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Legitimate punishment of blasphemy: Contestation between the legal system and popular justice

On 31 October 2018, the Supreme Court of Pakistan passed its landmark judgement in the case of Asia Bibi, a Christian woman accused of blasphemy who had been on death row, in solitary confinement, since 2010 (Hashim 2018). The highest court of Pakistan acquitted Bibi, but the decision led to widespread protests around the country and the threat of violence by thousands who did not accept the court's decision (Hashim 2018). The protest organisers—the senior leadership of TLP—demanded that the three Supreme Court judges who had acquitted Bibi be killed, along with Bibi herself. Protestors blocked key roads in major cities, causing schools and offices to shut for two days. The government finally reached an agreement with the protestors, promising the Supreme Court decision would be reviewed and that legal measures would be taken to put Asia Bibi's name on the exit control list to prevent her leaving the country (Bilal 2018). Through public demonstrations and threats of violence, the protestors made it clear that they did not accept the Supreme Court's decision. They wanted Bibi to be hanged, but the legal system failed them by not delivering the desired punishment. The Supreme Court's decision was, therefore, not legitimate in the eyes of the protestors as it clashed with their ideals of justice and the legitimate punishment for perceived blasphemers.

Earlier, in 2011, Salman Taseer, then governor of Punjab, and Shahbaz Bhatti, then federal minister of minority affairs, were assassinated for publicly lending their support to Asia Bibi (Dawn News 2011a). Taseer—accused of blasphemy for supporting an alleged blasphemer—was killed by his official bodyguard, Mumtaz Qadri, who has since been revered as a hero by his supporters (Nasir 2016). Qadri was sentenced to death for murder and was hanged in 2016 (Nasir 2016). His funeral was attended by tens of thousands of devotees—again, a clear message that the court’s decision to punish Qadri was not accepted as legitimate. In 2016, I talked to one of Qadri’s devotees who was present during the final hearing of Qadri’s appeal by the Supreme Court. He exclaimed:

I was sitting there in the court, on a front bench, as the judge sentenced Mumtaz Qadri—may blessings of Allah be upon him. The judges are misguided to think that they can use the law of this country, the Islamic Republic of Pakistan, to go against Islam. It is not the law that decides who is right. In this case, the law was definitely on the wrong side as it sentenced Mumtaz Qadri, the lover of the Prophet, to death. Qadri only ascended in his spiritual rank as he embraced martyrdom eventually. It is the law that has lost here by not upholding the sovereignty of Allah’s commands. Such a sad state our country has come to despite being an Islamic state!

This statement unequivocally contests the legitimacy of the state legal system and points to a higher system of legality and legitimacy based on the sovereignty of Allah’s commands. The disapproval of the two key Supreme Court decisions—*Asia Bibi vs The State* (2018) and *Mumtaz Qadri vs The State* (2015)¹—indicates that, in the eyes of the people, state laws are not the ultimate sources of legitimacy and authority to determine the appropriate punishment for blasphemy. In the case of Asia Bibi, the protestors were demanding that *the state* hang her. In the case of Mumtaz Qadri, his supporters approved of the *nonstate* killing of the alleged blasphemer. Thus, *legitimate punishment of blasphemy* in Pakistan can be carried out by the state or by nonstate actors but only as long as it conforms to the perceived sovereignty of Allah’s commands, which corresponds to the competing ideas of the state of Pakistan, as already discussed. However, there is no consensus on the ideal state of Pakistan

1 *Asia Bibi vs The State* (2018) Criminal Appeal No. 39-L, Supreme Court Islamabad; *Malik Muhammad Mumtaz Qadri vs The State* (2015) Criminal Appeals No. 210 and 211 of 2015, Supreme Court Islamabad.

and, by corollary, no unanimous agreement on the sovereign will of Allah. The legitimacy of the appropriate punishment for blasphemy is therefore continually contested between the state and nonstate actors.

In the Introduction, I argued against law-centric approaches to understanding the issue of blasphemy and suggested employing the framework of legal pluralism for a more nuanced approach. Legal pluralism is the theory that societies may have multiple coexisting, overlapping or clashing systems of legality based on different notions of morality, authority and legitimacy (Benda-Beckmann 2009; Fitzpatrick 1983; Griffiths 1986). Following this conception, I argue that the *legitimate punishment* of those accused of blasphemy is based on multiple sources of legality and legitimacy, mainly the state legal system and wider narratives of popular justice. While the state's legitimacy is *institutionalised* in its legal system, comprising courts, jails, and so on, popular justice is more a source of *ideological* legitimacy. Nevertheless, both the state legal system and the ideals of popular justice draw on Islamic law and the dominant religious discourse about blasphemy (discussed in Chapter 2). The legal system claims to represent Islamic law, at least with respect to the punishment of blasphemy, and the Western legal framework of positive law at the same time. Popular justice, on the other hand, draws on Islamic law, glorifying narratives embedded in collective memory and a local history of public punishment as spectacle. The two sources of legitimacy—state law and popular justice—may in many cases align with each other in their interpretations of the will of Allah. On other occasions, they are in contest over the interpretation and implementation of the sovereign will of Allah. In instances of clash, state law may be totally dismissed by religious groups as representing Western law rather than the will of Allah. Nevertheless, in most instances, the state coopts ideas of popular justice and nonstate actors coopt ideas of the state's legality to establish their respective legitimacies.

There are a range of opinions on the issue of the punishment of blasphemy in Pakistan, with various levels of acceptance of the state. Most Pakistanis believe the state enshrines the appropriate Islamic laws to punish blasphemers and that they should be implemented. I focus mainly on those who reject outright the legitimacy of the state, at least in some cases. When speaking of popular justice, I refer to the discourse of religious leaders, who are the key actors contesting the state's legitimacy and authority. The contestation for the legitimate punishment of blasphemy must be seen as a domain of political competition between the state

and nonstate figures of religious authority, each with their own ideas of the ‘Islamic state’ of Pakistan. I will start with a discussion of the state’s claims to legitimacy and the ways in which they are challenged. I will then discuss the popular sources of legitimacy on which nonstate claimants of justice draw. I argue that, while the state’s crisis of legitimacy creates space for the ideas of popular justice propagated by nonstate figures of religious authority to take hold, the popular narratives concerning the punishment of blasphemy shape the standards against which the state’s legitimacy is measured. The ideas of popular justice determine whether or not the state’s right to decide on the fate of the accused will be accepted as legitimate. Hence, it is a vicious cycle in which the state is expected to act in a certain way, linked to popular narratives of justice and the state’s claim to represent them, but in its failure to do so it cedes more legitimacy to the ideas of nonstate justice.

Contesting the state’s monopoly over ‘legitimate’ violence

The claim to represent Islamic law and the institutionalised modern legal framework are the key sources of legitimacy for the state of Pakistan. However, the legitimacy of the state is challenged on two salient grounds: disagreement with the state’s interpretation of the higher will of Allah and the ineffectiveness of the state in implementing the will of Allah. The former is a challenge to the state’s claim to transcendence and sovereignty as a law-giving entity. The latter is a challenge to the state’s ability to uphold and implement its own laws.

What gives legitimacy to state law?

The modern state has been widely characterised as the sole arbiter of the ‘legitimate’ use of violence. Max Weber (1946: 77) regarded ‘the legitimate use of physical force within a given territory’ as a defining feature of the modern state. René Girard (1977) distinguished between state violence and nonstate violence by calling these public vengeance and private vengeance, respectively. According to Girard (1977: 16), public vengeance—the state’s use of violent punishment to avenge an offence through its judicial system—is an exclusive feature of well-policed modern societies, ‘which serves to deflect the menace of vengeance’ by limiting it to ‘a single act of reprisal’. He argues:

[A]s long as there exists no sovereign and independent body capable of taking the place of the injured party and taking upon itself the responsibility for revenge, the danger of interminable escalation remains. (Girard 1977: 18)

In his view, public and private vengeance are the same in principle, but private vengeance is often described as taking the ‘law’ into one’s ‘own hands’ (Girard 1977: 17). According to Girard, what gives the state’s public vengeance legitimacy is its quality of ‘transcendence’—that is, being impartial and above the parties involved. He writes:

As soon as the essential quality of transcendence—religious, humanistic, or whatever—is lost, there are no longer any terms by which to define the legitimate form of violence and to recognize it among the multitude of illicit forms ... There are as many legitimate forms of violence as there are men to implement them; legitimacy as a principle no longer exists. (Girard 1977: 26)

Thus, the state’s monopoly over ‘legitimate’ violence derives from ‘the essential quality of transcendence’ attributed to it. The ‘transcendence’ of the state of Pakistan as a modern state with its claim to monopoly over the right to exercise physical force within its territory is rooted in the Islamic system of social justice, as per the Constitution. The first sentence of the preamble to the Constitution of Pakistan (1973) posits that ‘sovereignty over the entire Universe belongs to Almighty Allah alone’ and the representatives of the people of Pakistan must uphold the ‘sacred trust’ and ‘the limits prescribed by Him’ in exercising their authority. The constitution further prescribes that the state is to be run in accordance with the principles of Islamic social justice. The judges appointed by the state also draw on the Quran and prophetic traditions in making their decisions. The legal system, and its right to deliver legitimate punishments to those accused of blasphemy, is hence embedded within a modern religious and national framework. The transcendence and sovereignty of the state are accepted to some extent as most cases of blasphemy accusations are indeed taken to the legal system, as was the case of Asia Bibi. The verdicts of the state’s courts of law, however, are not *always* accepted as legitimate. Moreover, the accused may be punished by nonstate actors without any recourse to the law. Even when cases are taken to the legal system, the accused can be punished privately while a trial is under way or even after acquittal. Thus, the state does not have

a monopoly on delivering punishment to those accused of blasphemy. The transcendence and sovereignty of the state of Pakistan are, therefore, neither absolute nor universally accepted.

Beyond transcendence: Multiple sovereignties

Theories of natural law, such as Girard's conception of transcendence as an essential quality of state law, provide a 'founding myth from which the absolute status of law' is derived (Harris 1996: 4). However, when the transcendence of state law is not absolute, such as in the case of Pakistan, the state is not the only law-giving entity. In such cases, nonstate actors may also hold 'the capacity to suspend both laws and norms and thus create a conceptual ethical zero point from where "the law" can be given' (Hansen 2005: 170). For example, Khadim Hussain Rizvi, the TLP leader heading the protests against the Supreme Court judgement in the case of Asia Bibi, proclaimed in one of his early sermons: 'We do not believe in any "courts". "Courts" are a Western concept. We Muslims have *adaalat* where our Islamic laws are applied, and blasphemers are punished'.²

Rizvi criticised the English word 'court' and used the equivalent word in Urdu to express his dissent. This criticism highlights a deeper sense of disapproval in which the sovereignty of the state and the state's position as the lawgiver are challenged. Through this conception, an alternative system of transcendence is established, which draws on the same religious system of justice as the state but does not acknowledge the state's right to interpret and implement religious commands. Thus, the religious system transcends and subsumes the modern judicial system but may not be limited to the same. It can be understood as a hierarchy of systems, where the state's punishments are considered legitimate as long as they conform to the higher system of transcendence, religious justice, but this higher system can also legitimise punishments outside the state legal system. In Hansen and Stepputat's words, a 'de facto sovereignty' is thus created, which grants nonstate actors 'the ability to kill, punish, and discipline with impunity' (2006: 296). On the basis of this de facto sovereignty, the Supreme Court's decisions are challenged and alleged blasphemers are consequently killed without reprisal outside the courts of law.

2 Available from: www.youtube.com/watch?v=axCwC-pywJk&t=1185s. Note this video is now private, when accessed in October 2020 it was still a publicly available video; it is possible that it was made private after the passing of TLP chief Rizvi in November 2020, or because the Pakistani government banned TLP as a terrorist organisation in April 2021.

The existence of de facto sovereign powers, along with the formal state, is not exclusive to Pakistan. Hansen and Stepputat (2006) argued that the roots of fragmented sovereignties lie in the colonial past of postcolonial states. They write:

A key feature of the colonial world was that different kinds and registers of sovereignty coexisted and over-lapped. Most modern states claim effective legal sovereignty over a territory and its population in the name of the nation and the popular will. Although this is always an unattainable ideal, it is particularly tenuous in many post-colonial societies in which sovereign power was historically fragmented and distributed among many, mostly informal but effective, forms of local authority. (Hansen and Stepputat 2006: 297)

In Pakistan, religious leaders are usually the local authority to assume the role of de facto sovereign power in legitimising violence against those accused of blasphemy through their *fatwas* and religious verdicts. Sovereignty is, therefore, a 'tentative and always emergent form of authority' that is claimed through performance of violence by the state as well as by nonstate actors (Hansen and Stepputat 2006: 297). Comaroff and Comaroff (2006: 35) have similarly argued that 'postcolonies tend *not* to be organized under a single, vertically integrated sovereignty sustained by a highly centralized state. Rather, they consist in a horizontally woven tapestry of partial sovereignties'. It is through these partial sovereignties and dispersed religious authority that the legitimate punishment of blasphemy is contested. With various claimants over sovereignty, including the state, competing against each other, it is hard to establish a single source of legitimacy for the punishment of those accused of blasphemy.

Ineffectiveness of the legal system

While the existence of multiple sovereignties and systems of transcendence challenges the state's exclusive position as the lawgiver in society, the legal system is still the most popular route chosen to punish alleged blasphemers. In fact, the state is expected to uphold and implement its legal system in accordance with Islamic law. The state's legitimacy is therefore also challenged when it fails to function efficiently and effectively to punish blasphemers according to the people's ideas of justice. One of the most common arguments made by my research participants who supported punishing blasphemers outside the law was related to the 'ineffectiveness of the state legal system'. In this section, I will discuss why and how the

state is perceived to be incapable of delivering justice effectively. It is pertinent to understand, first, how the legal proceedings work in cases of blasphemy. For the rest of this section, the terms ‘law’, ‘legal’ and ‘courts’ refer to the state legal system unless otherwise specified. The information regarding the courts and legal procedures is based on my primary fieldwork when no other sources are cited.

As already mentioned, most cases of blasphemy accusations are taken to courts of law. However, the police are generally not the first point of contact after an accusation. It is usually the religious leaders of the accusers who determine whether and when a case will be reported to the police. In many cases, the religious leaders, in collaboration with local influential persons, use the threat of mob violence to get the police to register cases of blasphemy and to arrest the accused. In my discussions with them, the police themselves claimed that they arrest the accused for their own safety due to the threat of nonstate violence. As per the procedural requirements, introduced by an amendment to the Criminal Procedure Code in 2004 to prevent misuse of the anti-blasphemy laws, a case of religious offence cannot be registered without investigation by a police officer of at least the level of superintendent. However, as several people including police and lawyers told me, the procedural requirements are rarely implemented in practice, as pressure from local religious leaders and their supporters does not allow proper and impartial investigation.

Once the first information report (FIR) has been registered on the application of the complainant(s)—who in some cases are the religious leaders themselves, who take over cases from the accuser(s) to emphasise their own piety and authority—a police report is prepared. The police report includes evidence in the form of statements from the accusers, witnesses and the accused—usually verbal testimonies. In some cases, physical objects such as desecrated copies of religious books are also collected. As far as the statement of the accused is concerned, it is often a *confession* of the offence, which is used to claim the merit of the complaint and to initiate formal court proceedings against the accused. A curious phenomenon is the common discrepancy between the initial statements of the accused in the form of a confession in front of police officers and their later statements in front of the court, where they deny having committed the crime. This is because, initially, due to lack of legal counsel, the accused are not aware of the legal implications of confessing and, in their desperate attempts to escape prosecution, they confess and ask for forgiveness or are forced into confessing. Nevertheless, once the

police report (usually referred to as a Challan form) has been prepared, it is taken to the Sessions Court. In the Sessions Court, a charge-sheet is framed based on the police report and the accused is notified and given time to respond to the accusations.

As per the PPC, blasphemy is an offence against the state, even though it is usually reported by private complainants. Hence, there is always a state prosecution lawyer. The accused/defendants are also entitled to state lawyers; however, due to pressure from religious groups, accusers and the community of lawyers themselves, state lawyers are often scared of representing the accused. It is even harder for the accused to appoint a private lawyer due to threats against and intimidation of anyone who dares to represent a person accused of blasphemy. There have been incidents in which the defence lawyers of the accused have been openly threatened in court rooms, and even murdered (BBC News 2014). The accusers, on the other hand, are supported voluntarily and free of charge by many influential lawyers who claim to be doing so for love of the Prophet. Hence, from the very beginning of the legal proceedings, there is a power imbalance between the accused and the accusers, already tipping the judicial system in the favour of the latter.

Once the trial begins, it usually takes several years for the Sessions Court to decide on a case. Nadeem, a young Christian man, was accused of blasphemy in 2013 for allegedly desecrating a religious book. He was arrested following threats of violence from the accuser, his religious leaders and the crowd they had managed to gather. A complaint was registered against him under Sections 295-A and 295-C of the PPC. In 2016, when I met Nadeem, the court still had not recorded his statement. Nadeem's brother, who was the primary relative following up on his case, told me that he had been coming to court hearings every second week since 2013. He said he had been unable to find work since the accusation against Nadeem and his arrest, due to the stigma attached to the family of a 'blasphemer'. Moreover, the fact that he had to take time off every other week to visit Nadeem in jail and attend the court hearings meant employers were not interested in hiring him. Nadeem's brother and mother—the only other members of his family—had already been forced out of their house and neighbourhood due to threats of violence. They moved in with some relatives and lived as dependants, which Nadeem's brother found humiliating yet unavoidable. Nadeem's lawyer had applied for his bail, but the court proceedings were so slow, it was not until early 2017, towards the end of my fieldwork, that Nadeem

finally received bail. When I subsequently met his lawyer, he told me they were facing two major challenges: first, finding a safe place for Nadeem to stay, and second, breaking to him the news of his mother's death a few months earlier. Nevertheless, they were gleefully celebrating their 'success' because bail is rare for those accused of blasphemy while the trials drag on for years.

One major reason for the delay is the generally slow pace of legal proceedings in Pakistan and the massive backlog of cases waiting to be heard. According to a recent report by the Law and Justice Commission of Pakistan (2020), more than 2 million cases were pending in the country's courts in June 2020.³ The report includes statistics from the Supreme Court, high courts and district courts. Many of these cases have been pending for decades. One common cause of delay is the insufficient human resources in the judicial system—a situation compounded by frequent strikes by lawyers (an average of four to five working days every month during my fieldwork) and the absence of judges. Within this context, blasphemy cases are no exception; however, there are various additional factors that contribute to even longer delays in cases of blasphemy.

I attended Sessions Court for a few months, following cases of blasphemy under trial. In most of the cases I followed, neither the complainants nor the witnesses appeared for the court hearing. After a few weeks of observation, I asked the prosecution lawyers (private lawyers prosecuting cases of blasphemy voluntarily) about the absence of the complainants. They hesitantly explained to me—rather disappointedly—that the complainants register cases due to their anger at the time of the incident, but then get busy in their lives and do not pursue the cases, which shows 'their shaky faith and weak resolve to punish the blasphemers'. Nor do they drop the cases, ensuring prolonged suffering for the accused, who remain imprisoned during their trial—sometimes for decades. Further delay is caused in cases of blasphemy by judges and lawyers leaving due to threats made against them. The accused will likely spend years going through the trial process.

When Sessions Court judges eventually decide on cases, they usually convict the accused and award a harsh sentence, including the death penalty. Surprisingly, many of the decisions of the lower courts in cases

3 These numbers are for all legal cases (not just blasphemy cases) and are updated fortnightly on the website of the Law and Justice Commission of Pakistan: ljcp.gov.pk/nljcp/home#1.

of blasphemy are reversed by higher courts after appeals, which also take years to be processed (Amnesty International 2016: 13). The number of people accused who are acquitted by the higher courts after appealing their sentences in the lower courts is significant, and shows the different dynamics of threat and pressure operating at the two levels. Sessions Court judges are more easily intimidated, leading to decisions in favour of the accusers. The judges of the higher courts usually have more power and security at their disposal and thus can afford to acquit the accused. However, this does not mean that the higher court judges are not threatened or punished for deciding in favour of the accused. There have been incidents in which even higher court judges were attacked or had to flee for their lives after deciding in favour of the accused (DW 2011; Walsh 2011). The recent public wrath against Supreme Court judges in the case of Asia Bibi is another example of the pressure under which the judges operate.

Thus, initiation of legal action ensures at least several years in prison for the accused while they go through the trial process and wait for the court's decision. Regardless of whether they are convicted and punished or acquitted, the initiation of legal action itself is effective in putting an end to the normal life of the accused. Even if—and when—they are acquitted, they cannot resume their previous lives. In most instances, they have to live the rest of their lives in hiding, adopting a fake identity. Very few of those accused have been able to escape this fate by fleeing to another country. Hence, even if they escape death at the hands of the mob and at the gallows, they are effectively denied a normal existence and social life. Nor does the acquittal absolve them of the label of blasphemer. There have been several incidents in which those acquitted were subsequently killed because they had not been absolved of the offence they had committed *in the eyes of the people*. Legal action against the accused, therefore, causes them to suffer in many ways regardless of whether they are proven guilty or innocent. They suffer due to the power imbalance between the two parties from the beginning of the proceedings, the long delays in court decisions and their life prospects after the decision.

All of this suffering, however, is not counted as an effective punishment for their crime. Recall that none of those sentenced to death for blasphemy so far has been executed by the state. Thus, legal action is deemed ineffective in bringing the accused to justice in the eyes of the accusers and their supporters. Many of the people to whom I talked, including lawyers representing the accusers, argued that people were forced to 'take the

law into their own hands' because the legal system was not effective in delivering the desired punishment. This argument reflects a much wider pattern of justifications given by proponents of nonstate justice in other places and contexts. Berg and Wendt (2011: 14) contended in their study of vigilantism and mob violence across the globe:

The justifications for popular justice sound strikingly uniform across cultures, namely that the people must take the law into their own hands because legal institutions are either non-existent or too weak. Some apologists argue that the laws are not tough enough to deter criminals; others believe that the punishments prescribed by the law are inadequate to satisfy the popular desire for swift and harsh retribution.

While state law in Pakistan promises harsh punishments—typically the death sentence—for blasphemers, these punishments are not implemented in line with people's expectations. Hence, the law fails to provide the 'swift and harsh retribution' imagined by the proponents of nonstate punishment of blasphemers. The legal system is therefore deemed *ineffective* in delivering the justice desired. Berg and Wendt (2011: 7) also demonstrated that, by complaining about the ineffectiveness of the legal system, the proponents of popular justice principally challenge the 'modern state's efforts to monopolize criminal justice and to institute an "abstract, rational, detached, and antiseptic legal process"'. They further argued that the prevalence of nonstate punishment in a society questions the state's claim to a monopoly over legitimate violence, denies 'the popular acceptance of this claim' and demonstrates a lack of faith in the state's capability to enforce its laws effectively (Berg and Wendt 2011: 14). Similarly, in the case of the punishment of blasphemers in Pakistan, the state's claim to transcendence and sovereignty and its ability to implement its laws effectively are questioned. The state's legitimacy is thus challenged on the grounds of its incorrect *interpretation* as well as its ineffective *implementation* of the sovereign will of Allah.

The ineffective implementation of state law is also attributed to the malice of Pakistan's Westernised elite, who control the state and the judiciary and represent Western interests rather than the will of Allah. Otunnu (2016: 17–18) identified rule by economic and political elites and chronic dependence on other states and international regimes as some of the characteristics of states that are undergoing a 'crisis of legitimacy'. These characteristics are relevant to the case of Pakistan. In 2016, during my fieldwork, several of my research participants expressed their angst

at the fact that the state was ‘so swift in hanging Mumtaz Qadri but had delayed hanging Asia Bibi for years’. For them, the failure to hang Asia Bibi demonstrated the state’s unwillingness to act, which they attributed to the ‘influence of Western powers’. In 2018, when the Supreme Court acquitted Bibi, protestors rejected the decision, claiming it was a result of corruption among the judges and the government, who were colluding with Western governments and NGOs to undermine Islam. Protestors perceived the acquittal of Bibi as an attempt by the government to appease Western states and gain favour as Pakistan was going through an economic crisis at the time. Even when the state’s actions cannot be linked to immediate economic and political interests that may force it to go against the perceived ‘will of Allah’, Pakistan’s ruling elite is seen as a representation of corrupt and un-Islamic values. The erosion of the legitimacy of the state in Pakistan is therefore aided by the fact that the ruling elite are seen as Westernised and serving the interests of Western governments and other entities who seek to undermine Islam. Pakistan’s ‘crisis of legitimacy’ is thus cumulative as it derives from the state’s lack of absolute sovereignty, its perceived ineffectiveness in delivering justice and its corruption through representing the interests of Western powers rather than the will of Allah.

Popular justice: Legitimacy of the nonstate violent punishment of blasphemers

Thurston (2011: 80) noted that ‘communities try to erect and operate alternate [sic] means of judgement’ when they sense that the legal mechanisms are failing them. Along similar lines, Otunnu (2016: 1) argued that states that are going through crises of legitimacy are more prone to nonstate political violence. Pakistan’s crisis of legitimacy lends space to the development of ‘alternative means of judgement’ and ‘political violence’ by nonstate actors when it comes to the punishment of blasphemy. Having discussed the grounds on which the state’s monopoly over ‘legitimate violence’ is challenged, I will now discuss the ways in which the legitimacy of the nonstate punishment of blasphemers is established. There are various sources that lend legitimacy to nonstate violent punishment of blasphemy, a major one of which is the dominant religious discourse, which establishes the act of killing a blasphemer as an expression of a true Muslim’s love for the Prophet. In this section, I will discuss popular narratives that glorify individuals who have committed

such an act in the past. Drawing on the collective memory of past events and imbuing it with religious symbolism, these narratives construct models of desired action and appropriate ways of dealing with a blasphemer. I will further discuss how the spectacle of public punishment lends legitimacy to acts of collective violence against the accused. It must be kept in mind that the sources of legitimacy—popular narratives that glorify acts of private vengeance as well as the symbolic power of the spectacle of collective punishment—reinforce each other and are components of the same ‘violent imaginaries’ (Schröder and Schmidt 2001: 9). It is within these violent imaginaries that ‘swift and harsh’ punishment of alleged blasphemers is imagined and carried out (Berg and Wendt 2011: 14).

Constructing heroes through glorifying narratives

In an Urdu book titled *Shaheedan-e-Namoos-e-Risaalat (Martyrs of the Honour of the Prophet)*, the editor Muhammad Mateen Khalid (2007) has put together a number of essays about 18 heroes. The essays are short biographies, discussing the lives, character, personalities and heroic deeds of the said martyrs. All 18 are considered heroes of Islam because they killed alleged blasphemers and were themselves executed by the state for murder. Hence, they are believed to have offered their lives to the cause of defending the honour of the Prophet Muhammad.

The first on this roll of honour is Ghazi Ilmuddin, who is one of the most legendary lovers of the Prophet Muhammad for present-day Muslims in Pakistan. He was the 21-year-old who in 1929 assassinated the Hindu publisher Mahashe Rajpal, who had published a book allegedly containing insulting remarks about the Prophet Muhammad. He was hanged for murder under the British government in 1931. Since then he has been revered by the Muslims of the Subcontinent for his display of true love for the Prophet. Discussions of the honour of the Prophet and blasphemy frequently reference his personality. Ilmuddin’s name itself symbolises the pinnacle of love and passion for the Prophet Muhammad. In a dedicated biography of Ilmuddin, Rehman Maznab writes:

Ghazi Ilmuddin was only a year old and his mother was nursing him when a beggar knocked at the door. She carried baby Ilmuddin to the door and opened it. She saw the beggar standing there and gave him some money. When she was about to close the door, the beggar glanced at the baby in her lap. The beggar addressed the mother and said, ‘He is a lucky child and will bring a lot of fame to

his parents.’ He further said, ‘Allah has blessed you with a special gift in the form of this child. Look after him and always dress him in green.’ (Maznab 2007)

Green is a colour associated with the Prophet Muhammad, as the dome of his mosque in Medina is painted green. In the story narrated above, the author is hinting at the special spiritual characteristics of Ilmuddin by birth. It is implied that he was chosen to be a successful lover of the Prophet. There are many other similar stories that exalt and glorify someone who carried out punishment of an alleged blasphemer even though the person in question was not well known before the act. Thus, it is in the narration of the act and the association of glorifying narratives with the person who committed the act that the public acceptance of such punishment is established. These glorifying narratives are a powerful source of legitimacy for not only the specific instance of punishment of a blasphemer, but also all future such events.

Ilmuddin is revered not just by marginalised or fringe sections of society. He was praised by Allama Muhammad Iqbal, the national poet and visionary of Pakistan. He was defended in the British court by Jinnah—some people believe, for free—who also threw his weight behind Ilmuddin’s nonstate punishment of Rajpal. Thus, the founder of the nation and some of its most respected heroes supported Ilmuddin (Rumi 2018). More recently, on 15 January 2018, then Chief Minister of Punjab, Muhammad Shahbaz Sharif, named the newly constructed block of a public hospital after Ilmuddin, calling it ‘Ghazi Ilmuddin Shaheed Block’ (Pakistan Today 2018a). Thus, Ilmuddin is widely accepted as a hero of the nation, of Pakistanis and of Muslims.

There is an abundance of literature glorifying Ilmuddin, and even movies have been made by Pakistan’s mainstream film industry. These films, which were not censored, depict explicit scenes of the killing of Rajpal by Ilmuddin. The literature and films portray a narrative of Ilmuddin’s life that attributes to him spiritual powers and saintly characteristics.⁴ Ilmuddin’s shrine is in Lahore and an annual *urs* is arranged at the shrine. *Urs* is a Sufi concept that means the union of the lover (a human) with the

4 It was common for Muslims to turn offenders executed by the state during British rule into saints and heroes. Anderson (2015) wrote about this as a reason why, in some states, British judges preferred imprisonment and transfer to other colonies as punishment over execution.

beloved (God). The death of a Sufi is not lamented because it is a spiritual union and is to be celebrated. The caretaker of Ilmuddin's shrine in Lahore said in an interview:

Ghazi Ilmuddin taught the whole humanity a lesson that no-one should mock others' religions. He made himself an example for the followers of Islam throughout the world by demonstrating that every devoted follower has the responsibility of protecting their religion. One should not fear death when it comes to fighting for the honour of the Prophet because that fight is for Islam, and if one dies while fighting for Islam then he becomes a Ghazi, and Ghazis have a very high place in *Jannat* ['heaven']; it is the greatest gift one could receive from God.

While historically Ilmuddin was the most celebrated 'martyr' and 'Ghazi' of the 'honour of the Prophet', there are many others like him. At present, Mumtaz Qadri is the most celebrated lover of the Prophet who delivered punishment to an alleged blasphemer and was himself punished by death. His personality has also been enormously glorified. Before Qadri was hanged, the religious leader of the mosque he used to regularly attend, Hanif Qureshi, published a book. In his statement in the court, Qadri declared that he had made up his mind to kill Taseer after attending one of Qureshi's sermons at the mosque. In the book, Qureshi recounts a 'miracle' that Mumtaz Qadri's father told him about. The miracle took place a few years before Qadri was born. Qureshi quotes Qadri's father as saying:

We had a dedicated corner for prayer in our house where a prayer mat was always laid. I used to get up in the middle of the night to pray. One night, as I woke up for my prayer and reached that corner of the house, I saw a *Naurani shaksiyat* [a spiritual being made of light], dressed in white, praying on the prayer mat. I saw him finish his prayer and silently move towards the door. Before leaving, he told me: In the southern corner of this house, a friend of God will be born who will raise the flag of Islam's honour in the whole world and make you proud. Qadri was born two years later. I kept that spiritual encounter a secret until the day Qadri fulfilled his spiritual duty by killing the governor. (Qureshi 2012: 36–37)

Once Qadri was executed, more spiritual stories were associated with him. A few days after Qadri's funeral, a religious scholar claimed that he went to Qadri's grave and saw Qadri's hand emerge from the grave holding a sword. Qadri now has a shrine near Islamabad where his devotees

go to offer prayers. While the killers who are still alive are also highly honoured by their supporters, it is after they die for the cause and become 'martyrs' that their spiritual journey is seen as complete and their status as saintly figures fully realised. Thus, the killers of alleged blasphemers are glorified themselves and at the same time shape the narratives of the ideal punishment for a blasphemer. In the interpretation and representation of punishment, heroes and legends are constructed, and more material is generated for the legitimation of future punishment of blasphemers.

Historicity plays a major role in the legitimation of violence; the present violence is justified against past violence and generates symbolic value for future violent action (Schröder and Schmidt 2001: 9). Experiences of violence imbued with cultural meanings are stored in society's collective or social memory and are an important resource on which to draw in the legitimation of future violence (Schröder and Schmidt 2001: 8–9). While drawing on the glories of past heroes provides meaning for the present, the heroes who are created in contemporary acts of violence become symbolic icons for future reference. They contribute to the construction of 'violent imaginaries' in which future acts of violence are imagined before they are performed (Schröder and Schmidt 2001). Thus, through representational strategies such as narratives, performances and inscriptions, the legitimacy of the nonstate punishment of alleged blasphemers is established. However, the narratives that glorify acts of violence do not automatically drive people to imitate those actions. At an individual level, the glorifying narratives and the wider religious discourse are interpreted and acted on differently by different people. One of Mumtaz Qadri's supporters, already quoted, described to me his experience of attending the hearing of Qadri's appeal in the Supreme Court of Pakistan:

I was angry and wanted to throw my shoe at the judge's face, but I couldn't. I was not Mumtaz Qadri, who killed a blasphemer without any second thoughts, even though I am a Muslim and love the Prophet Muhammad. Mumtaz Qadri did what only chosen Muslims can do upon hearing of blasphemy against the Prophet Muhammad—peace be upon him.

He acknowledged that, while he saw Mumtaz Qadri as a hero for killing a blasphemer and embracing martyrdom, he could not do that himself. He saw it as a weakness of his own faith but proclaimed that, in principle, he supported the nonstate punishment of blasphemers. Similarly, most people who believe in the glorifying narratives are inspired to different degrees. For many, participating in collective violence rather than

individual acts of heroism is an acceptable form of action. Nevertheless, the narratives that glorify nonstate violence against blasphemers are a key source of legitimacy on which to draw when such incidents do happen.

Staging legitimacy: The spectacle of public punishment

The instances in which individuals carry out punishment of blasphemers seldom take place in public. It is often *after* the act of killing that the killers claim the motivation behind their act was love of the Prophet, and it then becomes a public affair in which glorifying narratives are generated. In cases of mob violence, however, the punishment is carried out in public spaces where the act is visible to a large number of people. With advances in technology, that visibility is further increased, as videos and images are recorded and circulated, such as in the lynching of Mashal Khan. The public visibility, or spectacle, of such punishments is another key factor lending legitimacy to nonstate violence against blasphemers. The spectacle is created by the staging of power, as Schröder and Schmidt (2001: 6) argued:

Violence without an audience will still leave people dead but is socially meaningless. Violent acts are efficient because of their staging of power and legitimacy, probably even more so than due to their actual physical results.

The power of staging is particularly important when the punishments are delivered by nonstate actors. Hence, the qualities of nonstate violence that make it effective as a practice include its highly visible and sensual nature, which makes it powerful enough to stage an ideological message before a public audience (Riches 1986: 11). Sidel (2006: 14) also argued that violence is ‘performative and representational’ by definition, as it seeks ‘recognition in the—imagined—gaze of a broader audience’. Thus, collective violence against blasphemers is a potent means of communication employed by the perpetrators to convey several messages, including ideas of popular justice and their legitimacy. Through public violence, the state’s claims to a monopoly over legitimate violence are also contested as the core purpose of violence often stems from contradictions over claims of legitimacy and justice (Krohn-Hansen 1994: 370–71). The ideas of popular justice that regard mob violence or vigilante action as a legitimate way of punishing blasphemers are embedded within the specific local historical context of Pakistan.

Vigilante justice is not exclusively applied to the punishment of those accused of blasphemy, although it has become a lot more frequent in such cases. In 2010, two teenage boys, Mughees and Muneeb, were lynched in Sialkot by a mob, in the presence of police, after being accused of robbery and murder (Dawn News 2011b). In 2014, after the terrorist attack on a school in Peshawar, there were widespread demands from the public—even progressive sections of society who condemn mob violence in cases of blasphemy—for public execution of the terrorists (Boone 2014). In response, the government lifted the moratorium on the death penalty, leading to the execution of hundreds in the following months to appease public anger (BBC News 2015). In January 2017, several bloggers, activists and university professors ‘disappeared’ in what were later revealed to be extrajudicial abductions by intelligence agencies (BBC News 2017; Hashim 2017a). A Facebook page called ‘Pakistan Defence’, with more than 8 million followers, accused the ‘disappeared bloggers’ of having engaged in anti-Islam and anti-Pakistan propaganda (Hashim 2017a). The public, at least on social media, was again demanding public punishment of those accused. In January 2018, a seven-year-old girl was raped and killed in Kasur, after a series of similar incidents over the previous few years in the same town (Dawn News 2018). People were once again furious and called for public execution by lynching, hanging or burning the culprits (Dawn News 2018). This time, a senate standing committee even proposed a bill seeking public hangings of rapists of young children (Pakistan Today 2018b). The bill was rejected by the National Assembly (Pakistan Today 2018b). However, if the bill had passed, it would not have been the first time in the history of Pakistan that public hangings were carried out.

In the 1980s, under the rule of military dictator General Zia-ul-Haq, public hangings were attended by thousands of spectators (Mehdi 2013). The practice was abandoned in 1988 with the return of democratic government. Thus, the idea of public punishment is not uncommon or new in Pakistan. There is a long history of public executions (either by the state/rulers or at the hands of the public) on the Indian Subcontinent more generally. During British rule, public hangings and execution by cannon were used to deter crime and control citizens (Anderson 2015). Public executions using elephants were common during the Mughal era (Schimmel 2004: 217; Weiss and Garfield 2017). The public acceptance

or legitimacy of public punishment varied depending on the wider legitimacy of those in power, but the visual and performative aspects of public punishments were normalised.

The relationship between state and nonstate public executions requires some attention. There are different levels of legitimacy, legality and acceptability associated with the two. However, the fact they are both a *public spectacle* is of significance for the sake of my argument. When people accept and expect the spectacle of public punishment and believe in the legitimacy that goes beyond the legality and sovereignty of the state, nonstate public punishments are not an aberration. Thus, while public executions by the state in the past differed from the nonstate punishment of blasphemers in contemporary Pakistan, there are certain underlying similarities. Amy Wood (2009), in her book on lynching in America, illustrates the connection between public executions and nonstate public violence. In her appropriately titled chapter ‘They Want to See the Thing Done’, she argues that, while the lynchings of African-Americans that began in the 1880s were a new phenomenon, they were:

firmly rooted in the traditional social performance of public executions. At public executions, white southerners learned what hanging a person looked like and that watching such a spectacle was socially acceptable. Lynch mobs even appropriated many rituals of public executions—the declarations of guilt, the confessions, the taking of souvenirs and photographs—to confer legitimacy on their extra-legal violence. They saw themselves not as criminals or defilers of the law, as their critics saw them, but as honorable vindicators of justice and popular sovereignty, fulfilling their rights as citizens to punish crimes against their communities. (Wood 2009: 24)

Thus, the two forms of public punishment are inherently similar as far as their performative and symbolic values are concerned. Wood (2009: 3) calls it ‘the cultural power of lynching’, which ‘rested on spectacle: the crowds, the rituals and performances, and their sensational representations in narratives, photographs, and films’. Similarly, the spectacle of mob violence against alleged blasphemers is what makes it a powerful mode of punishment that derives legitimacy from the history of public punishment and shapes ideas of popular justice. Together with the glorifying narratives and dominant religious discourse concerning the punishment of blasphemy, the spectacle of punishment sends a message that ‘the community has endorsed the killing’ and that the perpetrators

‘need not fear the sanction attached to killing’ (Tambiah 1996: 278). It is therefore in the communal acceptance of violence—whether it is carried out by the state or by nonstate actors—that its legitimacy is established. Incidents of public violence are also ‘performative representations’ of ‘antagonistic relationships’ (Schröder and Schmidt 2001: 10). Nonstate violence against blasphemers represents an antagonistic relationship between the state and the claimants of religious authority within society. It is through the *public performance of violence* that the state’s claim to a monopoly over legitimate violence is contested.

Conclusion

Nonstate punishment of those accused of blasphemy must be seen as political violence, contesting the state’s claims of a monopoly over legitimate violence. Contestation for the *legitimate punishment of blasphemy* happens within the wider context of competing ideas of the Islamic state of Pakistan. The wider religious framework of the state—its claim to be an Islamic state and to represent the will of Allah—is what makes it vulnerable to challenges from within society about the correct interpretation and implementation of Islamic law. The state’s monopoly over the exercise of legitimate violence is challenged because it is unable to deliver the ideals of Islamic justice as perceived by certain religious leaders and their followers. It is therefore a contest between the state and the religious authorities as to who more authentically represents the will of Allah and the Islamic justice system. The state of Pakistan, therefore, loses legitimacy due to the existence of multiple claimants of sovereign authority within society. In addition to the lack of absolute sovereignty, the failure of the legal system to effectively deliver the desired punishment to alleged blasphemers, and the perceived Westernised outlook of the ruling elite, as well as judges, contribute to the crisis of legitimacy of the Pakistani state. Due to this crisis of legitimacy, the proponents of popular narratives glorifying the nonstate violent punishment of blasphemers gain legitimacy and establish their authority to decide the fate of the accused. However, ideas of popular justice are what shape the standards of legitimacy against which the state’s performance is judged in the first place. I argue that it is a vicious cycle in which the narratives of popular justice and the state’s crisis of legitimacy mutually constitute and reinforce each other.

Within this system of mutual reinforcement, the state and nonstate actors have to constantly position themselves as legitimate in relation to each other. One way of establishing legitimacy is by placing the blame on the other party such that the state blames the people for ‘taking the law into their own hands’ and the proponents of nonstate justice blame their actions on the state’s inability to deliver justice (Sundar 2010: 114). Thus, nonstate actors make their claims of legitimacy with reference to the state legal system. Nonstate punishments do not operate in complete opposition to the state; rather, they simultaneously accept and contest the state’s legitimacy. Similar trends have been shown in other contexts where vigilante action or nonstate punishment demonstrates a desire for inclusion in the state justice system and, at the same time, a willingness to enforce punishments outside that system (Goldstein 2003: 33). It has also been shown that vigilantes are ‘both antagonistic to the state and co-opted by it’ (Smith 2004: 449).

On the other hand, the state also has to make a dual engagement with the ideas of popular justice—by dismissing those who take the law into their own hands and by itself coopting popular narratives. Those who represent the state of Pakistan (judges and officials of the government and other affiliated entities) have to constantly appeal to the religious discourse and popular ideas of justice to reestablish and sustain their legitimacy. For example, the day after the acquittal of Asia Bibi, the Chief Justice of Pakistan, Mian Saqib Nisar, made a separate statement in response to the widespread protests against the verdict. He declared:

I and the bench [members] are all lovers of the Prophet (peace be upon him). We are ready to sacrifice ourselves for the Prophet’s (PBUH [peace be upon him]) honour. But we are not judges only for Muslims. If there is no proof against someone, how can we punish them? (Bhatti 2018)

Judges had to justify their decision with reference to the popular ideals of justice rather than the legality of the state justice system. Similar statements have been made in the past by various others representing the state—including prime ministers—regardless of which party is in power. While these statements are meant to appeal to popular sentiment to garner legitimacy for the state, there are also occasions when parts of the state not only appeal to but also believe in and act on the popular narratives themselves. During my research, I learnt about incidents of the accused being killed while in police custody by members of the police themselves.

Other state actors—intelligence agencies with links to the military—have also reportedly been engaged in extrajudicial abductions and torture of persons accused of blasphemy (BBC News 2017). Thus, it is hard to draw boundaries between the state and society, and consequently between state and nonstate punishment of blasphemers. As Sundar (2010: 114) pointed out:

Vigilantism by definition presupposes a state against whose monopoly over violence (cf. Weber) vigilante violence is measured. However, when practised by dominant groups in society or by a state against whose monopoly over violence (cf. Weber) vigilante violence is measured or by agents of the government itself, it questions the very contours of the state, making it hazy as to where the power of a legitimately constituted state ends and that of powerful groups in society begins.

Similarly, by demonstrating that the state's legitimacy and popular ideas of justice are not all that different from each other, I argue that the 'the very contours of the state' are obscure when it comes to the legitimate punishment of blasphemy in Pakistan.

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