

Blasphemy Laws in Pakistan

A Historical Overview

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Executive Summary

Blasphemy laws were first introduced in the Indian subcontinent by its British colonial rulers. Before that, orthodox Islamic jurisprudence was briefly enforced during Mughal rule on the subcontinent but history is silent if there were any blasphemy laws prevalent at that time.

Communal tensions between Hindus and Muslims before the partition of the subcontinent backed by political interests of different groups, including colonial rulers, were the main reason behind enactment of blasphemy laws.

As efforts by leaders like Quaid-i-Azam Mohammad Ali Jinnah failed to forge Hindu-Muslim unity against the colonial rule, tensions between religious communities began to rise. These tensions led to several communal riots in undivided India. Unscrupulous elements from both sides exploited the situation and left no stone unturned to create hatred against one another which also resulted in writing and publication of hate material by both sides.

The growing chasm between Hindus and Muslims suited the designs of colonial powers to perpetuate their rule and also provided them with an opportunity to enact blasphemy laws.

The British government promulgated four laws in the undivided India to deal with the issues of blasphemy.

Pakistan inherited these laws after it was carved out of India in 1947.

With the death of Quaid-i-Azam Mohammad Ali within a year of independence, the newly-founded nation lost its way how to move forward, resulting in political chaos and intrigue, accentuated eventually by the military interventions.

The ensuing tussle and tension between the political forces of East Pakistan and West Pakistan gave an opportunity to conservative religious lobby to sow seeds of hatred among masses. There was tension between Hindus and Muslims in Eastern wing while in West Pakistan a forceful movement led by Majlis-e-Ahrar was launched against Ahmadi, a minority sect seen heretical by the mainstream Muslim communities.

The Ahmadis were ultimately declared non-Muslims officially by Pakistan in 1974 but the bigotry approach of Islam by former military dictator General Zia-ul-Haq was the main reason that exacerbated communal and religious tensions in Pakistan.

He introduced exemplary reforms in blasphemy laws, some of them Ahmadi-specific, which were later exploited by the religious extremists. Ironically, blasphemy-related cases have seen a phenomenal increase after introduction of changes into blasphemy laws by the Zia regime.

From 1851 to 1947, when the British ruled this region and the hatred between the Muslims and Hindus was at the pinnacle, there were only seven blasphemy-related incidents but during Zia's rule alone (1977-1988) alone, as many as 80 blasphemy cases were reported to the courts. As a whole, between 1987 and Aug. 2012 we have seen almost 247 blasphemy cases registered or raised, directly affecting lives of 435 persons approximately.

Moreover, figures suggest that since 1990, 52 people have been extra-judicially murdered, for being implicated in blasphemy charges. Among these were 25 Muslims, 15 Christians, five Ahmadis, one Buddhist and a Hindu.

The known blasphemy cases in Pakistan show that from 1953 to July 2012, there were 434 offenders of blasphemy laws in Pakistan and among them were, 258 Muslims (Sunni/Shia), 114 Christians, 57 Ahmadis, and 4 Hindus.

Absence of democratic rule or little regard for due process of law has been the major contributing factor to the rise of communal tensions in Pakistan.

Coincidentally or conspicuously the emergence of most of the dictatorships were always preceded by the communal and political unrest in the country.

We also see that in comparison to Pakistan, blasphemy cases and laws in other three Muslim states Indonesia, Malaysia and Iran are much less and much more moderate.

Introduction

General Zia-ul-Haq (July 1977-August 1988) is remembered by his opponents and supporters alike. His opponents accuse him of destroying whatever little liberalism and tolerance this country had while his supporters eulogize him for re-inventing the very 'Islamic foundation' of the country they believed, was lost after the death of Quaid-i-Azam Mohammad Ali Jinnah.

One of the greatest sins of Zia in the eyes of the liberals is the introduction of blasphemy laws 295B, 295C, 298A, 298B, and 298C to the Pakistan Penal Code (PPC), inherited from undivided India. No law in the country has ever been the cause of so many controversies as this one. The basic objective of the law, say its supporters, was to discourage people from taking the law into their hands but the opponents say it only served the interests of radicals and it was massively abused to target religious minorities by whipping up religious sentiments of the people.

Late 2010, the issue of Pakistani blasphemy law hit international headlines when former Governor of Punjab, Salman Taseer visited a Christian woman Aasia Bibi who had already been sentenced to death by a court for allegedly committing blasphemy. His visit was meant to express solidarity with the convict. He later also termed the practice of blasphemy law as the Black Law practice. Taseer's remarks ultimately culminated in his death on January 4, 2011 at the hands of his own bodyguard Mumtaz Qaderi at an upscale market in Islamabad.

Two more blasphemous incidents of that drew attention of the local and international press were against the Christian community. One was the false accusation of a Christian teenage girl, Rimsha Masih, by a cleric, Khalid Jadoon Chishti, in the suburbs of Islamabad. Enraged by the incidents, the Muslims of the adjacent locality resorted to violence against the Christian community living in the area forcing them to flee away to other locations for their safety. Rimsha, arrested on August 16 from a suburban area of Islamabad, was accused of burning papers from the holy Quran, and later charged of blasphemy. Later after the investigations, it was found that the cleric Khalid Jadoon Chishti had concocted the case against her, who was then arrested. On 20 November 2012, Islamabad High Court acquitted Rimsha with following remarks in its judgment:

“While announcing the verdict, Chief Justice IHC Iqbal Hameed ur Rehman remarked that it is a highly sensitive matter and one must be extremely careful while leveling such charges against any one. Fake allegations should not be leveled against any Muslim or non-Muslim

Chief Justice IHC, in the 15-page judgement, said no one has seen Rimsha burning any pages. The verdict also included references from the holy Quran.”¹

Another blasphemy case that triggered a mob of around 2,000 Muslims run riot the Joseph Colony of Christian community in Lahore was a cause of disgrace and remorse for the country and its leadership. The incident took place on 10 March 2013 when a row between two drunken, Muslim and Christian friends, set off the blasphemy allegations that later turned into a dishonorable event when the frenzied mob took the law in its hands on blasphemy accusation and torched more than 150 houses of poor Christians in the area.

According to different reports, more than 1,000 people have been charged in Pakistan for committing offences against blasphemy laws. Among them are young, old, and children belonging to all faiths and creed. Some of them are even mentally challenged, physically impaired or illiterate.

This study offers:

- a. A historical overview of the evolution of legislation on blasphemy
- b. The impact of the law as a preventive toll to blasphemous acts and
- c. How do other Muslim countries deal with this offence?

The report draws on newspaper reports, court cases, and different opinions expressed in the national press to provide substantial information for the readers and to help them draw conclusions based on factual socio-political realities. The intent of this report is not to draw a conclusion in favor or opposition of but to bring all the facts before the readers and let them draw conclusions on their own. However, an equally important issue is the misuse of this law in a society to settle personal feuds, tribal and community rivalries.

The circumstances which led to the traumatic ordeal that Rimsha Masih and poor Christian families of Joseph Colony faced recently, has amply demonstrated the potential for abuse of the blasphemy law – a law that is meant to prevent desecration of the Prophet Mohammad (PBUH) but can easily be turned against individuals or groups by vested interests. The hazards associated with it, particularly for the innocent, are huge and require an extremely strict scrutiny of the existing procedures. Desecration or denigration of any sacred personality, including the Prophet Mohammad (PBUH) must be condemned and prevented but this must happen through due process of law and not mob-justice. The latest incidents have made a critical scrutiny of the procedures involved imperative as never before.

¹ “IHC dismisses FIR against Rimsha Masih” by Web Desk, 20 November 2012 available at <http://www.thenews.com.pk/article-76252-IHC-dismisses-FIR-against-Rimsha-Masih>

This report is based on the data obtained from newspaper reports and court cases and covers the period starting from 1953 to August 2012.

Any mistake or error in this report, if found, is not deliberately done, since every effort was made to report only those events that were supported by an authentic source or published in the national press.

Chapter 1: British India and blasphemy laws

History of blasphemy laws IPC295, 296, & 298

History of blasphemy laws in South Asia dates back to the British colonial rule. Substantial parts of the British era Indian Penal Code of 1860 remain in practice even today in Pakistan, India and Bangladesh.

But the information available on how blasphemy cases were dealt with before the British rule is neither reliable nor persuasive. Dr. Samia Raheel Qazi, President of women wing of Jamaat-e-Islami, had written an article on the blasphemy law that appeared in the Daily Jang on 28th November 2010² in which she said during Mughal rule all judicial cases were adjudicated according to the Holy Quran and Sunnah but she failed to substantiate her claim with any citation.

The Mughal Emperor Akbar was famous for his liberalism and tolerance towards all other religions and created Din-e-Illahi by merging what he found best elements of religions being practiced in the subcontinent at that time but many Islamic scholars considered it a kind of blasphemy.

It was during the reign of Emperor Aurangzeb, third generation ruler after Emperor Akbar, when an orthodox prejudice religious jurisprudence was enforced in India. However, this orthodox jurisprudence became a primary reason of the downfall of Mughal Empire.

² 28 Nov 2010 JANG

[قانون توہین رسالت کیا ہے اور کیوں ضروری ہے... ڈاکٹر سمیحہ راحیل قاضی](#)

برصغیر پاک و ہند میں مغلیہ سلطنت کے عدالتی مقدمات میں فیصلے قرآن و سنت اور فقہ کی روشنی میں کیے جاتے تھے۔ مغلوں کے زوال کے بعد 1860ء میں انٹین پینل کو ڈ نفاذ کیا گیا جس کے نفاذ اور تدوین کے لیے گورنر جنرل ہند نے لارڈ میکالے کی سربراہی میں ایک کمیشن تشکیل دیا تھا۔ انگلینڈ میں آج بھی اور 1860ء میں بھی قانون توہین مسیح بطور Common Law موجود تھا اور وہ انگلینڈ کے مجموعہ قوانین میں Blasphemy Act ہے۔ 1898ء میں دفعہ A-124 تعزیرات ہند میں شامل کی گئی جس کے تحت حکومت برطانیہ کے خلاف منافرت پھیلانے یا توہین حکومت کے جرم کی سزا عمر قید مقرر کی گئی۔ اسی سال 1898ء میں ہی ایک دفعہ A-153 کا بھی اضافہ کیا گیا جس کا متن حسب ذیل ہے

During the British rule, four blasphemy laws were introduced in India, three of them (Indian Penal Code 295, 296, and 298) in 1860 and the fourth one (IPC295A) in 1927. The IPC295 and 296 defined the offence as well as its punishment in the following terms:

295: Injuring or defiling place of worship, with intent to insult the religion of any class. Whoever destroys, damages or defiles any place of worship, or any object held sacred by any class of persons with the intention of thereby insulting the religion of any class of persons or with the knowledge that any class of persons is likely to consider such destruction, damage or defilement as an insult to their religion, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

296: Whoever voluntarily causes disturbance to any assembly lawfully engaged in the performance of religious worship, or religious ceremonies, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

298: Uttering words, etc. with deliberate intent to wound religious feelings. Whoever, with any deliberate intention of wounding the religious feelings of any person, utters any word or makes any sound in the hearing of that or makes any gesture in the sight of that person or places any object in the sight of that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

The socio-political conditions in the sub-continent were the main reasons behind enforcement of these laws.

Religion was one of the most sensitive issues for the communities living in the region and there had been several religious riots in the subcontinent which necessitated enactment of these laws. For example,

- In October 1809, a Hindu mob of Varanasi (Banaras) city stormed Aurangzeb mosque and resorted to plundering and slaughtering.

Nearly fifty mosques were reportedly destroyed during this disturbance³.

- In 1851, some minor riots were erupted in Bombay because of some undesirable publication against the Holy Prophet Mohammad (PBUH) by a Zoroastrian (Parsi) in Gujrat.
- In 1857, the Muslims of Broach attacked the residential area of the Zoroastrians and killed number of them.

³ Hindu Muslim Riots - In British India upto 1900 AD.
<http://radhikaranjanmarxist.blogspot.com/2011/12/hindu-muslim-riots-in-british-india.html>

The wordings of the IPC295 and IPC296 referring to *defilement of holy places*, disturbance to any lawful *assembly for performance of religious worship*, and *utterance of words to hurt the religious feelings* showed these were enacted against the backdrop of these riots.

Such laws helped British colonial rulers maintain order in the society and keep their grip on power.

Chapter 2: Political background of pre-partition India

Two nation theory in its inception

Combination of two important factors - politics and religious extremism – was the main reasons behind most of the communal riots and events of religious slander that took place before and after the creation of Pakistan.

From 1920 onwards, these two factors became very active. This is the period when the most popular Muslim political leader, Quaid-i-Azam Mohammed Ali Jinnah, went through multiple phases of hope and despair in pursuing his dream of Hindu-Muslim unity⁴ and by the end of this decade he lost his faith in it.

Major political events with religious connotations of this period are:

1905: Lord Curzon divided the province of Bengal on the communal basis of Hindu and Muslim majority areas. Although the Hindu-Muslim division already existed on religious and cultural basis, the partition of Bengal provided an official recognition to this division and added a political dimension to it.

1906: A delegation of Muslims headed by Aga Khan met with the British Viceroy, Lord Minto, at Simla palace and cautioned him against placing “our national interests at the mercy of an unsympathetic majority.”⁵

⁴ During his presidential address from the Muslim League’s rostrum on December 30, 1916 in Lucknow, Mohammed Ali Jinnah said: “the living and vigorous spirit of patriotism and national self-consciousness . . . this pent-up altruistic feeling and energy of youth” that was surging through India’s “pulse”. He said, “the most significant and hopeful aspect of this spirit is that it has taken its rise from a new-born movement in the direction of national unity which has brought Hindus and Muslims together involving brotherly service for the common cause.” Stanley Wolpert, “Jinnah of Pakistan”, Oxford University Press, Karachi, 1989, p. 47.

⁵ Stanley Wolpert, The Life of Jinnah, Oxford University Press, Karachi, 1989, p.23

The statement was an admission of two national interests that separated the people of the country into minority and majority. Although attempts were later made to develop a Hindu-Muslim unity but they never succeeded.

Hindu-Muslim integration and disintegration:

1914-1918 was the period when the British government was engaged in the World War I. With all its might and machinery focused on war fronts, it needed a peaceful and congenial political environment in its colonies so that it can concentrate on the war.

Exploiting Britain's involvement in the War, the otherwise belligerent political parties of India, Muslim League and Congress, put aside their enmity and sat down together in December 1915 to reach an agreement to build up pressure on the British government to grant self-rule to the Indians.

This culminated in the conclusion of Lucknow pact. This accord decided the representation and distribution of power between majority and minority communities of India. Jinnah was the driving force behind this move.

While Lucknow pact was an instrument of harmony among religious communities of India, it was also seen as a threat by key players of the Indian politics to their interests.

The Hindu-Muslim unity as a political force was a great threat to the British rule, sharing of power with Muslims was unacceptable to extremist Hindus⁶, whereas many Muslim fundamentalists were also apprehensive of losing the Islamic identity once the Hindu Raj is established by virtue of electoral results⁷.

First blow to Lucknow Pact came from the British government when it announced its policy on Indian demand of self-rule on August 20, 1917 that said:

...The new, inspiring "policy of His Majesty's Government, with which the Government of India are in complete accord, is that of the increasing association of Indians in every

⁶ The key to their Lucknow Pact lay in agreeing upon percentages of guaranteed "Muslim members" for each of the legislative councils, one-third at the center and in Bombay, one-half in the Punjab, 40 percent in Bengal, 30 percent in the United Provinces, 25 percent in Bihar and Orissa, and 15 percent in the Central Provinces and in Madras. Except for the Punjab and Bengal, where Muslim representation was slightly less than the fraction demographic equivalence warranted, the minority community received a louder legislative voice than population estimate alone would have dictated. *Stanley Wolpert, The Life of Jinnah, Oxford University Press, Karachi, 1989, p.46*

⁷ As an even more vital safeguard to reassure Muslims who feared losing Islamic identity within a future "Hindu Raj" the pact provided that "No bill, nor any clause therefore, nor a resolution introduced by a non-official member affecting one of the other community, which question is to be determined by the member of the community in the Legislative Council concerned, shall be proceeded with, if three-fourth the members of that community in the particular Council, Imperial or Provincial, oppose the bill or any clause thereof of the resolution." *Stanley Wolpert, The Life of Jinnah, Oxford University Press, Karachi, 1989, p.46*

branch of the administration and the gradual development of responsible government in India as an integral part of the British empire.⁸

Political maneuvering, diplomatic verbosity, and delaying tactics were the methods British government applied to get the air out of enthusiastic nationalist patriotism that this agreement had created.

In early 1918, came the next jolt from Gandhi when he attended a War Conference in Delhi on the request of the Viceroy and agreed to offer unconditional support to the war efforts of the British government.

He began a public campaign to urge all Indians to enlist in the British Army despite facing a criticism of doing something that was against his basic ideology of non-violence.

Soon, Lucknow Pact started losing its importance and new political moves overshadowing it occupied the center stage of Indian politics.

In the meantime, some untoward incidents causing rift among religious communities took place in subcontinent that dealt a blow to religious harmony.

First was the launch of Khilafat movement by Northern Kerala Muslims (also known as Malabar rebellion^{9, 10}) during 1921, that took over government offices, hoisted flags of Khilafat on them, and carried out a campaign of forcing non-Muslims to either convert to Islam or face killing.

On 9th and 10th September 1924, terrible riots broke out in Kohat, resulted in the killings of almost 155 people, mostly Hindus and Sikhs.

Gandhi had voiced support for the Khilafat Movement but the announcement of Kemal Ataturk in October 1924, abolishing Caliphate which also heralded death of the movement in subcontinent dealing a big setback for Hindu-Muslim unity.

Next attempt to create political unity of Hindu and Muslim communities was initiated soon after the meeting of the newly elected British India National Assembly on 31st January 1924. Jinnah offered to merge his powerful swing-bloc of “independent” votes with forty two Swarjist party members, a political wing of the Congress led by Motilal Nehru and C.R. Das. A new Nationalist

⁸ Stanley Wolpert, *The Life of Jinnah*, Oxford University Press, Karachi, 1989, p.50

⁹ http://en.wikipedia.org/wiki/Malabar_Rebellion

¹⁰ Stanley Wolpert, *The Life of Jinnah*, Oxford University Press, Karachi, 1989, p.101

“The year 1922 actually proved to be a turning point in the history of the Hindu Mahasabha, and largely on account of events that dramatized Muslim threat to the Hindu community. News from Malabar about the Moplah revolt had continued to command space in the press, and in the autumn of 1922 that got coupled with additional news of more atrocities against the Hindus, on this occasion from within Punjab.”

party emerged in the assembly that began playing parliamentary role in addressing issues of common interests to both the communities. However, some thorny issues continued haunting this assembly alliance. This was the time when Gandhi was still engaged in Non-Cooperation Movements though he had suspended it in 1922. This assembly alliance of Jinnah and Motilal Nehru was in the words of Gandhi “inconsistent with Non-cooperation”¹¹. Faced with opposition and criticism, Jinnah, gradually, lost interest in pursuing his idea of joint constitutional efforts against the British policies.

This was the political milieu of India during the early part of the twentieth century when all efforts and maneuvering of the leading political leaders to bridge the gulf between the Hindu and Muslim communities not only remained unsuccessful but continued growing further as the struggle for freedom got accelerated with the passage of time. The communal riots that took place between Hindus and Muslims during this period carried religious as well as political hallmarks on them. Interestingly, most of these riots took place in the areas that were under direct rule of the British government. The princely states were safe from them as they were not the center stage of the political activism of that era.¹²

Introduction of blasphemy law 295A

During the next 67 years, it was not felt to make any further amendment or addition to the existing three blasphemy laws though the Hindu-Muslim riots were on a constant rise from 1860 onward. In 1927, an amendment to this law was made by the British India government by introducing IPC295A that said:

295-A: Deliberate and malicious acts intended to outrage religious feelings of any class by insulting its religion or religious believers. Whoever, with deliberate and malicious intention of outraging the religious feelings of any class of ¹³[the citizens of Pakistan], by words, either spoken or written, or by visible representations, insults or attempts to insult the religion or the religious beliefs of that class, shall be punished with imprisonment of either description for a term which may extend to ¹⁴[ten years] or with a fine, or with both.

What led the British government of India to make this addition to the existing blasphemy law? 1920s was one of the most volatile and tumultuous period of the British Indian history when Hind-Muslim riots registered unprecedented rise. As against 9 major Hindu-Muslim riots during

¹¹ Stanley Wolpert, *The Life of Jinnah*, Oxford University Press, Karachi, 1989, p. 84.

¹² ¹² Jaswant Singh, *Jinnah, India-Partition-Independence*, Oxford University Press, Karachi, 2010, p. 103

¹³ Substituted for “His Majesty’s Subjects” by President’s Order No. 1 of 1961 (Central Laws (Adaptation) Order, 1961) dated 21 January 1961 with effect from 23 March 1956.

¹⁴ Substituted for “two years” by Act XVI of 1991 (Criminal Law (Second Amendment) Act, 1991) dated 25 November 1991.

one and half century (1713 – 1860), there were more than 70 Hindu-Muslim riots in India during the next half a century (1860 to 1927)¹⁵ that left a large number of people dead and injured besides desecration of holy places belonging to both community. While most of these communal riots were triggered by the issues like performance of religious festivals of Hindus (Holi and Ramlila) and Muslims (Moharram and Eid-ul-Adha), some additional reasons, with the passage of time, also entered into the polity of Indian society that had far greater impact in dividing the Indian society on communal lines. Some of the major communal riots during 1920s were:

1917, September-October: Massive attacks on Muslims by Hindu crowds of up to 50,000, in some 150 villages in the Shahabad, Gaya and Patna districts of Bihar. The immediate issue was cow protection¹⁶.

1921: Malabar rebellion¹⁷ (Khilafat movement of Northern Kerala Muslims) that tried to convert Hindus and Christians to Islam. Reports vary from 180 to 2,500 people that were forcibly converted to Islam and nearly 246 persons, who resisted them, were put to death. Among them were women and children besides the males. By the time this movement was suppressed nearly 2,337 rebels were killed, 1652 injured and 45,404 were imprisoned.

1923: Shuddi Movement: Swami Shradhanad founded the “Bhartiya Hindu Shuddi Mahasabha” (Indian Hindu Purification Council) in 1923 with an agenda to pursue a peaceful reconversion of those Hindus who were forced to become Muslim or Christian in the past.¹⁸ In his book on Jinnah, Jaswant Singh has referred to this movement as a reaction to an initiative of the Muslims to organize the community as virile warriors through the platform of two religious organizations, Tanzeem and Tabligh that they had established for this purpose¹⁹.

1924: Religious riots broke out on the 9th and 10th of September 1924 in Kohat resulting in death of 155 people, mostly Hindus and Sikhs. The cause of the trouble was the publication of a pamphlet by Sanatan Dharm Sabha, containing a virulently anti-Islamic poem²⁰. This was again, in the words of Jaswant Singh, a reply from Hindu community to an offensive anti-Hindu poem published in a Muslim newsheet.²¹

¹⁵ “Eleven riots took place in 1923, eighteen in 1924, sixteen in 1925, and in 1926 there were thirty five riots. From May 1925 to April 1926, 40 more riots took place across different cities of India and in 1927; nearly 25 more riots took place throughout India.” http://en.wikipedia.org/wiki/1927_Nagpur_riots, and

http://www.columbia.edu/itc/mealac/pritchett/00ambedkar/ambedkar_partition/307c.html

¹⁶ <http://www.massviolence.org/India-from-1900-to-1947?cs=print>

¹⁷ http://en.wikipedia.org/wiki/Malabar_Rebellion

¹⁸ <http://en.wikipedia.org/wiki/Shuddhi#mw-head>

¹⁹ Jaswant Singh, Jinnah, India-Partition-Independence, Oxford University Press, Karachi, 2010, p. 99.

²⁰ http://www.columbia.edu/itc/mealac/pritchett/00ambedkar/ambedkar_partition/307c.html

²¹ Jaswant Singh, Jinnah, India-Partition-Independence, Oxford University Press, Karachi, 2010, p. 102

1926: Shuddi movement succeeded in converting some Muslims in Mathura-Agra belt of UP that created tension between Muslims and Hindus. On 23rd December 1926, a Muslim by the name of Abdul Rashid assassinated Swami Shraddhanand in his home at Naya Bazar, Delhi.²²

1927: On 4th September 1927 riots erupted in Nagpur when the Hindu religious procession of Laksmi Puja was passing in front of a mosque. Twenty-two people were killed and 100 were injured.²³

1927: A Hindu publisher, Mahashay Rajpal, of Lahore published the last edition of a book “Rangeela Rasool” that was written by a Hindu writer containing some derogatory remarks about the Holy Prophet Muhammed (PBUH).²⁴

1929: On 6th September 1929, a Muslim young man, Ilam Deen (now popularly known as Ghazi Ilm-ud-din Shaheed) killed a Hindu book publisher, Mahashay Rajpal, for publishing a book disrespecting the Prophet Muhammed (PBUH).²⁵

1935: On the 19th March 1935 a serious incident occurred in Karachi after the execution of Abdul Qayyum, the Muslim who had murdered Nathuramal [Sharma], a Hindu writer of a scurrilous pamphlet about the Prophet.²⁶

The extra judicial killings of Mahashay Rajpal (in 1929) and Nathuramal Sharma (in 1935) were the two incidents of violent offence that were committed after the promulgation of IPC295A. From the time of the introduction of Indian Penal Code 295A in 1927 till the time of emergence of Pakistan in 1947, no other occurrence of such offenses was reported in the undivided India.

Pakistan adopted the legal system introduced by the British rulers including the four blasphemy laws 295, 295A, 296 and 298 as well. A few reforms were made at a later stage in terms of punishment and citizenship.

These blasphemy laws, as evident from the historical records, were the results of communal riots that occurred mostly between the Muslims and the Hindus during the 1920s. Sikhs and other non-Muslims also had some communal clashes with the Muslims. However, no conflicts among the non-Muslim communities are found in any document that this research could manage to review.

²² Jaswant Singh, Jinnah, India-Partition-Independence, Oxford University Press, Karachi, 2010, p. 96

²³ http://en.wikipedia.org/wiki/1927_Nagpur_riots#mw-head

²⁴ <http://pakistanprayers.blogspot.com/2006/04/ghazi-ilm-din-shaheed1908-1929.html>

²⁵ http://en.wikipedia.org/wiki/Ghazi_Ilmuddin_Shaheed

²⁶ http://www.columbia.edu/itc/mealac/pritchett/00ambedkar/ambedkar_partition/307c.html

What were the causes for a phenomenal rise in communal riots in 1920s? Were they result of the religious differences that existed between Hindus and Muslims or there were some other reasons behind them?

A brief journey to the political history of India encompassing this turbulent period may offer some answers to these intriguing questions.

Causes for introduction of blasphemy law 295A

The blasphemy cases were a new phenomenon that entered into Indian society in the middle of nineteenth century soon after the printing machine made its appearance in the country. The new and hitherto unexplored subjects were taken up by the writers and got them published without knowing the repercussions such endeavors entailed. The first recorded incident of sacrilegious writing took place in 1851 when a Gujrati newspaper published something that was derogatory to the Holy Prophet of Islam (PBUH).

The three blasphemy laws promulgated in 1860 only dealt with physical offenses like defiling of worship places (IPC295), disturbance to a religious assembly (IPC296), and utterance of words [verbally] (IPC298). There was no law that specifically addressed blasphemous offense in the form of written words as this wasn't a common occurrence till that time. There was only one law dealing with the written words and it was IPC153A. It read:

Whoever by words, either spoken or written, or by signs, or by visible representations, or otherwise, promotes or attempts to promote feelings of enmity or hatred between different classes of Her Majesty's subjects shall be punished with imprisonment which may extend to two years, or with fine, or with both.

In 1927, the IPC295A was promulgated²⁷ with the sole purpose of addressing the blasphemy offenses that were committed in written words. It said,

... whoever, with deliberate and malicious intention of outraging the religious feelings of any class of His Majesty's subjects, by words, either spoken or written, or by visible representations, insults or attempts to insult the religion or the religious beliefs..

This addition to the existing blasphemy law was result of those offenses that occurred in India during the last sixty seven years. According to the available data, five prominent cases of blasphemy took place in India during the period of 1860-1927 that fall under the IPC295A.

²⁷ <http://www.fnu.gov.pk/docs/laws/Pakistan%20Penal%20Code.pdf> Section 295A. Inserted by Criminal Law (Amendment) Act, XXV of 1927

1874: Bombay, A book in Gujrati published by a RH Jalbhoy "Great Prophets of the World"²⁸

1923: Lahore, Publication of a book "Rangeela Rasool" that contained some derogatory remarks about the Holy Prophet (PBUB).

1924: Kohat, Religious riots against a pamphlet by Sanatan Dharm Sabha containing a virulently anti-Islamic poem

May 1927: Amritsar, Publication of a journal Risala Vartman containing derogatory remarks about the Holy Prophet (PBUH)²⁹

1927: Publication of the last edition of the book "Rangeela Rasool"

1935: Karachi, 19th March 1935: Abdul Quayum murdered Nathuramal [Sharma], a Hindu writer of a scurrilous pamphlet about the Holy Prophet (PBUH)

From one blasphemy case during the period of 1713-1860 the figure went up to five cases within next 65 years (1851 to 1927).

In the background of growing spasm between Hindu and Muslims, political forces were also getting engaged in religious disputes like blasphemy cases of Rangeela Rasool and Risala-e-Vartman. Although the initial edition of the book, Rangeela Rasul, was appeared in 1923, it couldn't raise any significant reaction beyond litigation until 1927 when its last edition appeared and its publisher, Mahashay Rajpal, was acquitted by the Lahore High Court. The periodical, Risala-e-Vartman, began its publication from April 1927 and its 14th or 15th May 1927 edition printed an article "Sair-i-Dozakh" or a "Trip to Hell," the author of which was said to be one Devi Sharan Sharma. This article contained derogatory remarks about the Holy Prophet Muhammad (PBUH)³⁰. These two incidents caused great resentment among the Muslims and provided an opportunity to many religious groups of the Muslims to rally their followers for an agitation against these sacrilegious works. Ahmadis also took the advantage of this situation to reconcile themselves with other orthodox groups the Muslims and appear as a champion of Islam³¹.

The case A. I. R. 1927 Lahore 594, Devi Sharan Sharma and another - Accused vs. Emperor, reports that a poster was appeared in Amritsar in the end of May 1927 that drew the attention of the Muslims on the contents of this blasphemous article and incited them for an agitation. This poster was suspected to have been distributed by the Mirza of Qadian³². Mohamed Shafi appeared on behalf of the Crown and pleaded the court for awarding a deterring punishment to the accused. The court sentenced Devi Sharan Sharama to rigorous imprisonment for one year

²⁸ http://www.hindunet.org/alt_hindu/1994_2/msg00096.html

²⁹ <http://www.cscsarchive.org:8081/MediaArchive/medialaw.nsf/%28docid%29/0C728853CE81A8A1E525685200375D58>

³⁰ <http://www.cscsarchive.org:8081/MediaArchive/medialaw.nsf/%28docid%29/0C728853CE81A8A1E525685200375D58>

³¹ <http://alhafeez.org/rashid/british-jewish/intelligence.htm> This website claims to have a Secret Report of the Punjab CID about the Origin, Growth and Development of The Ahmadiyya Movement Upto the year 1938 Source: National Documentation Center, Islamabad, Pakistan.

³² <http://www.cscsarchive.org:8081/MediaArchive/medialaw.nsf/%28docid%29/0C728853CE81A8A1E525685200375D58>

and payment of a fine of Rs. 500 or in default further rigorous imprisonment for a period of six months.

These cases were related to blasphemous offenses but, the verdicts of the court were different, one was acquitted and the other wasn't. While the punishment of Devi Sharan Sharma provided some satisfaction to the agitated Muslims, the release of Mahashay Rajpal caused uproar among the Muslims. The Qadianis and the Khilafatists were the only ones who continued showing their anger at these acquittals and reportedly attacked the High Court.³³ Hindu Community, on the other hand, left no opportunity to criticize and condemn the Muslims for their role in the assassination of Swami Shraddhanand by Abdul Rashid on 23rd December 1926. Driven by the ongoing communal riots between Hindus and Muslims, the propagandists from both the communities took it to upon themselves to let no ideological attack go unanswered. While Hindu propagandists published sacrilegious documents against sacred personalities of Islam, the Muslims made similar attempts by ridiculing the sacred personalities of Hindu religion³⁴. Facing difficulty in prosecuting such cases using IPC153A, British government promulgated section IPC295A in 1927 assuming that it would provide a legal recourse to their grievances arising out of sacrilegious writings. Yet, the results were no good. Two extrajudicial killings took place after the enactment of IPC295A, one was of Mahashay Rajpal on 6th September 1927 and the other was of Nathuramal Sharma by Abdul Quayum on 19 March 1935. Both were accused of blasphemy offense committed in printed documents. In his article, "The Ilam Din fiasco and lies about Jinnah", Mr Yasser Latif Hamdani, a writer and a lawyer, made the following comment about Jinnah's position on the blasphemy law IPC295A:

*... In the debate on 295-A of the Indian Penal Code, a much more sane and reasonable law than our 295-B and 295-C, Jinnah had sounded a warning against the misuse of such laws in curbing academic freedoms and bona fide criticisms.*³⁵

³³ <http://alhafiez.org/rashid/british-jewish/intelligence.htm> This website claims to have a Secret Report of the Punjab CID about the Origin, Growth and Development of The Ahmadiyya Movement Upto the year 1938 Source: National Documentation Center, Islamabad, Pakistan. "[Excerpt from this report] ...the publication of an even more scurrilous article entitled "A trip to Hell" published in an Arya magazine, the *Risala Vartman* of Amritsar, the conviction of the editor and proprietor of the Muslim Outlook for contempt of court in questioning the integrity and impartiality of the High Court Judge who had acquitted the author of 'Rangila Rasul' Pamphlet and the subsequent unjustified Muhammadan attack on the High Court itself, were all exploited by the Qadianis and made the excuse for communal propaganda. Following the Lahore riots, communal ill feeling was still further intensified in Lahore by the production of inflammatory posters bearing the signatures of Mirza of Qadian himself."

³⁴ Some Muslim miscreants wrote two pamphlets that were obnoxious to the Hindus. One was "Krishna, teri Geeta Jalani hi padegi" and the other was entitled "19veen Sadi ka MAhrarishi" and the filthy language was used to malign Swami Dayanand Saraswati. Pundit Chamupati came up with a befitting reply to Muslims and his pamphlet was an attack on Mohammad, prophet of Islam. It was entitled "Rangeela Rasool" bringing out historical facts of Prophet Muhammad's numerous marriages and his failure to beget a son. All was quiet on the western front until Gandhi Ji incited the Muslims to protest and have the booklet proscribed. Eventually this episode landed up in a court of law and the case was decided by the Lahore High Court acquitting Rajpal with honour. <http://www.aryasamaj.org/newsite/node/1495>

³⁵ Daily Times, 29 November 2010 http://dailytimes.com.pk/default.asp?page=2010\11\29\story_29-11-2010_pg3_5

The irony of these blasphemous acts and extra judicial killings is such that the perpetrators and victims of these offenses are either highly revered or ignored across the divide line of the two countries, India and Pakistan. Ilm Din is revered in Pakistan as Ghazi Ilm Din Shaheed for sacrificing his life for the honor of the Holy Prophet Muhammed (PBUH) while Mahashay Rajpal is admired in India as Shaheed Rajpal who fought for freedom of expression. The other two persons, Abdul Quayum and Nathuramal Sharma, could not get that popularity for unknown reasons.

The extrajudicial killing of Nathuramal Sharma by Abdul Quayum was the last blasphemous incident that took place in India until it was divided into two countries, Pakistan and India, on 14 and 15 August 1947. Since most of the blasphemy related incidents took place between Hindu and Muslim communities, the creation of Pakistan was expected to bring an end to the occurrences of such incidents because it was created in the name of Islam having Muslim population in majority.

Chapter 3: Blasphemy laws before Zia-ul-Haq era

Pakistan's history in relation to the practice of blasphemy laws can be divided into periods before and after General Zia-ul-Haq's era. The pre-Zia era continued with blasphemy laws inherited from British rule while five more laws relating to blasphemy were introduced to the statute book during Zia's rule.

Before Zia-ul-Haq's coup, only eight blasphemy incidents took place in the country.

A brief detail of these eight blasphemy cases is produced below.

1953: The Working Muslim Mission and literary Trust, Lahore and of The Civil & Military Gazette Limited, Lahore PLD 1954 Lah 724. (Lahore) The book "Jesus in Heaven on Earth", written by Khawaja Nazir Ahmad (an Ahmadi) was forfeited by the Government of Punjab in April 1953 on the grounds that the book contained insulting remarks to Christian belief. The court couldn't determine the malicious intent of the accused. (PPC295A)

1954: Noor Muhammad PLD 1960 Lah 657 (Lahore)

On 27 April 1959, the Government of Punjab ordered the forfeiture of the book titled "Mizan-ul-Haq", Offensive comments on religion. Court ordered to delete the offensive pages. (PPC295A)

1962: Okil Ali vs. Behari Lal Paul PLD 1962 Dacca 487 (Dacca, East Pakistan)

The Applicants had been accused of destroying a place of worship of the Hindus of Akilpur. PLD 1960 Lah 658. Court sentenced the accused for a three-month imprisonment. (PPC295)

1962: Court Case No. PLD 1962 (WP) Lah 850 (Lahore)

Muhammad Khalil versus The State PLD 1962 (WP) Lah 850: On 4 October 1960, the West Pakistan Government ordered the forfeiture of the book titled "Development of Muslim Theology, Jurisprudence and Constitutional Theory" on the grounds that it

“[tended] to promote feelings of enmity between different sects of Muslims in Pakistan”. Court ordered to make changes in the text. (PPC295A)

1963: Abdul Karim vs. the State PLD 1963 Kar 669 (Karachi)

It was alleged by Abdul Karim that on the night of 29-30 July 1961. The accused surrounded the mosque in which he was present to attend a sermon and, having entered it, proceeded to abuse those present as “Wahabis” and threatened the life of the moulvi who was to give the sermon. Court verdict - Can a Magistrate deal with 295A case without government’s order? (PPC295A)

1976: Shafiqur-Rehman vs. the State 1976 PCrLJ 1456 (Ferozewala, Punjab)

The accused was charged with removing the kataba jat with inscriptions bearing “Ya Sheikh Abdul Qadir Jilani Rehmat Ullah Elaheh” from the arches and outer gate of a mosque. Court dismissed the case.³⁶(PPC295)

1978: Fazal-e-Raziq, Chairman, WAPDA vs. Riaz Ahmad PLD 1978 Lah 1082 (Lahore)

On 18 June 1978, the accused, the Chairman of WAPDA, gave an address to Grade 17 and 18 officers of the Water and Power Development Authority (“WAPDA”) at the WAPDA auditorium in Lahore and Impressed upon the officers the necessity and importance of the “Haqooq-al-abad”, honesty and the need to rebuild the Tarbela Dam as soon as possible. Court dismissed the case. (PPC295A)

1979: Qaisar Raza v. The State 1979 PCrLJ 758 (Khairpur, Sindh)

The accused, Qaisar Raza, who was aged 15 at the time of the occurrence of the alleged offence, was said to have written the names of the first three Caliphs on the “palms” [sic] of his feet before “moving about in the Superior Science College, Khairpur”. Court dismissed the case. (PPC295A)

Majority of these cases were dismissed by the court for the reason that a case under section 295-A PPC required an authorization of the Central or Provincial Governments. Interesting point to note is that the blasphemy cases filed after the creation of Pakistan were mostly by the Muslims against Muslims or non-Muslims against Muslims. Not a single case was filed by any Muslim against a non-Muslim for committing an act of profanity against the Holy Prophet Muhammed (PBUH) or doing anything that could be defined as an act of defiling the Holy Quran.

³⁶ The Court made it abundantly clear that section 196 CrPC requires that offences under section 295-A PPC can only be filed by order of the Central or Provincial Governments of a case under section 295-A PPC must be filed with the authorization of the Central or Provincial Governments, and hence the proceedings were quashed.

Chapter 4: Blasphemy laws after Zia-ul-Haq era

Introduction of new blasphemy laws

Until the ascendancy of General Zia-ul-Haq to power, most of the blasphemy cases were in line with what the founder of the country had assured the Muslims and the non-Muslims in his speech of 11 August 1947. However, after taking power Zia made amendments to blasphemy laws from 1980-1984 as part of his Islamization drive. These changes were:

³⁷295-B: *Defiling, etc. of copy of Holy Qur'an.* Whoever willfully defiles damages or desecrates a copy of the Holy Qur'an or of an extract there from or uses it in any derogatory manner or for any unlawful purpose shall be punishable with imprisonment for life.

³⁸295-C: *Use of derogatory remarks, etc. in respect of the Holy Prophet.* 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 (peace be upon him) shall be punished with death, or imprisonment for life, and shall also be liable to a fine.

³⁹298-A: *Use of derogatory remarks, etc., in respect of holy personages.* 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 any wife (*Ummul Mumineen*), or members of the family (*Ahle-bait*), of the Holy Prophet (peace be upon him), or any of the righteous Caliphs (*Khulaf-e-Raashideen*) or companions (*Sahaaba*) of the Holy Prophet (peace be upon him) shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

⁴⁰298-B: *Misuse of epithets, descriptions and titles, etc. reserved for certain holy personages or places.* (1) Any person of the Quadiani group or the Lahori Group (who call themselves 'Ahmadis' or by any other name) who by words, either spoken or written, or by visible representation,

³⁷ 295-B Inserted by Ordinance No. 1 (Pakistan Penal Code (Amendment) Ordinance, 1981) dated 18 March 1981.

³⁸295-C Inserted by Act III of 1986 (Criminal Law (Amendment) Act, 1986) dated 5 October 1986.

³⁹ 298-A Inserted by Ordinance XLIV of 1980 (Pakistan Penal Code (Second Amendment) Ordinance, 1980) dated 17 September 1980.

⁴⁰ 298-B Inserted by Ordinance XX of 1984 (Anti-Islamic Activities of Quadiani Group, Lahori Group and Ahmadis (Prohibition and Punishment) Ordinance, 1984) dated 26 April 1984.

(a) refers to or addresses, any person, other than a Caliph or companion of the Holy Prophet Muhammad (PBUH), as ‘Ameerul-Mumineen,’ ‘Khalifa-tul-Muslimeen’, ‘Sahaabi’ or ‘Razi Alah Anho’;

(b) refers to, or addresses, any person, other than a wife of the Holy Prophet Muhammad (peace be upon him), as ‘Ummul-Mumineen’;

(c) refers to, or addresses, any person, other than a member of the family (Ahle-bait) of the Holy Prophet Muhammad (peace be upon him) as Ahle-bait; or

(d) refers to, or names, or calls, his place of worship as ‘Masjid’;

... shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

(2) Any person of the Qadiani group or Lahori group (who call themselves ‘Ahmadis’ or by any other name) who by words, either spoken or written, or by visible representation, refers to the mode or form of call to prayers followed by his faith as ‘Azan’, or recites Azan as used by the Muslims, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

⁴¹298-C: *Person of Qadiani group, etc., calling himself a Muslim or preaching or propagating his faith.* Any person of the Qadiani group or Lahori group (who call themselves ‘Ahmadis’ or by another name), who, directly or indirectly, poses himself as a Muslim, or calls, or refers to, his faith as Islam, or preaches or propagates his faith, or invites others to accept his faith, by words, either spoken or written, or by visible representation, or in any manner whatsoever outrages the religious feelings of Muslims, shall be punished with imprisonment of either description for a term which may extend to three years and shall also be liable to fine.

Contrary to the previous blasphemy laws that addressed ‘*all religious beliefs*’, the new laws were specific to ‘*particular religious beliefs*’ of different jurisprudences (fiqhas) of the Muslims and prohibited the non-Muslims (Qadianis or Ahmadis in this case) from indulging into any activities that may be construed as an act of hurting the feelings of the Muslims (PPC298B and 298C). Surprisingly, no law was enunciated to provide a remedy to the non-Muslims (Christians, Hindus, Qadianis or Ahmadis in this case) from any act of other citizens that may hurt their religious feelings.

⁴¹ 298-C Ibid.

General Zia-ul-Haq and his supporters might have intended to provide a legal procedure to address the religious conflict between the Muslims and the non-Muslims. Unfortunately, the outcome of these legal efforts was totally opposite to what was expected. Soon after the promulgation of these laws and with the passage of time the number of such cases continued growing and the people, finding an encouragement and incitement, began committing acts that could hardly be regarded as lawful. From 1851 to 1947, when the British ruled this region and the hatred between the Muslims and Hindus, at one time, had touched an unprecedented level, there were only seven incidents that were blasphemous in their nature. During the reign of the General Zia-ul-Haq, within a short period of eight years (1980-88), Pakistan witnessed eight blasphemy cases reaching the court. What exactly happened during this period or before that led to the promulgation of these additional blasphemy laws? Neither during the British rule nor during the period before General Zia-ul-Haq (1947-1979) was any case of defiling the Holy Quran ever reported? None of the blasphemy cases filed from 1947-1979 were related to any defilement of the Holy Quran or defamation of the Holy Prophet Muhammad (PBUH) by any Muslim or non-Muslim? How did the Hindu-Muslim hatred turned into Muslim-Ahmadi hatred despite the fact that both the communities, during the pre-partition period, had struggled jointly for securing a separate homeland for the Muslims of the sub-continent? A look back into the past may offer some answers to these intriguing questions.

Chapter 5: Historical background of communal riots in Pakistan

Political challenges of the new country

Partition of India was the most horrifying chapter of the freedom movement that displaced millions of people and left several thousand persons dead, mutilated, and molested. This terrifying drama of genocide began its first episode in 1947 that was staged in Northern part of India, mostly in Punjab, and the second episode started later in 1950 and its stage was set in the Eastern part of Pakistan.

Mentioning it a tragedy or a joke of the history that the fear of majority rule that led to the creation of a separate homeland for the Muslims of India continued lurking its ugly face even after Pakistan came into being. Once the fear of Hindu majority disappeared, a new fear of majority rule took no time to replace it. What came attached to this fear was the traditional religious hatred that the Muslims of the subcontinent always carried in their minds against the majority population of the land – the Hindus. The country that was born as a result of majority votes sensed the danger of the electoral role of the Western style that was poised to deprive the chances of the key Muslim League leaders to stay in power once the government would be formed on the basis of election.

East Bengal (East Pakistan), as one of the five provinces of Pakistan, had more population than the whole population of the remaining four provinces in the western part of the country. Based on the basic principles of the Western democracy, the East Pakistan demanded more seats in the national assembly while the Punjab, having only 20% of the total population of Pakistan, insisted on using the weightage formula to compensate for the population disadvantage that existed between the eastern and western part of the country. The then Prime Minister of Pakistan, Liaquat Ali Khan, who had the reputation of next in command after Quaid-i-Azam, faced with a dilemma of his political career when he found himself with no political constituency in the newly carved out country that he and his great leader had labored to bring in existence.

The religious card that had played a very effective and decisive role in winning over a separate homeland found one more role to play in the country that was created in the name of religion. As a first move, Liaquat Ali Khan, had the Constituent Assembly adopt a resolution prepared and submitted by him on March 12, 1949. It was called the Objective Resolution and it proclaimed that the future constitution of Pakistan would not be modeled on European pattern, but on the ideology and democratic faith of Islam. The vision that the Quaid had of Pakistan as a state where *'in course of time Hindus would cease to be Hindus and Muslims would cease to be*

*Muslims*⁴² was now redefined in the Objective Resolution⁴³ as a state ‘*wherein the Muslims shall be enabled to order their lives in the individual and collective spheres in accordance with the teachings and requirements of Islam as set out in the Holy Quran and the Sunnah; Wherein adequate provision shall be made for the minorities [Hindus, Christians, and other non-Muslims] to *** profess and practice their religions and develop their cultures*’.

Communal riots in Punjab and East Pakistan

This was the time when the Punjab was brewing with a feud between Ahmadi and the Ahrar organizations. The Ahrar were letting no chance go by without their condemnation of the government for having an Ahmadi, Sir Zafarullah Khan, working as a Foreign Minister of the country. In their criticism, they were not even sparing the Quaid-i-Azam and Liaquat Ali Khan. The Justice Munir’s Report of the Court of Inquiry Constituted Under Punjab Act II of 1954 on Punjab Disturbances of 1953 available on http://www.thepersecution.org/dl/report_1953.pdf is a good source on the nature of these disturbances. On its page 16 it reports:

The record of the speech of Sahibzada Faiz-ul-Hasan [of Majlis-e-Ahrar-e-Islami] referred to in Malik HabibUllah’s letter shows that in his speech delivered on 27th August 1948, on the occasion of the Urs of Sayyed Imam Ali in village Bhullar, he described Begum Liaquat Ali Khan and other women who did not observe *pardah* as prostitutes and alleged that the abduction of one hundred thousand Muslim women by Hindus and Sikhs in East Punjab was due to the Quaid-i-Azam’s desire to become the Governor-General of Pakistan.

With no political constituency in hand and an ongoing campaign against the top ranking Muslim League leadership by the Ahrar must have been a matter of serious concern for Liaquat Ali Khan. To win over sympathies of these politically active segments of the society might have appeared to him as a way out to his political dilemma. In January 1949, the Ahrar made a decision to convert themselves into a purely religious party and to assist the Muslim League in all political matters⁴⁴. Was it a coincidence that the Objective Resolution was passed (on March 12, 1949) by the Constituent Assembly only two months after the Ahrar allied with the Muslim League⁴⁵? Or, it was a politically calculated move to please the Ahrar and provide a legal cover for all those religious activism that the Ahrar unleashed during the next four years in the Punjab? Irrespective of what political interests motivated the Muslim League to adopt the Objective

⁴² http://www.pakistani.org/pakistan/legislation/constituent_address_11aug1947.html/

⁴³ http://en.wikipedia.org/wiki/Objectives_Resolution

⁴⁴ Punjab Disturbances of 1953, P.29, available on http://www.thepersecution.org/dl/report_1953.pdf

⁴⁵ Almost all the *ulama* whom we questioned on the subject have stated that the demands are a corollary from the Objectives Resolution passed by the Constituent Assembly of Pakistan on 12th March 1949, and from that religio-political system which they call Islam. Source: Punjab Disturbances of 1953, P.186, available on http://www.thepersecution.org/dl/report_1953.pdf

Resolution, the events occurred soon after this resolution revived the old memories of communal riots that the people of the subcontinent had experienced before and during the partition. The major events reported in the report of Punjab Disturbances of 1953 were⁴⁶:

11th August 1948: Major Mahmud, an Ahmadi, was murdered in a singularly brutal manner (stoned to death) in Quetta⁴⁷.

*Okara—October, 1950—*Ahmadi preachers were waylaid and their faces blackened. An Ahmadi schoolmaster was killed as a result of the tense atmosphere created by Ahrar speakers.⁴⁸

*Rawalpindi—October, 1950—*An Ahmadi [Badar-ud-Din] was killed as a result of hatred spread against the community although the immediate cause was different.⁴⁹

*Chak Jhumra—February, 1951—*At the railway station as a result of Ahrar violence, a man (son of Maulvi Ismat Ullah, who is an Ahmadi) was stabbed by Ahrar workers.⁵⁰

*Gujranwala—March, 1951—*An Ahmadi shopkeeper was attacked when he objected, to the raising of slogans against Mirza Ghulam Ahmad. The police saved him from violence.⁵¹

20th April 1951: At Lyallpur, Ghulam Nabi Janbaz [of Ahrar] threatened an Ahmadi shopkeeper Fazal Din with dire consequences. On 7th May 1951 this shopkeeper was attacked in broad daylight in his own shop.⁵²

*Samundri—May, 1951—*An Ahmadi mosque was burnt by a mob led by Ahrar workers.⁵³

*Rawalpindi—April, 1952—*After hearing the provocative and exciting speeches at an Ahrar meeting a youth got up and shouted ‘Zafrullah Mirzai *ko hataya jawe*’ — ‘Wazir Zafrullah, *ko qatl kiya jawe, mar diya jawe*’.⁵⁴

⁴⁶ Punjab Disturbances of 1953, P.54-55, available on http://www.thepersecution.org/dl/report_1953.pdf

⁴⁷ “...Major Mahmud, who was an Ahmadi, was murdered in a singularly brutal manner. The Muslim Railway Employees Association had organised a public meeting which was held on the evening of 11th August 1948. Some *maulvis* addressed the gathering and, the subject selected by each one of them for his speech was *khatm-i-nubuwwat*. ... He attempted to flee but was chased and literally stoned and stabbed to death, his entire gut having come out. ...Nobody was willing to take credit for this act of Islamic heroism and out of a large number of persons who were eyewitnesses, none was able or willing to identify the *ghazis* who were authors of this brave deed. The culprits, therefore, remained unidentified and the case was filed untraced.” Source: Punjab Disturbances of 1953, P.13 & 14, available on http://www.thepersecution.org/dl/report_1953.pdf

⁴⁸ Punjab Disturbances of 1953, P.55, available on http://www.thepersecution.org/dl/report_1953.pdf

⁴⁹ Ibid.

⁵⁰ Ibid.

⁵¹ Ibid.

⁵² Ibid.

⁵³ Ibid.

According to a letter which has come to my notice “Paradise has been promised to the person who will cut the throat of Sir Zafarullah Khan”.

In the beginning of March 1953, widespread disturbances broke out in the Punjab which in some places continued till the middle of April 1953. ... [At] several places the military had to be called in, and in Lahore Martial Law had to be proclaimed. Before the declaration of Martial Law, the police had to resort to firing in several places and at least two persons were killed on the night of 4th March and ten on 5th March, Sixty-six persons more must have been injured.⁵⁵

These sectarian conflicts and the target killings were not confined to Ahmadi and Ahrar, the Shia, Sunni, and Wahabi sectarian conflicts were also beginning to take place now. In a note that Mr. Anwar Ali, D.I.G., C.I.D., write on 1st October 1951, provided the following information on the sectarian position as it existed in the Province of Punjab at that time⁵⁶:

Shia-Sunni differences have been reported from different parts of the Province. The incident at village Shahpur Kanjra, where a child of 3 [years] and a woman were killed, was, however, the first incident in which Shias became the victims of communal violence.

At Gujranwala, sectarian tension existed between the Sunnis and the Wahabis. The difference arose over the number of *travih* which should be read in the month of Ramazan.

The immediate problem is to deal with the Ahrar. A warning has already been issued and I suggest that if this warning is not heeded, firm action should be taken. Government must also do everything to promote amity between Shias and Sunnis.

While the political stage in the Punjab was heating up by anti-Ahmadi drive in the early 1950s, the East Pakistan had its own share of communal riots that suddenly erupted in different parts of the then East Pakistan and resulted in brutal killings of the people belonging to Hindu community. The information available on two websites, http://en.wikisource.org/wiki/Resignation_letter_of_Jogendra_Nath_Mandal and http://en.wikipedia.org/wiki/1950_East_Pakistan_genocide, are reviewed to verify the authenticity of the following incidents of communal riots that occurred in the East Pakistan in 1950 (Note: Although the basic source of these incidents is Wikipedia and a resignation letter of

⁵⁴ Ibid.

⁵⁵ Punjab Disturbances of 1953, P.34, available on http://www.thepersecution.org/dl/report_1953.pdf

⁵⁶ Punjab Disturbances of 1953, P.1, available on http://www.thepersecution.org/dl/report_1953.pdf

Jogendra Nath Mandal, an effort is made to access the archive of the Dawn newspaper and include the relevant reports from the Dawn to verify and substantiate these incidents. The reports appeared in the Dawn didn't agree with most of these killings but, in a sense, they prove that a tension existed in the area and the communal hatred was still dominating the minds of political leaders on both sides of the border. Relevant excerpts from the Dawn reports are provided alongside the Wikipedia reports as an authentication of these events):

December 1949: A number of Hindus killed and their worship places desecrated in Khulna, forcing 30,000 Hindus to flee away⁵⁷, ⁵⁸.

Jan 1950: Rajshahi – 25 Santal peasants killed in Santal and several more will killed in Nawabganj and Rajshahi jails. Villages burnt down.

Dhaka: 90% Hindu shops were looted and many of them burnt. Nearly 50,000 Hindus were displaced after their houses and worship places were burnt and destroyed⁵⁹.

12 Feb 1950: 60 India-bound Hindu passengers were attacked at Kurmitola airport.

13 – 16 Feb 1950: Barisal – Hindus were killed, women were abducted and raped. Areas affected were Gournadi, Jhalakati and Nalchiti under Sadar sub-division of Barisal

⁵⁷ On 20 December 1949, four police constables raided the house of one Joydev Brahma in the village of Kalshira under Mallahat police station in Bagerhat sub-division in the district of Khulna, in search of some suspected communists, late in the night. Failed to find any suspects, the constables tried to rape the wife of Brahma. Her cry alerted him and his companions, who in a desperate bid to save her attacked two constables, one of whom died on the spot. The remaining two raised an alarm and the neighbouring people came to their rescue. On the next day, the District Superintendent of Police arrived in Kalshira accompanied by armed police contingent and the Ansars and attacked Kalshira and other neighbouring Hindu villages mercilessly. They encouraged Muslims from neighbouring villages to loot the Hindu properties. A number of Hindus were killed, men and women were forcibly converted. Images were broken and shrines were desecrated. All the 350 homesteads in the village, except three, were demolished. The cattle and boats were forcibly taken away. Within a month of the massacre 30,000 Hindus fled from Khulna to India. http://en.wikipedia.org/wiki/1950_East_Pakistan_genocide

⁵⁸ Dawn - 4 February 1950 “Mahasabha incites Hindus to war against Pakistan: Plot aimed at Indian Muslims” “[Excerpt]... This includes mainly the propaganda that the majority community in collaboration with the East Pakistan official authorities (meaning the police) are persecuting and oppressing the Hindus in certain areas of the Khulna district. Here is an extract from a statement appearing in the Amrita Bazar Patrika of January 15 and also in other Indian newspapers. “According to a statement of the All India Hindu Mahasabha consecutively for four hours days from December 20 to December 23 last, Kharia, Kalasira, Bhennabari, Ruiya, Sonakhali, and the neighboring villages in Bagerhat sub-division in the district of Khulna witnessed inhuman atrocities on the peaceful and loyal Hindu citizens of the locality.” Here the paper cites an alleged incident in Kharia, Khulna district that the Hindus of the locality are neither “peaceful” nor “loyal” is admitted in this very statement itself when it is said that the “Hindu mob” killed one policeman and injured several others.”

⁵⁹ **Curfew in Dacca** – Dawn, Page 10, Dacca, Feb 10, 1950: A dusk-to-dawn curfew was clamped down on Dacca city for three days following reports of stray cases of loot and arson in certain parts of the city this afternoon.A large crowd demonstrated in front of the East Pakistan Secretariat building today when the Chief Secretary of West Bengal and the Deputy High Commissioner for India in Pakistan arrived for the conference of the Chief Secretaries of East Paksitan and West Bengal.

district. Several hundred Hindus, hiding with the police station compound, were attacked and killed. A Hindu school teacher was roasted alive by his Muslim students who danced around the fire.

Madhabpasha, Barisal: Two to three hundred Hindus were made to squat in a row and their heads were chopped off one by one. In the Madhabpasha zamindar house 200 Hindus were killed and 40 injured.

In Chittagong, four persons from the Buddhist community, including a police inspector were stabbed and monasteries were demolished

10 - 13 Feb 1950: Noakhali - Hindus were attacked in the town and the villages of Banspara, Rampur, Madhupur, Srichandrapur, Basikpur, Chakbasta, Shibpur, Baligaon were burnt to ashes

In Sylhet, the arson, loot and massacre were perpetrated in an extensive manner. Around 203 villages were devastated and more than 800 Hindu religious places were desecrated

12 Feb 1950: Hindu train passengers were massacred between Comilla and Mymensingh.

Jogendra Nath Mandal, a scheduled Caste Hindu and the first Minister of Law and Labor of Pakistan, resigned from his post on 8th October 1950 after allegedly seeing no results to his repeated requests to the Prime Minister, Liaquat Ali Khan, for taking action to stop the ongoing massacre of Hindus in East Pakistan. In his letter, he gave a detailed report of those horrible incidents that were the cause of his resignation. In his letter he quoted a figure of 10,000 people that were put to death during these communal riots and migration of close to one million Hindus to West Bengal in order to save their lives. These riots came to an end after India and Pakistan signed Delhi Pact in April 1950. However, no inquiry commission like “the Punjab Disturbance of 1953” was initiated to investigate the causes of this horrible genocide of Pakistani minority population of Hindus in the East Pakistan. It leads one to make variety of assumptions on the causes of those incidents ranging from economic to political ones. The coincidence of the beginning of anti-Ahmadi propaganda by the Majlis-e-Ahrar in Punjab and the eruption of anti-Hindu riots in East Pakistan around the same period raises many questions about the possibility of political maneuvering of the different political forces that were getting active to pursue their own agenda in a situation that was very volatile and extremely fragile too.

Communal hatred – a breeding ground for dictatorship in Pakistan

Co-incidently or conspicuously the emergence of most of the dictatorship was always preceded by the communal and political unrest in the country. In June 1948, the Ahrar were reluctant to

join the Muslim League⁶⁰ because of the un-Islamic beliefs of men like Chaudhri Zafrullah Khan, an Ahmadi, and Mian Iftikhar-ud-Din, a leftist politician and owner of Pakistan Times. This newspaper was started by the leftists in the Muslim League. In January 1949, the Ahrar changed their minds and decided to work with the Muslim League.⁶¹ Two months later, the Objective Resolution was adopted and, as a follow up of the resolution, a Basic Principles Committee was created with a mandate to structure the country's political system. The committee ran into a problem on the distribution of National Assembly seats with Bengalis demanding representation on the basis of the population while the Punjabis favored a solution on the basis of weightage.⁶² On 1st May 1949, the Ahrar demanded, for the first time, that the Ahmadi's be declared as non-Muslim Minority.⁶³ In the eastern wing of the country, the anti-Hindu riots broke out in December 1949 from an incident of a police search for some Communist suspects in Khulna⁶⁴ that soon turned into a series of violent attacks on Hindu population in different parts of the East Pakistan reaching at its climax during the first quarter of 1950 and then subsiding after the Delhi Pact in April 1950. In the Western wing of the country, the Ahrar continued with their Tablighee conferences at different cities of Punjab escalating their anti-Ahmadi propaganda to such a level that the government officials became extremely worried of an upcoming wave of violence in the Punjab⁶⁵:

Malik Habib Ullah who submitted this report with his comments to the D.I.G., C.I.D., on 19th June 1950, said that unless the tone of the speeches of the Ahrar were controlled Government would have to face quite a few cases of murder or rioting before very long.

On March 9, 1951, came to surface the Rawalpindi Conspiracy Case wherein eleven military officers and four civilians were accused of having their involvement in attempting a coup d'etat against the government of Liaquat Ali Khan. Maj. Gen. Nazir Ahmed, an Ahmadi, and Faiz Ahmed Faiz, a left wing poet and the editor of Pakistan Times, were among the suspects. The Ahrar used this conspiracy case as another source for their anti-Ahmadi campaign. On October 16, 1951, Liaquat Ali Khan was assassinated in Rawalpindi and the Ahrar took no time in blaming Ahmadis for it.

The murder of Liaquat Ali Khan was a serious blow to the Muslim League. Within a span of few years, they had lost two important leaders of their organization - Quaid-e-Azam and Quaid-e-

⁶⁰ Punjab Disturbances of 1953, P.12-13, available on http://www.thepersecution.org/dl/report_1953.pdf

⁶¹ Ibid.

⁶² Lawrence Ziring, Pakistan, The Enigma of Political Development, Wm Dawson & Sons Ltd., Cannon House, Folkestone, Kent, England, P.73-74

⁶³ Punjab Disturbances of 1953, P.15, available on http://www.thepersecution.org/dl/report_1953.pdf

⁶⁴ Dawn 5 February 1950, Page 6, "Heavy influx of Muslim refugees in East Pakistan: Communal incidents in West Bengal," [Excerpt]"On December 20 a police party consisting of one assistant sub-inspector and three constables which had gone to village Kalshira in Bagherhat to search the house of an accused was suddenly surrounded by a Communist-inspired armed mob of Namasudras. One of the constables was done to death on the spot while the other members of the party were seriously injured and escaped death only because of the timely arrival to their rescue of Ansars and villagers from neighbouring areas."

⁶⁵ Punjab Disturbances of 1953, P.19, available on http://www.thepersecution.org/dl/report_1953.pdf

Millat. In no less than four years after winning a new country, Muslim League had been reduced from a leading political force to a puppet organization playing in the hands of a newly emerged force that had suddenly gained the strength and prominence they never had in the past. A note in the Punjab Disturbance Report on the Ahrar is worth mentioning here:

The Partition of 1947 and the establishment of Pakistan came as a great disappointment to the Ahrar because all power passed to the Congress or the Muslim League, and no scope for activity was left for the Ahrar in India or in Pakistan⁶⁶

How did the Ahrar, after having lost the election and their political base, manage to reappear in the political arena in a country that they never supported to come into existence and that too with such an influence and strength that within a year after the independence they were able to rally a large number of people around them and instigate them to a point where they felt no fear in killing a military officer, Major Mahmud, on 11 August 1948 for no crime except that he was an Ahmadi?

Whatever was the cause of the mysterious rise of this organization, the role it played in turning the political scenario in its favor and preparing a ground that set the stage for the gradual and irreversible decline of the Muslim League is both incredible and incomprehensible too. From a pro-Congress and anti- Pakistani political party it transformed itself into the most loyal political party of the country and began playing decisive role in shaping up the political scenario of the country in a model that was reflective of their ideology and fundamentally opposite to what the founder of the nation aspired for. Another milestone achievement of the Ahrar was the adoption of the Objective Resolution by the government that took place soon after its alliance with the Muslim League. This was a move that redefined the speech of the Quaid-e-Azam he delivered on 11 August 1947 saying:

If you change your past and work together in a spirit that everyone of you, no matter to what community he belongs, no matter what relations he had with you in the past, no matter what is his color, caste or creed, is first, second and last a citizen of this State with equal rights, privileges, and obligations, there will be no end to the progress you will make. I cannot emphasize it too much. We should begin to work in that spirit and in course of time all these angularities of the majority and minority communities, the Hindu community and the Muslim community, because even as regards Muslims you have Pathans, Punjabis, Shias, Sunnis and so on, and among the Hindus you have Brahmins, Vashnavas, Khattris, also Bengalis, Madrasis and so on, will vanish. Indeed if you ask me, this has been the biggest hindrance in the way of India to attain the freedom and independence and but for this we would have been free people long ago. No power can

⁶⁶ Punjab Disturbances of 1953, P.12, available on http://www.thepersecution.org/dl/report_1953.pdf

hold another nation and specially a nation of 400 million souls in subjection; nobody could have conquered you, and even if it had happened, nobody could have continued its hold on you for any length of time, but for this.

It goes to the credit of the Ahrar movement of 1950s that it succeeded to divide the nation into two factions – fundamentalists and liberals. Everything that followed was viewed, assessed, and accepted on the basis of these terminologies.

The activities of the Ahrar were diagonally opposite to the ideology that was expressed by the Quaid-e-Azam in his above speech and they were ideologically against the two minorities, Ahmadi and Shia. Coincidentally, the policy of leading political party was also moving into a similar direction⁶⁷. Punjab being the major mainstay of the Muslim League in the western part of the country faced a dilemma that needed a political maneuvering opposite to the basic democratic principles - to bring the minority of Punjab at par with the majority of East Pakistan. A process was initiated to bring the four provinces of the western part of the country into one fold and thus reduce five provinces into two – East and West Pakistan. While the question of one minority was addressed to the satisfaction of the affected party, the other minority comprising Hindus, Christians, and Ahmadis, received no attention or quite often subjected to persecution. In 1950, the Bengali Hindu minority in East Pakistan was subjected to hate filled violence by the Bengali Muslim majority that resulted in trans-migration of nearly 2.1 million⁶⁸ Hindus and Muslims from East Pakistan and West Bengal. Around the same time a hate campaign was started by the Ahrar in Punjab against Ahmadis that culminated into communal riots of 1953. Later, the European style democracy was negated by dissolving the government of Nazimuddin in 1953 and finally by adopting one unit formula in 1954.

After completely wrapping up the democratic government in 1958 and imposing the dictatorship in the country, the religious and political unrests were relatively subsided and didn't come to action until the political environment got activated once again for a democratic change in 1971. Later in 1974, during the democratic government of Zulfiqar Ali Bhutto, another anti-Ahmadi campaign broke out in the Punjab and forced the government to accept one of the initial demands of the Ahrar of declaring Ahmadis as non-Muslims. In 1977, Z.A. Bhutto was deposed by the

⁶⁷ [Excerpt]....[The situation] was allowed to deteriorate by an attitude of complete indifference to what the Ahrar or the *Ulama* said or did after July 1952. On the contrary, it was encouraged by the Chief Minister's public utterances supporting the view that the Ahmadis were not Muslims. Source: Punjab Disturbances of 1953, P. 386, available on http://www.thepersecution.org/dl/report_1953.pdf

⁶⁸ Dawn, 31 August 1950, Page 6, More Muslims entered Pakistan than Hindus left the province from April 12 to August 27: Dacca, Aug 29: "....Daily figures collected at Darsana and Benapole of the traffic crossing the border since the Prime Ministers agreement total as follows: Incoming Hindus and Muslims 1,074,698, Outgoing Hindus and Muslims 1,028,698, Total: 2,103,396."

military dictator General Zia-ul-Haq and once he did away with Bhutto, he embarked upon a drive of introducing new blasphemy laws that further divided the society on the line of fundamentalism and liberalism.

Chapter 6: Controversies of new blasphemy laws

The ascendancy of General Zia-ul-Haq to power brought new opportunities for the pro-Ahrar fundamentalists to pursue their goals with an ease and comfort they never had before. British government took seventy seven (77) years to introduce four blasphemy laws while General Zia-ul-Haq took only seven (7) years to introduce five blasphemy laws, PPC 295B, & C and PPC 298A, B, & C two of which were specific to Ahmadi and Shia minority communities. Next year he went ahead and included the Objective Resolution in the constitution as its preamble. Both these steps were in line with what the Ahrar had been demanding since 1949 and completely opposite to what Jinnah dreamt of Pakistan. What followed was a series of blasphemy cases that were the direct results of an ambiguity created by these laws.

During the British rule, the enactment of four blasphemy laws had a history of Hindu-Muslim riots on religious grounds and several cases of blasphemous writings by the non-Muslim writers. In case of the subsequent enactment of blasphemy laws during the Zia rule, the history of Ahmadi-Ahrar conflicts, sectarian violence among different religious sects of the Muslims, and above all the division of the society on liberals and fundamentalists lines played significant role. Unlike the past, no prominent blasphemous writing is on record that could be regarded as a cause for promulgation of these new blasphemy laws other than the conflicts and sectarian violence cited above. With the exception of Ahmadi dispute, all other religious disputes among the different religious schools of thought were very old and every one of them, to date, considers their faiths as the correct one.

After creation of Pakistan these disputes became more prominent and began turning violent. However, one thing was common among all these acts of violence; most of them were politically motivated. The Ahrar's anti-Ahmadi movement never demanded any enactment of blasphemy laws in the beginning. It was a later development that was presumably shaped up after the Ahmadis were declared non-Muslims in 1974. Irrespective of the causes of motivations, the enactment of these laws also created a rift between the fundamentalists and liberals and the worst case of this conflict occurred in the form of the brutal murder of the Governor of Punjab, Salman Taseer, on 4th January 2011, and the Minister for Religious Affairs, Shahbaz Bhatti, on 2nd March 2011. One section of the society rejoiced at these incidents and garlanded the perpetrator for committing this heroic deed; the other loathed and mourned the incident in as harsh words as they could⁶⁹, a kind of reminiscent of pre-partition India when the killers of Hindu blasphemers were treated by a section of the Muslims as their heroes.

⁶⁹ “[Excerpt] ...Anyone who remained silent or tried to justify the killing of Taseer is exactly the person who would find that the very little talk of murders of the Baloch, Ahmadis and Shia are overblown or irresponsible. Saroop Ijaz, Express Tribune, 31 December 2011, available on: <http://tribune.com.pk/story/314574/the-year-of-fear/>

It was basically the absence of an appropriate law to handle blasphemy offenses committed in the written format that led the British India Government to introduce the Blasphemy Law 295-A in 1927. The cause was a few sacrilegious offences committed by one religious community that offended the other community who, as a result, reacted in manner that caused murders or communal riots. What we learnt from such experiences is simple: as long as the possibilities of an offense and its reaction exist there is a need to have a law to provide legal course for the people to deal with such cases and thus maintain law and order in the society. To demand repeal of this law means no such offences and reactions are in practice now and the law has become redundant. Unfortunately, this is not the case in Pakistan. Within last two months (July – 21 August 2012), the following incidents of blasphemy occurred in Pakistan:

Muslims

- 1 person Burnt alive in Bahawalpur (Mentally challenged)
- 1 person Severely beaten by mob in Faisalabad
- 4 persons Arrested for burning alive a mentally challenged person accused of blasphemy

Christians

- 1 person Accused of burning the pages of the Holy Quran in Lahore
- 1 person A mentally challenged (11 years old girl) burnt the Holy scriptures in Islamabad

Ahmadis

- 1 person Arrested for posing as Muslims in Sargodha
- 1 grave White-washed the Quran verses from the grave

A rough estimate of the persons that have been accused is more than 1,000⁷⁰ from the date the additional clauses in the Blasphemy Law were added during military dictator, General Ziaul Haq.

No Muslim country in the world offers such a large number of offences against the blasphemy law and with such a quick frequency. According to the data available on Wikipedia website, only 43 blasphemy cases have been reported so far in seven Muslim countries that include Saudi Arabia, Jordan, Iran, Afghanistan, UAE, Bangladesh, and Yemen. All these cases took place at different dates during the last two or three decades and not in two months as we observed in the case of Pakistan. Despite having nine different blasphemy laws in the country carrying punishments from death to life imprisonment we are unable to ensure that people should resort to

⁷⁰ “[Excerpt] ...Astonishingly, 801 of the 1,031 people imprisoned under these laws are Muslim. Of the remaining 230 prisoners 162 are Christians, 15 are Sikh, 28 are Buddhists while 25 persons are adherents of other faiths.” Express Tribune, 13 December 2010, available at <http://tribune.com.pk/story/89376/blasphemy-cases-false-accusers-escape-punishment/>

legal means instead of taking the law into their own hands and commit crime of killing an alleged blasphemer extra-judicially. The whole intent and purpose of having a law to deal with an offence through legal means appears to have lost its credibility in Pakistan and it is the crux of the whole problem that surrounds the Blasphemy Law in the country.

A study of blasphemy law 295C

Those who support the Blasphemy Law keep digging for reasons and Quran injunctions that can legitimize the death penalty to a blasphemer irrespective of his intent, mental health, and willingness to repent his contemptuous act solemnly. The Supreme Court verdict in favour of the death penalty as recommended by the Federal Shariat Court (FSC) is used as an authentic reference in support of the death penalty against blasphemy charges. However, what one finds very surprising is that no other articles other than the ones that support death penalty are quickly picked up by the supporters to plead their case for continuing with the death penalty. Does that petition talks of death only? Let's take a look at the verdict in details:

Six out of seven religious leaders that were invited as jurist consults to assist the SC in this case that supported the death sentence in Blasphemy Law 295-C agreed with the sentence. However, three out of these six consenting religious leaders further added that *in case repentance is shown* by the offender the *sentence should be waived* while another leader stated that even *lesser punishment* could be given. It means out of seven jurist consults, four had supported to make repentance as a part of the penalty to be applied for PPC 295-C. Likewise there are several clauses in the same verdict that suggest different types of penalties for blasphemy cases. Let's take a look at the clauses that carry punishment different from death (Refer attachment A for complete petition):

P L D 1991 Federal Shariat Court 10
Before Gul Muhammad Khan, CJ., Abdul Karim Khan Kundi, Ibadat Yar Khan,
Abdul Razzak A. Thahim and Fida Muhammad Khan, JJ
Muhammad Ismail Qureshi versus Federation of Pakistan

This Court issued public notices and also requested some jurist consults to assist. The case was heard at Lahore, Karachi and Islamabad on so many dates and had the assistance of the following Jurisconsults:--

- (1) Maulana Subhan Mahmood Sahib.
- (2) Maulana Mufti Ghulam Sarwar Qadri Sahib.
- (3) Maulana Hafiz Salahuddin Yousaf Sahib.
- (4) Maulana Muhammad Abdo-hu Al-Falah Sahib.
- (5) Maulana Syed Abdul Shakoore Sahib.
- (6) Maulana Fazle Hadi Sahib and

(7) Maulana Saeed-ud-Din Sherkoti Sahib.

Out of the above, the following supported the plea taken by the petitioner to say that sentence of *death is only sentence for this offence*:--

- (1) Maulana Subhan Mahmood Sahib.
- (2) Maulana Mufti Ghulam Sarwar Qadri Sahib.
- (3) Maulana Harz Salahuddin Yousaf Sahib.
- (4) Maulana Muhammad Abdo-hu Al-Falah Sahib.,
- (5) Maulana Syed Abdul Shakoor Sahib and
- (6) Maulana Fazle Hadi Sahib.

The following further stated that *in case repentance is shown* by the offender the *sentence would be waived*:--

- (1) Maulana Subhan Mahmood Sahib.
- (2) Maulana Mufti Ghulam Sarwar Qadri Sahib and
- (3) Maulana Hafiz Salahuddin Yousaf Sahib.

Maulana Saeed-ud-Din Sherkoti, however, stated that even lesser punishment could be given.

Non-Muslim Vs Muslim: Clause 27 & 31: “...the *punishment of contemnor of the Prophet is death, if he is Muslim...*”

Repentance: Clause 6: “... *repentance of the contemner can be accepted.*”

Intention and motive: Clauses: 38, 44, 45, 46, 47, 49, 50, 53, 55, 57, 58, 60, & 62: “...difference between criminal *intent and the motive of crime,*”

Pardon to a contemnor: Clauses 5, 10, 26, 64:

Doubts: Clause 48: “*waives the penalty of Hadd if any doubt occurs*”

Different meanings of words: Clause 34: “*the interpretation of the words which bear different meanings and senses changes with the change of circumstances and occasions.*”

Avoid punishment to innocent: Clause 60: “The mistake of judge (Qazi) in releasing a criminal is better than his mistake in punishing an innocent.”

Different punishment for male, female, and non-Muslim: In clause 4, Maulana Subhan Mahmood consented with the Jurists on death penalty against the offender but, maintained that the punishment of *life imprisonment* can be given to a woman offender or *a non-Muslim* of the Holy Prophet (PBUH).

Respect for other Prophets: Clause 68: A clause may further be added to this section so as to make the same acts or things when said about other Prophets, also offence with the same punishment as suggested above.

[italics mine]

Despite having 24 out of 65 clauses against the death penalty, no consideration was given to these alternate punishments and the verdict went in favor of nothing but ‘death’ only. The clauses dealing with intent, male/female difference, and innocence found no value and interestingly the clause 68 suggesting “*to make the same acts or things when said about other Prophets, also offence with the same punishment as suggested above*” still remains unimplemented. We all talk of democracy that calls for accommodation of different ideas and demands equal rights for the opponents. These principles seem to have been neglected in this case.

Without doubting the intent and purpose of the petitioners, the next question that the announcement of death penalty raises now is; “Could this death penalty prevent people from taking the law into their own hands, discourage them from committing offense of passing derogatory remarks against the Holy Prophet (PBUH), and once such offenses are committed what methods people adopt in handling such offenses – legal ones or illegal ones?” In a preface to *Namoos-i-Risalat*, an account of the making of 295-C by Advocate Ismail Qureshi, Al Faisal Publishers, Lahore, 1994, former Supreme Court judge and former president Rafiq Tarar declared: “If this law is not there the doors to courts will be closed on the culprits and the petitioners provoked by them, and then everyone will take the law in his own hands and exact revenge from the criminals. As a result anarchy will prevail in the country.” In 1994, the Lahore High Court declared that if Section 295-C of the PPC were struck down, the old system of killing a culprit on the spot could be revived.⁷¹ Can the claim that Section 295-C prevents non-state violence against blasphemers and suspects survive an empirical study? No one has ever been executed for blasphemy under court orders. On the other hand there is a long list of suspects/accused/convicts killed precisely in the manner 295-C was supposed to prevent.

It is evident from the remarks of the former president of Pakistan, Rafiq Tarar, that the real intent behind the enactment of PPC295C was to refrain people from taking the law in their own hands

⁷¹ “Blasphemy law revisited” by I.A. Rehman, 29 Jul, 2010, available at <http://archives.dawn.com/archives/19261>

and thus eliminated or reduced the chances of violence and anarchy. However, an acting Chief Justice of the Lahore High Court, Justice Mian Nazir Akhtar, took a position on blasphemy law that was completely in defiance of the previous positions of the judiciary:

In 2000, Justice Nazir Akhtar, said that no one had authority to pardon blasphemy and that anyone accused of blasphemy should be killed on the spot, as a religious obligation⁷².

Let's put aside this comment for a while and talk about some other controversies attached to the blasphemy law PPC295C that need to be evaluated first.

Back in 1990, when the petition for death penalty against 295C was under review of FSC, the petitioner Mohammad Ismail Qureshi submitted that the "...*the alternative punishment of life imprisonment provided in Section 295-C of the Pakistan Penal Code or PPC is the basis of all legislations in Pakistan. It was instituted in 1860 by the British colonial government in Pakistan. It is similar in sections to the Indian Penal Code but is more religiously oriented*"⁷³."

This statement appears to be in conflict with the available facts. Life imprisonment doesn't appear to be the basis of all legislations in Pakistan. This credit goes to Mr Mohammad Ismail Qureshi that all harsh punishments were initiated by his efforts. Yet, with the exception of PPC295B and 295C no other blasphemy law carries life imprisonment as an alternate punishment. Here are the punishments as prescribed by the different blasphemy laws.

Punishments of blasphemy laws in Pakistan and other Muslim countries

Pakistan penal codes for blasphemy laws and their punishments

- PPC295: Two years, or with fine, or with both (Enacted during British Raj)
- PPC295A: Ten years⁷⁴, or with fine, or with both (Enacted during British Raj, modified by Zia)
- PPC295-B: Imprisonment for life (Enacted during Zia rule)
- PPC295-C: Death, or imprisonment for life, and shall also be liable to a fine (Enacted during Zia rule)
- PPC296: One year, or with fine, or with both (Enacted during British Raj)
- PPC298: One year, or with fine, or with both (Enacted during British Raj)
- PPC298-A: Three years, or with fine, or with both (Enacted during Zia rule)
- PPC298-B: Three years, and shall also be liable to fine. (Enacted during Zia rule)

⁷² COMMENT: Blasphemy Laws in Pakistan, by Benedict Rogers, available on <http://religion-compass.com/2011/01/05/blasphemy-laws-in-pakistan-2/>

⁷³ <http://www.thefreelibrary.com/Pak+SC+rejects+petition+challenging+death+as+the+only+punishment+for...-a0199277572>

⁷⁴ Substituted for "two years" by Act XVI of 1991 (Criminal Law (Second Amendment) Act, 1991) dated 25 November 1991.

PPC298-C: Three years and shall also be liable to fine. (Enacted during Zia rule)

Even if we look at the similar penal codes of Bangladesh and India, we find that the life imprisonment was not the basis of those legislations as well. Bangladesh, being an Islamic country and the birth place of the All India Muslim League, is still far behind Pakistan in adopting the four blasphemy laws that the military dictator General Ziaul Haq promulgated in Pakistan. In addition, the blasphemy laws and punishments in other Muslim countries are also included for the readers to know the difference between the blasphemy laws followed in Pakistani and other Muslim countries:

Bangladesh penal codes for blasphemy laws and their punishments⁷⁵

- 295: Two years, or with fine, or with both
- 295A: Two years, or with fine, or with both
- 296: One year, or with fine, or with both
- 298. One year, or with fine, or with both

Indian penal codes for blasphemy laws and their punishments

- 295: 2 years, or fine, or both⁷⁶
- 295A: 3 years, or fine, or both⁷⁷
- 296: 1 year, or fine, or both⁷⁸
- 298. 1 year, or fine, or both⁷⁹

Malaysian penal codes for blasphemy laws and their punishments

Articles 295-298A of the Malaysian Penal Code provides penalties for those who commit offenses against religion. The penalties range from up to three years in prison or a fine of up to US\$1,000 (approximately).⁸⁰

Indonesian penal codes for blasphemy laws and their punishments

Article 156(A) of the penal code, which stipulates up to five years in prison for anyone who publicly shows “enmity” or “abuses or stains” a religion adhered to in Indonesia, or prevents other people from adhering to such a religion.⁸¹

⁷⁵ http://bdlaws.minlaw.gov.bd/print_sections_all.php?id=11

⁷⁶ <http://www.vakilno1.com/bareacts/indianpenalcode/S295.htm>

⁷⁷ <http://www.vakilno1.com/bareacts/indianpenalcode/S295A.htm>

⁷⁸ <http://www.vakilno1.com/bareacts/indianpenalcode/S296.htm>

⁷⁹ <http://www.vakilno1.com/bareacts/indianpenalcode/S298.htm>

⁸⁰ http://en.wikipedia.org/wiki/Blasphemy_law_in_Malaysia

Article 157 of Indonesian Penal Code states whoever prints hate-inciting materials in words or pictures which can trigger horizontal conflicts will face a jail term up to two years and six months.⁸²

Iran's penal codes for blasphemy laws and their punishments

Article 513- Anyone who insults the Islamic sanctities or any of the *imams* or Her Excellency *Sadigheh Tahereh* should be executed if his insult equals to speaking disparagingly of Prophet Muhammad (PBUH). Otherwise, should be imprisoned from one to five years.⁸³

⁸¹ <http://blog.godreports.com/2011/05/%E2%80%98blasphemy%E2%80%99-law-a-weapon-for-radical-islam-in-indonesia/>

⁸² http://www.ecoi.net/file_upload/470_1281515134_g1013613.pdf

⁸³ http://mehr.org/Islamic_Penal_Code_of_Iran.pdf

Chapter 7: Use and misuse of the blasphemy laws

In a speech that the former Lahore High Court (LHC) chief justice (CJ) Mian Nazir Akhtar delivered at the Jamaat Ahl-e-Sunnat Pakistan (JAP) Central Secretariat on 13 December 2010 he drew two important points to the attention of his audience:

He said that parliament had no right to amend blasphemy laws and if it happened, it would be un-Islamic and Muslims would take the law in their hands and kill people involved in such an act. The former LHC CJ said that after introducing Article 295-C, nobody had been hanged for implementing the law and Islamic history was studied, 100 people were awarded death sentences for committing blasphemy. It is not justice to abolish any law and if it is being misused, we should try to stop such a practice.⁸⁴

Let's take a look at the blasphemy related events that occurred after the enactment of the four blasphemy laws that were initiated by Zia-ul-Haq and later revised during the democratic government of Nawaz Sharif.

The Pakistan Penal Code PPC295C was inserted in 1982 with punishment of life imprisonment or fine. Later, an amendment to this law was made in 1986 to reflect punishment as "death or life imprisonment". On 30th April 1991, the punishment of life imprisonment was replaced with "death only" by court order of 30th October 1990 though the Pakistan Penal Codes available on the website still reflect punishment for PPC295C as "death or life imprisonment" and not as "death only"⁸⁵.

Unprecedented rise of blasphemy cases

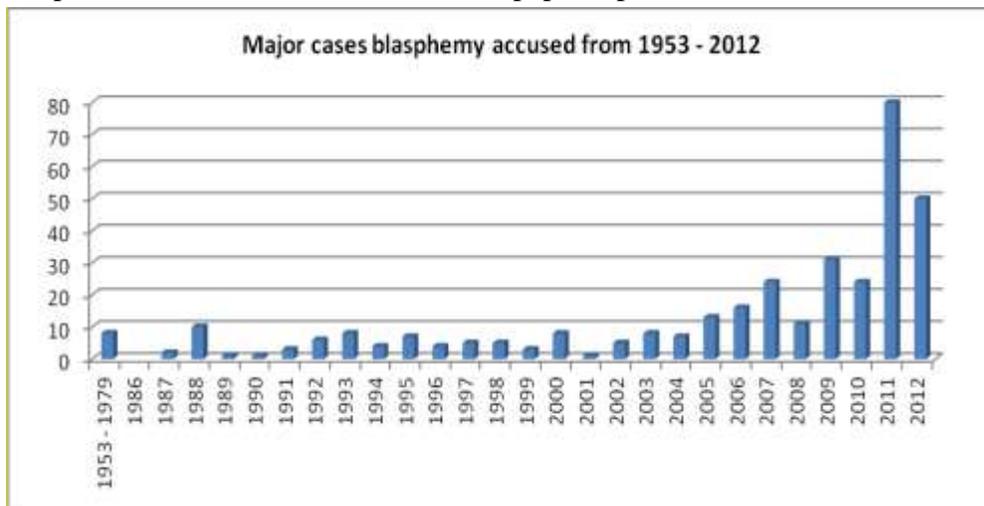
In forty years from 1947 to 1986, the number of blasphemy cases filed in the courts was only eight. After promulgation of blasphemy laws PPC 295B, 295C in 1984 and 1985, this number multiplied and touched the figure of 243.

The cases whose record is not available are stated to be over 1,000 or so. We are now having nine blasphemy cases every year after 1987 as against only eight cases in 30 years preceding 1987. The graph below shows how constantly the trend is going upward.

⁸⁴ <http://www.pakistantoday.com.pk/2010/12/13/city/lahore/holy-prophet-pbuh-awarded-death-sentence-for-blasphemy/>

⁸⁵ <http://www.pakistani.org/pakistan/legislation/1860/actXLVof1860.html>

Graph 1: Source: Court cases and Newspaper reports



From the time of the British Raj to the time of transfer of power to the Muslims in Pakistan, seven blasphemy cases were recorded. After creation of Pakistan, the picture now looks more dismal than what it was during the British Raj:

1713 – 1851	1 blasphemy case in almost 140 years
1851 – 1947	6 blasphemy cases in 95 years
1947 – 1987	8 blasphemy cases in 40 years
1987 – Aug 2012	247 blasphemy cases in 35 years that affected nearly 328 persons.

This data is based on the information that is reliable and accessible. A large number of people affected of similar accusation are suspected to have remained beyond the reach of the news media. However, whatever information is available shows a picture that is very dismal and disappointing.

During the British Raj, only two persons, Mahashay Rajpal and Nathuramal Sharma accused of blasphemy, were extra judicially murdered. After the creation of Pakistan and enactment of these additional blasphemy laws, the number of people extra-judicially murdered has now gone up to 59 persons including men, women, children, and old men (Ref. Table 1). Murder of 59 persons within 22 years means at least 2 persons on the average were extra-judicially killed every year. Some of them were killed soon after their acquittal from the court, an act that was criminal as well as contemptuous to the court, but failed to motivate the court to take a suo moto action or force the government to form a committee to investigate all such cases and seek

opinion from the judiciary, clergy, and the public as to how such illegal acts be precluded in the future.

Table 1: Source: Court cases and newspaper reports

Total Deaths - blasphemy related 1990 - July 2012	Male	Female	Children	Old	Total
Accused (Mob resorted to violence against the blasphemy accused)	3	3	3		9
Death in prison	4	1			5
Extra Judicial	38	3		2	43
Lynching	1				1
Suicide	1				1
Total	47	7	3	2	59

In undivided India, the conflict was between Hindu and Muslim. In Pakistan, it took one step forward and became Muslims versus Muslims conflict as well.

Religion of the persons that were extra-judicially murdered

Hindu	1 person
Ahmadi	5 persons
Christian	15 persons (including 4 women)
Muslim	25 persons (including 2 women)
Budhist	1 person (a woman in Thailand)

There were five deaths in police custody that are suspected to have been victims of extrajudicial killings.

Extrajudicial murder of old men

1992 – Lahore, Dawn, Bantu Masih, 80, tortured to death in police station.

16 Apr 12: Lahore, Express Tribune, Iqbal Butt, 80 years old man, shot dead after acquitted by the court.

Extrajudicial murder of women

31 Jul 11: Gujranwala, express Tribune, Shakila, 35, was shot outside the Gujranwala central jail after she converted to Islam and married for the second time.

2009 – July 31: Gojra, Dawn, Seven people were burnt alive and 18 others injured in Gojra after fresh violence erupted in the town over the alleged desecration of the Holy Quran three days ago. The dead were identified as Hameed Maseeh, 50, Asia Bibi, 20, Asifa Bibi, 19, Imamia Bibi, 22, Musa, 7, Akhlah Maseeh, 40, and Parveen, 50.

24 Aug 03: Lahore, Herald, Naseem Bibi. A policeman accused her without any witness. She died after three months in Kot Lakhpat jail.

10 Jan 99: Rahimyar Khan, Herald, An unidentified Muslim woman who is said to be mentally sick was burnt alive by a mob in Rahim Yar Khan on 10 January 1999. She was accused to have defiled the Holy Quran.

Profession of the persons who were accused of blasphemy

Bishop	1 person (Suicide)
CEO, Facebook	1 person (accused)
Businessmen	3 persons (1 died in prison, 1 was murdered, 1 was accused)
Doctor	1 person (accused)
Film	1 movie (Bol)
Followers of a Pir	65 persons (migrated)

Government Officials:

Governor	1 person (murdered)
Federal Minister	1 person (murdered)
Chairman WAPDA	1 person (accused)
DCO, Lahore	1 person (accused)
Dy. Commissioner	1 person (accused)
Population welfare minister Punjab, Zakia Shah Nawaz, Secretary Javed Akhtar and Director-General Umar Rasool, accusing them of committing blasphemy.	
Govt. Officers	3 persons (accused)
Journalists/Writers	12 persons (Accused, life imprisonment, acquitted, mild punishment)
Judiciary	2 (1 murdered, 1 lynched)
Labour/workers	15 persons (Accused, harassment, extrajudicial murder, acquitted, death sentence, lynching, etc)
Magician	1 person (life imprisonment)
Medical practitioner	10 persons (Harassment, arrested)

After having so many extrajudicial murders and unprecedented rise in blasphemy offenses, it is amply clear that the law has been grossly misused and there is a need to have such practices stopped. Using a conditional clause like “if it is being misused” is a kind of an indication of disbelief in the existence of such practice.

Acquittals of blasphemy accused by the court (1990 – Jul 2012)

18 May 12: Lahore: The News: The Lahore High Court on Thursday acquitted a Christian couple, Munir Masih and Ruqqaya Bibi, in a blasphemy case and set aside an order of a trial court wherein they were sentenced to life imprisonment.⁸⁶

7 April 11: Lahore, Express Tribune: An additional district and sessions judge (AD&SJ) dismissed the plea for registration of a case under the blasphemy law against Dr Waseem Ajmal, the managing director (MD) of Solid Waste Management (SWM) department. The petitioner, a Christian, said the MD responded to his request by making derogatory remarks against Christ and their fasts.⁸⁷

25 Feb 2011, Dawn, MULTAN: Bhakkar police have booked a man under the blasphemy law for instigating a blasphemy case against his estranged friend. However, police have taken no action against the man who is complainant in this sensitive case. Police found during the investigation that Azam and his friend Abdul Basit handed over the SIM of Azam’s phone to Shahnawaz and instigated him to lodge an FIR against Javed. Police have cleared Shahnawaz from this bogus case of blasphemy. DSP Circle Sher Bahadur Niazi says the only thing Javed could do against Shahnawaz is he can move a court against him. Niazi’s statement implies that police cannot take any action against Shahnawaz. Behind the entire story is another story and the story is that Shahnawaz is activist of a banned outfit and police cannot afford to annoy his patron organisation.⁸⁸

5 Mar 2011: According to police, Mohammad Imran, was released along with his friend Sajid Mehmood on 13 February last year. [On 4 Mar 2011, Mohammad Imran] was sitting at a shop near a bus stand in Danda village when three masked gunmen attacked [and killed] him⁸⁹.

⁸⁶ “Couple acquitted in blasphemy case” Daily Times, 18 May 2012, available at <http://images.thenews.com.pk/18-05-2012/ethenews/e-108930.htm>

⁸⁷ “Blasphemy plea against Dr Ajmal dismissed” By Rana Tanveer, April 7, 2011, available at <http://tribune.com.pk/story/144672/blasphemy-plea-against-dr-ajmal-dismissed/>

⁸⁸ “Blasphemy case against ex-friend: Police institute case against instigator” By Shakeel Ahmed, Dawn, 26 February 2011, available at

<http://dawn.com/2011/02/26/blasphemy-case-against-ex-friend-police-institute-case-against-instigator/>

⁸⁹ ‘Another blasphemer’ gunned down, By Mohammad Asghar, Dawn, 5 March 2011, available at <http://www.dawn.com/2011/03/05/another-blasphemer-gunned-down.html>

11 August, 2010: CLAAS UK – A Pakistani Christian woman and her infant son, who spent nearly six months in prison on a false charge of blasphemy, have won a bid for their freedom. Gujranwala session judge, Mohammad Asghar Khan, dropped charges against Rubina Bibi who had been accused of blasphemy against the Prophet.⁹⁰

In July 2010, the Lahore High Court ordered the release of Zaibun Nisa, a woman who was jailed in 1996 on a charge of blasphemy – a complaint that the Quran had been defiled – because of the lack of evidence⁹¹.

July 2010: In July, the Lahore High Court ordered the release of Zaibun Nisa, a woman who was jailed in 1996 on a charge of blasphemy⁹².

Dawn: 2009 – April: Two Christians, both elderly men, James and Buta Masih, from Faisalabad, Punjab, are acquitted by the Lahore High Court in April.

Express Tribune, June 2009: A case was registered against Nazia in June 2009 under Section 295-B of the Pakistan Penal Code in Kharian. The issue was resolved by local elders who found her ‘innocent’. Following that finding the case was dropped.

On 9 May 2007, Raja Riaz, a servant, accused his master, Walter Fazal Khan Khan, 84, a Christian, of burning a Quran at his house. The police arrested Khan under § 295-B. Khan’s family and others said Riaz’s accusation was part of a plot to take Khan’s valuable house and land from him.

12 Dec 2007: LAHORE: The Lahore High Court (LHC) on Tuesday acquitted a blasphemy convict, Muhammad Sharif, and observed that the police should not register such cases without checking veracity of the facts⁹³.

Dawn - 2006 – September 21: Shahid Masih, 17, was jailed on suspicion of ripping book pages containing Quranic verses in Punjab. 2007 - 17 Sep: Judge Muhammad Abdul Sattar acquitted Shahid Masih, aged 18, at a lower court hearing in Faisalabad after prosecution witnesses changed their original testimonies.

⁹⁰ <http://www.pakistanblasphemylaw.com/?m=201008>

⁹¹ “High-profile blasphemy cases in the last 63 years” Dawn, 8 December 2010, available at <http://dawn.com/2010/12/08/high-profile-blasphemy-cases-in-the-last-63-years/>

⁹² Ibid

⁹³ “Blasphemy convict acquitted by LHC” Daily Times, 12 December 2007, available at http://www.dailytimes.com.pk/default.asp?page=2007\12\12\story_12-12-2007_pg7_8

23 Feb 2005, Dawn, Salamat Masih 14, and Rehmat Masih 46, got the death penalty in February. On February 23, 2005 Lahore High Court acquitted Rehmat Masih and Salamat Masih based on the objectionable material since Christians were not familiar with Arabic.

Dawn - 1993 – November 21: Riaz Ahmad, his son, and two nephews from the Ahmadi community were arrested in Mianwali District for their blasphemous remarks. The Sessions Court rejected the bail applications of the accused; however, the Supreme Court granted him bail in December 1997.

1992: The accused in the case reported as Nasim Ahmad v. The State 1992 PCrLJ 2351 applied to the Supreme Court for leave to appear where he was given interim bail pending his appeal. The accused had used words and phrases like “Assalam-o-Alaikum,” “Insha-Allah” and “Bismillah-ur-Rahman-ur-Rahim” etc on the wedding invitation of his daughter, who was married on 15th May 1992. The court observed that, prima facie, use of these expressions did not create feelings of hurt in Muslims, “or for that matter anyone else”. In this context, the Court turned the petition into an appeal and accepted it. The High Court’s order rejecting bail was, accordingly, set aside and the petitioner’s interim bail was confirmed.

1991 – October 08: Chand Barkat, 28, a bangle stall holder in Karachi, was charged with blasphemy by another bangle vendor, Arif Hussain, because of professional jealousy. Hussain decided to teach Barkat a lesson by accusing him of using derogatory language against Prophet Mohammed and his mother. Barkat was charged under section 295-C of PPC, however, he was acquitted by the Sessions Court for want of evidence.

Mukhtar Ahmad vs. The State 1988 PCrLJ 2251 (Criminal Bail Application No. 482/B of 1987, decided on 15 October 1987 by Abdul Razzak A. Thahim, J.). According to the application, it was alleged that Ahmadis in the village of Ahmad Pur were reciting the Quran, offering blessings to the Holy Prophet and, at the time of their congregational prayers, reciting the Azan. The Court held that this was a case of further inquiry and ordered bail subject to the furnishing of a surety of Rs. 50,000

Khalil Ahmad vs. The State 1988 PCrLJ 2255 (Criminal Misc. No. 364 of 1988, decided on 7th April 1988 by Allahdine G. Memon, J.) The accused were arrested of an offence under section 295-C PPC and granted interim bail by the Sessions Judge, Sanghar on 30 December 1987. However, the Sessions Judge withdrew bail on 13 March 1988, wherein the accused filed a bail application before the High Court. The Court distinguished the cases referred to by the defense as they did not deal with the question of publication of blasphemous material and, holding that the cases required further inquiry, granted bail to the accused.

Islam Khan vs. The State (Criminal Appeal No. 793 of 1988, heard on 22 May 1991 by Sh. Muhammad Zubair, J.). A case was registered under sections 506, 149 and 147 PPC and the offence under section 295-C PPC was added later. The Court held that the prosecution had “miserably failed” to prove the accused guilty and set aside his conviction. As Islam Khan was on bail, the Court also discharged him from his bail bond.

Punishment for abusers

If we look at other Muslim countries we find that in Indonesia where religious fundamentalism has started making inroads, the perpetrators of extrajudicial killings of Ahmadis or Christians are, to this date, not allowed to go unpunished.

Therefore, the rule of law needs speedy trials and application of the prescribed punishment to the culprits that indulge into lawlessness in the name of religion. Any leniency, deviation, or inordinate delay in dispensing the judgment, as is observed in many blasphemy cases in Pakistan, result in encouraging rather than curbing the illegal practices.

Chapter 8: Blasphemy cases before and after creation of Pakistan

Muslim blasphemers

Not a single Muslim was ever accused or convicted of committing blasphemy during 200 years of British Raj in India. The known blasphemy cases in Pakistan show that from 1953 to July 2012, there were 434 offenders of blasphemy laws in Pakistan and among them 258 were Muslims (Sunni/Shia), 114 Christians, 57 Ahmadis, and 4 Hindus. From zero Muslim offenders during British Raj, the figure went up to 258 Muslim offenders in a country that was created in the name of the very religion they follow.

To be more precise, this unprecedented growth in the number of offenders began from 1987 and within less than 30 years (1987–July 2012), 426 persons were reported to have been apprehended under this law and 251 were the Muslims among them. According to many other press reports, the number of blasphemy accused persons is much higher than the number reported in this study. The reason the reporter didn't use the figures reported in different reports and columns on the subject is that there is no document to prove their authenticity. A report appeared in the Express Tribune of 13 December 2010 listed about 1,038 persons as accused of blasphemy law till that date⁹⁴. Another article that appeared in the Express Tribune on 27 August 2012, reported 1,058 blasphemy cases⁹⁵. According to the factual data that the reporter, for the period beginning from 1 Jan 2011 to 19 August 2012, shows that nearly 114 persons were accused of blasphemy during this period alone.

⁹⁴ “Blasphemy cases: False accusers escape punishment” Report, Express Tribune, 13 December 2010, <http://tribune.com.pk/story/89376/blasphemy-cases-false-accusers-escape-punishment/>

“...The incidence of implicating innocent people under blasphemy laws is much higher in Punjab than the rest of the country. Astonishingly, 801 of the 1,031 people imprisoned under these laws are Muslim. Of the remaining 230 prisoners 162 are Christians, 15 are Sikh, 28 are Buddhists while 25 persons are adherents of other faiths.

Currently, a total of 130 people are facing blasphemy charges in various prisons across Punjab, including 122 Muslims and eight Christians. Official data obtained by *The Express Tribune* shows that at least 232 people were freed from 32 jails in the province because of lack of evidence and as many as 554 people were out on bail because of an “out-of-court settlement” – a recourse unavailable to such accused. Of the total, cases against 339 were dropped, 13 died in jails of natural causes, one detainee committed suicide in jail, one was murdered in jail while two prisoners were murdered outside jails. ...”

⁹⁵ “Pakistan’s blasphemy law” By Aakar Patel, Express Tribune, 27 August 2011, available at <http://tribune.com.pk/story/426498/pakistans-blasphemy-law/>

Minorities as the highest blasphemers

Although the number of people belonging to minority communities accused of blasphemy appears to be lower than the number of Muslims, the percentage of the population turns this lower number into a figure that is many times higher than the number of Muslim offenders of this law.

Table 2: Source: Court cases and newspaper reports

From 1953 - Jul 2012	No of Cases	No. of Persons	Sunni	Christian	Hindus	Ahmadis	Shia	Total No. of Minority
Balochistan	3	9	3			<u>6</u>		6
Islamabad	5	11	3	8				8
KPK	9	10	7	1	1	<u>1</u>		3
Punjab	157	271	131	99		37	4	140
Sindh	37	42	28	3	3	7	1	14

Desecration of Holy places by the Muslims

Blasphemy law PPC295 prohibits desecration of any holy place and the offender is liable for punishment of two years. During British Raj not a single Muslim's holy place was ever desecrated by any Muslim in India whereas in Pakistan nearly 84 holy places were desecrated by the extremist Muslim groups.

Table 3: Source: SATP and local newspaper reports

Holy Places Desecrated during 2001-Feb 2011 (Wikipedia & Exp. Tribune)	No. Of Holy Places	Killed	Injured	Attack	Bomb	Suicide	Clash
Mosque	41	582	1099	19	12	10	
Imambargah (Shia mosques)	20	271	858	4	6	10	
Ahmadi Mosque	3	104	112	2		1	
Shia Procession	4	158	613	1	2	1	
Sufi Shrine	9	183	456	1	2	5	1

Church	6	32	86	4	2		
Medressah (Religious seminary)	1	11		1			
Total	84	1341	3224	32	24	27	1

Sectarian violence among Muslim sects

No sectarian clash between different Muslim sects was ever reported during British Raj in India. In Pakistan, sectarian violence has now become a routine incident and a data from 2001 – October 2011 shows that no part of the country was safe from it. The number of deaths due to sectarian violence is 1,843 persons during the above period:

Table 4: Source: SATP and local newspaper reports

Deaths due to Sectarian Violence in Pakistan - 2001 - October 2011												
	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	Oct 2011	Total
Balochistan			58	42	36			6	5	106	104	357
FATA							5	1	4	179	14	203
AJK									15			15
Islamabad		5			20							25
KPK					2	17	112	97	187	117	11	543
Punjab	16	22	2	31	8				84	291	64	518
Sindh		1	10	44	8			4	30	78	7	182
Total	16	28	70	117	74	17	117	108	325	771	200	1843

Women blasphemers

No female was accused of blasphemy in the undivided India during British Raj. In Pakistan, after the introduction of more stringent blasphemy laws during General Zia-ul-Haq regime, we witnessed at least 50 females being accused of blasphemy in the whole country. It happened within a short period of only 12 years from 1999 to July 2012. Among these female blasphemers, the highly affected were the members of minority community. Only 9 women were Muslims and the remaining 41 women were belonging to Christian (30 females), Ahmadis (9), Budhist (1), and Hindu (1) faiths. Even some of these females were extra-judicially murdered too; one mentally disabled Muslim woman was burnt alive in Rahim Yar Khan in 1999, one Christian woman Naseem Bibi died mysteriously in Kot Lakhpat Jail in 2003, three

(3) Christian women were killed during the riot in Gojra triggered by an accusation of blasphemy in 2009, and one Christian woman was killed by her former husband because of her conversion from Christianity to Islam.

Teenager blasphemers

Teenagers, both boys and girls, are also accused of committing blasphemy. It also began happening after the promulgation of blasphemy law during Zia era and majority of these cases took place in Punjab. Here are the details:

1993 – November 21: Mianwali, Riaz Ahmad, his son, and two nephews from the Ahmadi community were arrested in Mianwali District for their blasphemous remarks. (Dawn)

18 Oct 04: Wah Cantt: A Christian, Tasneem Dean's family forced to flee their home in Wah Cantt in Punjab province after their 11-year-old daughter accidentally put a copy of the Koran in garbage. (Daily Times)

2006 – September 21: Punjab, Shahid Masih, 17 years old accused of ripping pages of the Holy Quran. Judge Muhammad Abdul Sattar acquitted him after one year of jail. (Dawn)

September 15, 2009: Sialkot, A 19-year-old Christian from a village near Sialkot was found dead in jail. "Robert" Fanish Masih had been in jail since September 11th, accused under Section 295-B. (Daily Times)

2009 – January 28: Layah, The Punjab police arrested a labourer and four students for blasphemy, all of whom were Ahmadi. (Four Ahmadi boys from Layyah, Punjab province, aged 14 to 16, were arrested in Layah. (Dawn)

11 Dec 10: Kulluwall, Punjab, Teenaged Muslim named Muhammad Shafique was sentenced to hang for cursing the Prophet Muhammad and tossing pages of the Koran onto "cow dung and urine." two years ago in 2008. (Washington Post)

12 Jan 11: Muzaffargarh, Punjab, Mohammad Shafi, 45, and his son Mohammad Aslam, 20, were arrested in April last year for removing a poster outside their grocery shop advertising an Islamic event in a nearby village which allegedly contained Koranic verses. (AFP)

30 Jan 11: Karachi, Syed Samiullah, 17 year old made blasphemous remarks in answer sheets of physics and Islamic studies. (Dawn)

01/12/2011: Khushab, Punjab, Sajeel Ahmed, 18, Rana Hakim Jameel, Father and Headmaster accused the son for committing blasphemy and his father for registering his son as a Muslim in the school. (Express Tribune)

26 Jun 12: Quetta, Angry protesters, mostly Afghan refugees, torched several vehicles and pelted police with stones,” The clash left two children dead and 19 people wounded including eight policemen. (The Express Tribune)

Aug 18, 2012: Islamabad: An 11-eleven-year old Christian girl was accused of blasphemy and arrested for allegedly burning pages of a Noorani Qaida, a booklet used to learn the basics of the Holy Quran.⁹⁶

Religious people as blasphemers

Even the custodians of religion are not safe from such accusations. A collection of data on such cases shows that neither clergy men from non-Muslim community nor their counterparts from Muslim community remained safe from these allegations during last eight years. Here are the details:

21 April 1995: A Hafiz-e-Quran, Dr. Sajjad Farooq, was beaten to death by religious vigilantes in Gujranwala on false blasphemy charges. (Dawn)

Abdur Rashid v. The State 2000 YLR 1306 (Criminal Appeal No.523 of 1999, decided on 30 August 1999 by Khawaja Muhammad Sharif, J.) On 1 June 1999, the Special Judge, Anti-Terrorist Court II, Lahore convicted Qari Abdur Rashid of an offence under section 295-A PPC as well as an offence under section 188 PPC and sentenced him to six months rigorous imprisonment. In appeal before the High Court, it was contended that, as per the provisions of section 196 CrPC, the complaint upon which the Anti Terrorist Court took cognizance was not sanctioned by the Provincial or the Central Government. Therefore, without going into the merits of the case, the appeal was accepted and the appellant was set free.

2002 – June 11: A 55-year-old Muslim cleric, Mohammed Yousaf Ali, convicted of blasphemy was shot dead in the Lahore prison. The murderer was another prisoner, Tariq Mota, a member the banned Sunni militant group Sipah-e-Sahaba. Ali had been sentenced to death for blasphemy on August 5, 2000, in a case filed by another militant group who disapproved of his religious views. Ali had been vocal in condemning religious extremism. (Dawn)

⁹⁶ Express Tribune, Qaiser Zulfiqar, August 18, 2012, available at <http://tribune.com.pk/story/423815/11-year-old-christian-girl-accused-of-blasphemy/>

2003: Maulvi Sanaullah (Muslim) was murdered by unidentified assailants at Kasur in 2003. Maulvi Sanaullah, Kasur (Punjab), 2002, Murdered while he was on bail. (Herald - A Preview)

March 04, 2006: An imam in Ganj Mandi, Rawalpindi was charged under Section 295-B for desecrating Koran. Maulvi Arif confessed that he had only tried to burn an extinct copy of the Koran “in accordance with Shariat.”⁹⁷ 27 July 2008: KARACHI: Residents of Ittehad Town tried to kill the man for blasphemy within the jurisdiction of Baldia Police Station. Munawar Baba, son of Rehmat Ali, is the resident of Ittehad Town and is a faith healer by profession. In a suburb of Karachi, Munawar Baba was severely beaten by a lynch mob but was rescued by police and charged. Some police were also injured by the mob. Babar claimed to be a faith healer and had allegedly performed “blasphemous acts” which provoked the crowd to kill him. (Daily Times)

KASUR, Sept 5, 2009: The Phoolnagar Sadar police have registered a blasphemy case against an alleged faith healer and his six disciples under Section 295-C of the Pakistan Penal Code (PPC) following a protest of hundreds of people in Jambar Kalan on Multan Road on Saturday. (Dawn)

Pastor Shafiq and Naveed Masih; A Biblical Blunder; 2009, in District Narowal of Gujranwala The evangelist Pastor Shafeeq- elder brother of Naveed, who graduated from Bible Theosophical Society, was reading a handbill. The inscription contained a reference from Bible in a controversial manner⁹⁸.

12 January 2011: Multan, Pakistan — The Pakistani court has jailed a Muslim prayer leader and his 20-year-old son for life on controversial blasphemy charges in the rural centre of the country. (AFP)

4 September 2011: Shahbaz Taseer abduction splited Barelvi group: LAHORE: The spokesman of a Barelvi group that had called for the assassination of Salmaan Taseer is under fire from colleagues for condemning the kidnapping of Shahbaz Taseer, the slain governor’s son. Ziaul Haq Naqshbandi, the spokesman for Tahafuz Namoos-i-Risalat Mahaz (TNRM) and president of the Fikr Writers Forum, issued a press statement a few days ago condemning Shahbaz Taseer’s abduction and calling on religious parties to do the same. He said that it was un-Islamic to punish someone “for the sins of his parents”. Naqshbandi told The Express Tribune that he had been criticized by his party colleagues and they were threatening to expel him for issuing a statement “in favor of the son of a blasphemer”. (Express Tribune)

⁹⁷ <http://web.archive.org/web/20060314141827/paktribune.com/news/index.php?id=136231>

⁹⁸ http://voiceofthecoets.org/en/press_release/christian_brothers_spend_two_months_in_prison_for_blasphemy.html

April 10, 2012: KHUSHAB: Khushab district police officer has sought assistance from the Muttahida Ulema Board Punjab in a blasphemy case against two Shia clerics. The particulars of the FIR, a compact disc with recordings of allegedly blasphemous lectures by a Shia zakir and the legal opinion of the district public prosecutor have been sent to the board, Ghulam Murtaza, personal staff officer to the DPO, told The Express Tribune. Murtaza said the matter was referred to the board to ensure that the prosecution was in accordance with the law. (Express Tribune)

May 24, 2012, LAHORE: A cleric in Sialkot district disrupted a Saturday mass, abused the pastor and is now threatening to register a blasphemy FIR against him for drawing upon verses from the Quran during his sermon. Pastor Messiah George had been invited by Data Zedka village Christians to give a sermon at the local church. (Express Tribune)

Conclusion

What we are witnessing now has no precedence in the history of pre-Zia Pakistan and of the undivided India. The whole movement of separate homeland for the Muslims of India now appears to have lost its credence and direction. What Maulana Abul Kalam had said in his message is proving to be very relevant; “I fear it may happen that it may not be possible for you to save your own imaan.⁹⁹” Do we want to continue proving him right or put a stop to it by taking another look at the facts provided in this report and decide what steps we need to take to put us back into the right direction? What’s the purpose of having laws when people are not made to follow them? What is the purpose of repealing any law when people are allowed to make their own law and implement it the way they like it? Here are a few examples of cases where different human acts were interpreted as blasphemous:

Calling a human made law as “black law”¹⁰⁰, design of a worship place of Ahmadis¹⁰¹, throwing a visiting card in the dust bin¹⁰², quote from the Holy Quran by a Christian Pastor¹⁰³, acquittal of an accused blasphemer by the Court¹⁰⁴, taking a stand against the police¹⁰⁵, naming a child¹⁰⁶, spelling error¹⁰⁷, condemning a kidnapping of a son of an alleged blasphemer¹⁰⁸, cloth manufacturing¹⁰⁹, taking down religious banners/posters¹¹⁰, and raising religious slogans¹¹¹.

⁹⁹ <http://www.sunniforum.com/forum/showthread.php?39746-Moulana-Abul-kalam-Azad-last-speech-to-muslims-of-india>

¹⁰⁰ Calling blasphemy law as “black law” became a blasphemy and resulted in assassination of the Punjab Governor Salman Taseer. “Taseer’s remarks about blasphemy law “, Express Tribune, 5 January 2011, Hassan Choudary, available at <http://tribune.com.pk/story/99277/taseers-remarks-about-blasphemy-law/>

¹⁰¹ “Anti-Ahmadi laws: Police act as worship place ‘looks like a mosque’”, Express Tribune, Rana Tanveer, 4 May 2012, available at <http://tribune.com.pk/story/373787/anti-Ahmadi-laws-police-act-as-worship-place-looks-like-a-mosque/>

¹⁰² “Doctor arrested for blasphemy: police” Dawn, 12 December 2010, AFP, <http://dawn.com/2010/12/12/doctor-arrested-for-blasphemy-police/>

¹⁰³ “Quote from the Holy Quran by a Christian Pastor” Express Tribune, Rana Tanveer, May 24, 2012, available at <http://tribune.com.pk/story/383313/face-off-you-cannot-quote-from-the-quran/>

¹⁰⁴ “80-year-old acquitted of blasphemy shot dead” Express Tribune, 6 April 2012, By Asad Kharal, available at <http://tribune.com.pk/story/365387/80-year-old-acquitted-of-blasphemy-shot-dead/>

¹⁰⁵ “Harassment: Christian activist says he fears death at police’s hand “By Asad Kharal, Express Tribune, 28 January 2012, available at <http://tribune.com.pk/story/328240/harassment-christian-activist-says-he-fears-death-at-polices-hand/>

¹⁰⁶ “The name ‘Jew’ lands Christian in trouble” January 9, 2012 By Asad Kharal, Dawn: January 9, 2012, <http://tribune.com.pk/story/318741/the-name-jew-lands-christian-in-trouble/>

¹⁰⁷ “Girl accused of blasphemy for a spelling error” Dawn, Muhammad Sadaqat, 25 Sep 2011, available at <http://tribune.com.pk/story/259907/girl-accused-of-blasphemy-for-a-spelling-error/>

¹⁰⁸ “Abduction splits Barelvi group”, Express Tribune, Rana Tanveer, 4 Sep 2011, available at <http://tribune.com.pk/story/244436/abduction-splits-barelvi-group/>

¹⁰⁹ “Targeting textiles: Taliban make bonfire of ‘un-Islamic’ cloth” Express Tribune, AFP, 27 Jul 2011, available at <http://tribune.com.pk/story/217682/tp-make-bonfire-of-un-islamic-cloth/>

¹¹⁰ “For taking down banners – SIC plans to sue DCO for blasphemy” Pakistan Today, Karamat Bhatti, 20 April 2011, available at http://www.pakistantoday.com.pk/2011/04/for-taking-down-banners-sic-plans-to-sue-dco-for-blasphemy/?thick=off&KeepThis=true&TB_iframe=true&height=540&width=962

¹¹¹ “Trial pits brother against brother in ‘blasphemy’ case”: Dawn, Shakeel Ahmed, 9 Feb 2011, available at <http://dawn.com/2011/02/09/trial-pits-brother-against-brother-in-blasphemy-case/>

These are a few incidents of self-made allegations of blasphemy against different people and most of them had support and blessing of a Pesh Imam or a Qari. Such incidents are constantly growing and unless a decision is taken to either such self-motivated actions should be condemned by Ulema and judiciary or they be made a part of blasphemy law if our law makers, Ulema, and judiciary agree to it. The ATC decision in the case of Salman Taseer's murder can be a good source of guidance. It reads:

... Firstly, can a person who is leading a sinful life be termed an apostate? Secondly, if he is deemed an apostate, then who will execute him? Obviously individuals cannot be given the authority to judge someone an apostate, infidel or non-Muslim. Moreover, individuals can not be allowed to execute the punishment on such persons because it will pave the way for anarchy, turmoil, restlessness and lawlessness in society.¹¹²

A study on any social problem can perform only one duty in every society; to show the mirror to the people and let them decide if they find their image acceptable. If the society wants to carry on with the image that the mirror reflects, nobody can make them change their ways. If this report helps the relevant people like politicians, judiciary, and religious authorities in the country to revisit their position on this disputed issue and take some measures to bring an end to the blatant misuse of the blasphemy law, it will be a great satisfaction for all the hard work that went into the production of this report.

The Justice Munir's report on the Punjab Disturbance of 1953 refers to a comment of the Lahore High Court that it included in its judgement for rejecting the appeal of a widow of an extrajudicially murdered Ahmadi schoolmaster that said:

"...any recurrence of this species of crime [extrajudicial murder because of religious hatred], which tends to bring religion into disrepute and to make it the laughing stock of the world, might induce us to take a different view and revert to the normal sentence for murder."¹¹³

To this date, nearly 52 persons have been extra-judicially murdered that include judge, governor, maulanas, men, women, mentally challenged persons, and even teenagers of 11 to 17 years of age. Isn't it enough number of cases for the judiciary to take a different view of this species of crime now?

mit jaye gi makhlook tu insaaf kero gaye
munsif ho tu ab hasher utha kuon nahin dete? (Faiz)

¹¹² Verdict is in: Death penalty for Taseer's assassin, Express Tribune, 2 October 2011, By Mudassir Raja, available at <http://tribune.com.pk/story/265093/verdict-is-in-death-penalty-for-taseers-assassin/>

¹¹³ Punjab Disturbances of 1953, P.25, available on http://www.thepersecution.org/dl/report_1953.pdf

Attachment - A

- *P L D 1991 Federal Shariat Court 10*
- *Before Gul Muhammad Khan, CJ., Abdul Karim Khan Kundi, Ibadat Yar Khan,*
- *Abdul Razzak A. Thahim and Fida Muhammad Khan, JJ*
- *MUHAMMAD ISMAIL QURESHI versus Federation of PAKISTAN*
- Shariat Petition No.6/L of 1987, decided on 30th October, 1990.

JUDGMENT

- GUL MUHAMMAD KHAN, CJ. -----This order shall also dispose of Shariah Petition No. 1/L of 1984 and S.S. M. No. 106/87 on the same point. Petitioner Muhammad Ismail Qureshi, Advocate, challenges section 295-C of the Pakistan Penal Code which was enacted vide Ordinance I of 1988. Earlier, the same petitions had moved a similar application (Shariat Petition No. 1/L of 1984) but before, it could be decided the legislature, of its own, amended the law and inducted section 259-C, P.P.C., referred to above. The petitioner feeling unsatisfied even with that has approached this Court. Section 295-C reads as under:--
- “Section 295-C. Use of derogatory remarks etc. in respect of the Holy Prophet--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 Muhammad (p.b.u.h.) shall be punished with death, or imprisonment for life and shall also be liable to fine.”
- 2. The precise objection taken against this provision is that the alternate punishment of life imprisonment therein is repugnant to the Injunctions of Islam as laid down in the Holy Qur'an and Sunnah of the Holy Prophet (P.B.U.H). The contention raised is that any disrespect or use of derogatory remarks etc. in respect of the Holy Prophet (P.B.U.H.) comes within the purview of hadd and the punishment of death provided in the Holy Quran and Sunnah cannot be altered. The learned counsel had relied on Verse 13 of Surah Anfal, Verse 65 of Surah Al-Nisa in this regard. The learned counsel also referred to some Traditions of the Holy Prophet (P.B.U.H.) in support of his plea to plead that the sentence of death only is the punishment and no Court shall be given the authority, to pronounce the lesser sentence of life imprisonment.
- 3. This Court issued public notices and also requested some Jurist consultants to assist. The case was heard at Lahore, Karachi and Islamabad on so many dates and had the assistance of the following Jurist consultants:--
- (1) Maulana Subhan Mahmood Sahib.
- (2) Maulana Mufti Ghulam Sarwar Qadri Sahib.
- (3) Maulana Hafiz Salahuddin Yousaf Sahib.

- (4) Maulana Muhammad Abdo-hu Al-Falah Sahib.
- (5) Maulana Syed Abdul Shakoor Sahib.
- (6) Maulana Fazle Hadi Sahib and
- (7) Maulana Saeed-ud-Din Sherkoti Sahib.
- Out of the above, the following supported the plea taken by the petitioner to say that sentence of death is only sentence for this offence:--
 - (1) Maulana Subhan Mahmood Sahib.
 - (2) Maulana Mufti Ghulam Sarwar Qadri Sahib.
 - (3) Maulana Harz Salahuddin Yousaf Sahib.
 - (4) Maulana Muhammad Abdo-hu Al-Falah Sahib.,
 - (5) Maulana Syed Abdul Shakoor Sahib and
 - (6) Maulana Fazle Hadi Sahib.
- The following further stated that in case repentance is shown by the offender the sentence would be waived:--
 - (1) Maulana Subhan Mahmood Sahib.
 - (2) Maulana Mufti Ghulam Sarwar Qadri Sahib and
 - (3) Maulana Hafiz Salahuddin Yousaf Sahib.
- Maulana Saeed-ud-Din Sherkoti, however, stated that even lesser punishment could be given.
- 4. Maulana Subhan Mahmood relied upon Verses 9:65 and 66, 33:57, 49:2, 2:217, 5:75. 39:1, 65, 47:28. He has related some Ahadith and juristic opinions wherein the contemnors has been considered an apostate. He has further relied upon a Hadith related on the authority of Abu Qulabah wherein the punishment of contemnor has been prescribed as death. He has also relied upon the Hadith related by Qazi Ayaz that Holy Prophet said "Kill the person who abuses the Prophet and whip the one who abuses his companions." He also relied upon Ahadith that the Holy Prophet (P.B.U.H.) had punished his contemnors with death. He also referred to the consensus of opinion of the Jurists that the punishment of contemnor is death. He further maintained that the punishment of life imprisonment can be given to a woman contemnor or a non-Muslim contemnor of the Holy Prophet (P.B.U.H).
- 5. Maulana Mufti Ghulam Sarwar Qadri, relied upon Verses 49:57, 9:65,66, 9:61-62. 58:8, 33:57, 4:65, 2:104 of the Holy Quran and some Ahadith to say that punishment of death only is prescribed for contemnor. He also referred to the Ahadith wherein the Holy Prophet (PBUH) had pardoned his contemnors. He also cited verses of Holy Quran and also Ahadith of the Holy Prophet (P.B.U.H) to argue that they are clear on the point that repentance is acceptable in any offence. Reference was also made to the sayings of the prominent Hanfi Jurists specially` Ibri Abidin and concluded that the repentance of the contemner is acceptable and this is the preferred view of Hanafi Jurists.
- 6. Maulana Harz Salahuddin Yousaf relied upon the views of Hanafi Jurists that the repentance of the contemnor can be accepted and thereafter he will not be given the

punishment of death. He also cited verses of Holy Quran and Ahadith of the Holy Prophet (P.B.U.H), particularly, a Hadith related on the authority of Ibn Abbas that Holy Prophet (P.B.U.H.) said, "Kill the person who changes his religion (Islam):" In his view a Muslim contemnor becomes an apostate and so must be condemned to death. He also quoted opinion of Ibn Taimiyyah that the punishment of the contemnor is death. He also relied upon the views of Imam Malik Shah and Ahmad to the same effect.

- 7. Maulana Muhammad Abdu-hu Al-Falah, among other verses relied upon Verse 4:46 of the Holy Ouran and Ahadith of the Holy Prophet (P.B.U.H) wherein the Prophet has prescribed the punishment of death for his contemnor. He further stated that there is consensus of the opinion among the Jurists on the point that the punishment of the contemnor is death.
- 8. Maulana Syed Abdul Shakoor cited Verses 9:24, 33:57 and 9:12. He also quoted Hadith of the Holy Prophet (P.B.U.H.) that the punishment of contemnor is death and that he did punish his contemnors with death. He further quoted views of different Jurists from the book Al-Fiqh ala Mazahibil Arb'a by Abdul Rehman Jazeeri, Vol. V, pages 274-275 and Raddul Mukhtar Vol. III pages 290-291.
- 9. Maulana Fazle Hadi, relied upon Verses 49:2, 33:57,28, 58:22, 9:12, 9:65 and 66. He also cited some Ahadith of the Holy Prophet (p.b.u.h.) wherein the punishment of death has been prescribed for the contemnor of the Prophet. He also quoted opinions of Jurists that the punishment of the contemnor is death.
- 10. Maulana Saeed-ud-Din Sherkoti, quoted Verses 48:9, 49:2,3,53, 4:13, 2:187, 229 and 33:57 of the Holy Quran. He also cited many of Ahadith wherein the Holy Prophet (P.B.U.H) had punished his contemnors with death as also he had pardoned some of his contemnors. He also referred to many views of Jurists specially those described by Maulana Ashraf Ali Thanvi in his book Imdadul Fatawa Vol. V, pages 166-168.
- 11. Almost all the Jurist consultants have relied upon the following verses which are as under:--
 - "33:57 Lo! Those who malign Allah and his Messenger, Allah have cursed them in the world and the Hereafter, and have prepared for them the doom of the disdained.
 - Explaining this verse Allama Qurtubi writes:
 - "Everything which becomes a means of maligning of the Holy Prophet whether by quoting words bearing different meanings or similar actions comes under malign? (Al-Jamiu Liahkamil) Quran, Vol.XIV, page 238)."
 - Allama Ismail Haqqi while explaining this verse writes:
 - "With the maligning of Allah and his Prophet is meant only the disgrace or disrespect of the Prophet in fact, and mentioning of Allah is only for glorification and exaltation and to disclose that the maligning the Holy Prophet is indeed the maligning of Allah."
- 12. The next verses relied upon (9:61-62) is as follows:--
 - "9:61-62 And of them are those who vex the Holy Prophet and say: He is only a hearer. Say: A hearer of good for your, who believeth in Allah and is true to the believers, and a

mercy for such of you as believe. Those who vex the Messenger of Allah, for them there is a painful doom."(9:61).

- "They swear by Allah to you (Muslims) to please you, but Allah, with His Messenger, hath more right that they should please him if they are believers." (9:62).
- Ibn Taimiyyah while explaining these verses writes: "Verse 9:62 denotes that the maligning of the Prophet is the opposition of Allah and His Prophet" (Assarimul Mashel, pages 20, 21).
- 13. Ibn Taimiyyah further writes: "It is related on the authority of Ibn Abbas that when a man from a group of contemnors came to the Prophet, he said to him why you and your friends abuse me." That person went and brought his friends and they all swore in Allah and said that they have not abused him. On this the following verses were revealed:--
 - 58:18:
 - "On the day when Allah will raise them all together, then will they swear unto him as they (now) swear unto you, and they will fancy that they have some standing. Lo! Is it not they who are the liars?
 - 58:20:
 - "The devil hath engrossed them and so hath caused them to forget remembrance of Allah. They are the devil's party. Lo! Is it not the devil's party who will be the losers?
 - These verses are linked with Verse 58:20 which is as under:--
 - 58:20:
 - "Lo! Those who oppose Allah and His messenger, they will be among the lowest."
- 14. Thus this link of the verses of the Holy Qur'an is obvious that these abusers and contemnors of the Prophet are the opponents of Allah and His Prophet about whom the Qur'an says:
 - "When thy Lord inspired the angels, (saying) I am with you. So make those who believe stand firm. I will throw fear into the hearts of those who disbelieve. Then smite their necks and smite of them each finger (8:12).
 - That is because they opposed Allah and His messenger. Whoso opposed to Allah and His messenger, (for him) Lo! Allah is severe in punishment. (8:13).
 - And if Allah had not decreed migration for them. He verily would have punished them in this world, and theirs in the Hereafter is the punishment of the Fire.(59:3).
 - That is because they were opposed to Allah and His messenger; and whoso is opposed to Allah (for him) verily Allah is stern in reprisal." (59:4).
 - So these verses clearly prescribe the severe punishment of death for the opponents of Allah and his Prophet, who include contemnors of the Prophet (P.B.U.H) (ibid., page 24).
- 15. The Holy Qur'an further mentions in this regard:--
 - "Ii the hypocrites; and those in whose hearts is a disease, and the alarmists in the city do not cease. We verily shall urge thee against them, and then they will be your neighbours in it but a little while. (33:60),

- Accursed, they will be seized wherever found and slain with a (fierce) slaughter." (33:61).
- These verses state that the punishment of these munafiqs (contemnors) is death. (ibid., page 42).
- 16. The Holy Qur'an has described the glorification and exaltation of the Prophet in another way and has ordered the Muslims to maintain it and be careful in this regard otherwise their good deeds will be rendered vain. Quran says:--
- "O ye who believe! Lift not up your voices above the voice of the Prophet, nor shout when speaking to him as ye shout one to another, lest your works be rendered vain while ye perceive not." (49:2).
- Ibn Taimiyyah while explaining this verse writes "In this verse the believers have been prohibited from raising their voices over the voice of the Prophet and that their loud voice before the Prophet may not render their good deeds as vain and they will not understand it.
- 17. It is obvious from different Verses of Qur'an that infidelity and apostasy render actions of any person as vain. The Holy Qur'an says:--
- "They question thee (O Muhammad) with regard to warfare in the sacred month. Say: Warfare therein is a great (transgression), but to turn (men) from the way of Allah, and to disbelieve in him and in the Inviolable place of Worship, and to expel his people thence, is a greater (sin) with Allah, for persecution is worse than killing. And they will not cease from fighting against you till they have made you renegades from your religion, if they can. And whoso becometh a renegade and dieth in his disbelief such are they whose works have fallen both in the world and the Hereafter. Such are rightful owners of the Fire: they will abide therein. (2:217).
- This day are (all) good things made lawful for you. The food of those who have received the Scripture is lawful for you, and your good is lawful for them. And so are the virtuous women of those who received the Scripture before you (lawful for you) when ye give them their marriage portions and live with them in honor, not in fornication, nor taking them as secret concubines, whose denieth the faith, his work is vain and he will be among the losers in the Hereafter. (5:5).
- This is the guidance of Allah whereby he guideth whomsoever of his bondmen he listeth. And if they had associated, to naught would have come all that they were wont to work. (6:88).
- And verily it hath been revealed unto thee as unto those before thee (saying); If thou ascribe a partner to Allah thy work will fail and thou indeed will be among the losers. (39:65).
- That is because they are averse to that which Allah hath revealed, therefore maketh he their actions, fruitless. (47:9).

- 18. In order to stop insinuations against the Prophet, Holy Qur'an prohibited the believers to use ambiguous words as used by the jews for insulting the Prophet. The Holy Qur'an says:--
 - "O ye who believe! say not (unto the Prophet):
 - "Listen to us" but say "Look upon us, and be ye listeners. For disbelievers is a painful doom:" (2:104).
 - Maulana Muhammad Ali Siddiqui while explaining this verse, writes: "The jews used this word as insult of the Prophet. The word `raina has two meanings, good and bad. Its good meaning is "Be kind and attentive to us. The bad meaning is that jews spoke it Raena which means "Oh! Our shepherd" and they used this word to degrade the Prophet. So it is an innuendo amounting to contempt of the Prophet. Therefore Muslims were prohibited to use this word so as to stop all the means which lead to the contempt of the Prophet.
- 19. The jews used the word raina as raena for defecting the religion (of Islam). Holy Quran says:--
 - "Some of those who are jews change words from their context and say: `We hear and disobey; hear thou as one who heareth not' and `Listen to us!' distorting with their tongues and slandering religion. If they had said: `we hear and we obey; hear thou, and look at us' it had been better for them, and more, upright. But Allah hath cursed them for their disbelief, so they believe not save a few." (4:46).
 - Allama Qurtubi writes, "they Muslims were prohibited from speaking this word so as to stop the means leading to the contempt of the Prophet. The glorification and exaltation of Prophet is the base of the religion and thus depriving it is depriving the religion:" (Maalimul Quran by Muhammad Ali Siddiqui, Vol. I, pages 463-468).
- 20. It has been related on the authority of Abdullah Bin Abbas that a munafiq man named Bishar had a dispute with a jew in some matter. The jew told him to go to the Prophet for decision and the munafiq told him to go to Kaab Bin Ashraf. Anyhow they went to the Holy Prophet (p.b.u.h.) and the Prophet decided in favour of the jew. The person (munafiq) was not willing on that decision and thus they brought the dispute before Hazrat Umar. The jew told Hazrat Umar that Holy Prophet (P.B.U.H.) has already decided in my favour but this man was not willing on that. Then Hazrat Umar said to munafiq: "Is this so". He said "Yes". Hazrat Umar went inside, got his sword and killed the munafiq and said, "I decide so for the person who does not agree to the decision of the Holy Prophet." On this Verse 4:65 was revealed which is as under:--
 - "By nay, by thy Lord, they will not believe (in truth) until they make thee judge, of what is in dispute between them and find within themselves no dislike of that which thou decidest, and submit with full submission." (4:65).
 - (Ruhul Maani, Vol. V, page 67). This action of Hazrat Umar as approved by Holy Qur'an is an authority for the sentence of death for contempt of the Holy Prophet (P.B.U.H).

- 21. The Holy Qur'an has further declared that the contempt of the Prophet is apostasy in any form it may be. Holy Qur'an says:--
 - "And if thou ask them (O Muhammad) they will say: We did but talk and jest. Say: Was it at Allah and his revelations and his messenger that ye did scoff? (9:65).
 - Make no excuse. Ye have disbelieved after your (confession of) belief. If we forgive a party of you, a party of you we shall punish because they have been guilty." (9:66).
- 22. Ibn Taimiyyah while explaining these verses writes, "This text is on the point that cutting jokes with Allah, his verses and His Prophet is infidelity. So the contempt is more liable to be infidelity as is derived from this verse that he who insults the Prophet becomes apostate." (Assarimul Maslul, page 31).
- Abu Bakar Ibn Arabi while explaining this verse writes, "the hypocrites spoke this word either intentionally or as a joke and whatever the case may be it is infidelity because making joke with the words of infidelity is also infidelity. (Ahkmul Qur'an, Vol. 11, page 964).
- 23. The Holy Qur'an, as a glorification of the Holy Prophet (P.B.U.H) prohibited even the slightest cause of annoyance and declared that marriage with the wives of the Prophet after his death is prohibited for the believers so as to avoid not being means of the contempt of the Prophet. Holy Quran says:--
 - "O ye who believe! Enter not the dwellings of the Prophet for a meal without waiting for the proper time, unless permission be granted you. But if ye are invited enter and when your meal is ended, then disperse. Linger not for conversation. Lo! That would cause annoyance to the Prophet, and he would be shy of (asking) you (to go); but Allah is not shy of the truth. And when ye ask of them (the wives of the Prophet) anything, ask it of them from behind a curtain. That is purer of your hearts and for their hearts. And it is not for you to cause annoyance to the messenger of Allah, nor that ye should, ever marry his wives after him. Lo! that in Allah's sight would be an enormity. (33:53)."
- 24. The Holy Prophet (p.b.u.h.) is the best interpreter of the above-noted verses of the Holy Qur'an and it is also proved by his Sunnah that his contemnor is liable to the penalty of death. Reference may be made to the following Ahadith:--
 - (i) It has been related on the authority of Hazrat Ali that Holy Prophet (p.b.u.h.) said: "Kill the person who abuses a Prophet and whip by stripes the one who abuses my companions." (Al-Shifa, Qazi, Ayaz Vol.II, page 194).
 - (ii) It has been related on the authority of Ibn Abbas that a blind person in the period of Holy Prophet (P.B.U.H) had a female slave who used to abuse the Holy Prophet (P.B.U.H). This blind person bade her to abstain from it and warned her not to do so but she didn't care. One night when she was as usual abusing the Holy Prophet (P.B.U.H), this blind person took a knife and attacked her belly and killed her. Next morning when the case of murder of this woman was referred to the Holy Prophet (P.B.U.H). He collected the people and said, "who has done this job. Stand and confess because of my right on him for what he has done." On this the blind person stood and came rolling the

people before the Holy Prophet (P.B.U.H) and said, "O Prophet, I have killed this slave woman because she abused you. I have constantly forbade her but she didn't care for that. I have two beautiful sons from her and she was my very good companion, but yesterday when she started abusing you, I took my knife and attacked on her belly and killed her:" The Holy Prophet (p.b.u.h.) said. "O people! Be witnesses that the blood of this woman is vain (Abu Daud, Vol.II, pages 355-357).

- (iii) It has been related on the authority of Hazrat All that a Jew woman used to abuse the Holy Prophet (p.b.u.h.) and thus a person killed her. The Holy Prophet (p.b.u.h.) declared her blood as vain (ibid).
- (iv) It has been related on the authority of Abu Barzah who said, "I was sitting with Abu Bakar when he became furious at a person:" I said to him, "O! Caliph of the Prophet of Allah. "Order me to kill him". On this he became normal and stood up and went inside and called me and said, "What did you say? I said, "Order me to kill him." He said, "Had I ordered you, would you have killed him?" I said, "Yes." He said, "No;" I swear by Allah that no one other than the Holy Prophet (P.B.U.H) is in the position that his contemnor be killed." (ibid).
- (v) It has been related on the authority of Jabir Ibn Abdullah that Holy Prophet (P.B.U.H) said "who will help me against Kaab bin Ashraf. He has indeed reased Allah and His Prophet." On this Muhammad Ibn Maslamah stood and said, "O Prophet of Allah! do you want me to kill him: Prophet said, "Yes". Then he went alongwith Abbas Ibn Hiber and Ibad Ibn Bishar and killed him. (Bukhari, Vol.II, page 88).
- (vi) It has been related on the authority of Bara Ibn Azib who said that Holy Prophet sent some persons of Ansar under the headship of Abdullah Ibn Atik to a jew named Abu Raffia who used to tease the Holy Prophet (P.B.U.H) and they killed him, (Assarimul Maslul by Ibn Taimiyah, page 152).
- (vii) It has been related on the authority of Umair Ibn Umayyah that he had a `mushrikah' sister who teased him when he met the Holy Prophet (P.B.U.H) and used to abuse the Holy Prophet (p.b.u.h.). At last one day he killed her with his sword. Her sons cried and said, "We know her murderers who killed our mother and the parents of these people are `mushrik', (infidels)." When Umair thought that her sons may not murder wrong persons, he came to the Holy Prophet (p.b.u.h.) and informed him of the whole situation. The Prophet said to him, "Have you killed your sister?" He said, "Yes." Prophet said, "Why" He said that she was harming me in your relation. The Prophet called her sons and asked about the murderers. They showed other persons as murderers. Then Prophet informed them and declared her death as vain. (Majmauz Zawaid wa Manbaul Fawaid, Vo1.V, page 260).
- (viii) It has been narrated that after the conquest of Makka, the Holy Prophet, after giving general pardon, ordered killing of Ibn Khatal and his she-slaves who used to compose defamatory poems about the Holy Prophet. (Al-Shifa by Qazi Ayaz, Vol. II, page 284 Urdu Translation).

- (ix) It has been narrated by Qazi Ayaz in Shifa that a person abused the Holy Prophet (p.b.u.h.) The Prophet said to Sahaba "Who will kill this person" On this Khalid Ibn Walid said, "I will kill him." The Prophet ordered him and, he killed him (ibid).
- (x) It has been narrated that a person came to the Holy Prophet and said, "Oh Prophet! My father abused you and I couldn't bear it thus killed him." The Holy Prophet (p.b.u.h.) confirmed his action."(ibid), page 285).
- (xi) It has also been related that a woman who belonged to Bani Khatmah tribe used to abuse the Holy Prophet (p.b.u.h.) The Holy Prophet (p.b.u.h.) said to his companions, "who will take revenge from this abusive woman." A person of her tribe took the responsibility and killed her. He then came to the Holy Prophet who said "In this tribe the two goats will not quarrel and the people will live in unity and integrity " (ibid), page 286),
- 25. Abdur Razaq in his Musannaf has related the following Traditions about the contempt of the Holy Prophet (p.b.u.h.) and its punishment:
 - (i) Hadith No.9704: It has been related on the authority of Ikrimah that a person abused the Holy Prophet (P.B.U.H). The Holy Prophet (P.B.U.H) said, "who will help me against my (this) enemy." Zubair said, "I". Then he (Zubair) fought with him and killed him. The Holy Prophet (P.B.U.H) gave him these goods.
 - (ii) HadithNo.9705- It has been related on the authority of Urwah Ibn Muhammad (who relates from a companion of the Prophet) that a woman used to abuse the Holy Prophet (P.B.U.H). The Holy Prophet (p.b.u.h.) said, "who will help me against my (this) enemy." On this Khalid Ibn Walid went after her and killed her.
 - (iii) Hadith No.9706: It has been related on the authority of Abdur Razaq who relates from his father that when Ayub Ibn Yahya went to Adrian, a man was referred to him who had abused the Holy Prophet (P.B.U.H). He consulted (the Ulama) in this matter. Abdur Rahman Ibn Yazid Sanani advised him to kill him and he killed him. Abdur Rahman had related to him a hadith in this regard that he had met Umar and had got a great knowledge from him. Ayub also referred this action to Abdul Malik (or Walid Ibn Abdul Malik). He replied him appreciating his action.
 - (iv) Hadith No.9707: It has been related on the authority of Saeed Ibn Jubair that a person falsified the Holy Prophet (P.B.U.H). The Prophet sent Ali and Zubair and said to them, "kill him when you find him."
 - (v) Hadith No.9708: It has been related on the authority of Ibn Taimi who relates from his father that Hazrat Ali ordered the person who blamed (abused) the Holy Prophet (P.B.U.H) be killed. (Musannaf Abdur Razaq, VoI.V, pages 377-378).
- 26. It is pertinent to mention here that Holy Prophet (P.B.U.H) had pardoned some of his contemnors but the Jurists concur that Prophet himself (P.B.U.H) had the right to pardon his contemnors but the Ummah has no right to pardon his contemnors. (Assarumal Maslul, Ibn Taimiyah, pages 222-223).

- 27. Ibn Taimiyyah writes, "Abu Sulaiman Khattabi said, "When the contemner of the Holy Prophet (p.b.u.h.) is a Muslim then his punishment is death and there is no difference of the opinion among the Muslims about this matter in my knowledge." (Assarimul Maslul, page 4).
- 28. Qazi Ayaz writes, "Ummah is unanimous on the point that the punishment of a Muslim who abuses the Holy Prophet (P.B.U.H) or degrades him death. (Al-Shifa, Vol.II, page 211).
- Qazi Ayaz further writes, "Everyone who abuses Holy Prophet (P.B.U.H), points out any defect in him his lineage, his religion or in any of his qualities, or makes allusion with him or resembles him with another thing as his insult disrespect, degradation, disregard or his defect, he is contemnor and he will be killed, and there is consensus of the ulema and Jurists on this point from the period of Sahaba till this time. (Al-Shifa By Qazi Ayaz, Vol.11, page 214).
- 29. Abu Bakar Jassas Hanafi writes, "There is no difference of opinion among the Muslims that a Muslim who maligns or insults the Holy Prophet (p.b.u.h.) intentionally becomes apostate liable for death. (Ahkamul Quran Vol.III, page 106). It will be useful to note one Hadith here:--
- "It has been related on the authority of Abdullah Ibn Abbas that Prophet (P.B.U.H) said, "Kill the person who changes his religion (Islam)." (Bukhari, Vol.11, page 123).
- 30. It has been related by Qazi Ayaz that Haroonur Rashid asked Imam Malik about the punishment of the contemner of the Prophet and told him that some Jurists of Iraq had suggested the punishment of whipping him stripes. Imam Malik became furious on that and said, "O Amir ul Muainin how the Ummah has the right to exist when her Prophet is abused. So kill the person who abuses the Prophet and whip stripes to one who abuses the companions of the Prophet." (Al-Shifa, Vol. III, page 215).
- 31. Ibn Taimiyyah, while relating the opinions of the Jurists in this connection, writes, "Abu Bakar Farsi Shafie has related that there is consensus of opinion among the Muslims that the punishment of contemnor of the Prophet is death, if he is Muslim." (Assarimul Maslul, page 3).
- 32. The above discussion leaves no manner of doubt that according to Holy Qur'an as interpreted by the Holy Prophet (P.B.U.H) and the practice ensuing thereafter in the Ummah, the penalty for the contempt of the Holy Prophet (P.B.U.H) is death and nothing else. We have also noted that no one after the Holy Prophet (P.B.U.H.) exercised or was authorized the right of reprieve or pardon. The next question arising in the case is thus to specify or clearly define the offence or the contemnor of Holy Prophet (P.B.U.H).
- 33. The words and have been used for the contempt of the Prophet in Holy Qur'an and Sunnah. Means to suffer, to harm, to molest, to contemn, to insult, to annoy, to irritate, to injure, to put to trouble, to malign, to degrade, and to scoff. (Arabic English lexicon, E.W. Lane, Book-I, Part-I page 44). The word means to insult, to abuse, to revile, to scold, to curse, to defame. (Ibid., pages 212, 249).

- Allama Rashid Raza, while explaining the meaning of the word writes, "It means anything with which the body or the mind of a living person is pained though very lightly." (Al-Manar, Vol.X, page 445).
- Allama Ibn Taimiyyah, while explaining the significance of the contempt writes, "It means to curse the Prophet, prays for any difficulty for him, or refers to him such a thing which does not behave with his position or uses any insulting, false and unreasonable words or imputes ignorance to him or blames him with any human weakness etc." (Aasarinul Maslul, Ibn Taimiyyah, page 526).
- 34. Ibn Taimiyyah, while concluding the discussion about the scope and what constitutes the offence of the contempt of the Prophet (P.B.U.H) writes, "Sometimes a word in a situation may amount to injury and insult while such a word may not amount to injury and insult on another occasion. This shows that the interpretation of the words which bear different meanings and senses changes with the change of circumstances and occasions. And when (insult or contempt) has neither been defined in Shariah nor in dictionary, the custom and usage will be relied upon in determining its interpretation. So what is considered contempt and insult in the custom and usage that will be considered contempt and insult in Shariah as well and vice versa?" (Assarimul Maslul, Ibn Taimiyyah, page 540).
- 35. Criminal liability may require the wrongful act to be done intentionally or with some further wrongful purpose in mind, or it may suffice that it was done recklessly; and in each case the mental attitude of the doer is such as to make punishment effective. If a person intentionally chose the wrong doing, penal discipline will furnish him with a sufficient motive to choose the right instead, for the future. If, on the other hand, he committed the forbidden act without wrongful intent, yet realizing the possibility of the harmful result, punishment may be an effective inducement to better conduct in the future.
- 36. Yet there are other cases in which, for sufficient or insufficient reasons, the law is content with a lower form of men's era. This is the case with crimes of negligence. A person may be held responsible for some crimes if he did not do his best as a reasonable man to avoid the consequence in question. In another case the law may go even beyond this; holding a man responsible for his acts, independently altogether of any wrongful state of mind or culpable negligence. Wrongs which are thus independent of fault may be distinguished as wrongs of strict liability.
- 37. The wrongs thus are of three kinds:--
 - (1) Intentional or Reckless Wrongs, in which the mens rea amounts to intention, purpose, design, or at least foresight.
 - (2) Wrongs of Negligence, in which the mens rea assumes the less serious form of mere carelessness, as opposed to wrongful intent or foresight. With these wrongs defenses such as mistake will only negative mens rea if the mistake itself is not negligent.

- (3) Wrongs of Strict Liability, in which the mens rea is not required, neither wrongful intent nor culpable negligence being recognized as a necessary condition of responsibility; and here defenses like mistake are of no avail.
- 38. An intention thus is the purpose or design with which an act is done. Suppose one buys a gun. His intention may be to shoot for sport or game, to use in self-defence or to shoot someone to cause his death. However, if the latter act is proved as not shooting for defence but as killing then the intention can be said to be to do this very thing i.e. to kill him.
- 39. An unintentional act is one lacking such purpose or design. An act such as killing, which consists of a cause and an effect, may be unintentional when the actor brings about consequences which he does not intend. One may kill by mistake, say firing at a game or wrongly imagining him to be someone else. In the former cases he fails to foresee the consequences, in the latter he is ignorant of some of the circumstances.
- 40. A system of law, however, could provide that a man be held liable for such consequences, even though he did not intend them. In the first place, such a rule would obviate the need for difficult inquiries into the mental element. But secondly, and more important, the rule could be justified on the ground that a man should not do acts which he foresees will involve consequential harm to others, whether or not he intends to cause this harm. Such behaviour is clearly reckless or blameworthy, unless the risk can be justified by reason of the social interest of the act itself.
- 41. Both in this special connection and generally, then it is to be observed that the law may, and sometimes does, impute liability, outside the strict definition of intention, for what is called constructive intention. Consequences which are in fact the outcome of negligence merely are sometimes in law dealt with as intentional. Thus he who intentionally does grievous bodily harm to another, though with no desire to kill him, or certain expectation of his death, is guilty of murder if death ensues.
- 42. Law frequently, though by no means invariably, treats as intentional, all consequences due to that form of negligence which is distinguished as recklessness that is to say, which the actor foresees as the probable results of his wrongful act. The foresight of the reasonable man is of course an obviously useful evidential test, whereby to infer, what the actor himself foresaw, but the rule just mentioned has transformed it into a presumption of law which cannot, it seems, be rebutted. Intention thus covers acts expressly intended or those done recklessly.
- 43. In the Shariah, it makes no difference whether the criminal intent precedes the offence or synchronizes with it. In either case the penalty is identical. This principle is substantiated by the following Tradition of the Holy Prophet (p.b.u.h.):--
- “Allah condones all those sinister ideas coming into the minds of the H members of my Ummah which they have not expressed or put into practice.”
- That is why the Shariah draws no line of distinction between homicide or infliction of injury decided upon beforehand and unpremeditated homicide or injury and lays down

identical penalty in both the cases. The prescribed punishment for murder is `qisas' whether it is premeditated or not.

- 44. The intention may be definite or indefinite. The intention of an offender to do a definite wrong to an indefinite person will be regarded as definite intent. If the offender is conscious of the potential results of his act and does intend to produce all or some of those results his offence would in spite of its indefinite results be treated as a definite act, whatever the results produced by it. The Hanafites and the Hanbalites as well as some Jurists of the Shafi'ee School do not differentiate between definite and indefinite intents in criminal cases including homicide. Hence if the act of the offender results in homicide he is a wilful killer whether or not his intention of murder involves a definite victim.
- Further, in determining the accountability of the offender and the sort of offence he is guilty of, the Jurists place both definite and indefinite intents on equal footing and regard them as subject to the same injunction except when the offence consists of homicide and the criminal intent is indefinite.
- 45. The Shariah has kept in view the difference between criminal intent and the motive of crime, right from its very beginning but has not admitted of the bearing of the motive on the commission and pattern of the crime and the punishment entailed by it. Thus, it matters little in the Shariah whether the motive of offence is noble, just as killing, in retaliation, for the murder of one's next of kin or for the indignity suffered at the hands of the victim, or whether the motive is ignoble just as killing in lieu of pecuniary compensation or to commit larceny.
- 46. In other words, the motive of crime has nothing to do with the criminal intent; nor does it affect the pattern of crime or its punishment. So it is practically possible to reject the effect of motive so far as the 'hadd', `qisas' offences are concerned but it is not so in the case of penal punishment. The motive does not affect the `hadd' or `qisas' offences because the law-maker has confined the powers of the Court to the prescribed punishments, admitting of no consideration of the motive behind the commission of offences. But in the case of `tazeer, punishments the law-maker empowers the Court to determine the quantum of penalty and choose the kind of penalty so that it may be possible for the Court to take into account the motives of offences in the determination of the quantum of punishment.
- 47. In other words the difference between the man-made laws in force and the Islamic Shariah is that the latter does not recognize the effect of motives in the case of offences which are categorised as `Hudood' or `Qisas' but in the case of other offences, there is nothing in the Shariah inhibiting the Court to take into account the motive of crimes although it does not theoretically admit of its effect on punishment.
- 48. It will be seen from the above discussion that Shariah recognises an offence liable to Hadd only if it is accompanied by an express intention. Shariah also waives the penalty of Hadd if any doubt occurs therein. It is also based on a Tradition of the Holy Prophet (p.b.u.h.) that doubts dispel sentences of Hadd.

- 49. So the wrongs of the first category only in para.37 above will attract the penalty of Hadd and it will apply to the contemner of the Holy Prophet (p.b.u.h.). Further, as intention is to be gathered from the facts surrounding the event, the acts falling in the second and third categories will not attract the sentences of Hadd, provided the accused shows that he never intended to commit the offence and is penitent if the words said, gesture made or the act done were ambiguous or they could show some straits of guilty mind or malice. We may also clarify that penitence, in an alleged offence of contempt of the Holy Prophet (p.b.u.h.), would be availed to show that mind of the accused had no guilty straits or malice and the penalty will be dispelled on that account and not for the reason that penitence can wipe out an intended contempt.
- The Holy Qur'an says:
 - "33:5 And there is no sin for you in the mistakes that ye make unintentionally, but what your hearts purpose (that will be a sin for you), Allah is forgiving, merciful."
 - "6:54 When those come to thee who believe in Our Signs, Say: "Peace be on you; Your Lord had inscribed for Himself (the rule of) Mercy: verily, if any of you did evil in ignorance, and thereafter repented and amended (His conduct), lo! He is Oft-Forgiving, Most Merciful."
 - "16:106 Anyone who, after accepting faith in Allah, utters unbelief, except under compulsion, His heart remaining firm in faith but such as open their breast to unbelief, on them is Wrath from Allah, and theirs will be a dreadful penalty."
 - "40:19 (Allah) knows of (the tricks) that deceive with the eyes, and all that hearts (Of men) conceal."
- 50. It has been related on the authority of Hazrat Umar that he heard the Prophet (p.b.u.h.) say "the reward of deeds depends upon the intention and every person will get the reward according to what he had intended. So whoever emigrated for worldly benefits or for a woman to marry, his emigration was for what he emigrated for." (Bukhari, Vol.I, page 1, Hadith No.1).
- 51. It has been related on the authority of Ubay Ibn Ka'b who said, "There was a person among the Ansar whose house was situated at the farthest end of Madina, but he never missed any prayer along with the Messenger of Allah (p.b.u.h.). We felt pity for him and said to him: O, so and so, why don't you buy a house near the Prophet's house so as to save you from the troubles of the heat and the coming from a long distance. He said: Listen! by Allah, I do not like my house to be situated by the side of Muhammad (p.b.u.h.). I took (these words of his) ill and came to the Apostle of Allah (p.b.u.h.) and informed him about (these words). He (the Holy Prophet) called him and he said exactly like that (which he had mentioned to Ubbay Ibn Ka'b) but made a mention of this also) that he wanted a reward for his steps. Upon this the Apostle of Allah (p.b.u.h.) said: in fact for you is the reward which you intend. (Muslim, Vol. I, English Translation by Abdul Hameed Siddiqui, pages 323-324, Hadith No.1404). The above Tradition clearly

shows that on the face of it the words said sounded contemptuous but that was not the intention of the utterer and so he was absolved of any penalty.

- 52. It has been related on the authority of Yahya Ibn Sayyed that the Apostle of Allah was seated while a grave was being dug at Madina. A man suddenly looked down into the grave and said: Bad is the sleeping place of a believer. The Apostle of Allah retorted: What a bad thing you have said. The man explained. I have not meant that, but I meant that fight in the way of Allah (is better). Then the Apostle of Allah said thrice: There is nothing like death in the way of Allah. There is no other tract of land in the world in which I would prefer my grave. (Mishkat, Vol.III, pages 662-663, English Translation by Fazlul Karim, Hadith No. 575).
- 53. It is relevant to mention here that the mere fact that the words uttered sounded contemptuous of the Prophet is not an offence until it is based on malicious action or degradation. For example, speaking loudly has been prohibited before the Prophet. The Holy Qur'an says, "O ye who believe! Raise not your voice above the voice of the Prophet nor speak aloud to him in talk, as ye may speak aloud to one another, lest your deeds become void and ye perceive not:"
- (49:2). In this connection Allama Qurtubi while explaining Verse 49:2 writes, "this is the prohibition of shouting and raising the voice over the voice of Prophet which actually injured him. However, it will be no offence if it is done for the I cause of battle or for frightening the enemy etc.
- 54. Allama Alusi, while explaining Verse 49:2 writes, "When this verse was revealed Sabit Ibn Qais "whose voice was naturally loud, went to his house and closed his door and started weeping. When he didn't attend the gatherings of the Prophet for a long time, the Holy Prophet (p.b.u.h.) enquired about him. The companions said to the Prophet that he had closed the door of his house and is weeping inside the house. The Holy Prophet (p.b.u.h.) called him and asked him, "What happened to you, He said, `O Prophet! when this verse was revealed, having loud voice, I feared that I may not be one of those whose good deeds will be rendered vain." The Holy Prophet (p.b.u.h.) said to him, "you are not among them. You will live with blessings and die with blessings:" According to Hassan it was based on the ground that his loud voice was a natural thing because he was dumb and mostly dumbs speak with loud voice, and his loud voice was not meant to degrade or insult the Holy Prophet (p.b.u.h.) as that of the hypocrites about whom this verse was, revealed." (Ruhul Maani, Vol. XXVI, pages 124-125).
- 55. Allama Alusi further writes, "their shouting before the Prophet is of two kinds: (i) which does not amount to rendering the good deeds vain; (ii) which amounts to rendering the good deeds vain. The first is not based on malicious and insulting action as in case of shouting and speaking with loud voice in battles, quarrelling with opponents of injury or insult as Prophet ordered on the day of the battle of Hussain to Hazrat Abbas to call the people with loud voice and he called people with such a loud voice that all the pregnant

women delivered their pregnancies by that. And the second is based on malicious and insulting actions as was done by the hypocrites and infidels. (ibid).

- 56. Qurtubi writes that the last portion of this verse was revealed about a person who said, "I will marry Hazrat Aisha after the death of the Prophet." When Prophet was informed he was greatly injured by that: At this occasion this verse was revealed which prohibited marrying with the wives of Prophet forever and the Holy Prophet said, "My wives in this world will be my wives in the hereinafter." But before the revelation of this verse there had practically happened that the Holy Prophet (p.b.u.h.) once divorced a wife named Kalbiah and she married with Ikrima Ibn Abu Jahal and according to some she married with Ashas Ibn Qais Kindi. This shows that at that time it was not a source of the injury of the Prophet in their mind by saying to marry his wife after his death as it had not been prohibited." (ibid., page 230).
- 57. The Holy Prophet (p.b.u.h.) didn't punish Mistah, Hassan and Hamnah who had actually participated in the accusation of Hazrat Aisha and he also did not declare them as hypocrites. Ibn-e-Taimiyyah, explaining that position writes, "they had not intended the injury of the Prophet and there was not any sign of that, while Ibn Ubayy had intended the injury. This was because at that time it had not been told to them that the wives of the Prophet in this world will be his wives hereinafter and it was possible about their wives in general sense. It is for this reason that Holy Prophet (p.b.u.h.) hesitated in their matter and consulted Ali and Zaid and enquired from Barirah and consequently didn't declare those who didn't intend the injury of the Prophet as hypocrites on the possibility in their mind that Holy Prophet might have divorced the accused wife. But after the order that his wives in this world will be his wives hereinafter and that they are the mothers of the believers, their accusation would be the injury of the Prophet at any cost." (Assarimul Maslul, ala Shatimir Rasul, page 49).
- 58. Maulana Ahmad Yar Khan Badayuni writes, "intention" of the contemner is necessary for proving the offence of contempt of the Holy Prophet (p.b.u.h.). If a person said, "The Holy Prophet (p.b.u.h.) was poor and was not a fortunate." So he will become infidel only when he intends the contempt of the Prophet with that." (Nurul Irfan, Part X, page 74).
- 59. Some of the Jurists are, however, of the opinion that if the contempt of the Holy Prophet (p.b.u.h.) is in manifest and express words, the contemner will not be asked as to what was his intention but if the words are such which bear or have the capacity of bearing different meanings and senses out of which only one amounts to contempt, he will be asked as to what was his "intention." (Al-Shifa, Qazi Ayaz, Vol.II, page 221).
- 60. We, however, do not agree. Firstly, the meaning and import of words differ from place to place. Again context may also suggest different meaning. The accused therefore, must be allowed an opportunity to explain lest an innocent person is punished. It is related that Holy Prophet (p.b.u.h.) said, "The mistake of qazi (judge) in releasing a criminal is better than his mistake in punishing an innocent." (Sunan Al-Baihaqi, Vol.

VIII, page 184). The Holy Qur'an also confers right of hearing on every accused. It is to be noted that though Allah Almighty knows, that whatever is written in the scrolls by the guardian Angels, about the deeds of a person in this world, is correct beyond any doubt, yet we find that the man will be heard and if he objects to the writings of the angels, Allah shall call witnesses including his hands, feet, eyes and ears. See al-Qur'an 17:13, 14, 36:65, 27:20, 22, 16:93 and 21:23. We also find from the Traditions referred to in paras.36-41 above that the right of an accused to explain is there and cannot be taken away. It is, therefore, only after the explanation that the Court can decide whether the words so said were intended to malign, were they used maliciously and contemptuously or were uttered innocently.

- 61. It has been related on the authority of Ubaidullah Ion Rafi'a that he heard Hazrat Ali saying, "Allah's Apostle sent me, Az-Zubair and Al-Migdad somewhere saying, 'Proceed till you reach Rawdat Khakh. There you will find a lady with a letter. Take the letter from her'. "So, we set out and our horses ran at full pace till we got at Ar-Rawda where we found the lady and said (to her). "Take out the letter." She replied, "I have no letter with me." We said, "Either you take out the letter or else we will take off your clothes." So she took it out of her braid. We brought the letter to Allah's Apostle and it contained a statement from Hatib Bin Abi Balta'a to some of the Maccan pagans informing them of some of the intentions of Allah's Apostle. Then Allah's Apostle said, "O Hatib what is this? Hatib replied, "O Allah's Apostle "Don't hasten to give your judgment about me. I was a man closely connected with the Quraish, but I did not belong to this tribe, while the other emigrants with you, had their relatives in Mecca who would protect their dependents and property. So I wanted to recompense for my lacking blood relation to them by doing them a favour so that they might protect my dependents. I did this neither because of disbelief nor apostasy nor out of preferring kufr (disbelief) to Islam." Allah's Apostle said, "Hatib has told you the truth" (Bukhari, Vol.IV, pages 154-155, Hadith No.251).
- 62. A Hanafi Jurist, Allama Muhiyuddin, writes, "the jurists opine that in matter of the contempt of the Prophet (p.b.u.h.) the ruler or the judge has to look into the situation and the general conduct of the contemner before deciding the matter." (Akham Al-murtad, Numan Abdur Razaq Samraqi, page 109).
- 63. An Indian 'renowned scholar Maulana Ahmad Raza Khan Brailwi writes in this regard, "There is difference between the words of infidelity and the position of the person who quotes these words and becomes infidel with that. (Tamhid-e-Imam, page 59). He further says, "The use of the word raina is not contempt now as it is not said in the context of contempt of the Prophet in these days:' (Khatm-e-Nubuwwat, page 71).
- 64. It has been related that a jew woman named Zainab Bint al-Haris mixed poison in meat and offered it to the Prophet (p.b.u.h.) liked eating the meat of the arm of the goat, she mixed more poison in that part of the meat. Holy Prophet (p:b.u.h.) and Bishar Ibn Al-Bar'a who was accompanied with the Holy Prophet (p.b.u.h.) ate from that. But when

Holy Prophet (p.b.u.h.) started eating, he felt that it is poisonous and thus threw it out from his mouth. Then Holy Prophet (p.b.u.h.) called that Jew woman and asked her about that. She confessed to have mixed poison in that meal. The Holy Prophet (p.b.u.h.) then asked her as to why she had done so. She answered that she thought if you (Prophet) are a king, we will get rid of you and if you are a Prophet, there will be no harm to you. The Holy Prophet (p.b.u.h.) forgave her. (Aqziah al-Rasul by Muhammad Ibn Farj Urdu Translation, pages 189, 190).

- 65. It is also to be noted that Allah Almighty creates no distinction or inequality in the status of the Prophets though He did bestow on some of them more gifts than others. We quote here for reference the following verses from the Holy Qur'an:--
- "17:55 We did bestow on some Prophets more (and other) gifts than on others: and We gave to David (the gift of) the Psalms."
- "2:253 Those apostles we endowed with gifts, Some above others; To one of them Allah spoke; Others He raised. To digress (of honour); To Jesus the son of Mary. We gave clear (Signs), and- strengthened him with the Holy Spirit. If Allah had so willed, succeeding generation would not have fought among each other, after clear (Signs) had come to them, But they (chose) to wrangle, some believing and others rejecting. If Allah had so willed they would not have fought each other; but Allah fulfilleth His plan."
- "2:136 Say ye; "We believe in Allah, and the revelation given to us, and to Abraham. Ismail, Isaac, Jacob, and the Tribes, and that given to Moses and Jesus and that given to (all) Prophets from their Lord; We make no difference between one and another of them; and we bow to Allah (in Islam)."
- "3:84 Say: We believe in Allah, and in what has been revealed to us and what was revealed to Abraham, Ismail, Isaac, Jacob, and the Tribes, and in (the Books) given to Moses, Jesus, and the Prophets, from their Lord; We make no distinction between one and another among them, and to Allah do we bow our will (in Islam):" and Verses 2:285, 4:150 and 4:152.
- 66. Practically, all the Jurisconsults and Scholars agreed that in view of the above verses and the equal status of all the Prophets as such, the same penalty of death as determined above shall apply, in case anyone utters contemptuous remarks or offers insult, in any way, to any one of them.
- 67. In view of the above discussion we are of the view that the alternate punishment of life imprisonment as provided in section 295-C, P.P.C. is repugnant to the Injunctions of Islam as given in Holy Qur'an and Sunnah and therefore, the said words be deleted there from.
- 68. A clause may further be added to this section so as to make the same acts or things when said about other Prophets, also offence with the same punishment as suggested above.

- 69. A copy of this order shall be sent to the President of Pakistan under Article 203-D(3) of the Constitution to take steps to amend the law so as to bring the same in conformity with the Injunctions of Islam. In case, this is not done by 30th April, 1991 the words "or imprisonment for life" in section 295-C, P.P.C. shall cease to have effect on that date.
- M.BA./572/FSC Order accordingly.