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# **‘COMPARATIVE ANALYSIS OF BALSPHEMY LAWS IN SECULAR AND NON-SECULAR STATES’**

AUTHORED BY: ADITYA NARAYAN

## **ABSTRACT**

The concept of secularism and blasphemy have been in debate for over a century. The term secularism was itself coined in 19<sup>th</sup> century and yet in Indian perspective there is no clear definition. The ambiguity in the meaning of the term religion and secularism creates a problem in defining what amounts to blasphemy. Every state has their own concept as to what amounts to blasphemy and have made laws as per there understanding. Comparison must be drawn between these states to understand the broader picture. The stamp of secular and non-secular state may affect the legislation around blasphemy. Article tries to find the answer to such questions.

## **INTRODUCTION**

Are the gods actually interested in what we humans have to say about them? We don't know if they care or they don't, who knows? However, it is undeniable that we humans, who worship a god or set of gods, do. While doing so, some of us who fall under the aegis of a particular faith, sect, or religion make it our solemn duty to defend the very gods who shield us from harm. This is how the idea of blasphemy arises. Blasphemy is defined as “the act of insulting or showing contempt or lack of reverence for God.” When someone hurts or violates your religious sensibilities or sentiments, insults your God or sacred site, books, texts, etc., that is considered blasphemy.

For this problem, regulations have been enacted in several nations. In a recent Pew Research Center survey, 79 of the 198 countries and territories examined (or 40%) had blasphemy laws or policies in place as of 2019. This puts the concepts of freedom of speech and expression, freedom of religion, and the secular state in conflict. A secular nation like India has no explicit legislation against blasphemy; instead, it has a provision in the I.P.C. 1860, Blasphemy is punishable by imprisonment for up to three years under Section 295A, which defines it as " Deliberate and malicious acts, intended

to outrage religious feelings of any class by insulting its religion or religious beliefs." Pakistan, a non-secular nation, under section 295C of the Pakistan Penal Code, 1860, imposes the death penalty for "Use of derogatory remarks, etc., in respect of the Holy Prophet." The US, a secular nation, has no federal blasphemy laws, but Indonesia has penalties and prison time for blasphemy.

This article seeks to examine how the country's secular status and blasphemy laws are related. Whether blasphemy laws are appropriate in a multi-cultural or multi-religious community and are they consistent with freedom of speech and religion. The scope and severity of blasphemy laws, as well as the definition and interpretation of the term secularism, will all be examined as it compares various secular and non-secular regimes.

## **THE CONCEPT OF SECULARISM AND BLASPHEMY**

The definition of the word "Secular" has been debated ever since the 42nd Constitutional Amendment included it in the Preamble of India. Due of the ambiguity in its Hindi translation, the question of whether secular refers to "Panth Nirpeksh" or "Dharma Nirpeksh" arises. The Hindi translation of the preamble to Indian constitution uses the term "Panth Nirpeksh" to denote secularism. Since there is not fixed meaning of the term Dharma itself, its interpretation definition of "Dharma" is what has led to this misunderstanding in the first place.

There are four methods to understand Dharma, with Nature being the first. Dharma as "Nature" refers to a trait that an object possesses simply by virtue of being there. A thing's Dharma is its fundamental or basic trait or feature; it is a quality that cannot be separated. "Aag ka Dharma hai Jalana," as an example. Burning is in fire's essence. It is the core nature. The fact that fire will always be hot and burn is one of its fundamental characteristics. There won't ever be a fire that doesn't burn.

Dharma as Duty/Kartvya is the second. This interpretation of Dharma is highly valued in Indian culture. Every person is thought to have a specific set of responsibilities and duties depending on the function they perform in society. Dharma is an action or omission that must be performed by an individual and is most appropriate in a specific circumstance.

Putradharma, or putridharma, is the obligation a son or daughter has to their parents. Student's

obligation towards professors is known as Shishyadharmā. a King's obligation to the state is the Rajdharmā. Warrior's obligation is Kshtriyadharmā, and so forth.

The third method of understanding Dharma is through religion or community that is Majhab/Panth/Sampraday. Different routes that various groups of people have developed in accordance with their beliefs for the benefit of spirituality are regarded as their religion or community. Buddhism, Hinduism, Sikhism, Islam, Christianity, Jainism, and other religions or communities are all different. Within them, there are other subcommunities. The fourth concept of Dharma is that each of them has a unique method of worship. When we discuss the concept of a secular state or secularism in government, we take into account this interpretation of the Dharma as a religion, community, or mode of worship.

The idea of secularism holds that religion should not have any influence or involvement in how society, education, government, and other institutions are organised. separation between the state and religion. Both must operate without interfering with one another's domains and independently. A system which separates religion from the state and its civic concerns is known as secularism. Secularism as a concept is both positive and negative.

The negative notion, or western concept if we must, denotes total separation between the state and religion. On the other side, India exhibits a positive view of secularism, which is defined as treating all religions equally or defending them all. "The State does not owe fealty to any specific religion as such: It is not irreligious or anti-religious; It allows equal freedom to all religions.

The idea of secularism in India differs significantly from that in the west. The "State" and "religion" have their own distinct realms, and both shall not meddle in the affairs of the other, according to the western concept of secularism. Thus, the full separation of religion and state is required by the western understanding of secularism.

However, there is no such "wall of separation" in India, either in law or in reality. In India, both the state and religion are permitted to interact and interfere in one another's business as long as they do so within the limits that have been set by law and the courts. In other words, secularism in India does not call for the complete exclusion of religion from public policy. The state is not permitted to provide

any financial assistance to educational institutions managed by religious communities on the western model. The Indian model, however, has selected a constructive approach to interaction. All religious minorities in India have the legal right to create and maintain their own educational institutions, with possible state support.<sup>1</sup> In the western paradigm, the state stays out of religious concerns until they are conducted within the bounds of the law. On the contrary, Indian secularism requires the state to intervene in religion in order to purge its vices. India has interfered by implementing legislation that forbids the customs of dowry, child marriage, animal and bird sacrifice, sati, or the burning of widows, as well as entrance of Dalits in temples. Religion is completely consigned to the private domain and has no place at all in public life according to the western concept of secularism. Since no public policy can be created in the west on the basis of religion, the government is completely cut off from the religious activities and practises of its people. The government of India has a policy of establishing Wakf Boards, Departments of Religious Endowments, etc. Additionally, it is involved in choosing the Trustees for these boards.

Secularism does not entail separating the state from religion in the context of India. Instead, the Constitution protects freedom of religion and "religious practises," freedom of conscience and free speech, as well as the right to practise and spread one's religion.<sup>2</sup> But the limitations outlined in the Constitution itself apply to these rights. The Supreme Court of India observed that "secularism" did not imply being either pro- or anti-god; rather, it simply insured that no one is treated differently on the basis of religion.<sup>3</sup> According to the Indian Constitution, secularism did not imply that India was an atheist society, but rather that it was a heterogeneous society that accorded equal status to all religions without favouring or discriminating against anyone.<sup>4</sup>

To properly exercise the rights stipulated under Right to freedom of Religion it has to be coupled with Article 19 of the Indian Constitution. One of the most important liberties that aids in the spread of a religion is the freedom of speech and expression<sup>5</sup>. The limitations set by the abovementioned provisions itself apply to the promotion or propagation of one's religion. One must be careful not to injure or disparage another person's faith or religious sentiments when engaged in religious advocacy,

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<sup>1</sup> Indian Constitution Art. 30

<sup>2</sup> Indian Constitution. Art. 25

<sup>3</sup> Ahmedabad St. Xavier's College v. State of Gujarat AIR 1974 SC 1389

<sup>4</sup> S R Bommai v. Union of India AIR 1994 SC 1918

<sup>5</sup> Indian Constitution Art. 19(1)(a)

propagation, discussion, or debate. Any situation in which you disparage other deities, sacred places, or religious ideals, that is where the concept of Blasphemy comes in.

The word "blasphemy" originally just meant an insult or a type of verbal mockery because it derives from the Greek words "blaptein" "Injure," and pHEME, "Reputation." However, because of the general uses it has had throughout history that connect it to the divine or the sacred, it is viewed as a type of transgression or sacrilege. Blasphemy, which is often seen by monotheistic religions as a terrible sin and even as a penal act in theocratic or confessional governments, is an insult or an insulting remark intended towards God or cosmic majesty. In reality, there have always been several laws against blasphemy, born in either Christian or Muslim countries, both of which carry the death penalty. While these kinds of crimes were mostly eliminated in the West by the French Revolution of 1789, it is still possible to find them in other cultural areas in the twenty-first century.

What now qualifies as blasphemy depends on a religion's tenets and particular theology. For instance, the Charlie Hebdo shooting revenge for the printing of cartoons or any visual representation of the prophet, which are considered blasphemous or sacrilegious in Islam.

In Christianity it refers to any offence against God's honour, whether it involves offending him directly or indirectly. Blasphemy is therefore seen as the antithesis of praise. In the Old Testament, blasphemy was punishable by death by stoning. The Bible contains multiple verses that discuss blasphemy and its consequences.

The son of the Israelite woman cursed and blasphemed the Name. Afterward, they took him to Moses. Anyone who profanely mentions the Lord must be executed, whether they are foreigners or native-born, the entire crowd must stone them...<sup>6</sup>

And whoever says anything unkind about the Son of Man will be pardoned, but whoever says anything against the Holy Spirit will not be pardoned, neither in this age nor in the age to come.<sup>7</sup>

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<sup>6</sup> Holy Bible, English Standard Version, Crossway, a publishing ministry of Good News Publishers 2016, Leviticus 24:11

<sup>7</sup>Id. Matthew 12:32

## THE INDIAN LAWS AND PERSPECTIVE

One must think about India's pre-independence history in order to comprehend the situation there. It was determined that India would be a sovereign, secular, democratic republic given the communal context of the country's partition and the ongoing diversity within it. In common parlance, secularism refers to the idea that the State is not associated with any particular religion, but rather remains impartial and only steps in as a mediator in a small number of contentious situations when there is a threat to the public's health, morality, or order, and when religion involves social issues.<sup>8</sup> The laws governing religion in India are divided into two categories: criminal law and constitutional law, as was discussed above, every citizen of India is guaranteed fundamental rights by the Indian Constitution in respect to freedom of religion. In regards to criminal law, Indian law did not prohibit blasphemy until 1920s despite the country's predominately Hindu population. Due to the release of books like Rangeela Rasool, which made fun of the Prophet Mohammed, the Hindus and Muslims clashed for the first time over the issue of blasphemy in the 1926.

The IPC's Section 153A deals with offence of Promoting discord, hostility, or animosity amongst various groups on the basis of religion, race, place of birth, domicile, language, etc., as well as engaging in actions that undermine the maintenance of harmony. It offers a chance to penalise any publication that tries to incite animosity between social strata. If a crime is encouraged on religious grounds, the punishment is specified in Section 153A.

According to Section 153B, any accusations of a person's disloyalty made because of their membership in a certain racial or religious group will result in punishment. Under section 153A reasonable preventive measures may therefore be implemented for the conservation of communal harmony if someone is indulged in preaching of communal hatred. This can be inferred from the language employed and the context of the writing's publication. It doesn't matter if the assertion is true or not. For instance, a spectacular statement that appeared in headlines and was made at a time when there was a lot of animosity between the two populations served to intensify those feelings.

Offenses against religion are covered in detail in Chapter 15 of the Indian Penal Code, from Sections

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<sup>8</sup> Justice P.B. Mukhaiji, "Subjective Civil Liberties," Civil Liberties: Ramananda Lectures (1965) of the Calcutta University

295 to 298. However, only Section 295A qualifies to address blasphemy. It is sometimes contended that Section 295(A) prohibits hate speech rather than blasphemy. Section 295(A) of the Penal Code was created with the intent of criminalizing blasphemy and preventing the instigation of violence through blasphemous acts. This intention can be clearly understood by considering the circumstances surrounding the section's introduction and the chapter under which it is located. Section 295A's goal is to maintain public order. thus, any attempt to destabilize it on the basis of religion is dealt with harshly. Although, according to the Supreme court, this clause does not make every insult to religion is illegal but mainly the more severe kinds that tend to disrupt the peace.<sup>9</sup>

The nature of Indian society is quite complex. There are different religions and sects, and there are many stark differences in their philosophies. One such instance is the controversy surrounding the Mahishasur Divas celebration, when the celebrators were accused of inciting hate on purpose and the celebration's theme was in direct opposition to traditional Hindu religion.<sup>10</sup> It is improper for a state to intervene in the religious affairs of a community with such opposing ideals because it will be very challenging to keep a neutral stance in a secular state with such a multiethnic society. The fact that an F.I.R. was brought under section 295(A) against two women for their comments against a Hindu nationalist politician, equating him to a religious figure, provides insight into the complexities of Indian society.

The editor of a cow protection magazine was charged under Law 295A in Ramjilal Modi v. State of U.P.<sup>11</sup> and he brought the matter before the Supreme Court of India. He contested the constitutionality of the section itself, arguing that it violates article 19(1)(a) of the Indian Constitution. The court had ruled that Article 19(2) of the Constitution allows the state to impose restrictions on free speech and expression "in the interests of public order." According to the court, the phrase "In interests of" gave it a really broad scope, and the state might enact any law for this. The law, according to the court, is for aggravated speech meant to disrupt public order.

Sections 298 of the Indian Penal Code have additional provisions. -Using language, gestures, etc. with the goal to offend someone's religious sensibilities: - Whoever speaks, makes a sound, or makes

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<sup>9</sup> Supreme Court hearing on Indian television documentary "Tamas".

<sup>10</sup> S.N Vijetha, Student Groups come to Blows over Mahishasur issue at JNU Once again, The Hindu, 11 Oct 2014, (Accessed on 20 Nov. 2022)

<sup>11</sup> Ramji Lal Modi Vs. State of U.P, 1957 AIR 620; 1957 SCR 860

a gesture in the presence of another person with the intent to offend that person's religious sensibilities will be penalised with either a term of imprisonment that may be up to a year long, a fine, or a combination of the two.<sup>12</sup>

According to the ruling in the case of Ram Manohar Lohia, "a limitation imposed in the interests of public order should be that which has a proximate connection or nexus with public order. It must not be a far-fetched, hypothetical, problematic, or too extreme in the sequence of its relation with the public order."<sup>13</sup>The court further ruled that the claimed utterance should be like a "Spark in the Powder Keg" and "intrinsically hazardous to the public interest" in the case of S. Rangarajan.<sup>14</sup>

The extent of free expression is expanded in light of the state case laws mentioned above. The concept of an "imminent lawless conduct" makes it extremely challenging in the event of blasphemous acts, nonetheless, from a practical standpoint. It is highly erratic which speech that contains blasphemous elements will incite violence. One cannot presume or foresee how the community will respond to blasphemous words. While members of an Islamic extremist organisation hacked off the hands of a Christian professor in Kerala, India for blaspheming, a Hindu leader's blasphemous statement in 2016 sparked the Kaliachak Riots in West Bengal, India.

However, many blasphemous utterances go unreacted to by the general people. No standard can be used to determine whether a statement would result in any "imminent lawless conduct." The fear of being prosecuted under Section 295(A) may prevent someone from expressing their right to free expression, which may or may not result in any disturbance. It instils terror in the minds of sceptics of religious ideas and rationalists, preventing them from using their rights out of concern that society will overreact.

## **BLASPHEMY LAWS IN SECULAR AND NON-SECULAR STATES**

According to their constitutional provisions and keeping in mind the two concepts of secularism, the following nations have been categorised as secular or non-secular and their respective blasphemy laws have been discussed.

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<sup>12</sup> I.P.C Sec. 298

<sup>13</sup> The Superintendent, Central Prison, Fatehgarh Vs. Ram Manohar Lohia, 1960 AIR 633; 1960 DVR(2) 821

<sup>14</sup> S. Rangarajan ETC Vs. P. Jagajivan Ram, 1989 SCR(2) 204

## SECULAR STATES

### SOUTH SUDAN

South Sudan is secular nation as per their constitution

“Article 8. Religion

1. Religion and State shall be separate.
2. All religions shall be treated equally and religion or religious beliefs shall not be used for divisive purposes.”<sup>15</sup>

Offences relating to religion are provided in section 242 to 243 of the Penal code of South-Sudan. It talks about “Insulting or exciting contempt of religious creed” “Abuse of Religious and Nobel belief” “Injury or defiling of place of worship with intent to insult the religion of any class”<sup>16</sup> All the sections provide an imprisonment exceeding upto 3 years with or without fine.

### GREECE

“The prevailing religion in Greece is that of the Eastern Orthodox Church of Christ. The Orthodox Church of Greece, acknowledging our Lord Jesus Christ as its head, is inseparably united in doctrine with the Great Church of Christ in Constantinople and with every other Church of Christ of the same doctrine, observing unwaveringly, as they do, the holy apostolic and synodal canons and sacred traditions.”<sup>17</sup>

Officially, Greece is a secular state. However, the Greek Orthodox Church has a significant impact on both its religious and social landscape. The percentage of people who identify as Greek Orthodox Christians is thought to be 98%.

Initially there were blasphemy laws in Greece enshrined under their penal code.

Article 198 of the Greek Penal Code stated that “1. One who publicly and maliciously and by any means blasphemes God shall be punished by imprisonment for not more than two years;

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<sup>15</sup> South Sudan Const. Art. 8

<sup>16</sup> The Penal Code 2003, south sudan

<sup>17</sup> Greek Const. Art. 3

2. Anyone, except as described in par.1, who displays publicly with blasphemy a lack of respect for things divine, is punished with up to 3 months in prison.”<sup>18</sup>

Article 199 declared similar provisions against anyone who “blasphemes the Greek Orthodox Church or any other religion tolerable in Greece”, imprisonable for up to two years.<sup>19</sup>

2019 saw the repeal of the "blasphemy" statute following a number of high-profile blasphemy trials and international condemnation.

## UNITED STATES OF AMERICA

It is a secular Nation which is clearly evident from their constitution as it clearly states that “Congress shall make no law respecting an establishment of religion”<sup>20</sup>

Blasphemy laws still exist in some US states, including Massachusetts, Michigan, Oklahoma, South Carolina, Wyoming, and Pennsylvania. These statutes are in flagrant violation of the US Constitution's provisions of free speech and religious expression. These rules date back to the colonial era and have not been in effect since the late 20th century.

## CANADA

Canada is again a secular state as it does not recognize any particular religion as a state religion. And all Although Canada typically upholds human rights and liberties, up until December 2018 there was a statute banning "blasphemous libel."

The Senate overturned the "blasphemy" law and several other "archaic" pieces of legislation on December 11, 2018, by passing Bill C-51. According to "Section 296 of the Criminal" Code, "Blasphemous Libel" is an indictable offence that carries a sentence of up to two years in jail. The clause offered a defence of "good faith and polite language," but it has also been used as a threat of legal action against satire and criticism. In 1979, a priest

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<sup>18</sup>Greek Penal code Art. 198

<sup>19</sup> Ibid. Art. 199

<sup>20</sup> US Const. Amendment 1

attempted to bring legal action against a theatre that had shown Monty Python's *The Life of Brian*, but the attorney general of Ontario declined to bring charges.

## INDONESIA

It considers itself secular but no mention of the term secularism in constitution and has a muslim majority which do influence political decision making, the constitution gurantees freedom of worship each according to his her own religion or belief.

“Article 29

1. The State shall be based upon the belief in the One and Only God.
2. The State guarantees all persons the freedom of worship, each according to his/her own religion or belief.”<sup>21</sup>

The nation of Indonesia is obligated to "Belief in the one and only God," according to the Pancasila state philosophy. Identity based on religion or belief is severely constrained. The blasphemy legislation makes it illegal to promote certain views, including atheism, as well as to criticise them. Promoting atheism or any other religion outside the six recognised by law is prohibited by the nation's blasphemy laws.

Article 156(a) of the nation's penal code additionally imposes a five-year prison sentence for "disseminating information intended to incite religious hatred or hostility." Although the constitution provides the right to free speech, atheism is essentially outlawed, and religious criticism is severely constrained.

## NON-SECULAR STATES

### AFGHANISTAN

It is a non-secular state as it clearly choses Islam as the state religion

“The sacred religion of Islam is the religion of the Islamic Republic of Afghanistan. Followers of other faiths shall be free within the bounds of law in the exercise and performance of their

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<sup>21</sup> Const. of Indonesia Art. 29

religious rituals.”<sup>22</sup>

"Blasphemy" is not specifically included in the penal code, the courts instead apply Islamic law to resolve the matter. According to some interpretations of Islamic law, blasphemy, that includes anti-Islamic writings or speech, is a crime punishable by death. Atheists and secularists are consequently compelled to conceal their opinions, and the only way they can do it is through the anonymity of social media. An Islamic judge can sentence a person to death for blasphemy if they are a male over the age of 18 or a female over the age of 16 and of sound mind. Blasphemy suspects receive a same three-day warning as apostates: they must repent or risk death.

## PAKISTAN

It is again a non-secular state as per their constitution adopting Islam as the state religion

1. “Pakistan shall be Federal Republic to be known as the Islamic Republic of Pakistan, hereinafter referred to as Pakistan.
2. Islam to be State religion”<sup>23</sup>

295-A. Deliberate and malicious acts intended to outrage, religious feelings of any class by insulting its religion or religious beliefs. 295-B. Defiling etc. of holy Quran, 295-C. Use of derogatory remarks etc. in respect of the holy prophet. These provisions provide for imprisonment extending upto 10 years to life imprisonment and death penalty

## MALTA

Malta is also a non- secular nation as per their constitution.

1. “The religion of Malta is the Roman Catholic Apostolic Religion.
2. The authorities of the Roman Catholic Apostolic Church have the duty and the right to teach which principles are right and which are wrong.

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<sup>22</sup> Const. of Afghanistan Art. 2

<sup>23</sup> Const. of the Islamic republic of Pakistan Art. 1 & 2

3. Religious teaching of the Roman Catholic Apostolic Faith shall be provided in all State schools as part of compulsory education.”<sup>24</sup>

The Catholic Church, which continues to have a strong influence in Malta, has opposed the establishment of divorce and same-sex civil unions, but Malta has undergone significant liberal legislation in recent years. The "vilification" of religion statute, which had criminalised speech on a wide range of subjects and had been utilised regularly, was eventually repealed in 2016. Justice Minister Owen Bonnici had noted when introducing the bill for elimination in 2016 that "people should be able to make fun of faiths while not encouraging hatred." On July 12, 2016, the law was given final approval by the legislature at its third reading.

## ICELAND

“The Evangelical Lutheran Church shall be the State Church in Iceland and, as such, it shall be supported and protected by the State.”<sup>25</sup>

The freedom of religion is guaranteed under the constitution as long as it doesn't interfere with morality or the rule of law. In 2015, Iceland repealed its blasphemy law.

Religious doctrine "derision" was illegal up to 2015 and was punishable by a prison term.

The general penal code of the nation additionally stipulated penalties and prison terms of a maximum of three months for individuals who publicly mocked or denigrated the religious beliefs or worship of an official religious organisation operating in the nation.

Representatives of the parliamentary Pirate Party presented a proposal to repeal the statute in response to the 2015 Charlie Hebdo shooting in Paris. 2015 saw the abolition, which was supported by people from all political parties and groups.

## SRI LANKA

It is non-secular Buddhist country, their constitution under Chapter II titled Buddhism clearly provides:

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<sup>24</sup> Const. of Malta Art. 2

<sup>25</sup> Const. of Iceland Art. 62

1. "The Republic of Sri Lanka shall give to Buddhism the foremost place and accordingly it shall be the duty of the State to protect and foster the Buddha Sasana, while assuring to all religions the rights granted by Articles 10 and 14(1)(e)."<sup>26</sup>

The Penal Code's Articles 290 to 292 lay out the parameters for prohibiting statements that offend religious sensibilities. Expressions that are construed as offensive to religion are prohibited by Article 291A and 291B.

"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 person, 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."<sup>27</sup>

"Whoever, with the deliberate and malicious intention of outraging the religious feelings of any class of persons, 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 two years, or with fine, or with both."<sup>28</sup>

## ISRAEL

Israel is a non-secular Jewish nation

"The purpose of this Basic Law is to protect freedom of occupation, in order to establish in a Basic Law the values of the State of Israel as a Jewish and democratic state."<sup>29</sup>

The penal code severely restricts expression on religion, criminalising publications or statements that can "crudely disturb the religious beliefs or sentiment of others" notwithstanding Israel's "Basic Law " dedicated to "freedom of religion" and expression.

"The Basic Law on Human Dignity and Liberty" ensures freedom of expression and of

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<sup>26</sup> Const. of Sri Lanka Chapter II

<sup>27</sup> Penal Code of Sri Lanka Art. 291A

<sup>28</sup> Ibid. Art. 291B

<sup>29</sup> Const. of Israel Amendment 1

religion, according to numerous rulings by Israel's Supreme Court. However, the country's penal code's Article 173, which mandates a one-year prison sentence if a person commits "blasphemy," is a de facto statute. . "One publishes a publication that is liable to crudely offend the religious faith or sentiment of others," or if "One voices in a public place and in the hearing of another person any word or sound that is liable to crudely offend the religious faith or sentiment of others."<sup>30</sup>

## CONCLUSION

St. Thomas Aquinas, a revered jurist and theologian, asserts that when we "compare murder and blasphemy as regards the objects of those sins, it is clear that blasphemy, which is a sin committed directly against God, is graver than murder, which is a sin against one's neighbour. On the other hand, if we compare them in respect of the harm wrought by them, murder is the graver sin, for murder does more harm to one's neighbour, than blasphemy does to God"<sup>31</sup> Blasphemy is illegal if it is outlined in the religious laws themselves in states where there is an official state religion. These states often often preserve religious laws as criminal laws or base their penal laws on religious laws. There has been no such drastic difference in the laws of secular or non-secular states, they are more or less the same except for few such as Pakistan.

For instance, the Afghan constitution designates Islam as the "official religion of the state" and declares that "no law can be contrary to the beliefs and provisions of the sacred religion of Islam" and that "the provisions of adherence to the fundamentals of the sacred religion of Islam and the regime of the Islamic Republic cannot be amended." The courts apply the revered Shari'a law to cases involving matters that the Constitution and Penal Code do not address, like as conversion and blasphemy. Blasphemy laws are implemented by the majority of nations as a justifiable restriction to preserve harmony in the state. Section 295(A) of the Indian Penal Code was ostensibly added to stop a wave of intercommunal violence sparked by the utterance of blasphemous words. Overall, the justifications for considering blasphemy to be unlawful are frequently entwined, difficult to separate, and occasionally may even support one another. For instance, a state that recognises a certain religion as its official religion is likely to uphold religion's sacredness.

It is obvious that any verbal attack that denigrates this moral code would cause dissatisfaction that

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<sup>30</sup> Penal Code of Israel Art. 173

<sup>31</sup> St. Thomas Aquinas, *Summa Theologica*, Vol.3 Part-II (2nd Ed. Cosimo, Inc. 2013) p.1226

may (or may not) be violent in nature when a state acknowledges that religion functions as a moral code that drives a human being and affects his or her way of thinking.

In the constitutions of many nations, including India, freedom of speech and expression is a fundamental right that is also recognised as a human right. Several international agreements have endorsed the right to free speech and

Expression is a privilege that cannot be restricted because it contains blasphemous components.

Blasphemy has long been considered a means through which the majority might subjugate the minority. Pakistan serves as a prime illustration of the same.

The Pakistani Penal Code contains sections that impose harsh penalties notwithstanding the Constitution's inclusion of freedoms of expression and religion. The country's blasphemy laws are in conflict with international law and may potentially be considered to be unconstitutional. Shahbaz Bhatti, the minister of minority affairs, and Salman Taseer, the governor of Punjab, were killed for their extended support of Asia Bibi and opposition to Pakistan's blasphemy laws in the infamous case of Asia Bibi, a Christian woman who was found guilty under that country's blasphemy legislation. There are numerous such instances where blasphemy accusations have resulted in severe bloodshed and mob justice.

The Status of secular or non-secular does not have much impact, majority of Muslim and Christian states have incorporated blasphemy laws in there penal codes and that too with time is getting abolished. The progressive state of states and people is making this happen. India also does not require any specific blasphemy law to regulate such incidents. Being a multi-cultural and pluralistic society agreements and disagreements are bound to happen. Section 295 A of the IPC is more than sufficient to control the situation. One thing must be kept in mind while exercising this power is that it must be applied and enforced equally in every situation. As far as the violation of fundamental right to freedom of speech is considered Blasphemy falls under the ambit of reasonable restriction.