

Paradoxes of the Good Muslim, Bad Muslim Dichotomy: Understanding the Politics of Pakistan's Blasphemy Laws

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Summary

Priyantha Kumara Diyawadana, a 48-year-old Sri Lankan national and textile factory manager, was lynched in Sialkot. The killing has once again sharpened the focus on Pakistan's most controversial blasphemy laws. While state and religious authorities were quick to condemn extremism, no criticism, however, was levelled in these top levels towards the laws themselves. But a discourse on 'good Muslims' and 'bad extremists' does little to move Pakistan forward as core issues and contradictions remain. This paper traces some of the history, design flaws and the politics of Pakistan's blasphemy laws and examines some factors which render them resistant to change or repeal. Blasphemy laws have acquired a symbolic significance in Pakistan, and their protection and application have become a litmus test for judging the Islamic character and commitment of the state.

Introduction

The mob lynching of Priyantha Kumara Diyawadana, a 48-year-old Sri Lankan national and textile factory manager in Sialkot,¹ continues to sharpen both domestic and international focus on Pakistan's most controversial blasphemy laws which appear in the Pakistan Penal code under the chapter of 'Of Offences Relating to Religion'. A senior police official informed the media that "Kumara was killed for allegedly desecrating a sticker that contained the Holy Prophet's name."² The attack was captured on camera and shared widely on social media.³ The gruesome footage⁴ disturbed audiences in Pakistan and abroad as the images captured the realities of the violence and carnage of religious vigilantism, the abuse of the blasphemy laws, the weaknesses in the writ of the state and the growing intolerance and extremism in the country. The dystopian spectacle affirmed just how the relationship between religion, politics and the state can go awry. The mere existence of Pakistan's blasphemy laws is troublesome for its implications in blurring the sacred and the secular, politicising the boundaries of theological toleration, promoting sectarian conflict and valorising bigotry.

¹ 'Personal vendetta led to brutal killing of Sri Lankan national in Sialkot', *The Express Tribune*, 4 December 2021, <https://tribune.com.pk/story/2332450/personal-vendetta-led-to-brutal-killing-of-sri-lankan-national-in-sialkot>. Accessed on 8 December 2021.

² Arshad Mehmood, 'Pakistan: Mob beats to death Sri Lankan manager accused of insulting Islam', *The Jerusalem Post*, 5 December 2021, <https://www.jpost.com/international/pakistan-mob-beats-to-death-sri-lankan-manager-accused-of-insulting-islam-687936>. Accessed on 8 December 2021.

³ "'Day of shame': PM vows to punish culprits of Sialkot lynching", *The Express Tribune*, 3 December 2021, <https://tribune.com.pk/story/2332287/day-of-shame-pm-vows-to-punish-culprits-of-sialkot-lynching>. Accessed on 8 December 2021.

⁴ Kaleem Chishti, 'Humanity amidst insanity: Footage shows colleague trying to save Sri Lankan man', *The Express Tribune*, 4 December 2021, <https://tribune.com.pk/story/2332446/humanity-amidst-insanity-footage-shows-colleague-trying-to-save-sri-lankan-man>. Accessed on 8 December 2021.

Historical Background

The legal origins of Pakistan's blasphemy laws come from the colonial era where five laws were promulgated to manage growing religious conflict and unrest under British rule. These laws aimed to prevent the defilement of places of worship (Section 295), disturbances of religious assemblies (Section 296), trespass of burial or holy places (Section 297) and guard the religious feelings and beliefs of believers from insult and injury (295-A and 298). The colonial government's justification for these laws maintained that the emotional constitution of their Indian subjects and consequently, their propensity for religious agitation, posed a threat to law and order.⁵ These laws were general and authored to protect the religious feelings and sentiments of individuals and groups broadly from injury, offence or insult.

However, the most notorious inclusions were carried out during the Zia ul Haq era (1977-1988) under his campaign to Islamise state and society.⁶ These laws proscribed the defiling or the desecration of the Quran (Section 295-B), outlawed derogatory remarks towards the Prophet Muhammad (Section 295-C), prohibited derogatory remarks against the Prophet's family and companions, and the first four caliphs (Section 298-A), banned Ahmadis from using titles and epithets for the founder and the spiritual leadership of the sect (which were historically assigned in the Sunni Islamic tradition to honour personages of profound spiritual, theological or political significance) (Section 298-B), and barred Ahmadis from referring to themselves as Muslims and preaching or propagating their faith (Section 298-C).

Design and Ideology

What makes the laws of the Zia era notably contested and problematic is that these laws are vague, opaque and promote sectarianism since they align Sunni Islam with the state and criminalise the beliefs and practices of Shias and Ahmadis.⁷ These laws also differed from their colonial counterparts in their design in fundamental ways. While the laws promulgated in the colonial period sought to moderate conflict between religious groups more broadly, the laws issued in postcolonial Pakistan sought specifically to cast Sunni Islam as orthodox Islam. The enforcement of these laws in postcolonial Pakistan is based not only on arguments around the state's obligation to promote mainstream Sunni theological

⁵ The Indian Law Commission, the colonial body responsible for drafting the Indian Penal Code noted in its report of 1837 that a chapter on religious offences was needed on the grounds that "the religion may be false but the pain which such insults give to the professors of that religion is real" and that "there is perhaps no country [other than India] in which the Government has so much to apprehend from religious excitement among the people." See Raza Rumi, 'Unpacking the Blasphemy Laws', *Asian Affairs*, Vol.49, no.2 (2018), p. 324.

⁶ Islamisation most notably included the codification of select elements from substantive Islamic law (*fiqh*) as well as the creation of the Federal Shariat Court. For a comprehensive discussion of Zia's Islamisation reforms, please see Martin Lau, *The Role of Islam in the Legal System of Pakistan* (Leiden: Brill, 2006); Jeffrey Redding, 'Constitutionalizing Islam: Theory and Pakistan', *Virginia Journal of International Law*, Vol. 44, (2004), pp. 759-827; and Charles Kennedy, 'Islamization and Legal Reform in Pakistan, 1979-1989', *Pacific Affairs*, Vol. 63, no. 1 (1990), pp. 62-77.

⁷ This has been the subject of considerable research and scholarship. See for example Osama Siddique and Zahra Hayat, 'Unholy Speech and Holy Laws: Blasphemy Laws in Pakistan – Controversial Origins, Design Defects, and Free Speech Implications', *Minnesota Journal of International Law*, Vol. 17, no. 2 (2008), pp. 303-385.

orthodoxy, but also on the maintenance of Islamic morality, religious harmony, and public order in the country. In *Asia Bibi v. the State*, the Supreme Court of Pakistan argued that: “anything which in any way attacks any aspect of his (the Prophet’s) sacred life, infuriates Muslims to an intolerable limit, resulting in extremely serious law and order situation, with grievous, disastrous consequences.”⁸

The design flaws of postcolonial Pakistan’s blasphemy laws render them particularly problematic. Section 295-C originally stated that:

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 Mohammed (peace be upon him) shall be punished with death, or imprisonment for life, and shall also be liable to fine.⁹

That intention is not a necessary requirement for the offence of breaching 295-C is both worrying and troublesome. As Shayan Malik explains, “[T]he wordings in the pre-1980 blasphemy laws place a great emphasis on the intent of the defendant, a requirement for one to be liable....This is in contrast to the post-1980 blasphemy law where the intention of an accused plays a substantially lesser role.”¹⁰ Malik further notes that “the provisions under the newer blasphemy laws are too broad, vague, and could lead to a number of diverse interpretations. Accordingly, acts or words which may not be disrespectful to the Prophet Muhammad could be made out as such. This can be illustrated from the wording of Section 295-C, for which an ‘imputation, innuendo or insinuation’ is sufficient.”¹¹

Blasphemy Laws as Religious Symbols

Attempts to reform Pakistan’s blasphemy laws have come to naught. This is partly because these laws have acquired a symbolic significance and their protection and application have become a litmus test for judging the Islamic character and commitment of the state. This occurs for several reasons. Numerous scholars have noted the ideological confusion of the state.¹² The role and place of Islam in the state is a point of long historical contention: is

⁸ Described as a landmark judgement, the Supreme Court verdict in *Asia Bibi v. The State* (PLD 2019 SC 64) acquitted Asia Bibi of the crime of breaching Section 295-C of the Pakistan Penal Code which mandates death for those who insult the Prophet Muhammad. The verdict did not however contest the constitutionality or Islamic basis of the law – instead it sought to reinforce them. The judgement explicated the theological basis for 295-C arguing that it was both Islamic and its operation as law was imperative to maintaining social order. For more details, see Imran Ahmed, ‘Asia Bibi v. The State: the politics and jurisprudence of Pakistan’s blasphemy laws’, *Third World Quarterly*, Vol. 42, no. 2 (2020), pp. 274-291; and Amber Darr, ‘In the Name of God: The Asia Bibi Case and Its implications for the Rule of Law and Islam in Pakistan’, *LSE South Asia Blog*, 6 December 2018, <https://blogs.lse.ac.uk/southasia/2018/12/06/long-read-in-the-name-of-god-the-asia-bibi-case-and-its-implications-for-the-rule-of-law-and-islam-in-pakistan/>. Accessed on 8 December 2021.

⁹ Criminal Law (Amendment) Act, (111 of 1986), S. 2.

¹⁰ Shayan Azamat Malik, ‘Blasphemy: A Crime in Pakistan Penal Code versus the Traditional Perspective’, *Pakistan Law Review*, Vol. 8 (2017), p. 40.

¹¹ Ibid.

¹² Rafique Zakaria, for instance, described Pakistan as an “ambivalent” state. Rafique Zakaria, *The Struggle within Islam. The Conflict between Religion and Politics* (London: Penguin, 1988). But the roots of these

Pakistan an Islamic state? How can Pakistan become one? These questions have found no clear answer. The meaning of what a modern Islamic state is also not quite clear.

The tensions of this debate are perhaps most glaring in the Constitution of the Islamic Republic of Pakistan. This Constitution, like many other national constitutional texts around the world, guarantees the freedom of religion. Article 20 establishes that every citizen shall have the right to profess, practise and propagate his religion. Article 19, however, mandates the freedom of expression is subject to any reasonable restrictions imposed by law in the interest of the glory of Islam. Article 20, moreover, gives the impression that the Constitution is accommodating to sectarian differences by allowing every religious denomination and every sect the right to establish, maintain and manage its religious institutions. But the Second Amendment to the current Constitution, which declared Ahmadis as non-Muslims, and together with Sections 298-A, 298-B and 298-C of the Pakistan Penal Code which target the Shia and Ahmadi minorities suggests otherwise.

Moreover, the preamble of the Constitution places sovereignty over the entire universe with God alone but allows this authority to be exercised by the people of Pakistan within the limits prescribed by Him. The interpretation of this passage has been the subject of enduring conflict since it introduces tensions between divine and popular sovereignty as well as raises questions concerning the meaning of divine sovereignty within the framework of the modern nation-state. Ultimately, the tensions and contradictions around what Pakistan is, how it should be governed and rendered “Islamic” result in intense political conflict over Islamic symbols of the state such as the legal reform relics of Zia’s Islamisation period, including the blasphemy laws.

Good Muslims, Bad Muslims?

Far-right Islamist groups in Pakistan advocating for the preservation and enforcement of blasphemy laws frame themselves as good, pious Muslims. The Tehreek-e-Labbaik Pakistan (TLP) is a case in point. The focus of its political struggle is to defend the honour of the Prophet and they show no tolerance on the matter – something the design and ambiguities of the blasphemy laws facilitates. In doing so, “their power goes beyond deciding who is and is not a good Muslim: they can simply decide who is not a Muslim and then hang the threat of death upon any head anytime.”¹³ A popular TLP slogan remains ‘Whoever insults a Prophet, kill him’.¹⁴

The lynching of Diyawadana, as horrifying as it was, is unlikely to be the last. The political discourse around the murder consists of statements and reflections on the ambiguous terrain of what Islam and Pakistan stands for, and between ‘good Muslims’ and ‘extremists’.

ambiguities however trace much further back into Pakistan’s history. As Leonard Binder put it: “Islamic government, Islamic state, and Islamic constitution were the slogans of the last years of empire and the first of independence; but no one was quite sure what they meant”, in *Religion and Politics in Pakistan* (Berkeley: University of California Press, 1961), p. 4.

¹³ S T Hussain, ‘New Arrival’, *The News*, 6 August 2018.

¹⁴ Rabia Mehmood, ‘The Architects Of Project TLP Have Unleashed Chaos. Will They Be Held Accountable?’, *The Friday Times*, 21 November 2021, <https://www.thefridaytimes.com/the-architects-of-project-tlp-have-unleashed-chaos-will-they-be-held-accountable/>. Accessed on 8 December 2021.

While state and religious authorities were quick to condemn the murder, they did so carefully drawing lines between authentic expressions of Islam and extremist vigilantism. Prime Minister Imran Khan declared, “We will not spare those who resort to violence in the name of religion, especially in the name of the Holy Prophet (PBUH).”¹⁵ The Chief of Army Staff General Qamar Javed Bajwa described the incident as a “heinous crime”,¹⁶ while Tahir Mehmood Ashrafi, Special Representative for Religious Affairs and Interfaith Harmony, argued that the attack “defaced Islam”.¹⁷ Prominent religious scholars such as Maulana Tariq Jameel,¹⁸ Taqi Usmani, as well as the Chairman of the Pakistan Ulema Council, Tahir Mahmood Ashrafi, condemned the attackers.¹⁹

These statements, however, mean little when scholars, state officials and politicians rush to embrace the TLP in a show of good will²⁰ or praise its leadership.²¹ These gestures send a message which blurs the categories between good, bad and extremist Muslims rendering such designations ultimately useless. It also signals a doublespeak where the actions and words of the establishment repeatedly contradict one another. Striking also is that while prominent political and religious figures levelled the blame on extremist vigilantes, or inept state authorities,²² no criticism however was levelled in these top levels towards the blasphemy laws themselves which generated and enabled the politics, inspired the violence, and cultivated the intolerance which led to the frenzied lethal, extrajudicial torture and killing of Diyawadana. Distinguishing between ‘good’ and ‘bad’ Muslims will do little to move Pakistan forward as core issues and contradictions remain.

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- ¹⁵ ‘PM vows to go after those resorting to violence in the name of religion’, *Dawn*, 7 December 2021, <https://www.dawn.com/news/1662427/pm-vows-to-go-after-those-resorting-to-violence-in-the-name-of-religion>. Accessed on 8 December 2021.
- ¹⁶ ‘Army chief vows all-out support to arrest killers of Sri Lankan man’, *The Express Tribune*, 3 December 2021, <https://tribune.com.pk/story/2332294/army-chief-vows-all-out-support-to-arrest-killers-of-sri-lankan-man>. Accessed on 8 December 2021.
- ¹⁷ Imran Sadiq, ‘Sialkot mob lynches Sri Lankan factory manager, burns corpse over blasphemy allegations’, *Dawn*, 3 December 2021, <https://www.dawn.com/news/1661728>. Accessed on 8 December 2021.
- ¹⁸ Ibid.
- ¹⁹ Ibid.
- ²⁰ Imran Gopal, ‘“Goodwill gesture”: PTI’s Ejaz Chaudhry meets TLP chief Saad Rizvi to congratulate on jail release’, *Dawn*, 20 November 2021, <https://www.dawn.com/news/1659209>. Accessed on 8 December 2021.
- ²¹ Imran Gopal and Javed Hussain, ‘TLP chief Khadim Hussain Rizvi passes away in Lahore’, *Dawn*, 19 November 2020, <https://www.dawn.com/news/1591262>. Accessed on 8 December 2021.
- ²² See Maryam Nawaz’s comments. Imran Sadiq, ‘Sialkot mob lynches Sri Lankan factory manager, burns corpse over blasphemy allegations’, *Dawn*, 3 December 2021, <https://www.dawn.com/news/1661728>. Accessed on 8 December 2021.