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Megha Middha, is working as an Assistant Professor of Law in Mody University of Science and Technology, Lakshmanagarh, Sikar (Rajasthan). She has an experience in the teaching of almost 3 years. She has completed her graduation in BBA LL.B (H) from Amity University, Rajasthan (Gold Medalist) and did her post-graduation (LL.M in Business Laws) from NLSIU, Bengaluru. Currently, she is enrolled in a Ph.D. course in the Department of Law at Mohanlal Sukhadia University, Udaipur (Rajasthan). She wishes to excel in academics and research and contribute as much as she can to society. Through her interactions with the students, she tries to inculcate a sense of deep thinking power in her students and enlighten and guide them to the fact how they can bring a change to the society

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Avinash Kumar



Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC - NET examination and has been awarded ICSSR - Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.

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Blasphemy Law And How Effective Is This Law In India And In Other Newfangled Countries

Authored By-Ganivada S P D Gayatri

Introduction

A clear definition for the word “Blasphemy” is now same according to law in every country, it says that any act of ridiculing, or being disrespectful, or irreverent of, by words or conduct, of God, religion, a religious doctrine, a religious icon, or anything considered sacred. It is considered as a crime.

The Biblical meaning for blasphemy is “everyone who speaks a word against the son of man will be forgiven, but the one who blasphemes against the holy spirit will not be forgiven.

In ancient Greece, blasphemy consisted of speaking ill of the gods and of disturbing the peace.

According to chapter 18, verse 67 of Bhagavad Gita “abhyasuyati” means one who is envious and blasphemous to the supreme lord. So, before we talk about blasphemy law let's look behind into the history of blasphemy”.

Blasphemy in Islam is impious utterance or action concerning God.

In an era where religious freedom and freedom of speech often find themselves coming into conflict, it's no surprise that blasphemy is back as a point of debate.

History Of Blasphemy

The origin of the blasphemy from early 13th century from Greek word “blasphemia”. Then translated from Late Latin blasphemium, to Old French blasfemie, all words which now in middle English called as “blasphemy”.

In the Old Testament at least five different Hebrew verbs are translated "blaspheme" in English translations. Translators choose "blaspheme" when, for instance, the verbs "curse" (qalal), "revile" (gadap), or "despise" (herep) are used with God as the object. No special verb is reserved for cursing or insults directed at God. In Old Testament usage the word applied to a more specific crime, against the reverence for Jehovah as ruler of the Jews, comparable to treason. Blasphemy cognizable by common law is described by Blackstone to be "denying the being or providence of God, contumelious reproaches of our Saviour Christ, profane scoffing at the Holy Scripture, or exposing it to contempt or ridicule".

In its earliest stages in the medieval west blasphemy was obscured by the crime of heresy. The religious orders of the late medieval period and the confraternities of medieval Europe were suddenly told to go out into the community and tend to the religious welfare of those they encountered and this arguably came to be substitute for the crusades. This significantly closer contact with populations at large uncovered indiscipline, inspiring an increasing interest in heresy shown by the mendicant orders of Europe. The discovery of blasphemy as a challenge to the supremacy of God was theorised as damaging all secular authority.

In England, blasphemy cases as far apart as the 1880s, the 1930s, the 1970s and the 1990s all contained a fear of continental influences contaminating “sacred” English morals. Early twentieth century America also witnessed a number of panics associated with the dangerous spirituality and anti-religious views of recent immigrants.



This era of blasphemy’s history belongs very much to the history of censorship as it does to a history of religious toleration. The spread of advanced literature was frequently confronted by conservative organisations who genuinely believed that ruin would follow heterodox religious and social opinion.

The discovery of blasphemy as a challenge to the supremacy of God was theorised as damaging all secular authority. The offences relating to religion were first codified by India's British rulers in 1860, and were expanded in 1927. More sophisticated power structures and mechanisms appeared in late fifteenth century Germany and these focussed upon preserving the viability of religious oaths which had become vital to commercial activity.

Thus, in the twentieth century, blasphemers were more likely to be artists or authors exploring society’s taboos or the nature of the sacred in an apparently secular world. Such an analysis explains the anti-clerical images of George Grosz in Germany in the 1920s and 1930s, counter cultural episodes of the 1960s in Austria and Holland, James Kirkup’s poem published in *Gay News* in 1977, and the controversy and violent reaction to Andres Serrano’s controversial artwork *Piss Christ* of the 1990s. This demonstrated the transition from a model of ‘passive’ to ‘active’ blasphemy, where the precise religious beliefs and feelings of individuals were considered under direct attack from the expression of others.

Anti-clericalism led late eighteenth-century governments to limit and regulate the power of print culture upon the minds of the populace. The fear of blasphemers had changed to now concentrate upon ideologically motivated libertines, deists, family limitation advocates and radicals. In Britain's last blasphemy execution, 20-year-old Thomas

Aikenhead was executed for the crime in 1698. He was prosecuted for denying the veracity of the Old Testament and the legitimacy of Christ's miracles.



What Is Blasphemy Law?

The blasphemy laws are one of the most divisive and inflammatory issues in the country. It is a law which prohibits blasphemy and helps from exploiting and disrespecting towards something considered sacred or inviolable. This law also eradicates traffickers to use the religion to manipulate and control the people. Some blasphemy laws have been on the books for decades and have endured in spite of dramatic political and social changes

Blasphemy Law In India

Blasphemy law in India is a term unfamiliar to the Indian legal and constitutional landscape, perhaps because the Indian judiciary has long emphasized the inclusive and plural nature of Hinduism, which makes a concept such as blasphemy incoherent. The 1920s witnessed a rise of communal tensions in India due to various Hindu and Muslim revivalist movements. The new realities compelled the British authorities to amend the laws relating to religious offences. These laws were partly successful in maintaining a delicate communal harmony with some exceptions in colonial India.

In the early 19th century in India there was no clear definition for the word blasphemy, it was just considered as an offence against religion which was called as HATE SPEECH. HATE SPEECH LAW has not been defined in any of the laws of the country, only prohibitions for using certain forms of speeches and expressions are stated. Which is now called as a ground for imposing restriction under article 19(2).



But this hate speech law is now called as Blasphemy law on the grounds of religion.

In one of the judgements¹ the Supreme Court upheld a ban on a historical-fictional retelling of the life of Basaveshwara, noting that “no person has a right to impinge on the feelings of others on the premise that his right to freedom of speech remains unrestricted and unfettered.

In one of the leading cases² decided in 1957, the editor of a cow-protection magazine had been booked under Section 295A, and he took his case all the way up to the Supreme Court, while challenging the constitutionality of the section itself. His argument was very simple. Article 19(2) of the Constitution only allowed for reasonable restrictions upon the freedom of speech in the interests of public order. Section 295A, however, cast its net much wider, by criminalizing all speech that was intended to outrage religious feelings.

The court got around this argument by engaging in a few linguistic contortions.



Blasphemy violates article 19(1)³, article 25-28 of the Indian constitution. Blasphemy not only violates freedom of religion but also right to equality and right to personal liberty. It adversely affects their dignity which is a right under Article 21⁴. Sections which deal with blasphemy are section 153(A)(1)⁵ section 295, section 295(A), section 296, section 297, section 298 of Indian Penal Code.

¹ Baragar Ramachandrappa and Ors vs State of Karnataka and Ors, 2007.

² Ramji Lal Modi vs State of UP, 1957 AIR 620, 1957 SCR 860.

³ Article 19(1) of the Indian constitution - All its citizens the right to freedom of speech and expression.
<https://blog.ipleaders.in/blasphemy-laws-india-contemporary-world/>

⁴ Article 21 of the Indian constitution – No person shall be deprived of his life and personal liberty.

⁵ Section 153(A)(1) of the Indian penal code - whoever commits an offence in sub-section (1) any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies, shall be punished with imprisonment which may extend to five years and shall also be liable to fine.

Blasphemy Law In Other Newfangled Countries

A 2017 report by the US Commission of International Religious Freedom (CIRF) identified 71 countries that criminalise views deemed to be blasphemous. The punishments for these transgressions vary from fines to the death penalty, but the vast majority of countries (86%) that enforce blasphemy laws prescribe imprisonment for convicted offenders. In every country violations done by blasphemy seems to be similar, in every country it violates the freedom of religion or belief, it violates freedom of expression.

Sometimes it act a virus which spreads rapidly around the globe just like covid-19. So to stop this kind of dangerous virus ever country have to take its own precautions to stop it. Hence, some countries like Italy, Spain and Switzerland punishes the accused one by fine,

In some other countries like Austria, India, Germany, Bangladesh, and Indonesia pinishes the accused one by imprisonment.

Iran and Pakistan are the only two countries in the region that explicitly enshrine the death penalty in law, although it is also carried out in Afghanistan, Iran and Saudi Arabia, according to a 2016 study by the International Humanist and Ethical Union (IHEU).

And in some countries like Ireland, Poland, Greece, Italy and Russia, it is still possible to face criminal charges for blasphemy, although in practice such prosecutions are rare and in most cases impossible due to constitutional guarantees on freedom of expression.



All this punishments are given under blasphemy law. blasphemy law has some common features around the world like it promoter Intolerance and discrimination against minorities. This laws are often misused by everyone, most blasphemy laws were embedded in the criminal codes and more than 90 percent of the states with blasphemy law perscribed imprisonment for convicted offenders. Some blasphemy statutes even imposed the death penalty as I have mentioned above.

Pakistan inherited the laws of india s british rulers when it came into existence after the partition of India in 1947.

Between 1980 and 1986, a number of clauses were added to the laws by the military government of General Zia-ul Haq. In 1981, during the El Zawya El Hamra religious strife, the Egyptian penal code was amended to prohibit the "insulting of religions." The

law was supposedly enacted to protect religious minorities, this law in Egypt is Article 98(f)⁶ of the Egyptian penal code.

Sub-Saharan Africa has the fewest restrictions on sacrilege. Only four of the region's 48 nations – Sudan, Somalia, Nigeria and Senegal – outlaw blasphemy, although this does not account for informal sharia law operating at a local level in many Muslim regions.

However, the IHEU report found blasphemy can still technically carry the death penalty in Nigeria and Somalia.

Blasphemy laws are inconsistent with universal human rights standards, failing to respect recognized rights including freedom of religion and expression. While it is legitimate to speak out against blasphemy, laws criminalizing blasphemy are detrimental to religious freedom and related human rights.

USCIRF accordingly urges all countries to repeal their blasphemy laws and free those detained or convicted for blasphemy. In Pakistan police pursued a Christian accused of sending an allegedly blasphemous poem to a friend. Blasphemy – defined as speech or actions considered to be contemptuous of God or the divine – is a capital crime in Pakistan.. Blasphemy laws are least common in sub-Saharan Africa (four of 48 countries), according to 2014 data. In Europe as well, blasphemy laws are not very common, being found in just seven out of 45 nations

There were many recent headlines in the new about blasphemy violation such as - 1., US urged Pakistan on Thursday July 30, 2020 to take action over the killing of an American national in a crowded courtroom as he faced trial for blasphemy.

2., In Saudi Arabia, Ahmad al-Shamri was sentenced to death by a court for posting social media content that allegedly insulted Islam and the Prophet Muhammad in April 2017.

3., A man who was lodged in a Saudi Arabia prison on charges of blasphemy and for posting derogatory messages about Mecca and the king of Saudi Arabia on Facebook returned to India after 20 months on August 19, 2021.

4., Younus, the brother-in-law of Asia Bibi, a Christian woman convicted of blasphemy by a Pakistani court, was killed in Sheikhupura city of Punjab province in Pakistan on Monday, May 25, 2020.

5., A Pakistani court on Saturday sentenced a university professor to death for blasphemy under a law that critics say is often used to target minorities and liberal activists., etc.

Misuse Of Blasphemy Law

According to many analysts, the murders and subsequent public mobilisation in support of violence in the name of the blasphemy law, gave religious parties that represented the country's majority Sunni Muslim Barelvi sect, long sidelined from political prominence, an opportunity to regain lost political ground. There was a protest, in these protests the protestors including women and children carried out a rally from Palais Wilson, to raise

⁶ Article 98(f) of the Egyptian penal code (amended act) 2006 – states the penalty for blasphemy and similar crimes.

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their voice against Islamic hardliners who are persecuting minorities in the name of blasphemy.

They demanded that the Pakistan government must abolish the 'dangerous' law misused by the state and non-state actors to target the minorities. We can see a huge misuse of this law in countries like Pakistan so, the court in Pakistan has asked the government to make changes to the controversial blasphemy law to stop its misuse for personal interests and fix tougher punishment for any person falsely accusing someone of the crime, which is punishable by death. A moderator of the church of Pakistan hopes for the Pakistani government to consider repealing the controversial clause in the Pakistan penal code which invokes misuse of the blasphemy law. There were many amendments passed in Pakistan so that it can stop the misuse of blasphemy law.

Blasphemy is a very sensitive issue in Pakistan. Blasphemy laws were introduced in the 1980s and no government could dare change them despite allegation of misuse. However, it might be possible to amend them after the verdict. Misuse of blasphemy laws in Pakistan is something that has been talked about at the international level, especially when it comes to the case of Christian Pakistani woman Asia Bibi who later got asylum in Canada.



There are many headlines about the misuses of blasphemy law around the globe like –

- 1). Pakistan's blasphemy law is used to target the Christian community with impunity.
- 2). Also Pakistani Christians living in parts of Europe held a protest rally in Geneva to raise their voice against Islamic hardliners who are persecuting minorities in the name of blasphemy.
- 3). Europe parliament to withdraw Pakistan's GSP+ status over blasphemy laws., etc. This kind of misuses need to be eradicated completely.

Impacts Of Blasphemy Law

In some countries the impact of blasphemy law was severe that we couldn't even realize the outcome of it. Like for example in Pakistan, many a times even the victim is also being punished by blasphemy law and we can at least see around 5000 cases being filed and reported in Pakistan daily. On a daily report the situation in Pakistan is unique in its severity and its particular effects on religious minorities.

According to the human rights commission when the laws of blasphemy are enforced, the end result is that individuals with different beliefs are prevented from fully expressing or carrying out their peaceful religious practice. Sometimes mere existence of blasphemy laws has had a pernicious effect on the rule of law in some countries.

Mere accusations of blasphemy have sparked vigilante mob violence and targeted killings in various situations. When government fails to deter such actions, and does not vigorously

hold those who engage in them accountable, it breeds an atmosphere of impunity that destabilizes communities and leaves minorities ever more vulnerable. The enforcement of blasphemy laws also undermines other human rights, such as non-discrimination and fair trial protections. State enforcement of blasphemy laws is often arbitrary and sometimes used as a tool by governments and non-government actors to target members of marginalized groups including religious minorities and political dissidents.

The human rights commission says that these laws of blasphemy completely restricts the freedom of speech and expression sometime even a mere opinion on religion is considered as blasphemy no matter whether the opinion is effecting the religious ethics or not. The need of the time is that blasphemy laws should be looked at so that people do not accuse others on the basis of false allegations and without any proof.

Conclusion

Blasphemy is as crime in majority of the countries. so, to keep an end to these crimes many countries implemented various law called in common as blasphemy laws. In today's worlds we can see number of cases being reported daily on blasphemy. In the end of the first world war, we saw a huge blasphemy crimes and discrimination on minority religions. Even till today in countries like Pakistan, Saudi Arabia, Iran we can see many blasphemy cases reposted daily. blasphemy law not only has cures but also has impacts on people. These laws eradicate heresy, apostasy and censorships on religion etc. when we talk about India's blasphemy laws, they were strict enough and follows every procedure established by law.

