Denmark.²⁸ The case had drastic impact. As Al-Rawi notes, multiple protests were organized by Muslim activists in various countries, and during these protests hundreds of citizens were detained and killed.²⁹

Another instance occurred in Sweden, where the issue of Quran burning has gained worldwide media coverage when Rasmus Paludan, a far-right extremist and leader of the Danish “Stram Kurs” nationalist political party, sparked debates over free speech limits when he chose to set the Quran on fire in front of the Turkish embassy in Stockholm.³⁰ It should also be noted that the Quran burnings in Scandinavia was followed by a plethora protests, often violent ones, in both Scandinavia and Muslim-majority countries.³¹

It is crucial to outline one final issue which extends to deeper societal problems. As a result of religious tensions and far-right extremism, the Muslim population suffers long-term discriminatory effects.³² For instance, the Charlie

26 Michael Savelkoul, Manfred te Grotenhuis, and Peer Scheepers, ‘Has the Terrorist Attack on Charlie Hebdo Fuelled Resistance towards Muslim Immigrants in Europe? Results from a Natural Experiment in Six European Countries’, 65:4 *Acta Sociologica* (2022), pp. 357–359.

27 Lana Kazkaz and Míriam Díez Bosch, ‘Islamic Caricature Controversy from Jyllands-Posten to Charlie Hebdo from the Perspective of Arab Opinion Leaders’, 14:7 *Religions* (2023).

28 Marion G. Müller and Esra Özcan, ‘The Political Iconography of Muhammad Cartoons: Understanding Cultural Conflict and Political Action’, 40:2 *PS Political Science & Politics* (2007), pp. 287–291.

29 Al-Rawi, *supra* note 3, pp. 261–262.

30 Lene Kühle, ‘Ignited by the Qur’an’, 60:1 *Temenos: Nordic Journal for the Study of Religion* (2024), pp. 27–56. For a comparative analysis involving Dutch cases, see: Anita Nissen and Måns Lundstedt, ‘Quran Desecration Rallies in Scandinavia and the Netherlands: The Formation and Transnational Diffusion of an Anti-Muslim Protest Tactic’, *Journal of Intercultural Studies* (2024).

31 *Ibid.*

32 Bruno Castanho Silva, ‘The (Non)Impact of the 2015 Paris Terrorist Attacks on Political Attitudes’, 44:6 *Personality and Social Psychology Bulletin* (2018), pp. 838–850.

Hebdo case, in this regard, has been followed up by an extensive growth in perceived exclusion and xenophobia by Muslim women in the United Kingdom,³³ Spanish news articles have increasingly used Islamophobic language and published discriminatory content on a continuous basis, thus perpetuating the already existing deep-rooted negative stereotypes against Muslims and the Islam religion,³⁴ and a similar phenomenon occurred in prestigious and renowned journals such as the *New York Times* and the *Wall Street Journal*, too.³⁵ The desecration of Quran in Scandinavia also had a “spillover” effect which has led to tense diplomatic relations between Scandinavian countries and other countries. We can, therefore, claim that symbolic acts against Muslims are more than just symbolic acts; they are a gateway to incitement of hatred, violent reactions, geopolitical tensions, a radically prejudiced and unfair media coverage of an already institutionally oppressed population, and most importantly, the “ignition key” to further radicalization and polarization.³⁶

3 More Questions than Answers: Insights into the Legal Aspect of Quran Burning as an Act of Free Speech

Building on the historical context of Quran desecration explored in the previous section, this part of the analysis investigates the legal battles that arise when acts of religious desecration intersect with claims of free speech. The burning of the Quran, while rooted in a long history of religious conflict, poses modern legal challenges that are deeply embedded in the principles of international human rights law and the decisions of the European Court of Human Rights (ECtHR). This section examines how these legal frameworks attempt to balance the right to freedom of expression with the protection of religious communities, particularly in a multicultural Europe. Through an analysis of

33 Skaiste Liepyte and Kareena McAloney-Kocaman, ‘Discrimination and Religiosity Among Muslim Women in the UK Before and After the Charlie Hebdo Attacks’, 18:9 *Mental Health Religion & Culture* (2015), pp. 789–794.

34 Antonia Olmos Alcaraz and Mailia Politzer, “Dibujando Islamofobia”: Islam Y Prensa En España a Propósito Un Análisis De Los Atentados a Charlie Hebdo’, 26:1 *Estudios Sobre El Mensaje Periodístico* (2020), pp. 253–263.

35 Malia Nora Politzer and Antonia Olmos Alcaraz, ‘Covert Islamophobia: An Analysis of the New York Times and the Wall Street Journal Headlines Before and After Charlie Hebdo’, *Comunicación Y Sociedad* (2020), pp. 1–24.

36 Nissen and Lundstedt (2024); Adib Farhadi, ‘Consequences of Islamophobia’, in Anthony J. Masys (ed.), *Advanced Sciences and Technologies for Security Applications* (Charm: Springer, 2020), pp. 113–28.

pivotal ECtHR cases, we will uncover the complexities and tensions that surface when deeply held religious beliefs clash with the exercise of free speech, offering both theoretical and practical insights to reflect on Qureshi's question which asks 'Can the burning of holy books ever be justified?'³⁷

From a legal perspective, burning religious texts like the Quran raises questions regarding free speech, hate speech, religious freedom and the limits of fundamental rights. In many countries, freedom of speech is a protected fundamental right. Still, it is not absolute, and actions such as burning religious texts push the boundaries of this right, testing legal frameworks across different jurisdictions. With these kinds of actions, the conflict between free speech and hate speech arose in the legal debates. While free speech protections allow individuals to express their opinions, laws against hate speech seek to protect marginalised groups from harm. Quran burning, as an act that may deeply offend the Muslim community, often crosses this fine line. Balancing the right to free expression with the need to protect communities from harm was and will remain a complex legal challenge.

For a comparative perspective, it is important to briefly discuss the American legislation. In the United States the Quran burning would be generally protected under the First Amendment. In the landmark case of *Texas v. Johnson*,³⁸ the Supreme Court of the United States (SCOTUS) held that flag burning constitutes a symbolic speech that the US Constitution protects. This ruling set a precedent for protecting symbolic acts, even when they are offensive to many people. The SCOTUS reaffirmed this in *United States v. Eichman*,³⁹ stating that freedom of speech includes acts that express dissent, even in ways considered provocative or inflammatory. Given this legal background, Quran burning, like flag burning, is viewed as a form of symbolic expression and, in most instances, would fall under constitutional protection as long as it does not incite imminent lawless action.⁴⁰ We also have to point out that the fighting words doctrine, established in *Chaplinsky v. New Hampshire*,⁴¹ recognises that words or actions intended to incite violence or immediate breach of the peace are not constitutionally protected under the First Amendment. While Quran burning might not always fall into this category, the context—such as burning the Quran in front of a mosque with the intent to provoke violence—could

37 Waseem Ahmad Qureshi, 'Can the Burning of Holy Books Ever Be Justified', 24:1 *Washington and Lee Journal of Civil Rights and Social Justice* (2017).

38 *Texas v. Johnson*, 491 U.S. 397 (1989).

39 *United States v. Eichman*, 496 U.S. 310 (1990).

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

41 *Chaplinsky v. New Hampshire*, 315 U.S. 568 (1942).

shift the legal analysis toward unprotected speech. A similarity could be found in this example with the Nazis' march in a Jewish town.⁴²

3.1 *The Standpoint of the European Human Rights Court: the Importance of the E.S. v. Austria Case*

In Europe, specifically in the practice of the ECtHR, the legal background of Quran burning is vastly different to the aforementioned American approach. Freedom of expression is protected under Article 10 of the ECHR but is subject to more restrictions. European courts have upheld limitations on free speech, particularly when it conflicts with public safety, order, or the rights of others. However, the burning also implies the rights of religious communities to be free from hate speech and discrimination. The ECtHR has generally supported restrictions on hate speech and actions threatening public order. In *Otto-Preminger-Institut v. Austria*,⁴³ the ECtHR ruled that the Austrian government did not violate free speech by confiscating a film that offended religious beliefs. The Court held that where speech threatens social cohesion or the rights of others, it may be legitimately restricted.⁴⁴ However, a critical aspect of the Court's practice must be mentioned. As highlighted in a plethora of cases, in the ECtHR's view, offensive, insulting, shocking, or provocative forms of speech does enjoy the protection set forth under Article 10, as long as they do not constitute clearly unlawful speech.⁴⁵

On a more holistic scale, we could also claim that Islamophobic actions are not unfamiliar cases to be decided for the ECtHR. From the famous *Soulas v. France* case which involved the applicant's conviction for inciting hatred and violence against Muslim communities through the publication of a book titled "The Colonisation of Europe,"⁴⁶ through the *Féret v. Belgium* case where a Belgian politician,⁴⁷ was convicted of incitement to racial discrimination during an election campaign for distributing leaflets with anti-Islam and anti-immigration slogans, to the *İ.A. v. Turkey* case which concerned the publication of the book *Yasak Tümceler (The Forbidden Phrases)* containing deeply

42 *National Socialist Party of America v. Village of Skokie*, 432 U.S. 43 (1977).

43 *Otto-Preminger-Institut v. Austria*, App. No. 13470/87, 20 September 1995.

44 *The Sunday Times v. The United Kingdom (No. 2)*, App. No. 13166/87, 26 November 1991; *Handyside v. The United Kingdom*, App. No. 5493/72, 7 December 1976.

45 *Handyside v. The United Kingdom*, App. No. 5493/72, 7 December 1976; *Savva Terentyev v. Russia*, App. No. 10692/09, 28 August 2018; *İ.A. v. Turkey*, App. No. 42571/98, 13 September 2005; *Dink v. Turkey*, App. Nos. 2668/07, 6102/08, 30079/08, 7072/09 and 7124/09, 14 August 2010; *Vejdeland and Others v. Sweden*, App. No. 1813/07, 9 February 2012.

46 *Soulas v. France*, App. No. 15948/03, 10 October 2008.

47 *Féret v. Belgium*, App. No. 15615/07, 16 July 2016.

offensive statements about Islam and Islamic religious figures.⁴⁸ In each of these cases, the ECtHR found no violation of their freedom of expression under Article 10, ruling that the interferences were necessary in a democratic society and corresponded to a pressing social need due to the nature of the acts surpassing an acceptable limit of attacking a religion.

Nonetheless, the ECtHR's standards are not uniform,⁴⁹ and there are no "benchmarks" with regard to the protection of the Muslim religion.⁵⁰ Joppke, in this regard, heavily criticized the Court's stance on Islam, its religious symbols and public displays. The author notices the idea of "double standards" in the practice of the ECtHR with particular attention to religious symbols (veils and crucifixes), claiming that the Court exhibits a biased approach, often accommodating Christianity while imposing, or approving, restrictions on Islam.⁵¹ Joppke argues that the ECtHR's decisions reflect a tendency to permit "culturalized" Christian symbols, presenting them as part of national identity, while "politicizing" Islamic symbols are construed as threats to secular order.⁵²

The Court has not yet addressed directly the burning of Quran. One of the most important cases before the ECtHR, however, concerning the desecration of the Quran, is the *E.S. v. Austria* judgment.⁵³ In accordance with the facts of the case, the applicant, E.S., conducted seminars on Islam at a right-wing political party's institute. She was investigated after a journalist reported her for making statements that allegedly insulted Prophet Muhammad. After investigating her case, E.S. was partially acquitted of inciting hatred but convicted for disparaging religious doctrines, particularly for comments implying Muhammad had paedophilic tendencies. The Court found that her public remarks were likely to provoke indignation and did not contribute to a meaningful debate but rather aimed to degrade Muhammad. Her conviction was upheld by the Vienna Court of Appeal and later by the Supreme Court of Austria (SCA), which deemed the legal action necessary to protect religious peace and a proportionate interference with her freedom of expression. The SCA concluded that her statements were derogatory value judgments, not factual contributions to public

48 *İ.A. v. Turkey*, App. No. 42571/98, 13 September 2005.

49 Cf. in this regard: Jeroen Temperman, 'Religious Hatred and International Law: The Prohibition of Incitement to Violence or Discrimination' (Cambridge: Cambridge University Press, 2015).

50 Natalie Alkiviadou, 'Freedom of Religion: Lifting the Veils of Power and Prejudice', 24:5 *The International of Human Rights* (2019), pp. 509–515.

51 Christian Georg Joppke, 'Double Standards? Veils and Crucifixes in the European Legal Order' 54:1 *European Journal of Sociology* (2013), pp. 97–123.

52 *Ibid.*

53 *E.S. v. Austria*, App. No. 38450/12, 25 October 2015.

discourse, thereby justifying the conviction. E.S. lodged a submission before the ECtHR.

E.S. claimed that her conviction for denigrating religious doctrines violated Article 10 of the Convention, which guarantees the right to freedom of expression. She contended that her statements about Muhammad were based on historical facts and thus constituted permissible value judgments under Article 10. The applicant claimed that her remarks were part of an objective critique of Islam and its practices, contributing to a public debate rather than intending to defame Muhammad. She further argued that religious groups, being public institutions, should tolerate even severe criticism, and that her statements did not incite violence or hatred but instead questioned practices like child marriage. The Government, on the other hand, argued that the conviction was justified to protect religious peace and the rights of others, specifically their religious feelings. They maintained that the applicant's statements went beyond objective critique and were intended to defame Muhammad, lacking a sufficient factual basis. The Government emphasized that the applicant's remarks could arouse justified indignation and disturb religious peace, making the interference with her freedom of expression necessary. They pointed out that her statements were not part of an objective discussion but were instead provocative and offensive, capable of inciting religious intolerance.

The Court applied the three-part, cumulative test to determine whether the interference with the applicant's rights under Article 10 was justified in terms of (i) legality, (ii) the pursuance of a legitimate aim, and (iii) necessity. Regarding the first query concerning whether the interference was prescribed by law the Court assessed that it was undisputed that the conviction was based on a legitimate basis, namely, on Article 188 of the Austrian Criminal Code. Then, the Court assessed whether the interference pursued a legitimate aim, agreeing with the Government that the aim was to maintain religious peace and protect the rights of others. The applicant did not dispute the legitimacy of this aim. Finally, and most crucially, the Court examined whether the interference was "necessary in a democratic society," the last part of the three-part test. The Court reiterated the fundamental principles that freedom of expression includes the right to offend, shock, or disturb but also carries duties and responsibilities. It acknowledged that states have a margin of appreciation, especially in matters sensitive to religious beliefs, to determine what restrictions are necessary to maintain social peace. The Court agreed with the domestic courts that the applicant's statements were not aimed at contributing to a public debate but were instead derogatory and lacked a factual basis. Furthermore, the ECtHR noted that the domestic authorities carefully balanced the applicant's right to freedom of expression with the need to protect religious peace and the rights

of others; the statements made by E.S. were found to be *more* than provocative, as they aimed at defaming a religious figure rather than fostering an objective debate. Given these factors, the Court concluded that the interference was proportionate to the legitimate aim pursued and met a pressing social need. The sanction imposed, a moderate fine, was considered proportionate and not excessive. Thus, there was no violation of Article 10 of the Convention.

The case was deemed a milestone in the context of the desecration of Muslim symbols by numerous researchers. Smet, who critically analysed the judgment, argues that the ruling perpetuates outdated legal precedents and conflates defamation law with the protection of religious feelings, which could dangerously curtail free speech by endorsing a *de facto* blasphemy law.⁵⁴ Wrench echoes Smet's concerns, contending that the decision upholds a form of blasphemy law despite the European Union's stance against such laws.⁵⁵ According to Wrench, the ruling is problematic because it reinforces outdated jurisprudence and introduces inconsistencies by emphasizing the protection of religious sensibilities at the expense of robust free expression. Both Smet and Wrench argue that the Court's approach dilutes the protection of free speech by allowing states to suppress expressions that could hypothetically cause offense, rather than focusing on actual incitement to hatred or violence, which would better reconcile the competing rights at stake. Similarly, Brauch and Goings criticize the judgment for failing to properly balance the principles of free expression and religious freedom, arguing that it relies too heavily on the margin of appreciation doctrine, leading to an outcome that undermines both rights.⁵⁶ They contend that the ruling is inconsistent with international standards that advocate against criminalizing blasphemy and emphasize restricting speech only when it incites violence or hatred.⁵⁷ On the other hand, Rachael Taylor offers a more supportive view of the judgment, framing the ruling as a necessary limitation on speech to maintain public safety and order.⁵⁸ The author sees the decision as a turning point that acknowledges the need for

54 Stijn Smet, 'Free Speech versus Religious Feelings, the Sequel: Defamation of the Prophet Muhammad in E.S. v Austria' 15:1 *European Constitutional Law Review* (2019), pp. 158–170.

55 J.G. Wrench, "'Balancing" Free Expression and Religious Feelings in E.S. v Austria: Blasphemy by Any Other Name?' 52:1 *Case Western Reserve Journal of International Law*, (2020).

56 Jeffrey A. Brauch and Cody Goings, 'E.S. v Austria: The Folly of Europe', 5 *Journal of Global Justice and Public Policy* (2019), pp. 83–90.

57 *Ibid.*

58 Rachael Taylor, 'When Freedom of Speech Comes at a Cost: A Case Study of E.S. v Austria' 27: 2 *Indiana Journal Global Legal Studies* (2020).

some restrictions on freedom of expression to prevent the spread of harmful, prejudicial speech in an increasingly polarized society. In contrast to Wrench’s concern that the ruling could lead to broader restrictions on speech, Taylor argues that it as a necessary measure to protect societal harmony and vulnerable communities, aligning with broader goals of maintaining peace in a democratic society.⁵⁹

To summarize the above reviews of the case, we created a comprehensive table where we underline the key points—both critical and supportive—on the case:

TABLE 1 Comprehensive summary of the cases and their arguments

Considerations	Key argument	Focus
Outdated judgment critique	The ruling perpetuates outdated legal precedents and conflates defamation law with the protection of religious feelings.	The conflation in the judgment undermines free speech by effectively endorsing a de facto blasphemy law.
Fragmented blasphemy laws and inconsistent reference thereto by the Court	The decision reinforces outdated jurisprudence and upholds a form of blasphemy law.	Prioritizing the protection of religious sensibilities over free expression creates inconsistencies.
Failed balance striking and the lack of standards	The judgment fails to balance free expression and religious freedom, relying too heavily on the margin of appreciation doctrine.	The ruling contradicts international standards, which advocate restricting speech only in cases of incitement to violence or hatred.
Necessary limitations for public safety and public order	The ruling is a necessary limitation on freedom of expression to maintain public safety and order.	The decision is crucial for protecting societal harmony and vulnerable communities in a polarized society.

59 *Ibid.*

3.2 *One Steps Forward, Two Steps Back? Reflections on the Future Jurisprudence of the European Human Rights Court*

In view of the above, the question, rightly, arises: how would the ECtHR decide on a case centred around Quran burning? Though making definitive statements would be imprudent, due to the highly context-based analyses of the Court, one might appropriately assume that the Court would carefully weigh the right to freedom of expression against the imperative to protect religious peace and maintain public order. Historically, the ECtHR has permitted restrictions on expressions that risk provoking significant indignation or inciting hatred, especially when these expressions target religious symbols or communities.⁶⁰ In assessing the burning of the Quran, we argue that the Court would likely consider whether the act was part of a legitimate public debate or merely a gratuitous provocation aimed at offending religious adherents. Nonetheless, the *intent* behind the act, its context, and its potential consequences for social cohesion would be crucial factors in this analysis (taking into account the *Rabat Plan of Action's* 6-part-test).⁶¹

If the act were perceived as inciting violence or exacerbating religious intolerance, the Court might find it justifiable to impose restrictions, arguing that such actions exceed the limits of permissible free speech. The ECtHR's reliance on the margin of appreciation allows for some flexibility, meaning that national context and the potential impact on societal harmony would heavily influence the decision. Thus, while the Court might acknowledge the symbolic nature of Quran burning as a form of expression, it would *likely* lean towards restriction if the act were found to disrupt public order or undermine religious tolerance, reflecting the Court's broader commitment to balancing competing rights in a democratic society.

Continuing from this line of reasoning, the ECtHR would likely undertake a thorough examination of the broader implications of both permitting and prohibiting such an act under the framework of free expression.⁶² The inquiry might be better articulated as follows: Is the Court prepared to establish a precedent in this highly charged political and cultural climate, either by sanctioning or restricting the act? On the one hand, authorizing the burning of the Quran could potentially set a precedent that emboldens analogous actions

60 Eric Barendt, 'Religious Hatred Laws: Protecting Groups or Belief?', 17:1 *Res Publica* (2011), pp. 41–53.

61 Cf. Hans Morten Haugen, 'A Decade of Revitalizing UN Work Concerning Freedom of Religion or Belief (2010–2020)', 22:4 *Journal of Human Rights* (2023), pp. 469–486.

62 See Gideon Elford, 'Freedom of Expression and Social Coercion', 27:2 *Legal Theory* (2021), pp. 149–175.

targeting other religious symbols, thereby exacerbating tensions and conflicts within multicultural societies. This raises significant concerns about a potential slippery slope, wherein the principle of freedom of expression might be exploited to legitimize actions that pose a serious threat to social cohesion and public safety. Conversely, prohibiting the act might be perceived as an undue constraint on free speech, potentially stifling legitimate critique or dissent. The Court would need to rigorously evaluate whether the act in question contributes meaningfully to public discourse or merely serves as an expression of animosity towards a particular religious group. If deemed the latter, the Court might argue that such expression falls outside the protective scope of Article 10 of the European Convention on Human Rights, which permits restrictions when necessary to safeguard the rights of others, including their right to practice religion without the fear of hostility or degradation. Alternatively, if the act is considered a form of political expression, the Court would need to carefully consider the implications of imposing restrictions on such speech within a democratic society.

It is also sound to presume that the ECtHR would (or, would have to) consider the potential consequences of allowing Quran burning in terms of its impact on religious minorities and their sense of security within a given state. The Court has consistently emphasized the importance of tolerance, pluralism, and respect for the rights of all members of society.⁶³ It is important to emphasize a key issue here, however. The ECtHR addresses the rights of religious minorities through the concepts of “religious diversity” and “pluralism,” but it has often failed to protect ‘uncomfortable’ religious diversities, particularly for minorities with a migrant background, in the name of integration.⁶⁴ A similar presumption has been a subject of a cross-European empirical qualitative research where Fokas revealed that the Court’s jurisprudence has not adequately safeguarded religious minorities or positioned itself as a crucial force against rising prejudice.⁶⁵ In conclusion, it can be assumed that the ECtHR has not sufficiently considered diverse interpretations of freedom of religion, leading to shortcomings in ensuring equal treatment and protection for religious minorities. Acts like Quran burning, which can be perceived as attacks on the identity and dignity of Muslim communities, would most likely be seen

63 Camil Ungureanu, ‘Europe and Religion: An Ambivalent Nexus’, in Lorenzo Zucca and Camil Ungureanu (eds.), *Law, State and Religion in the New Europe: Debates and Dilemmas* (Cambridge: Cambridge University Press, 2012), pp. 307–333.

64 See Eugenia Relaño Pastor, ‘Recognizing Religious Minority Rights’, 18:1 *European Yearbook of Minority Issues Online* (2021).

65 Effie Fokas, ‘The Legal Status of Religious Minorities: Exploring the Impact of the European Court of Human Rights’, 65:1 *Social Compass* (2018), pp. 25–42.

as undermining the principles of religious diversity and pluralism. Therefore, even if the act were argued to be a form of political or religious critique, the Court might still justify its restriction to avoid exacerbating societal divisions and to maintain the delicate balance between individual freedoms and collective peace. Ultimately, the ECtHR's approach would likely emphasize the importance of maintaining a peaceful and respectful public sphere, where freedom of expression is exercised in a manner that does not infringe upon the rights and freedoms of others, particularly those of vulnerable religious minorities. In this context, it can be argued that even if the act were framed as a form of political or religious critique, the Court might find justification for its restriction to prevent the deepening of societal divisions and to preserve the delicate equilibrium between individual freedoms and collective harmony.

4 Policy Implications for Consideration and Limitations

As seen from both historical and legal aspects, dealing with Quran burning requires a balancing approach between freedom of expression and protecting public safety, respecting religious diversity, and maintaining social cohesion. This, however, is an extremely hard task, and as seen from the practice of ECtHR, also a rather controversial one. We can and will not undertake to solve the problem of Quran burning and its legal resolution as we can confidently state that there is no sole, uniform solution. Nonetheless, to add to the descriptive and analytical findings of the study, in the following section we will underline a few policy-related points and recommendations that may ameliorate the regulation and assessment of Quran burning. We claim that clear legal standards, public education, media literacy and proactive conflict prevention strategies are some key questions that could help deal with this delicate legal issue.

Firstly, governments should establish a clear legal framework distinguishing protected free speech and prohibited hate speech. The legal practice of international human rights courts could strengthen this task. This framework should take into account both the intent behind acts like Quran burning and the potential for such acts to incite imminent violence or hatred. Enacted laws should balance the freedom of expression with the need to protect religious communities from discrimination or harassment. Adding to Titley's perspective of the role of free speech in a contemporary society,⁶⁶ it is observed that as

66 Titley, *supra* note 11.

several countries become more religiously and culturally diverse, governments should consider how to build a society on mutual respect. Governments should promote policies that encourage dialogue over provocation and should keep in mind that focusing only on legal responses is not enough. Public campaigns promoting understanding and respect among different religions can reduce the likelihood of these incidents. The State, churches, schools, community groups and the media should work hand in hand to educate the public and strengthen media literacy. As mentioned in under Section 3.2 of the study, there is a key polemic concerning public safety and order. Actions that target religious symbols can often disrupt public order. They can provoke anger, fuel societal, cultural and religious divisions, and lead to protests or violent confrontations. It is crucial that when Quran burning or similar acts may occur, governments and law enforcement prioritise de-escalation and conflict prevention. They should all explore mediation, dialogue, and non-punitive responses where possible rather than immediately resorting to criminal prosecution.

There is an instrumental limitation to mention, however, with regard to the above policies. Our study predominantly focuses on the European context and the role of Western societies in addressing the balance between free speech and religious respect. It is, nonetheless, only a fragment of the issues of human rights, religious freedoms, and LGBT+ rights; collective issues that reach far beyond the “Western” world or the countries of what we understand under the “Global North”. We claim that the responsibility for upholding these rights is a shared global endeavour, especially in parts of the Muslim-majority world, where challenges such as the suppression of dissent or restrictions on freedom of religion raise concerns that are hardly addressable today. Our policy implications, therefore, are also meant to highlight that the debate surrounding free speech and human rights is most definitely not confined to a single geopolitical framework; rather, the implications and the underlying issues represent a global tension between societal norms and individual freedoms (and naturally, their legal assessment).

5 Conclusion

Pushing the limits of freedom of expression or safeguarding symbols for societal harmony? One thing is clear: arguments can—and should—be made for both sides. However, it is increasingly evident that when the flames of a burning Quran ignite, they do more than destroy a sacred text—they reveal the deep, volatile fault lines in a world where freedom of expression and religious respect, individual rights and the collective belief, and the secular and sacred

values are at odds. This article has explored the complex and contentious act of Quran burning, examining it through historical and legal lenses. The analysis shows that Quran burning, far from being an isolated act of extremism, taps into a long history of using the destruction of religious texts as a means of asserting ideological dominance. The study also highlighted how such provocations can incite social unrest, deepen cultural divides, and escalate into societal crises. To conclude, our investigation tentatively aimed at providing a more profound understanding of the challenges confronting societies as they endeavour to reconcile the principles of liberty with the complexities of religious diversity. Our findings emphasize the imperative for well-considered, comprehensive policies capable of effectively addressing these challenges within an increasingly polarized global context.

Looking forward, future research should focus on the *impact* of Quran burning on the radicalization processes within both far-right groups in the West and Muslim communities globally. Moreover, the role of media—both traditional and social—in shaping public perceptions and reactions to these incidents warrants deeper exploration. Comparative legal studies could also shed light on how different jurisdictions balance the protection of free speech with the need to respect religious beliefs, offering valuable insights for policy development. Lastly, as mentioned in the last segment of Section 4, future research could explore comparative analyses of how human rights issues are addressed in non-Western contexts, including the complex interplay between religious traditions, legal frameworks, and evolving norms around freedoms and rights.

Acknowledgements

Gergely Ferenc Lendvai was supported by the EKÖP-24-3 University Research Scholarship Program of the Ministry for Culture and Innovation from the source of the National Research, Development and Innovation Fund.

Gergely Gosztonyi was supported by the János Bolyai Research Scholarship of the Hungarian Academy of Sciences.