

## BLASPHEMY AND HUMAN RIGHTS

A commentary on *Parashat Emor*

By Hannah Swirsky

This week's *Parasha* concludes with a focus on blasphemy, a term which denotes the use of G-d's name in disrespect. In this piece, we learn that a Jewish man was sentenced to death by Moses after committing blasphemy.

While the Torah states that “*whoever curses his G-d shall bear his sin*” (Leviticus 24:15), should blasphemy still be a punishable offence?

This account raises important questions surrounding the curtailment of freedom of expression and freedom of

the press. Although it

can cause great offence

and upset, the act of

blasphemy is still

an act of speech

which does not

in itself constitute

an infringement

of individual rights.

Therefore, placing limits

on what people can or

cannot say by legislating against

blasphemy is a direct curtailment of freedom of expression. Indeed, the European Court of human rights states that restrictions on freedom of expression are only justifiable if “necessary in a democratic society”. Such restrictions are thus defensible if speech is seen to incite hatred. As using G-d's name in disrespect does not in itself necessarily incite hatred, the criminalisation of blasphemy cannot be legitimately justified.

Directly linked to freedom of expression is freedom of the press, which has intrinsic value and is itself a human right. As the Universal Declaration of Human Rights states “everyone has the right to freedom of opinion and expression”, which includes the freedom to “impart information and ideas through any media regardless of frontiers”. Freedom of the press is also protected in Article 10 of the European Convention on Human Rights, enshrined

in British law through the 1998 Human Rights Act. Therefore, protections of freedom of the press trump protections against any offence which may be caused by blasphemy.

It is well understood that freedom of the press is a fundamental prerequisite for a flourishing democracy. Legislation which prohibits blasphemy is largely consigned to totalitarian or autocratic states, often existing alongside other detrimental controls. Allowing citizens a public voice ensures an arena in which views and criticism can be shared and discussed, increasing democratic participation. The press also plays an important part in ensuring transparency of the state, ensuring that the government of the day is held accountable for its actions. Indeed, the dismantling of human rights institutions and mechanisms by the state often starts with attacks and limits on the press. This is true of Nazi Germany in the 1930s, where the curtailment of the press was one of the first steps in the eradication of individual and community rights.

Furthermore, contrary to the view that there exists a tension between freedom of expression and freedom of religion, freedom of expression enables individuals and communities to exercise freedom of religion by allowing them to publicly express and talk about their religion. This protects religious minorities from persecution, ensuring the state cannot hold a monopoly on the practice of religion.

In democratic societies where there exists a plethora of religions and opinions, blasphemy laws are extremely problematic. While we must all be respectful of one another's religious beliefs and ensure everyone can peacefully practise their religious views without hatred or discrimination, what constitutes blasphemy is often subjective and is thus extremely difficult to police. Freedom of expression allows different religions to flourish and freedom of the press ensures the state is held accountable, which is fundamental in a democratic society. However, while freedom of expression and freedom of the press are enshrined in human rights law, there still exists barriers to such freedoms and we must continue to ensure that these rights are adequately protected.

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