



An Analysis of Blasphemy Laws of Pakistan in the Context of International Human Rights Laws

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Abstract:

This article basically aims to examine the blasphemy laws in Pakistan in the context of International Human Right Laws. As Pakistan is a signatory of UN human right laws, it is import to analyze the status and practice of these laws under the global perspective. Interestingly Pakistan is a Muslim majority country and Islam is the state religion of it. It the second country after Iran where the capital punishment is allowed in blasphemy laws and due to the same reason mostly it is the target of western governments and NGOs who vehemently opposed these laws. Initially this study presents an overview of UN humanitarian laws and International Human Right laws; within the subsequent section the process and practices of blasphemy laws in Pakistan are revealed and finally the last section gives a comparison between Pakistani blasphemy laws with international human right laws. At some places the author has also clarified the stereotypical allegations against blasphemy laws. The results show that the West is no longer agreed to put the freedom of religion including defamation of religion and freedom of expression on equal footings.

Keywords: blasphemy, defamation of religion, freedom of expression, constitution making, religion-state relationship.

Introduction

According to Samuel Huntington, political turmoil and globalization can cause to conflict of civilizations. ⁽¹⁾ In 1993 he declared in his article that in future the West and Islamic states might engage in conflicts. ⁽²⁾ Astonishingly, recent events around the world justify his claims. The rise of the Islamic State in the Middle East, and ban on the *Hijab* and headscarf ⁽³⁾ in public places in Europe and the attack on *Charlie Hebdo* magazine in France have caused the rise of tensions around the world.

More recently, one of the main discussions are related to blasphemy laws in the Muslim world. The concept of blasphemy is believed to be resulted from monotheistic religions such as Judaism, Christianity, and Islam which forbid from disrespecting God or sacred objects such as the prophets, holy books saints etc. ⁽⁴⁾ Grimm (2012) in his seminal study differentiated between blasphemy acts and religious insult. Blasphemy means to an act of contempt aimed against God or the divine and the religious insult directs to criticize religious beliefs or actions in general. The term blasphemy is also implied to include speeches critical of religion, religious beliefs, or sacred personalities. ⁽⁵⁾ Hence, it has a wider scope than previous. In addition, the acts of blasphemy may be defined differently from state to state according to specific conditions. Thus, states enact the blasphemy laws to guard the religious faith and its followers from insulting opinions or expressions. It is important to mention that the definition of the blasphemy is not restricted to the blasphemy propositions in itself. Strictly speaking, this does not imply that the law is administered in a particular condition. Therefore, in case the essence of the blasphemy law is in a wider sense, ⁽⁶⁾ it will be established as a law of blasphemy.

In a number of Muslim dominant states, blasphemy laws are efficiently enforced. ⁽⁷⁾ The penalty for defamation of religion also differs from fine to the death punishment based on the intensity of the offence. ⁽⁸⁾ These countries are obliged by the standards of International Human Right laws which role out the implementations of these laws. In addition, Pakistan, on account of the "Organization of Islamic Cooperation (formerly the Organization of the Islamic Conference)", approved the idea of "defamation of Islam", which later transformed into a "defamation of religion" on a global scale through UNCHR. It is assumed that ratification was not just a policy to protect blasphemy laws at the national level, but also an strategy to advance them at the Global forms. ⁽⁹⁾ It is therefore not easy to study the issue of blasphemy laws in predominantly Muslim states only from the International Human Right (IHR) approach.

The United States Commission on International Religious Freedom (USCIRF), has issued a report which reads that Pakistan is a tough state in the world in terms of securing religious freedom. ⁽¹⁰⁾ Sadly, in the last ten years world's attention has been diverted to Pakistan due to some alarming events at individual level. For example, in 2011, the Minister for minority affairs, Shahbaz Bhatti, was gunned down by unknown

persons, as he was the only Christian in the cabinet who constantly criticized Pakistan's blasphemy laws.⁽¹¹⁾ It is claimed that his criticism was to defend the right of minorities to freedom of religious belief but supporters of blasphemy laws argue that these laws do not restrict minorities to exercise their religious duties freely. In a second incident, the governor of Punjab, "Salman Taseer" was assassinated by his official police guard.⁽¹²⁾ He confessed that his response was a reaction to Taseer's support for the blasphemy amendment law and his aid to Aasia Bibi who was found guilty of having insulted the Prophet Muhammad ﷺ.⁽¹³⁾ In addition, Pakistan has a large number of prisoners whose cases are under trial for committing blasphemy, including Aasia Bibi. Rahman and Berri study the "concept of blasphemy" in Pakistan from a theoretical aspect as well as the exercise of "defamation of religion" itself.⁽¹⁴⁾ Describing the Pakistan-backed discussions on 'the distortion of the image of religion' at the United Nations and how this concept has been implemented in Pakistan, Rahman and Berry ultimately summed up that, although, Pakistan is ambitious to promote the concept of "defamation of religion" at the United Nations, the implementation of blasphemy laws in Pakistan is apparently contradicted with IHR.⁽¹⁵⁾ In a similar study Parmar has also dealt the concept of "defamation of religion" in her article.⁽¹⁶⁾ She described that this concept developed from the idea of defamation of Islam. She also argued that decisions aimed at combating the distortion of the image of religion appear to infringe international human rights, in particular freedom of expression.

In a different study Rahman 48 examined religious liberty in South Asia, which included eight states.⁽¹⁷⁾ He indicated some important revelations about Pakistan and other countries in South Asia where religion has a significant function in the country. Moreover, he asserted that South Asian masses do not have full rights to lead their religions freely. However, this issue in Pakistan was touched concisely with little details of the context to the constitution-making process.

A similar study was conducted by Asma T. Uddin in 2011.⁽¹⁸⁾ She compared three predominantly Muslim countries like Indonesia, Pakistan and Egypt. In her study, she elucidated the current state of religious independence among these nations geographically.⁽¹⁹⁾ Next, she explained the blasphemy laws in those states. Nonetheless, she deals the problems in the context of rights and links it to UN resolutions on the disrespect of any faith.

Consequently, in the context of international human rights laws, this article will evaluate the subject of blasphemy laws in Pakistan regarding liberty of expression and faith. It focuses not just on the congruency of Pakistani blasphemy laws with IHR laws, but also on analyzing the relationship between religion, state and the constitution-drafting process in Pakistan.

Relationship of State and Religion in Pakistan

Most of the modern countries declare the constitution as the supreme law. A constitution consists of government structures, services of government organizations,

and citizens' rights along with it. ⁽²⁰⁾ Furthermore, it is customary in constitutions to have various standard procedures on how to amend or change the constitutional provisions.

The official name of the constitution Pakistan is the "Constitution of the Islamic Republic of Pakistan".⁽²¹⁾ By the name itself, one can identify the cause behind the integration of the Islam as a state religion of Pakistan. However, the prelude also states in its initial section that autonomy of the country and the whole universe related to God.⁽²²⁾ In addition, the subsequent paragraphs state that the notions of democracy, equality, liberty, tolerance, and justice must be applied in the same manner with Islam, particularly the Holy Qur'an and the Prophet ﷺ's Sunnah. ⁽²³⁾ Nevertheless, the prelude also supports the possibility for minorities to develop their religious beliefs and to demonstrate their norms independently.⁽²⁴⁾ The eighth introductory paragraphs also provide the assurance of basic rights, comprising liberty of thought, belief, and faith. While the constitution promises these basic rights, it also provides that they can be restricted if the restriction is provided by law and moral obligations.

Article 2 of the constitution provides the declaration of Islam as the approved state religion of Pakistan. However, the constitution of Pakistan also insists on guaranteeing citizens' freedom to convert or express their religion freely. But again, as stated in the prelude, this clause must also be subjected to law, public order, and good morals. Additionally, the matters of taxation and education are also regulated by the constitution in the religious sphere; the religions are prohibited to interfere with each other's religious issues.⁽²⁵⁾ These provisions provide a protective shield for the religion. Another clause related to religion is contained in the articles 26 and 27 which stipulate the principle of non-discrimination while having access to public places and services. To rephrase it, every citizen has the right to have access public places and service without any discrimination on the bases of religion.

The introductory paragraphs and the rulings indicate that the constitution of Pakistan is significantly motivated by Islamic belief system. Therefore, the vital source of law and regulation comes from the Islamic Sharia such as the Holy Quran and the Sunnah. Nevertheless, minorities definitely have freedom to practice their faith and beliefs without any obstruction. Unfortunately, the term "minority" is not clearly defined in the constitution. However, it can be assumed that this term includes non-Muslims because the term used in the introductory paragraph states that Muslims should be able to lead their lives affirming to the teachings of the Holy Quran and the Sunnah of the Prophet ﷺ.⁽²⁶⁾ It also stipulates that appropriate provisions should also be applied to minorities

The term "non-Muslim" then is included the different religions and beliefs as well as the ⁽²⁷⁾ scheduled castes as laid down in article 260 of the interpretative chapters.⁽²⁸⁾

As in the context of the religion-state model, Pakistani model comes under the class of "Established Churches"⁽²⁹⁾ as stated by Durham and Sharfs. It means that the country

holds an official and established religion that has been integrated in the state or a strong institution - religion as a sacred legislative source as it was described by Herschel.

Constitutional Design and Process in Pakistan

The constitution itself is the product of many processes - including public participation - known as constitution making. These processes definitely involve many contributors, including political leaders and common people, in very composite discussions.⁽³⁰⁾ Therefore, the development processes of constitution is political in a way that it reflects not just the circulation of ideals and institutions of society, but also the competition for power between individuals or groups.⁽³¹⁾

As stated in the preceding section, the constitution outlines a working plan for how to run the country, plus the framework for the relationship between religion and the country, as well as the safety of religious independence. In fact, the constitution also provides an important role to form state laws, as well as the blasphemy laws. Therefore, at the outset, it is extremely vital to examine the constitution at the time the existed blasphemy law was implemented to get a sense of the consistency (or inconsistency) between the law and the constitution. Moreover, simultaneously it is also required to examine the development of the constitution to not if there have been any changes or not.

Before her independence in 1947, Pakistan and India were the British colonies.⁽³²⁾ Owing to religious, political and cultural differences between Muslims and Hindus, the Muslims of India decided to part from India and became an independent Muslim state.⁽³³⁾ Muhammad Ali Jinnah was the charismatic leader who completed the breakup of Pakistan from British India; he is said to be as *Quaid-i-Azam* (the greatest leader). Under the banner of the All India Muslim League, “founded in 1906 in Dhaka and also known as the Muslim League”, Jinnah established a new country founded on Islamic principles.⁽³⁴⁾ Strictly speaking, Islam is the real cause behind the existence of new Pakistani state.

As Pakistan was separated and become an independent nation in 1947, in the beginning this newly born state was without its own constitution to implement.¹⁰⁸ Generally, newly independent states maintain previous colonial legal systems until they establish their own constitution and legal system. In the case of Pakistan, it implemented the Indian law of 1935 as a provisional constitution to fill this gape. The tasks of drafting the constitution and legislation fell to the shoulders of newly elected assembly.⁽³⁵⁾ Nonetheless, the newly elected assembly of Pakistan took 9 years to complete its mission and propose a national constitution.

Naturally, the members of the Muslim League were in majority of the constituent assembly.⁽³⁶⁾ So the propositions of the constitution was dictated by the members of Muslim League. However, there were also discussions within the association about the nature of the new state and her newly constitution. The members of the Assembly were split into the conservative and the modernist. The preceding group was in favour of

declaring a new Islamic state, and the later ones advocated a more modern approach by including some modern features of constitutions. However, both the groups were agreed that this new state would perform under basic principles of Islam. It can be still noticed that the Islamic values are yet dominated and irreplaceable. Ultimately, these Islamic ideologies are the corner stone to verify the endorsement of the law of blasphemy

In the sub-continent, the first Blasphemy act was enacted by the British colonial government in 1860.⁽³⁷⁾ Those rulings were incorporated into the Indian Penal Code of 1860 which both India and Bangladesh also used to implement in their respective countries.⁽³⁸⁾ The purpose of the establishment of that law was to redress the upheavals of the policies that were prevalent at that time. In addition, it was intended to assist the British government to maintain their rule rather to favor the Muslims of India. A major change occurred in the 1980s when General Zia ul-Haq took the government office and set up a new blasphemy law. Contrary to preceding laws, the propositions of the new law tends to be in support of Islam. This has been proven through the use of the new formulation of “special religious beliefs” (Islam) replacing the term “all religious beliefs”. To put it another way, previous blasphemy laws provided the protective shield to all religions and them treated equally but newly enacted laws restricted to a particular religion namely Islam. It is notable that although there have been several changes taken place in Pakistani constitution according to national need but the blasphemy law is still in its place without any change.

As we can see, models of religion and state relations differ from country to country. These categories derive either from the possibility of a relationship between religion and the state from a theoretical perspective or from experience with regard to the real state of these relationships. However, these patterns sometimes appear to overlap. Furthermore, the country may not fall into one of the categories or even represent multiple character identification elements. Additionally, in a predominantly Muslim country, the bond between religion and state also differs depending on the historical origin of that country.

The process of constitution making primarily inspires a constitution. The organization of the legislators of the constitution also affects the subject matter of the constitution. The presence of the blasphemy laws in the Muslim states and especially in Pakistan is caused by a different constitutional and historical context. Moreover, these laws evolve according to certain circumstances.

Autonomy of Religion and the Scope of Blasphemy Law

A report published by the Pew Research Center in 2014, claims there is a growing tendency regarding the role of religion in social animosities globally.⁽³⁹⁾ 140 It also claimed the growing inclination of state governments to put constraint on religious autonomy. In fact, these facts seem disturbing in relation to religious freedom. Ironically, on the other hand western countries are also curtailing religious freedom in

their own states by denouncing the religious practices as extremism and fundamentalism.

Scolnicov suggested that freedom of religion can appear contradictory in terms.⁽⁴⁰⁾ It means freedom or the absence of restrictions; however, there is innately limitations in religion that restrict freedom. Indeed, religions provide a system of morality that steer the lives of their adherents and are fundamentally restrictive. To a certain degree, these values conflict even with the system of the government. For instance in a country like Indonesia , some religious fractions are keen to set up an Islamic government while in the constitution there is a constant rule that disallow any alternation related to the form of the government.⁽⁴¹⁾ However, this has put some countries in a difficult position because they are obliged to protect their citizens' stakes and interest equally. In some cases, the state has to provide special protection to certain religions minority groups otherwise, they might have to face discriminatory attitude from other religious groups. In some conditions, political and economic benefits and incentives were seen as important components of social animosities.⁽⁴²⁾ Thus, they would cause the issue of equality because the right to liberty of belief requires that individuals be treated equally in similar circumstances.

Human Rights Laws and Freedom of Religion and Expression

There are many instrumental laws related to the religious freedom is a right that extends from the international to the national level. The United Nations Charter and the Universal Declaration of Human Rights are the first two core instruments linked with the main United Nations texts (UDHR). Article 1 paragraph 3 of the United Nations Charter affirms the principle of non-discrimination.⁽⁴³⁾ In this article, religion is seen as one of the vital elements of this principle in achieving international harmony, resolving conflicts at international level, and complying with human rights.⁽⁴⁴⁾

Unlike the Charter of the United Nations, the Universal Declaration of Human Rights explicitly acknowledges in article 18 everyone's right to:

“Freedom of thought, conscience and religion. This right includes the freedom to change one's religion or belief and the freedom, alone or with a group, openly or in private, to manifest one's religion or belief in the practice of teaching, worshiping and observing rituals.”⁽⁴⁵⁾

The Kingdom of Saudi Arabia turned down the vote because the words “freedom to change religion or belief” was deemed contrary to the teachings of Islam. Being a member of UN Pakistan is liable by this statement, as Pakistan is among the countries who accept this declaration.

Thus, the right to freedom of religion is also included in “International Human Rights Treaty law”. Two major covenants are “International Covenant on Civil and Political Rights” (ICCPR) and “International Covenant on Economic, Social and Cultural Rights” (ICESCR). Although, our analysis will discuss primarily the ICCPR as it exclusively states this right of freedom to religion. Generally, both covenants

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emphasize principles of non-discrimination which explicitly is included religion.⁽⁴⁶⁾ Additionally, ICCPR categorically explains that everyone has the privilege to express his thought, beliefs, and faith freely.⁽⁴⁷⁾ It differs from the UDHR; the phrase "freedom to change religion" has been deleted from the clause of the ICCPR.

It is possible that the related phrase was removed due to the opposition of some countries like Saudi Arabia etc. However, according to public comment No. 22, the right to convert religion also includes in it.⁽⁴⁸⁾ Furthermore, the public comment also recognizes the feature of freedom of religion. According to the public comment, freedom of religion, conscience and thought are classified as non-restrictive rights. Paragraph 3 of the General comments also links freedom of thought, conscience, and religion to the article 19 of ICCPR, which provides for the privilege to express opinion without intervention. To conclude, the ruling also imposes justifiable restrictions on the appearance of religions or beliefs.

ICESCR states a small portion on liberty of religion. In "ICESCR", a parent or authorized protector is granted the right to select an educational institution for their children based on their compliance.

In 1981, UN General Assembly passed the resolution on the announcement on the abolition of all types of bigotry and religion-based discriminatory practices and faith.⁽⁴⁹⁾ Compared to "UDHR" and "ICCPR", the resolution states content that is more detailed and linked to liberty of belief.

It is important to state that the declaration has no obligatory requirement. However the declaration contains an enormous moral sense. However, some of the propositions of the report may not be binding; the principle of non-discrimination - as mentioned in the declaration - is strengthened by customary law.

Within the local background, it is significant to consider the "European Convention on Human Rights" (ECHR). The agreement provides the liberty of faith in Article 9.⁽⁵⁰⁾ The wording of the article is identical to article 18 of "UDHR". Moreover, there are some propositions under which the restrictions on religious demonstrations can be applied, i.e. those stipulated by law are required in a democratic society to preserve public order, health and morality; in order to defend the rights of others in a democratic country.⁽⁵¹⁾ In some conditions, freedom of religion is closely related to liberty of ideas. One possibility is that any person or group in a way appear to violate the rights of others while exhibiting their religious beliefs. It is also possible that some individuals or groups may violate the right to liberty of belief enjoyed by believers of any faith.

International Legal Laws exclusively support the right of freedom of expression on legal grounds. Article 19 of UDHR provides for the right to liberty of speech and expression, including the freedom to search and collect information.⁽⁵²⁾ Furthermore, the article 19 of the ICCPR provide complete protection to the liberty of ideas. Necessarily, article 19 of the UDHR and the ICCPR include a parallel idea. Minor differences relate only to means of expression and opinion as well as limiting elements.

Article 19 of the UDHR only indicates that freedom of expression and opinion can be used "by any means," while article 19 of the ICCPR provides further details for the expression of rights, whether orally, in writing, by printing or by any other way.⁽⁵³⁾

While considering the restrictions of the rights, the UDHR has also included several elements, which are "determined by law" to guarantee and ensure the rights and freedom of others, morality, "public order," and "the general welfare of a democratic society."⁽⁵⁴⁾ Further, liberty of thought and ideas have numerous forms of expression, which can be considered extremely offensive in some conditions.⁽⁵⁵⁾ It is a state's responsibility to safeguard these rights by integrating human rights law at the national level.⁽⁵⁶⁾

Moreover, based on Camden principle, public officials should evade declarations that may encourage discrimination" and they should also "fight against negative stereotypes those may target minority individuals or groups." ⁽⁵⁷⁾ The latitude of accountability should include all state subdivisions, i.e. the executive, the legislative and the judiciary. The blasphemy law is much pertinent issue public comments.⁽⁵⁸⁾

At the national level or in the constitution or in specific statutes, religious freedom and speech are guaranteed. These rights are also protected under the Pakistani legislation. These are essential rights, according to the preamble to the constitution. Article 20 guarantees the right to religious freedom, whereas article 19 guarantees the right to freedom of speech. of the constitution.⁽⁵⁹⁾ Notably, freedom of religion occupies an exclusive status in the Pakistani constitution as compare to freedom of expression. Anyhow this is clear from the restriction of these rights. Restrictions on freedom of expression are more stringent than freedom of religion.

The Pakistani constitution declares that religious liberty is regulated by law, order and morals.⁽⁶⁰⁾ 186 With regard to liberty of ideas, the constitution states that this freedom is subject to "... *reasonable restrictions imposed by law in favor of the greatness of Islam or the safety, security, or defense of Pakistan, ... order Public morals or morals, and with regard to contempt of court.*" ⁽⁶¹⁾ Although Pakistan has a Human Rights Commission (HRCP), but it does not have any particular human rights propositions. Further, the "HRCP" has no jurisdiction to investigate and make judgments on cases related to human rights violations.

Practice of Blasphemy Law in Pakistan

Pakistan's blasphemy law was included into the Pakistan Criminal Code (PPC). It is derived from the Indian Penal code developed by the British colonialist and subjected to implement in India before the partition.⁽⁶²⁾ The law covers some of the countries which in present age are known as India, Pakistan and Bangladesh. Previously, the propositions of the act were applied to all religions without any penchant for a particular religion. In fact, this fact is evident through the use of language in it. This blasphemy law only employs the generic term "religion" without targeting certain religions afterwards. As stated in the earlier section, the purpose of the blasphemy act

was to maintain the colonial system out of the enormous prospective for social disorder in South Asia. In 1920, the social unrest forced the British government to enact more stringent laws to deal the situation. After the partition, Pakistan Penal code is still used rather than changing it.

Historically, the enactment of blasphemy laws in Pakistan passed through two important eras; first period is before the regime of General Zia ul-Haq and the second period is after his government's rule. He was the Martial Law administrator and sixth president of Pakistan. He was the one who established the current blasphemy statute, which included the term Islam, the sacred personalities of Islam, the Quran and Muhammad ﷺ as sacred components for which blasphemy is not allowed.⁽⁶³⁾ Some critics argue that the holy figures of other religions do not come under the jurisdiction of this law and there is no treatment for a blasphemy act done against a non-Muslim. Noticeably 80 cases of blasphemy were reported under Zia regime after the enactment of new blasphemy law.⁽⁶⁴⁾ Several of the articles were listed in the PPC namely articles 295B, 295C and 298 (A, B, C). Primarily, these rules primarily serve to defend Islam as a religion rather than personal believers.

Beside these articles were prepared to protect Islam but the Prophet Muhammad ﷺ his family and friends (companions). Further, new propositions of this law also declares *Qadianis* as non-Muslims; severe penalties were introduced in case of violation of certain provisions. For example, article 295B provides for life imprisonment for those who "willfully desecrate the damage or desecrate a copy of the Holy Quran".⁽⁶⁵⁾ and the death penalty was proposed for insulting the Prophet ﷺ.

In 2014, the USCIRF reported widespread religion-based violence.⁽⁶⁶⁾ The report states that from 2013 to 2014, sectarian incidents followed by in 430 deaths.⁽⁶⁷⁾ This included the murder of Rashid Rahman, a solicitor specialized on humanitarian law, who was pursuing a case of an accused who was convicted in the blasphemy case.⁽⁶⁸⁾ Previously, the "Center for Research and Security Studies" (CRSS) conducted a research the issue of blasphemy from 1953 to 2012. This study found that the number of accused within this period was 434,235. This study also share the findings that showed that until 2012, the number of blasphemy cases was 1058,236 In addition, there were 17 people in the death row and 19 others serving life sentences (among 38 other detainees).⁽⁶⁹⁾ In 2010, a famous blasphemy case of Aasia Bibi, a Christian, took place. She was ordered a death penalty by the High Court in Lahore after denouncing blasphemy to her neighbor.⁽⁷⁰⁾

Due to lengthy court trial and wrong handling from the government side, her story took a new twist with the murder of the Governor of the Punjab, Salman Taseer, by his police guard. Surprisingly Taseer rendered his support to Aisha Bibi against the court's decision.⁽⁷¹⁾ Therefore, from the US point of view Pakistan is considered a country of particular concern (CPC) despite the number of defendants.⁽⁷²⁾ However, most of them are Muslims, but compared to the population ratio, the number of minority defendants

is exceedingly high. One of the causes for the high percentage of blasphemy charges, according to the research, is the substance of law.⁽⁷³⁾

According to some critics, the blasphemy law places ⁽⁷⁴⁾ Islam as the highest of all the religions, so it deserves to be special protection. Moreover, it is also blamed that in the question of blasphemy the gravity of evidence is not adequately considered, and the law can be abused at times. to resolve civic issues, societal rivalries and politics as well.⁽⁷⁵⁾

Conclusion

As Pakistan is a country where a close relationship is existed among the state and Islam, Religious liberty or freedom of ideas which spread on according to the teachings of the Qur'an and the Sunnah. In addition, there is a need to tackle the idea of blasphemy law to the international level because it seems that Islamophobia is quite prevalent in the West from the beginning of Islam. However, the fall of Constantinople and Crusade Wars are the haunted ghosts which are still alive in the western conscious and the West is still not ready to throw apart its prejudice against Islam and Muslim. Finally, blasphemy law practices differ among Countries with a large Muslim population. There is an increasing tendency in Islamic nations that the use of blasphemy laws is connected to religious devotion and governmental ties. Tougher sanctions will be imposed on a country that is closer to the Islamic doctrine.

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(2) Samuel Huntington, *Clash of the civilizations?* Foreign Affairs (summer, 1993), 48. Accessed April, 18, 2015, http://www.hks.harvard.edu/fs/pnorris/Acrobat/Huntington_Clash.pdf. In my opinion, from the term Islamic state, we can also have the derivation namely the Islamic tradition.

(3) The *burqa* is a full-body covering including a mesh over the face, and the *niqab* is a full-face veil leaving an opening only for the eyes, both are usually used by certain Muslim women. See *S.A.S v. France* Application number. 43835/11. Para.11. Available at [http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-145466#{"itemid":\["001-145466"\]}](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-145466#{)

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- (23) Sunnah or hadith is the textual narrative of what the Prophet Mohammad had said, done or tacitly approved. This is the second highest source within Islamic law hierarchy. See Wael B. Hallaq, *The Origins and Evolution of Islamic Law* (New York: Cambridge University Press, 2005), xx, available at <http://www.hadith-studies.com/Hallaq-Origins-Evolution-Islamic-Law.pdf>. p.42.
- (24) Ibid
- (25) See article 21 and 22.
- (26) Paragraph 5 of the Preamble
- (27) The term "scheduled caste" is refers to dalit people, which is regarded as the lowest caste according to Hindu's culture. In addition, Individuals who belong to this caste are forbidden to touch since they come from dirty. See http://www2.ohchr.org/english/bodies/cedaw/docs/ngos/JointNGOsSubmissionPakistan_ForTheSession
- (28) In this article Non-Muslim is defined as "a person who is not a Muslim and includes a person belonging to Christian, Hindu, Sikh, Budhist, or Parsi community, a person Quadiani group, or Lahore

group (who calls themselves Ahmadi's or by any other name), or a Baha'i, and a person belonging of any scheduled castes".

⁽²⁹⁾ Again, the term of "churches" cannot be taken literally but in the Pakistan context it can be replaced by Islamic religion or even a mosque.

⁽³⁰⁾ Jonathan Wheatley, "The constitution-making process: an analytical framework," in *Patterns of Constitutional Design the Role of Citizens and Elites in Constitution-Making*, ed. Jonathan Wheatley and Fernando Mendez (Burlington: Ashgate, 2013), p.16.

⁽³¹⁾ Yash Ghai, *The Role of Constituent Assemblies in Constitution Making*, (Sweden: International Institute for Democracy and Electoral Assistance (IDEA), 2011), accessed May 31, 2020, p.2.

⁽³²⁾ Iftikhar H. Malik, *History of Pakistan* (London: Greenwood Press, 2008), pdf, p.1.

⁽³³⁾ *Ibid*, 122.

⁽³⁴⁾ Lawrence Ziring, *Pakistan: At the Crosscurrent of History* (Oxford: Oneworld Publications, 2003), pdf. p.4.

⁽³⁵⁾ Pakistan Constituent Assembly consisted of 69 members, elected during the British era and was projected to create the new constitution and other legal instruments.

⁽³⁶⁾ Fakhr Ul-Islam and Muhammad Iqbal, "Islamizing the Constitution of Pakistan: the Role of Maulana Maudoodi," *Al-Idah* 27 (December 2013): p. 59, accessed May 30, 2015, <http://www.szic.pk/journal/DEC2013/6.pdf>.

⁽³⁷⁾ Center for Research and Security Studies, "Blasphemy Laws in Pakistan A Historical Overview," Center for Research and Security Studies (CRSS), last modified 2013, <http://crss.pk/wp-content/uploads/2010/07/Report-on-Blasphemy-Laws-.pdf>. p.8

⁽³⁸⁾ *Ibid*.

⁽³⁹⁾ PEW Research Center, "Religious Hostilities Reach Six-Year High," PEW Research Center, last modified January 2014, p. 7. Available at <http://www.pewforum.org/files/2014/01/RestrictionsV-full-report.pdf>.

⁽⁴⁰⁾ Anat Scolnicov, *The Right to Religious Freedom in International: Between group rights and Individual rights* (New York: Routledge, 2011) p.1

⁽⁴¹⁾ Article 37 paragraph (5) of 1945 Constitution.

⁽⁴²⁾ Ahmad Ubbe, *Laporan Pengkajian Hukum Tentang Mekanisme Penanganan Konflik Sosial*, (Jakarta: Pusat Penelitian dan Pengembangan Sistem Hukum Nasional Badan Pembinaan Hukum Nasional Kementerian Hukum dan HAM RI, 2011), p.77 accessed June 1, 2015, Available at <http://www.bphn.go.id/data/documents/pkj-2011-10.pdf>.

⁽⁴³⁾ See article 1 paragraph (3) of United Nations, "Charter of United Nations," <http://www.un.org/>, accessed June 2, 2020, <http://www.un.org/en/documents/charter/chapter1.shtml>

⁽⁴⁴⁾ Anat Scolnicov, "Freedom of Religion or Belief: Group Right or Individual Right?" (PhD diss., London School of Economics, 2005), p. 16-32 <http://etheses.lse.ac.uk/1925/1/U222042.pdf>.

⁽⁴⁵⁾ The United Nations, "the Universal Declaration of Human Rights," <http://www.un.org/>, accessed June 2, 2020, <http://www.un.org/en/documents/udhr/>.

⁽⁴⁶⁾ See Article 2 (1) of ICCPR and article 2 Paragraph (2) of ICESCR. Available at <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>

⁽⁴⁷⁾ Article 18 of ICCPR.

⁽⁴⁸⁾ Generally speaking, general comment is regarded as authoritative interpretation of the convention, See general comment number 22 paragraph (5) Available at http://tbinternet.ohchr.org/_layouts/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=8&DocTypeID=11

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⁽⁴⁹⁾ General Assembly of United Nations , Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief A/RES/36/55, (un.org, 1981), accessed June 3, 2015, <http://www.un.org/documents/ga/res/36/a36r055.htm>.

⁽⁵⁰⁾ ECHR article 9, available at http://www.echr.coe.int/Documents/Convention_ENG.pdf. Accessed June 3, 2020.

⁽⁵¹⁾ Ibid. paragraph 2.

⁽⁵²⁾ UDHR article 19

⁽⁵³⁾ ICCPR article 19

⁽⁵⁴⁾ UDHR Article 29 paragraph 2.

⁽⁵⁵⁾ Ibid, paragraph 11

⁽⁵⁶⁾ Ibid, paragraph 7-8 See also principle 1 of Camden principles on freedom of expression and equality. Available at <http://www.article19.org/data/files/pdfs/standards/the-camden-principles-on-freedom-of-expression-and-equality.pdf>.

⁽⁵⁷⁾ Principle 8.2 of Camden principles on freedom of expression and equality. Available at <http://www.article19.org/data/files/pdfs/standards/the-camden-principles-on-freedom-of-expression-and-equality.pdf>.

⁽⁵⁸⁾ Ibid, paragraph 48

⁽⁵⁹⁾ Article 19 and 20 of Pakistan Constitution.

⁽⁶⁰⁾ Article 20. Ibid.

⁽⁶¹⁾ Article 19. Ibid.

⁽⁶²⁾ Pakistan and India used to be part of India and they had similar penal code namely Indian Penal Code 1860. See Center for Research and Security Studies, "Blasphemy Laws in Pakistan a Historical Overview," Center for Research and Security Studies (CRSS), p.10, last modified 2013, <http://crss.pk/wp-content/uploads/2010/07/Report-on-Blasphemy-Laws-.pdf>.

⁽⁶³⁾ Center for Research and Security Studies, "Blasphemy Laws in Pakistan A Historical Overview," Center for Research and Security Studies (CRSS).

⁽⁶⁴⁾ Ibid.

⁽⁶⁵⁾ Unofficial translation of Pakistan Penal Code, last modified 1860, <http://www.oecd.org/site/adboecdanti-corruptioninitiative/46816797.pdf>.

⁽⁶⁶⁾ United States Commission on International Religious Freedom, Pakistan Factsheet, (Washington DC: United States Commission on International Religious Freedom, 2014), accessed June 5, 2015, <http://www.uscirf.gov/sites/default/files/Pakistan%20Factsheet.pdf>. p.1

⁽⁶⁷⁾ Ibid

⁽⁶⁸⁾ Ibid

⁽⁶⁹⁾ USCIRF, Annual Report, (USA: United States Commission on International Religious Freedom, 2014), <http://www.uscirf.gov/sites/default/files/Pakistan%202014.pdf>. p.76

⁽⁷⁰⁾ Ibid.

⁽⁷¹⁾ <http://www.bbc.com/news/world-south-asia-12111831>, Accessed January 20, 2020

⁽⁷²⁾ Pakistan classified as CPC from 2002. CPC means that such country involved in the severe violations concerning the freedom of religion. See USCIRF, *Annual Report*, (USA: United States Commission on International Religious Freedom, 2014)

⁽⁷³⁾ Ibid.

⁽⁷⁴⁾ In this context, Ahmadi regarded as non-Islam.

⁽⁷⁵⁾ Center for Research and Security Studies, Op. cit. p.7