

COMMENTARY

Pakistan

Inelastic doctrine

People can be charged for blasphemy under section 295 A, B, C and 505 of Pakistan Penal Code. Recent instances of blasphemy cases have once again brought the issue into the public sphere and prompted a discussion on whether or not blasphemy is an Islamic concept. Blasphemy laws have been severely misused in the past. One such tragic case was that of Gul Masih who was sentenced to death in 1992 for allegedly passing a remark on Prophet Mohammed. In a more recent case, Munawar Mohsin, a subeditor of the Frontier Post was sentenced to life imprisonment and a fine of PKR 50,000 in July 2003, for publishing a letter to the editor titled "Why Muslims Hate Jews", which contained allegedly derogatory references to Prophet Mohammad. Most recently, an accused in a blasphemy who had been released on bail was killed early last month. In another instance, a Lahore shoemaker also attracted charges under the blasphemy law. And in one of the most celebrated cases in the country, which attracted international attention, a medical lecturer in Rawalpindi, Younus Shaikh, was sentenced to death in 2001. In 1998, High Court Judge Arif Iqbal Hussain Bhatti was shot dead in Lahore for reversing the death sentence against two people charged for blasphemy. The number of blasphemy cases is on the rise but the level of insecurity is now so high that many lawyers are afraid to take them on.



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At the root of the problem is a small segment of religious hardliners who exploit religious sentiments and inflame popular passions using any excuse available. Blasphemy cases are useful instruments for them and they use religious hypersensitivity to add to the general climate of sectarian intolerance accompanied by violence and death. The hardliners have been consistently exerting pressure on the government to strengthen blasphemy laws. They ignore the historical fact that blasphemy laws were introduced by the British back in 1860 in a misguided attempt to reduce tension between Hindus and Muslims. The laws were instituted for purely administrative reasons and do not have any basis in religious tenets.

Pakistan maybe a theocratic state, but socially the country is variegated in its ethnic, cultural and religious composition. The Muslim hardliners do not want to accept that contingent factors such as education, cognitive ability and personality traits influence peoples' interpretation of doctrines. Therefore, the interpretation of Islamic codes will vary and in many instances differ from that of the small segment which proclaims itself the sole authority on the subject. This group wants to impose its views on society by agitating for laws that restrict the elasticity of doctrinal interpretation.



Younus Shaikh: a victim of the laws.

Section 295C of the Pakistan Penal Code pertains to the use of derogatory remarks—“...whoever by words, either spoken or written or by visible representation, or by any imputation, innuendo, or insinuation, directly or indirectly, defiles the sacred name of the Holy Prophet Mohammed (PBUH) shall be punished with death, or imprisonment for life, and shall also be liable to fine”. Many have argued that this section is against the teachings of the Prophet. Works of legal luminaries like Justice Shafiq Usmani endorse the view that the concept of blasphemy is unknown to Islamic jurisprudence. Many cite the fact that there are only three verses in the Quran (7:180, 41:40 and 33:57) that are actually relevant to concept, as distinct from the act, of blasphemy. None of these verses says that people can be charged and brought to trial for blasphemy. The Quran does not confer any authority or despotic power to any individual, community or state to act as the guardian of the religion. In fact, there are explicit proscriptions on the arrogation of such powers, which are to be found in the Quranic verses 6:107, 88:22 and 64:2.

But such is the hold of hardliners in Pakistani society these days that even those proposing moderate reforms have to tread with caution. In 2000, President-General Pervez Musharraf had announced that measures would be taken to amend the procedure for the registration of blasphemy cases to prevent misuse. However, nothing came of it owing to the protests by religious groups. That the political leadership of the country and the government should step around this issue so gingerly is not surprising. The relevant law that concerns blasphemy was introduced in 1986 by General Zia-ul Haq. This was the period when the state had embarked on an overtly theocratic vision of itself and was working in close co-operation with the religious lobby which viewed the law as its special creation and instrument of control.

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The mainstream polity of Pakistan, in moments of competitive populism, cultivates the hardliners by pandering to their special interest in the blasphemy laws. In 1992, then Prime Minister Nawaz Sharif, went so far as to make capital punishment the only possible sentence that could be awarded for those convicted under blasphemy law. So long as this end of the political spectrum—the religious extreme—retains influence, little change can be expected in the current status of the law and its use or misuse.

Quran, relevant verses:

6:107 If it had been Allah's plan, they would not have taken false gods: but We made thee not one to watch over their doings, nor art thou set over them to dispose of their affairs.

64:2 It is He Who has created you; and of you are some that are Unbelievers, and some that are Believers: and Allah sees well all that ye do.

88:22 Thou art not one to manage (men's) affairs

English: Yusuf Ali translation [<http://www.islamicity.com/>]



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