

Punishment for Blasphemy against the Prophet (sws¹)

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I

The law for punishing blasphemy against the Prophet (sws) that is invoked in Pakistan has no foundation in the Qur'ān or Ḥadīth. Therefore, a pertinent question is: What exactly is the justification for this law? Some scholars have proffered Q. 5: 33-34 as a possible basis. In their opinion, God, in these verses of Sūrah Mā'idah, has prescribed the punishment for *muḥārabah* (rebellion) and *fasād fi al-ard* (disorder), and they believe that blasphemy against the Prophet (sws) is also a form of this offence of *muḥārabah*:

The text of the verse with its translation is:

إِنَّمَا جَزَاءُ الَّذِينَ يُحَارِبُونَ اللَّهَ وَرَسُولَهُ وَيَسْعَوْنَ فِي الْأَرْضِ فَسَادًا أَنْ يُقَتَّلُوا أَوْ يُصَلَّبُوا أَوْ تُقَطَّعَ أَيْدِيهِمْ وَأَرْجُلُهُمْ مِنْ خِلَافٍ أَوْ يُنْفَوْا مِنَ الْأَرْضِ ذَلِكَ لَهُمْ خِزْيٌ فِي الدُّنْيَا وَلَهُمْ فِي الْآخِرَةِ عَذَابٌ عَظِيمٌ إِلَّا الَّذِينَ تَابُوا مِنَ قَبْلِ أَنْ تَقْدَرُوا عَلَيْهِمْ فَاعْلَمُوا أَنَّ اللَّهَ غَفُورٌ رَحِيمٌ (٥: ٣٣-٣٤)

The punishment of those who fight against God and His Prophet or create disorder in territory is that they be executed in an exemplary manner or be crucified or have their hands and feet cut off from opposite sides or be banished. This disgrace is theirs in the world, and in the Hereafter a severe retribution shall they have, except those

¹ Please read fully: صلى الله عليه و سلم (ṣallā Allāh 'alayh wa sallama).

who repent before you overpower them. So [do not exceed in severity with them and] know well that Allah is Oft-Forgiving, Ever-Merciful. (5:33-34)

As other viewpoints on foundations for blasphemy laws, this opinion too needs to be reviewed for the following reasons:

Firstly, the word used in the verse is *yuḥāribūn* (they fight/rebel against). This word entails that the sentences of punishment mentioned in the verse be given only if the offender persists in blasphemy defiantly, resorts to disruption or disorder, refuses to desist even after repeated exhortation and admonition and, in contrast to an attitude of consequent submission, actually takes a stance of retaliation. On the other hand, if the accused pleads that he's not guilty or gives an excuse to explain his attitude and shows no volition for persistence, he cannot, in any sense of the word, be indicted for *muḥārabah* or *fasād fi al-arḍ*.

Secondly, the Qur'ān says that the sentence will not be applicable to those offenders who, despite their prior proclamation and persistence, submit and repent before the law apprehends them. Therefore, the directive is that those who have repented shall not be given these sentences. This aspect also entails that, before any action is taken against such offenders, they be called to repent and reform and be repeatedly warned that, if they are believers, they should not destroy their own future in the Hereafter by their wrong attitude or notions and, if they do not believe in God or the Prophet (*sws*), they should show regard for the feelings and sentiments of Muslims and abstain from this grave violation any further.

Thirdly, the verse does not make capital punishment obligatory. It gives the court room for a lenient sentence in consideration of the nature of offence and the state of the offender. The recommendation of banishment in the verse is for such offenders as deserve leniency.

In the present law, none of the aspects mentioned above has been considered. For sentencing, this law depends solely on testimony. There is no consideration whatsoever for confession or denial, which consideration the verse entails; there is no room for clemency on the repentance and reform shown in response to exhortation and admonition; and, as such, there is no other

option except capital punishment. It would indeed be commendable even if the 'ulamā were to accept *muḥārabah* verse as the foundation for blasphemy punishment and, consequently, show willingness to have amendments made to the existing law. Even that would end all criticisms on the present law. It is obvious from the Qur'ān that capital punishment can only be given in two cases: first, if a person murders another and, second, if he disrupts law and order in a country and, as such, becomes a threat to the life, property and honour of people. If the law is amended in accordance with the requirements of the *muḥārabah* verse, the requirement of confining capital punishment to these two cases will be fulfilled. Furthermore, the law will also be closer to the views of the highly venerated scholar of Islamic law, Imām Abū Ḥanīfah and to those of the great Ḥadīth compiler, Imām Bukhārī. In this regard, it is this opinion that seems more advisable. The Ḥanafīs have a majority in Pakistan, but, incongruously, their viewpoint has been completely ignored in enacting this law. Therefore, it is a fact that the blasphemy law in its present state is against not only the Qur'ān and Ḥadīth but also the opinion of Ḥanafī jurists. It should most certainly be changed for it has blemished the name of Islam and Muslims throughout the world.

II

Narratives related to punishment for blasphemy that are often cited also need to be understood correctly. Abū Rāfi' was one of those people who were guilty of bringing out the tribes against Madīnah in Ghazwah-e Khandaq (Battle of the Ditch). In Ibn Ishāq's words: *فِيمَنْ حَزَبَ الْأَحْزَابِ عَلَى رَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ*. About Ka'b ibn Ashraf, the historians write that after Ghazwah-e Badar (Battle of Badar), he went to Makkah and recited vengeance inspiring elegies for those of the Quraysh who had fallen in battle, wrote odes (*tashbīb*) that prefaced the names of some Muslim women and caused much distress to Muslims, and, while residing in the domain of the Prophet's government, endeavoured to incite people against him. Some narratives describe that he even went to the extent of devising deception to assassinate the Prophet (sws). 'Abd Allāh ibn Khaṭal was sent

for *zakāh* (obligatory alms) collection by the Prophet (sws). He was accompanied by a person from amongst the Anṣār and a servant. On the way, Ibn Khaṭal killed the servant on the pretext of insubordination, became an apostate, and ran away to Makkah.² Not only this; all three people mentioned here persisted in their denial of the Prophet (sws) even after the truth of his message had become conclusively evident to them. And, God Almighty has mentioned repeatedly in the Qur’ān that, as a Divine principle, the direct addressees of a *rasūl*³ are within the range of Divine punishment. For that reason, if they go on to the extent of hostility, they can also be killed.

These details show that the wrongdoers in question were not merely guilty of blasphemy but had also committed all the other crimes mentioned above. Therefore, they were killed in response to these offences. ‘Abd Allāh ibn Khaṭal was a murderous fugitive. It was decreed on these grounds that he be killed even if he was hiding behind the covers of the Ka‘bah.

It was indeed offenders of this kind to whom Sūrah Aḥzāb refers. In order to sow the seeds of doubt in Muslims, to turn them away from the Prophet (sws), and to damage their reputation and the moral credibility of their religion badly, these wrongdoers would engage in many activities as cooking up stories about personal lives of Muslims, slandering them and carrying on scandal-mongering, sometimes expressing desire to marry ladies from amongst the Prophet’s holy wives, and spreading rumours of all kinds to unnerve and demoralize Muslims. They would sometimes tease Muslim ladies who went out to the fields at night or before daylight to pay heed to the call of nature. When reprimanded for this behaviour, these evildoers would come up with lame excuses as having approached a woman only because they mistook her for the slave-girl of such and such person and because they needed to ask her about such and such matter. The Qur’ān alludes to these aspects of their mischief, and narratives in Muslim tradition record many of the

² ‘Abd al-Malik ibn Hishām, *Al-Sīrah al-nabawīyyah*, 2nd ed., vol. 3 (Beirut: Al-Maktabah al-‘uḍwiyyah, 1999), 47, 248; *Ibid.*, vol. 4, 44; Shiblī Nu ‘mānī, *Sīrat al-nabī*, vol. 1 (Idārah islāmiyyāt, Lahore), 253.

³ As a specific term in the Qur’ān, a messenger of God sent as Divine judgment for or against his people and direct addressees; plural: *rusul*.

related instances in quite some detail.⁴ Muslim ladies, therefore, were told to put their cloaks over themselves to appear different from slave-girls so that the mischievous miscreants would not have pretexts to tease them. Furthermore, the troublemakers were also warned that if they would not stop and would persist in their evil, they would be executed in an exemplary manner:

لَمْ يَنْتَهِ الْمُنَافِقُونَ وَالَّذِينَ فِي قُلُوبِهِمْ مَرَضٌ وَالْمُرْجِفُونَ فِي الْمَدِينَةِ لَنْعَرِيَتِكَ
بِهِمْ نُمْ لَّا يُجَاوِرُونَكَ فِيهَا إِلَّا قَلِيلًا مَلْعُونِينَ أَيْنَمَا تُقِفُوا أُخِذُوا وَقُتِلُوا تَقْتِيلًا

[Even after this measure] If these hypocrites do not desist and also those with a disease in their hearts and those too who spread lies in Medina, we shall make you rise against them; then they shall not be able to stay amongst you but with difficulty; cursed shall they be; wherever found, they shall be killed in an exemplary manner. (33: 60-61).

Other narratives of similar nature that are often related are usually not credible enough in terms of historical authenticity of the *sanad* (chain of narrators). However, even if they were to be assumed reliable enough, the nature of events described would still fall within the scope of same context: after full manifestation of hostility in their blasphemy and sacrilege, these people were within the purview of the same law that the Qur'an has described as a Divine custom pertaining to the denial of a *rasūl* by his people and direct addressees. Some murders were also vindicated on these grounds. لَا يُقْتَلُ مُسْلِمٌ بِكَافِرٍ is a description of the same principle.⁵ The *'ulamā'* are aware of these aspects, yet they insist on deriving the law for punishment of blasphemy from these narratives.

Here, someone might also refer to oft-related incident in which

⁴ Muḥammad ibn Jarīr al-Ṭabarī, *Jāmi' al-Bayān*, 4th ed., vol. 10 (Beirut: Dār al-kutub al-'ilmiyyah, 2005), 332; Ismā'īl ibn 'Umar ibn Kathīr, *Tafsīr al-Qur'ān al-'Aẓīm*, 5th ed., vol. 3 (Beirut: Mu'asasah al-rayyān, 1999), 518; Muḥammad ibn 'Umar al-Zamakhsharī, *Al-Kashshāf*, vol. 3 (Beirut: Dār ihyā' al-turāth al-'arabī), 569.

⁵ "No Muslim shall be sentenced to death in talion for these deniers." Abū 'Abdullāh Muḥammad ibn Ismā'īl al-Bukhārī, *Al-Jāmi' al-ṣaḥīḥ* (Beirut: Shirkah dār al-arqam, n.d.), 42, (No. 111).

Sayyidunā ‘Umar (rta) is reported to have struck off the head of a man who refused to accept the Prophet’s legal verdict on a certain occasion. Our ‘ulamā relate this incident from the pulpits and directly encourage people to show the same attitude as reflected in the narrative towards those whom they perceive as blasphemers of the Prophet (sws). However, the fact is that not just the first and second degree of Ḥadīth collections (in terms of authenticity) but also the third degree works are devoid of this narrative. Even Ibn Jarīr Ṭabarī, who often relates narratives in all categories, has not regarded it worthy of consideration. This narrative comes from a *gharīb* (with isolated chain of narrators) and *mursal* (with omissions in the chain) Ḥadīth that has been cited by some exegetes in their commentaries; however, those acquainted to some extent with Ḥadīth sciences have clarified that, in the chain, its attribution to Ibn ‘Abbās is absolutely implausible. Moreover, in the *sanads* of Ibn Mardawayh and Ibn Abī Ḥātim, the narrator Ibn Lahī‘ah is *ḍaī‘if* (“weak”).⁶ The view that exegetes relate this very narrative also as *shān-e nazūl* (an occasion for the revelation) of Q. 4:65 is also ill-founded. Although this verse of Sūrah Nisā is not in want of description of any reason of revelation, yet, quite contrary to this one, the narrative that Imām Bukhārī and other leading scholars of Ḥadīth have related as the occasion of revelation for this verse and which narrative is often cited by exegetes is one that pertains to a water dispute between the Prophet’s paternal cousin, Zubayr, and a person from the Anṣār. When the matter was presented to the Prophet (sws), he told Zubayr to irrigate his field and leave the remaining water for the Anṣārī. The Anṣārī immediately retorted by saying: “O Prophet of Allāh, is this because Zubayr is your cousin?” This highly impudent remark was clearly an imputation of injustice and nepotism. Therefore, it is related that the Prophet’s face changed colour, but he did not say anything save repeating his statement with more clarity and decreed that the water be retained up to the edges of the field and the rest be left for the Anṣārī.⁷

One must “commend” the ‘ulamā on their choice in selection for ignoring this highly credible narrative reported by Bukhārī and Muslim that reflects the Prophet’s forbearance, forgiveness,

⁶ Ibn Kathīr, *Tafsīr al-Qur’ān al-‘Azīm*, vol.1, 681.

⁷ *Ibid.*, 680.

compassion and kindness; instead, they are enthusiastically and zealously relating everywhere a weak and improbable narrative related to how Sayyidunā ‘Umar (rta) struck off someone’s neck.

III

On the issue of blasphemy against the Prophet (sws), is the opinion of majority of jurists based on any directive in the Qur’ān or Ḥadīth related specifically to this punishment? The answer to this question is clearly in the negative. The basis of jurists’ opinion on punishment to a Muslim is apostasy and, to a *dhimmi*,⁸ it is violation of pact. The jurists say that a Muslim who blasphemes against the Prophet (sws) becomes an apostate, and the punishment for apostasy is death. Similarly, if a non-Muslim *dhimmi* is guilty of this offence, he loses protection of the pact with him, and, therefore, he too deserves capital punishment. According to the jurists, the reason for this inference is that the directive about non-Muslim *Ahl al-Kitāb* (People of the Book⁹) in Verse 29 of Sūrah Tawbah (9th Sūrah of the Qur’ān) entails they be killed if they refuse to remain subjugated and subservient under Muslim rule. Therefore, infer the jurists, if a *dhimmi* shows an attitude of sacrilege and disrespect to the Prophet, it means that he has rebelled against Muslim sovereignty and does not accept his subjugation under Muslim rule.¹⁰ In Islamic law, this argumentation probably began with this statement of ‘Abd Allāh bin ‘Abbās’¹¹:

أَيُّمَا مُسْلِمٍ سَبَّ اللَّهَ وَرَسُولَهُ أَوْ سَبَّ أَحَدًا مِنَ الْأَنْبِيَاءِ فَقَدْ كَذَبَ بِرَسُولِ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ وَهِيَ رَدَّةٌ يَسْتَتَابُ فَإِنْ رَجَعَ وَإِلَّا قُتِلَ وَأَيُّمَا مَعَاهِدٍ عَانَدَ فَسَبَّ اللَّهَ أَوْ سَبَّ أَحَدًا مِنَ الْأَنْبِيَاءِ أَوْ جَهَرَ بِهِ فَقَدْ نَقَضَ الْعَهْدَ فَاقْتُلُوهُ

⁸ Non-Muslims (of conquered lands) who were granted protection and rights under pact in a Muslim government.

⁹ In the Prophet’s time, the Israelites and the Nazarenes.

¹⁰ For details, see for example Ibn Ḥazm, *al-Muḥallā*, 1st ed., vol.13 (Beruit: Dār iḥyā’ al-turāth al-‘arabī, 1999), 234.

¹¹ *Raḍī Allāh ‘anhu* (God be pleased with him).

A Muslim who blasphemes against God or the Prophet or any of God's messengers is guilty of denying the Prophet (sws). This is apostasy, which entails that repentance be demanded of the offender. If he repents, he shall be released; if not, he shall be killed. Similarly, if anyone from amongst non-Muslims protected under pact becomes hostile by openly blaspheming against God or the Prophet (sws) or any of God's messengers, he is guilty of violating the pact; you shall kill him too.¹²

It is this argumentation which, according to the jurists, is the foundation of the punishment for blasphemy. However, deliberation on the Qur'ān and the *Ḥadīth* clearly shows that, after the age of the Prophet's Companions, this basis has become ineffective forever. In my works, *Mīzān* and *Burhān*, I have argued at length that the punishment for apostasy was specific to the peoples who had been afforded conclusive evidence of truth by the Prophet (sws) himself but reverted to their denial after having accepted faith. The Prophet's statement: مَنْ بَدَّلَ دِينَهُ فَاقْتُلُوهُ (Kill the one who changes his religion¹³) relates to the same peoples. The decree of the punishment for them was in accordance with the *sunnat-e ilāhī* (the Divine way and principle) that has been described in the Qur'ān in relation to the direct addresses of the *rusul*. It has no relation to Muslims in times after the Prophetic age.

The issue of violation of pact is also similar in nature. No one now is *dhimmi* in the world and no one can be subjugated as such now. Verse 29 of Sūrah Tawbah is an offshoot of the same Divine principle mentioned above. Therefore, the right to wage war against any peoples perceived as deniers of the truth has ended forever the right to keep them subjugated and subservient by imposing *jizyah* (tribute) on them. Until the end of the world, no one now has any right whatsoever to wage a war against any people for this particular purpose or any right to impose *jizyah* to

¹² Abū 'Abdullāh Muḥammad ibn Abī Bakr ibn Qayyim, *Zād al-ma'ād fī hadyi khayr al-'ibād*, 1st ed., vol. 4 (Beirut: Dār al-kutub al-'ilmiyyah, 1998), 379.

¹³ Al-Bukhārī, *Al-Jām' al-ṣaḥīḥ*, 635, (No. 3017).

keep the vanquished subjugated.¹⁴ Non-Muslim citizens of Muslim States are not *dhimmīs* or condemned to death in any principle or living under any grant of “protection” lifting which would entail their death. This diction and these notions belong to the past. They cannot, in any way, form the foundation for argumentation now.

Now, therefore, only two possibilities remain: First, that, in consideration of Islam and the interests of Muslims, laws [based without foundational religious texts] be enacted and a punishment be prescribed as *ta‘zīr*.¹⁵ Second, Verses 33-34 of Sūrah Mā’idah be used as foundation for the enactment. It is this second possibility about which this article has already emphasized that, if these verses of Sūrah Mā’idah are used as a foundation, three aspects must be kept in mind as the words of the Qur’ān necessitate their inclusion:

1. A person regarded as guilty of blasphemy be invited to repent and reform and be repeatedly warned that, if he is a believer, he should not destroy his own fate in the Hereafter and should submit to God and the Prophet (sws), and, if he does not believe in God or the Prophet (sws), he should show regard for the feelings and sentiments of Muslims and abstain from persisting in this grave offence.

2. His case be filed in the court only if he refuses to change or repent, persists in his blasphemy with defiance, causes disruption, pushes away all efforts to convince him and, instead of showing remorse, actually resorts to belligerence and hostility.

3. Instead of having the option of capital punishment only, room for lighter sentences be left in consideration of any extenuating circumstances related to the actual nature and circumstance of offence and the capacity and state of the offender.

(Translated into English by Asif Iftikhar)

¹⁴ For details of the argumentation for these views, see my book chapter “*Qānūn-e Jihād*” in Javed Ahmad Ghamidi, *Mīzān* (Lahore: al-Mawrid, 2009), 579-609.

¹⁵ A non-textual (not directly emanating from any foundational religious text) punishment decided on the basis of reasoning.