BLASPHEMY LAWS IN MUSLIM-MAJORITY COUNTRIES

By Asma T. Uddin

In a prison in Sheikhupura, Pakistan, Aasia Bibi, the first woman in Pakistan to be sentenced to death for blasphemy, contemplates her fate. Who will provide for her five children if she is killed? Will she become a martyr for the growing movement opposing blasphemy laws? Will the international community succeed in campaigning for her to be pardoned? If she is pardoned, who will protect her from the angry masses instigated by extremists?

In June 2009, Aasia offered water to fellow farm workers. They refused to accept on the grounds that she was a Christian and, therefore, they believed the water must be contaminated. An exchange of words occurred, with each side defending their religion. Allegedly, Aasia insulted the Prophet Muhammad by saying, “The Quran is fake and your prophet remained in bed for one month before his death because he had worms in his ears and mouth. He married Khadija just for money and, after looting her, kicked her out of the house.”¹ A few days later, a mob set upon Aasia, and the police rescued her from certain death. However, the police later charged her with committing blasphemy and held her in isolation for 17 months while she awaited trial.²

On November 8, 2010, the Sheikhupura District Court found Aasia guilty of blasphemy. The court ruled that there were “no mitigating circumstances,” sentencing her to death by hanging.³ On November 29, amidst fears that President Asif Ali Zardari would succumb to international pressure and pardon Aasia, the Lahore High Court in Punjab province issued an order barring Zardari from exercising his constitutional authority to pardon.⁴

Aasia’s encounter with strict blasphemy laws, while unique in that she is the first woman sentenced to death for this offense, is not uncommon in Pakistan, where accusations of blasphemy have been on the rise.⁵ While those who adhere to minority religions are more susceptible to being accused, people of all faiths have been indicted, including members of the majority faith, Islam. In an interview with National Public Radio, Aasia’s husband, Ashiq Masih, stated, “[I]t’s not just Christians who are targeted. Muslims have also been charged with blasphemy. Christians are easy to implicate, though. If they talk about religion, they are accused of blasphemy. If a Christian touches the Holy Quran, he is accused of a crime. And here, petty issues get twisted into accusations of blasphemy.”⁶

Unfortunately, when it comes to religious violence in Pakistan, the Aasia Bibi case is only the tip of the iceberg. In January, the governor of Punjab province, Salman Taseer, was assassinated by one of his police guards for taking a public stance against Pakistan’s blasphemy laws.⁷

Asma T. Uddin is Editor-in-Chief of AltMuslimah (www.altmuslimah.com) and an attorney at The Becket Fund for Religious Liberty.

Though not directly linked, his assassination came on the heels of a 24-hour strike organized by a group of Sunni Muslim clerics, who were protesting proposed changes to the laws. And in March, Shahbaz Bhatti, Pakistan’s Minister for Minority Affairs, was gunned down leaving his home in Islamabad. Bhatti was an outspoken critic of Pakistan’s blasphemy laws, and it is suspected that extremist supporters of the blasphemy laws were responsible for his assassination; a pamphlet found at the site of his death warned against reforms to the blasphemy laws.

Nor is the problem limited to Pakistan—it is one that touches many countries. This article describes and evaluates the current blasphemy laws in Pakistan, Indonesia, and Egypt. Case studies from these Muslim-majority countries demonstrate the dangerous consequences of blasphemy laws, in particular their susceptibility to being used by government as a tool to silence political opposition and other forms of dissent. The case studies are complemented with an analysis of the proposed UN Defamation of Religions Resolution. Specifically, this article will argue that the UN Resolution is a violation of the freedoms of expression and religion, and that instead of protecting religious majorities from insult, it will be hijacked, like current blasphemy laws, to abuse religious minorities and silence dissenters.

Pakistan

The attack on Asia Bibi was not the first prominent manifestation of Pakistani blasphemy laws. In 2010, there were several other headline-grabbing incidents. On May 28, Islamist militants armed with guns, grenades, and suicide bombs attacked two Ahmadiyya mosques in central Pakistan, leaving 94 dead and over 100 wounded. The Ahmadiyya community has been subject to discrimination in Pakistan for decades, owing in part to the country’s blasphemy laws, which forbid Ahmadis from calling themselves Muslim, proselytizing their faith, “or in any manner whatsoever outraging the religious feelings of Muslims.” Section 298C of the Penal Code punishes such offenses with a fine and up to three years’ imprisonment.

The bulk of Pakistan’s blasphemy laws are contained within Sections 295–298 of the Pakistani Penal Code, titled “Of Offenses Related to Religions.” Every infringement under these sections is punishable by imprisonment, either in place of or in addition to a fine. For example, Section 295 relates to the defilement of a place of worship with the “intent to insult the religion of any class” and punishes this crime with a fine and/or up to two years of imprisonment. Section 295A relates to the “deliberate and malicious acts intended to outrage religious feelings of any class by insulting its religion or religious beliefs.” The statute states that such infringements include spoken and written words, as well as visible representations. The punishment for such insults is a fine and/or imprisonment for up to 10 years.

Section 295C punishes derogatory remarks about the Prophet Muhammad with the death penalty or life imprisonment, in addition to a fine. The offender can commit such defamation through spoken or written words—by “visible representation or by any imputation, innuendo, or insinuation” which “directly or indirectly” defames the Prophet.

Like Section 295C, the language of many of the blasphemy sections is vague and overly broad. The statute punishes not only spoken words, written words, and “visible representations,” but also sounds, gestures, the placement of objects, and indirect defamation, such as innuendos and insinuations. Section 298C, which forbids members of the Ahmadiyya from calling themselves Muslims or propagating their beliefs, is the broadest section: it bans the defamation of Muslims in “any manner whatsoever.” The direct or indirect propagation of the Ahmadiyya faith, as well as the adoption of any mainstream Muslim practices by Ahmadiyya adherents, is considered blasphemy of Islam.

Personal and business rivals, as well as authorities, use the blasphemy laws to target and punish religious minorities. But blasphemy cases in Pakistan have not been restricted to the Ahmadis, Christians, or other religious minorities within Pakistan; they have been brought against Sunni Muslims as well.
On a more national scale, the Pakistani High Court in Lahore has employed the blasphemy laws to propagate broad censorship on speech. In May 2010, the Court in Lahore placed a temporary ban on Facebook, Wikipedia, and YouTube in response to “growing sacrilegious content,” most notably the Facebook group “Everybody Draw Muhammad Day!”. The Facebook group was organized as a response to a debacle involving the cartoon series “South Park.” After “South Park” creators Matt Stone and Trey Parker depicted the Prophet Muhammad wearing a bear suit in one episode, members of RevolutionMuslim.com stated, “[What Stone and Parker] are doing is stupid and they will probably wind up like Theo Van Gogh [the Dutch filmmaker murdered in 2004 for making a movie criticizing Islam] for airing this show. This is not a threat, but a warning of the reality of what will likely happen to them.” In response to this “warning,” Stone and Parker placed the Muhammad character under a “censored” graphic in the following week’s “South Park” episode. The Facebook group was created in response to Stone and Parker’s decision.

The Lahore High Court ruling to censor speech was issued out of reasonable fear that the depictions of the Prophet could ignite violence in Pakistan, similar to what occurred during the 2005 Danish cartoon controversy, when the Danish newspaper Jyllands-Posten published offensive depictions of the Prophet. The political disaster that followed this publication, coupled with the republication of the cartoons in several European states, inspired riots and acts of violence across the world and resulted in the deaths of over 100 people. In Pakistan, at least two people were killed when more than 70,000 Pakistanis gathered to protests the cartoons. In spite of its reasonable apprehension, the Pakistani Court’s ruling exhibited a flaw common to all governmental action that seeks to curb potential public disorder through speech-limiting means such as blasphemy laws. That is, the government chose to limit the rights of the non-violent speakers instead of enforcing existing laws against battery, assault, arson, and other violent crimes. Although blasphemy—real or supposed, intentional or unintentional—may anger some Muslims, who may then cause destruction or otherwise act violently, the Pakistani government’s decision to appease rather than confront the violent transgressors only strengthened the position of would-be violent actors.

Indonesia

While Pakistan is better known for news regarding blasphemy laws, other countries have similarly restrictive and harsh laws. Indonesia’s Blasphemy Act makes it unlawful to “intentionally, in public, communicate, counsel, or solicit public support for an interpretation of a religion … that is similar to the interpretations or activities of an Indonesian religion, but deviates from the tenets of that religion.” One of the purposes of the Act is to help the government protect Indonesia’s six recognized religions—Islam, Protestant Christianity, Catholicism, Hinduism, Buddhism, and Confucianism—by punishing those who encourage conversion away from one of these religions or preach “deviant” interpretations of the recognized religions. The six official religions each have government-funded religious bodies that decide what is an acceptable belief for that religion and what is not.

The Act establishes civil and criminal penalties for violators who deviate from the government-sanctioned interpretations of each religion, including up to five years’ imprisonment. In the past, it has been used to impose criminal penalties on groups like the Ahmadiyya, a religion that most Muslims believe deviates from mainstream Islamic teachings. In 2008, the Indonesian Minister of Religious Affairs, the Attorney General, and the Minister of Interior issued the Joint Decree on the Ahmadiyya, which orders Ahmadiyya adherents “to discontinue the promulgation of interpretations and activities that are deviant from the principal teachings of Islam.” Essentially Ahmadis are forbidden from practicing their interpretation of Islam while designating themselves as Muslim.

A similar incident occurred in 2009 when police arrested the leader of the Sion City of Allah Christian sect and six of his followers for straying
from “correct Christian teachings.” Because the Sect is based on only one book of the Bible (the Book of Jeremiah), the government banned it as an unacceptable branch of Christianity and forbade its followers from attending church until 2011.

These cases underscore the problematic nature of the Blasphemy Act. Although private citizens and religious groups should be able to decide among themselves what does or does not constitute the essence of a religion, Indonesia’s Blasphemy Act puts the coercive power of the state into the hands of certain religious groups and government officials, who then decide what a particular group may believe and what it should be allowed to propagate. By forcing individuals to conform to a perceived and predetermined orthodoxy, the Blasphemy Act permits the state to trademark religion.

In some cases, the state will go beyond the wishes of a particular religious group and deem a sect blasphemous even when the allegedly blasphemed group disagrees. For instance, in the Sion City case, the government charged the sect with blaspheming the Timor Evangelical Church, despite the Church’s statements to the contrary. Instead of ceding autonomy to the Church and allowing it to determine for itself whether the sect’s beliefs were blasphemous, the state asserted, “We hope the church will not interfere in the case.”

Religion that is so tightly regulated and defined by the state is necessarily politicized by the state’s involvement. Moreover, the state-approved version of religion often tempers the expression of social justice components of faith, especially in the case of authoritarian regimes, which use religion to protect and legitimate their own power. Religious matters become intertwined with questions of national security and public order, rather than remaining freely-made decisions by individuals within a community.

Egypt

In Egypt, the majority of people tried for alleged offenses against a religion are charged under Article 98(f) of the Egyptian penal code. Article 98(f) imposes a fine or imprisonment of six months to five years for acts that “exploit religion in order to promote or advocate extremist ideologies by word of mouth, in writing or in any other manner with a view to stirring up sedition, disparaging or belittling any divinely-revealed religion or its adherents, or prejudicing national unity or social harmony.” To violate 98(f), one must use allegedly disparaging material to broadcast or disseminate ideas insulting to religion.

The Article is vaguely worded and has been regularly abused by government officials. Over the last two years, at least 30 people have been brought to trial under charges based on Article 98(f) for “exploiting religion for extremist ideas,” though none of these defendants used or advocated the use of violence. The trials focused on the ideas these individuals held rather than any violent action they had taken or encouraged.

For example, Article 98(f) has been used to punish Muslims who convert to another religion. In 2005, a former Muslim religious leader who converted to Christianity was arrested and imprisoned for violating 98(f). Prosectivism is also assumed illegal under this provision, as demonstrated by the 2007 prosecution of two Egyptian human rights activists, Adel Fawzy Faltas and Peter Ezzat, who were members of the Canada-based Middle East Christian Association (MECA). The two men were accused of “propagating anti-Islamic material” after authorities found a book in their possession that detailed the persecution of Egyptian’s Coptic Christians.

Muslims, however, are most often the victims of Egypt’s blasphemy laws. Article 98(f) has been used in conjunction with Egypt’s Emergency Law to prosecute and imprison people, such as Shi’a and other “deviant” Muslims, for “unorthodox” Islamic beliefs. This includes Sunni Muslims who challenge the state-sponsored version of Islam through new scriptural interpretations, or Sunni Muslims who criticize established Sunni institutions. Perhaps the most well known case in this regard is that of Abdel Karim Suleiman, a 22 year-old blogger and former student at Al-Azhar University, who goes by the online moniker Karim Amer. On his blog, Amer, a Sunni Muslim, criticized Al-Azhar University and the
attacks on Coptic Christians in Alexandria in October 2005. In February 2007, Amer was convicted and sentenced to four years in prison by a court in Alexandria: three years for blaspheming Islam and inciting sectarian strife, and one year for criticizing Hosni Mubarak. Though he was recently released from prison, Amer’s case vividly illustrates the key danger of Egypt’s blasphemy laws: the conflation of blasphemy and political dissent for the purposes of suppressing political criticism.

Article 98(f) has also been used to convict and imprison Bahá’ís as supposed “atheists,” charging them with belittling divinely-revealed religions. A 2006 government Advisory Report seems to encourage such cases, asserting that Bahá’ís are “apostates,” a threat to public order, and recommending that “methods must be defined that would insure that Bahá’ís are identified, confronted, and singled out so that they could be watched carefully, isolated, and monitored in order to protect the rest of the population as well as Islam from their danger, influence, and teaching.” It is unclear why intense security measures are necessary for a tiny minority religious group that advocates pacifism and promotes world peace.

In addition to 98(f), other articles regulate more specific types of blasphemy. Article 160 penalizes the destruction, vandalism, or desecration of religious buildings, sites, symbols, cemeteries, and graves, as well as the hindering of religious ceremonies. Article 161 makes it a criminal offense to print and publish deliberately distorted texts of religious materials for State-approved religions, or to mock and ridicule religious ceremonies in public. Article 176 forbids public incitement to hold a religious community in hatred or contempt; this article was among several laws under which Amer was charged when he blogged about the 2005 attacks on Coptic Christians in Alexandria, because he had criticized the Muslim rioters in his writings.

Finally, Article 178 provides up to two years’ imprisonment for violations of “public morality.” Among other things, this Article covers “immoral songs, shouting, or speeches” as well as “advertisements or messages” reflecting debauchery. The breadth and vagueness of these laws make them susceptible to abuse, including the suppression of many non-violent forms of expression—especially non-violent political expression.

An International Blasphemy Law: The UN Defamation of Religions Resolution

The foregoing case studies demonstrate the breadth of the problem at the national level. But the problem is not limited to national debates. Domestic blasphemy laws have an international counterpart: the UN Defamation of Religions Resolution. The Resolution has been proposed at the United Nations annually since 1999, first at the Human Rights Commission under the rubric of racism, and, since 2005, at the General Assembly. The Organization of the Islamic Conference (OIC)—an association of 57 Muslim-majority countries—supports a binding international covenant that makes defamation of religion a legal offense. Originally called a “Defamation of Islam” resolution, the Resolution responded to what the OIC considered a systematic campaign to denigrate Islam, which the OIC feared would spur violence against Muslims to a degree similar to pre-World War II anti-Semitic violence in Europe.

Pro-Resolution sentiment was reinvigorated by the fear of an anti-Muslim backlash in the wake of the September 11, 2001, terrorist attacks. Supporters gave more intensified calls for a binding covenant after Theo van Gogh’s murder as a result of his production of the film “Submission”; after the Danish cartoon controversy; and after Geert Wilders’ film “Fitna,” which interposed Qur’anic verses with images of terrorist attacks. The OIC continues to argue that such statements abuse the right to freedom of expression and constitute an act of racial or religious discrimination.

There are several reasons why states and societies should not support the Resolution. First, the OIC’s description of defamation of religions as a racial offense creates a false parallel between an immutable characteristic such as race and the more fluid, mutable characteristic of religion. Whereas race is a biological fact, religion is ultimately a philosophy or ideology and is,
therefore, open to critique and shaped by dissent and vigorous debate.

Second, anti-religion speech can be difficult to define, and restricting it can unduly hinder controversial truth claims. Criminalizing “defamation of religions” chills religious speech, not just among members of varying faiths but also among adherents of the same faith. Spiritual and intellectual exploration of one’s faith can help keep a faith vibrant and relevant to changing circumstances. “Defamation of religions” restrictions hinder such exploration and discourage religious reform.

A third problem with the Resolution is that it fails to acknowledge how traditional defamation laws already protect people from false statements that injure their reputation and livelihood, and how truth claims serve as a defense against such allegations. On the other hand, “defamation of religions” is, as described by its proponents, a falsehood against an idea, rather than a fact. This poses a fundamental rule-of-law problem, as a belief cannot be empirically tested. Not only can the truth no longer serve as a defense, but, since the injury is directed at an idea rather than an individual, the Resolution is contrary to the core human right of freedom to worship according to the dictates of one’s conscience.

A fourth weakness of the OIC’s approach is its failure to recognize that existing human rights instruments, such as the International Covenant on Civil and Political Rights (ICCPR), acknowledge limits on free speech and religious expression and already guard against the dangers to public order that the Resolution seeks to prevent. Article 18 of the ICCPR states: “Freedom to manifest one’s religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.” Thus, legitimate state concerns about public order and incitement to violence have been adequately addressed in existing international law and do not need broad religious defamation laws to protect those interests.

Fifth—and perhaps most fundamentally problematic—the Resolution empowers the state to decide which religious viewpoints can be expressed and which cannot. This is contrary to the purpose of the international human rights system, because it empowers the state to decide questions of religious orthodoxy. Armed with religious defamation laws, hate speech laws, and blasphemy laws, the state determines which interpretation of a given religion is “correct” and worth preserving and, thus, interferes with the autonomy of individuals and religious organizations to decide theological matters for themselves.

Given the breadth of these regulations, ceding such control to the state not only makes the Resolution prone to political manipulation, but also opens it up to far-reaching abuse and incursion into religious freedom and related rights like free speech, free assembly, free association, and others. It is important to bear in mind that the root source of all the freedoms that have been obtained in liberal democracies is the freedom of conscience and religion. Without this foundation, none of the other fundamental liberties can survive. Not surprisingly, it is the world’s liberal democracies that oppose the Resolution, while the world’s autocratic states support it.

Finally, as demonstrated by domestic blasphemy laws in countries like Pakistan and Egypt, such laws appease rather than control violent extremists, giving them license to continue bullying religious minorities or dissenters while the police look the other way. It creates a culture of impunity, where increasingly egregious crimes are committed with little or no consequences for the perpetrators. Contrary to the supposed purpose of the laws, incidents of violence are encouraged rather than limited—all with the support of the state. Instead of penalizing the speaker in order to prevent violence, the law should compel potentially violent actors to regulate their own behavior, especially in the face of insults.

This principle has been articulated in American jurisprudence as the “hostile audience” doctrine. The US Supreme Court stated in Boos v. Barry that “[a]s a general matter, we have indicated that in public debate our own citizens must tolerate insulting, and even outrageous, speech in order to provide adequate breathing
space to the freedoms protected by the First Amendment." The Court’s concern was not that a hostile audience might render the speaker’s speech ineffective; rather, the Court was concerned about a hostile audience preventing the speaker from speaking at all. Weighed against the cost of imposing speech on unwilling listeners, the cost of preventing speech is much greater.

Efforts to Repeal Blasphemy Laws and Defeat the UN Resolution

It is difficult to convince relevant stakeholders that blasphemy laws are a bad idea. While members of the minority have experienced blasphemy laws as a form of persecution, many in Muslim-majority contexts feel that blasphemy laws are required to safeguard their belief system against attack. Because the majority believes that these laws exist to “protect” the beliefs of the majority, repealing them would instigate a major backlash from those with significant influence, including both extremist group leaders and government officials.

Fear of Public Disorder

Extremists’ support for blasphemy laws has also created a connection between blasphemy laws and national security. Threats of terrorism (for example, if Asia Bibi is pardoned or if any blasphemy laws are repealed) have created a fear of reprisals and popularized the idea that the laws, though perhaps not an optimal solution, exist for the greater good.

Extremists often take matters into their own hands and kill an accused blasphemer regardless of official rulings or investigations, bolstering popular fears and suppressing support for legal reform. The Taseer assassination further demonstrates how violence is directed towards those who advocate against the blasphemy laws. Again, this fear stems from the fundamental flaw that perpetuates the existence of blasphemy laws—that is, the idea that the solution to public disorder is to limit the speech of non-violent actors rather than enforce criminal laws against the perpetrators of violent actions.

Religious Sensitivity

There is also a prevalent belief that, while freedom of expression generally is a good thing, it should not be extended to matters of religion, as religion is sacred and cannot be questioned, much less ridiculed. While questions of religion should undoubtedly be handled with sensitivity, the jump from social regulation to legal sanctions on speech is completely unwarranted.

Of course, while legal sanctions on non-violent speech are reprehensible because they give the state undue control over its citizens’ expression, we should recognize the sociological problems related to how speech is used and manipulated. We have to move past the question of legalities and consider the role of speech in our collective social responsibility; we need to formulate social—not legal—solutions to speech that aims to divide. For example, in the United States, we see such a social solution when celebrities lose endorsements after making racist remarks. Social regulation is effective and legitimate; imposing legal restrictions simply takes the burden off individuals to moderate themselves.

Conclusion

Blasphemy laws do not protect the majority from insult or offense so much as they aid autocratic governments in silencing political dissent and fundamentalist groups in intimidating co-religionists. Despite a desire to live in a theological comfort zone, a free market of ideas is indispensable to social, intellectual, and spiritual growth. Governments, politicians, and civil society leaders in Muslim-majority countries should recognize that the wrongful application of blasphemy laws and international support for the Defamation of Religions Resolution work counter to the rule of law and, in the long run, encourage violent action from extremist groups.

2. Ibid.


6. Ibid.


10. Ibid.


13. Ibid.


15. Ibid.

16. Ibid.


19. Uddin, “Pakistan’s Facebook Ban Protects the Violent.”


21. Ibid.


23. Elucidation of the Blasphemy Act, § II(3), article 1.

24. See 2008 Joint Decree on the Ahmadiyya, promulgated by the Indonesian Minister of Religious Affairs, the Attorney General, and the Minister of the Interior.


27. Fointuna, “Seven Declared Suspects of Blasphemy.”


32. Ibid.

33. This implicates other international human rights, such as the right to choose one’s religion and the right to convert. See Universal Declaration of Human Rights, Article 18, and the International Covenant for Civil and Political Rights, Article 18.


37. Boyle and Sheen, Freedom of Religion and Belief, 28.


42. Ibid., 5.

43. Ibid., 2.

44. Ibid., 5.

45. Ibid., 6.

46. International Covenant on Civil and Political Rights, Article 18.


49. Ibid.


References


