

## **Religious Norms, Secular Forms: The Role of Judges in the Implementation of Pakistan's Blasphemy Laws**

*Martin LAU  
School of Oriental and African Studies  
University of London*

The Islamisation of Pakistan's criminal law in the late 1970s and early 1980s radically changed the laws governing sexual offences, murder and assault as well as offences against religion. Of the three, it is the criminalisation of all sexual intercourse outside a valid marriage that has attracted most attention, with domestic and international women's and human rights' organisation leading a long and partially successful campaign for a repeal of the Zina Ordinance: in 2006 Pakistan's parliament passed a law which reformed some aspects of the Islamic law on rape and adultery.

In contrast to the law on sexual offences, neither the new Islamic criminal law on murder nor the introduction of entirely new offences to protect the sanctity of Islam has received any detailed attention. With regard to the law on murder and assault, the issues are arguably too complex and obscured from view to attract the attention of the human rights' as well as academic community. In addition, the fact that a murderer is able to avoid punishment by paying monetary compensation to the heirs of the victim does not fit easily into the established human rights' discourse.

In contrast, attention on Pakistan's blasphemy laws shifts and drifts with the currents of global news-coverage: the assassination of a governor or minister, media publicity surrounding a particular attack or sentence against a Christian woman or suicide bomb attacks against the mosques of Ahmadis briefly high-light particularly gruesome or egregious instances of human rights' violations in the name of Islam, but quickly fade into the background with the passage of time.

Inside Pakistan, it is fear of prosecution and persecution that prevents many from taking a stance against the blasphemy laws. Indeed, Pakistani legal scholars even fear repercussions by publishing articles on this area of law in international academic journals. Outside Pakistan, much of the protests are muffled by the widely publicised claims of the Pakistani government that everything possible is done to reign in religious extremists, that the protection of minorities is taken seriously and that the law on blasphemy is applied fairly. With regard to the latter, the Pakistani government points out that every blasphemy conviction eventually gets over-turned on appeal.

This paper aims to investigate and analyse the last of these claims, namely the high rate of acquittals, by conducting a systematic and as complete as possible analysis of all reported decisions dealing with offences against religion since the early 1980s, when the first laws protecting exclusively Islam, were introduced.

Such an investigation will not only test the Pakistani government's claim, but will also provide insights into the legal, and, as will be argued, social and cultural discourse of Islamic law and morals. How do judges perceive the role of law in protecting Islam? Do they remain neutral in the face of open intimidation and threats? Are judges themselves part of the resurgent tide of Islamic extremism? What role can courts take to reform and regulate not the law itself but its application? To what extent is Pakistan's judiciary divided on these issues?

Analysing a substantial number of reported judgements covering a period of about three decades will also assist in identifying instances of legal reform, for example particular interpretations of laws, particular methods for the evaluation of evidence, preferencing of particular procedural laws etc., and in turn, avenues for reform. Indeed, many strategies for the campaign for a reform of the Islamic criminal law on adultery and rape were based on an analysis of reported judgements. In this light, identifying avenues and opportunities for a reform of the blasphemy laws will be one of the aims of this paper.