

## BLASPHEMY AND THE LAW

A theological response to the Law Commission's invitation for views on offences against religion and public worship.

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In June 1981 the British Evangelical Council was informed that the Law Commission was asking for comments on their Working Paper concerning possible changes to the law of blasphemy.

Amongst others from whom the BEC sought advice was Professor Donald MacLeod of the Free Church College, Edinburgh. Because we think his subsequent Paper on the basic theological issue raised, 'Does the first table of the Law merit civil legislation?', worthy of a wider readership, we are grateful to the writer for permission to publish it here.

### Definition of blasphemy

The Law Commission, quoting Stephen's Digest of the Criminal Law lay it down that in any legal definition of blasphemy the emphasis must fall on the mode and manner of expression rather than on the content: "The test to be applied is as to the manner in which the doctrines are advocated and not as to the substance of the doctrines themselves."

The theologians' approach has been the exact opposite. They have focussed primarily on content. James Durham, for example, defines blasphemy as "a wronging of God's holy majesty by some reproachful speeches or expressions, uttered to His disgrace" and then analyses his definition as including the following elements:

1. Ascribing to God something unbecoming to His glory.
2. Denying to God something which is essential to His glory.
3. Ascribing to a creature what is proper (unique) to God.

He then gives as examples:

1. Denying the Trinity.

2. Denying the deity of Christ (or indeed, any of the affirmations of Chalcedon).
3. Denying the personality of the Spirit.
4. "Blasphemy against the Spirit".
5. To hear blasphemy uttered and feel no suitable revulsion.
6. Lots, omens, superstitions (astrology).

There can be no doubt but that Durham's is the definition which accords most closely with Scripture. For example, when Isaiah (65:7) speaks of Israel blaspheming God upon the hills he is referring not to a manner of speaking which is scurrilous or contemptuous or ludicrous but to idolatrous worship in which, probably, the name of Jehovah was not even mentioned. Similarly, when Jesus and Stephen were convicted of blasphemy the charge proceeded not on the basis of their language being intemperate or indecent but of their claims being theologically subversive. The same truth emerges from the reference to blasphemy against the Holy Spirit. The sin consists not in the tone adopted but in the sentiments expressed.

The practical consequence of these facts is that no biblically motivated plea for legislation against blasphemy can be content to concentrate on the manner of utterance and ignore the actual content of the opinions expressed.

### The teaching of the Old Testament

The most relevant passage here is Leviticus 24:16: "And he that blasphemeth the name of the Lord, he shall surely be put to death; and all the congregation shall certainly stone him."

1. The provision clearly indicates that it is inherently competent for the legislature to take cognisance of blasphemy.

2. The question as to which punishment is appropriate must be answered in the light of the difference between the Old and New dispensations. The discontinuance of the death penalty for desecration of the Sabbath and disobedience to parents, along with our Lord's specific abrogation of the death penalty for adultery, indicates that we cannot simply transfer the penal code of the Old Testament into the age of the church. Ecclesiologically, the Leviticus enactment means that the blasphemer must be cut off (by

excommunication) from the people of God. Typologically, it finds its fulfilment in God's final condemnation and wrath.

### The teaching of the New Testament

There are three points to be noted:

1. While in no way mitigating the OT condemnation of blasphemy, the NT habitually lists it with sins which we easily tolerate and which no one would ever think of defining as crimes: cf. Colossians 3:8, 2 Timothy 3:2. Collating these, we find blasphemy ranked with anger, pride, malice, foul language, self-love, covetousness, boasting, ingratitude and false accusations.

2. The NT nowhere suggests that blasphemy should be proceeded against by the civil power. Instead, it suggests two courses of action:

- a. corrective teaching: "In meekness instructing those that oppose themselves, if God peradventure will give them repentance to the acknowledging of the truth" (2 Timothy 2:25)
- b. church discipline: In 1 Timothy 1:20 Paul speaks of having delivered certain apostates over to Satan "that they may learn not to blaspheme".

3. Virtually all the references to blasphemy in the Pastoral Epistles contemplate it as a phenomenon occurring within the church itself. This means that any biblically controlled legislation would have to discriminate not only between truth and error in terms of natural religion but in terms of Christian orthodoxy.

### The theological development

1. The mediaeval church condemned blasphemy as a capital offence at the Council of Aachen in 818, defining the offence as vilifying Christ, the church, the Virgin, the saints or the sacraments.

2. The unanimous view of the Reformed creeds is expressed in the Westminster Confession (XXIII:III): "the civil magistrate hath authority and it is his duty to take order that all blasphemies and heresies be suppressed." The same position is taken up by the

First and Second Helvetic Confessions, the Belgic Confession, the Gallican Confession, the Scots Confession and the Second Book of Discipline.

We should note:

1. The breadth of responsibility herein defined: not only blasphemy, but heresy, schism, atheism and corruptions in worship and discipline.

2. The basis of the magistrate's interest in such religious offences is that they have civil and social consequences. Walker (Scottish Theology and Theologians, p.138) quotes one unidentified authority to the following effect: "The magistrate punisheth heresies and false doctrines as they disturb the peace of the civil state." Walker himself holds that in suppressing heresy or schism the magistrate as such has only civil ends in view: "The state has to do with distinctly religious offences not as they are religious but only as they may be breaches of civil order." This is also the view endorsed by Cunningham in his Discussions on Church Principles "The magistrate restrains and punishes atheists, blasphemers, heretics and schismatics as the violaters of justice and public peace.

3. According to Cunningham, the Westminster Confession leaves untouched the whole question of the means the magistrate is to employ. In making this claim, his concern is to vindicate the Confession from the charge of advocating persecution. There is a better defence, however, indicated by MacPherson: "The deliverance of the Confession must be understood of moral support and encouragement to ecclesiastical officers in the administration of doctrine and discipline." The statement re: suppression of blasphemy is set in the context of the broader principle that it is the magistrate's duty to ensure "unity and peace be preserved in the church"; and the Confession is not, pace Cunningham, silent as to the means to be employed because it goes on to say: "For the better effecting whereof, he hath power to call synods". Bearing in mind that the Church of Scotland in adopting the Confession expressed certain reservations as to the wording of this sentence it does indicate, nevertheless, that what is in view is blasphemy that is internal to the church (ie. it threatens the peace and unity of the church); that the primary responsibility for dealing with it lies with synods (using not the magisterial sword but ecclesiastical

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censures); and that the duty of the magistrate is to give moral support and encouragement to the synods as they carry out their remit.

4. It would be an anachronism to credit the Westminster divines with a developed doctrine of toleration. Such a doctrine was, however, implicit in their views on liberty of conscience and it became an explicit part of the constitution of the Free Church in 1846 when the General Assembly (Act XII) declared that the Church disclaimed intolerant or persecuting principles and did not regard her Confession of Faith as favouring intolerance and persecution or any principles inconsistent with liberty of conscience and the right of private judgment.

### Conclusions

1. Any biblical definition of blasphemy must reckon not only with the mode of expression of obnoxious sentiments but also with the matter and content of these sentiments. It is with blasphemy as thus defined that church discipline has to deal. And the moment we admit that any opinion may be expressed, however theologically deviant, provided it is not expressed scurrilously, contemptuously or indecently, we have abandoned theological for political ground and replaced an absolutist ethic with a relativistic (situational) one. Those who seek a simplistic transference of biblical teaching to the statute-book must outlaw blasphemy as such, not blasphemy expressed in a particular way.

2. To base a law against blasphemy on the principle of protecting individual feelings would be highly dangerous. For example, many of the expressions used by the Reformers and their successors would "wound and outrage" the feelings of Roman Catholics. Similarly, evangelical theologians today might hurt the feelings of modernists; of Muslims, Hindus and Buddhists; and of Moonies, Scientologists, Diabolists and Necromancers. The nett result might be the affording of protection to "religions" which merit investigation, criticism and condemnation.

3. It is unrealistic to base a law against blasphemy on the principle of protecting public order. This argument, as we saw, figured prominently in the reasonings of theologians of the past. In today's world, however, the de facto situation is that blasphemy

is not a threat to public peace. Furthermore, if it did become a threat it could be proceeded against under other legislation (eg. breach of the peace). And still further the argument is double-edged. Truth itself is sometimes a threat to public order, as witness the Christians who turned the world upside down.

4. To invoke the principle that blasphemy is an insult to God is to raise at once the question, "Which God?" and, by implication, the question of toleration. Jehovah, our God, is the only Lord. But to invoke penal sanctions against all that insults Him would mean proceeding against all idolatry and every major theological distortion. We should be acting against our own principles of toleration, liberty of conscience and the right of private judgement and assuming the role of persecutors, protecting our faith by the sword.

5. In conclusion it may be said that it is highly doubtful if the state is competent to define blasphemy. We should be expecting of judges a degree of theological competence they do not possess; or, alternatively, exposing ourselves to the subjective judgements of juries as to what is scurrilous, indecent or contemptuous.

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EDITOR'S NOTE: Readers might also like to see what was the response of the BEC to the Law Commission - copies are available from their office at 21 Woodstock Road North, St Albans, Herts AL1 4QB price 15p post free if pre-paid.

## THE PURITANS AND COUNSELLING TROUBLED SOULS

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of Cuckfield Baptist  
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In dealing with this subject my object is to consider the history of counselling with special attention to the Puritan approach, then to focus in detail on the Puritan method, and that in

specially selected areas which are most relevant and helpful for