

On limits to freedom to talk about Islam

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HERE are few areas of religious faith where heterodoxy is as roundly condemned as in the mainstream of Islam. Intolerance to dissent runs through every organised religion. No religious establishment relishes criticism of the basic tenets of its faith. Excommunication is still a potential deterrent to unorthodox behaviour in Christian churches. Rarely, however, does criticism of orthodoxy in Christianity provoke threat of violence towards even the most strident dissident. Modern Hindu liberals often disparage their gods and goddesses and jokes about some members of the Hindu pantheon are common among the members of the faith. Bengali literature is replete with flippancy and irreverence towards the pantheon. Criticism and even disparagement are made with impunity. In Christianity occasional irreverence, some of it intemperate, to Jesus Christ is generally met with shock and indignation but hardly, if ever, with threat of physical violence against the non-conformist. Serious or scholarly criticism of its tenets and beliefs rarely provokes anger and practically never violence. Not so in Islam. Discourses are permitted so long as they are grounded in piety and propagation of the faith. Indeed they abound in Muslim societies and many Muslims would rather have more of the same, not less. But Muslims in general tend to be far more hostile to all shades of criticism of their religion or heritage than members of other faiths are towards theirs. The hostility is not limited to critics from other faiths, but extends to Muslim detractors of the faith. In fact, the hostility to the latter is more widespread than the other variety. This is partly because people of other faiths nowadays rarely have time to criticise Islam, except insofar as it can be linked to modern terrorism, or any other religion for that matter, though it is easy to find rabid exceptions. The other reason is that, with the advance of rational and secularist thinking, there is now a growing number of critics from among their co-religionists themselves. The number of these critics is still very small and their criticism is still mostly confined to the relative safety of internet websites. On the other hand, the rise of strident Islamic fundamentalism has been accompanied by increased hostility towards critics of Islam. It is important to understand the nature of the hostility of fundamentalist Islam towards anything that smacks of criticism of

the faith. It is perhaps even more significant that most Muslims, including many moderates, share the hostility. The traditionalist's objection to criticism of Islam falls roughly into two categories, both potentially contentious. First, the criticism is not grounded in fact. Second, the criticism hurts the "religious sensibilities" of pious Muslims. The two categories are of course not unrelated. The first type of objection sounds eminently reasonable. After all, the critics are generally the ones who profess to uphold "facts" -- as against imagination or pure notion. But, as in many other walks of life, "facts" that support the critic's points of view may also be readily available. The question then boils down to which of the "facts" one puts his trust in. Unfortunately for the traditionalists, the facts presented by the critics are very often culled from the holy books themselves. There are numerous examples and but a few must suffice here. The recent upsurge in terrorism by the so-called "Islamists" has led to accusations that Islam condones violence. The allegation has produced angry denials from Muslims of various shades who contend that far from being a religion of violence, Islam has always stood for peace. This reaction is worth examining in relation to "facts." There are numerous instances in the *Qur'an* where Muslims have been urged to wage war against the infidels. Some the exhortations to fight are not purely defensive. Verses such as II:193 ("And fight them on until there is no more tumult and oppression, and there prevail justice and faith in God") or VIII:39, which virtually repeats verse II:193, are cases in point. Verse IX:5 calls on Muslims to fight the infidels, to "seize them, beleaguer them, and lie in wait for them in every stratagem" until they "repent and establish regular prayers and practice regular charity." (The translations are from Abdullah Yusuf Ali's celebrated The Meaning of the Holy Qur'an.) These and other verses make peace with the infidels attainable only on Islam's terms. No serious Muslim denies the authenticity of these verses or their practical significance. In other words, those who contend that Islam condones violence can say that they are only referring to "facts." It is entirely possible that the violence apparently sanctioned in the *Qur'an* would at least look understandable in certain historical context, particularly when many societies, and not just Muslims, were prone to violence. Yet traditionalist Muslims generally take

great umbrage to any mention of these verses as examples of violence sanctioned in Islam. Instead of explaining the historical contexts of the verses, and stressing how changed circumstances should put a new gloss on their meaning, and engaging the critics in a dialogue, they consider any such criticism as intolerable affront to Islam. Similarly, the history of Muslim

debate, but the fact of the massacre is not in dispute. Neither was officially sanctioned political assassination unknown even in the Prophet (SM)'s time. *Sahih ahadith* can be cited to attest to these facts. Nevertheless, mention of such facts from the very sources which mainstream Muslims themselves respect and accept often tests the limits to freedom to talk about Islam. There are, however, also a wide

Muslims has to do not with facts but with faith. It is interesting to note that the Bengali word "Obomanona" -- literally insult -- is almost invariably used with a solemnity fit for the occasion, and is used interchangeably with "hurting the religious sensibilities" of Muslims. There is a long list of subjects variously linked with faith where critical discussion remains taboo in Islamic societies. It is unclear why

Ramadan, the month of fasting. While not fasting in the month of Ramadan is considered a sin except in extenuating circumstances, the act of eating or drinking or smoking in the presence of one who is fasting is considered an insult to Islam. Islamic societies have dealt with the offenders by punishments that ranged from a mere slap on the wrist to beatings or imprisonment. The "offensive" behaviour of non-

and the apparent duality between predestination and free will in divine texts. The Prophet of Islam, like all prophets, similarly assumes a mantle of divinity and hence is off limits to appraisal as a human being, even an extraordinary one, which undoubtedly he was. Here, though, the traditionalist interpretations of "fact" and faith got inextricably mixed and the result has been a formidable opposition among mainstream Muslims to any attempt at critical examination of either. In passing, note that there cannot be an absolute standard by which "sensibilities" can be weighed and the moral high ground often claimed by those whose sensibilities are said to have been hurt by secular criticism can itself be quite vulnerable. There are for example, numerous exegeses of divine texts by their fundamentalist interpreters which can hurt the sensibilities of a modern man, even those of a modern Muslim. Thus, those who complain about critics of Islam hurting their sensibilities may themselves be hurting the sensibilities of others.

It is not that there was never any critical examination of some of the basic tenets of Islam. The *Mu'tazila* who, in the eighth and ninth centuries, held sway over Islamic thinking, did think that one could use reason, in contrast with pure faith, to prove the existence of God, and that the *Qur'an* was not coeval with God but was created, a concept that was anathema to traditional Islamic thinking, and remains so. Other than the central role of reason in their scheme, perhaps their most important legacy has been emphasis on free will and the individual's responsibility for his action. This is indeed critical stuff. They also argued that not only is the sinner responsible for his sins, but God is obliged to punish him. Incidentally, the latter requirement on the part of God also put the *Mu'tazila* at loggerheads with the traditionalists who considered this as something that robbed the Almighty of his power of pardon. The contribution of the *Mu'tazila* to critical Islamic thinking should not, however, be exaggerated. Not only were they not free thinkers in the modern sense, mainstream Islam was thoroughly cleansed of their influence by arch traditionalists like al-Ghazali.

More than ten centuries have passed since the last blip of the *Mu'tazila*'s efforts to bring reason to bear on religion and it has been over fourteen centuries since Islam arrived on the Arabian peninsula. A tremendous lot has changed in the world since then: the modern man's

knowledge of his environment and his ability to overcome hunger and fight disease set him a stellar distance away from his ancestors a millennium and half ago. The primary vehicle of this advance has been his willingness to inquire and reason. His critical spirit has often led him to question ideas and notions derived from tradition and faith. And often inquiry has led to iconoclasm. Yet, amazingly, faith has not vanished from the face of the earth and religion remains as integral to the life of even the most modern of men and women as telephone, air transport, and the internet. Sceptics, agnostics, and atheists have not destroyed Christianity.

A large degree of freedom to talk about Islam will not lead to the demise of the religion either. A matter of faith that governs much of life for a billion people is not so easily dismissed. It is also not reasonable to expect or apprehend that mere talk, however critical, would destroy any religious faith worth the name. On the other hand, free and frank discussion of every aspect of the religion should act as a catharsis for fundamentalist Islam: it will purge the system of the dross of obscurantism that has accumulated over the centuries. An uninhibited discourse should lead to greater mutual understanding of the diverse points of view that the modern world represents and can in the long run lead to more tolerant societies. By helping to reinterpret some of the traditional ideas and practices in the light of changed circumstances and directing attention to the plurality of methods for attaining given social and political objectives, it will also turn out to be a potent instrument for fighting "Islamist" terrorism.

In this brief space I have pleaded for relaxation of limits to talk about Islam. There are, however, forces at work that make critical talk about the religion already possible.

Thanks to modern internet technology, while the print media by and large shuns just about anything critical of any religion, a burgeoning network of websites is taking its place. A wide variety of subjects, ranging from the virulently anti-religious to the extremely pious, are being discussed and debated on the internet. The limits are already beginning to be probed. The process needs to gather strength.

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Is this the true face of Islam?

societies, like that of many other mediaeval societies, is replete with violence. Critics often cite the cruelty of the slaughter of the Jewish tribe of Bani Quraiza, especially because of its non-combatant status. Between 700 and 900 male members of the tribe were beheaded in a single day for their alleged treachery after the tribe had surrendered to the Muslims. The circumstances leading to the slaughter is often a matter of

range of subjects which are unrelated to factuality but are variously connected to faith where freedom to talk about Islam is severely limited, perhaps more so. While reference to uncomfortable facts might produce ire among traditionalist Muslims, any critical probe into faith-based issues is viewed as an insult to Islam and is often taboo. Much of what is frequently treated as assault on the religious sensibilities of ordinary

faith should be deemed vulnerable to criticism. The expectation should rather be that an individual's religious faith would be strong enough to withstand any attack of hostile ideas. The reality is rather different. Faith is often worn on sleeves and as often easily wounded. A good example of faith being all too easily hurt is the reaction to eating, drinking, or smoking in the presence of those who are fasting in the month of

fasters in Ramadan is among the lighter infringements of religious mores in Islamic societies. Critical talk about the fundamentals of the faith is considered far more serious an infringement. The list of areas of the faith where the scope for critical talk is strictly limited is long and includes: the nature of divine revelation and the primal origin of the *Qur'an*; the nature of Allah, the Supreme Being; the nature and consistency of *Qur'anic* directives;

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Fame and defamation

MOZAMMEL H. KHAN writes from Toronto

THE age-old saying that truth shall prevail does not prevail in Bangladesh. This has once again been proven in the recent controversy over the granting of presidential pardon to a double murder convict who has been an active leader of the BNP's youth wing since its inception and currently happens to be a leader of an overseas branch of BNP.

The pardon was granted by the President in accordance with Article 49 of the Constitution (Prerogative of Mercy) which says: "The President shall have power to grant pardons, reprieves and respites and to remit, suspend or commute any sentence passed by any court, tribunal or other authority."

However, as outlined in Article 48(3) of the constitution: "[S]ave that of appointing the Prime Minister (PM) and the Chief Justice, the President shall act in accordance with the advice of the Prime Minister." This clause would naturally lead one to assume that the pardon was granted in accordance with the advice of the PM.

The crime at issue was committed on January 25, 1982, when the country, for the second time, was under martial law, and the verdict of a martial law court, in which all four accused were awarded capital punishment, was proclaimed on July 20 of the same year. Two of the guilty were executed while the other two, including the convict in question, were absconding. None of the two victims had any direct political links, and as such the double killing probably was not a political motivated one, nor was the murder case against the accused initiated out of political acrimony.

Although, the pardon was granted on January 13, 2005, the incident caught the public eye and created media outcry only when an opposition lawmaker raised the issue in a meeting of the parliamentary standing committee on law, justice and parliamentary affairs on July 21.

In response to the accusation of impropriety of the Presidential pardon, the Law Minister in turn accused the Home Ministry by disclosing, "When they sent us the summary, asking whether the President can grant amnesty, we

In any society where ethics is not an endangered virtue, accountability is the principle cornerstone of democracy, and rule of law triumphs at all time, flip-flops of the government involving Presidential clemency would have induced a chain of resignations, starting with the Law Minister, shaking the very foundation of the government.

just replied that the President has indeed the power to do it, but it rests entirely on him whether to pardon one or not. We did not make any comment for or against the amnesty." If the matter had ended there, it would, to a certain extent, absolve the Law Minister from the subsequent controversy.

In response to the accusation made by the secretary to the Supreme Court Bar Association (SCBA) that the Law Minister had a direct hand in the arrangement and the process of managing the Presidential pardon, the honourable minister not only denied his acquaintance with the convict, but personally went to the court to initiate a defamation suit against the secretary of SCBA.

The court in turn went out of its traditional practice by issuing an immediate order of warrant of arrest against the Secretary of SCBA. The Home Ministry was very swift to dispatch the police force which raided the house of the accused, not once, but twice on the same night. In the following morning, after receiving bail from the High Court, the secretary to the SCBA opened the Pandora's Box, publishing the pictures of the convict, not only with the Law Minister, but with the Finance Minister as well, and also the story behind the pardon that linked the PM and other ministers.

Upon being caught red-handed for obvious deception, the Law Minister, making a U-turn from his earlier stance, has now aimed his ire at the martial law courts, which in his own words were "illegal" and "kangaroo courts." He defended his support for the pardon as an act of "upholding human rights and democracy" -- a strange proposition from a strong propitiator of the "crossfire" killings.

The Law Minister's latest assertion about the martial law court raised more questions than answers and threw him into more hot water, since the honourable minister himself faithfully served both the martial law regimes and played a pivotal role in orchestrating the 5th and 7th amendments to

the constitution that legalised the "illegal" acts of the both the extra-constitutional regimes, and piloting the amendments through parliament.

His utterance has also shaken the legal foundation of both the political parties that grew out of the "illegal" martial laws of which he was an active propitiator. If the leaders of the political party that he currently belongs to share his views on this issue, it is imperative that both the 5th and 7th amendments to the constitution should be declared null and void by the parliament and appropriate retribution should be granted to the kin of the hundreds of victims of the so-called "kangaroo courts."

The law minister has found a staunch ally in his new-found jihad to prove the "illegality" of martial law courts, the chairman of the parliamentary standing committee on law and parliamentary affairs. Ironically, this renowned lawyer and current lawmaker belonging to the ruling coalition, who once as an *amicus curiae* also provided the lone opinion of dissent against the annulment of the indemnity act of the 5th amendment, recently defended tooth and nail extra-judicial killing in the name of "crossfire" by Rab at a human right conference in London.

Article 49 of the constitution that empowers the President to grant "mercy" does not explain the situations under which the President may exercise his prerogative power. It was imperative that this power should be exercised judiciously and should be offered to one with the highest degree of remorse in addition to service to the nation or to humanity or to one whose survival could potentially contribute immensely to the cause of mankind. The commutation of death penalty of Col. Taher, a wounded and decorated hero of our war of national liberation, handed down by a martial law court could have been an ideal case to follow the letter and the spirit of the constitutional prerogative of mercy.

Did the honourable President meet that implied expectation of the nation in granting the pardon? The convict in his mercy petition did not mention any of his contributions to the nation or mankind, rather, in favour of his clemency, he very candidly pointed out his "devotion to Shaheed President Ziaur Rahman and his 19 points programs" which incidentally were formulated during the tenure of his martial law regime.

If the same document, that contained no recommendation to grant the mercy, as pointed out by the Law Minister, was sent from the PM's office to the President, then the lion share of the onus rests with the latter. In any democracy, where there exists even a semblance of accountability, citizens have the right to know from the head of state himself the grounds of the Presidential clemency.

On the other hand, given the verbal assurance of the PM to "redress the convict from injustice" when she personally met him in Geneva, then the PM, the chief executive of an elected government, owes the nation an explanation.

In any society where ethics is not an endangered virtue, accountability is the principle cornerstone of democracy, and rule of law triumphs at all time, flip-flops of the government involving Presidential clemency would have induced a chain of resignations, starting with the Law Minister, shaking the very foundation of the government. Quite to the contrary, here the defamation suit has been initiated by the Law Minister, raising the natural query of which particular fame of the honourable minister has been defamed anyway?

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ANM NURUL HAQUE

THE Bangladesh-India Joint Working Group meeting ended on August 2 with the two sides signing a 13-page agreement. The joint working group had met to discuss bilateral trade issues with particular emphasis on eliminating non-tariff barriers. Other important issues discussed in the meeting were problems relating to banking, land port, and infrastructure. But the meeting ended with only meagre progress on resolving a good number of negotiable trade issues, as both sides passed those on to the respective agencies to deal with.

The meeting delegated authority to the respective customs authorities to negotiate and resolve customs related issues including the non-tariff barriers. The two teams also discussed some functional problems, including pre-shipment inspection, standards and testing, and product-to-product non-tariff barriers. It was decided that a joint team comprising officials of the Bangladesh Standards and Testing Institution (BSTI) and Bureau of Indian Standards (BIS) will be formed to scrutinise the ten Bangladesh testing laboratories to recognise them for certification.

Bangladesh has long complained against the non-tariff barriers put up by the Indian government under various pretexts. India has imposed non-tariff restrictions on Bangladesh export items which include biscuits, jam, jelly, fruit juice, soft beverage, vegetables, Jamdani saree, jute, jute goods, and cement. India also imposed anti-dumping duty on our dry cell battery exports. On the other hand, India has given duty free access to some Bangladesh products which the country does not produce for export.

Non-tariff barriers imposed by India on importing food items from Bangladesh have resulted in unnecessary delay in shipment of Bangladesh products to the Indian market and also harassment to the exporters. In view of the hurdles created by the Indian government in the name of adulteration test of export items, the commerce ministry had asked the International Trade Organisation (ITO) cell to pursue the Indian authorities to resolve the longstanding problem. The ITO is assigned to settle such issues through the existing joint working group, which generally does not meet more than once a year. Similarly, harassment of Bangladeshi exporters in the name of technical standards and

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regulations has also been a common phenomenon when exporting any product to India. But the Bangladesh-India Joint Working Group has made little progress on resolving these negotiable trade issues.

Bangladesh, which has a small export-basket, has been perusing India for the last several years for unhindered market access for our products. Bangladesh claims that the trade relationship between the two countries has not been fair and equitable, for which trade balance remains overwhelmingly in favour of India. The decision reached at the end of a crucial round of Joint Economic Commission (JEC) meetings held in July 2003 fell short of India showing a give-and-take attitude. India agreed earlier to offer duty free access to 40 Bangladeshi products under 16 categories which was apparently linked to the Indian demand for lifting the ban on import of yarn and sugar through overland routes. Bangladesh has had bilateral talks at the official, ministerial, and Prime Ministerial level for quite a few years now, where among other things the question of offering duty-free access for 191 products under 25 categories from Bangladesh figured routinely.

The existing trade deficit with India is really a matter of great concern for Bangladesh. Bangladesh exported goods worth \$50.280 million to India in the fiscal year 2001-02 and imported goods worth \$1010.605 million -- a deficit of \$960.325 million with India. During the fiscal year 2002-03 Bangladesh's import from India stood at \$940 million against India's import from Bangladesh of around \$50 million only. Bangladesh imported goods worth \$1600.00 million from India in the fiscal year 2003-04 while exporting goods worth only \$90 million to India -- a deficit of \$1510.00 million. The trade deficit with India can thus be seen to be increasing by leaps and bounds with the passing of every year, and stands now at \$1.66 billion. The trade gap with India would be much higher (probably more than double) if the unofficial trade is accounted for. There is no denying that the existing situation in not at all condu-

cive to a viable economic cooperative relationship with India as the quantum of export from Bangladesh is only five percent of the total official trade between the two countries.

Bangladesh has sought unilateral free trade access of its products to the Indian market, particularly in the North-East Indian states, for six months as a test case to see if Bangladesh would benefit from it. Bangladesh has also sought creation of a permanent trade mission in Guwahati, the capital of Assam, and opening of some new air routes to India. But India has not agreed with these proposals of Bangladesh. A joint market survey undertaken by the Metropolitan Chamber of Commerce and Industry (MCCI) and the Confederation of Indian Industry (CII) a couple of years ago revealed that there was good demand for our products in India. But tariff and non-tariff barriers imposed by India are obstacles to the growth of Bangladesh's exports.

The Bangladesh-India trade talks at ministerial level held in New Delhi in November 2004, also resolved to reduce the whopping trade deficit. The commerce minister of India Kamal Nath assured his Bangladeshi counterpart Altaf Hossain that "necessary measures" would be taken by February 2005 to eliminate trade barriers. But the time-frame was nothing but rhetoric as no progress has so far been made to eliminate the trade barriers for meaningful access of Bangladesh products to Indian markets.

Indian External Affairs Minister K. Natwar Singh, who visited Bangladesh recently, proposed a bilateral free trade agreement between Bangladesh and India. But Finance and Planning Minister M. Saifur Rahman ruled out the proposal of FTA with India. A high profile civil society forum of India also felt that trade balance and gains of business will be satisfactory for Bangladesh if a free trade agreement is implemented. A 14-member Indian delegate recently visited Bangladesh to participate in a dialogue jointly organised by the Centre for Policy Dialogue of Bangladesh and the Indian International Centre, focusing on trade and commerce.

The fate of the proposed bilateral free trade agreements (FTAs) with neighbouring India, Pakistan, and Sri Lanka is still hanging in the balance, as the government of Bangladesh in a major policy shift, is now attaching more priority to regional economic and trade groupings like Safta and Bimstec. The governments of Bangladesh, India, Pakistan, and Sri Lanka earlier, in principle, agreed to sign FTAs among themselves after holding a series of bilateral meetings in a bid to enhance regional economic and trade relations. Bangladesh in recent days has realised the potentiality that the new trading blocs like Safta and Bimstec offer and will not speed up the pace of bilateral trade negotiations in the South Asian region before formal inception of Safta.

The volume of trade between Bangladesh and India has increased manifold since the independence of the country and stands now at \$2 billion a year. India is a huge market and its economy is also very large. Without India agreeing to open her vast market to her small neighbour, Bangladesh's huge and growing trade deficit with India would in no way be corrected even to any reasonable extent. The commerce minister of India while attending the World Trade Organisation (WTO) meeting in China in July announced that his country would soon allow duty-free entry of goods from the least developed countries (LDCs).

As an LDC, Bangladesh has reason to claim preferential treatment from India under WTO rules. But in the event that non-tariff and para-tariff barriers exist, the LDCs, including Bangladesh, have little chance of benefiting from duty-free access of their goods to Indian market. So now is the time for India to eliminate the non-tariff barriers and allow 25 categories of Bangladeshi products in the Indian market on zero tariff basis to help reduce the huge trade deficit. This is crucial for Bangladesh-India trade relations.