
BLASPHEMY LAWS IN INDIA: A LEGAL AND COMPARATIVE STUDY

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ABSTRACT

Recently, the Punjab government has enacted its own law on the desecration of religious texts through the Jaagat Jot Sri Guru Granth Sahib Satkar (Amendment) Act, 2026, prescribing stringent penalties including life imprisonment and fines up to Rupees 25 lakh. This move has reignited the ongoing debate surrounding blasphemy and sacrilege laws, particularly in light of their potential to restrict the freedom of expression guaranteed by the Indian Constitution. However, at the national level, Section 299 of the Bharatiya Nyaya Sanhita formerly Section 295A of the Indian Penal Code serves as India's blasphemy law, criminalizing deliberate and malicious acts intended to outrage the religious feelings of a any class. Despite its longstanding presence in Indian criminal law, this provision has been repeatedly challenged on constitutional grounds and continues to be a contentious and polarizing issue. This paper explores the controversial issue of blasphemy laws in India, delving into their historical and legal background. Furthermore, it analyzes the recent legislative developments under Punjab's new sacrilege framework. It also examines various perspectives on the need for and impact of such laws. Additionally, it offers a comparative analysis of blasphemy laws in other countries to contextualize India's position within the global legal landscape.

Keywords: Blasphemy, Indian Constitution, Sacrilege.

I. Introduction

The word *blasphemy* comes from the Greek word "*blasphemia*"¹, which means "hurtful utterance" or "profane speech", which is derived from the Greek roots "*blapto*" meaning "to harm" and "*pheme*" meaning "speech".² The term entered the English language through Latin, Old French, and Middle English, and eventually came to mean "slander" or "to speak evil", especially in reference to God or sacred things.

According to *Black's Law Dictionary*, blasphemy implies "irreverence toward God, religion, a religious symbol or something different considered sacred."³ Similarly, the *Merriam-Webster Dictionary of law* defines blasphemy as "the act of insulting god, demonstrating disrespect for him or a lack of respect for his attributes, as well as showing irreverence towards something revered as sacred or inviolable."⁴

At its core, blasphemy involves a contemptuous and hostile attack on the fundamentals of a religion, often offending the sensibilities of its followers. In this sense, blasphemy refers to words or expressions that show disrespect toward God or sacred entities, and sacrilege or blasphemy laws are used to punish those who express such views and opinions.

Many countries around the world have enacted strict laws against blasphemy, with punishments that can include life imprisonment or even the death penalty. In contrast, some countries have never found it necessary to legislate specifically against blasphemy or religious sacrilege. India currently does not have a separate or specific law on blasphemy; however, Section 299 of the *Bharatiya Nyaya Sanhita* (formerly Section 295A of the Indian Penal Code) addresses acts that are similar in nature to blasphemy. The provisions under this section resemble the traditional common law definition of the crime of blasphemy, which historically involved irreverent denial or ridicule of the Christian religion, contemptuous reproaches against Jesus Christ, or profane mockery of the Holy Scriptures especially when such actions exposed them to hatred, contempt, or public ridicule.

At the state level, Punjab has recently passed its own strict law on sacrilege, codified as the

¹ Scott Vitkovic, Blasphemy in Judaism and Christianity and freedom of speech in the contemporary Europe.

² Nazeem MI Goolam, The Cartoon Controversy: a note on freedom of expression, hate speech and blasphemy, 39(2) *The comparative and International Law Journal of Southern Africa* 330-350 (2006).

³ Bryan A. Garner, *The Black's Law Dictionary*. 193 (West Group, 2009).

⁴ Merriam Webster, *Merriam Webster's Dictionary of Law* 1996.

Jaagat Jot Sri Guru Granth Sahib Satkar (Amendment) Act, 2026, which covers digital and AI content along with physical desecration. Similarly, a few other states have also passed laws related to sacrilege, although they have not yet been implemented for a variety of reasons. On one hand, it is argued that such laws are necessary to prevent the desecration of religious symbols and to maintain communal harmony in a diverse society. On the other hand, many human rights organizations and scholars believe that these laws infringe upon the right to freedom of expression and are often misused to suppress criticism, independent journalism, and open religious discourse. As a result, the subject remains a matter of significant public and legal debate. Therefore, it is essential to critically examine these issues in order to clarify misconceptions.

II. The Legal Framework in India

2.1 Historical and Legal Background

Section 295A of the Indian Penal Code, which was replaced by Section 299 of the *Bharatiya Nyaya Sanhita* in 2023, was introduced by Section 2 of the Criminal Law (Amendment) Act, 1927 with a view to punish for the acts of religious blasphemy committed by deliberately and maliciously insulting the religion or religious beliefs of any class.

The reason for the inclusion of this section was the famous '*Rangila Rasul*' case⁵ of 1927, which led to its inclusion in the statute book as a result of widespread agitation by Muslim community following the Lahore High Court's decision. In this case, the accused had published a pamphlet entitled *Rangila Rasul* (Amorous Prophet) in which he described the sexual incontinency (lacking self control) of the Prophet Mohammed. Rajpal was convicted under section 153A IPC by the Magistrate, but the Lahore High Court quashed his conviction holding that section 153A of the code was intended to prevent persons from making attacks on a particular community as it exists in the present time and was not meant to stop polemics (controversial discussions) against a deceased religious leader, howsoever scurrilous (vulgar) and in bad taste such an attack might be. The court however visualised the lacuna in law and realised that the excoriation of religious feelings, as was the case here, should have come within the tenor of provisions relating to prevention of offence against religious sentiments and beliefs, but because of the absence of an express provision the Magistrate's decision could not have been

⁵ *Rajpaul v. Emperor*, AIR 1927 Lah 590.

otherwise. Thus, it is to fill this gap that section 295A, Indian Penal Code was added in the code.

However, in a subsequent case, *Devi Sharan Sharma v. Emperor*,⁶ a Division Bench of the same Lahore High Court held that a scurrilous, vituperative (abusive) and foul attack on its founder would come within the purview of section 153A of the Indian Penal Code. It is interesting to note that the *Rajpaul* case was neither cited nor considered by the High Court in this instance.

On the other hand, the Allahabad High Court in *Kali Charan Sharma*⁷ case expressly dissented from *Rajpaul* and held that the book entitled *Vichitra Jiwani*, depicting the life of the Prophet Mohammed, promoted feelings of enmity between Hindus and Mohammedans and that the offence punishable under section 153A, IPC.

2.2 Constitutional Validity and Judicial Interpretation

The constitutional validity of section 295A of the Indian Penal Code was challenged in *Ramji Lal*⁸ on the ground that it infringes upon the fundamental right, 'to freedom of speech and expression' guaranteed under Article 19(1)(a) of the Constitution. While upholding the constitutionality of Section 295A, IPC, the Supreme Court held that the section was enacted in the interest of public order, and it only penalises the aggravated form of insult to religion, when it is perpetrated with the deliberate and malicious intention of outraging the religious feelings of a class of citizens.

The court further stated that the section which penalises such activities is well within the protection of Clause (2) of Article 19, as it imposes reasonable restrictions on the exercise of the right to freedom of speech and expression' guaranteed by Article 19(1)(a). Again the constitutional guarantee of the right to freedom of religion under Articles 25 and 26 is subject to public order, morality and health. Therefore, a restriction imposed in the interest of the State is valid.⁹

In 1969, in the case of *Sant Das Maheswari v. Babu Ram Jodoun*, it was held that Section

⁶ AIR 1927 Lah. 504.

⁷ *Kalicharan Sharma v. King Emperor*, AIR 1927 All 654.

⁸ *Ramji Lal Modi v. State of Uttar Pradesh*, AIR 1957 All. 654.

⁹ *Veerabadran Chettiar v. E.V. Ramaswamy Naiker*, AIR 1958 SC 1032.

295A, IPC in no way prohibits or makes punishable anything which is a mere profession, practice or propagation of religion or any of the things specified in Article 26 of the Constitution. What is made punishable is deliberate and malicious intention of outraging the religious feelings of any class of citizens of India. Thus, Section 295A, IPC does not come into conflict with either Article 25 or 26 of the Constitution and cannot, by any stretch of the imagination, be considered violative of those provisions. Any restriction it imposes falls squarely within the four corners of the expression “subject to public order, morality and health.”

2.3 Contemporary State Legislation: The Punjab Framework (2026)

The contemporary statutory manifestation of this legal friction is clearly visible within India's federal structure, specifically in Punjab's latest legislative framework. Following the transition from the IPC to the *Bharatiya Nyaya Sanhita* (BNS), the state formalized its approach through the statutory notification of the *Jaagat Jot Sri Guru Granth Sahib Satkar (Amendment) Act, 2026*. Under this enactment, the state has institutionalized severe penal consequences, including a minimum of 10 years extending up to life imprisonment and financial penalties up to Rupees 25 lakh, for acts of sacrilege against the Sri Guru Granth Sahib. Moving beyond conventional modes of physical defacement, this 2026 statute uniquely expands the definition of the offence to criminalize expressive or malicious conduct propagated via social media networks and modern AI-generated digital tools. To prevent frivolous litigation and establish procedural checks, the enactment mandates that investigations can only be instituted by an officer not below the rank of Deputy Superintendent of Police (DSP), with trials being strictly triable within the jurisdiction of Sessions Courts.

III. Global Perspective on Blasphemy Laws

Australia: When Australia became a British colony in the 1780's, it adopted English Common law, including the Blasphemy Act of 1697. The first colonial laws related to blasphemy appeared soon after. In New South Wales, the Blasphemous and Seditious Libels Act of 1827 was introduced but later repealed in 1898. Around the same time, Governor Arthur Phillip enacted similar legislation in Van Diemen's Land (now Tasmania) that controlled printing and publishing, and banned blasphemous and seditious content to help keep public order.¹⁰

¹⁰ Jeroen Temperman, Andras Koltay (ed.), *Blasphemy and Freedom of Expression: Comparative, Theoretical and Historical Reflections after the Charlie Hebdo Massacre* 512-514 (Cambridge University Press, 2017)

Blasphemy laws in Australia were repealed at the federal level through the Criminal Code Act, 1995; however some states and territories still recognise the offence. In New South Wales¹¹ and the Australian Capital Territory¹², it is governed by legislation, while in Victoria and South Australia it exists under Common law. In contrast, Queensland and Western Australia have effectively abolished the offence by not including it in their Criminal Codes. At the end of 2024, Tasmania also abolished its blasphemy law by passing the Justice and Related Legislation (Miscellaneous Amendments) Bill, 2024 following advocacy from the Rationalist Society of Australia (RSA). The reason the RSA advocated for the abolition of the blasphemy and sacrilege law was that the law was outdated, restricted the right to freedom of expression and religion, discriminated in favour of one religion, and did not align with public expectations. Other States and Territories have also moved away from retaining such laws.

England: From the 17th century onwards, blasphemy became a secular crime in England, with the state replacing the church as the primary agency responsible for initiating and conducting prosecutions. This shift was driven by the perceived link between religious dissent and political subversion, rooted in the belief that a nation's religious unity was essential for its peace and strength. However, in the post-Enlightenment era, blasphemy prosecutions began to decline as public sentiment shifted.¹³

People started to actively oppose these laws, arguing that they were outdated, unjust, and fundamentally at odds with democratic values and the right to freedom of expression. Furthermore, critics pointed out that the law was discriminatory, as it exclusively protected Christianity a framework that was no longer suitable for a modern, multi-religious society. Over time, the movement to repeal these statutes gained widespread support, eventually leading England and Wales to officially abolish their blasphemy laws in 2008.¹⁴ Similarly, Scotland has abolished the offence in 2021.¹⁵

United States of America: Until the 20th century, blasphemy was a punishable crime in the United States; however, the courts later declared these laws unconstitutional. A landmark shift occurred in the 1952 case of *Joseph Burstyn, Inc. v. Wilson*, where the U.S. Supreme Court

¹¹ Crimes Act 1900 (NSW), ss 529, 574.

¹² Crimes Act 1900 (ACT), s 440.

¹³ Riaz Hassan, "Expressions of Religiosity and Blasphemy in Modern Societies" *Negotiating the sacred: Blasphemy and Sacrilege in a Multicultural Society*, edited by Elizabeth Burns Coleman and Kessin White, 119-132 (Anu Press, 2006).

¹⁴ Criminal Justice and Immigration Act, 2008 (UK), s. 79.

¹⁵ Hate Crime and Public Order (Scotland) Act, 2021 (Scot.), s. 16.

ruled that blasphemy laws violate the First Amendment of the Constitution, which guarantees freedom of speech and freedom of religion. In this ruling, the Court overturned a New York law that had been used to ban "sacrilegious" films. Similarly, in 2010, a court in Pennsylvania ruled that enforcing blasphemy laws was a First Amendment violation in a case involving George Kalman. Kalman had attempted to register a film production company under the name "I Choose Hell Productions," but state officials rejected his application because state law prohibited corporate names from being blasphemous. Consequently, blasphemy is not a crime in the U.S., meaning that criticizing, mocking, or speaking disrespectfully about religion or religious figures is legal. Although archaic blasphemy laws remain on the books in the legal codes of a few states such as Massachusetts, Michigan, and South Carolina they are considered "dead letters." If any attempt were ever made to enforce them, they would be immediately struck down by the courts.

In addition, several other European countries have repealed their blasphemy laws on the grounds that they conflict with the right to freedom of expression and belief. This includes Malta (2016), the Netherlands (2014), Norway (2015), France (2017), and Ireland (2020). While blasphemy laws technically remain on the books in countries such as Austria, Finland, Germany, Greece, Italy, Poland, Spain, and Switzerland, their enforcement is extremely rare, and any resulting penalties are typically minor.

Blasphemy Laws in Muslim-Majority Countries

Pakistan and Saudi Arabia: In Pakistan, blasphemy laws are exceptionally stringent, and any act of sacrilege against a recognized religion is considered a crime. Specifically, those who speak against religious symbols, the Holy Prophet, the Quran, or Islam can face life imprisonment or the death penalty. These provisions are codified under Sections 295 to 298 of the Pakistan Penal Code; however, these laws frequently spark controversy and raise significant human rights concerns. Similarly, in Saudi Arabia, under Islamic Sharia law, insulting the Prophet, the Quran, or Islam can result in public execution or corporal punishment, such as flogging.

Iran and Indonesia: Iran also maintains strict Sharia-based laws where the death penalty is a possible consequence for blasphemy against Allah or sacred entities. In Indonesia, according to Presidential Decree No. 1/PNPS/1965 and Article 156(a) of the Indonesian Criminal Code, any person who publicly expresses hostility, hatred, or contempt toward a religion can face up

to five years in prison. A notable instance occurred in 2017 when the former Governor of Jakarta, a Christian, was sentenced to two years in prison under these laws a move widely regarded as politically motivated. While these laws are intended to maintain religious respect and social harmony, they have often targeted religious minorities, political critics, and social media users.

Egypt and Malaysia: In Egypt, the law provides for up to five years of imprisonment for wounding religious feelings or defaming religion. Likewise, in Malaysia, insulting religion is a punishable offense under both *Sharia* and civil laws. Speaking against Islamic symbols in Malaysia can lead to prison sentences ranging from three to five years.

IV. Conclusion and Recommendations

The discourse surrounding blasphemy laws in India reveals a complex tension between protecting religious sentiments and upholding the constitutional right to freedom of expression. While India does not possess a standalone "blasphemy law," Section 299 of the *Bharatiya Nyaya Sanhita* (formerly Section 295A of the IPC) functions as a legal mechanism to penalize deliberate and malicious acts intended to outrage religious feelings.

The evolution of these provisions from the historical catalyst of the 'Rangila Rasul' case to the strict statutory codification under the *Jaagat Jot Sri Guru Granth Sahib Satkar (Amendment) Act, 2026* in Punjab highlights a persistent effort to maintain communal harmony in a diverse society. However, the judiciary's role has been pivotal; the Supreme Court has upheld the constitutionality of these laws only by qualifying them as "reasonable restrictions" necessary for public order, rather than blanket bans on religious discourse.

Global comparisons highlight a significant divergence in how nations handle such offenses. Many Western democracies, including England, Scotland, and several European nations, have recently abolished their blasphemy laws, viewing them as outdated and discriminatory relics that conflict with modern democratic values. In the United States, such laws are considered unconstitutional under the First Amendment. Conversely, countries like Pakistan, Saudi Arabia, and Iran maintain exceptionally stringent laws where sacrilege can result in life imprisonment or the death penalty.

Ultimately, the challenge for the Indian legal system lies in ensuring that these provisions are

not weaponized to stifle legitimate criticism or minority voices. As the global landscape leans toward the decriminalization of religious insult, India must continue to balance its specific socio-religious sensitivities with the evolving standards of global human rights and individual liberty.

To achieve this, the implementation of specific safeguards is essential; for instance, ensuring a high threshold for proving a 'deliberate and malicious intent', and mandating a preliminary inquiry by senior police officials or judicial oversight before registering an FIRs under Section 299 of the *Bharatiya Nyaya Sanhita* to prevent its misuse. Interestingly, the legislative filters introduced under Punjab's new *Jaagat Jot Sri Guru Granth Sahib Satkar (Amendment) Act, 2026* such as restricting investigations to high-ranking police scrutiny (not below the DSP rank) validate the necessity of these protective measures. Moving forward, it is recommended that these uniform procedural inquiries and institutional checks, modeled after Punjab's administrative filters, be universally integrated into the enforcement of national blasphemy frameworks like Section 299 of the *Bharatiya Nyaya Sanhita*. By incorporating such procedural checks, India can protect communal harmony without compromising the fundamental essence of democratic dissent.