

Pakistan's Blasphemy Laws and the Role of Forensic Psychiatrists

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Humans have been persecuted for the crime of blasphemy since biblical times. Today, about one quarter of the world's countries and territories, most of them Muslim-majority nations, still have anti-blasphemy laws. Pakistan is among the countries where blasphemy is punishable by death. In many instances, the accused are killed by mobs before legal proceedings even begin. Often, it is people with mental illness and members of religious minorities who end up being accused of blasphemy. A psychiatric evaluation can be beneficial in informing the court about symptoms of mental illness in the context of a blasphemy accusation. Psychiatrists can also provide crucial information to the courts and the general public about trauma, persecution, and safety in asylum cases where the asylum seeker is fleeing persecution after being accused of blasphemy in Pakistan or another country that criminalizes blasphemy.

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Blasphemy is defined as the act of insulting God.¹ In ancient Rome and Greece, blasphemy was associated with treason.² The Bible condemned blasphemy as a grave sin.³ In England, prohibition of blasphemy found its way into the law by the end of the 17th century: the English Act of 1698 stated that denying the Christian religion undermined the authority of the state and was blasphemous (Ref. 2, p 4). Today, although blasphemy laws remain in some Western societies,⁴ prosecutions for blasphemy against Christianity have fallen out of favor in much of the Western world. (In the United States, statutes criminalizing blasphemy still exist in Michigan,⁵ Wyoming,⁶ South Carolina⁷ and Oklahoma.⁸ In contrast, however, the First Amendment to the United States Constitution precludes prosecutions for blasphemy.⁹)

History of Pakistan's Blasphemy Laws

Pakistan inherited its blasphemy law from its British colonial rulers when it gained independence in 1947. Pakistan was formed after its former British

rulers partitioned the Indian subcontinent into India and Pakistan, based primarily on the geographical distribution of Hindus and Muslims, the two major religious groups. The British Empire had originally enacted a blasphemy law in the Indian subcontinent in 1927 to ease religious tensions between Hindus and Muslims. That law made it a crime to deliberately and maliciously offend religious sentiments of any religious group.¹⁰ In its original iteration, the law did not discriminate between religions, but revisions to this law after it was adopted in Pakistan have tended to protect the views and beliefs of only Muslims, particularly those of the majority Sunni sect.

In the decades since the country gained independence, repeated military coups weakened democratic and civil institutions in Pakistan and solidified its identity as a religious state.¹¹ For example, in 1974, the Pakistani parliament amended the constitution to state that anyone who does not recognize Muhammad as the final prophet of Islam is not a Muslim.¹² The purpose and effect of this amendment was to declare as non-Muslims members of the Ahmadiyya community, a minority sect whose founder claimed to be the Messiah but whose members profess belief in Islam.¹³

In 1977, following another military coup, General Muhammad Zia-Ul-Haq became Pakistan's premier and ruled for 10 years until his death. Soon after

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taking office, he started the process of passing new laws and changing existing ones to conform to a strict interpretation of Islam.¹⁴ Material deemed un-Islamic in nature was expunged from libraries and school textbooks.¹⁵ New high school biology textbooks taught Islamic creationism in their introductory chapters, something that remains part of the regular curriculum in most Pakistani schools today.¹⁶

The Pakistani constitution guarantees the right to free speech, albeit with certain caveats: the right may be restricted if speech offends Islam, is against the state's interest, or runs contrary to preserving public order, decency, or morality.¹⁷

The Pakistan Penal Code defines various categories of blasphemy offenses. They range from defilement of places of worship (punishable by a two-year prison sentence or a fine, or both, per Section 295 of the Pakistan Penal Code) to insulting the Prophet Muhammad by written or spoken word or by visible representation (punishable by death or life imprisonment and a fine, per Section 295-C of the Pakistan Penal Code).¹⁸ It further prohibits insulting Muhammad by innuendo or insinuation (Ref. 17, p 109). The language of Section 295-C does not require proof of blasphemous intent.¹⁹

Although the death penalty for blasphemy has never been enforced in Pakistan despite existence in statute,²⁰ 53 people accused of blasphemy have been murdered by vigilantes before their trials (Ref. 19, p 11). There is no penalty for making a false allegation of blasphemy.²¹

Blasphemy Accusations against Minorities

Even though more than 90 percent of Pakistanis identify as Muslim,²² blasphemy accusations against minority religious groups roughly equal accusations of blasphemy against Muslims. According to the National Commission of Justice and Peace, a human rights and legal aid group in Pakistan, 774 Muslims and 760 members of various minority religious groups were accused of blasphemy in the last 20 years.²³

The case of Asia Bibi (also known as Asia Noreen) is arguably the most high-profile case in which a blasphemy accusation was used to persecute a member of a religious minority. In 2009, Asia Bibi, a Pakistani Christian woman, was arrested for blasphemy for allegedly making insulting remarks about the Prophet Muhammad. Asia Bibi refuted the alle-

gations and said that they stemmed from a dispute with other women who worked with her on a farm and took offense to her, a Christian woman, sharing drinking water with her Muslim coworkers.²⁴

A trial court convicted Asia Bibi of blasphemy in November 2010 and sentenced her to death. Her initial conviction was followed by a series of violent events, including the murder by vigilantes of two high-ranking government officials who had advocated for Asia Bibi.^{25,26}

In a surprising turn of events, on October 31, 2018, the Supreme Court of Pakistan acquitted Asia Bibi of charges of blasphemy and ordered her release, almost nine years after her arrest.²⁷ The Court opined that Asia Bibi's accusers had not proven that she had blasphemed and that the blasphemy allegations had stemmed from her Muslim coworkers taking offense to her drinking water from the same vessel as them. Unhappy with this ruling, hardline Muslim groups in Pakistan incited protests that resulted in schools, businesses, and public transportation being shut down all over the country.²⁸ Due to continued concerns about Asia Bibi's physical safety following her acquittal, the Pakistani and Canadian governments helped her move to Canada in May 2019.²⁹

Asia Bibi's case is one of many that demonstrate Pakistan's complicated relationship with blasphemy laws and its challenges in maintaining public order in the face of a blasphemy allegation, especially when the accused belongs to a religious minority.^{30,31}

Blasphemy and Mental Illness in Pakistan

Individuals with mental illness or intellectual deficits have sometimes been affected by the Pakistani blasphemy law.³² Pakistani law does afford protections to people with mental illness or disabilities. The Pakistan Code of Criminal Procedures states that a person of "unsound mind" who is incapable of assisting in his defense cannot be tried (Section 464 of Pakistan Code of Criminal Procedures: 1898).³³ Pakistan also has an insanity defense, which is an adaptation of the M'Naughten rule. Under this law, the accused cannot be held criminally responsible for an act if, at the time of committing it, the individual, due to unsoundness of mind, was incapable of knowing the nature of the act, or that the act was wrong or illegal (Section 84 of Pakistan Penal Code).³⁴ In 2015, a provincial assembly (akin to a state legislature) also made it mandatory for someone accused of

blasphemy to receive a psychiatric assessment and treatment if found to have a mental illness.^{35,36}

Two recent cases demonstrate, however, that these legal protections for people with mental illness or disability are still inconsistently applied. In 2012, 14-year-old Rimsha Masih was charged with blasphemy for allegedly burning pages of the Quran.³⁷ A court determined that her low intellectual functioning rendered her incapable of understanding the offense with which she was charged, and that the evidence against her was fabricated (Ref. 37, p 10). The case was dismissed. Following her acquittal, Rimsha Masih and her family relocated to Canada amid fears for their safety.³⁸

In 2014, Muhammed Asghar, a British man diagnosed with schizophrenia, traveled to Pakistan and allegedly claimed to be a prophet, resulting in a blasphemy conviction.³⁹ A judge initially refused to allow evidence of Mr. Asghar's mental health to be presented. After he attempted suicide in custody, however, a medical panel was allowed by the court to report on his mental health.⁴⁰ The medical panel was threatened by a mob of protesters and did not support a mental health defense.⁴⁰ While incarcerated, Mr. Asghar was shot by a police officer.⁴¹ He survived the attack and remains on death row.⁴²

Role of Mental Health Professionals

Even though the insanity defense is available in Pakistan, the lack of psychiatric training and services hinders opportunities to actually raise this defense.^{43,44} Pakistan has no forensic psychiatry training program.⁴⁵ Inmates with mental illness can be referred for mental health assessment by jail officials or a court, but there is no defined process for the treatment and rehabilitation of these individuals.⁴⁶ Some hospitals and prisons are equipped with forensic beds, although there are few data on the number of forensic beds.⁴⁷ When a psychiatric assessment is requested by the court, the accused is typically evaluated by a postgraduate trainee who, after conducting a psychiatric assessment, discusses the case with senior mental health professionals, including psychiatrists, psychologists, and social workers (Ref. 47, p 42). A psychiatric report is prepared and submitted to the court as a consensus rather than as the opinion of one expert (Ref. 47, p 42).

In our review of the literature, we did not find any compilation of best practices or guidelines regarding the role of mental health professionals in blasphemy

cases. We believe that a mental health evaluation can be instrumental in informing Pakistani courts about how certain symptoms of mental illness (e.g., delusions of grandeur or religious delusions) can lead someone to behave in a manner that might insult religious sentiments. Mental health organizations in the United States and elsewhere can submit affidavits or *amicus curiae* briefs to educate the courts about symptoms of mental illness. The case of Imdad Ali is an example of one such seemingly successful intervention. In 2016, a Pakistani court convicted Mr. Ali, who was diagnosed with schizophrenia, of murder and sentenced him to death.⁴⁸ Mr. Ali appealed, arguing that he could not understand his crime due to mental illness. Even though his treating psychiatrist in Pakistan had provided an affidavit certifying the nature of his delusions,⁴⁸ the Supreme Court of Pakistan rejected the appeal, concluding that schizophrenia was not a permanent mental disorder.⁴⁹ In response, the British Pakistani Psychiatrists Association wrote a letter to the Chief Justice of Pakistan requesting that a panel of Pakistani psychiatrists be summoned to provide expert opinion about Mr. Ali's mental capacity and psychiatric illness.⁵⁰ In October 2018, the Supreme Court ordered that a panel of psychiatrists evaluate Mr. Ali and opine on his mental state.⁵¹

A psychiatric evaluation is also helpful when an individual accused of blasphemy in Pakistan requests asylum in the United States. The asylum seeker may claim a well-founded fear of persecution due to a history of persecution in Pakistan or to threats of violence in the context of a blasphemy accusation. As is evident from the above cases, an individual accused of blasphemy in Pakistan is at risk of serious bodily harm or death as a result of vigilante violence. This risk of bodily harm remains even when authorities intervene and the individual is acquitted by the court, as vigilantes may see the courts as being lenient toward individuals accused of blasphemy.⁵² In such cases, deporting an individual accused of blasphemy back to Pakistan would only intensify the trauma and endanger the life of the asylum seeker. It is therefore important for a mental health professional assisting in an asylum case involving a blasphemy allegation to be knowledgeable about the impact of these allegations on the personal safety of the accused.

In addition to performing mental health assessments in blasphemy cases, mental health professionals working in Pakistan can lead a much-needed

broader conversation about blasphemy laws, human rights, and mental health. Pakistani mental health professionals can play a pivotal role in spreading awareness about the susceptibility of certain groups of people (e.g., those with mental illness or belonging to a religious minority) to blasphemy allegations. This can be done through interdisciplinary trainings and through public engagement efforts, in collaboration with local and international humanitarian organizations. Due to security concerns, the mental health professionals must, of course, factor in their personal safety when doing this work, especially in Pakistan.

Discussion

It is easy to see how the interweaving of religious identity with the narrative of Pakistan's independence laid the groundwork for the human rights problems Pakistan faces today. The blasphemy laws have become so enmeshed with the national and religious identity of the masses that questioning the legitimacy of a blasphemy allegation can itself be considered blasphemous.^{53,54}

The free-speech guarantee in the Pakistani constitution does not protect speech that is considered blasphemous. The right to free speech is crowded out by protections for Islamic sensibilities. It is virtually unheard of for the constitutional right to free speech to be raised as a defense in blasphemy cases (Ref. 14, p 374). Instead, defense attorneys tend to focus on contesting the validity of the blasphemy accusations or arguing that the act did not actually amount to blasphemy.

The blasphemy laws in Pakistan continue to pose a serious threat to human rights. The available evidence shows that increased religious regulation by governments results in more violence, not less.⁵⁵ Moreover, Pakistan's blasphemy laws, by virtue of elevating Islam above other religions, make the practitioners of other religions vulnerable to accusations of blasphemy in Pakistan (Ref. 55, p 638).

Although the blasphemy law that Pakistan inherited from the British colonialists may have been designed to protect religious freedom for all of the country's citizens, that law has since evolved in ways that threaten the physical safety of Pakistani citizens. Most vulnerable among these are Pakistanis belonging to a religious minority and those having a serious mental illness.

How Pakistan will deal with these challenges, while navigating its identity as a Muslim-majority country, remains to be seen. In the meantime, psychiatrists and other mental health professionals are in a unique position to shape the discussion about the impact of these laws on human rights.

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