

## MISUSE OF BLASPHEMY LAW IN PAKISTAN

Ever since the Blasphemy Law was amended twice by the military regime headed by Gen. Zia ul Haq as the President of Pakistan, there has been serious controversy during lasting more than three decades. The Pakistan Penal Code (previously known as Indian Penal Code) was framed and enforced by the British during their colonial rule. Chapter XV of the Code contained sections 295 to 298 that related to offences against religion. After the amendments in 1982 and 1986, sections 295-B, 295-C, 298-A, 298-B and 298-C were introduced. The Section 295-B introduced punishment for life for 'willfully defiling, damaging or desecrating holy Quran'. The Section 295-C introduced death punishment for using derogatory remarks against the Prophet. The wordings of this new provision are worth mentioning. It says, "Whosoever 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 (peace be upon him) shall be punished with death, or life imprisonment and shall also be liable to fine". It may be mentioned here that the Federal Shariat Court was introduced through constitutional amendment in 1980 vide Presidential Order 1 of 1980. This Court declared punishment of life imprisonment as un-Islamic and retained only death punishment for committing blasphemy against the Prophet. Therefore, the law stands amended carrying capital punishment for blasphemy against the Prophet. The rest of the amendments are Ahmedi specific who were declared 'Not Muslims' by the constitutional amendment through Act no. XLIX of 1974 introduced during Zulfiqar Ali Bhutto government.

These amendments were introduced by unelected hand-picked members of the 'Majlis e Shoora' (Parliament) during the Gen. Zia period. There was no debate at all in the parliament or outside the parliament. The amendments were introduced in the house and were passed in minutes as the mandate of the military ruler. Therefore, these provisions were not only undemocratic but opposed to all standards of legislation as recognized at the international level.

The blasphemy law as it stands today in Pakistan is a flawed and has vague legislation. It casts the net wide open to rope in any one on the charge of blasphemy. Many innocent persons have been charged under false allegations for settling personal scores, professional rivalry, land grabbing and of course for religious persecution. It is reported that till 1953 there had been only seven cases of blasphemy but soon the law was amended then there was a spate of cases that were reported. This actually demonstrates the influence of the religious bogey that emerged as a force in the political arena of national politics in Pakistan. These Islamists promoted socio-religious intolerance which has now grown beyond proportions. The Jihadi elements (religious militants) are now established along with their terror centers. The whole society is now a hostage in their hands. They have challenged the writ of the State and are against state organs including the judiciary. They are against a democratic order. They are against women and religious minorities. They declare to impose Islamic Shariah in the society and state affairs. They take the law in their own hands and assert to punish the alleged blasphemer themselves as a mandate of Shariah. They have extra-judicially killed at least 52 persons; amongst them were 25 Muslims, 15 Christians, 5 Ahmedis, one Buddhist and one Hindu. The reported cases of blasphemy exceed the number of one thousand who were charged under the law. In some cases the accused, who were acquitted by superior courts, were sentenced to death. Many are languishing in jails.

In the resultant situation, anyone who is alleged against for blasphemy is doomed. The process of law and court stands influenced by them. And resultantly the administration of justice is subjected to sectarian affiliations. These religious zealots pose a threat to courts and the lawyers who defend cases of victims under the blasphemy law.

The liberal Islamic scholars assailed it on the basis that the Quran, the holy book of Islam, does not postulate such provisions relating to severe punishments. They plead the concept of 'offev' (Arabic) (forgiveness) as the cardinal principle in Islamic jurisprudence. The conservative Islamists and 'jihadi' forces rely on 'Ahadith' relating to 'Sunnah' (the acts and omissions of Prophet Muhammad). They argue that Sunnah is equally an important source of Islamic jurisprudence.

There is serious debate going on to repeal the law and some argue to amend the law. The political actors are shy of speaking against the law as they are more concerned about their constituency. The Islamists who want to impose political Islam are actually for pan-Islamism. There are members of the judiciary and senior officials of law enforcing agencies who contend that this law helps in maintaining a situation of law and order. They argue that if such law was not in place people would take the law in their own hands and go out on killing sprees. This is a totally flawed argument. The religious militants have committed mob attacks and killed people and lynched houses. Christian colonies were ransacked by mobs of Islamists and lynched persons and property. The Christian colonies of Shanti Nagar, Khanewal, Bhameniwala, Gojra, Kasur, Sanglahill were destroyed and people were burnt alive. Recently Joseph Colony, Lahore was attacked on 9<sup>th</sup> March 2013 in which two churches and more than 180 houses were burnt.

The blasphemy law and its punishments are based on Islamic Shariah. The Shariah belongs to Muslims and therefore must not be imposed on those who do not adhere to it. This blasphemy law invades the fundamental right to profess and practice religion by non-Muslim citizens of Pakistan. Therefore, it needs to be seriously examined from this angle.

This law on blasphemy has, instead of delivering justice, promoted injustice. Therefore the very rationale needs to be challenged. In a State that declares Islam as State religion and 95% of its population is Muslim with hundreds of religious outfits having their own militias, none would dare to commit blasphemy against the Quran or Prophet.

There have been moves to amend the law through a legislative Bill and recommendations suggested by the Gojra Inquiry Commission but the government of the day did not dare to take any step. In the recent Joseph Colony case the Supreme Court took suo moto action and summoned the senior police officials to explain why they failed to protect the life and property of citizens. During those proceedings the Advocate General Punjab prepared some recommendations that were aimed to amend the law and devise mechanisms for the state organs to protect the life and property of citizens. Therefore, the participants of the proposed consultation have a huge task to deliberate and come out with concrete proposals so that justice prevails and life and property of people is protected.

Naeem Shakir

5<sup>th</sup> June, 2013.