Majallah-yi Talim o Tahqiq

مجلہ تعلیم و تحقیق

Markaz Talim o Tahqiq, Gulshan-e-Taleem, Sector H-15, Islamabad, Pakistan

مرکز تعلیم و تحقیق، گلشنِ تعلیم، ایچ۔۱۵، اسلام آباد، پاکستان

ISSN (P): 2618-1355, ISSN (Online): 2618-1363

Issue 4, Vol 6 ,October-December,2024

شمارہ ۴، جلد ۶، اکتوبر—دسمبر، ۲۰۲۴

Analyzing Criticism on Pakistan's Blasphemy Law

Dr. Muhammad Mushtaq Ahmad[1]

Abstract:

Pakistan's blasphemy law (Chapter XVI of the Pakistan Penal Code 1869) particularly the provisions added during the regime of General Muhammad Zia-ul-Haq (sections 295-B, 295-C, 298-A, 298-B and 298-C), has been criticized from various perspectives. Some critics deem it the cause of mob violence in Pakistan; others consider it to be the driving force behind extrajudicial killings; still others believe that the law is very strict on persons facing psychological problems. Some scholars have opined that some aspects of the law are problematic from the perspective of the principles of Islamic law. The present paper analyzes these various views about Pakistan's blasphemy law and concludes that the criticism leveled against this law is also generally applicable on other areas of law in Pakistan and that there is a need to improve the functioning of the law enforcing agencies and the working of the justice system. The paper after highlighting some inconsistencies in the judgments of the superior judiciary in blasphemy cases makes a case for harmonious application of the principles of Islamic law on the subject as mandated by the Constitution of the Islamic Republic of Pakistan 1973 and the Enforcement of the Shariah Act 1991 as well as several other laws and precedents.

Keywords:*Blasphemy, Frivolous cases,Mob violence, Mental disorder, Repentance.*

[1] Professor and Chairman, Department of Shariah and Law, Shifa Tameer-i-Millat University, Islamabad. The author also served as Secretary to the Chief Justice of Pakistan. He can be accessed at: mushtaq.dsl@stmu.edu.pk

Introduction

Chapter XVI of the Pakistan Penal Code 1860 (sections 295 to 298-C) is titled "Offences against Religion", but it is generally termed as 'blasphemy law'. The chapter contains a total of 10 sections. The original 4 sections (295, 296, 297 and 298) contained provisions about defiling a place of worship, acts intended to outrage religious feelings, disturbing religious assembly, words intended to wound religious feelings. Section 295-A (insulting religion or religious beliefs) was added to this chapter in 1927. General Zia-ul-Haq added 4 sections this chapter through Presidential Ordinances: in 1980, section 298-A (derogatory remarks against the Companions, the Wives and Members of the Household of the Prophet); in 1982, section 298-B (desecrating the Holy Qur'an); and in 1984, sections 298-B and 298-C (acts of the Qadianis and Lahoris who call themselves Ahmadis). In 1986, the Parliament enacted section 295-C (derogatory remarks against the Prophet, blessings of Allah and peace be on him).

There are several important decisions of the superior judiciary on these provisions. These include: *Mujib-ur-Rahman v The Government of Pakistan* in which the Federal Shariat Court declared that sections 298-B and 298-C were not repugnant to the Injunctions of Islam as laid down in the Holy Qur'an and Sunnah;[2] *Zaheeruddin v The State* in which the Supreme Court held that sections 298-B and 298-C were not inconsistent with the Fundamental Rights enshrined in the Constitution;[3] *Muhammad Ismail Qureshi v The Federation of Pakistan* in which the Federal Shariat Court declared the Islamic Injunctions mandates death penalty on derogatory remarks against the Prophet, blessings of Allah and peace be on him, and that words "or imprisonment for life" in section 295-C were, therefore, repugnant to the Islamic Injunctions;[4] *Tahir Naqash v The State* in which the Supreme Court declared that the provisions of sections 295-B and 295-C were not applicable on the activities of the Qadianis inside their private premises; and *Mubarak Ahmad Sani v The State* in which the Supreme Court examined the scope of religious freedom for the Qadianis.[5]

There has been a plethora of critical comments on this law. The present paper examines the criticism leveled on this law from four different perspectives.

Four Perspectives of Criticism

Generally, the critics hold that cases filed under this law are frivolous and that blasphemy law is used for settling scores with adversaries in property disputes or other controversies. Many critics emphasize that the accused of blasphemy have serious psychological problems and that they need medical treatment, instead of punishment. Many people high light the growing trend of extrajudicial killings and mob violence against the accused of blasphemy and hold the law responsible for this trend. Some scholars have criticized this law from the perspective of the traditional Islamic law which, contrary to the Pakistan's law, leaves room for repentance of the accused and consequent lenient treatment with him. These various perspectives are examined here.

[2] *Mujib-ur-Rahman v The Government of Pakistan*, PLD 1985 FSC 8.
[3] *Zaheeruddin v The State*, 1993 SCMR 1718.
[4] *Muhammad Ismail Qureshi v The Federation of Pakistan*, PLD 1991 FSC 10.
[5] *Mubarak Ahmad Sani v The State*, 2024 SCP 352.

Frivolous Cases

It is generally argued, with supporting data, that blasphemy cases, more often than not, are triggered by personal vendetta and sectarian differences. It is further argued that the High Court and Supreme Court generally acquit the accused of blasphemy because of lack of sufficient incriminating evidence. The famous case of Asia Bibi is an example. She was convicted by the trial court and the High Court, but the Supreme Court did not find enough evidence that could prove her guilt.[6] Another recent case is *Salamat Mansha Masih v The State*[7] in which the Supreme Court pointed several defects in the prosecution story and the lack of evidence to support that story because of which the accused was admitted to bail.

As the law is prone to abuse, suggest these critics, it should be repealed. But the same criticism can be leveled against any other law in Pakistan. For instance, frivolous murder cases are filed; false evidence is given; record is changed; innocent people are framed – and sometimes punished, even hanged. However, all this does not mean that the law about homicide should be repealed and homicide should no longer remain an offence. There are other reasons for the abuse of the process of justice in Pakistan and those other reasons need to be identified and addressed. Moreover, amendments in procedural law by Musharraf have made it very difficult to make a frivolous case of blasphemy.[8]

Some critics suggest that in cases where the accused of blasphemy is acquitted, the court should award the punishment of blasphemy to the complainant. This position is untenable:

First, acquittal of the accused does not necessarily mean that the complainant had made a false accusation, particularly when the burden of proving the guilt of the accused lies on the prosecution which may not be under the control of the complainant. However, the court after acquitting the accused may initiate proceedings against the complainant under the relevant provisions of CrPC, if it deems it appropriate.[9]

Second, the law already has enough provisions for dealing with the menace of frivolous cases. Thus, if it is proved that wrong information about the commission of the offence of blasphemy was given to the police officer, or other authorities, the informant can be punished with imprisonment for up to seven years.[10] Moreover, making a frivolous case where the accused could be awarded death punishment is separately punishable with imprisonment up to seven years.[11] Similarly, a person who made a false statement on oath can be punished with imprisonment up to three years.[12] Finally, if while making a frivolous case, the complainant or the witness makes a statement, or fabricate evidence, which amounts to blasphemy, it will attract the relevant provisions of blasphemy law.

---

[6] *Asia Bibi v The State*, PLD 2019 Supreme Court 64.

[7] *Salamat Mansha Masih v The State*, PLD 2022 Supreme Court 715.

[8] In 2005, section 156-A was added to the Code of Criminal Procedure (CrPC), 1898, which stipulates: "Notwithstanding anything contained in this Code, no police officer below the rank of a Superintendent of Police shall investigate the offence against any person alleged to have been committed by him under Section 295C of the Pakistan Penal code, 1860 (Act XLV of 1860)."

[9] See, for instance, section 250, CrPC.

[10] Section 182, PPC.

[11] Ibid., section 211.

[12] Ibid., section 181.

Some have argued that Islamic law prescribes punishment for the one who could not prove the allegation of *zina* and the same rule should be applied on the one who could not prove the allegation of blasphemy. However, this analogy is wrong, as it ignores two crucial points:

One, *qadhf* or false accusation of *zina* is *sui generis* (of its own kind). The jurists have explained the reason for this very strict rule in the following words:

> Four witnesses are not required for any other case, criminal or otherwise. There is no reason for this other than that Allah, the Exalted, wants to conceal the sins of His servants and does not like the spreading of indecency (*isha'at al-fahishah*). That is why He prescribed an extra number of witnesses in case of *zina*. That is also why, as opposed to allegations of other crimes, He made the allegation of *zina* against other women a cause for *hadd* punishment and allegation of *zina* against wives a cause of imprecation (*li'an*), so that people conceal each other's sins.[13]

Allegation of any other offence is not *qadhf* and the general rule applicable to these cases is that not proving the guilt of the accused does not necessarily mean that the complainant was making a false statement. Moreover, even in case of *qadhf*, the punishment is lesser than the punishment of *zina*. Hence, a sweeping statement cannot be given in this regard and each and every case needs to be examined separately.

Psychological Issues

It is also argued that those accused of blasphemy generally have psychological and mental health issues and that a normal person cannot be supposed to do such acts or pass such remarks. It is further argued that instead of punishing such mentally sick people, focus should be shifted to providing them proper medical care.

Again, the same can be said of any other crime, including murder, serial killing and terrorism. 'Normal' humans do not commit these atrocities either. Whether, on the same argument, murderers, serial killers and terrorists also should not be punished and, instead, should be provided medical and psychological treatment?[14]

It is true that procedural law prohibits proceeding with trial against a person of 'unsound mind' who is 'incapable of making his defense':

> When a Magistrate holding an inquiry or a trial has reason to believe that the accused is of unsound mind and consequently incapable of making his defense, the Magistrate shall inquire into the fact of such unsoundness, and shall cause such person to be examined by the Civil Surgeon of the district or such other medical officer as the Provincial Government directs, and thereupon shall examine such Surgeon or other officer as a witness, and shall reduce the examination to writing.[15]

If the Magistrate finds that the accused is incapable of making his defense, "he shall postpone further proceedings in the case." Moreover, the pending investigation or trial, such accused may be released on bail

---

[13] Imam Abu Bakr Muhammad b. Abi Sahl al-Sarakhsi, *al-Mabsut* (Beirut: Dar al-Kutub al-'Ilmiyyah, 2003), 16:134.

[14] The brutal murder of Noor Muqaddam is an instance. Some people even talk about 'genetic determinism' to absolve criminals of their liability.

[15] Section 464(1), CrPC.

> on sufficient security being given that he shall be properly taken care of and shall be prevented from doing injury to himself or to any other person, and for his appearance when required before the Magistrate or Court or such officer as the Magistrate or Court appoints in this behalf.[16]

Moreover, the substantive law provides a general exception from criminal liability to a person of 'unsound mind' but sets a high threshold for using this exception. Thus, the law stipulates:

> Nothing is an offence which is done by a person who, at the time of doing it, by reason of unsoundness of mind, is incapable of knowing the nature of the act, or that he is doing what is either wrong or contrary to law.[17]

It is worth noting that the defense of 'insanity' is a legal concept and its legal meaning does not necessarily match the meaning assigned to it by the psychiatrists. Moreover, the procedural provisions mentioned above may be applicable if the accused is found to be of unsound mind at the time of trial even if he was sane at the time of the commission of the offence. The proceedings are postponed till the time the accused recovers from insanity and the court finds that he is capable of making his defense. However, the provisions of the substantive law negate criminal liability of the accused if he is found to be of unsound mind at the time of the commission of the offence. The courts in Pakistan generally apply the so-called M'Naghten Rules for ascertaining the existence of *legal* insanity.[18] Under these Rules the following cases are not covered by the defense of insanity:

- Beliefs that acts are morally right;
- Inability to control oneself; and
- Accused with 'delusions'.[19]

The excuse of delusion is put forward in defense of the accused in several blasphemy cases. An important judgment was delivered on the subject by Justice Tariq Saleem Sheikh of the Lahore High Court in *Nasrullah Khan*.[20]

In this case, the petitioner was accused to have claimed that he could fly and see Allah Almighty and various companions of the Prophet in his dreams. It was asserted that such statements hurt the community's religious feelings and was likely to incite violence. After analysis of the facts of the case, Justice Sheikh concluded the offence under section 295A was not made out and that section 298 was also not applicable.[21] Justice Sheikh went on to discuss the views of Sigmund Freud, Carl Jung and other about dreams and concluded: "A person cannot be prosecuted for what he sees in his dreams or for sharing his thoughts, visions, or emotions during those times with others."[22] Justice Sheikh ignored the fact that the petitioner/accused was not prosecuted for what he saw in dreams or for just sharing his visions; rather, the accusation was that his assertions hurt the feelings of the community – something

[16] Ibid., section 466(1).
[17] Section 84, PPC.
[18] Catherine Elliott and Frances Quinn, *Criminal Law* (Harlow, England: Pearson, 2010), 326-328.
[19] Imran Ahsan Khan Nyzee, *General Principles of Criminal Law: Islamic and Western* (Islamabad: Shariah Academy, 2019), 197.
[20] *Nasrullah Khan v Station House Officer, Police Station Saddar, Mianwali* (2022 LHC 7503).
[21] Ibid., paras 10-11.
[22] Ibid., para 14.

on which only trial court could give an authoritative verdict after analyzing the facts of the case and examining witnesses. This could not be done by the High Court in its Writ Jurisdiction.

Justice Sheikh further discussed the effects of 'mania and schizophrenia' and after a lengthy discourse on delusions and linking it with the right to fair trial for the accused, issued the following directive:

> [W]hen a police officer investigates an offence, particularly one under Chapter XV of the Penal Code [relating to offences against religion], he should determine whether the accused is of sound mind. He must apply to the competent forum for his psychiatric evaluation if he suspects mental illness.[23]

Justice Sheikh referred to a report of the World Health Organization which stated that mental disorders account for more than 4% of Pakistan's total disease burden and that 24 million people required psychiatric care.[24]

What Justice Sheikh ignored here is the difference between insanity in law and mental disorder in psychiatry. The learned Judge also overlooked the legal fact that insanity is an exception and, like any other exception in criminal law, the burden of proving it lies on the one who claims benefit of the exception. Justice Sheikh referred to an earlier judgment of the Lahore High Court[25] in which it was held that the trial Judge should act on his own initiative to protect the accused even if he or his counsel does not come forward and invoke the provisions which provide safeguards for persons who cannot understand the wrongfulness and illegality of a criminal act. However, it was already established by the report of the Medical Superintendent that at the time of the commission of the act, the accused was insane, but the trial judge still proceeded with the case. This was distinguishable from the case where the fact of insanity in law was yet to be proved.

It is also disappointing that Justice Sheikh referred to Freud, Jung and others for determining the meaning and implications of dreams, but did not bother to take guidance from the Islamic principles, although it is obligatory on courts to interpret all existing laws in accordance with the "Injunctions of Islam as laid down in the Holy Qur'an and Sunnah".[26]

Extra-judicial Killings

Many critics assert that because blasphemy has been declared a capital offence, people take the law into their own hands and kill the accused even before he is proved guilty in a court of law.[27]

---

[23] Ibid., para 22.

[24] Ibid., para 21.

[25] *Dilshad Hussain v The State*, 2003 PCrLJ 206.

[26] This obligation is explicitly mentioned in section 4 of the Enforcement of the Shariah Act, 1991, and in section 338-F of PPC as well as many other provisions. This is also based on several provisions of the Constitution, including, Articles 2A and 227. Recently, the Full Court Bench of the Supreme Court in *Raja Amer Khan v The Federation of Pakistan* (PLJ 2024 Supreme Court 114), also affirmed this obligation of the courts.

[27] This point was stressed particularly in public debate in the context of the murder of Salman Taseer, former Governor of the Punjab, by his official guard (2011). This also becomes an issue of public debate whenever mob lynching happens, such as the killings of Mashal Khan in the Abdul Wali Khan University Mardan (2017), of Priyantha Kumara Diyawadana, a Sri Lankan citizen, in a factory in Sialkot (2021), of Mawlana Nigar, a religious scholar, in Mardan (2023) and the Jaranwala incident (2023).

While extra-judicial killing of an accused of blasphemy is a form of *fasad fil arz*,[28] and it can never be justified, this does not establish that the *ratio* for this extra-judicial killing is the law that made blasphemy a capital offence. There may be many reasons for increase in violence and for people's taking the law into their own hands, such as inadequate knowledge of Islamic teachings, misunderstanding of the law, mistrust in the judicial system and inability and incompetence of the law enforcing agencies. These reasons may explain, but not justify, this phenomenon. An important aspect of this issue is that an ordinary person may not commit such brutality when he is alone, but he does it when he becomes part of a mob. How individual personality is taken over by mob psyche, how 'moral disengagement' takes place, how *lex talionis* is wrongly equated with the Islamic notion of *qisas*, how the *fasad* (mischief) of taking the law into one's own hands is equated with *jihad* (struggle for upholding the Divine law), they are all important questions. The International Committee of the Red Cross (ICRC) conducted a wonderful study titled *Roots of Restraint in War* for determining the causes of violations of the principle of humanity during war and other situations of violence.[29] We conducted a similar study (*An Islamic Perspective on Roots of Restraint in War: A Pakistan Case Study*)[30] the main findings of which were that:

- State laws are looked at as tools of 'alien' domination;
- For moral disengagement, the concepts of necessity, coercion and reprisal are cited; and
- Making Islamic principles part of education and training can ensure better compliance.

One of the 'arguments' of the apologists of mob lynching is that because of international pressure the courts do not punish the offenders and they go scot-free. If this is assumed true, this still does not justify the act of *fasad* for which section 311, PPC, gives the trial court the authority to award the punishment of "death or imprisonment for life or imprisonment of either description for a term of which may extend to fourteen years as *tazir*". The section explains the term *fasad-fil-arz* [*fasad fi 'l-ard*] in the following words:

> For the purpose of this section, the expression *fasad-fil-arz* shall include the past conduct of the offender, or whether he has any previous convictions, or the brutal or shocking manner in which the offence has been committed which is outrageous to the public conscience, or if the offender is considered a potential danger to the community, or if the offence has been committed in the name or on the pretext of honour.[31]

For the purposes of punishing those committing mob lynching, the most significant standards are the following: "the brutal or shocking manner in which the offence has been committed which is outrageous to the public conscience" and "if the offender is considered a potential danger to the community". But these 'standards' are so vaguely worded that they are open to many interpretations (and thus to abuse). They leave too much of space for "discretion"

---

[28] Some details of this concept have been given below.

[29] In 2004, the International Committee of the Red Cross conducted a study under the title of *The Roots of Behavior in War*. In 2018, an updated version of the study was published under the title of *The Roots of Restraint in War*. It can be downloaded from its website:

[30] Muhammad Mushtaq Ahmad *et al*., *An Islamic Perspective on Roots of Restraint in War: A Pakistan Case Study* (Islamabad: ICRC, 2021).

[31] The provisions about *honor killing* were added in 2005.

of the judge and, hence, for some judges a situation attracts the principle of *fasad* while for others it is an ordinary crime.

A similar issue arises about the applicability of the Anti-Terrorism Act 1997 (ATA) to extra-judicial killing of an accused of blasphemy. For instance, when Mumtaz Qadri killed Salman Taseer, the trial court punished him not only for murder under the PPC provisions, but also for terrorism under the ATA provision. In appeal, the High Court maintained Qadri's conviction for murder, but set aside his conviction under ATA. The Supreme Court, however, restored his conviction under ATA.[32]

The issue of conflicting judgments of the courts on the scope of application of ATA prompted the Supreme Court to constitute a seven-member Larger Bench to put an end to this controversy in *Ghulam Hussain v The State*.[33] After a thorough analysis of the relevant legal provisions and case-law, the Larger Bench concluded that an "action" would attract the ATA provisions if the action is covered by section 6 (2) of ATA, while a "threat of action" would be covered by ATA if it is designed to achieve the objectives and purposes mentioned in section 6 (1) (b) or (c) of ATA. It clarified that:

> [A]ny action constituting an offence, howsoever grave, shocking, brutal, gruesome or horrifying, does not qualify to be termed as terrorism if it is not committed with the design or purpose specified or mentioned in clauses (b) or (c) of subsection (1) of section 6 of the said Act. It is further clarified that the actions specified in subsection (2) of section 6 of that Act do not qualify to be labeled or characterized as terrorism if such actions are taken in furtherance of personal enmity or private vendetta.[34]

It recommended amendments in the Preamble and Third Schedule of ATA as they put "an extra and unnecessary burden" on anti-terrorism courts and cause "delay in trial of actual cases of terrorism". It further recommended substituting the present definition of terrorism by "a more succinct definition" that would bring it "in line with the international perspectives of that offence" and would focus on "violent activities aimed at achieving political, ideological or religious objectives." As the Parliament has not made these amendments in the law, it is yet to be seen whether this judgment has, in fact, put an end to the controversy.

Repentance of the Convict

The punishment for derogatory remarks about the Prophet, blessings of Allah and peace be on him, has been prescribed in section 295-C of PPC, which was enacted in July 1986. The Parliament gave the court the option to impose either the punishment of life imprisonment or death punishment to the culprit. Several renowned religious scholars who were members of the National Assembly supported this option for the courts.[35] However, when the Federal Shariat Court examined this law in *Muhammad Ismail Qureshi v The Federation of Pakistan*,[36] it

[32] *Malik Muhammad Mumtaz Qadri v The State*, PLD 2016 Supreme Court 17.
[33] *Ghulam Hussain v The State* (PLD 2020 Supreme Court 61.
[34] The judgment was authored by Chief Justice Asif Saeed Khan Khosa.
[35] See *The National Assembly of Pakistan Debates: Official Report, Wednesday, the 9th July 1986*, pp. 3214-3217.
[36] *Muhammad Ismail Qureshi v The Federation of Pakistan*, PLD 1991 FSC 10.

concluded that the option of life imprisonment was repugnant to the Islamic Injunctions. It, thus, mandated the death penalty.[37]

This judgment of FSC has made the blasphemy law very harsh and although the proponents of the harsher law thought that it would deter the miscreants, the fact remains that after this judgment the superior judiciary in Pakistan has generally been very reluctant in imposing the mandatory death punishment on the convict and the trend generally is that the trial court imposes the punishment and the High Court or the Supreme Court acquits the accused on one the other pretext.

One issue on which FSC made a departure from the established position of the Hanafi School is to treat the offence of blasphemy as a violation of the personal right of the Prophet, blessings of Allah and peace be on him, and to declare on that basis that only he could pardon the offender. Moreover, it treated it as a *hadd*,[38] ignoring the other consequences of *hadd*, such as the peculiar – and very strict – standard of evidence which the jurists mention for *hadd* and which has been implemented in Pakistan in the Hudood Ordinances.[39]

Another important issue is the effect of repentance of the convict on his (worldly) punishment. Some renowned Hanafi scholars, such as Mawlana Sahban Mahmud and Mufti Ghulam Sarwar Qadiri, were heard by the Court during the proceedings who expressed the view that repentance of the convict would obliterate his punishment. Hafiz Salahuddin Yusuf, a renowned *ahl-i-hadith* scholar, also supported this position. The Court in its judgment gave a summary of the views of these and other scholars and quoted from various manuals of Muslim jurists. It, however, did not take a clear position on this issue. Thus, on the one hand, it emphasized the role of intention and *mens rea* for establishing this offence and, on the other, it did not mention anything in its operative paras about including *mens rea* in the definition of the offence in section 295C. It also stated that "[the] Prophet himself had the right to pardon his contemners but the *Ummah* has no right to pardon his contemners."[40] It, thus, could not develop a coherent legal theory of blasphemy.

In *Muhammad Mehboob alias Booba v The State*,[41] the single bench of the Lahore High Court not only acquitted the accused of blasphemy on the ground of lack of evidence in accordance with the standard prescribed by Islamic law, but also observed that repentance of the convict would suspend the punishment.[42] The observations about repentance and its effect were specifically challenged in appeal,[43] which was again argued by Ismail Qureshi for the

---

[37] For a detailed analysis of this judgment in the light of the works of the Hanafi jurists, see: Muhammad Mushtaq Ahmad, "Pakistani Blasphemy Law between *Hadd* and *Siyasah*: A Plea for Reappraisal of the *Ismail Qureshi Case*", *Islamic Studies* 56:1-2 (2017), 5-49.

[38] Punishment prescribed in the texts of the Qur'an and the *Sunnah* for certain specific offences. The Muslim jurists deem them the *rights of Allah*. See for details about the classification of rights and its impact on legal consequences of various offence: Muhammad Mushtaq Ahmad, "Significant Features of the Hanafi Criminal Law", *Afkar* 3:2 (2019), 1-18.

[39] As per these Ordinances, a *hadd* offence is proved either by the confession of the accused or the testimony of eyewitnesses. There are several strict conditions for both modes of proof.

[40] *Ismail Qureshi*, para 26.

[41] *Muhammad Mehboob alias Booba v The State*, PLD 2002 Lahore 587.

[42] The judgment was authored by Justice Ali Nawaz Chohan (d. 2023) who later became the Chairman of the National Commission for Human Rights in Pakistan.

[43] *Dr. Muhammad Amin v Muhammad Mehboob*, unreported judgment, Criminal Appeal No. 1815 of 2001 and Murder Reference No. 61-T of 2001.

petitioner. The judgment in appeal is unreported. The Court noted the contention of the Counsel of the petitioner that:

> "he would be satisfied if it is observed that what has binding effect is the declaration made by the Federal Shariat Court on the subject and not the impugned observations of the learned High Court."

The Court accepted this contention:

> "This is precisely what stands declared by Article 203 GG of the Constitution and it is observed that binding decision in the matter is one rendered, if any, by the learned Federal Shariat Court."[44]

Hence, the law in Pakistan does not recognize the effect of repentance on the punishment of the convict.

Conclusion

The analysis presented in this paper shows that the criticism levelled against the blasphemy law in Pakistan's applies to other laws as well because the problems mentioned herein are not confined to this part of the law. Hence, there is a need to improve the overall functioning of the law enforcing agencies and the working of the justice system in Pakistan. Moreover, the courts need to develop a coherent theory for interpretation of blasphemy law and for this purpose they have to employ the principles of Islamic law consistently.

[44] The Bench comprised of Justice Abdul Hameed Dogar, Justice Khalil-ur-Rehman Ramday (who wrote the judgment) and Justice Nasir-ul-Mulk.