CHAPTER THREE
CURRENT APPLICATION OF TRADITIONAL RULES OF BLASPHEMY (SABB)

3.1. RELATED LEGISLATION

There is a reference to apostasy (irtidad) in Article 26 of the 1986 Press Code of Iran, which in fact addresses sabb. The article states: “Whoever insults Islam and its sacred things through the press and his or her guilt amount to apostasy, shall be sentenced as an apostate and should his or her offence fall short of apostasy he or she be subject to the Islamic Penal Code”\(^\text{232}\). On the other hand, as “there was no relevant article in the Penal Code to Article 26 of the Press Code, this shortcoming was addressed in 1996 by the new Article 513 of the Penal Code.”\(^\text{233}\) The article, which was included under the category of tazir, explicitly prescribed the death penalty for sabb. The article states: “Anyone who insults sacred things of Islam or any of the great prophets, or pious Imams [twelve Shiite Imams] or Highness Fatima [the daughter of the Prophet] if the offence is liable to sabb-al Nabi the offender will be executed and otherwise he or she will be imprisoned from one to five years.”\(^\text{234}\)

Despite the earlier aim of the legislators to link this article to the relevant provision of the Press Code, the article by its general wording is capable of addressing offences of insulting under the scope of both the media and elsewhere. Furthermore, while an act of insult varies in different times and places, there is no legal base for realizing sabb-al Nabi or offence of lesser degree in the Code or other laws.\(^\text{235}\) Also, as will be discussed in the next section, Article 6 of the Press Code has extended the scope of the Code to the offences based on heresy.\(^\text{236}\)

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\(^{232}\) The Press Code of Iran, supra note 114.

\(^{233}\) Mirmohammadsadeghi, supra note 32, p. 47.


\(^{235}\) Also see introduction of this book, footnote 56.

\(^{236}\) See section 4.1 of this book for more details.
Inheriting from the era of colonialism, Pakistan has embodied its blasphemy law in Articles 298A, 295B and 295C of its Penal Code. Unlike Iran, these articles have provided a long list of instances of *sabb* or other insulting offences. Article 295C, which prescribes the definition and punishments of *sabb*, along with the death penalty for the offence, suggests other alternative punishments, i.e. life imprisonment and a fine. Yet, similar to the legislation of Iran and apparently in line with the traditional Muslim law on punishment of *sabb*, no distinction has been made between the punishment of a male or a female offender. The article defines the offence as, use of derogatory remarks, etc. in respect of the Holy Prophet. The article adds: “Whoever by words, either spoken or written or by visible representation, or by any imputation, innuendo, or insinuation, directly or indirectly, defiles the sacred name of the Holy Prophet Mohammad shall be punished with death, or imprisonment for life, and shall also be liable to fine.”

The two other articles of the Pakistani Penal Code address the other blasphemy offences lesser than *sabb* with lighter punishments. Article 295-B is related to defiling of a printed copy of the Holy Koran: “Whoever will fully defiles, damages or desecrates a copy of the Holy Koran or of an extract there from or uses it in any derogatory manner or for any unlawful purpose shall be punishable for imprisonment for life.”

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237 Sections 295 and 298 of the Pakistan Penal Code (1861) were aimed at preventing and limiting religious violence. In 1980, Section 298 was inserted in the Penal Code and in 1982 Section 295B was added to it. In 1986, the ‘Criminal Law Amendment Act’ amended the Penal Code and inserted the blasphemy law in Section 295C. Section 295C of the Penal Code was amended on 29 July 1991 as a result of the entry into force of the 1991 Shariat Act. In the spring of 1991 the Supreme Court, following the precepts of the Shariat, issued an order, subsequently confirmed by the Senate, declaring any person henceforth found guilty of blasphemy under Section 295C of the Penal Code, liable to the death penalty, without any possible form of appeal. In 1991 Ordinance XXI, promulgated on 7 July, amended Section 295 A of the Penal Code and the Code of Penal Procedure by raising from two to ten years the maximum prison sentence for outraging the religious feelings of any group. Finally in 1992, Section 123 A of the Penal Code was amended to declare any act prejudicial to the ideology of Pakistan a criminal offence. See Abdelfattah Amor: Visit to Pakistan, supra note 144, paras. 10–16.

In this part Sections 295B, 295C and 298A of Pakistan Penal Code will be discussed and compared with similar provisions of other Muslim states. Sections 289B and 298C of Pakistan Penal Code on Ahmadies will be left to the next part.

238 Pakistan Blasphemy law *ibid.*