

# The Terror and Tyranny of Blasphemy Laws

Eighty-four countries still have laws that criminalize blasphemy, with bans on sacrilegious expressions enforced most aggressively in the Muslim world, both by state action and vigilante mobs. In February, Cato hosted a policy forum featuring **Marvi Sirmed**, a Pakistani journalist and human rights activist, to explain how dire the situation has become in her country. Cato senior fellow **Mustafa Akyol**, whose work focuses on making the Muslim case for toleration and freedom, also offered his thoughts on how Muslims can find a way forward through embracing toleration and liberalism.

**MARVI SIRMED:** In Pakistan the political and the sociological context leading to the creation of blasphemy laws, and the problems emerging from the way they were and are implemented, are all very complex. So, I'd like to focus on how these laws are impacting citizens' fundamental rights and freedoms, especially the right to free speech, the right to hold opinions and express those opinions, and freedom of religion.

More than the law itself, vigilante justice has become a serious problem, especially in Pakistan. The law, however, provides the basis for such mob justice. State institutions keep providing and encouraging that for their short-term strategic benefits, and for the fear of uprising of the extremist elements. It creates a framework where non-state actors, the local criminals, and now even the ordinary person on the street all feel entitled to claim hero status through engaging in extralegal violence in the name of protecting the Prophet Muhammad's honor.

Blasphemy vigilantism is not only encouraged in Pakistan, it is actually celebrated. If you want to become an overnight hero, the easiest way is to express your intent to kill someone or worse, actually do it. There are countless examples from the recent past of people celebrating, for

example, the killer of Salman Taseer, the governor of Punjab who was assassinated in the name of blasphemy laws. Even though the killer was tried by the courts and executed, his grave is now a shrine. People actually go there and pay their respects to this murderer.

No government and no state institution would dare condemn that. Human rights advocates including myself started calling Salman Taseer a martyr. And for saying that, a senator submitted a resolution asking the Senate to declare me a blasphemer, so that I could be put in jail, and I could be executed. Of course, the resolution was defeated. Nobody wanted to vote on that. But that's indicative of how deep the problem is.

Mobs in Pakistan were celebrating the murder of Samuel Paty, the French teacher who was murdered by an 18-year-old after he showed cartoons about Muhammad in a class on free expression. In another case, Mashal Khan was a student at the university in Mardan [Pakistan], when he was accused of posting blasphemous content online. He was lynched by a mob and it was filmed, but the perpetrators still roam free. Another tragic case is that of Tahir Naseem, an American citizen. He was an Ahmadi, a religious sect that has been officially

declared to be non-Muslim by the Pakistani government. He was standing trial under blasphemy laws when he was killed inside the courtroom last year in July. Naseem's killer was another teenager, and he also became an overnight hero who received public accolades and garlands. His picture was circulated with my picture, along with the caption that my fate should be decided by a hero like him.

All this is happening while the liberal sections of civil society just mourn the demise of the rule of law. The judges who decline to hear blasphemy cases, or even those who do hear the cases but try to uphold basic judicial procedures and due process, are threatened. The lawyers are threatened. In fact, a lawyer who was a dear friend, Rashid Rehman, was killed while sitting in his office, because he was working on the case of Junaid Hafeez, a university professor who was accused of blasphemy.

Politicians, law enforcement officials, human rights activists—you name it—we live in this constant environment of fear, knowing we could be targeted next. We could be accused of blasphemy if we keep on expressing views that are completely unrelated to religion, but which do dissent from the accepted moral code or the policies of the state.

At its core, the right to religious freedom and religious expression is severely impacted by Pakistan's blasphemy laws. Ahmadis, Christians, Hindus, plus now the sectarian minorities within Islam—all of these groups are now increasingly being accused of blasphemy just because they're part of a religious minority.

For example, Shia Muslims have some different views and a different set of beliefs about the Islamic history after the prophet. And just because of that, last year, over 75 Shia scholars were booked under

blasphemy law because they were delivering what we call Majlis (assembly). They were delivering sermons on the eve of the martyrdom day of Hussein ibn Ali, the grandson of the prophet and a key figure in Shia Islam. Just yesterday, I highlighted another case on Twitter. Two Christian men were booked for blasphemy. The alleged crime is that they were reciting the Bible in a quiet corner of the park in Lahore. They were literally just reciting the Bible. And the people around, the Muslims walking around in the park, objected to it, and they said that it is a crime to preach your religion if you are not a Muslim.

Blasphemy laws are also used to curb political dissent in ways that are not really about religion at all. It is used to go after people like myself: I do not comment on religion. I'm mostly a political commentator and a human rights defender, but people like us are being accused of blasphemy on one pretext or the other. An accusation of blasphemy has become, in essence, what happens when a state institution wants to kill you, but they don't want to do it themselves. They can just outsource it by accusing you of blasphemy because the mob will do the rest.

This happened with a notorious case in 2017, when four bloggers were picked up by the intelligence agency. The intelligence agencies do not have any legal power of arrest, so they just abduct people, because they can. After the bloggers were abducted, the intelligence agency ran a campaign that branded them blasphemers. These people did not even discuss religion. They were all political commentators, critics of the military's policies. But once they were labeled blasphemers, anything can be justified. Once they were released, they have that threat hanging over them and can't just return to normal life. People who are targeted like this often have to either go into hiding or flee the country altogether.

It is very important to understand how

the political process is controlled by the military establishment using blasphemy laws. In 2017, a law had been passed that many fundamentalists alleged was too favorable to Ahmadis, who they hold to be apostates from Islam. So, they staged a massive sit-in campaign to topple the government. Islamabad, the capital city, was closed down. It was completely shut down.



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No business. No official work was being done. And at the end of it, a general was caught on camera distributing money among the participants of this sit-in, because the whole effort had the backing of the military. When one judge alluded to this in a case related to the sit-ins, suggesting that military establishment might be involved in this and that such actions should not be acceptable under a democracy, he was denounced and hounded, and he became the subject of a campaign to discredit him.

Our parliament is controlled through blasphemy laws. If you even hint at touching something that is not acceptable to the military establishment, you will be accused of blasphemy. Through this, the entire legislative system is being controlled. It creates an entire climate of fear and repression. The world needs to understand that's what is happening in Pakistan, but even more critically, Pakistanis must come to recognize it. Only then can we hope to successfully defend democracy and freedom in our country.

**MUSTAFA AKYOL:** As a Muslim and as someone who has been thinking about issues of freedom in Islam, this whole situation makes me sad, and it shows me that we have some work we need to do. I think responsible Muslims, clerics, opinion leaders, political leaders, and intellectuals have an important role to play in correcting this grim scene.

And there are efforts, of course, for reforming blasphemy laws. Reformist scholars have written important books or articles. There are calls in the Muslim world to do away with not just blasphemy laws but other acts of coercion in the name of Islam. These would include apostasy laws and religious policing, in addition to all these other forms of extra-legal violence.

One thing we should see is that beyond religion, or perhaps even beneath religion, there's something else at play here, what some social scientists call "honor culture." It refers to a culture where one's reputation or values, religious or not, are eagerly protected by force. It should be no wonder that this kind of honor culture leads to what we can call secular blasphemy laws. My home country, Turkey, is a severe case of that. Since 2014, more than 60,000 people have been prosecuted in Turkey, and thousands of them have been given prison sentences, not for insulting God or the Prophet, but for insulting the president. This may, in fact, be one of the most severe

blasphemy crises in the world right now if we define the term blasphemy a bit broadly.

But besides the issues of honor culture—and nationalism—there’s clearly an issue here with the understanding of religion, and religious values, and religious law in the Muslim context. So, I’ll say a few things about that. People sometimes remind us that these blasphemy laws in Pakistan are left over from the colonial era, which is technically true. But they have been strengthened and they have been made more severe, clearly with an Islamic ambition to silence blasphemy. Which should bring us to an honest discussion about blasphemy laws in Islam as a religion, and in particular Islamic jurisprudence.

When we look into that, we will see a grim picture. Medieval Islamic jurists considered blasphemy a capital crime. That is true for the four main Sunni schools and the main Shia school, the Ja’fari school. They all agreed that people who insulted God and the Prophet should be executed. The main point of disagreement among them was whether the blasphemer can repent or not. Interestingly, the jurists were even harsher on insulting the Prophet than they were on insulting God. Their reasoning was that God will punish the blasphemer on his own, but because the Prophet is dead and he’s gone, we have to protect him.

So those medieval verdicts in Islamic jurisprudence establish a clear precedent: death penalty for blasphemers. Clearly, not all Muslims are eager to implement these centuries-old religious laws. Many Muslims are not even aware of them, but some are, and they are willing to implement them in the modern world. These are the people that we often call the Islamists. They’re convinced that this is the Islamic thing to do. And a small extremist strain within that Islamist universe even believes in implementing this as terrorism in the

middle of Europe—that is, outside of Muslim states and nations, through vigilante violence. That is what we have seen in France, unfortunately, in the horrific terrorist attacks committed in the past decade, targeting especially the satirical magazine *Charlie Hebdo*.

There are a few points to address here. One is, Muslims who believe in blasphemy



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laws should see that these laws appeared in a historical context where everybody had blasphemy laws. By everybody, I’m referring to especially to the Byzantine and Sassanid empires who had similar verdicts to protect their official faiths. These were the empires that Muslims faced, and whose political and legal cultures they partly inherited. When you look into Sassanid laws, for example, that ban “enmity towards the gods,” it all sounds very similar to some of the things written in the Muslim literature about blasphemy at that time. Therefore

when modern-day Muslims look into what’s written in medieval Islamic jurisprudence, they should consider looking into the eternal principles of Islam, and not just a bygone and archaic era in human history.

Second, blasphemy laws are justified through some episodes written in the biographies of the Prophet, where we hear that some people insulted the Prophet or wrote satirical poems against him, and then they were executed by early Muslims. This is taken as a precedent to establish blasphemy laws. But if you look into those stories more carefully, which I do in my new book, *Reopening Muslim Minds: A Return to Reason, Freedom, and Tolerance*, you see that the issue there was not mere satire or criticism or insult but active enmity in terms of physical attacks or incitement to war against Muslims. Meanwhile, there are other reports in the same biographies of the Prophet that the Prophet didn’t punish people who insulted him, but quite the contrary, he showed them grace and mercy. And I think that’s probably the more universal lesson we should derive from the life of Muhammad.

Lastly, the only undisputed source in Islam is the Qur’an. Every Muslim, regardless of any other differences, would agree with that. And when you look into the Qur’an on this issue, everybody can see that there is no earthly punishment in the Qur’an for blasphemy—nor apostasy for that matter. The most relevant verse of the Qur’an to this issue is a verse that I have referred to in various writings. It says, “If you hear people denying and ridiculing God’s revelation, do not sit with them unless they start to talk of other things.” (4:140) So, the verse doesn’t say, “go and attack people if they ridicule Islam.” It doesn’t even say, “silence them.” It just says, “do not sit with those people,” which means peacefully disengage.

I think this could very well be the basis of a proper Muslim response to blasphemy

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New book explores why some reform efforts haven't delivered

## Missing the Mark on Medical Malpractice

**D**ramatically rising costs for medical malpractice insurance have been one of the most controversial aspects of the American health care system, with repeated attempts to curb litigation to drive the costs down. However, it's possible these reforms have not delivered because they are not addressing the real problems.

That's the premise of a new look at the issue, *Medical Malpractice Litigation: How It Works, Why Tort Reform Hasn't Helped*, which is coauthored by leading health policy scholars Bernard S. Black, David A. Hyman, Myunggho S. Paik, William M. Sage, and Charles Silver. Over the past 50 years, the United States has experienced a series of malpractice liability crises, with insurance premiums spiking sharply and fueling demands for reform. In response, states have adopted a range of measures, and federal strictures on the largely state-based system have been discussed frequently on Capitol Hill.

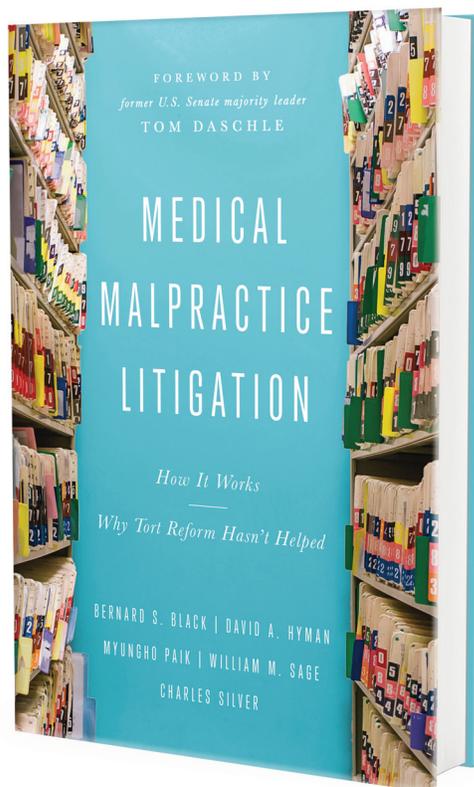
The authors of the book find that the intense political debate has been marked by a severe shortage of evidence that has led to a perennial misdiagnosis of the problem. The most common attempted fix has been liability caps, which place limits on how much can be awarded in damages either as a whole or for specific types such as punitive damages. This narrative sees the problem as essentially one of greedy lawyers and gullible jurors handing out exorbitant awards. However, the empirical data don't back that up,

with damage caps having done little to solve the problem of unaffordable malpractice insurance.

Instead, the problem lies in the much less glamorous but more pernicious effects in the reinsurance market. Regulatory structures distort the market in such a way that the expected benefit of liability caps—namely, lower insurance costs for providers—does not actually get passed along to doctors and hospitals, nor ultimately to consumers. Likewise, liability caps did not produce the expected flood of physicians to states that adopted these reforms, indicating that they added little incentive in practice.

Despite its political popularity, liability insurance is not a major contributor to spiraling health care prices, and politicians who frame it as such are overstating what even a successful reform can deliver. Instead, the dysfunctional market is dominated by third-party payments through employer-based health insurance and government programs, leaving little room for individual choice and competition to drive down costs. It is these policies, and not the threat of liability, that have produced a culture of medicine that is detached from cost-benefit analysis and is driven toward expensive procedures and testing regardless of the price.

*Medical Malpractice Litigation* provides data-driven, fact-based answers to these and other important questions for policy-



makers and ordinary Americans alike in clear, accessible terms. The authors represent a cross-section of the political spectrum but agree that the medical malpractice issue is seriously misunderstood in American politics. By setting the record straight, they hope that a more informed discussion can be held on the real root of the problems in both the malpractice litigation system and in the market for health care more broadly. ■

**MEDICAL MALPRACTICE LITIGATION WAS RELEASED IN APRIL AND IS AVAILABLE AT ONLINE BOOKSTORES.**

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in the modern world. If there are people who condemn Islam, who offend Islam, don't listen to them, don't join their events, or stop buying their magazines. But there's really no justification in the Qur'an for coercion, for violence, for killing people, or

for jailing people.

There needs to be a stronger push in the Muslim world with these sorts of arguments—that there is a sound theology, a strong Islamic case grounded in the Qur'an, behind the idea of peaceful toleration. Muslims who are eager to

punish blasphemy by force should also realize that they're just killing and tormenting innocent people. And by killing and tormenting innocent people in the name of your faith, you're not bringing any honor to your faith. You're just bringing shame. ■