

IS PUNJAB'S PROPOSED BLASPHEMY LAW RETROGRADE?

Relevant for: Indian Society | Topic: Secularism

YES

History tells us that such laws rarely avert violence; in fact, they likely attract violence

Sanjay Hegde

The Punjab Cabinet has decided to introduce in the Indian Penal Code (IPC) a new Section (295AA) which states, "Whoever causes injury, damage or sacrilege to Sri Guru Granth Sahib, Srimad Bhagwad Gita, Holy Quran and Holy Bible with the intention to hurt the religious feelings of the people, shall be punishable with imprisonment for life." One wonders why this extraordinary penalty is necessary when, throughout India, Section 295A of the IPC already provides for imprisonment up to three years for "deliberate and malicious acts intended to outrage religious feelings". Now, damage to holy books can attract a mandatory life sentence in Punjab, while other insults can attract up to three years. To put it bluntly, insulting a god or Prophet would land you in jail, but burning or defacing a holy book would land you in prison for life.

The Punjab government has probably forgotten the misuse of similar blasphemy provisions in Pakistan, where similar amendments to Section 295 of the Pakistan Penal Code have ended in several tragedies. To criminalise blasphemy and sacrilege is to step on a slippery slope of justifying mob violence and private vengeance against the accused.

The history of criminal blasphemy creeping into Indian law needs to be retold. Mahashay Rajpal, the publisher of a book, *Rangila Rasul (The Colourful Prophet)*, was sought to be prosecuted under Section 153A, as the book allegedly caused disharmony between communities. Rajpal was granted leave to appeal to the Lahore High Court because Section 153A then did not cover criticism of religious figures. As the book did not specifically cause enmity or hatred between religious communities, it did not violate Section 153A was the logic that weighed with the court. Thereupon, the Indian Muslim community demanded a law against insult to religious feelings. The British government enacted Section 295(A) in 1927.

As a member of the Viceroy's Council, Muhammad Ali Jinnah warned, "I thoroughly endorse the principle that while this measure should aim at those undesirable persons who indulge in wanton vilification or attack upon the religion of any particular class or upon the founders and prophets of a religion, we must also secure this very important and fundamental principle that those who are engaged in historical works, those who are engaged in bona fide and honest criticism of a religion, shall be protected."

Rajpal was later acquitted by the Lahore High Court. On April 6, 1929, he was stabbed to death by a 19-year-old carpenter, Ilam Din. The assassin was sentenced to death by the sessions court. His appeal to the Lahore High Court was conducted by M.A. Jinnah, who was persuaded to do so by the poet Iqbal. The appeal failed, and Ilam Din was hanged on October 31, 1929. Another poet who was supposedly sympathetic to Ilam Din was Deen Mohammed Taseer. Ironically, in 2011, his son Salman Taseer was assassinated by his bodyguard, Mumtaz Qadri, for speaking in support of a Christian woman accused of blasphemy.

Blasphemy laws in the subcontinent derive justification from the argument that people will be outraged by attacks on their religion and resort to street violence if the offender is not legally punished. However, history tells us that such laws and prosecutions rarely avert violence. On the other hand, they are more likely to attract violence and provide the perpetrator a justification for inflicting violence against those who are unfortunate enough to be accused of blasphemy. Indian Punjabi politicians would do well to reconsider their decision to follow their counterparts in Pakistani Punjab.

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NO

The anti-blasphemy law was scripted as a response to, not an expression of, religious intolerance

Harcharan Bains

The anti-blasphemy law was scripted as a response to, and not an expression of, religious intolerance. In 1947, a man who was devoutly religious became the Father of a secular, democratic nation. And another man who spurned everything religious emerged as the Quaid-e-Azam of an Islamic country. That being the confused rubble on which the foundations of India and Pakistan stand, it was only natural for both countries, especially for India, to suffer the pangs of explosive inner paradoxes. What has been happening in Punjab is merely an extension of these paradoxes.

Punjab is a land where secularism is not an ideology but inter-faith bonhomie. Punjab, a Sikh-majority area, has been the cradle of Hinduism. And then there is the Sikh faith, the only religion in the world which has its sanctum sanctorum founded by a saint (Sain Mian Mir) from a faith perceived as hostile, Islam. And the holy scripture of the Sikhs contains Banis (verses) of holy men from all the dominant faiths prevalent then, including Hinduism and Islam.

Thus, it is intriguing that anti-sacrilege laws arose out of the crisis of a religion which is as tolerant and cosmopolitan as Sikhism. Punjab has never seen a communal riot even once since 1947. Those who interpret the anti-blasphemy law as intolerant are arguing from the wrong end of logic. In no country is freedom of expression taken to mean outraging the freedom and sensitivities of others. Thus, while Punjab felt the need for strong social and psychological initiatives to remove the very need for such a legislation in the long run, it also deemed it necessary in the short run to send a strong message that in order to preserve democratic freedoms, it is necessary to ensure that these are not used as an excuse to outrage the legitimate religious sensitivities of every class of people. The lenient view which the State seemed to take of a collective hurt of a community was being taken unfair advantage of by miscreants. There definitely needed to be a firmer deterrent to put some fear of the law in the minds of those miscreants.

The Akalis have always advocated that the country needs to redefine blasphemy and patriotism and make secular tolerance an integral part of patriotic conduct. But they are also aware that religious sensitivities, once provoked, can immediately lead to conflagration and get out of hand in the sensitive border State of Punjab. Most importantly, the legislation was meant to protect the tolerant against the intolerant. Therefore, apart from ensuring effective and expeditious application of the existing laws, there was a need to make the existing law more stringent to deal with cynical elements who play with religious sentiments to destabilise Punjab The Punjab

initiative was not divorced from a broader vision in which the Akalis feel the need to make sacrilege and blasphemy socially and culturally unacceptable. That is why you need the law to be more stringent and effective. As humanity and societies evolve, so do the laws.

Those who argue against the law on the basis of its misuse and misapplication need to be reminded that every law is capable of being misused and misapplied. What is needed then is not doing away with laws but creating automatic, inbuilt guarantees against their misuse.

Harcharan Bains was advisor to former Punjab Chief Minister Parkash Singh Badal and a freelance journalist

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IT'S COMPLICATED

Catering to a religious sentiment is more likely to help the Akali Dal in the long run

Ashutosh Kumar

The Amarinder Singh-led Congress government in Punjab has introduced the Indian Penal Code (Punjab Amendment) Bill, 2018, and the Code of Criminal Procedure (Punjab Amendment) Bill, 2018, applicable to Punjab.

The IPC already has a Section 295A, which says that “deliberate and malicious acts, intended to outrage religious feelings of any class by insulting its religion or religious beliefs” will be punishable with imprisonment extending up to three years. The Bills seek to insert a new Section 295AA that stipulates that whoever causes “injury, damage or sacrilege to Sri Guru Granth Sahib, Srimad Bhagwat Gita, Holy Quran and Holy Bible with the intention to hurt the religious feelings of the people” would be liable to be awarded life imprisonment, if convicted. The proposed Penal Code Bill seeks to replace the Indian Penal Code (Punjab Amendment) Bill, 2016, passed by the Shiromani Akali Dal (SAD)-Bharatiya Janata Party (BJP) government, which specifically referred only to acts of sacrilege against the Sri Guru Granth Sahib.

On legal grounds, the drafting of the Bill has received criticism for the imprecise manner in which sacrilege has been defined; it should have been clearly mentioned as physical desecration/sacrilege. Otherwise, even for writing a book or an article, or making a speech, or sketching a cartoon, or drawing a painting, a person can be erroneously accused of blasphemy notwithstanding the rights guaranteed by Articles 19 and 25 of the Constitution. In a larger context, the move should be interpreted as a party’s frantic attempt to move towards right-wing politics. Also, Punjab is setting a precedent for other State governments.

The 2016 Bill was a desperate move by a beleaguered SAD-led coalition government to somehow pacify the Sikh community, deeply traumatised by the dastardly incidents of desecration of the Guru Granth Sahib in Punjab in late 2015, which led to police firing on the protesters, resulting in deaths. The introduction of the amended Bill by the Congress has coincided with the government’s decision to compensate the victims of the firing and also table the report of the Justice Ranjit Singh Commission, which was constituted to probe into the incidents of sacrilege and the consequent police action.

The report predictably indicts the SAD-BJP government for its failure to handle the volatile situation, punish the erring officials, and arrest the perpetrators of the crime who are still at large. And damagingly, it implicates former Chief Minister Parkash Singh Badal for allowing excessive police action. As expected, Mr. Badal responded by reminding the Congress of Operation Blue

Star and accusing it of unleashing new flames in the State when the flames “that turned the urban and country landscape of Punjab almost to ashes are still raging.” In Punjab, religion has played a more important role in determining the course of State politics, often with tragic consequences.

Chief Minister Amarinder Singh needs to be careful even if he is burdened with the failure to fulfil his lofty electoral promises and tasked to offer results to a desperate Congress high command in the 2019 elections, just like in 2017. By tabling the damning report and introducing the Bill with much fanfare, he is again thinking of using religion to wean away the Panthic vote. In narrow electoral terms, catering to religious sentiment is more likely to help the SAD in the long run, a master of Panthic/Gurdwara politics.

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