Forensic Psych 385

Final Assignment

Topic: Death Penalty in Pakistan

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Title:

Death Penalty in Pakistan

Abstract:

This paper examines the 27 different Capital crimes committed in Pakistan which results in giving death penalty or death sentence as stated in Pakistan Penal Code 1860. Seeing what our religion Islam and our Law says and by combining them coming up to a decision if death penalty is legal or illegal. Moreover looking deep into some of the most popular cases of capital crimes, Asia Bibi Blasphemy case and most recently case of Former Prime Minister Pervaiz Musharraf charged with High Treason and reviewing them to see if Pakistan's Law has given the punishment or is it just all in written and not implemented.

Introduction:

Islam strictly states that a murder of man is the murder of all mankind. Islam do not support death penalty but says that justice needs to be served as in the 6th Surah of Quran, Surah Al-An'am it is clearly stated in its verse number 151, "And do not kill the soul which Allah has forbidden [to be killed] except by [legal] right this has He instructed you that you may use reason" (Quran 6:151). Similarly in seventeenth Surah, Surah Al-Isra verse number thirty three states, "And don't kill the soul that Supreme Being has prohibited, except by right and whoever is killed unjustly, we've given his heir authority, however let him not exceed limits in [the matter of] taking life so, he has been supported [by the law]" (Quran 17:33). These verses show that murder is taken into account a sin in Islam however it's legal to use death penalization reviewing the law. However death penalty is legal in Pakistan and practiced too under the law of Pakistan Penal Code.

Death penalty conjointly referred to as Capital Punishment is a government sanctioned practice where a person is put to death or death sentence by the state as a punishment of crime or crimes. Prisoner who is waiting for implementation of death in a death sentence is said to be on a death row. The crimes that lead to death penalty punishment are capital crimes.

According to Pakistan Penal Code 1860 (PPC), Pakistan specifies capital punishment for 27 different crimes which includes blasphemy section 295C, Fasad fil-ardh which mean treason sections 121, 132; High Treason Act, 1973, section 2A, intentional murder sections 302, 303, 311, 312, 194, 396; Anti-Terrorism Act, 1997, sec. 7, abduction or kidnapping PPC 1960 sections 164A, 365A, 367A, rape section 376; Offence of Zina (Enforcement of Hudood), importation of girl from foreign country section 366B and procuration of minor girl section 366A for prostitution, striping of woman cloths and assault on her modesty section 354A, arms trading Pakistan Arms (Amendment) Ordinance, 1996, section 13A, drug smuggling section 9; Control of Narcotics Substances Act, 1997, and sabotage of railway system section 127; Railways (Amendment) Act, 1995, section Ordinance, 1979, section 5, Qatl-i-amd punishment for murder section 302 which is divided into 3 categories; gisas which means retribution for taking one's own life, ta'azir which means death or imprisonment and lastly punishment of imprisonment, penalty and offences related to religion sections 295 B and C, any libel made against Holy Ouran subsection 295 B, written or spoken jokes and defiling the sacred name of Prophet Muhammad section 295 C, homosexual acts section and sexual intercourse without marriage section 377, conspiracy of any kind e.g., criminal conspiracy section 120A, 120B and death penalty for anyone who erode authority and destabilize the state section 121, 121A, abet to mutiny section 132, dacoity with murder section 396, and hijacking section 402A, 402B.

The aim of the study is to focus on at least 2 to 3 sections of Pakistan Penal Code which describes the death penalty on committing various crimes as illustrated above with providing an example of that convicted crime form, from the country Pakistan and to see if the law is implemented or not.

Methods

Inclusion and exclusion criteria:

The papers dealing with death penalty literature and relating death penalty in Pakistan and our religion Islam, are included in this research. Capital punishment in Pakistan and how does the Pakistan Penal Code illustrates the 27 different crimes as mentioned above in the introduction with the section numbers of PPC on which the punishment leads to death penalty. Examples from Pakistan would be reviewed which specifically includes articles on one of the popular and talkative cases of crimes like blasphemy, treason and to see if the law is implemented in Pakistan or not and what does Islam say about death penalty and how our religion is related with the law through the sacred Quran verses in which Allah speaks about that killing a soul is prohibited except for what the legal law and right says.

Papers which included literature out of topic were excluded from the research.

Search Strategy:

Databases used to search literature on the topic death penalty were, Google Scholar, Science hub, REUTERS, Jstor, Dawn news, Geo news, BBC, Pakistan Penal Code Google, Quran.com, Al-Jazeera America and Springer. Key words used to find articles and journals were, death penalty in Pakistan, Islam and death penalty, death penalty punishment, Pakistan Penal Code section for death penalty, Pakistan law for death penalty, death penalty examples in Pakistan, capital

punishment in Pakistan, should Pakistan abolish capital punishment, capital punishment trials and appeals, death penalty appeals, Pakistan law for capital crimes, capital crimes committed by people in Pakistan, blasphemy act convicted by people in Pakistan, popular blasphemy cases in Pakistan, Asia Bibi case and blasphemy, the case of Asia Bibi, Christians case of blasphemy, hafiz junaid case of blasphemy, Pervaiz Musharraf case of treason, charges against Musharraf, death sentence of Musharraf, Islam and death penalty and Islamization in Pakistan

Main findings

Pakistan Penal Code 1860 describes and explains different punishments on committing various crimes in Pakistan. Out of 27 different crimes which results in Death penalty punishment one of them is Blasphemy, section 295 C of PPC 1860 states that, "use of derogatory remarks and so forth in admire of the Holy Prophet whoever by means of words, both spoken or written, or by way of seen representation, or with the aid of any imputation, innuendo, or insinuation, without directly or indirectly, defiles the sacred call of the Holy Prophet Muhammad (peace be upon him) will be punished with death, or imprisonment for life, and shall additionally be susceptible to fine" (PPC 1860). This way of defiling the sacred name or making jokes on Holy Prophet (pbuh) is called blasphemy. Bornstein and Miller (2006) said that religious appeals can lead to have a lesser punishment for crimes moreover added that courts give more attention to religious appeals. They conducted a study by selecting 265 participants of mid-sized Midwestern community members and were paid \$20 each. The aim of the study was to see whether religious appeals influence death sentences of prisoners or not Death qualification questionnaire was given and filled by participants after having their consent. "Study design was 2 case facts which included High Aggravators and High Mitigators multiply (*) 4 defense use of religion like

defendant became a Christian while in prison/ defendant has always been a Christian/the defense attorney makes a Biblical appeal for mercy/control condition multiply (*) 2

punishment in Pakistan, should Pakistan abolish capital punishment, capital punishment trials and appeals, death penalty appeals, Pakistan law for capital crimes, capital crimes committed by people in Pakistan, blasphemy act convicted by people in Pakistan, popular blasphemy cases in Pakistan, Asia Bibi case and blasphemy, the case of Asia Bibi, Christians case of blasphemy, prosecution use of religion retributive Biblical appeal or control condition." The results showed that juror decisions get affects by religious appeals but it lacks empirical research as less research was conducted.

Let's see this in the most popular case of Pakistan, Asia Bibi who was convicted of committing Blasphemy in a Village of Ittan Wali, Pakistan and recent case of former Prime Minister Pervaiz Musharraf who is given death sentence upon committing High Treason during his rule.

About Asia Bibi

Asia Noreen also known as Asia Bibi was born in 1971 in a small village of Ittan Wali near Sheikhpura District Punjab, Pakistan. Asia was a Christian who worked as a farmer to support her family. She was married to Ashiq Masih was a brick laborer and became a mother of 5, 2 were Asia's children and the rest 3 were her step children so altogether she was a mother of 5 as told Zehra Abid in her article the blasphemy in Pakistan: Asia Bibi case.

The Blasphemy in Pakistan: Asia Bibi case

This article of Zehra Abid written in 2015 talks about Asia Bibi who was blamed and convicted of committing blasphemy. In 2009, Asia while plucking falsa a berry with fellow lady farmers in

the field engaged in an argument as she was a Christian and other were Muslims who refused to drink water from Asia's glass as she touched it and it is somehow said that and meant that a Muslim cannot touch or eat from Christians utensils as it is considered to be unclean. Arguments were exchanged and the Muslim ladies blamed Asia of committing blasphemy as they mentioned that Asia while arguing said bad things about Holy Prophet pbuh. She insulted Prophet pbuh as mentioned in Schaflechner article where he stated (Bibi and Tollet 2012, 21) that Asia said what your Prophet has ever done to save mankind? This incident was narrated to village Qari, Salman who filed a report in Asia after 5 days when the incident took place. Court hearing was held in Nankana Sahib in November 2010 and Asia was found guilty and given death penalty punishment. A chaos occurred among the country including minorities mostly Christians and religious parties when this case got attention of everyone. Protests begin to occur as mentioned in Zehra Abid article which includes a picture taken by Arif Ali which shows Christians on the left side protested on 25th December 2010 to show support to Asia Bibi and on right it shows Sunni Muslims who protest on 23rd November 2010 against Asia Bibi. Many people came to support Asia Bibi case among which one was Governor Punjab Salman Taseer who defended Asia after visiting her in jail on 20th November 2010 plead for Asia mercy and gave a detailed statement to media by saying that, as stated in Schaflechner article, "Asia bibi is given a punishment which I considered extremely strict and oppressive, further he added that in Jinnah's Pakistan there was no such law and severe punishment moreover the white color in our flag represent minorities and our religion Islam protects minorities so I being the Governor would speak on the behalf of humanity and defend Asia bibi and give her appeal to president who at that time was Asif Ali Zardari to pardon her", but before he could do any of that Lahore high court restrained presidents pardon by giving an order. Schaflechner in his article mentioned Braveli Ulema who said that

Taseer called section 295C as "black Law" further quoting another Braelvi scholar Ahmed Qadri who took personal information about Salman Taseer from his son Astish Salman who lives in Delhi who mentioned that a person like my father who eats pig, drinks scotch, never fasted nor prayed moreover when he, "One time in jail he got a Quran in his hands, [Taseer] said that this was the first time in his life that he had the chance to read the Quran from cover to cover but that there was nothing for him in it" (Qadri 2012, 26). On January 2011 Taseer was shot dead by his own body guard Mumtaz Oadri who later received death penalty. After Salman Taseesrs assassination 3 months later federal minister of minorities Shahbaz Bhatii stood and reviewed Asia case was assassinated too because he stated that Asia case was baseless as the prof provided was not too strong. The Qari Salman said that Asia confessed her crime in front of 100 villagers where as the statement made by asma said that she confessed her crime in front of 1000 people where as mafia mentioned 2000 people. (Asma and mafia were the lady farmers who were present when the incident took place) where as another villager, Muhammad Afzal who was not even present when the incident took place said that there were 200 to 250 people present. Asma said that Asia confessed it at her father's house where as mafia said that she confessed it at her mother's house where as Qari said that she confessed it in her own house. Another witness who lived in the village named Naseem Akhter a college student said that blasphemy punishment is death though he too was not present when the incident happened. Every witness testimony did not match with the other so the case was considered poor moreover Asia's husband Ashiq and her family had to leave the village because their life's were at stake, he however made a secret call to Al-Jazeera America and said that he and his wife respects all Prophets and it doesn't occur to him in any way that his wife would have had said bad things about Prophet pbuh. Some others like Asia who were convicted of blasphemy were Junaid Hafeez who was professor of

Bahahudin Zakirya University, on May 2013 he shared a post on his Facebook which contained disrespectful comments about Holy Prophet pbuh wife. His lawyer Rashid Rehman who defended him was shot dead after one year in Multan. Supreme Court of Pakistan on 31st October 2018 freed Asia Bibi stating poor and unstable statements of witnesses but Asia was to be kept in secret custody as a chaos among different parties in Pakistan started protests against the bail of Asia bibi. BBC news interviewed PM Imran Khan on 10th April 2019 who talked a bit about Asia bibi saying that she is save and will be leaving Pakistan soon moreover he added that he cannot talk or say about it on media anymore. On 8th may 2019 Asia bibi left Pakistan for Canada, US Secretary of State Mike Pompeo wished Asia good luck as she was now freed. She is now reunited with her family in Canada, no one knows where she was kept when she was in Pakistan and ever after her departure. Lastly Khadim Hussain member of Tehreek-e-Labaik was arrested as he carried put massive protests against the bail of Asia Bibi.

Pervaiz Musharraf- charged for High Treason

Musharraf regime started in 1999 when he became the Prime Minister of Pakistan. During his rule, in 2007 he destabilize the constitution and imposed emergency rule, "which unconstitutionally and unlawfully held the charter in abeyance, hence he subverted the constitution and committed the offence of excessive treason punishable below phase 2 of the High Treason (Punishment) Act 1973, which is within the jurisdiction of the special court established below Section 4 of the Criminal Law Amendment (Special Courts) Act 1976" as reported by DAWN News in 2013.

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Pakistan Penal Code Witnesses list of prosecution was also submitted to the government which included according to (DAWN, 2013), "Cabinet Division, deputy secretary M. Siraj, general of Federal Investigation Agency (FIA) Mohammad Khalid Qureshi, FIA director Maqsood Hassan and Hussain Asghar, law and justice ministry deputy solicitor Taj Umar Khan, PTV news employee, cabinet division section officer Kaleeem Shehza and inspector of FIA Khalid Rasool."

Restrict orders have been given to ensure death penalty is given to Pervaiz Musharraf as he is in Dubai currently receiving medical treatment, the order says that if he dies before execution than "his dead body shall be dragged to D-Chowk Islamabad, Pakistan, and shall be hanged for constant three days" as reported by GEO news in 2019.

Plea for his unfitness is given moreover protests in different cities of Pakistan are carried out but it is never happening in any way that he would get free of this punishment.

Conclusion

This paper analysis the popular cases of Capital crimes in Pakistan which includes the Blasphemy case of Asia Bibi which took place in 2009 and in 2010 she was sentenced to death by Nankana Sahib court upon having poor evidence. Till 2018 she was in jail and a lot had happened in these 8 years, whoever came to support of Asia Bibi was assassinated among which one was Governor of Punjab Salman Taseer. Many protests in support and against of Asia Bibi were carried out and a chaos occurred in different parties and people of Pakistan which included Brevlis, Ahmedis, Thereek-e-Laibak, Christians in Pakistan and from abroad other famous parties. In 2018 she was bailed out as Supreme Court suspended the decision due to inconsistent evidence. Asia bibi has now become so famous worldwide that many famous and infamous people stood in her support and in 2019 she was secretly sent to Canada to get reunited with her family. It is said in various ways that the support of Christian community all around the globe has made her bail possible and that religious appeal did not put enough affect but the strength of Christians and people who stood for Asia's support. Another case of High Treason committed by ex-Prime Minister Pervaiz Musharraf recently came into light after special court reviewed the Musharraf rule, which in 2007 he imposed emergency rule by destabilizing the constitution to which he is given death sentence. These cases show that law is implemented in Pakistan and it is never too late to give punishment to the ones who commit crimes however there are many perpetrators still out there who are living their lives without punishment.

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Appendix A: Matrix for Literature Review

Author, year	Purpose/study/detail	Design/Punishment	Sample/Example	Main Findings	Limitations/Consequence
Pakistan Penal Code 1860	Section 295C Convicting BLASPHEMY 295- C. Use of derogatory remarks, etc in respect of the Holy Prophet	Death or Imprisonment for life and shall be liable for fine too	Asia Bibi case Hafeez junaid case	-	-
Bornstein and Miller, 2006	The Use of Religion in Death Penalty	-Study design was to see whether religious appeals influence death sentences of prisoners - death qualification questionnaire was given and filed by participants -design was 2 case facts *4 defense use of religion*2 prosecution use of religion	-265 mid-sized Midwestern community members participated in the study and were paid \$20 each	- religious appeals do effect jurors decisions	-attention given to religious appeals -less empirical research was conducted - current study result shows that courts justifies the religious appeals made by the lawyers
Zehra Abid, 2015	Blasphemy in Pakistan: The case of Asia Bibi	Death sentence	-In 2009 in the village of Ittan Wali plucking falsa being Christian got into argument with other villagers who refuse to drink water from asias glass because of her religion -November 2010- court of Nankana Sahib Asia was found	-ittan wali village -person who brought the case wasn't even present when the incident took place -Human Rights Lawyer Asad Jamal supported Asia	-first and only woman up till now to be sentenced to death in Pakistan -January 2011 Salman taseer was assassinated for standing up for Asia -Shahbaz Bhatti who investigated asia's case was also assassinated -before Asia, junaid hafeez committed blasphemy through social media -His lawyer Rashid Rehman was shot dead

			guilty and	-a college	-Ali Dayan Hasan
			sentenced to	student	director of Pakistan
			death	Naseem	Human Rights Watch
			death	Akhter	supported Asia
					-Asif Ali Zardari being
				opposed and said	the president in 2010 was
					_
				blasphemy	prohibited to give
				punishment is death	presidential pardon to
				is death	Asia by Lahore High Court
				Muhammad	
				Muhammad Imran	-Khawaja Shareef was Chief Justice of Lahore
				supporting Akhter said	High Court
				that	
				punishment	
				should be	
				given	
				-Asia	
				husband	
				spoke ti Al-	
				jazeera	
				America	
				through	
				secret call	
				saying that	
				they believe	
				in all	
				Prophets	
Jürgen	Blasphemy and the	-Setting the scene:	-Asia Bibi	-Salman	-Religious sects
Schaflechner,	appropriation of	Pakistan	-Ilmuddin	Taseers	supported Salman
2019	vigilante justice in	Blasphemy Laws	-Amir Cheema	statement	Taseers assassination
	'hagiohistoric'	-Barelvis and the	- Ghazi Mumtaz	and appeal	-On 8 th November 2010,
	writing in Pakistan	apotheosis of the	Qadri Shaheed	-Braveli	Asia bibi was sentenced
		Prophet		ulema	to death for committing
		Muhammad		interpret	blasphemy
		- Asia Bibi's		Salman	- On 31 st October 2018
		transgression		Taseers	Supreme court
		- Villainising		support for	suspended the decision
		Salman Taseer		Asia bibi as	
		- Religious affect		an attack on	
		- 'Hagiohistoric'		Islam	
		writing and			
		affective archives			

BBC News, 10 th April 2019	Pakistan PM Khan: Kashmir issue 'cannot keep boiling'	In an interview with PM Imran Khan about Kashmir issue	BBC interviewed PM Khan	Talked about Kashmir issue and mentioned a bit about Asia bibi	-PM talked about a bit bibi saying that she is save and will be leaving Pakistan soon -moreover he added that he cannot talk or say about it on media anymore
BBC News, 8 th May 2019	Asia Bibi: Christian leaves Pakistan after blasphemy acquittal	Asia bibi case	US Secretary of State Mike Pompeo wished Asia good luck as she was now freed from the court	-Asia bibi case was suspended by supreme court last year 2018 -her destination where she was secretly kept was hidden from all even when she left for Canada	-reunited with her family in Canada - Khadim Hussain was arrested leader of Tehreek-e-Labiak
Pakistan Penal Code, 1860	Fasad fil-ardh which mean treason sections 121, 132; High Treason Act, 1973, section 2A Section 121. "Waging or attempting to wage war or abetting waging of war against Pakistan." Section 121 A. "Conspiracy to commit offences punishable by section 121."	Death sentence or imprisonment for life	Pervaiz Musharraf	-	-
Asif Shahzad, 2019	Pakistan court's 'hang him in streets' rider to Musharraf death sentence sparks fury	Death sentence	Former Prime Minister Pervaiz Musharraf	-World news, regime started in 1999-2007	-on his death bed in Dubai -If dead before handed, his body will be hanged in D-chowk, Islamabad

				-destabilize the constitution, imposing emergency rule -charged of High	
				Treason	
Dawn News,	Five Charges await	Death sentence	Pervaiz	5 charges	-special court comprising
2019	Musharraf		Musharraf	against	3 Judges
				Musharraf	-order of death sentence
				of high	was given
				treason	-no pleas accepted
					-5 charges detailed
					description given