

TOWARDS HARMONIZED HATE CRIME LAWS: BRIDGING LEGAL GAPS FOR HUMAN DIGNITY AND INCLUSION IN THE EU AND INTERNATIONAL SYSTEMS

Heybatollah NAJANDIMANESH¹

Abstract: *This paper analyzes the inconsistent legal responses within the EU and international systems to hate crimes against Muslims, especially incidents involving desecration or insults toward the Holy Quran. It highlights the growing tension between freedom of religion, freedom of expression, and protections against hate speech—three rights often treated separately rather than in an interconnected manner. Due to the absence of harmonized legal standards, significant protection gaps persist, disproportionately affecting Muslim communities. By comparing national laws, EU instruments, ECtHR case law, and UN standards, the paper identifies approaches for better balancing these rights. It ultimately calls for clearer and more coherent legal frameworks that safeguard both the dignity of religious minorities and fundamental freedoms.*

Key words: *Hate crime laws, Freedom of religion, Freedom of expression, Human dignity, Holy Quran*

1. Introduction

In recent years, Europe has witnessed a concerning increase in public acts of desecration and insult directed at the Holy Quran—often framed as political expression, but widely perceived by Muslim communities as deliberate provocations against their faith. These incidents, including Quran burnings and staged public insults, have sparked intense public debates and diplomatic tensions, especially in countries such as Sweden, Denmark, and the Netherlands. More broadly, they reflect a growing pattern of anti-Muslim hate that intersects with broader trends of xenophobia, far-right populism, and contested interpretations of fundamental rights (Nissen and Lundstedt, 2024).

The legal and societal challenge posed by such acts lies in the complex and often uneasy balancing of three fundamental human rights: the right to freedom of expression, the right to freedom of religion, and the protection of minority groups from hate speech and

¹ Associate Professor of International Law, Allameh Tabataba'i University, Tehran, Iran, hnazhandi@atu.ac.ir, hnajandimanesh@gmail.com, corresponding author

hate-motivated violence. While international and European human rights instruments protect all three, legal responses to hate crimes—especially when symbolic speech or expression is involved—often reveal fragmented approaches and inconsistent jurisprudence. This has created normative ambiguity and protection gaps, particularly for Muslims in the European Union (EU) whose religious identity is increasingly under symbolic attack. This paper seeks to examine how the EU and international legal systems currently respond to hate crimes that target Muslim communities and religious symbols, with a focus on the Quran. It raises two central research questions:

(1) How can EU and international legal frameworks more effectively and coherently address hate crimes that target Muslims, especially when they take the form of symbolic acts such as desecration of religious texts?

(2) Can legal harmonization across national, regional, and international levels promote both human dignity and inclusion while maintaining respect for freedom of expression?

To address these questions, the paper adopts a doctrinal and comparative approach. It analyzes relevant international and EU legal instruments, human rights jurisprudence (especially from the European Court of Human Rights (ECtHR)), and selected national case studies involving recent Quran desecration incidents. Through this analysis, the paper explores whether and how hate crime law can be better harmonized to serve the values of equality, inclusion, and human dignity without eroding core freedoms. The structure of the paper proceeds as follows: Section 2 outlines the conceptual and legal framework; Section 3 examines the tension between the three key rights; Section 4 explores legal gaps; Section 5 presents a case study on Quran desecration incidents in the EU; Section 6 proposes harmonization strategies; and Section 7 concludes with recommendations.

2. Conceptual and Legal Framework

Understanding the legal complexity surrounding acts of Quran desecration and broader anti-Muslim hate requires a clear conceptual framework (Bleich, 2011). This section clarifies the meaning of hate crime and hate speech under international and regional law and outlines the key human rights instruments that govern freedom of religion, expression, and minority protection. These normative frameworks form the foundation for assessing how legal systems can or should respond to symbolic attacks on religious communities.

Defining Hate Crime and Hate Speech

Hate crime refers to criminal acts motivated, wholly or partly, by bias against groups defined by characteristics such as religion, ethnicity, race, or sexual orientation (OSCE/ODIHR, 2009). The OSCE defines hate crimes as offenses under criminal law motivated by bias, and the EU's Framework Decision 2008/913/JHA similarly requires Member States to criminalize conduct inciting violence or hatred based on race, religion, or ethnic origin (Council of the European Union, 2008).

Hate speech encompasses expressions—verbal, symbolic, or otherwise—that incite hatred, discrimination, or violence against identity-based groups. The UN Rabat Plan of Action (2012) provides a six-factor test—context, speaker, intent, content and form,

extent of dissemination, and likelihood of harm—to distinguish hate speech from protected expression and the UN Strategy on Hate Speech (2019) emphasizes countering hate speech while safeguarding freedom of opinion and expression (UN Human Rights Council, 2013; United Nations, 2019).

It is crucial to differentiate hate crime from hate speech and from protected speech. Not all offensive expression constitutes hate speech, and not all hate speech qualifies as a criminal act. The ECtHR protects ideas that “offend, shock or disturb” (ECtHR, 1976) but allows restrictions on incitement or speech that undermines others’ rights (ECtHR, 2006; ECtHR, 2009). In cases of Quran desecration, determining whether an act is protected political expression, prosecutable incitement, or a hate crime depends on the legal system’s interpretation and balancing of competing rights.

Relevant Human Rights Standards

The analysis focuses on three core rights—freedom of religion, freedom of expression, and minority protection—which are recognized in international and regional human rights law and can sometimes align but also generate legal tensions.

Freedom of Religion

The right to freedom of thought, conscience, and religion is protected under Article 18 ICCPR and Article 9 ECHR (United Nations, 1966; Council of Europe, 1950), covering both absolute internal beliefs and externally manifested practices, which may be limited only when lawful and necessary in a democratic society. The ECtHR recognizes that this right includes individual and collective religious expression, including protection of religious symbols and sacred texts (ECtHR, 1994; ECtHR, 2005), but also emphasizes that pluralism requires tolerance of critical or provocative speech. This creates tension in cases of Quran desecration, raising questions about the extent of legal protection for believers offended by symbolic attacks that do not directly impede worship.

Freedom of Expression

Freedom of expression, protected under Article 19 ICCPR and Article 10 ECHR, guarantees the right to hold opinions and communicate ideas but is not absolute. Both treaties allow lawful, necessary, and proportionate restrictions for legitimate aims, and Article 20(2) ICCPR requires States to prohibit advocacy of hatred that incites discrimination, hostility, or violence. The ECtHR takes a contextual approach: in *Féret v. Belgium* (2009), it upheld conviction for leaflets inciting hatred against immigrants, and in *Erbakan v. Turkey* (2006), it permitted restrictions on expressions promoting religious intolerance or threatening public order. These cases show that while political debate and criticism of religion are protected, speech inciting hatred or violence is not. However, the boundary remains contested in symbolic acts like flag burning or Quran desecration, where intent and impact are harder to assess.

Protection of Minorities

Protecting minorities from discrimination and hate is a fundamental principle of international human rights law. The 1992 UN Declaration obliges States to safeguard

the cultural, religious, and linguistic identity of minorities and ensure nondiscriminatory enjoyment of their rights (United Nations, 1992). The EU Charter of Fundamental Rights similarly prohibits discrimination, including on religious grounds, and affirms freedom of thought, conscience, and religion (European Union, 2012). EU Member States must also combat racism, xenophobia, and religiously motivated hate speech and crimes under Framework Decision 2008/913/JHA (Council of the European Union, 2008). Hate crimes against religious minorities, such as Quran burnings, threaten community belonging and social cohesion and may function as symbolic hate crimes even without physical violence.

3. The Interplay between the three Rights

Although freedom of religion, freedom of expression, and minority protection are established under international and European human rights law, their interaction becomes complex in cases of symbolic attacks on religious objects, such as Quran desecration. While such acts may be defended as political expression, they are experienced by Muslim communities as assaults on dignity and belonging, raising concerns about minority protection and democratic tolerance (Waldron, 2012, pp. 105–106). The challenge lies in balancing these rights without privileging one over the others, as hate speech and symbolic attacks can undermine the assurance of equal dignity (Waldron, *op. cit.*). The ECtHR applies proportionality analysis, considering context, intent, content, and impact (ECtHR, 1976; ECtHR, 1994), but its jurisprudence is inconsistent: restrictions are sometimes upheld to protect religious sensibilities (Otto-Preminger-Institut), while in *E.S. v. Austria* (ECtHR, 2018) robust debate is protected even when offensive. This inconsistency highlights the need for clearer, harmonized standards.

4. Legal Gaps and Challenges in the Current Framework

Despite the existence of international and European legal standards on hate crime, hate speech, and the balance of key rights, significant protection gaps remain. These gaps leave Muslim and other religious minority communities vulnerable to symbolic and verbal attacks and create uncertainty for courts and policymakers.

This section identifies four main areas of concern: (1) definitional inconsistency, (2) inadequate data collection and enforcement, (3) fragmentation across national legal systems, and (4) the marginalization of dignity-based reasoning in hate crime law.

Definitional Inconsistency

A major challenge in hate crime law is the absence of a consistent definition of hate crime or hate speech across jurisdictions. International instruments offer general principles but no uniform standards, leading EU Member States to adopt divergent approaches. Countries like the United Kingdom and Germany have comprehensive legislation that explicitly protects religion and allows enhanced penalties for religiously motivated crimes, while others—such as France—criminalize incitement to hatred but rarely treat symbolic acts like Quran desecration as hate crimes unless they involve

explicit incitement to violence. These differences have concrete consequences: an act such as Quran burning may be prosecuted as a hate crime in one country but protected as free speech in another, creating uneven protection for victims. The concept of “incitement” remains contested, as courts often require explicit calls to violence, despite broader interpretations such as the Rabat Plan of Action threshold test, which emphasizes intent and the likelihood of harm.

Inadequate Data Collection and Enforcement

A second major gap involves the lack of reliable hate crime data. The FRA has repeatedly reported widespread underreporting across the EU (European Union Agency for Fundamental Rights, 2018), as victims often distrust authorities, fear retaliation, or doubt that reporting will lead to action. Even when incidents are reported, police and prosecutors may fail to record the hate motivation. This data deficit obscures the real extent of anti-Muslim hate, hinders policymaking and resource allocation, weakens accountability, and reinforces feelings of marginalization among affected communities (Carr and Haynes, 2014). Strengthening data collection requires improved law-enforcement training and legal frameworks that explicitly recognize religious bias and mandate systematic recording of hate-motivated offenses.

Fragmentation Across National Legal Systems

The third challenge is the fragmentation of legal responses across EU Member States. While Framework Decision 2008/913/JHA sets minimum standards against racism and xenophobia, it allows significant national discretion, resulting in wide variations in definitions, thresholds, and enforcement. For example, Sweden initially did not prosecute Quran burning but later criminalized “aggravated unlawful threat” with religious motivation, whereas Denmark enacted a law in 2024 explicitly prohibiting improper treatment of objects of religious significance (Straffeloven § 110e, 2024). This lack of harmonization creates confusion, undermines equal protection across the EU, and allows perpetrators to exploit jurisdictions with weaker safeguards, raising concerns about the EU’s commitment to non-discrimination.

Marginalization of Dignity-Based Reasoning

A fourth gap in hate crime jurisprudence is the marginalization of dignity-based reasoning. Although human dignity is a foundational value under international and European law, it is often overlooked in cases of hate speech or symbolic attacks, where courts focus on balancing freedom of expression against public order or violence prevention. As Waldron notes, dignity concerns the recognition of equal status in society, and symbolic attacks—such as public Quran burnings—undermine this assurance for religious minorities (Waldron, 2012). Incorporating dignity-based reasoning more robustly would strengthen hate crime law by centering minority experiences and addressing social and psychological harms, while still allowing a nuanced balancing of competing rights.

5. Case Study: Quran Desecration Incidents in the EU

To illustrate the legal gaps and challenges discussed above, this section examines recent incidents of Quran desecration in the EU, with a particular focus on Sweden and Denmark. These cases provide concrete examples of how different legal systems have responded—or failed to respond—to symbolic attacks on Muslim communities.

Sweden: Legal Responses to Quran Burnings

In 2023, Sweden saw several high-profile Quran desecration incidents outside mosques and diplomatic missions, provoking domestic and international debate over free speech and minority protection. Initially, prosecutions were limited due to constitutional protections and the narrow interpretation of “agitation against a national or ethnic group” (hets mot folkgrupp), which focuses on explicit incitement rather than symbolic acts (Stockholms Tingsrätt, 2024). The Salwan Najem case, decided on 3 February 2025 in Stockholm, demonstrates a firmer judicial response: although Najem’s stated aim was to criticize Islam, his and another demonstrator’s repeated acts expressed clear contempt toward Muslims and exceeded legitimate debate. Acting with intent and without a clearly excusable belief in permissibility, Najem was convicted of hate speech against a group (hets mot folkgrupp) on four occasions (Stockholms tingsrätt, 2025). The Salwan Najem case illustrates Sweden’s firmer judicial response to Quran burnings (Al Jazeera, 2025).

These cases highlight the persistent tension between freedom of expression and protection of religious minorities from symbolic violence, exposing gaps in legal frameworks that emphasize explicit incitement while neglecting broader social and psychological harms. Although the Swedish government has proposed tightening hate speech laws, comprehensive reform has not yet been implemented.

Denmark: Legislative Reform and Its Limitations

Denmark’s response to Quran desecration has been proactive. In 2024, § 110e of the Criminal Code was enacted to prohibit the “improper treatment” of objects of significant religious importance, including the Quran, when done publicly with intent to insult a religious group (Straffeloven § 110e, 2024). The law emerged after multiple Quran burning incidents in 2023 and aims to protect public order, prevent diplomatic tensions, and safeguard minority dignity. Critics, however, warned it could restrict legitimate criticism of religion.

The law includes key limitations: it applies only to public acts with specific intent, does not restrict critique of religious ideas, and imposes moderate penalties (fines or up to two years imprisonment). Its practical impact remains uncertain, with few prosecutions so far, and it does not resolve broader structural issues like underreporting, data collection, or enforcement challenges in hate crime law.

The Netherlands and Other Member States

Similar incidents have occurred in other EU countries, including the Netherlands, Belgium, and France, each of which has responded differently. The Netherlands, like Sweden, has historically emphasized freedom of expression, and Dutch authorities have

been reluctant to prosecute symbolic acts of desecration unless they involve explicit incitement to violence (NL Times, 2024). Belgium has more robust hate speech laws but has faced challenges in enforcement, particularly in distinguishing between protected political speech and unlawful incitement (European Parliamentary Research Service, 2024). France, meanwhile, has taken a more nuanced approach, balancing its strong tradition of laïcité (secularism) with protections against religious hate speech (European Parliamentary Research Service, 2024). These variations underscore the lack of a coherent, EU-wide approach to hate crimes targeting religious minorities. They also illustrate the need for greater legal harmonization, as discussed in the following section.

6. Towards Harmonization: Strategies for Legal Reform

The previous sections have identified significant gaps and inconsistencies in how EU Member States respond to hate crimes targeting Muslim communities, particularly in cases involving symbolic acts such as Quran desecration. This section proposes four strategies for legal reform aimed at achieving greater harmonization while respecting national legal traditions and fundamental rights: (1) strengthening EU-level standards, (2) clarifying judicial interpretation through ECtHR guidance, (3) improving data collection and enforcement, and (4) embedding dignity-based reasoning in hate crime law.

Strengthening EU-Level Standards

The first step toward harmonization is revising and strengthening EU Framework Decision 2008/913/JHA, which currently sets minimal standards and allows broad national discretion. A revised framework should explicitly recognize symbolic acts of desecration and insult targeting religious communities as potential hate crimes, particularly when intended to incite hatred or undermine minority dignity, while maintaining free expression protections. It should also standardize definitions of key terms such as "hate crime," "incitement," and "religious hatred" to reduce legal fragmentation, mandate enhanced penalties reflecting the harm of hate-motivated offenses, and include provisions for cross-border cooperation and mutual recognition of prosecutions to address the transnational nature of hate speech.

Clarifying Judicial Interpretation Through ECtHR Guidance

The second strategy focuses on the ECtHR, which plays a key role in balancing freedom of expression and religious freedom but has produced inconsistent jurisprudence. In *Otto-Preminger-Institut v. Austria* (1994), the Court upheld restrictions to protect religious sensibilities, whereas in *E.S. v. Austria* (2018), it emphasized robust debate even if provocative.

To guide national courts, the ECtHR should develop a coherent framework for hate speech cases, particularly symbolic acts, incorporating the six-factor test from the Rabat Plan of Action: context, speaker, intent, content and form, extent of dissemination, and likelihood of harm. The Court should also give greater weight to dignity-based reasoning, considering whether expression undermines the equal status and public assurance of dignity for minorities, while maintaining freedom of expression as a fundamental right.

Improving Data Collection and Enforcement

The third strategy addresses the practical implementation of hate crime law. Even strong legal standards are ineffective without proper enforcement, particularly given chronic underreporting and limited institutional capacity across the EU. The EU should establish minimum standards for hate crime data collection, requiring disaggregation by bias type, tracking of reported and prosecuted cases, and annual publication of statistics, with the FRA given a stronger mandate to monitor compliance and provide technical assistance. Member States should also invest in training for law enforcement, prosecutors, and judges, emphasizing victim-centered approaches. Finally, mechanisms for community engagement and victim support, including partnerships with civil society and Muslim organizations, should be developed and supported through funding and dialogue.

Normative Shift: Inclusion and Dignity at the Core of Hate Crime Law

Beyond technical reforms, a broader normative shift is needed to reorient hate crime law around human dignity, equal protection, and minority inclusion. This involves framing legislation as protective rather than punitive, rejecting false dichotomies between freedom of expression and minority rights, and embedding dignity-based reasoning in laws and judicial interpretation. Such an approach would strengthen the rule of law and reinforce the EU's commitment to pluralism, tolerance, and mutual respect.

7. Conclusion

This paper has shown that EU and international legal responses to hate crimes against Muslims, particularly Quran desecration, are fragmented and inconsistent, creating gaps in protection and legal uncertainty. Tensions between freedom of expression, freedom of religion, and minority protection are often treated in isolation rather than as interconnected rights. The study highlights the need for a harmonized, rights-sensitive legal framework that balances democratic values with the protection of vulnerable groups. Effective reform requires EU-level standardization, clearer judicial guidance, and stronger intercultural dialogue. Ultimately, criminal law can support inclusion and human dignity without stifling legitimate speech when applied proportionally and contextually.

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