

Pakistan & Blasphemy Law: Lessons from Aasia Bibi's case

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Farhatullah Babar urges the Senate to take the conversation on blasphemy law forward.

The acquittal by the Supreme Court of Aasia Bibi last week – after she spent years on death row on false blasphemy charges – has brought into focus once again the issue of misuse of blasphemy law in Pakistan.

Over the years, the blasphemy law has been grossly misused against Muslims and non-Muslims alike. There are scores of instances of misuse of the law. Yet, even a discussion on preventing its misuse is equated with blasphemy itself and is not allowed. Recently, however, the Supreme Court ruled that discussion on preventing misuse was not blasphemy.

Court cases drag on for years as judges dither and defence lawyers not readily taking up cases of alleged blasphemy. A recent example is that of Junaid Hafeez. He has been held on charges of blasphemy since March 2013. In May 2014, his lawyer Rashid Rehman was killed in Multan. As no one is willing to take up his case, he is in solitary confinement in a high security prison.

Junaid's trial has been dragging on; frequent transfers of judges, absence of prosecution witnesses, and these are reasons beyond the defendant's control. Recently, his case was transferred to yet a new judge.

Pakistan, like India, inherited the blasphemy law from the days of the British raj. In Pakistan, however, it has progressively been made more stringent, with the incidents of alleged blasphemy rising as the law became more severe.

According to a study, only seven cases of blasphemy were registered in undivided India and Pakistan during the 60-year period from 1927 to 1986. The number of cases in Pakistan rose when in 1982, General Zia added section 295-B making wilful desecration of the Holy Quran punishable with imprisonment for life.

Four years later, in 1986, another amendment was made by adding Section 295 (C) which 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 the Holy Prophet Muhammad (peace be upon him) shall be punished with death, or imprisonment for life, and shall also be liable to fine."

With the enhancement of punishment also came the surge in the blasphemy allegations. During the 25-year period from 1986, over 1,000 cases of blasphemy were registered against both Muslims and non-Muslims. The majority of cases were filed in the Punjab.

The current blasphemy law dates back to early 1990s, when the Federal Shariat Court asked that Section 295-C be further amended to make death penalty mandatory by deleting the provision "or

imprisonment of life.”

A lady lawmaker, Apa Nisar Fatima, the daughter of a well-known Ahrar Party official from Jallundar and mother of former federal minister Ahsan Iqbal was the force behind the petition before the Federal Shariat Court. She sought mandatory punishment of death for blasphemy. It is an irony that recently Ahsan Iqbal himself was shot in his hometown Narowal by a fanatic accusing him of blasphemy. Luckily, he survived the assassination bid.

In December 2016, the Human Rights Committee of the Senate took up the issue of misuse of blasphemy law. As a first step, it decided to look into the 1991 proceedings of the Senate that made mandatory the death penalty, a copy of which could be found only in the archives of the Law Division. This is what the Committee learnt from the record:

The amending legislation called the Criminal Law Third (Amendment) Bill 1991 was introduced in the Senate on November 4, 1991 and promptly referred to the Standing Committee of Law and Justice.

The committee, chaired by Senator Raja Zafarul Haq, the current leader of the Opposition, held two meetings on December 21, 1991 and on February 8, 1992.

While recommending the proposed deletion of “or imprisonment of life” from section 295-C, the committee also made some highly pertinent observations.

The committee said that the law “in its present form was very generalized” and stressed the need for a more specific definition of the offence under Section 295-C. It suggested that the matter be referred to the Council of Islamic Ideology for suggesting a more specific definition. The committee also asked as to what punishment for blasphemy was decreed during lifetime of the Holy Prophet (PBUH), the four caliphs or afterwards and in other Muslim countries.

The Amendment Bill 1991 was, however, passed without looking into these questions raised in the committee.

The Federal Shariat Court had also directed that any act of blasphemy of other prophets should also be punishable with death. This also was not done.

Later, the Council of Islamic Ideology, in its reports 2000-01 and 2003-04, also proposed that the offender who registers a false case under 295-C should be given the same punishment. In its 1997-98 report, it recommended that the complainant should also take oath and produce two witnesses in support of his accusation.

Considering all this, the Senate Human Rights Committee in its report made the following recommendations. First, the offender who registers a false case under 295-C be punished with the same punishment as provided for the offense under this section. Second, provision of 156-A PPC (investigations by SP) be strictly implemented and that cases be tried in district and sessions courts. Third, the complainant to take oath and produce two witnesses in support of the accusation and fourth, members of district interfaith committees be also involved initial investigations.

The report was laid in the Senate on March 8 this year. However, it attracted little attention from the Parliament and the media as it was almost the last day of the outgoing Senate, as its term ended the next day.

The current Senate can take the conversation forward. By avoiding it, political parties and the Parliament will fail in their duty to prevent a law from being used to make false allegations, settle

personal scores and persecute non-Muslims and weaker sections of society.

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P.S.

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