
BLASPHEMY LAWS: A COMPARATIVE ANALYSIS BETWEEN PAKISTAN, INDIA AND UK

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ABSTRACT

This study examines the intricate relationship between freedom of speech and blasphemy laws, examining the ways in which various legal frameworks try to balance democratic rights with religious sensitivity. The study looks at three different countries India, Pakistan, and the UK to show how historical, constitutional, and sociopolitical factors influence how religious offenses are treated in the law. While freedom of expression and religion are guaranteed in India under Article 19(1)(a) and Article 25 of the Constitution, restrictions are put in place to maintain public order by laws like Section 295-A of the Indian Penal Code. From *Manzar Sayeed Khan v. State of Maharashtra* to *Ramji Lal Modi v. State of Uttar Pradesh*, judicial interpretation demonstrates an attempt to strike a balance between respect for faith and freedom of expression.

However, as demonstrated in the Asia Bibi case, blasphemy laws in Pakistan, such as Sections 295-298 of the Pakistan Penal Code, have developed into tools of coercion that are frequently used against minorities and dissenters. On the other hand, the UK has moved away from blasphemy laws, as seen by *Whitehouse v. Lemon*, and toward a secular, rights-based framework that prioritizes protections for hate speech over religious purity. The article makes the case that laws should shield people from incitement rather than from criticism of their beliefs, drawing on international agreements such as the ICCPR and the Rabat Plan of Action. In the end, it comes to the conclusion that upholding freedom and protecting faith are not antagonistic objectives; rather, they must coexist through legal frameworks based on respect for human dignity, tolerance, and reason.

Introduction

The term Blasphemy means disrespecting or desecrating the sacred doctrines/faiths of a particular religion. The term is very often used to describe the act of insulting or showing contempt or lack of reverence for God or sacred things and denigrating or making fun of God, other deities, or sacred objects. It denotes any written, spoken, artistic, symbolic act that expresses discontent, hatred, ridicule, or irreverence towards God, scriptures, holy books and texts, rituals etc.¹ The concept of blasphemy first surfaced in the biblical tradition- The Mosaic injunction in Exodus 22:28 commands that “You shall not revile God,” and Leviticus 24:16 prescribing death for anyone who curses the divine name.² Religion is an important and sacred part of a person’s life, disrespecting the very beliefs not only threatens and disregards the religion but also the social and moral harmony of the society. The word blasphemy is of a Greek origin taken from the word blasphemia which means to slander or speak evil of.³ In Christianity, blasphemy referred to the act of speaking ill of the God or denying his divinity and existence. With time, the social and moral wrong of blasphemy took the shape of legal offence having punishment.

Since history, state and religion have been intertwined and religious wrongs were treated as an offence against the state and political order. In Europe, Where the Church played a significant role in management of the state blasphemy was treated not only an offence against God but as sedition punishable by death. Later, religion and blasphemy laws were used as a tool for political stability and protect the authority of the state. The punishments for blasphemy were cruel and harsh as the act itself was considered to provoke divine wrath and social disharmony. The punishments for blasphemy included, flogging, stone pelting, imprisonment and even execution.

Traditionally, blasphemy laws were created to protect the divine authority and religious harmony in a society. A society having multiple religions had blasphemy laws because disrespect to one religion could lead to a serious political unrest, violence. Blasphemy laws have always been up for debate as critics argue that although such laws aim at protecting mutual respect, harmony, tolerance, and co-existence but on the other hand such laws also suppress

¹ *Black’s Law Dictionary* (11th edn., Thomson Reuters 2019).

² *The Holy Bible, Exodus 22:28; Leviticus 24:16* (King James Version).

³ John Witte Jr., “God’s Joust, God’s Justice: Law and Religion in the Western Tradition” (Eerdmans Publishing, 2006).

freedom of expression and uses the laws as a tool for oppression. Leonard Levy states that medieval authorities used blasphemy as a verbal offence against the sacred, often using it to suppress dissent and reinforce divine authority.⁴ Similarly, Muslim scholars began linking theological deviation to criminal liability, treating statements defying orthodox beliefs into a punishable offence of takfir, merging blasphemy into Hanafi law.

Evolution Across Jurisdictions

The meaning and function of blasphemy laws have undergone a drastic change throughout history depicting the changing dynamics of religion, state, and freedom.

Christianity

In ancient Greece and Rome, impiety against deities were considered as a treason and the philosopher Socrates was executed in 399 BCE for allegedly corrupting youth and disrespecting Athenian gods. It was the earliest cases of blasphemy.⁵

In Europe, the interrelationship between Church and Law was so mixed that blasphemy was viewed not only as a religious crime but also a political offence against the state. Blasphemy law was made in order to protect the authority of the Church and the doctrines or principles of Christians. Crimes were viewed as to bring divine wrath, and punishment was provided to undo the things said and done. The penalties were harsh from stone pelting to burning, execution etc. The English Blasphemy Act of 1697⁶ made it an offence denying the Holy Trinity or Christianity. The famous case of Thomas Aikenhead in which he was executed for denying the divinity of Christ, the case back then was treated as a crisis which need to be resolved.⁷ With time, the concept of blasphemy evolved and became hate speech rather than sacrilege which shows tolerance and acceptance by the society and the need to recognize right to expression.

Islam

In Islam, Sabb (insulting the prophet) or Kufr disbelief or apostasy (blasphemy) is considered

⁴ Leonard Levy, "Blasphemy: Verbal Offense Against the Sacred, From Moses to Salman Rushdie" (University of North Carolina Press, 1993).

⁵ R.E. Allen, "The Dialogues of Plato, Vol. 1: Euthyphro, Apology, Crito, Meno, Gorgias" (Yale University Press, 1984).

⁶ The English Blasphemy Act, 1697 (9 Will. III c.35).

⁷ Michael Hunter, "Aikenhead the Atheist: The Context and Consequences of Articulate Irreligion in the Late Seventeenth Century" (1983) 35 Journal of Ecclesiastical History 327.

a grave sin. It includes insulting Allah, his messenger Prophet Mohammad, The Holy Quran and Islamic symbols and traditions. Quran and Hadith both considers such acts as grave and provides punishments like death for intentional blasphemy.⁸ Under Sharia Law, blasphemy was considered as a hadood offence (the most serious offence in Islamic jurisprudence) which punished the offenders with death penalty. The rationale behind this was any insult and hatred towards Islam and Prophet could destabilize the society and break or disrupt the very foundation of brotherhood in Islam (ummah).⁹ Classic Islamic scholars treat blasphemous content as “a piercing attack” on the Prophet and Islam, which is considered as a strict liability offence where the intention of the speaker does not matter. Ibn Hajr said that one who blasphemes against Prophet has committed clear slander against him and has become an infidel. Even if he repents, he does not escape punishment of death and cannot be avoided through repentance. However, some jurists have made a distinction between intentional and unintentional act of defiance and insult, making only the intentional acts punishable and forgiving the unintentional acts upon repentance. Muslim countries have now codified blasphemy laws into their legal codes like Pakistan has Section 295B and 295C¹⁰ Pakistan Penal Code. In Islam, the blasphemy has evolved from granting moral and religious protection to doctrines and faith to mixture of spiritual sanctity and legal enforcement.

Hinduism

Unlike Abraham religions, Hindu being a polytheistic religion does not have any single, codified law on blasphemy. Ancient Hindu traditions were tolerant of debates known as shastrartha among scholars and teachers. Schools like Buddhism, Jainism and Carvaka openly challenged the Vedic traditions, authority of brahmins, caste system and yet were under the broader landscape of Hinduism. The religion has theological diversity and absence of central law assuming that dissent, open criticism and questing the divine scriptures and figures were permissible.

However, with the beginning of colonial era and codification of criminal laws, provisions regarding religious offences were added to maintain peace and order in a multi religious society. Section 295-A IPC penalizes deliberate and intentional acts intended to outrage

⁸ Quran, Surah Al-Ahzab 33:57.

⁹ Ibn Hajr al-Haytami, *Al-Zawajir 'an Iqtiraf al-Kaba'ir* (Dar al-Kutub al-'Ilmiyya, Beirut, 1987).

¹⁰ The Pakistan Penal Code, 1860, s.295-B, s.295-C.

religious feelings.¹¹ This provision allows to all the religions in India, but frequently used in cases involving insult to Hindu deities in acts, plays, movies and literature. For example, artists like M.F Hussain, Munawar Faruqui, Tandav series, Mahendra Singh Dhoni have faced multiple complaints regarding their offensive acts and comments which shows a more sensitive approach regarding religious sentiment mixed with political sentiment. There is seen a shift from open discourse and tolerance to emergence of blasphemy culture shaped by sociopolitical pressure rather than religious pressure. The shift from openness to legal regulation shows a broader picture in how religion, free expression, and faith merges with India's stand on secular yet deep rooted religion-oriented society.

Judaism

Blasphemy in Hebrew is known as birkat ha-shem, which means cursing the name of which is one of the biggest sins towards the divine authority.¹² HaShem or the sanctity of god's name lies at the heart of belief system of the jews, and anyone who speaks ill of it commits a violation of the relation between god and his people.

The Old Testament (Hebrew Bible) explicitly condemns blasphemy, in Leviticus 24:16,¹³ it is mentioned that any person who does blasphemy in the name of god must be put to death, and the entire assembly shall stone the blasphemer. This very verse forms the foundation of Israeli law on blasphemy and was not only considered a moral wrong but also crime against God.¹⁴ With the destruction of the Second temple and emergence of Rabbinic Judaism, a new meaning of blasphemy emerged and was merely considered a moral wrong or religious offence rather than a legal wrong. It gave way from punishments to atonement and repentance as mentioned in Rabbinic traditions and Talmudic. In present the blasphemy is a mere disruption between the relationship of human beings and the god. Thus, the change of blasphemy laws in Judaism sees a transformation from temple- centred religion to faith guided by learning, reverence, and conscience in which the sanctity of god remains the same but punishment will lie in the moral realm rather than in court of law.

¹¹ The Indian Penal Code, 1860, (Act 45 of 1860), s.295-A.

¹² Encyclopaedia Judaica (2nd edn., Macmillan Reference, 2007) vol 3, 220.

¹³ The Holy Bible, Leviticus 24:16 (King James Version).

¹⁴ Haim H. Cohn, "Human Rights in Jewish Law" (KTAV Publishing House, 1984).

Blasphemy Laws in International Law and the Balance with Freedom of Expression

Blasphemy laws in international human rights are addressed mainly through limitation on freedom of expression. The modern international jurisprudence states the issue in Article 19 of Universal Declaration of Human Rights (UDHR,1948)¹⁵ and Article 19 of the International Covenant on Civil and Political Rights (ICCPR,1966)¹⁶ safeguarding right to freedom of speech and expression. However, these rights are not absolute in nature, under Article 19(3) of ICCPR¹⁷ the state has the power to impose restrictions necessary for protecting rights of the individuals and reputation, peace and security, public order etc. Article 20(2) of the ICCPR¹⁸ obliges states to prohibit advocacy of religious hatred that constitutes incitement to discrimination, violence, hostility, and United Nations Human Rights Committee in its General Comment No. 34 (2011),¹⁹ interprets the provision as permitting blasphemy laws only when they are strictly aimed preventing the incitement to offence, prohibiting any blanket prohibition on blasphemous speech. The European Court of Human Rights has frequently struggled to strike a balance between the protection of religious sentiments and the right to freedom of expression (Article 10 ECHR)²⁰. In the 2018 case of *E.S. v. Austria*,²¹ the Court upheld a conviction for ‘disparaging religious doctrine,’ highlighting the fact that member states have the discretion to punish speech that gravely offends the religious sensibilities of a majority.

In a similar vein, UN Human Rights Council Resolution 16/18 (2011)²² substituted a framework aimed at preventing incitement against people based on their religion or beliefs for the more traditional and contentious “defamation of religions” resolutions, which had been primarily promoted by the Organization of Islamic Cooperation (OIC). By putting forth a six-part threshold test that takes into account context, speaker, intent, substance, extent of distribution, and possibility of harm in order to differentiate between protected communication

¹⁵ Universal Declaration of Human Rights, 1948, art. 19.

¹⁶ International Covenant on Civil and Political Rights, 1966, art. 19.

¹⁷ International Covenant on Civil and Political Rights, 1966, art. 19(3).

¹⁸ International Covenant on Civil and Political Rights, 1966, art. 20(2).

¹⁹ UN Human Rights Committee, *General Comment No. 34: Article 19: Freedoms of Opinion and Expression*, CCPR/C/GC/34 (12 September 2011).

²⁰ European Convention for the Protection of Human Rights and Fundamental Freedoms, 1953, art. 10.

²¹ *E.S. v. Austria* (2018) App No 38450/12, European Court of Human Rights.

²² UN Human Rights Council, *Resolution 16/18: Combating Intolerance, Negative Stereotyping and Stigmatization of, and Discrimination, Incitement to Violence and Violence Against, Persons Based on Religion or Belief*, A/HRC/RES/16/18 (24 March 2011).

and unlawful incitement under Article 20(2),²³ the Rabat Plan of Action (2012) further operationalized this balancing. This paradigm represents the increasing global agreement that people, not religions, have rights and that laws should protect people from harm rather than shelter belief systems from mockery or criticism. According to scholarly analysis, the United Nations' 2019 Strategy and Plan of Action on Hate Speech²⁴ uses language similar to that of blasphemy laws, which raises concerns that international standards could unintentionally legitimize ambiguous, overly broad restrictions on speech. Together, these tools and case law demonstrate that although international law does not establish a separate blasphemy offense, it does provide for specific restrictions meant to stop hate-motivated provocation. This means that domestic legal systems are primarily responsible for regulating blasphemy substantively.

This contradiction has been further clarified by the European Court of Human Rights' (ECHR) judicial practice. The Court upheld state acts prohibiting works deemed offensive to Christian sensitivities in *Otto-Preminger-Institut v. Austria* (1994)²⁵ and *Wingrove v. United Kingdom* (1996),²⁶ citing the preservation of religious peace and public order as justifications. Similarly, it affirmed a conviction for publishing a novel disparaging of the Prophet Muhammad in *I.A. v. Turkey* (2005).²⁷ These decisions, however, have come under fire for permitting undue deference to majoritarian religious beliefs, so undermining the rights of free expression. They are founded on the "margin of appreciation" theory, which grants states authority in regulating moral and religious affairs. Many European states have repealed or reformed their blasphemy laws as a result of subsequent jurisprudence and changing public sentiment. This is evident in the UK (2008), Denmark (2017), Norway (2015), and Ireland (2020), where the offences were judged to be incompatible with democratic values and the European Convention on Human Rights (ECHR). This strategy is echoed by UN Special Rapporteurs, who denounce ambiguous, overly broad laws that stifle free speech and contend that criminal blasphemy laws²⁸ are only acceptable when they target incitement rather than simple offending. The balance, according to scholars, is struck by limiting regulation to actions that actually pose a risk of violence or discrimination while maintaining a healthy discourse on religious beliefs. Any law that

²³ Office of the High Commissioner for Human Rights (OHCHR), *Rabat Plan of Action on the Prohibition of Advocacy of National, Racial or Religious Hatred that Constitutes Incitement to Discrimination, Hostility or Violence* (2012).

²⁴ United Nations, *United Nations Strategy and Plan of Action on Hate Speech* (2019).

²⁵ *Otto-Preminger-Institut v. Austria* (1994) Series A No 295-A.

²⁶ *Wingrove v. United Kingdom* (1996) 24 EHRR1.

²⁷ *I.A. v. Turkey* (2005) App No 42571/98, European Court of Human Rights.

²⁸ UN Special Rapporteur on Freedom of Religion or Belief, *Report to the General Assembly*, A/67/303 (13 August 2012).

penalizes insults or criticism without a clear connection to public order is considered to be in violation of international human rights standards.

The ongoing application of blasphemy laws in nations like Pakistan, Iran, Saudi Arabia, and Afghanistan, where they carry harsh penalties, including death, has been repeatedly denounced by human rights organizations like Amnesty International,²⁹ Human Rights Watch, and the UN Special Rapporteur on Freedom of Religion or Belief. These organizations contend that these laws are regularly abused to repress dissent, persecute minorities, and justify mob violence, in violation of the ICCPR³⁰ and other international commitments. The human cost of these laws is best illustrated by the Asia Bibi case (*Asia Noreen v. The State, 2018*)³¹ in Pakistan, in which a Christian lady was acquitted after being given a death sentence on spurious blasphemy allegations. The ongoing unpredictability around perceived religious insult is further highlighted by the Charlie Hebdo shootings (France, 2015) and international responses to religious satire, underscoring the precarious line between defending free speech and averting hate-fuelled violence.

Even when freedom of expression is used to question or criticize religion, it must continue to be the cornerstone of a democratic society, according to the growing consensus in international law today. Only when speech actively provokes violence or discrimination not when it only offends are restrictions acceptable. Thus, a paradigm shifts³² from faith-based protection to an individual rights-based approach is reflected in the current framework, which was formed by the ICCPR, General Comment No. 34,³³ UNHRC Resolution 16/18,³⁴ and the Rabat Plan of Action.³⁵ Essentially, international law today acknowledges that encouraging communication, tolerance, and open discourse rather than stifling dissenting opinions is the best way to ensure religious harmony. International law aims to preserve both liberty and pluralism by reaffirming that the right to offend is an essential component of the right to free expression.³⁶ This ensures that religious respect does not serve as a justification for the degradation of human rights.

²⁹ Amnesty International, "As Good as Dead: The Impact of Blasphemy Laws in Pakistan" (2016).

³⁰ Human Rights Watch, "Pakistan: Blasphemy Laws Exploited" (2014).

³¹ *Asia Noreen (Asia Bibi) v. The State* (2018) PLD SC 805 (Pakistan).

³² UNHRC, *General Comment No. 34* (n 4).

³³ *Supra* note 18.

³⁴ *Supra* note 21.

³⁵ *Supra* note 22.

³⁶ Nazila Ghanea (n 8).

Historical and Legal Evolution of Blasphemy Laws in Pakistan

Pakistan's blasphemy laws are the most stringent in the world which are intertwined in its religious and political identity. Section 295- 298 of the Pakistan Penal Code contains provision for criminalizing acts disrespectful towards Islam, Prophet Mohammad, and Quran.³⁷ The provisions takes its authority from the Indian Penal Code, 1860 drafted during the British Colonial Era.³⁸ The colonial mindset behind the provisions were to prevent disharmony and maintain public order in a diverse country like India. Section 295 of IPC³⁹ criminalizes acts intended to insult or defile place of worship.

After partition, Pakistan retained these provisions but these were largely dormant at that time. During the Islamization rule of General Zia-ul-Haq, the laws took a drastic turn to align Pakistan with Islamic principles, the laws regarding blasphemy were made strict and expanded. During his rule, several sections were added or amended like Section 295 B⁴⁰ was added which introduced life imprisonment for wilful desecration of Holy Quran, Section 295-C⁴¹ introduced death penalty/ life imprisonment for using derogatory remarks towards Prophet Mohammed.⁴² These new provisions were strictly religious in nature without any requirement of malice which eventually led to the misuse of these provisions. With time these provisions were used to take revenge in property disputes, and were particularly used against minorities like Hindus, Christians, Sikhs, Ahmadis, and reformist Muslims.⁴³ Mere allegation of blasphemy in Pakistan attracted mob violence, extrajudicial killings, and lynching which silences lawyers, politicians who advocate for reforms or even killed.⁴⁴ Blasphemy laws which were for maintaining public order in colonial times have taken the shape of religious political instrument.

Misuse of Blasphemy Laws

Pakistan's blasphemy laws were made to prevent disharmony and public disorder but in turn it has become a tool for oppression, manipulation, and fear. One of the most evident misuses is the Asia Bibi⁴⁵ case where a Christian farmworker was accused of insulting Prophet

³⁷The Pakistan Penal Code, 1860, s.295–298.

³⁸ The Indian Penal Code, 1860 (Act No.45 of 1860).

³⁹ The Indian Penal Code, 1860, (Act 45 of 1860), s. 295.

⁴⁰ The Pakistan Penal Code, 1860, s.295-B.

⁴¹ The Pakistan Penal Code, 1860, s.295-C.

⁴² Pakistan Penal Code (Amendment) Ordinance, 1982 & 1986.

⁴³ Human Rights Commission of Pakistan, "State of Human Rights in 2018" (2019).

⁴⁴ *Supra* note 29.

⁴⁵ *Supra* note 31.

Mohammad during a dispute with Muslim co-worker, she was convicted under Section 295-C⁴⁶ and sentenced to death. The Supreme Court of Pakistan in a landmark effort acquitted her in 2018 on lack of evidence and procedural flaws during the investigation. Her acquittal triggered nation-wide protests and riots and open threats to the judiciary.⁴⁷ Fearing her death, Asia Bibi fled Pakistan depicting how blasphemy laws can easily be detrimental and endanger individuals, especially in a country like Pakistan.

Another key incident was the assassination of the Punjab Governor Salman Taseer in 2011. Tasser defended Asia Bibi publicly and urged in reformation of blasphemy laws. He was murdered by his own bodyguard Mumtaz Qadri⁴⁸ claiming that it was his moral and religious duty to protect his religion and slay any person who disrespects the Prophet. Qadri was made a hero by the public and his funeral had a number of supporters and a shrine was also constructed in his memory and honour. This shows the deep-rooted religious glorification and extremism and the environment of fear preventing meaningful reforms.

Such incidents often indicates that blasphemy laws have create a culture of vigilantism and religious populism, where public outrage often overrides constitutional rights and morality. This creates a chilling effect for journalist, politicians and advocates demanding for reformation who fear being attacked and death. Blasphemy laws have increased secretariat violence, failed justice system and moral coercion. Such laws not only challenge due process and individuals' freedom but also right to expression and principles of justice and equality.⁴⁹

Human Rights Concern and Challenge of Reforms

Pakistan's blasphemy laws have been criticised from international organisations, legal scholars etc. Organisations like United Nations Human Rights Council, Amnesty International argue that blasphemy provisions violate fundamental rights like Article 19 of International Covenant on Civil and Political Rights (ICCPR)⁵⁰ which guarantees right to freedom of expression and Article 18 which safeguards freedom of conscience, thought and religion.⁵¹ Pakistan being a

⁴⁶ *Ibid.*

⁴⁷ BBC News, "Asia Bibi Acquitted: Pakistan Court Overturns Death Sentence" (31 Oct 2018).

⁴⁸ *State v. Mumtaz Qadri* (PLD 2016 SC 17).

⁴⁹ International Crisis Group, "Reforming Pakistan's Criminal Justice System" (2016).

⁵⁰ International Covenant on Civil and Political Rights, 1966, arts. 18–19.

⁵¹ United Nations Human Rights Council, *Report of the Special Rapporteur on Freedom of Religion or Belief* (A/HRC/40/58, 2019).

signatory to the ICCPR has failed miserably to uphold its international obligations.

These laws have often led to miscarriage of justice and accusations based on little to no evidence, death penalty, mob lynching. In the case of *Shafqat Emmanuel vs State*⁵², a Christian couple was accused of sending a blasphemous text and was sentenced to death despite having procedural flaws and proof. They spent 8 years in jail and late Lahore High Court acquitted them in 2021 on lack of evidence.

The main reason behind ineffective reformation of such laws in Pakistan is because of the deep societal entanglement for religious sanctity and political agendas. Any type of reform either to bring higher evidentiary value in case of conviction or penalizing false accusers are often seen by the public as anti-Islamist. Advocates for reformation fear death and violence when advocating for reformation. The judiciary itself lacks independence and impartiality because of public violence, mob influence, and Islamic extremists.⁵³ Advocates defending the accused face backlash, social boycott and are even murdered like Rashid Rehman in 2014 for their involvement.

Consequently, Pakistan's blasphemy laws show that a law for protection of religious faith can turn detrimental and wipe justice, liberty, and fairness. The constant fear of violence has led to discourage in open debates about religion, abolishing discriminatory practices and protection of minority rights.⁵⁴ Pakistan needs to introduce strict procedural safeguards, protection of accused and tolerance for right to expression or else blasphemy laws will be used as a tool for oppression. This shows a reflection of Pakistan's struggle between constitutional liberty and religious devotion.

Legal Position in India

Constitutional Framework and Balancing of Rights

India's constitutional vision has always been in balancing of rights. India's legal system tries to strike a balance between freedom of expression and right to freedom of religion. Article 19(1)(a)⁵⁵ guarantees rights to freedom of speech and expression and Article 25⁵⁶ which talks

⁵² *Shafqat Emmanuel and Shagufta Kausar v. State* (2021 LHC).

⁵³ Dawn News, "Lawyer Rashid Rehman Murdered for Defending Blasphemy Accused" (8 May 2014).

⁵⁴ *Supra* note 29.

⁵⁵ The Constitution of India, art. 19(1)(a).

⁵⁶ The Constitution of India, art. 25.

about freedom of conscience to practice, propagate and profess religion. Although these freedoms grant an individual autonomy but the same are not absolute, Article 19(2)⁵⁷ imposes reasonable restriction on the basis of which these rights can be curtailed or limited. India has a framework which tries to accommodate free discourse while also maintaining social peace and harmony in the society.

Section 295-A⁵⁸ of IPC which came during the British rule is the main provision which punishes individuals deliberate and malicious outraging religious faith. This provision was introduced after the tension and unrest after the publication of a pamphlet *Rangela Rasool* which hurt the feelings of the Muslim community.⁵⁹ The purpose of this provision was not to grant any special status to any religion but to protect communal harmony and public peace. India being a diverse country needs law maintaining relationship between free expression and faith.

Judicial Interpretation and Safeguards

Section 295-A⁶⁰ has been a controversial provision and was challenged in *Ramji Lal Modi vs State of Uttar Pradesh*⁶¹ where the court upheld the constitutionality of the provision. The court drew a clear distinction between malicious and deliberate acts and honest expression and that mere criticism, debate inadvertent remark cannot be treated as blasphemy. This case was landmark as section 295-A got judicial safeguard so that the provision does not become a tool for oppression of artistic, political, and academic creativity.

The basis for judicial protections against the abuse of blasphemy-related legislation was established by this view. The Court's subsequent reasoning in *Superintendent, Central Prison v. Ram Manohar Lohia (1960)*⁶² further emphasized that speech restrictions must be directly and immediately related to maintaining public order, reaffirming that ambiguous or distant threats to order cannot be used as an excuse to restrict speech. This balance has been further refined in further cases. The Supreme Court reaffirmed in *Manzar Sayeed Khan v. State of*

⁵⁷ The Constitution of India, art. 19(2).

⁵⁸ *Supra* note 11.

⁵⁹ Raghavan, V., "Blasphemy Laws and Freedom of Expression in India," *Indian Journal of Constitutional Law*, Vol. 8 (2014) 112.

⁶⁰ *Supra* note 11.

⁶¹ *Ramji Lal Modi v. State of Uttar Pradesh*, AIR 1957 SC 620.

⁶² *Superintendent, Central Prison v. Ram Manohar Lohia*, AIR 1960 SC 633.

*Maharashtra (2007)*⁶³ that works of literature or art may not be criminalized just because they upset particular groups in society and that intent to promote hatred or outrage religious emotions must be clearly demonstrated. In a similar vein, the court dismissed proceedings against the cricket player in *Mahendra Singh Dhoni v. Yerraguntla Shyamsundar (2017)*⁶⁴ for being portrayed as Lord Vishnu on a magazine cover, ruling that injured feelings alone, without intentional intent, do not amount to an offense. The Supreme Court noted in *Pravasi Bhalai Sangathan v. Union of India (2014)*⁶⁵ that over criminalizing speech could stifle democratic discussion, demonstrating the judiciary's emphasis on proportionality and restraint in the application of criminal law. When taken as a whole, these rulings show the Court's sensitive approach, construing Section 295-A as a limited exception that punishes only wilful insults on religion while upholding the constitutional right to free and open speech that is fundamental to India's secular democracy.

The Court recently reaffirmed in *Amish Devgan v. Union of India (2020)*⁶⁶ that while free speech is a fundamental component of the constitution, it cannot be used as a cover for hate speech or deliberate provocation that disturbs social harmony. When taken as a whole, these rulings show the Court's sensitive approach, construing Section 295-A⁶⁷ as a limited exception that punishes only wilful insults on religion while upholding the constitutional right to free and open speech that is fundamental to India's secular democracy. The rise of online expression and social media polarization in the digital age, however, has rekindled discussions about what qualifies as hate speech versus reasonable criticism, creating new difficulties for courts in striking a balance between the right to free speech and the need to preserve social harmony in a society that is becoming more diverse and sensitive.

Evolution and Abolition of Blasphemy Laws in the UK

Historical Context

The blasphemy laws in United Kingdom have a deep-rooted historical background which is interlinked with religion and state governance. After the 16th century, the Church of England

⁶³ *Superintendent, Central Prison v. Ram Manohar Lohia*, AIR 1960 SC 633.

⁶⁴ *Mahendra Singh Dhoni v. Yerraguntla Shyamsundar*, (2017) 7 SCC 760.

⁶⁵ *Pravasi Bhalai Sangathan v. Union of India*, (2014) 11 SCC 477.

⁶⁶ *Amish Devgan v. Union of India*, (2020) 5 SCC 1.

⁶⁷ *Supra* note 11.

emerged as a religious and political institution under the shadow of Crown.⁶⁸ At that time, offences against religion were treated as offence against the state as religion during that time was the epitome of moral order, political loyalty, and social order. Any challenge to the church was considered as a threat to the stability of the kingdom itself. The very early cases of *R. vs Woolston*⁶⁹ and *R vs Taylor*⁷⁰ and the Blasphemy Act of 1697⁷¹ were evident in establishing that any disrespect or ridicule towards Christianity and its doctrines such as the divine power of the Christ or the legitimacy of the Biblical scriptures, would lead to imprisonment or even death. The courts at that time considered such acts as against public order and morally corrupt. Sir William Blackstone in his book Commentaries on the Laws of England justified blasphemy laws as Christianity was a part of the land which gave legitimacy and authority to Church of England. In the 18th and the 19th century blasphemy became more of a public morality offence disrupting societal peace and decency rather than theological prohibition. However, by the 20th century due to industrialization and secularism, immigration, and urbanisation the law which protected against blasphemy only to one specific religion was considered outdated and discriminatory which later led to the abolition of the blasphemy laws in 2008.⁷²

Decline of Relevance in Secular State

Now, by the early 20th century, the demographics of UK changed completely, once a monolithic Christian state began to dissolve with the help of industrialization, urbanization and immigration bringing people from different religions and backgrounds made Britain into a multi-cultured, multi-religious society. Due to improved education and literacy people began questioning the Church and tilted more towards secular and humanist view. According to thinkers like John Stuart Mill and Bertrand Russell freedom of speech and expression includes in itself freedom to question and mock religious authorities. Blasphemy laws which only safeguarded one religion seems discriminatory and against the principles of neutral state and progressed and liberal democratic state. People began questioning the dogmas of the Church and why other religions were kept outside the purview of blasphemy laws. With the rise of International Human Rights and European Convention on Human Rights gave new direction to blasphemy laws. Article 9 of the Convention which safeguards freedom of thought,

⁶⁸ J. C. D. Clark, "English Society 1660–1832: Religion, Ideology and Politics during the Ancien Regime" (Cambridge University Press, 1985).

⁶⁹ *R v. Woolston* (1729) 2 Strange 834

⁷⁰ *R v. Taylor* (1676) 1 Vent 293

⁷¹ The Blasphemy Act, 1697.

⁷² Criminal Justice and Immigration Act, 2008, s. 79.

conscience, religion, and Article 10 which guarantees freedom of expression⁷³ guided states to balance the two rights and maintain harmony. Courts started recognising the importance of freedom of speech and expression and the mere offence of hurting religious feelings was not strong enough to restrict freedom of expression unless it caused violence.⁷⁴

By 1970s social and cultural liberalization wreaked the hold of religious morality on the people and the state. Works like John Osborne's play *Luther*⁷⁵ and Monty Python's *Life of Brian*⁷⁶ created controversy a heated debates on blasphemy laws but were supported as being legitimate and satirical commentary rather than blasphemy. The Law Commission in its 1985 report described blasphemy laws as anachronistic and inconsistent with modern principles of liberty.⁷⁷

The shift from religious autonomy to moral pluralism made it evident that blasphemy laws are no longer serving the intended purpose and have merely become a symbol of repression. The decline of blasphemy laws created a shift from punishments to more liberal approach safeguarding right to expression.

Abolition of Blasphemy

The blasphemy laws were abolished through Criminal Justice and Immigration Act 2008 which was a historic step in the UK.⁷⁸ The reform formally ended the age-old discriminatory law granting protection to one religious faith. The abolition came after a long battle and tussle between freedom of expression and criticism of blasphemy. The very last blasphemy prosecution was in the case of *Whitehouse vs Lemon (Gay News Case)*⁷⁹ in which Denis Lemon, editor of *Gay News* published a poem of depicting Jesus in a homosexual context, which was deemed blasphemous by Mary Whitehouse. She bought a case of blasphemy leading to Lemon's conviction which was upheld by House of lords in 1979. The case was widely criticized for restricting freedom of expression a curbing artist which showed how outdated the laws actually were. The ECHR in *Wingrove vs United Kingdom*⁸⁰ upheld UK's ban on religious

⁷³ European Convention on Human Rights, 1953, arts. 9–10.

⁷⁴ *Supra* note 25.

⁷⁵ John Osborne, *Luther* (1961)

⁷⁶ *Monty Python's Life of Brian* (Film, 1979).

⁷⁷ The Law Commission, "Criminal Law: Offences against Religion and Public Worship" (Law Com No. 145, 1985).

⁷⁸ Criminal Justice and Immigration Act, 2008 (UK).

⁷⁹ *Whitehouse v. Lemon*, [1977] QB 10.

⁸⁰ *Supra* note 26.

video which was controversial protecting religious freedom above freedom of expression under Article 10.

The abolition was also a result of judicial decisions citing the incompatibility of blasphemy laws with the modern principles of state. In *R vs Chief Metropolitan Magistrate*,⁸¹ Muslim petitioners wanted protection against blasphemy which were granted the Christians which was refused by the court stating that blasphemy laws only apply to Christianity which shows the inherent biasness. IN 2008, the Parliament finally realised that the law was not serving its intended purpose of maintaining social harmony but was rather creating more disharmony.

The abolition also aligns with the ECHR Article 10⁸², protecting right to expression which should not be curtailed merely for offending religious beliefs. Presently, the Public Order Act,⁸³ 1986 and the Racial Religious Hatred Act, 2006⁸⁴ which contains provision regarding incitement to violence and hatred on religious grounds now deals with hate speech replacing the blasphemy laws. This reform is a clear picture of Britain's constitutional maturity which is more tolerant leading to a liberal and democratic state. Section 29J of Public Order Act, 1986⁸⁵ protects free expression expressly mentioning the non-prohibition on discussion, expression, criticism, dislike, insult, and ridicule of particular religious belief. The courts have time again tried to maintain a balance between free speech and hate speech. In *Norwood vs DPP*⁸⁶ the court made a clear distinction between lawful criticism and incitement of hatred and convicted a person for a poster vilifying Islam in hateful terms. The courts again in *Irfan Raja vs R*⁸⁷ reiterated that incitement to hatred and violence is different from free expression which is a key factor for conviction. The banning of blasphemy laws thus create a balance between liberty of expression and religious tolerance, making sure that respecting of religious belief does not come at the expense of freedom of expression.

Effects of Freedom of Speech and Expression

The scope of Freedom of Speech and Expression was significantly increased by abolition of blasphemy laws in the United Kingdom. It stripped Christianity of its privilege making the

⁸¹ *R v. Chief Metropolitan Magistrate, ex parte Choudhury*, [1991] 1 QB 429.

⁸² *Supra* note 20.

⁸³ The Public Order Act, 1986.

⁸⁴ Racial and Religious Hatred Act, 2006 (UK).

⁸⁵ The Public Order Act, 1986, s.29J.

⁸⁶ *Norwood v. Director of Public Prosecutions*, [2003] EWHC 1564 (Admin).

⁸⁷ *Irfan Raja v. R*, [2007] EWCA Crim 2436.

state more secular and tolerant.⁸⁸ Filmmakers, artists, writers, painters gained liberty to interpret, reinterpret, critique religious beliefs without the fear of criminal prosecution which gave way to intellectual creativity allowing movies, plays, writings to question religious beliefs, morality, and faith. The reform aligned with Article of ECHR safeguarding freedom of expression and having limited restriction on that right.

However, the abolition did create chaos and failed to curb religious sensitivity from the public arena. Freedom of expression have been tested through various incidents like burning of Quran in *Hamit Coskun case*⁸⁹ where the conviction of the man was overturned stating that the expression falls under lawful speech and unless an act leads to hatred or violence freedom of expression cannot be curtailed. While critics often praise the state for abolition of blasphemy laws protecting expression and liberal democracy some argue that bold and deliberate provocative acts against religion are being committed in the guise of freedom of expression thereby creating communal tension.⁹⁰ In *Handyside vs United Kingdom*,⁹¹ the ECHR also observed that freedom of expression not only includes information or ideas that are favourable but also those ideas or information which might shock, disturb, and offend the people and the state. Thus, it is evident that UK by abolition of blasphemy laws protects clash of ideas and simultaneously demand responsibility and tolerance in exercise of rights.

Demerits and Criticism of Abolition

Abolition of blasphemy laws in United Kingdom was treated as a milestone step for freedom of expression and liberal democracy, but it comes with criticisms and drawbacks. There has been a shift from protection of religious doctrines and faith to safeguarding from hatred and violence which has created a protection vacuum.⁹² The existing laws have considerable failed to protect religious identities of communities from deliberate ridicule, mockery, insult. Social media usage have furthermore, amplified the issue where such offensive content can spread easily and cause greater disharmony.⁹³

⁸⁸ John Stuart Mill, "On Liberty" (1859).

⁸⁹ *Hamit Coskun v. United Kingdom*, Application No. 15641/16, ECHR (2018).

⁹⁰ Bertrand Russell, "Why I Am Not a Christian" (1927).

⁹¹ *Handyside v. United Kingdom*, (1976) 1 EHRR 737.

⁹² *Supra* note 20.

⁹³ Rowan Atkinson, "Free Speech and the Law of Offence," *The Guardian* (2012).

Another demerit of the abolition is functional substitution, acts like Public Order of 1986⁹⁴ contain similar provision of hate speech and public order provision replacing blasphemy laws. Provisions of this act has been used to regulate controversial speech in the garb of distress, alarm and causing harassment which are similar to blasphemy type restrictions.⁹⁵ Artists, filmmakers, painters etc often avoid religious sensitive topics due to the fear of social boycott or prosecution under the vague terminologies of the Public Order Act which creates a chilling effect.⁹⁶

There have always been clashes between the advocates of free speech and religious freedom.⁹⁷ UK's abolition law has been misconstrued in the International arena as a western propaganda of disrespecting religion by countries having strict blasphemy laws. They consider this step as harm to their religious freedom.⁹⁸ Thus, while abolition of blasphemy laws shows tolerance towards freedom of expression and secularism, it also poses a threat of pluralism in the world. The duty of any modern state must be to balance robust freedom of expression and also mutual respect for religious belief and prevention of violence and hatred.⁹⁹

One of the longest-running legal and philosophical disputes in both constitutional democracies and religious communities is the argument over blasphemy laws and freedom of expression. It addresses basic issues of belief, identity, tolerance, and the boundaries of freedom. Three different paths can be seen in the contrasting experiences of Pakistan, India, and the UK: a return to religious absolutism, a careful constitutional balancing, and a progressive secular reform. Every nation's legal system is a reflection of its sociopolitical structure, historical development, and perception of the interplay between religion and the state.

Conclusion

Once the birthplace of Christian blasphemy laws, the United Kingdom has seen a significant shift in how it views religion and free speech. Blasphemy laws, which have their roots in an era when the Church of England was essential to the British state's identity, served to protect the established faith and uphold morality. Blasphemous libel was a political and theological

⁹⁴ *Supra* note 83.

⁹⁵ *Supra* note 84.

⁹⁶ Law Commission, "Offences against Religion and Public Worship: Working Paper" No. 95 (1985).

⁹⁷ *Supra* note 88.

⁹⁸ United Nations Human Rights Council, *Report on Freedom of Religion or Belief and Expression*, A/HRC/40/58 (2019).

⁹⁹ *Supra* note 91.

offense that protected the power of the Church and the Crown in addition to religious doctrine. However, the rationale for such laws diminished as British society moved toward pluralism, secularism, and human rights consciousness. Intense public discussion on artistic freedom and the ridiculousness of favouring one religion over another was triggered by the final successful prosecution in *Whitehouse v. Lemon* (1977), sometimes known as the “Gay News Case.” The case represented the conflict between new liberal ideals and conventional morals. Blasphemy and blasphemous libel were officially outlawed in 2008 by the Criminal Justice and Immigration Act, signalling a change in the constitution that prioritizes safeguarding people over religious convictions. The Public Order Act (1986) and the Racial and Religious Hatred Act (2006), which criminalize inciting religious hatred while preserving the freedom to criticize, mock, or question religious beliefs, represent the UK’s post-abolition human rights-based approach. This shift is indicative of the maturity of a secular democracy, in which the state prioritizes avoiding hate, prejudice, and violence over imposing religious veneration. Thus, the UK experience serves as an example of how to balance freedom and pluralism, showing that a society can uphold dignity without repressing disagreement.

The opposite extreme is represented by Pakistan, where blasphemy laws have turned into tools of political manipulation, bigotry, and terror. Pakistan's blasphemy laws (Sections 295–298 of the Penal Code) were significantly enlarged under General Zia-ul-Haq’s Islamization campaign in the 1980s, while having the same colonial legal roots as India’s Section 295-A. Religious sensitivity was turned into an issue of capital punishment by Sections 295-B and 295-C, which stipulated life in jail or death for desecration of the Qur’an or defamation of the Prophet. The laws are vulnerable to abuse because they lack procedural safeguards and purpose requirements. Cases like *Asia Bibi v. State* (2018) demonstrate how blasphemy accusations frequently stem from social preconceptions or personal grudges, disproportionately targeting vulnerable populations and religious minorities. The violent rallies, threats against judges, and murders of reformers like Governor Salman Taseer that followed Asia Bibi’s acquittal show how ingrained Islamic extremism has become in Pakistan’s sociopolitical structure. The inversion of moral and legal norms, where mob passion frequently prevails over constitutional law, is exemplified by the celebration of Mumtaz Qadri, Taseer’s killer, as a martyr. Reform initiatives continue to be politically risky even after being widely denounced by groups like Human Rights Watch, Amnesty International, and the UNHRC. The miscarriage of justice was once again highlighted in the Shagufta Kausar and Shafqat Emmanuel case (2021), where the pair was acquitted after serving eight years on death row. Thus, blasphemy laws in Pakistan

have changed from being tools of promoting communal harmony to becoming tools of terror, coercion, and suppression that stifle free speech, journalism, and political debate. They draw attention to the ways that the combination of criminal law and religion can undermine faith and justice, substituting fear for respect and dogma for devotion.

India, a constitutional democracy that aims to balance its secular framework with its deeply ingrained religious plurality, stands in the between of these two extremes. Since each supports the other in a pluralistic society, the Indian Constitution recognizes and protects both freedom of expression (Article 19(1)(a)) and freedom of religion (Article 25). However, under Article 19(2), both are subject to “reasonable restrictions,” which permit the state to step in when it is necessary for maintaining morality, decency, and public order. The principal law handling religious offenses is still Section 295A of the Indian Penal Code, which was introduced in 1927 in response to communal turmoil over the Rangeela Rasool booklet. In order to preserve constitutional balance, the Supreme Court’s interpretation of this clause has been essential. The Court maintained its constitutionality in *Ramji Lal Modi v. State of Uttar Pradesh* (1957), but made it clear that only “deliberate and malicious acts” meant to offend religious sentiments would be punishable by law. Subsequent rulings such as *Mahendra Singh Dhoni v. Yerraguntla Shyamsundar* (2017) and *Manzar Sayeed Khan v. State of Maharashtra* (2007) upheld the idea that the essence of a crime is purpose rather than merely an offense. However, under political or religious pressure, Section 295A is frequently used in practice to muzzle critics, comedians, artists, and dissenting voices. Because social and political sensitivities sometimes overcome legislative protections, the judiciary’s sophisticated interpretation has not always stopped abuse at the local level. In an age of identity-based politics and social media division, India faces the problem of maintaining its secular culture while averting intercommunal strife.

Comparatively speaking, these three legal systems highlight the fundamental conundrum facing contemporary constitutionalism: how to protect freedom while preserving faith. The UK serves as an example of how strong free speech and efficient anti-hate speech laws can improve social cohesion. Pakistan is a prime example of the perils of elevating criminal law to a sacred object, where religion is used as a means of social separation and governmental control. India, which straddles both cultures, serves as an example of the delicate balance needed to maintain secularism in the face of religious pluralism. The growing recognition that religion merits respect but not insulation from scrutiny unites these jurisdictions. Laws that protect belief systems from criticism run the risk of weakening democracy itself since constitutional

governance depends on free inquiry, dissent, and discussion.

International documents like the 1948 Universal Declaration of Human Rights and the 1966 International Covenant on Civil and Political Rights, particularly Articles 19 and 20, affirm that everyone has the right to free speech, with the exception of those that are required to protect others from violence, discrimination, or incitement. Blasphemy laws are incompatible with international human rights unless they target incitement to hatred rather than merely offenses, as further emphasized by the UNHRC Resolution 16/18 (2011) and the Rabat Plan of Action (2012). The modern human rights approach to expression and belief is reflected in the global shift away from protecting religions and toward protecting individuals.

In summary, the conflict between blasphemy and expression is a moral and civilizational test rather than just a legal one. In a time of pluralism, it pushes cultures to define what respect is and what constitutes tolerance. India's strategy represents democratic balance in the face of variety, Pakistan's experience serves as a warning about the dangers of confusing religiosity with punishment, and the United Kingdom's style exemplifies legal maturity and the victory of human rights. The way forward for the future is to create rules that are grounded in reason rather than fear policies that shield people from hate while upholding the freedom to inquire, criticize, and even offend in the name of truth. A genuinely democratic society must protect the integrity of thought as well as the sanctity of belief, acknowledging

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