

Blasphemy Law and its interpretation—A Pakistan's Perspective

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Abstract

Blasphemy law is considered as very basic law in the Muslim societies. This study aims to examine the blasphemy law of Pakistan in historical perspective. Qualitative research designs and discourse analysis techniques have been used to analyse the existing data. In Indian Subcontinent, during the Muslim rules, blasphemy law was being followed and practiced in accordance with principles of Islam. During British regime, it has throughout been demand of the Muslim for legislation of Blasphemy Law. During this period, by acceding to Muslims' demand, it was introduced but with lesser punishment, even lesser than those which was there in the law of England. In this article, history of the blasphemy law and its interpretation, including conformity with Islamic principles as judged by the Federal Shariat Court, has been documented. In the end, its present status, or restatement of this law, has been unearthed with some suggestions, which have though been alluded to in decisions of the courts, but have not been ever discussed..

KEY WORDS: *Blasphemy, legislation, Shariat Court, interpretation, 395-C of PPC*

Concept of Blasphemy and its definition

Term 'Blasphemy' is derived from the Greek word 'blasphemein'. Blasphemein is translated into 'to speak evil', 'to utter profane or impious words', 'to talk profanely' or 'to speak irreverently to utter impiety' against God or anything sacred.¹ It means any profane or contemptuous speech, writing or action against God or other things held divine by someone.² In Pakistan, within contemplations of section 295-C, blasphemy against the Holy Prophet means any work, either spoken or written, or any visible representation, or any imputation, innuendo, or insinuation, directly or indirectly, which definles the sacred name of the Holy Prophet (pbuh) is considered as blasphemous being punishable to death.

The Holy Quran says, "But if they violates their oath after their covenant, and attach your religion with disapproval and criticism then fight (you) the leaders of disbelief (chiefs of Quraish-pagans of Makkah) - for surely their oaths are nothing to them - so that they may stop evil actions."

Quran also says "Lo! Those who malign Allah and his Messenger, Allah hadth cursed them in the world and the Hereafter and had prepared for them the doom of the disdained"³. And of them are men who hurt the Messenger (Muhammad) and say: He is (lending his) ear (to every news). Say, 'He Listens to what is best for you, he believes in Allah, has faith in the believers; and is a mercy to those of you who believe. But those who hurt Allah's Messenger (Muhammad) will have a painful torment.'⁴

There are other Quranic verses and Ahadis of the Holy Prophet on this subject. Since in this article focus in on the interpretation of blasphemy concept by the court therefore this part is not further discussed.

Indian Subcontinent and Blasphemy Law.

Muslim rule in Indian Subcontinent started with the successful invasion of Muhammad Bin Qasim in 712 AD. It continued to exist till 1857, one way or the other, when last Mughal King Bahadur Shah Zafar ousted and Queen Victoria decorated herself with the title of Queen of India. During the Muslim rule Islamic law remained the law of the land and the cases were decided in accordance with the rules of Shariah. Thus, Blasphemy law remained within the red letters of the law. Two cases of the Mougla ear pertaining to Blasphemy are

mentioned hereunder. One case is taken from the era of the Great Mughal Emperor, Jalal-uddin Akbar.⁵ This case initiated on the complaint of Mr. Abdul Raheem Qaziof Mithra, who sent a complaint to the Chief Judge Abdul Ghani⁶ against a rich Hindu Brahman who allegedly committed an offence of Blasphemy by abusing the Holy Prophet in presence of witnesses. The dispute arose when Muslims gathered materials for construction of a Mosque which was taken away by the said Brahman and started construction of a Temple. Shaikh Abdul Ghani summoned the accused who declined to appear. Whereupon Emperor Akbar summoned him through Birbal and Shaikh AbuAlfazal. Shaikh Abu Alfazal narrated the incident, which he heard from the witnesses, with his finding that the accused had committed offence. On the issue of punishment there were two groups of *Ulemas*. One was in favour of death penalty under *hadd* whereas the other one was in favour of imposition of *Tazir* and fine. It ensued heated debate between these groups. Emperor Akbar intentionally kept himself aloof, despite solicitation of Chief Judge Shaikh Abdul Ghani, on the ground that the matter involved *shariah*. The convict was put behind bars for many years and later on he was executed by orders of Chief Judge Shaikh Abdul Ghani.⁷

Another case related to an incident took place in Sialkot during the regime of Zakeria Khan, Governor of Punjab. Haqeqat Rai was tried in Lahore on allegation of his utterance of blasphemous remarks against Holy Prophet (pbuh) and Hazrat Fatima (RA). He was convicted to death. His conviction was not pardon by the Governor Zakeria Khan despite plenty of intercessions of officers. He was ultimately executed.⁸

British Rule and Blasphemy

With the deterioration of Mughal rule British East India Company under garb of business settlement established their stronghold and started interference in the local politics. Ultimately last Mughal regime of Bahadur Shah Zafar collapsed into disaster in War of Independence of 1857 and Britishers took over the rein of India. Since in Britain process of codification of laws was already started by Lord Thomas Babington Macaulay under the influence of Jeremy Bentham. His true disciples, Lord Macaulay, undertook in Indian Subcontinent the labour of introduction and codification of laws for dispensation of justice through a commission namely Indian Law Commission. The Commission introduced in 1835 a penal law for the

entire Indian colony. The law was in fact a codification of English principles on criminal law with tint of utilitarian principles of modern criminology. The Commission, while drafting the penal law, on the one hand, not only disregarded altogether native socio-cultural norms but also wilfully destroyed legal structure already present and working since centuries. On the other hand, it intentionally avoid some basic principles of the common law. For example, it did not incorporate offence of Zina. It intentionally avoided introduction of concept of blasphemy and its punishment, even though, it was available in common law of English legal system, entailing life imprisonment,⁹ equal in punishment to that of the offence of high treason against the British Crown. However, a chapter, offences against religion, was included in the Code. The chapter was comprised of four sections and entailed punishment maximum of one year for a convict.¹⁰ Its section 295 dealt with offences related to 'injuring or defiling a place of worship with intent to insult the religion of any class', section 296 'disturbing a religious assembly', 297 'trespassing on burial places, etc. and 298 'uttering words with deliberate intent to wound the religious feelings of any person'. The framer stated two objects for introduction of section 298. One is to allow 'all fair latitude to religious discussion' and second is to 'prevent the professors of any religion from offering intentional insult to what held sacred to others' either by words, gestures or exhibitions.¹¹

When the Code failed to maintain religious harmony there arose religious and political tension between two main religions in India. In order to address this mischief, in 1898 section 153-A was introduced in the Code. It reads:

"Promoting enmity between classes--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."

This code was put to test in Raj Pall case. In this case Raj Pall published an Urdu pamphlet using title 'The Amorous Prophet'. He was tried under section 153-A of IPC and convicted for promoting enmity between Muslims and Hindu, two different classes. In appeal before the Lahore High Court Justice held that section 153-A was not

intended to prevent polemics against religious leader rather was intended to prevent attack on community and set aside conviction, with proposal for introduction of new section for meeting the situation.¹² Though in another case, *Devi Sharan Sharma v. Emperor*, a judge of Lahore High Court, Justice F. W. Skemp, convicted the petitioner being author of *Sair-i-Dozakh*, for promotion hatred and enmity between Muslim and Hindus and sentenced him to rigorous imprisonment for a period of six months and fine.¹³ Even then it ensued widespread agitations and chaos. Muslims were agitating the government of bring in new law and increasing the punishment for offenders. After release of Rajpal, William Hailey, British Governor for Punjab himself observed that ‘ serious danger of disorder, for an attack on the Prophet was a concrete offence against Islam that stung them to the quick, and they could not bear the thought that Hindus could repeat it with impunity’.¹⁴ This led into introduction of section 295-A IPC, with stated purpose of, “making it a specific offence where someone intentionally insult or attempt to insult the religion, or outrage or attempt to outrage the religious feelings, of any class of His Majesty’s subjects”.¹⁵ Qauid-e-Azam during the debate on the bill in Legislative Assembly wanted to include specific name of the Prophet Muhammad (pbuh) in order to protect from written attach.¹⁶ Further, Muslims members aired their fear that the bill would not be effective in protecting blasphemous attach on the Prophet (pbuh). In August 1927 Section 295-A was inserted, without mentioning name of any religious sacred person, but presumably, for protecting the Prophet (pbuh) and other historical, religious figures and communities from malicious attacks¹⁷, providing punishment of either description for a term extending to two years or fine or both.¹⁸ Before proceeding for prosecution under this section one had to obtained approval from the relevant government.¹⁹

The addition could not satisfied reservations of Muslims, mainly, for two reasons. Firstly, punishment provided therein was not in accordance traditional and religious practice of the region and, secondly, its scope, as interpreted by courts, did not encompass incident and publication happened before legislation of it.²⁰

Therefore, the amendment could not bring in harmony and peace between Muslim and Hindus communities. Rajpal’s life was attempted twice. Third attempt, undertaken by a young man of about 19 years, namely Illam-ud-din, led to his assassination on 6th April

1929. His appeal was contested no other than Quid-e-Azam Muhammad Ali Jinnah.²¹ In an identical case, Nathu Lal, a convict in case for reviling Islam and the Holy Prophet (pbuh), released on bail in 1934 by the Judicial Commissioner in Karachi, was murdered by Abdul Qayum.

Pakistan and Blasphemy Law

After independence Pakistan inherited British Indian Penal law, Indian Penal Code, containing chapter, discussed above, titled, 'Offences Relating to Religion'. However, the words 'His Majesty's subjects' were replaced with 'the citizens of Pakistan' in the year 1956. Indeed Pakistan was envisioned as democratic Islamic country wherein all non-Muslims communities having equal rights would be free to adopt and practice their religion without any fear and favour. So, the court interpreted that the same rules and law applies to Hindu, Christian and Islamic places of worships in Pakistan.²²

It is fact that after independence any attack from Hindus minority on the religious feelings of Muslim diminished. However, Ahmadi-Muslim controversy again revitalised issue within Muslims to compel the government to bring changes in Blasphemy law, chapter of PPC dealing with 'Offences Relating to Religion'.²³ These conflicts duly reflected in Justice Munir Report of 1954 and later on movement in 1974 seeking Ahmadis' exclusion from the definition of Muslim took to ripe when some Muslim students of Nishtar Medical College Multan were attacked 30th July 1974 by Ahmadis at the train station of Rabwa. Allegedly the incident happened due provocateur materials and slogans both against Muslims and Ahmadis' religious feeling.²⁴ In order to investigate the incident the government appointed of a commission comprising a High Court Judge, K. M. A. Samdani. As a next step, on 13th June 1974 the then Prime Minister, Mr. Zulifqar Ali Bhutto, for the purposes of resolving Ahmadi's issue, appointed a Special Committee of the National Assembly comprising of the all members of the National Assembly. The committee heard the both sides. Ultimately, on 7th September 1974, through a constitutional amendment, giving the definition of a Muslim, Ahmadis' were categories as non-Muslim minority.

Even after declaration and exclusion of Ahmadis from the definition of Muslim, their use of well-known Islamic terminologies, eg, *Amir-ul-Momineen* (the successors of the Prophet), *Ummul Momineen* (sacred name of Prophet's Wives) or *Sahab-e-Karam*

(companions of the Prophet), further led, in the year 1980, to an insertion of section 298-A in the chapter, providing for three years imprisonment for using such terminologies.²⁵ In 1982, section 295-B was inserted for the purpose of protection and preservation of the Quran as a final revealed book.²⁶

In 1984, General Zai, through an Ordinance, entitled 'Anti-Islamic Activities of Qadiani group, Lahori Group and Ahmadis, inserted Section 298-B and Section 298-C in PPC, with punishment of three years.²⁷ In these amendment any blasphemous acts against the companions of the Holy Prophet (pbuh) were made punishable but no reference for such act against the Holy Prophet (pbuh) was made, therefore, Muhammad Ismail Qureshi challenged these provisions of law before the Federal Shariat Court.

Federal Shariat Court and Blasphemy Law

Petitioner, Muhammad Ismail Qureshi, an advocate, invoked the jurisdiction of Federal Shariat Court under Article 203 of Constitution of Pakistan in Shariat Petition No 1-L of 1984 (Ismail Qureshi v General Muhammad Zia-ul-Haq and Others), petitioning that Section 295A of PPC is repugnant to Islamic injunctions, since it provided punishment of only imprisonment for the guilty of blasphemy against the Holy Prophet (peace be on him), whereas Islamic law considering it heinous crime stipulated penalty of death. Before the full bench, which heard the case and reserved its judgment, could deliver its verdict, the legislature, on its own, started process of legislation and made amendment in the law. During this process Apa Nisar Fatima, a Member of the National Assembly from Baluchistan introduced a bill, drafted by Ismail Qureshi Advocate, the petitioner, proposing only penalty of death for the offender. But on the proposal of the then Minister for Religious Affairs it was left on the discretion of the court to impose either penalty of death or imprisonment for life to the offender. The bill passed, known as section 295-C reads:

"Use of derogatory remarks etc. in respect of Holy Prophet—whenever 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 imprisonment for life and shall also be liable to fine."

Muhammad Ismail Qureshi again challenged this section on the touchstone of its being repugnant to injunction of Islam as laid down in the Holy Quran and Sunnah of the Holy Prophet (peace be upon him). His pertinent challenge rested on ‘alternate punishment’, *ie*, life imprisonment, is repugnant to the dictates of Islam, pleading that ‘any disrespect or use of derogatory remarks in respect of the Holy Prophet (peace be upon him) invited *hadd*, thus attracting only punishment of death.

The Court issued notice inviting interested public to join proceedings and sought assistance of Jurisconsults²⁸. The case was heard at Islamabad, Lahore and Karachi on many dates. During the arguments the Jurisconsults lined up themselves into two groups. One group, comprising Maulana Subhan Mahmood, Maulana Mufti Ghulam Sarwar Qadri, Maulana Hafiz Salahuddin Yousaf, Maulana Muhammad Abdo-ju Al-Falah, Maulana Syed Abdul Shakoor and Maulana Fazle Hadi, supported contention of the petitioner—death sentence is the only sentence. In other group, only Maulana Saeed-uddin Sherkoti argued that lesser punishment to that of death can be awarded. Maulana Subhan Mahmood, Maulana Mufti Ghulam Sarwar Qadri, Maulana Hafiz Salahuddin Yousaf further argued that offender’s sentence would be waived if he repented.

The judgement of the Court was drafted by Mr. Justice Gul Muhammad Khan Court, Chief Justice.²⁹ The Court reached to the conclusion, on the unanimous recommendation of all Jurisconsults, that in terms of verses of Holy Quran all the Prophets are in equal status and anyone guilty of uttering contemptuous remarks or offering insult, in any way, against any of the Prophet shall invite penalty of death. The Court held that “alternate punishment of life imprisonment” provided in section 295-C of PPC is repugnant to the Injunction of Islam therefore dictated “deletion” of the words providing for alternative punishment and addition for extension of application of offence “on the same acts or things when said against other Prophets.”

The Court further clarified that in order to apply ‘the penalty of *hadd*, ascertainment of intention is necessary for the commission of offence³⁰ and the accused is to be given right to explain. The court after giving opportunity to the accused can decide ‘whether the words so said were intended to malign’ or ‘uttered innocently’.³¹

The Court, under Article 203-D of the Constitution,³² gave timeline to the President of the Islamic Republic of Pakistan to take

action for making necessary amendment in section 295-C till 30th April, 1991. The Government of Pakistan instead preferred an appeal before the Supreme Court which was, later on, dismissed on account of non-prosecution of the Government. When the appeal was preferred before the Supreme Court the decision of the Shariat Court stood suspended and when the appeal was dismissed by the Supreme Court the decision of the Federal Shariat Court, by the dictates of the Constitution,³³ became the law of land, having binding effects on all institution, including the courts.³⁴

A new classical jurist of the Hanfi School of thought, Dr Muhammad Mustaq Ahmad, has recently written an article on the Federal Shariat Court judgment, titled, Pakistani Blasphemy Law between *hadd* and *Siysah*: A Plea for Reappraisal of the Ismail Qureshi Case with his conclusion that Pakistan's Blasphemy law is needed to be reviewed in order to make its distinct application on Muslim and non-Muslim accused. According to him, for a non-Muslim convict the ruler has authority under *siyasahto* prescribe any punishment. A Muslim who repents after his commission of the offence, may also have different punishment, as according to him, the ruling of the Federal Shariat Court to the effect that Blasphemy offence is unpardonable, does not hold water.³⁵

Asia Masih Case

In this case an FIR under Section 295-C PPC registered at Police Station Sadar Nankana Sahib by Qari Muhammad Salaam against Mst Asia Bibi, a Christian, levelling allegation that sheduring altercation with other ladies, working in a field, uttered derogatory remarks against the Holy Prophet. She was tried, prosecution witness deposed against her, but she totally denied the allegations in her statement under Section 342 CrPC. She was ultimately convicted to death by the learned Addl. Sessions Judge, Nankana Sahib under Section 295-C of PPC. High Court maintained the death sentence inflicted on the convict Asia Bibi. Thus the matter reached in the Supreme Court.

The Supreme Court on the basis of contradictions in prosecution witnesses acquitted the convict of the charges and ordered for her release from the jail. The Court further observed that the matter is required by law, section 156-A of CrPC, to be investigated by a police officer not below the rank of Superintendent of Police. A supporting note of Mr. Justice Asif Saeed Khan Khoosa has further

commented that insulting her religion, Prophets of other religion, by complainant party is no less blasphemous. This statement is in line with the decision of the Federal Shariat Court in Muhammad Ismail Qureshi case wherein it was directed to the Federal Government that a clause be added to section 295-C in order to make it applicable on the acts or things when said against the other Prophets.³⁶

With regard to obtaining permission under Section 196 of the CrPC before lodging an FIR and moving the court for taking cognizance, the judgement of the majority held that even such permission is required for offence under Section 295-A of PPC but there was no requirement for taking cognizance of the offence under Section 295-C of PPC. Mr. Justice Asif Saeed Khan Khoosa, though did not discussed this issue elaborately but observed that when 'no permission was obtained from the District Coordination Officer or the District Police Officer, etc. for lodging or registration of an FIR in respect of the offence of blasphemy' is left much to be desired. Making it compulsory make act as a safeguard against frivolous registration of FIR and prosecution under this section.

There is has debate, even undertaken in the *Asia Masih case* by the Supreme Court, that there are instances wherein the accused were involved in blasphemy cases with ulterior motive. According to a report, from 1987 to 2017, 720 Muslims were involved in compare to 238 Christian for the same period. However, no one has ever been executed under this offence.³⁷ In order to avoid allegedly frivolous cases, mandatory permission of the government for initiating prosecution under section 295-C, just like 295-A, will act as safeguard not against the registration of false case but also safe innocent accused from the ordeal of trial.

Conclusion

Blasphemy law of Pakistan has its roots in the Islamic culture of the subcontinent. It was law of the land during Muslim rules in this area. During British rules, Muslim communities has been demanding for this law for the protection against attack on very fundamental of their religion. Now anyone whose acts and words is against the Holy Prophet (pubh) or any other Prophet fall within section 295-C of the Code. Since, this is an offence against the Muslim community and Pakistan is also a Muslim countries, then, it is desirable, as alluded to by the minority judgment of the Supreme Court, to make it mandatory to seek permission of the Government to initiating prosecution under

this section. This permission shall act as a safeguard against false prosecution. It can also be recommended in the light of the decision of the Federal Shariat Court that this section shall equally be applied on the acts or things which are blasphemous to the other Prophets.

References

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- 2 Wehmeier, Sally. *Oxford Advanced Learner's Dictionary: Of Current English*. Oxford University Press, 2000, p112
- 3 Quran 33:57
- 4 Quran 9:61
- 5 He was famously known as Akbar the Great. He was third emperor of Mughal Empire after Babur and Humayun, coronated in 1556 and remained on the throne till 1605.
- 6 Shaikh Abdul Ghani was QaziUlQaza and it is translated as the Chief Justice.
- 7 Abdul QadirBadayoun, *Muntakhib-ut-Tawareekh* (Karachi: Nafees Academy, 1980), 230
- 8 Nijjar, B. S. (1972). *Panjab Under the Later Mughals, 1707-1759*. Jullundur: New Academic Publishing Company.
- 9 Murphy, Peter, and Eric Stockdale, eds. *Blackstone's Criminal Practice 1995*. Blackstone Press, p635.
- 10 Section 298 reads: whoever, with the 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 terms which may extend to one year, or with fine, or with both.
- 11 Mayne, John Dawson. *Commentaries on the Indian Penal Code (Act XLV of 1860)*. Higginbotham, 1884 p.244
- 12 Rajpal v. Emperor, AIR 1927 Lahore 590
- 13 Devi Sharan Sharma v. Emperor AIR 1927 Lahore 594

- 14 Hailey to Vincent, 11 August 1927 quoted in Thursby, Hindu-Muslim Relations in British India, 41
- 15 2 Gazette of India, dated 27 August 1927, Part V in Nelson, The Indian Penal Code, 1369
- 16 Thursby, Hindu-Muslim Relations in British India
- 17 D. Gaur, Text Book on the Indian Penal Code, 418
- 18 Section 295-A reads: “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 representation, 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 two years, or with fine or with both”.
- 19 Lal, The Indian Penal Code, 1330.
- 20 *Shive Sharma v. Emperor* AIR 1941 Oudh 310. The petitioner wrote and published a blasphemous book in 1922, the second edition and third of it were published in 1928 and 1939. He was tried under section 395-A but was convicted under section 153-A because section 395-A was not applied retrospectively.
- 21 Illam Din, better known as Ghazi Illam Din was convicted under section 302, his appeal was dismissed and was executed on 3rd Nov 1929 in Mianwali Prison. It caused widespread protest by Muslim therefore, in order placate the same, his body was exhumed and handed over to Muslims. Later on he buried in Lahore.
- 22 Noor Muhammad v. Fiaz Ahmad, PLD 1960 Lahore 567
- 23 Justice Munir Report of 1954 (Report of the Court of Inquiry) and demand of Ahrar Movement.
- 24 Saeed, Politics of Exclusion, 210
- 25 Section 298-A reads: 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 (UmmelMuminn), or members of the family (Ahle-bait), of the Holy Prophet (peace be upon him), or any of the righteous Caliphs (Khulfa-e-Rashideen) or companions (Sahaba) of the Holy Prophet (peace be upon him), shall be punished with

imprisonment of either description for a term for a term which may extend to three years, or with fine, or with both.

- 26 Section 295-B reads: Whoever wilfully defiles, damages or desecrates a copy of the Holy Qur'an or of an extract therefrom or uses it in any derogatory manner or for any unlawful purpose shall be punishable with imprisonment for life
- 27 Section 298-B reads: 1. Any person of the Qadiani 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:
 - a. Refers to or addresses, any person, other than a Caliph or companion of the Holy Prophet Mohammad (PBUH), as "AmeerulMomineen", "Khalifat-ulMomneen", "Khalifat-ul-Muslimeen", "Sahaabi" or "Razi Allah Anho";
 - b. Refers to or addresses, any person, other than a wife of the Holy Prophet Mohammed (PBUH), as Ummul-Mumineen;
 - c. Refers to, or addresses, any person, other than a member of the family (AhleBait) of the Holy Prophet Mohammed (PBUH), as Ahle-Bait; or
 - d. Refers to, or names, or calls, his place of worship as Masjid; shall be punished with imprisonment or 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 Lahore group, (who call themselves Ahmadis or by any other names), who by words, either spoken or written, or by visible representations, refers to the mode or from 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.

Section 298-C reads: Any person of the Qadiani group or the Lahori group (who call themselves Ahmadis or any other 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.

- 28 Article 203 E of the Constitution reads: --- (4) A party to any proceedings before the Court under clause (1) of Article 203D may be represented by a legal practitioner who is a Muslim and has been enrolled as an advocate of a High Court for a period of not less than five years or as an advocate of the Supreme Court or by a jurisconsult selected by the party from out of a panel of jurisconsults maintained by the Court for the purpose.
- (5) For being eligible to have his name borne on the panel of jurisconsults referred to in clause (4), a person shall be an aalim who, in the opinion of the Court, is well-versed in Shariat.
- (6) A legal practitioner or jurisconsult representing a party before the Court shall not plead for the party but shall state, expound and interpret the Injunctions of Islam relevant to the proceedings so far as may be known to him and submit to the Court a written statement of his interpretation of such Injunctions of Islam.
- (7) The Court may invite any person in Pakistan or abroad whom the Court considers to be well-versed in Islamic law to appear before it and render such assistance as may be required of him.
- 29 Other members of the Bench include Mr. Abdul Karim Khan Kundi, Mr. Ibadat Yar Khan, Mr. Abdul Razzak A. Thahim and Mr. Fida Muhammad Khan, Judges of the Federal Shariat Court.
- 30 The Court did not agree with some Jurists who opined that “if the contempt of the Holy Prophet (pbuh) is in manifest and express words, the contemner will not be asked as to what was his intention”.
- 31 Para 60 of the judgement.
- 32 Article 203D (3) of the Constitution reads: If any law or provision of law is held by the Court to be repugnant to the Injunctions of Islam,— (a) the President in the case of a law with respect to a matter in the Federal Legislative List 5* * * or the Governor in the case of a law with respect to a matter not enumerated in 6 [said List] shall take steps to amend the law so as to bring such law or provision into conformity with the Injunctions of Islam; and (b) such law or provision shall, to the extent to which it is held to be

so repugnant, cease to have effect on the day on which the decision of the Court takes effect.

- 33 Proviso 203 D (2) reads: Provided that no such decision shall be deemed to take effect before the expiration of the period within which an appeal therefrom may be preferred to the Supreme Court or, where an appeal has been so preferred, before the disposal of such appeal.
- 34 *Asia Bibi v. the State*, the decision of the Supreme Court dated 8.10.2018.
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- 36 PLD 1991 FSC 10.
- 37 Asad Ahmed, a brief history of anti-blasphemy law, available at <https://herald.dawn.com/news/1154036>