



International Commission of Jurists

**Asia Bibi's blasphemy case:
Final plea for justice**

Questions and Answers

October 2016

The International Commission of Jurists (ICJ) releases the following Questions and Answers in view of the Supreme Court's hearing on 13 October 2016 of Asia Noreen's (Asia bibi) appeal challenging her conviction and death sentence for blasphemy.

The Q&A explains the allegations against Asia bibi and describes the violations of Pakistani and international fair trial standards in her blasphemy trial and appeal before the Lahore High Court.

What are the allegations against Asia bibi? When was she convicted?

Asia bibi was convicted for blasphemy under section 295-C of the Pakistan Penal Code for allegedly defaming the Prophet Muhammad.¹ The offence carries mandatory death penalty under Pakistani law.

The allegations against Asia bibi are that she made three "defamatory and sarcastic" statements about the Prophet Muhammad on 14 June 2009, during an argument with three Muslim women while the four of them were picking fruit in a field. The prosecution also claims Asia bibi "admitted" making these statements at a "public gathering" on 19 June 2009 and asked for forgiveness.

A trial court convicted Asia bibi for blasphemy in November 2010 and sentenced her to death. The Lahore High Court upheld her conviction and confirmed her death sentence in October 2014. The Supreme Court admitted her appeal in July 2015. The first hearing of the appeal before the Supreme Court is scheduled to take place on 13 October 2016.

What was the evidence in support of the allegations against Asia bibi?

The prosecution presented seven witnesses to support the allegations of blasphemy against Asia bibi.

Two eyewitnesses, Mafia bibi and Asma bibi, claimed they heard Asia bibi make the allegedly blasphemous remarks, and later "admit" to making the statements during a "public gathering" a few days later.

Other witnesses included the complainant Qari Muhammad Salaam, a local cleric, who claimed he heard about the alleged blasphemous statements from Mafia and Asma and got a criminal complaint for blasphemy registered with the police; three police officers who registered and investigated the case; and a local resident, Muhammad Afzal, who alleged he heard Asia bibi admit to making "blasphemous remarks" and seek pardon at the "public gathering".

¹ Section 295-C of the Pakistan Penal Code: "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 Muhammad (peace be upon him) shall be punished with death, or imprisonment for life, and shall also be liable to fine."

What was Asia bibi's defense?

Asia bibi stated she had a "quarrel" with Mafia and Asma on 14 June 2009 following their refusal to drink water brought for them by Asia bibi because she was Christian. She claimed "some hot words were exchanged" during the argument, after which Mafia and Asma, alongside Qari Muhammad Salaam and his wife (who taught Asma and Mafia the Quran), fabricated the blasphemy case against her. Asia bibi also stated that she had "great respect and honour for the Holy Prophet (PBUH) and the Holy Quran" and never made the alleged blasphemous remarks.

What are some of the problems with Asia bibi's conviction?

In its judgment in Asia bibi's case, the Lahore High Court (LHC) conceded "the defense has not defended its case with the required seriousness..." Yet, despite acknowledging possible violations of the right of a fair trial, particularly the right to an adequate defense, the Court went on to uphold Asia bibi's conviction and death sentence.

Further, the trial court used Asia bibi's statement against her as an admission of guilt, finding that the "hot words" exchanged between her and "the Muslim ladies" were "switched into a religious matter", and concluding that the "hot words" must have been "nothing other than the blasphemy". Curiously, however, the trial court rejected the notion that the altercation over water was a possible motive for the prosecution eyewitnesses to falsely implicate Asia bibi for blasphemy. The Lahore High Court too did not probe further into Asia bibi's statement, and held that there was no possible "ill will" between the eyewitnesses and the accused for them to fabricate the blasphemy allegations.

Both courts also disregarded discrepancies in the accounts of the witnesses regarding the "public gathering" where Asia bibi allegedly "admitted" her guilt. These discrepancies included significant differences in the number of people allegedly present at the "public gathering" (ranging from 100 to 2000 in the different testimonies); how Asia bibi was brought to the "public hearing", and how long the "hearing" lasted.

The courts also failed to apply "*tazkia-tul-shahood*" (inquiry undertaken by the court to establish the credibility of witnesses), without which defendants cannot be convicted or punished in *hadd* (capital punishment) cases for certain offences under Pakistani law.²

During the entire course of the proceedings, neither court considered which of the three statements attributed to Asia bibi were "blasphemous" and why, or what was the "reasonable person" standard in the interpretation of section 295-C to meet the threshold of blasphemy.

² For a detailed analysis of the applicable law and jurisprudence, see Asad Jamal, *Herald*, "A berry-picker's trial", 22 December 2014, accessed at: <http://pukhtunkhwatimes.blogspot.co.uk/2014/12/pakistan-aasia-bibi-trial-berry-pickers.html>

Additionally, both courts did not consider whether Asia Bibi possessed the requisite criminal intent to commit the crime of blasphemy, despite the Federal Shariat Court's ruling that blasphemy is an "intentional or reckless wrong".³

The prosecution's failure to prove all elements of the offence, including the requisite intent to defame the Prophet Muhammad, calls into question the convictions by the trial court and the Lahore High Court.

How does the application of blasphemy laws violate Pakistan's human rights obligations?

The application of Pakistan's blasphemy laws has been denounced for a variety of reasons.

Last year, the Supreme Court of Pakistan held that individuals accused of blasphemy "suffer beyond proportion or repair" in the absence of adequate safeguards against misapplication or misuse of such blasphemy laws.⁴

Confirming the Supreme Court's findings, ICJ's 2015 [study](#) on the implementation of blasphemy laws in Pakistan found that more than 80 per cent of convictions by trial courts are overturned on appeal, very often because appellate courts find evidence and complaints fabricated based on "personal or political vendettas".

The ICJ further found the following systematic and widespread fair trial violations in the application of the blasphemy laws, which also apply in Asia Bibi's case:

- Intimidation and harassment of judges and lawyers that impede on the independence of the judiciary and the right to a defense;
- Demonstrable bias and prejudice against defendants by judges during the course of blasphemy proceedings and in judgments;
- Violations of the right to effective assistance of counsel;
- Rejection of bail and prolonged pre-trial detention;
- Incompetent investigation and prosecution that do not meet due diligence requirements under the law;
- The prosecution and detention of people living with mental disabilities;
- Inhumane conditions of detention and imprisonment, including prolonged solitary confinement; and
- Vaguely defined offences that undermine the rule of law because they leave the door open to selective prosecution and interpretation.⁵

³ PLD 1991 Federal Shariat Court 10.

⁴ Malik Muhammad Mumtaz Qadri v. the State (2015).

⁵ For a detailed analysis, see *International Commission of Jurists*, "On Trial: the implementation of Pakistan's blasphemy laws", November 2015, accessed at: <http://www.icj.org/pakistan-trials-for-blasphemy-fundamentally-unfair-icj-new-report/>

The ICJ opposes the criminalization of the exercise of the rights to freedom of expression and religion or belief in Pakistan in the shape of the blasphemy laws and considers them a flagrant violation of Pakistan's international human rights obligations, including its obligations to respect the rights to freedom of thought, conscience and religion; freedom of expression; and equal treatment before the law.

Furthermore, mandatory death sentence -including under 295-C of the Penal Code -violates Pakistan's obligations to respect the rights to life, to a fair trial, and to prohibit torture and other cruel, inhuman or degrading treatment or punishment.