

أَعُوذُ بِاللَّهِ مِنَ الشَّيْطَانِ الرَّجِيمِ

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

الْحَمْدُ لِلَّهِ كَمَا هُوَ أَهْلُهُ وَالصَّلَاةُ وَالسَّلَامُ عَلَى سَيِّدِ وُلْدِ آدَمَ كَمَا يَحِبُّ وَيَرْضَى بِأَنْ يُصَلَّى عَلَيْهِ

In The Name Of Allah The Most Compassionate Very Merciful
All Praise Due To Allah And Peace And Blessings Be Upon His Beloved Messenger

Ghazi Mumtaz Qadri – Yemeni Fatwa Q & A

Question

Esteemed and honourable Shaykh, peace be upon you and the mercy of Allah and his blessings be upon you.

O my honourable leader, what is your opinion on the following issue:

1. Salman Taseer who was the former governor of Punjab and who used to be considered a member of Islam, however, he also considered the law of Pakistan which protects the dignity and respect of the Holy Prophet (salal laahu alaihi wa sallam) on the basis of which, anyone who speaks ill of the Prophet – peace be upon him – or passes any blasphemous comment against him or ridicules him is to be executed. He ridiculed the law by saying that it is a “man-made” law and he also termed it as “a black law.

(Rooz Nama Nawaa-e-Waqt, 23rd November 2010, page).

Thereafter, under the same law which involved a female named Asiyah BiBi and who was already convicted of (a crime against Islam), he (Salman Taseer) further mentioned that, “Her punishment prescribed which is death is indeed very severe and an oppressive (or unjust) act. This law was not found in the Pakistan of Qaid-e-Azam Mohammed Ali Jinnah and such an unjust punishment could not take place (at that time)”.

(for further elaboration, please refer to: (Asia Bibi Press conference. <http://www.salmantaseer.com/main.aspx>).

Prior to this, he had also mentioned that the Ulama who create a big fuss about everything have not taken the responsibility of this country. The people (of Pakistan) are unanimous of their acceptance of the 1973 constitution and this constitution is something which would maintain democracy. The law which protects the honour and dignity of the Holy Prophet (salal laahu alaihi wa sallam) or in other words, the law of blasphemy should be abolished as quick as possible and “I am firmly established on this (thought)”.

(Rooz Nama Jinnah weekly. 19th December 2009).

He continued to echo the same sentiments in a TV interview on the Sama TV channel and when the anchor mentioned to him that this law of blasphemy was something which the Parliament had passed themselves, he replied, “Yes, however, a new assembly has now come into existence and who have already passed 18 new amendments. In other words, those issues which were considered as law at first, were not correct in the first place. How can it be a huge task to amend this law, we need to sit and review it.”

(Please view: Youtube: Salman Taseer on Blasphemy).

We therefore ask the question: To call this law of blasphemy as a “black law” and to endeavour to abolish it and to continue trying to go against it and to insult and belittle (this law): In the eyes of Shariah, does this not fall under the category of complete disrespect for the Holy Prophet (salal laahu alaihi wa sallam) since we can clearly see that the only purpose of this (action of his) is nothing but to create doubt for those who have actually been guilty of insulting the Holy Prophet (salal laahu alaihi wa sallam) and the other intent is to make a mockery of the dignity and status of the Holy Prophet (salal laahu alaihi wa sallam)!

In the same way, for this person Salman Taseer to display sympathy for a person who has actually insulted the Holy Prophet (salal laahu alaihi wa sallam) even though after a long and arduous trial she was found guilty by a court of law, given the death sentence and during the FIR procedure the

whole process was thoroughly investigated by an officer of law and in front of whom, she actually admitted her crime!

Not only that, even the community, she has religious affiliation to, has condemned her as guilty. (In spite of this) for someone (like Salman Taseer) to visit this person with her family members in jail as a mark of sympathy and even promise her that he would save her from this punishment. Later on, he called the media and informed them that he was about to create a bombshell and in this interview with the media, he sat with this same female and conducted a full press interview wherein he called this law of blasphemy a “black law”. Are these actions of his not a clear and an open insult to the dignity and honour of the Holy Prophet (salal laahu alaihi wa sallam)? In the eyes of Islamic Shariah, is this person fit to be killed and is his killing justified?

What is the Islamic ruling about a person who considers someone that has been condemned to death by law for insulting the Holy Prophet (salal laahu alaihi wa sallam) as oppressive and unjust and calls for the abolishment of such a law (which honours the Holy Prophet salal laahu alaihi wa sallam), again, what is the Islamic ruling on such an act? Especially when this law is clearly proven from the testimony and evidence of the Quran and Sunnah! At the same time, the Shariah court as per the regulation outlined in the Quran and Sunnah has already given a decision that the proper punishment would be given to the guilty person. This law is also a law which is clearly accepted within the laws of this country and something which is acted upon. The punishment of death is according to Quran and Sunnah and this law was promulgated according to the Quran and Sunnah. Yet, for someone to continue to insist that such a law or the punishment outlined for this crime (which is according to the Quran and Sunnah) is something which is oppressive: is this not the same as refuting the Quran, the Sunnah and the Divine Laws of the Almighty (azza wa jall)? According to Islamic Shariah, does this not clearly prove open Kufr and what is the Shariah ruling on such an apparent and clear Kufr?

Are the statements presented also not clear and open Kufr and that he is guilty of committing open Kufr? He was also someone who was doubtful about the constitutional law which declared that the Qadiani sect was a non-Muslim minority. His own daughter, Sher Bano Taseer in an interview on the NDTV channel called “The Buck stops here” also informed the audience

that her father, was completely against the constitutional law of declaring the Qadiani sect as a non-Muslim minority.
(*Jang News January 2011*).

This clearly proves that this person, (Salman Taseer) did not consider the Qadianis as Kaafirs and in fact, he actually wanted to abolish the constitutional law which had declared them as Kaafirs and a non-Muslim sect. This also further proves that he clearly did not believe in the Holy Prophet (salal laahu alaihi wa sallam) being the last and final Prophet! In like manner, his own son, Aatish Taseer revealing some aspect of his father's despicable life, writes that, "My father used to drink Scotch whiskey every night. He never fasted and never read Salah and even used to eat pork! (His father had revealed to him) that he had committed this only once and that too, when he was in jail and was given the Quran to read. (His father Salman Taseer mentioned to him that), "I read it from the beginning to end many times and I felt that there was nothing for me in this."
(*Stranger to History by Aatish Taseer, pages 21,22*).

This statement of (Salman Taseer) does not only insult the Divine Word of Allah (azza wa jall) but also openly refutes the very Divine Book of Allah (azza wa jall).

2. Mumtaz Husain Qadri stepped forward and killed this person because he strongly felt that this person had openly insulted the Holy Prophet (salal laahu alaihi wa sallam) and that it was permissible to kill him. In front of Mumtaz Husain Qadri, there was also the legal ruling of the Ulama clearly outlining the fact that this person had openly insulted the Holy Prophet (salal laahu alaihi wa sallam) and that it was permissible to kill him. He was also fully aware that since this person, (Salman Taseer) was a very powerful individual and was someone who was the constitutional head of Punjab, he would be (excluded and saved from any retribution and punishment) and that during his period of rule, nothing could be brought against him in the form of a court ruling. Hence, Mumtaz Husain Qadri, as a means of displaying true and sincere Islamic belief, decided to kill this person.

According to Islamic Shariah ruling, how would you classify the behaviour of Mumtaz Husain Qadri who took the law into his own hands and killed a person who was a heretic and had openly insulted the Holy Prophet (salal laahu alaihi wa sallam)? Will Mumtaz Husain Qadri be entitled according to

Islamic ruling for any punishment or Diyat and will he be entitled for any retribution whatsoever according to Islamic law?

Questioner:

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Fatwa from the largest Darul Iftah in Yemen which proves the Kufr of Salman Taseer and the innocence of Mumtaz Qadri

Answer

Allah (azza wa jall) in Whose Name, Most Beneficent, Most Merciful.

All Praise is for Allah (azza wa jall) Lord of the Worlds, Durood and Salaam upon the last and final Prophet from the Prophets and Messengers, our Master who has been sent as a Mercy to the universe and upon his blessed family and blessed companions all those who sincerely follow him until the day of Judgment.

We have received a question in the city of Tareem, Hadramaut, Yemen from Mohammed Mehbubur Rasool Qadri a citizen of Pakistan from the city of Lahore through Doctor Mohammed Mehrbaan Baarawi. On the 13th of Rabi-us-Thani 1433 A.H. A full sitting of the Darul Ifta was arranged and all aspects of this question were thoroughly discussed, debated and analyzed from all directions and all viewpoints. We have reached the conclusion that if this is the case as outlined in the question then the person named Salman Taseer in the light of Islam is a Murtad and all the rulings governing a Murtad will become applicable upon him. The explanation of this is as follows:

Firstly, he will be encouraged to make Taubah which is Waajib. If he makes Taubah, so be it. If not, he should be killed. (thereafter), he will not be given a (proper Islamic) ghusal and neither would his Janaza salah be performed nor

would he be given a kafan. He will not be buried in a Muslim cemetery. All his relationship with his wives would be severed. Those whom he had not yet had intercourse with, they will be divorced immediately and after he has become a non-Muslim, all those wives whom he has had intercourse with, a complete and total divorce (from him), would become applicable after they complete their stipulated days of Iddat.

He will not be able to remain the inheritor of anyone and neither will there remain anyone who will be his legal inheritors. All his wealth and property will cease to have any legal connection with him until he again becomes a Muslim. The reason is that; to become a Murtad is the worst type of Kufr.

In Surah Baqarah, verse 217, the Quran declares that:

وَمَنْ يَّرْتَدِدْ مِنْكُمْ عَنْ دِينِهِ فَيَمُتْ وَهُوَ كَافِرٌ فَأُولَئِكَ حَبِطَتْ

أَعْمَالُهُمْ فِي الدُّنْيَا وَالْآخِرَةِ وَأُولَئِكَ أَصْحَابُ النَّارِ هُمْ فِيهَا

خَالِدُونَ ﴿٢١٧﴾

And whoso among you turns back from his faith, then dies as an infidel, then their works shall go in vain in the world and in the Hereafter, and they are the people of Hell and will abide in it forever.

When Hadrat Allamah Mohammed bin Saalim bin Haafiz (rehmatullah alaihi) was questioned about that person who mocks at someone standing in respect during a Meeladun Nabi (salal laahu alaihi wa sallam) when he hears the description and attributes of the Holy Prophet (salal laahu alaihi wa sallam), then he gave a very in-depth explanation of this. He also presented numerous testimony and evidence proving his point of view which can be clearly seen in his Fatwah.

He has stated among others that, May Allah (azza wa jall) guide this person. There can only be two reasons for this type of (ridicule which has been displayed).

The first is that this statement was presented in the blessed court of the Holy Prophet (salal laahu alaihi wa sallam) in the form of an insult and that too, against someone who is the greatest of creation and the last and final Prophet.

Secondly, it could have been directed as an insult to those who stood up with respect and reverence in the blessed court of the Holy Prophet (salal laahu alaihi wa sallam).

In the first instance, there is no doubt that this person has left the folds of Islam. May Allah (azza wa jall) protect us from this. The reason is that disrespect to the Holy Prophet (salal laahu alaihi wa sallam) or any Prophet is clear Kufr and there is unanimity in this opinion.

Imam Qadi Ayyaz (rehmatullah alaihi) in the Kitaabus Shifa, the following words or similar words are to be found which are:

“Whosoever belies any message or news of the Holy Prophet (salal laahu alaihi wa sallam) or doubts anything, or insults anything or even suggest that he committed a mistake in his propagation of Islam. Or if a person lowers the dignity of all the Prophets, or finds faults in them, or troubles them in some manner, or fights and argues with them, or even kills anyone of them (as in the past), he is a Kaafir and there is complete consensus in this.”

(Kitaabus Shifa, page 208, part 2).

This same type of message and warning has been mentioned in many books of our eminent Islamic scholars such as Hadrat Allamah ibn Hajr Al Haytimi in his treatise, “Kitaabul ‘Alaam fi Qawaati’ul Islam”, Hadrat Allamah Al Habeeb Abdullah bin Husain bin Taahir in his treatise “Sullamut Taufeeq” and in its sharah which has been written by Hadrat Allamah Mohammed Saeed Ba Baseel (rehmatullah alaihim ajma’een). This has also been explained in many other treatises.

Hadrat Allamah ibn Hajr Al Haytimi (rehmatullah alaihi) in his treatise “At Taufah” at the beginning of Kitaabur Raddah after the main subject matter explains that, “There are many ways of becoming a murtad such as making the intention to sever one’s ties with Islam, becoming guilty of any Kufr behaviour or making a Kufr statement even though it may be made in jest. An example of this is (if someone) says to another person, “Brother! trim your finger nails as this is Sunnah” and the other person replies, “I will not trim my fingernails even if it is Sunnah so what?” Again, after the main subject, he continues, “If one belies any Prophet or Messenger or takes out a fault in one of them like lowering one of their names with the intention of insult” (In all of these instances, the person would instantly become a murtad).

In like manner, Allamah Ramli (rehmatullah alaihi) in his treatise, “Nihaayah” has also echoed the same comments and declarations as above.

The second (set of circumstances) is that if this statement was made against those who stood up in respect for the Holy Prophet (salal laahu alaihi wa sallam) in a gathering and this was intended to insult the people present there, then also, there are two possible aspects to be inspected.

The first aspect is that: Were these people targeted because they stood up for respect in the blessed court of the Holy Prophet (salal laahu alaihi wa sallam), if that is the case, then this will also be like the first type of insult. The reason is that it is Sunnah to show respect and reverence for (the Holy Prophet salal laahu alaihi wa sallam) and the Sunnah of the Holy Prophet (salal laahu alaihi wa sallam) is also like the revelation of the Quran which is Divine Wahi and to belittle the Sunnah is clear Kufr as the explanation of Allamah ibn Al Haytimi (rehmatullah alaihi) has been clearly mentioned above from his Kitaabut Taufah.

In the treatise of Allamah Al Khateeb Ash Sharbeeni, "Kitaabul Mughni" in the chapter of "Radda" it is explained that, "One of the ways of becoming a Murtad is to belittle the Sunnah of the Holy Prophet (salal laahu alaihi wa sallam). For an example, (is someone is told) that while eating, the Holy Prophet (salal laahu alaihi wa sallam) used to lick his three blessed fingers and the other person replied, "This is indeed an unbecoming act" or if he is informed that he should clip his nails as this is Sunnah and belittling a Sunnah, he replies, "I will not clip my nails, if it is Sunnah so what?"

If however, the person making this insult is merely doing this for the sake of insulting these people (on a personal level), then such an act is considered as committing a major Haraam and such a person is entitled for severe reprimanding and punishment perchance that it becomes a lesson for others so that they do not become brave enough to commit such an act (in the future).

Allamah ibn Hajr (rehmatullah alaihi) in his treatise "Kitaabul 'Alaam" explains that, "The Shay-khain have not adopted the first opinion as far as I know. I believe that if someone insinuated "that the Holy Prophet (salal laahu alaihi wa sallam) was someone who possessed long finger nails and he mentions this with the intent of insult or mockingly etc, then that person would become a Kaafir otherwise no. However, he would still be severely reprimanded and punished (for having said something like this)"

At another juncture, Allamah ibn Hajr (rehmatullah alaihi) mentions that, "If someone mentions in front of someone that when the Holy Prophet (salal laahu alaihi wa sallam) had finished eating, he used to lick his three blessed fingers and the other person remarks that this is an unbecoming habit, then saying something like this is Kufr. This statement would be likened to someone who has turned away

from the Sunnah. The same as if someone said to someone, “Brother, trim your nails” and turning away from the Sunnah the person replied, “I will never do something like this.”

Allamah ibn Hajr (rehmatullah alaihi) again explains that, “In like manner, if someone is told that the Holy Prophet (salal laahu alaihi wa sallam) used to like vinegar or pumpkin and the other person replied that, “I do not feel like (eating it) or he says I do not see anything special in this. If he has made this reply merely speaking about his personal habit or just a mere statement, then this would not be Kufr. If however, he made this statement with the intention that he does not like these things because the Holy Prophet (salal laahu alaihi wa sallam) used to like them, then because of his intention of mocking and insult, he would be classified a Kaafir”.

Allamah Ba Baseel (rehmatullah alaihi) in his treatise “Is’aadur Rafeeq Sharah Sullamut Taufeeq” quoting from the treatise “Kitaabul ‘Aalaam” states that, “In the Shifa shareef, it is mentioned that, “Whosoever insults our Prophet or any other Prophet whose Prophethood has been established. Or someone insults our Holy Prophet (salal laahu alaihi wa sallam), or his family, or his religion, or his blessed behaviour and finds faults and defects in this. Or indicates indirectly at some fault or relates an indecent thing towards him with the intent of mocking and insult. Or lowers his dignity, or attributes an insult to him, or levels bad and evils words towards him, or makes the wish that something bad happens to him, or relates such a thing towards him which is against his great status, or believes that whatever test and trial came to him was through his own fault etc. In all of these instances, the person will become a Kaafir instantly and there is Ijmah-e-Ummah on this issue. This has been mentioned by many Ulama. As far as what ibn Hazm has mentioned contrary to this, there is no reliability in this. If someone becomes guilty of one of these crimes or all of them, the majority of Ulama are also of the opinion that the Taubah of this person will not be accepted and this is the Muftabihi or accepted opinion of our Ulama. As a matter of fact, Shaikh Abu Bakr Al Faarisi (rehmatullah alaihi) has even claimed that there is Ijma on this opinion.

In the same treatise, the subject matter from the treatise “Sullamut Taufeeq” is mentioned which is, “The summary of the words as presented from Imam Qadi Ayaz (rehmatullah alaihi) and from his treatise “Shifa shareef” and from the treatise “Al ‘Aalaam” of Imam ibn Hajr (rehmatullah alaihi) is that, “Whatever belief, statement or action is enacted or performed with the intention of insult or ridicule directed at either the Almighty (azza wa jall), at His Divine Books, at His Prophets and Messengers, at His Angels who are unanimously accepted, or at His signs and religious symbols or at His Divine Laws, or at His Divine Promises and

Warnings, in all of this, (the person would be guilty) of Kufr. Even if no insult was meant, still the (person would become guilty) of committing Haraam and a major sin.”

We have now completed the subject from the Fatwah of Allamah Mohammed bin Saalim bin Hafeez (rehmatullah alaihi) and the answer to the first question pertaining to Salman Taseer has become apparent.

Answer to the second issue in the questionnaire.

As far as the second issue is concerned which pertains to Mumtaz Qadri. (It is said that) when he became aware of the Fatwah of the local Ulama that the blood of Salman Taseer had become legal and that due to the laws in Pakistan, that there would be many obstacles in hanging (this person, Salman Taseer) as explained in the questionnaire, hence he killed him. In reply to this, we will present the words of the Shafi Ulama and many other Ulama as well who have explained the following. Allamah ibn Hajr Al Haytimi (rehmatullah alaihi) in the treatise “Kitaabut Taufah” has stated that, “Corporal punishment can only be determined by the Imam of the time or his deputy. If someone else performs this without proper permission, then he will receive discretionary punishment.”

The Hanafi Ulama have declared the following which is to be found in the Al Hidaayah sharah Hidaayatul Mubtadi that, “If someone becomes a murtad in Islam, (may Allah (azza wa jall) protect us from this), then Islam will be first presented to this person, perhaps he had been suffering from certain doubts and these doubts and misgivings of his would be eliminated. This is better than the stress caused by killing (a person). However, our Ulama have also mentioned that it is not Waajib to present Islam again to this person because the message of Islam had already reached him previously”. In the main subject (of this treatise, however) it is mentioned that, “He will be placed in jail for three days and if he accepts Islam, then so be it otherwise, he will be killed”.

In the treatise of Imam Mohammed (rehmatullah alaihi) which is “Al Jaami’us Sagheer” it is mentioned that, “Islam would be presented to a murtad whether he is a slave or a freed person and if he refuses to accept Islam, then he should be killed.”

The author of “Al Hidaayah” has also mentioned that, “If someone kills this murtad prior to Islam been again presented to him, then this act would be considered as Makruh. However, there would be no retribution (or recompense) necessary (upon the guilty party) because Kufr is something which forgives or nullifies a killing. (At the same time), when Islam is already known to the person or has reached him, it is no longer Waajib to present this again (to the person).”

In the treatise, “Al Ikhtiyar li Ta’leelul Mukhtaar”, it is mentioned that, “Prior to (again) presenting Islam to the (guilty) party, if someone else kills him, then there is nothing on the killer. The reason is that the murtad was entitled to be killed due to his kufr. Hence, there will be no retribution upon the (killer). Even though this action itself is Makruh because it is considered Mustahab to (again) first present Islam to the (guilty) person which (has been) omitted. At the same time, it was also committed without the permission of the Imam of the period”.

In the marginal noted of “Shalabi Ala Tabayyinul Haqaa’iq sharah Kanzud Daqaa’iq” it is mentioned that, “When Allamah Marghinani in the Hidaayah mentioned that, “If someone kills his person prior to Islam been again presented to him, then Imam Ibnul Hummaam further elaborated that, “Or if someone cuts of the limb of a murtad, then this action would be considered as Makruh, however there will not be any retribution upon the person (who committed this act) because Kufr is something which becomes a means of forgiving the spilling of blood. (As a matter of fact) all types of acts against a murtad would be considered as been forgiven.”

In the Sharah of Tahaawi it is mentioned that, “If someone kills a murtad, or severs any limb of this murtad without the permission of the Imam of that period, then there is discretionary punishment for this. However, Imam Qadi Khan has stated that, “When a person is guilty of becoming a murtad, then (the spilling of) his blood is forgiven. Even if the person kills a (murtad) or severs any limb of this person without the permission of the local Qadi or the ruler of the period, or even mistakenly commits these acts, still too, there will be no retribution on this person.

We will now present the viewpoint of the Hambali Ulama in this regard from the treatise “Matanul Iqnaa’a” which is that, “A murtad can be killed by the Imam of his period or his deputy whether the person is a slave or a freed person. It then further explains that, “If someone else kills him prior to presenting the opportunity of him making Taubah or kills him after this, then he would be given discretionary punishment, however, there would be no retribution upon the killer.”

The scholar of the Hambali school, namely Mansur ibn Yunus Al Bahuti in his treatise, “Sharah Kishaaful Qinaa’a” explains that, “If someone else kills (this murtad), without the permission of the Imam or his deputy, then this is considered as incorrect. Therefore, he would be given discretionary punishment due to the fact that he committed this without the permission of the Imam or his deputy. However, there would still not be any retribution against the offender because through committing Kufr, the person’s blood had become legal (to spill). His blood would be considered as being lost because (been guilty of Kufr) forgives the

spilling of (his) blood). There is also no difference whether he was killed before or prior to been given the chance to make Taubah.

Today, on the 20th of Rabi us Thani 1433 (13th March 2012), in the city of Tareem, Hadramaut, Yemen, the Ulama have reached the following unanimous decision and this is what the Ulama have concluded. All of the Muftis present have signed on this fatwah.

1. Hadrat Allamah Mufti Ali Al Mashur bin Mohammed bin Saalim bin Hafeez
2. Hadrat Allamah Mufti Mohammed Ali Al Khateeb.
3. Hadrat Allamah Mufti Mohammed bin Ali bin Farj ba 'udaan