

Revisiting Concept of Freedom of Expression Vis-à-vis Blasphemy: Laws Against Blasphemy from Ancient to Present Age

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Abstract

After the Renaissance, right of expression and freedom of press got in vogue, particularly in the West which diminished the established perception about blasphemy; subsequently the laws against blasphemy became dormant. During the last two decades, incidences of blasphemy particularly against Islam and Prophet Muhammad (PBUH) are being happened off and on in the West, generated anger in Muslims. They presume that it has been deliberately done to ridicule and demonize Islam by the Christian dominant society. These countries always take refuge behind democratic values, right of expression, and freedom of press without realizing sensitivity of the matter for Muslims. This kind of frustration in Muslims has made some of them intolerant and extremists. Thus can trigger violent incidents and escalate tensions between the West and Muslims. If this situation persists a confrontation between the two civilizations seems evident which can make life of Muslims in Christian dominant Western countries difficult and vice versa. The delicacy of situation demands to revisit the concept of freedom of expression and no religion or faith should be ridiculed on the pretext of right of expression to keep the world peaceful and secured for all.

Keywords: Persecution, Inquisition, ecclesiastical, heresy, apostasy, tithe, monotheistic, Tetragrammaton, Trinity, edict, clemency, schism, sacrilege, Iconoclasm, anathema, messianic, divinity.

Introduction

After the emergence of religions, blasphemy and laws against blasphemy remained a matter of debate. In pre-Islam religions particularly Judaism and Christianity, blasphemers had been punished. The intention seems to maintain sanctity and authority of the religion and keep it out of question. The punishments were also used as deterrence to warn others to be refrained from such offences. Eventually when religion and government were combined in state affairs, blasphemy laws were used as tools against political and religious opponents and ensure government's authority.

Greek priests, Roman Catholic clergies, the Spanish Inquisitions and the ecclesiastical authorities used to punish those who uttered unauthorized religious views. Joseph remarks, "whereas the early Christians fought one another (in the literal meaning of the word) in the streets of Alexandria and

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elsewhere over questions of theology, the Muslims did the same in the streets of Baghdad and elsewhere over questions of religious law” (Henderson, 1998, p. 12).

The main purpose to make an organized society was the betterment of individuals and their safety and security. In this penetrating concern, state had enacted laws to protect the rights and liberty of individual and make sure that everyone enjoys rights equally and freely. Many modern laws are different from the old ones because of the diversity in political ideologies and societal milieu. Some pre-modern laws have already lost their importance in many countries. Such old laws are not considered compatible with the democratic values and human rights. Thus in 21st century respect of religion and freedom of expression are at daggers drawn and generating tension in the world.

Definitions of Blasphemy

Blasphemy is utterance, defaming, damaging, and wounding of religion and religious entities. It is worth mentioning that it has become an extremely combustible part of modern society. This law has different forms in various countries; some countries have very strict anti-blasphemy law, however, most countries have such laws but only in documents not in real practice. “The word blasphemy has been derived from the word “Blasfemen” which in turn is related to Greek *Blasphemain* from “*Blaptein*” (to injure) and “*PHEME* (reputation)” (Lawton, 1993, p. 14). However, different religious jurists have defined blasphemy in accordance with their specific perception. Lawton said, “Blasphemy translation in Hebrew verbs ‘*nakob*’ and ‘*qillel*’, ‘to pronounce aloud’ and ‘to curse’ in the classic formulation of the Mosaic law of blasphemy in the Leviticus. The word ‘blasphemy’ combines two roots - ‘to hurt’ and ‘to speak’ (pHEME as in ‘fame’ so ‘defame’) hence ‘to harm by speaking’ as in Leviticus (a hurt sometime conceptualized in highly physical terms)” (1993, p. 14). Similarly in Islam, blasphemy had been used as heresy and apostasy. Since Ancient to present, blasphemy had been forbidden in most religions of the world. In simple words, to speak against or injure the religious norms and sacred entities are blasphemy. However, different scholars and religious jurists have given their own perceptions of the concept of blasphemy and defined the phenomenon. Thomas Aquinas has defined, “Blasphemy as an insult against God, disparaging his divine goodness. This took three forms: attributing to God any characteristic that does not conform to his nature (which later commentators deemed a crime against his mercy); denying to God attributes that belong only to him (a crime against his Justice); or ascribing to a creature qualities that conformed only to God (a crime against his majesty)” (Villa, 2006, p. 9).

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Similarly Blackstone interprets, “Blasphemy against the Almighty is denying his being or providence, or uttering contumelious reproaches on our Savior Christ. It is punished, at common law by fine and imprisonment, for Christianity is part of the laws of the land”(Pelton, 2004, p. 81).The Catholic Encyclopedia states, “Any word of malediction, reproach, or contumely pronounced against God” (Parker, 2002, p. 38).So, it can be understood that anything which is uttered or written impiously to the respect of God that is blasphemy. Predominantly it focused only on the dignity of God and ignored all other things relating to God such as prophets, divine books, and other sacred entities.

However, in Islamic perspective blasphemy is defined as:“The Muslim jurists explore the use of foul language primarily with regard to the Prophet. This is known as *sabb al-rusul*. Later on this was considered to include the use of foul language with regard to *Allah (sabb Allah)* or any of the angels or other prophets. Anyone using such language in relation to any of these is considered among the greatest of sinners. If the person is a Muslim, they are considered apostate and condemned to death” (Saeed & Saeed, 2004, p.38.)

Although it is observed that every definition has been described in accordance with specific period and religion, yet every writer, scholar, and religious jurist emphases on the dignity of God, Prophets, and Holy books. Therefore, it can be defined in these words: blasphemy is an act which is committed against religious sacred entities, places, and Holy books, and God and His Prophets. The violation of sacred places, irreverent treatment of sacred things, impious act, attitude and utterance against God and everything which is belonged to Him is ‘blasphemy’. Any word which is uttered against religion, any action that shows an insulting behavior against religion, and any writing which is pertained to God and holy entities is profanity. Blasphemy fundamentally is a malicious effort to insult God, and everything which is belonged to Him. The desecrating and burning holy books are also considered blasphemy. Many countries all over the world have law against blasphemy yet punishments and its implementation of the offences vary from country to country. In many Islamic countries the punishment of this offence is death plenty. It is a fact that punishment is not for killing the people but for deterrence and to save other people by giving lesson to the offender. Mill describes, “Punishment is justifiable only as a means of benefiting the offender and protecting others.” (Acton, 1973, p. 9).

Blasphemy Laws in Historical Perspective

To trace the history of blasphemy, one has to start from ancient age.In the fifth century B.C.,“Freedom of expression was an Athenian boast and a source of

accomplishment, but the taboo against reflecting on the gods”(Levy, 1995, p.4).Athens is not only the birth place of civilization but also the place where democracy was born. The freedom of expression and freedom of speech were its hall mark. In this culturally and democratically rich society impiety was forbidden. Impiety and transgression in the Greek culture was equivalent of blasphemy. So blasphemy was any kind of speaking sin, verbal abuse, or denouncement especially sacrilegious speech. One could have the right of freedom of expression, but not to scorn or rebut its gods. In this regard many writers, scholars and intellectuals had been mal-treated, victimized, and punished in history. “Anaxagoras (circa 500-428 B.C) was the first philosopher to reside in Athens and probably the first freethinker to be condemned for his beliefs...He regarded the conventional gods as mythic abstraction endowed with anthropomorphic attributes”(Levy, 1995, p.4).He was accused on the charge of impiety and was awarded capital punishment. However, he spent his remaining life in banished. After the Anaxagoras, Phidias, one of the greatest artists of the classical era of Athens, was also charged by impiety and was kept in detention without any trial. He died during imprisonment. Same charges were imposed on Euripides, a poet of theater. The charges of impiety became more pronounce during the war of Peloponnesian, which was fought between Athens and Sparta for the supremacy of Greece. On the charges of impiety the philosophers, teachers, intellectuals, statesmen, and generals were victimized and were called dissents of religion and states.

These cases seem more political or personal by nature than religiously in character. Since the creation of gods and goddesses, the king was considered their real follower. The power of gods was combined with the power of state. Similarly the treason against state was considered the treason against gods and enabled government to punish the offender. The mixture of character of state and religion was the reason of misuse of the crime of impiety. Similarly Socrates also lost his life because of his philosophy. “Socrates attacked some of the basic precepts of the Athenian democracy...Government by the many is therefore the government by the non-virtuous and is obviously unjust”(Harmon, 1964, p. 27). The motive behind his impiety accusations was also based on political objectives. His enemies feared of his philosophy and teachings that could undermine their power and position in the future. However, Athenian character of impiety, mixing religion with politics at the price of scholars’ freedom of expression was drastically same as that of heresy under Christendom.

In ancient Greek and Romans period, there was not a specific word for the treason against gods. The different words had been used to affront gods; such as impiety against gods and transgression of gods, etc.“Evidence from the ancient world strongly suggests that monotheistic religions took the lead in

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iconoclastic practices and the identification of other religions as anathema”(Coleman, 2008, p. 42). The monotheistic religion had differentiated with other religions that further kept the base of blasphemy offence.

The crime against gods was present from the very existence of the religion, but it was widely used after the proliferation of Jews. It can be traced back to the first century, the time of a great proliferation of Jewish. “In early centuries A.D, Judaism might be expected to offer a fertile field for here sio-graphical enterprises”(Henderson, 1998, p. 12).Hence with the expansion of Jewish, the offence against God was also spread out across the Jews boundaries. However, in accordance with Jewish believe, the offence of impiety was attached only to the utterance of God name. According to the Jewish Encyclopedia, “In the Jewish tradition the offense of blasphemy is limited to one who pronounces the tetragrammation (YHWH) for the purpose of profaning it (Lev.20: Sanh. 56a).The punishment could vary from a flogging to death”(Dennis, 2007, p. 35).Jews are the follower of Hebrew Bible which is also known as Old Testaments. In Ten Commandments, it is written “Not take the name of God in vain” (Holy Bible, The Old Testament, Exodus: 20).It means cursing God’s name, denying God’s attributes and His power. “The Hebrew word for ‘curse’ can mean ‘show disrespect’, which conceivably can be manifested in any irreligious or immoral way” (Levy, 1995, p.10).The translation of Old Testament into Greek, the word blasphemy had been used for the “curse to God.”Jews were very strict follower of anti-blasphemy and took it a huge crime. This crime revolved only around the name of God. Jewish took the revenge of God rather than their religion. According to Jewish, to pronounced the personal name of God is indicated as verbal offense against God. “*Yahweh*” is the name of lord in Hebrew Bible. “Substitutes for the name developed, chief among them being “*Adonai*” (the Lord) and “*Elohim*” (God)”(Levy ,1995, p. 13).

The reason behind this type of blasphemy accusation is that they considered that God name is sacred and man is sinful and have no right to take the name of Lord. The Jewish law of blasphemy is ‘God-Centric’ and there was not separation of religion and politics. The charge of blasphemy in Jews was almost like the Athens’ politics and religious practice relating to the respect of their gods. Jewish had adopted the theological theory for running their political affairs. Their political and religious mixture had scriptural base as there is written in Exodus, “You shall not revile God, nor curse a ruler of your people” (Holy Bible, Old Testament, Exodus 22:28).According to Hebrew Bible ,it was revealed on Moses soon after the ‘Ten Commandments’ for the governance over Israelis. This mixture of politics and religion resulted in enactment of laws for the punishment of people over blasphemy, impiety, and sacrilegious. The

legal punishment of this offense some time became the reason of the misuse of this crime by powerful individuals against political opponents.

In Christianity, it is stated that the trial of Jesus had political motives also. "Jesus was executed by Romans as a would-be 'king of the Jews' and his disciples subsequently formed a messianic community which was not based on the hope of military victory"(Sanders, 1985, p. 294).The teaching of Jesus had become a threat for the priests' survival. Tithe is one of the causes of Jesus trial, as Christ was against the Tithe and called the priests looters and buglers. The tithe is the highly enjoyable for clergy of Church. This escorted almost instantaneously to Jesus arrest and execution. "Jesus' disputes over the law were not substantial, including the dispute surrounding the charge of blasphemy, and so they do not provide an adequate explanation or legal basis for his death"(Sanders, 1990, p. 96).At the time of crucifixion of Christ, it had been written on top of salib "The King of Jews,"which clearly indicates the reason behind the allegation of blasphemy against Jesus.

During the ancient Jewish history the offense relating to God was not very often used. But after the trial of Jesus and later the success of Christianity this law was seriously implemented. According to Leonard Levy, "With the new interpretation of blasphemy by Paul, gave new means to blasphemy as the denial and defamation of Christ's teaching established a connection between heresy and blasphemy that persisted in Christian thought for at least fifteen centuries"(Viswanathan,1997, p. 403).The teaching of Paul and his disciples laid the basis for the spread of this concept. "The real Jewish Christians, the members of first Jerusalem church, who were the closest to Jesus, held beliefs that by the second century were regarded as heretical and blasphemous, as the writing of Justin proves"(Levy, 1995, p. 36).

Under Christianity, blasphemy became so distended with significance that it burst all boundaries. Eventually, the heresy was converted into the more encompassing term of Jesus. Therefore, throughout the history of this concept, the interchangeable word for blasphemy has been 'heresy'. Heresy is a set of attitude that goes against the accepted divine doctrine and against religious codes. Indeed, it caused factions and division within the communities. However, heresy may be defined as "a voluntary and persistent rejection of truths explicitly by church; and unless such rejection influences in some degree the conduct of the person concerned, it has no objective existed"(May, 1927, p. 135). The intestinally committed transgression aligned with the truth of God was considered the demeanor of heresy. It also indicated the involvement of church in the personal matter of individuals. "Blasphemy is only our old friend profanation in disguise and that we know is a priestly manufacture"(William, 1886, p. 3).The word 'blasphemy' is relatively a new

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expression but its connotation, usage and implementation areas old as the existence of religions and sects. Christians used to identify the blasphemy offence in the following word, “cursing, reproaching, criticizing, mocking, rejecting, or denying Jesus Christ... .Posing as Jesus claiming to be equal to him, or asserting the powers or attributing that belong to him constituted blasphemy too” (Levy,1995,p. 33).This changing in this word actually gave new dimension of this offence .No doubt, before the Christianity, heresy was also used against unbeliever ;however, it got importance during the rise of Christianity. The prevention against worshipping fake gods was later translated into definition of heresy in the Christian rising era. Though initially there was difference between heresy and blasphemy yet after the definition of heresy and blasphemy by the scholars of different theologies have blended these two words.

In the middle of third century, the Trinity Controversy had taken place. The dogma of the Holy Trinity was moving to the vanguard of Christian divergences as the central view of the blasphemy. In the third and fourth century, it became prerequisite to maintain the unity of God without forfeiting the divinity of Christ. The spiteful debate among Christianity ferociously denouncing one another for the blasphemy and other transgression against religion was persistent. So anti-Trinitarism was considered as the worst blasphemers and worthy of punishment. The problem of factions and blaming on the basis of blasphemy and impiety was still there. Later Arianism a new faction came into exists and once again the matter of accusation of blasphemy resumed in Christianity. Arianism believed on atavistic reversion of Christianity. It was considered as the most execrated in Christian as the heresiarchical blasphemer. “A synod of bishops condemned Arius for apostasy, schism, and heresy, as well as blasphemy, and anathematized his views as those of the Anti-Christ.”(Levy, 1995, p. 40).They were punished and exiled. However, they carried on their struggle and with the sympathetic support of other bishops did spread its doctrine in the different places. Eventually the Arians had dominated many churches. However, at the culmination of fourth century, the authority of church was strengthened with the support of state and determined the holy doctrine for the assessment of heresy and blasphemy thus did resolve the controversy.

Christianity got momentum when the first Christian Emperor of Roman allowed bishops to summon the Council of Nice at universal level. “The first ecumenical council of Christian Church held under Constantine the Great in 325 at Nice, or Nicaea, in Bithynia, Asia Minor, to condemn the Arian heresy” (Brewer, 2001, p. 779).Before the Council of Nice, many councils were held for the discussion of different factions. But it was first universal council of bishops all around the world. Through this council, church assumed more

extensive powers. After this council, effects of the rule of church went up to at state level. It got authority to take decisions against heretics. The purpose of the Universal Council was to discuss the matters relating to Christian doctrine, regarding divine nature of Christ and relation to God. It also tried to resolve the issues of different factions of Christianity. "These differencing views affected four crucial sectors of life in fourth century: the authority of the emperor in respect to creed and canons; the Eucharist; the office of bishop; the headship and kingship of Christ"(Davis, 1990, p. 72). However, for the time being this council became successful to resolve various issues. But after some time the conflicts regarding to schism, heresy, and blasphemy again started taking place.

Blasphemy issue got importance again in perspective of relation between politics and religion during the period of Empire of Theodosius I. The edicts issued in his regime were enacted to protect the churches. It was first time in the history when term of heresy was legally used. Theodosius had made Christianity the official religion of the empire. This edict issued in the reign of Theodosius had become the reason of state and church relationship on legal matters relating to heretic. After the introduction of this edict the church was going to be sponsored by the Roman Catholic States. The churches started deploying the power of state to implement more callous measures against blasphemy, heresy, and profanity; with the former becoming the encompassing recognition for religious deviance. During the period, edicts depressed all heretics and pagans from their rights such as; to worship, prohibited them from communal organizations, and imposed heavy fines, taking away their properties, exile, and in some cases they were put to death. "The first instance, of capital punishment for heresy occurred in 385, when the pious Bishop Priscillian of Spain and six of his followers were tortured and decapitated with the approval of a synod in Trier"(Levy, 1995, p. 44). Furthermore, it was also mentioned that everyone who was against the ideas of Catholic Church would be included in heretic. "In September 395, that all who deviate *vellevi argument* from the catholic religion are included in the word heretic and liable to legal penalties"(Baker, 1972, p. 15). The Catholic started to dominate at state level as its edicts made the church powerful than ever before. "By the fourth century, the intra-denominational rivalries in the early Christianity were so sharp that both blasphemy and heresy blended with connotations' of factionalism, sedition, schism, apostasy, and sacrilege."(Viswanathan, 1997, p. 403).

Throughout the year 400, the blasphemy was scarcely more than a vile appellation and in a perplexed way parallel to the conception of 'heresy.' Since making heresy a legal crime against Christianity, it became a formal name of this offence. "By 435, there were sixty-six laws against Christian heretics plus

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many others against pagans.”(Viswanathan, 1997, p. 44).The period of conversion of state to Christianity, is known as the Roman Imperial period that heralded the wide-ranging devastation of pagan religion. Sacrilege, heresy, and blasphemy then had taken place as a capital offense in the succeeding decade. “Iconoclasm was eventually to have the sanction of Augustine who in the ‘City of God’, noted now Christianity had flourished after pagan images objects of worship had been removed from the people’s gaze. Destroying that link was enabling Christianity to make a new start.”(Webster, 1990, p. 7).Different strategies were undertaken against the pagan iconoclasm that provided the way for strengthening Christianity.

One of the most influential personalities amongst the Catholic theologian was Saint Augustine (354-430), the bishop of Hippo, in Africa who advocated the systematic persecution of blasphemous. Indeed, it made him an important figure in the post apostolic history. So up to 13th century, his ideological concerns about the church and persecution led the way for the establishment of the Inquisition and furthermore set the medieval mentality regarding Christianity. “Augustine’s theory of persecution developed in connection with the Donatists, a schism group in North Africa that passed itself off as the orthodox Catholic Church... .Before the empire condemned Donatists as heretics in 405, Augustine described their schism as both heresy and blasphemy....The Donatist blasphemers, Augustine declared, “slay souls,” and for that must suffer physically. They caused “everlasting deaths”(Levy, 1995, p.47).

His thinking relating to the punishment of impiety was the same as the Greek and Jewish had. He thought that the salvation of the individuals depended in the religious doctrine and those who did not pursue the truth of religion they must be punished till to death. According to him the heretic must be forcefully punished for his salvation and also for the benefit of the society. But as a father of church, he failed to remember that Christ always gave the lesson of peace and humanity not to kill the people in the name of religion. Augustine was also in favor of religious and political mixture. He thought that the security of church and state depend on the unity of both and they should work together for the protection of society and salvation of souls.

However, the 4th and 5th century was not only the rising time for Christianity but it also became the reason for the growth of blasphemy concept in the world. As with the escalation of Christianity, the definition and nature of the blasphemy was also changed. Eventually, Christianity was fragmented into different factions. These new factions started to deplore each other. They geared up their own definition of Christianity, as well as, the offense against Christian religion. Among these factions were Paulinists, Johnnies,

Samosatans, Sabellians, Trinity, Anti-Trinity, Meletians, Taints, Semi-Arians, Nicene or Attanasias (Catholic), and Donatists. Several factions of the Christianity were present within the Roman Empire across the Mediterranean into Asia, Minor, Europe, and North Africa. With the spread of Christianity in different areas of the world, it got influenced by other religions and beliefs as well. The diversity among Christianity before 5th century was in all probability as numerous as those of today. This division and decentralization of Christianity also became the reason of creating various definitions and meanings to the offense against religion.

The usage of laws against blasphemy comparatively remained low from 6th century to 12th century. The thinking of various scholars and theologies during the middle Ages were as same as Augustine held. The Christian thought was statics against blasphemers and reasoning against the blasphemer was also similar. With the passage of time, the punishment of heretic and blasphemy was blended with each other. The difference of offense of blasphemy which was associated to God was intermingled with heretic that was interrelated to religious abuse. After the Augustine another important theologian was Thomas Aquinas (1225-74). Levy is of the view, "Blasphemy in terms of heresy, he condemned all heresies as blasphemy. Heretics, he declared, "by right...can be put to death and despoiled of their possessions by the secular [authorities], even if they do not corrupt others, for they are blasphemers against God, because they observe a false faith. Thus, they can be justly punished [even] more than those accused of high treason" (Levy, 1995, p. 52). He not only defined the blasphemy and heresy, but also had blended the both with each other. He also called upon the same punishment of this crime as said by Augustine in 5th century. The interesting aspect in his definition of blasphemy and heresy was that he was not calling the religious authority for the punishment of blasphemers and heretics but he focused on the legalization of this offence in his writing. He considered that heresy and blasphemy are the worst crimes than anything else. "In comparison with blasphemy, every sin is slight...Comparing the murder with blasphemy, Thomas Aquinas held that "blasphemy, which is a sin committed directly against God, is more grave than murder, which is a sin against one's neighbor" (Levy 1995, p. 52). His thinking revealed that one could kill someone and could be forgivable but the offense against God could not be forgiven. This practice was continued because of the teaching of Thomas Aquinas. However, such type of thinking and writing was quite similar with Ancient and Middle Ages theologies. They were theologians who had good knowledge of religion but they mostly used their religion and knowledge in the favor of specific faction that made the religion tougher to understand. So harassment of Jews, pagans, Muslims and rebellious Christians was embarked on in the early middle ages.

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But this persecution did not come into light on the large scale until the emergence of the Inquisition. Church had been charged to punish the heretic and for that matter Inquisition was established by pope and bishops. The Inquisition could also be applied on every institution whining the justice system of Roman Catholic churches. Inquisition was an ecclesiastical institution of the Catholic Church to combat the heresy. The harsh punishments of Inquisitions in different places took place in the first part of the 13th century. "This organization was set up by the pope and handed over in 1232 to the Dominican order, which soon became known as 'Domini Canes' or the hounds of the Lord" (Webster, 1990, p. 4). With the passage of time, it became most powerful institutions in the Europe. Inquisition organizations were well known in the early recorded history against heresy. Institutionalization of it on different moral and religious matters reflected that it intended to secure church supremacy only. The medieval Inquisition and Spanish Inquisition were too brutal in its method to punish the heretic by burning to death as comparing others. This organization had established a structure of a 'travelling ecclesiastical courts'. It warned individuals of various towns of its impending visits and encouraged the Catholics Christians to denounce all heretical Christians and unbelievers. An individual who was suspected as blasphemer or heretic was detained and his guilt was assumed. If the victim acknowledged committing sacrilegious views then he was spared much suffering. But if he did not confess the crime, then he had to bear severe torture.

"The heretic was dragged into the torture chamber and shown all the terrible instruments of torture. If this dreadful display did not make him confess to his errors, then the instruments were applied to his body, one by one, in a process of slowly increasing pain... . Tortures lasting three or four hours were not unusual. While the victim was being tortured, the rack or other instruments was frequently sprinkled with holy water. Countless frightful means were used in the procedure, all with the sole purpose of crushing the victim's resistance and making him confess... . A cloth was usually pushed into the victim's mouth to prevent the torturers from being distracted or irritated by his wild screams. A heretic might be tortured in this way for hours, until his body had become a flayed, bruised, broken and bleeding mass. From time to time he would be asked whether he was at last ready to confess. Overwhelmed by pain and half out of his mind with anguish, he would usually, after a few hours of this torment, give all the information that the Inquisitors wanted to hear"(Webster, 1990, p. 5). It was not surprising that any person who passed through such kind of punishments and torturers he had to confess his crime whether he committed it or not. It is quite clear that during the Inquisition, heresy or crime against God had been used for suppressing the Church's dissents. Other religions, as well as, factions within Christendom did not have the right to practice their religion openly. Eventually when Inquisition

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Organizations were at peak, a new faction was born in the name of Protestants under the leadership of Martin Luther (1483–1546) who raised his voice against the control of clergy over churches.

“Martin Luther (1483–1546), the first to formulate Protestant principles, called for the centrality of the Bible as primary authority on the issue of faith; the return to simple liturgies; separation between church and state; and individuals responsibility in matters of salvation and in finding happenings on each.” (Ishay, 2004, p. 76)

The role of Protestants was significant for molding the established laws. Instead of transcending the Inquisition they reproduced some of its most authoritarian aspects. It goes without saying that the Reformation substituted a state of religious autocracy by a state for religious freedom by Protestant. Martin Luther had rebelled against the authority and religious tyranny of the state. He was in the favor of religious freedom. As Joachim Kahl writes, “Luther was simply fighting against the authority of pope in the name of an authority which was even higher than that of the pope—the word of God. Submission to this objectively present authority was freedom of conscience as he understood it” (Webster, 1990, p. 5). He differentiated between the jurisdiction of secular and spiritual administrations, assigning to ruler charge over a purely external decency while leaving proper piety and religious conviction to God and unspecified Churches. He also brought an important change in the concept of ‘heresy’ and it was replaced with a new term ‘blasphemy’. “In 1531, Martin Luther gave evidence of his own conception of religious freedom by asserting to Melancthon’s suggestion that Anabaptists should be punished by death. Although Anabaptism would once have been regarded as heresy, the term Luther prepared was blasphemy” (Webster, 1990, p. 7).

Though Luther is considered as the champion of religious freedom, yet he imposed sanctions upon the activities of other religions. He also condemned other religions and called the followers as blasphemers. However, like the Catholics with various factions and dissents, there were also many factions within the Protestants. In 1520 another faction appeared in central Europe i.e., Anabaptists. They were humble folk and perceived that religion was a private matter. According to them, state had nothing to do with religion but state has the only duty to protect people and maintained peace in society. Initially Luther advocated religious toleration but with the spread of Anabaptists, he argued that, all such people should be condemned. Leonard Levy writes: “By 1536, he finally endorsed imprisonment and death for Catholic blasphemies to prevent the spread of their contagion. He ranted endlessly against the Catholics, using

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the words 'blasphemer' and blasphemy...Luther condemned Anabaptism, Arianism, and Catholicism as blasphemies, Judaism and Islam too" (1995, p. 63).He was not against the preaching of Catholic Church but preaching of all other religions also. For example, he also believed that Jews were blasphemers. In simple words, he also tried to use blasphemy against the dissents. "Luther, as the American historian, may have abused the word 'blasphemy', but he also revived and popularized it"(Webster, 1990, p. 6).

After Luther, another renowned and great protestant theologian was John Calvin (1509-64). He too revitalized the concept of blasphemy. After getting power in Geneva, he called blasphemers as 'traitors to God'.

"Calvin also from the first allotted to magistrates the policing of 'idolatry', 'sacrilege', 'blasphemy', and other public affronts to religion (in other word popery and anabaptisms); this was by then also Luther's doctrine." (Luther and Calvin, 1991, p. xviii-xix)

According to Calvin disordering God, denying His powers, taking false oaths, swearing by the name of Lord and Christ, and false doctrine were the worst crime. Like Augustine, Calvin also regarded heresy as a sin worse than murder, "The mockers who would suffer all false doctrines...are not only traitor to God but enemies of the human race. They would bring poor souls to perdition and ruin, and are worse than murderers" (Calvin, 1931, p. 111). The temporal offences were insignificant as compared with spiritual ones. So blasphemy had become the greatest offense and sin. The most influential theologian was Michal Servetus (1511-53), a friend of anti-Trinitarians. He was considered the first and for most systematic theologian of anti-Trinitarian. He too became prey of Calvin's theology of religion and punishment of blasphemy and was burned at stake in 1553. He thought that Calvin and Luther were not compatible with revolutionary thought because they had believed on Trinity as had Catholics. He was of the view, "not one word is found in the whole Bible about the Trinity, nor about its Persons, nor about an Essence, nor about a unity of the Substance, nor about one Nature of the several beings"(Levy, 1995, p. 63).His book '*De Trinitatis Erroribus*' (On the Errors of the Trinity), became the cause of his death by Christian authority under the rule of Calvin. He was executed only for his anti-Trinitarian thought which was opposite to Calvin's theological views. Later on Castillo, a professor of Greek was also executed because he advocated the ideas of Servetus. He advocated Servetus and his book and stated, "the Calvinists did not know God and worshipped a false god was a comment against men, not God"(Levy, 1995, p. 69).

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He argued that Servetus only expressed his views about the religion and did not commit any crime against religion. Castillo also responded to Calvin in (1555) and discussed in his book about the various aspects of blasphemy and heresy persecution. This was the first book of 16th century that talked about the religious rights and religious liberty of people. He thought that it was individual right to read Bible privately. Castillo concluded blasphemy and heresy as “we regard those a heretics with whom we disagree...if you are orthodox in one city or region, you must be held for a heretic in the next.”He had not only commented on Calvin’s Defense but he also pointed finger to the functions of a ruler. His following words became the reason of his persecution:

“A ruler ought to content himself with the punishment of injury to persons and their property...the magistrate may punish such an act not on the score of religion, but because he has done damage to bodies and goods, like any other criminal. But the punishment of a religiously motivated offense ought to be limited to fines, imprisonment, and banishment never death. The church should restrict itself to admonition and, in the last resort, excommunication.”(Levy, 1995, p. 64).

Castillo believed that solution ought not to be severe than disease. He admitted the sword and stake could not guard strong dogma not sound canon produced superior individuals and convince them for affection. He also considered that religion was known by its fruits not by various factions. His all arguments relating to ruler, religion, and persecution had decided his fate. He became the victim of blasphemy in 1563 persecuted by Calvin. Both Luther and Calvin were deemed to overthrow the religious authority. They also gave new dimension to the offence against blasphemy. However, on the one hand, they are in the favor of religious freedom and on the other hand they emphasized on the attainment of their own churches, doctrine, and preaching.

Europe was quite argumentative for religious toleration during the 16th century. In the either part of the Reformation, the political, as well as, the religious leaders had assumed that it was mandatory for the fortification of the state and the conservation of the faith and holy doctrine therefore it should be implemented of obstinate and blasphemous heretics. Several individuals had been killed in the name of religious protection and prestige. For instance, “In the Low Countries, which Spain controlled and which instituted an Inquisition rivaling Spain’s itself for severity, the duke of Alva’s armies and the Inquisition killed about eighteen thousand Protestants between 1567 and 1573” (Levy, 1995 p. 70-71).

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“the more intense has been the religion of any period and the more profound has been the dogmatic belief, the greater has been the cruelty and the worse has been the state of affairs. In the so-called ages of faith, when men really did believe the Christian religion in all its completeness, there was inquisition, with its tortures; and there was every kind of cruelty practiced upon all sorts of people in the name of religion.”(Russell, 1992, p. 20-21).

He had explained point by point the religious intensity, its impact on society, and its relation to state as well. No doubt Protestants had also persecuted people but not as done by Inquisition. Queen Elizabeth’s accession to the throne in England 1558 began an era of relative tolerance. This was the period when people started to raise their voices against the monopoly of religious leaders and king. They began demanding freedom of thought, belief, and its practice. Different scholars and writers played very important role for the religious freedom and introduced different expressions of freedom such as freedom of speech, writing, and thought. Helwys also advocated the religious freedoms. “The king is mortal man and not God, therefore, hath no power over the immortal souls of his subjects to make laws and ordinances for them to set spiritual Lords over them” (Webster, 1990, p. 7). In Europe, political development also played the role in this regard. “Instead of all these changing, people are still suffering with the abuse of blasphemy on the name of religion”(Levy 1995, p. 104). Webster explains that in Britain and America and in many European countries, the continued support for tyrannical laws, and for the legacy of suppression which derived from the Inquisition, sprang from what might be termed, the ‘floodgate theory’ of morality (Webster, 1990, p. 8). In this connection, different campaigns were undertaken and intention was to highlight this theory to deal with the cases of blasphemy with calmed mind as this issue had its base on the cultural and psychological interpretations. In the beginning, blasphemy was dealt by religious body. But with the increasing mixture of religion and state slaughtering of blasphemers, became a routine and blasphemy become a crime at state level.

Religious intolerance has remained as a bone of contention among individuals, communities and nations throughout the history. It had been the cause of the bloodiest conflicts in the name of religious fortification and respect. Hence, blasphemy has continued to exist for more than two millennia and remained a serious matter even in the modern age. However, the offence of blasphemy not only harms the relationships among the communities but also causes general disorder in the society. Much of chaos around the world today, is the consequence of numerous groups, each stick with only themselves in the pretext of self-righteousness. Attack of followers of one

religion on another as well as show of aggression and intolerance of different factions within one religion by using the blasphemy law has strengthened this legacy of hatred.

Amongst the prescribed Human Rights in the UN Universal Declaration, Right of life, belief, liberty, and dignity are top of the list. The Declaration is a comprehensive package of rights thus it is not supposed that some rights of a man are respected and other rights are ignored. So all rights of man mentioned in the Declaration should be observed in toto. If it has not been allowed to violate right of life of a human being then how right of religion or belief can be infringed or ridiculed, no matter which belief he possesses and practices. Similarly when we talk about right of dignity, it means that a human being should be considered respectable by all means. It looks strange that a man is being respected but his religion or faith is disrespected or ridiculed. Indeed rights of belief and right of dignity complement each other and they should not be differently observed. So dignity of a man is meaningful if his religion or belief should also be respected whether he belongs to majority group or minority group of the society. Thus no one should be allowed to disrespect or ridicule belief of others in the pretext of right of expression. Herbert Spencer says, "Every man is free to do what he wills, provided he infringes not the equal freedom of any other"(Haque, 2003, p. 241). Similarly, Mill is of the view, "The right to swing my arm in any direction ends where your nose begins"(Chamberlain & Hazlitt, 1987, p. 245). It is stated, "The problem of liberty is not one of absolute freedom but one of relation between the individual desire for self-expression and the need to control individual action by certain common and necessary social rules and obligation. He further says, "Liberty is the power to do anything provided it does not injure the freedom of others" (Haq, 2003, p. 241). Therefore in the name of freedom of expression, it is not acceptable that any person or institution should commit blasphemy against any religion and infringes others' rights. Therefore non-believers, atheists, and believers of a particular religion or sect should not be given free hand to ridicule any religion or faith of other believers. Notwithstanding they should be extra careful in their expression while uttering, sketching, or writing anything about a religion or sect to whom they do not belong because it will be regarded as a bias opinion.

For a Muslim, belief or faith (*Emaan*) means the acceptance of God as the Creator, finality of Prophet Muhammad (PBUH) and other basics concomitants of Islam unconditionally from the core of the heart and without any doubt. And a Muslim who does not have *Emaan* on these basics of Islam cannot be considered a Muslim. The matters related to *Emaan* are greatly sacred and respectable for Muslims thus they are emotionally and spiritually attached with it. That's why a Muslim is not ready to listen any utterance and see any visual,

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gesture, and action of disrespecting or ridiculing at individual or institutional level because he will consider it a sin. Due to some incidents of blasphemy occurred against Islam and Prophet Muhammad (PBUH) in the Western countries have caused estrangement. The tension between the West and Muslims began with the publication of a controversial book '*Satanic Verses*' by Salman Rushdie in 1998 in England. Though Rushdie was disliked and hated being the author of the blasphemous book in Islamic countries, yet he was facilitated with asylum in England. Similarly the publishing of blasphemous cartoons/caricatures insulting Prophet Muhammad (PBUH) by a Danish newspaper, *Jyllands-posten*, in 2005 was highly objectionable for Muslims and generated a big controversy around the world. In the reaction of this publication numerous protest rallies had been undertaken by the Muslims. Eventually incidents of attack on churches and European diplomatic missions by Muslims also took place in which dozens of people died. A partial boycott of some Danish goods and business in various Islamic countries was observed by Muslims. Many Danish companies working in Islamic countries remained under pressure and bore economic losses. Despite the incident, made Muslims angry and generated tension between the West and Muslims was very much alive yet the same blasphemous cartoons were republished by a French magazine *Charlie Hebdo* 2006 and rejuvenated the controversy. This time anger among Muslims was higher because of the repetition of same blasphemous material showing disrespect to the feelings of Muslims and their religious matters. Muslims severely criticized the attitudes of western press as well as governments for not paying any heed to their emotions. The reluctance of the concerned government particularly and international organizations, and the UN generally, provided sufficient material to cook the revenge in minds of some extremist Muslim groups. Besides Europe another incident of similar nature also happened in US where Terry Jones (Pastor) called upon the people around the world to set fire the copies of the Quran in 2010. This was a highly disrespectful act for the Quran, the Holy and sacred book of Muslims. This provocative call by a Christian preacher shocked the Muslims around the world and generated anger in them. The reluctant and to some extent arrogant attitude of West actually paved the way for an armed attack on the office of *Charlie Hebdo* in 2015 in which its 12 staff members were killed. One Islamic group accepted the responsibility and gave the republishing of blasphemous cartoons as the reason of the attack. Indeed, this was the bloodiest incident took place in France on account of blasphemy and generated a big controversy again. In response to this incident, various leaders of Western countries joined hands and undertook a 'Million March' in Paris on January 11, 2015 to show solidarity with France as well as freedom of expression. It is pertinent to mention that on the same day *Charlie Hebdo* again reprinted the same blasphemous material to reaffirm its policy of ridiculing Islam which indeed was a provocative act against the Muslims. In

this continuation, some incidents of harassing the Muslim community and attacks on their worship places also took place in some European countries, showing intolerance for Islam and its followers. In retaliation of such happenings in the Western society, numerous protest rallies have been undertaken by Muslims in various Islamic and some other countries in which slogans of dislike and hate against the West were raised. These developments have sharpened the tension between the two civilizations and a series of actions and reactions has begun. So in the backdrop of fear and confrontation, a debate on freedom of expression on the account of blasphemy has begun.

Considering the West and Europe particularly a Christian society, Muslims presume that happening of such incidents has been deliberately done to demonize Islam. The presumption got strengthened as most western countries have not only been overlooking this sensitive matter but also facilitating the blasphemers of Islam by giving them asylum. The governments always take refuge behind democratic values and human rights and do not realize the sensitivity of the matter for Muslims. Furthermore, most of the international organizations harmonized with the viewpoint of the West that frustrates Muslims. Such frustration and anger among Muslims have made some of them intolerant, extremists and revengeful.

It goes without saying that till the Renaissance the western perception was very rigid about religion and blasphemy. Since they embraced secularism and modernity and left idealism their already established perception about religion started diminishing. Eventually they went to another extreme where religion or blasphemy was no more serious and emotional matters for them. "The growing size of diaspora of Islam in the West of the European continent is a phenomenon that not only correlates to a changing composition of the European population, but also creates a challenge to the identity of Europe itself understand as a secular civilization" (Tibi, 2012, p. 112). Then they became more conscious about rights of people and freedom of expression. However, on the other side particularly Muslims are still lagging behind in education and modernity. "Most leaders of the Muslim diaspora do not endorse secularism as separation of religion and politics... They are exposed to the need for cultural change, and have a more intense predicament with modernity" (Tibi, 2012, p. 112-113). Unlike the Western society, Muslims are still attached and emotional about their religion and are not ready to compromise on any blasphemy against their religious matters. The critics, who label Muslims as extremists are unable to understand the sensitivity of the matter for the Muslims and their spiritual and emotional attachment with their religion or faith. They ignore the gap of perception, education and modernity between the West and Muslims. They forget their own past when they were sentimental

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and possessive for the preservation and sanctity of their religion or sect and used to punish or terrorize their opponents. Forced exodus, conversions, and banning of practice of other religion/sect were hallmarks of old Christianity in the West. During that period they positioned themselves on another extreme. So it seems appropriate that they should have a moderate position between two extremes and start respecting religions and faiths of others which is also a right of others. "No bridging would be possible if the conflict is ignored" (Tibi 2012, p. 113).

The basic ingredient of any religion is that its believers generally do not like and accept anything insulting to their religion. "Secularism is an exclusive Western/European appropriation, and the idea that Muslims should be redeemed and should redeem themselves from their sensuous religiosity this narrative emphasizes the almost unbridgeable gap between 'secular Europeans' and 'religious Muslims'" (Mavelli, 2012, p. 86). History is witness that numerous wars and massacres had taken place in the name of religion or faith. And if such blasphemous incidents keep coming from a parallel religion or faith it can generate tension and confrontation between the both. Indeed, religion is spiritual as well as emotional matter for the believers and it can distract them from reasoning, and consequently they start disliking and ridiculing each other. If this trend persists and is not checked, it will further estrange the West and the Muslims which can pose a threat to international peace and co-existence and generate a chain reaction of intolerance and hate. So there is a need to minimize the bias perceptions which have been created by different fundamentalists, extremists, religious, and political groups for their vested interests. Before situation worsens and leads to some serious violent events and hot confrontation, it should be addressed and measures should be taken to stop it. Therefore a solution of the problem should be evolved to secure people and sanctity of religions for peaceful environment and better relation between the two communities.

Conclusion

This is the time to revisit the concept of rights of expression and freedom of press. An unlimited freedom should not be allowed at the cost of respect of others religion. "Mill says that absolute freedom for the individual in society is impossible. The question is where the line should properly be drawn between what a person is entitled to do and what society is entitled to prevent him from doing. A criterion must be established by which conflicts between there interest may be judged"(Harmon, 1964, p. 383). It is a fact that still an overwhelming majority of humanity consists of the believers of these two religions, i.e., Islam and Christianity. So no religion should be insulted or ridiculed in any case to preserve peace and co-existence in the world. "Power

can be rightly exercised over any member of a civilized community, against his will, to prevent harm to others.”(Lerner, 1961, p. 263). There is no second opinion that liberty of man ends where liberty of other man starts otherwise it will be a chaos in the society. Similarly individual or institution should not disrespect and ridicule religion or faith of others on the pretext of freedom of expression. Many Western countries have enacted laws against racist comments or expression; so on the same footing they should come up with laws against blasphemy because such incidents have been excavating relations between two biggest religious communities in the world. If this trend continues, it will make life difficult for Muslim minorities living in Christian majority countries and vice versa. Indeed, it is a complex matter as people’s emotions and religious belief are involved in it and no one is ready to hear something insulting to his belief. It is needed that UN should come forward and play a role of fire extinguisher. In the presence of lethal weapons, incidents of blasphemy can push the world towards hot confrontation of the civilizations. Therefore to avoid destructive events in future, the UN should make efforts to mitigate confrontation and initiate dialogues among different religions and faiths for harmony and to minimize their misunderstandings. For that matter involvement of Organization of Islamic Conference, European Union, and the Pope seems useful to draw a comprehensive plan not only to curb ridiculing of any religion but also promoting respect of religions and faiths. Indeed an international law or UN convention is required to save the world from escalating tension and to create an environment for co-existence between the West and Muslims for durable global peace and stability.

Recommendations

- UN should play role to make an international law or convention to curb the trends of blasphemy.
- Dialogues among different religious and faiths should for the promotion of co-existence, and tolerance.
- Insulting and ridiculing of any religion or faith by any person or institution should be declared as a crime.
- No forced conversion to any religion or sect.
- Teaching and promoting respect for religions and faiths.

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Justifying blasphemy laws: freedom of expression, public morals, and international human rights law. *Journal of Law and Religion*, Vol. 35, Issue. 1, p. 33. With contributions by leading scholars, this volume compares blasphemy laws within a number of Western liberal democracies and debates the legitimacy of these laws in the twenty-first century. Including comprehensive and up-to-date comparative country studies, this book considers the formulation of blasphemy bans, relevant jurisprudential interpretations, the effect on society, and the ensuing convictions and penalties where applicable. It provides a useful historical analysis by discussing the legal-political rationales behind the recent abolition of blasphemy laws in some Western states. The tension between the right to freedom of expression and the desire among many people and countries to prohibit blasphemous or religiously hurtful speech has become a focal point of relations between the Western and Muslim Worlds, as well as within and between other religious and cultural groups. Many countries, including but not limited to those that are predominantly Muslim, have laws against blasphemy or the defamation of religion; supporters claim that such restrictions on free speech serve to maintain societal harmony, while opponents argue that they are used to suppress minority faith. But anti-blasphemy laws were wrong then, just as they are wrong now. In 1825, in one of his last letters to his fellow ex-president Thomas Jefferson, John Adams called such measures "great obstructions to the improvement of the human mind." How could the country promote "free inquiry," Adams asked, if citizens "encounter the risk of fine or imprisonment" for speaking their minds? In striking down Pennsylvania's blasphemy law in 2010, a federal judge noted that the measure let state officials bar certain words "based on nothing but their own religious beliefs." That's what Middle Eastern protesters are trying to do, too, while Americans look on in horror. But we did the same thing, and for longer than we like to admit. "States should repeal blasphemy laws, which typically have a stifling effect on open dialogue and public discourse, often particularly affecting persons belonging to religious minorities." "States should repeal any criminal law provisions that penalize apostasy, blasphemy and proselytism, as they may prevent persons belonging to religious or belief minorities from fully enjoying their freedom of religion or belief." The European Court of Human Rights: [Freedom of expression constitutes] "one of the essential foundations of a democratic society" "it is applicable not only to "information" or "ideas" that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb the State or any sector of the population." The law should provide for sufficient safeguards against abusive restrictive measures, including effective control by a court or other independent adjudicatory body. Accordingly, in order to ensure protection against online surveillance and to enhance freedom of expression; Council of Europe member States should respect the will of Internet users not to disclose their identity. However, respect for anonymity does not prevent member States from taking measures in order to trace those responsible for criminal acts, in accordance with national law, the ECHR and other international agreements in the fields of justice and the police. Please see here the full text of the Explanatory Memorandum.