APOSTASY, BLASPHEMY, AND HATE SPEECH LAWS IN AFRICA

Implications for Freedom of Religion or Belief

UNITED STATES COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM

RWANDA COMMEMORATES 25 YEARS SINCE GENOCIDE
KIGALI, RWANDA - APRIL 07: People hold candles during a commemoration ceremony of the 1994 genocide on April 07, 2019, at Amahoro Stadium in Kigali, Rwanda. The country is commemorating the 25th anniversary of the genocide in which 800,000 Tutsis and moderate Hutus were killed over a 100-day period. (Photo by Andrew Renneisen/Getty Images)

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EXECUTIVE SUMMARY

The freedoms of opinion and expression and of religion or belief are intricately intertwined—where violations occur against one, there are often violations against the other. Although these human rights are protected under articles 18 and 19 of the Universal Declaration of Human Rights (UDHR), states around the world continue to pass and enforce laws that restrict both freedoms. This paper provides a survey and analysis of speech restrictions in Africa that have, or may, limit FoRB. Laws that restrict apostasy (the public renunciation of one's religion), blasphemy (the insult of a religion or religious objects or places), and hate speech (generally encompassing communication that prejudices a particular group based on race, religion, ethnicity, or other factor) all limit freedom of expression. Such laws also have unique implications for citizens' abilities to express and practice their faith. These laws are prevalent throughout Africa, where at least 9 countries have apostasy laws, at least 25 criminalize blasphemy, and at least 29 have laws against hate speech.

In exploring the prevalence and nature of these laws, this report shines light on the following trends:

- Blasphemy and apostasy laws are often overbroad and can be used to limit a variety of religious expression. These laws violate international human rights law and should be repealed.
  - The application of laws in Algeria and Sudan prohibiting proselytizing and converting, respectively, are examples of states actively attempting to control the religious identity and expression of the population.
- Hate speech laws are also generally overbroad and can be used to limit a variety of religious expression. These laws should be re-drafted to comply with international standards.
  - Under international law, speech may only be restricted in certain limited circumstances, such as when it meets the threshold for imminent incitement. Speech may not be restricted when it criticizes or insults beliefs, religions, or religious groups. States must safeguard against hate speech laws functioning as blasphemy laws. The Gambia and Eritrea are examples of countries with laws that fit both types of speech restrictions.
- Laws restricting the media and free press are often used to prohibit hate speech on the basis of race, ethnicity, religion, and other factors, with the written intent to protect those individual identities; however, these laws are also often open to misuse for political purposes.
  - The Democratic Republic of Congo, Lesotho, Kenya, South Sudan, and Sierra Leone are examples where such overreach occurs and where freedoms of expression and religion are at risk.
- Hate speech laws often lack independent oversight mechanisms and have inappropriate punishments.
- Hate speech laws often are not integrated into larger plans aimed at effectively reducing intolerance and hatred in society. Where speech is protected and therefore not able to be limited through legislation, states can use other strategies and tools to address problems of hate speech and discrimination against certain groups. Meaningful and inclusive partnership with civil society is key for governments to achieve these goals.

The United States can support African partners in protecting the freedoms of expression and religion by: 1) pushing for the repeal of blasphemy and apostasy laws; 2) pushing partners to assess and reform hate speech laws to ensure they comply with international standards; 3) providing funding for holistic programs to engage civil society in countering hate speech and violence based on identity; 4) documenting the impacts of hate speech laws on FoRB in the U.S. Department of State's annual international religious freedom reports; 5) ensuring that regulations on social media and communications platforms account for the potential impacts on FoRB and religious minorities around the world; and 6) partnering with African states to conduct additional workshops with officials centered on responsive government practice and inclusive approaches to minority community needs.

INTRODUCTION

Under international human rights law, the freedom of opinion and expression is an important safeguard that protects other fundamental rights—including the freedom of religion or belief (FoRB). The freedoms of religion or belief and opinion or expression go hand in hand, and comprise articles 18 and 19 of the Universal Declaration of Human Rights. Both support an individual's right to hold and express opinions and beliefs of their choosing. Laws protecting one freedom naturally support the protection of the other.

In the same vein, laws restricting the freedom of opinion and expression can also impede FoRB. Apostasy, blasphemy, and **hate speech** legislation by definition all limit the freedom of expression and opinion, and also impact FoRB, whether by prohibiting speech deemed sacrilegious, public denouncements of religion, or hateful statements against certain identity groups. Although apostasy and blasphemy laws have been used for centuries to protect state religions and punish unrecognized ones, laws prohibiting and criminalizing hate speech became more common following the Holocaust and the 1994 genocide in Rwanda, two events that tragically demonstrated the power of speech to catalyze mass atrocities. A trend in using media laws to prohibit hate speech in social and other digital media is also increasing. Overbroad hate speech laws that aim to combat expression considered offensive to religious groups are often tantamount to blasphemy and apostasy laws, resulting in the same restrictions on fundamental rights.

Recently, some states in the international community have repealed obsolete and harmful blasphemy laws; however, apostasy and blasphemy laws continue to exist in many countries, and new speech restrictions are enacted each year to varying effect. In particular, all three types of speech restrictions that also hinder FoRB remain prevalent in Africa.

This paper explores how and why some of these laws restrict speech, and identifies their potential, or actual, impact on FoRB.

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PREVALENCE OF LEGISLATION IN AFRICA

According to Pew Research Center, one in ten countries in the world—in the Middle East and North Africa, Asia-Pacific, and sub-Saharan Africa—have laws or policies criminalizing apostasy. According to research by Pew and the Library of Congress, in Africa, at least nine countries have such laws:

- Algeria
- Egypt
- Libya
- Mauritania
- Morocco
- Nigeria
- Somalia
- Sudan
- Western Sahara

According to research by USCIRF with support from the Law Library of Congress, at least 26 countries in Africa have laws against blasphemy:

- Algeria
- Botswana
- Cameroon
- Cape Verde
- Comoros
- Egypt
- Eritrea
- Ethiopia
- Kenya
- Libya
- Malawi
- Mauritania
- Mauritius
- Morocco
- Nigeria
- Rwanda
- Seychelles
- Somalia
- South Africa*
- South Sudan
- Sudan
- Tanzania
- The Gambia
- Tunisia
- Zambia
- Zimbabwe

**Blasphemy is a common law criminal offense in South Africa.*

While some states explicitly and specifically criminalize hate speech, even more criminalize forms of hate speech implicitly or as part of broader regulations. Pursuant to research conducted by USCIRF for this report, hate speech is criminalized in at least 29 states in Africa:

- Angola
- Benin
- Burundi
- Botswana
- Cameroon
- Chad
- Cote d'Ivoire
- Democratic Republic of the Congo
- Djibouti
- Eritrea
- Gabon
- Kenya
- Lesotho
- Liberia
- Malawi
- Mauritius
- Morocco
- Mozambique
- Namibia
- Republic of the Congo
- Rwanda
- Senegal
- Sierra Leone
- South Sudan
- Tanzania
- Togo
- The Gambia
- Uganda
- Zimbabwe

South Africa, Ethiopia, Nigeria, and Zambia also have pending or proposed legislation to criminalize hate speech. The appendixes of this report contain excerpts from select apostasy, blasphemy, and hate speech laws reviewed for this report.

Blasphemy, apostasy, and hate speech laws must be considered within the context of international and regional human rights laws. International human rights law protects the fundamental rights of FoRB and the freedom of opinion or expression. Article 18 of both the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR) safeguard freedom of thought, conscience, and religion. This right extends to the freedom to changing religion or belief and manifesting religion or belief in teaching, practice, worship, and observance.

The UDHR and the ICCPR also protect the freedom of opinion or expression, including the right to discuss and even criticize religion. International human rights law protects individuals, and does not protect religious beliefs and interpretations. This means that there is no right for believers to have their religion or belief protected from adverse comments. States may not restrict an individual's right to hold the beliefs of his or her choice. Restrictions on expression or manifestations of religion or belief are only permissible when absolutely necessary to protect the public safety, order, health or morals, or fundamental rights and freedoms of others.[1]

The freedom of opinion and expression safeguards other rights, including the freedom of religion or belief. A core aspect of the freedom of religion or belief is the right to peaceful manifestations, which relies on the freedom of expression or opinion. Although some states view these two rights as in conflict, these two fundamental rights are in fact mutually reinforcing. One right cannot be fully enjoyed in the absence of the other.

Regional human rights instruments in Africa also protect these rights. Article 8 of the African Charter on Human and Peoples' Rights, which came into effect in 1986, guarantees "freedom of conscience, the profession and free practice of religion." The Charter prohibits all governments from restricting these rights, except when it is necessary to maintain law and order. Article 9 of the African Charter on Human and Peoples' Rights provides that "[e]very individual shall have the right to express and disseminate his opinion within the law." The African Commission on Human and People's Rights ruled in Communication 102/93 against Nigeria that states can only impose necessary restrictions to rights protected by international human rights instruments, noting that no situation justifies the wholesale violation of rights.

DEFINITIONS

Blasphemy, apostasy, and hate speech laws are unique limitations on speech motivated by a range of intentions and include a range of penalties, as defined in the chart that follows. However, implementation as well as actual and potential impact matter. Ultimately, the stated or publicly promoted intentions of the laws may or may not be in line with the actual goals of the drafters of the laws, or the laws may end up being implemented in completely unintended ways.

	Apostasy Laws	Blasphemy Laws	Hate Speech Laws
Definition	Criminalize the act of renouncing one's religion	Criminalize the act of insulting or showing contempt or lack of reverence for God or sacred things	Criminalize or prohibit expression that prejudices a particular group based on their race, religion, ethnicity, disability, sexual orientation, or other factor
Intending to Protect	The retained membership of a specified religious group	Religious practices and worship; integrity/image of a religion	Individuals belonging to or subscribing to the belief of a group, identity, or classification, often used to protect minority identity groups
Intending to Punish	Individuals denouncing a religion and/or individuals recruiting for conversion	Individuals speaking, writing, and/or acting in a way deemed offensive to a religion, sacred practice, or religious figure	Individuals advocating hatred, discrimination, hostility, or violence against a specific group
Legal Penalty Examples	Loss/denial of child custody, loss of citizenship, imprisonment, execution* **Sentencing is often dependent on behavior following arrest or conviction (i.e., repentance).*	Imprisonment, property confiscation, fines, and execution	Imprisonment and fines

Table 1 - Summary of Apostasy, Blasphemy, and Hate Speech Laws' Definitions and Penalties.

Hate speech is an umbrella term that is not defined clearly and consistently. The UN Strategy and Plan of Action on Hate Speech provides that the term is typically understood to be any communication that prejudices a particular group based on their race, religion, ethnicity, disability, sexual orientation, or another factor. Many forms of discriminatory, derogatory, and demeaning discourse fall within this wide umbrella of hate speech, including imminent incitement and incitement to genocide, which the following paragraphs describe in further detail.

Permissible and Impermissible Restrictions on Speech:

- *Blasphemy and apostasy:* Blasphemy and apostasy laws are both impermissible under international human rights laws. Blasphemy laws violate international and regional human rights law, including the freedoms of religion or belief and expression. Religious freedom includes the right to express a full range of thoughts and beliefs, including those that others might find blasphemous. Further, international standards specifically protect individuals, and cannot be expanded to protect religious institutions or ideas from criticism.

Apostasy laws are also inconsistent with international and regional human rights standards as they fail to respect recognized fundamental rights, including the right to change one's religion and the right to discuss, and even criticize, religion.

- *The intersection between hate speech and blasphemy laws:* As explained by the UN Special Rapporteur on the Freedom of Religion or Belief, as blasphemy laws have fallen out of favor in some parts of the world, more states have enacted hate speech laws, asserting that they are following requirements under international law. However, hate speech laws that are formulated in vague terms or focus on banning specific content can effectively be applied to prohibit blasphemy. The effects of hate speech laws can be similar to blasphemy prohibitions, particularly when hate speech laws limit speech based on disagreement with or dislike of the subject matter, rather than when the laws apply a contextual analysis to determine whether violence, discrimination, or hatred are imminent. These distinctions are essential to ensuring compliance with international human rights laws.
- *Hate speech:* While there is no international definition of the widely used term "hate speech," there is a consensus among international legal authorities and instruments that certain types of speech most likely to spark violence, harm, and/or discrimination may be regulated. In balancing freedom of expression and protection from incitement, rules prohibiting such harmful speech must be narrowly defined to avoid circumventing the freedom of expression and opinion.

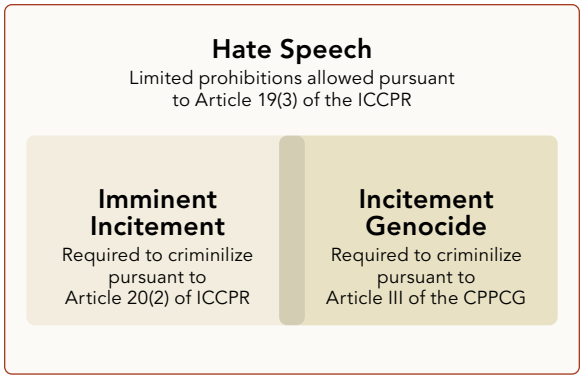


Figure 1- Overlap in Hate Speech Categories and Relevant Standards for Prohibition

  - Incitement to Genocide*:* Article III of the Convention on the Prevention and Punishment of the Crime of Genocide (CPPCG) requires states to criminalize direct and public incitement to genocide. Genocide is defined as specific acts committed with the specific intent to destroy, in whole or in part, a national, ethnic, racial, or religious group. Incitement to genocide requires calling on the audience to commit genocide. Absent such a call or when the speaker makes a vague or indirect suggestion, hateful language that does not rise to the level of incitement to genocide may still qualify as imminent incitement that can be prohibited as described in the following paragraphs.
  - Imminent Incitement: States are required under Article 20(2) of the ICCPR to create laws to prohibit "any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence" (which we refer to as "imminent incitement").

    As any limitations on speech are the exception, states must ensure a high threshold is used for imminent incitement. As noted in 2006 by the UN Special Rapporteur on the freedom of religion or belief, Article 20(2)

protects individuals, and not belief systems. Article 20(2) sets a high threshold to ensure expression is only limited if it amounts to "incitement to imminent acts of violence or discrimination against a specific individual or group." As the Special Rapporteur has further noted, "any attempt to lower the threshold of article 20 . . . would not only shrink the frontiers of free expression, but also limit freedom of religion or belief itself. Such an attempt could be counterproductive and may promote an atmosphere of religious intolerance." UN Human Rights Council Resolution 16/18 further reiterates the necessity of a high threshold of limiting speech pursuant to Article 20(2) as "the open public debate of ideas can be among the best protections against religious intolerance."

To ensure speech reaches this high threshold, a contextual assessment that considers a range of factors and the relevant cultural sensitivities is often used to determine whether imminent incitement is present. Although the action advocated does not need to be committed for speech to be a crime, courts frequently use a six-part threshold test to determine the overall context and severity of a specific expression and its likelihood to lead to the action advocated, including a context conducive to violence, an influential speaker, a speech act that is widely disseminated, a receptive audience, and a target of a protected group.

Released by the UN Office of the High Commissioner on Human Rights, the Rabat Plan of Action provides legal and practical guidance on how legislation should comply with Article 20. This document recommends that hate speech legislation include clear reference to the standard in Article 20(2) and define key terms including (1) hatred, (2) discrimination, (3) violence, and (4) hostility.

While Article 20(2) requires states to prohibit imminent incitement, there is no requirement to criminalize this speech. The Rabat Plan of Action recommends that legislation include a clear distinction between criminal expressions, expression that may justify a civil suit or administrative sanctions, and expressions that merely raise concerns of intolerance. In addition, the Rabat Plan of action notes that "Criminal sanctions related to unlawful forms of expression should be seen as last resort measures to be applied only in strictly justifiable situations."[2]

UN Security Council resolutions regularly condemn incitement to violence and the spread of hate speech, and often call for reporting on acts of incitement to violence. In rare cases, the UN has authorized and called for sanctions against those responsible for acts of incitement based on ethnic and religious identity, such as in the cases of Cote d'Ivoire or Central African Republic (CAR).

CENTRAL AFRICAN REPUBLIC

International Enforcement of Standards

In January 2018 the United Nations added a new option for sanctions targeting actors fueling conflict in the Central African Republic through UN Security Council Resolution 2399(2018). Paragraph 22 of the resolution "[c]ondemns all acts of incitement to violence, in particular on an ethnic or religious basis" and "decides that individuals and entities who commit such acts" may be subject to sanctions including freezing of funds, financial assets, and economic resources, or travel bans. The resolution was responding to a rise in religious-based violence, hatred, and inciting speech, in particular against Muslim, Arab, and Fulani populations as well as against UN peacekeepers. Under the new sanction, individuals found guilty of incitement can be restricted from travel or to have their assets frozen. The resolution also called upon the Panel of Experts to collect and report on "acts of incitement to violence, in particular on an ethnic or religious basis, that undermine the peace, stability, or security of the CAR and identify those perpetrators."

– Other limitations on hate speech: The term hate speech is vague and lacks a common definition, which leads to overbroad laws that jeopardize freedom of speech and expression. While states are required to narrowly prohibit imminent incitement and incitement to genocide, many states limit hate speech more broadly. Any legal prohibition on hate speech that goes beyond imminent incitement or incitement to genocide must meet the strict requirements of Article 19(3) of the ICCPR. Article 19(3) requires that any speech limitation be legal, proportional, and necessary. Consequently, this means that the legislation can only impose restrictions by law and as are necessary to protect the rights or reputations of others, national security, public order, public health, or public morals.

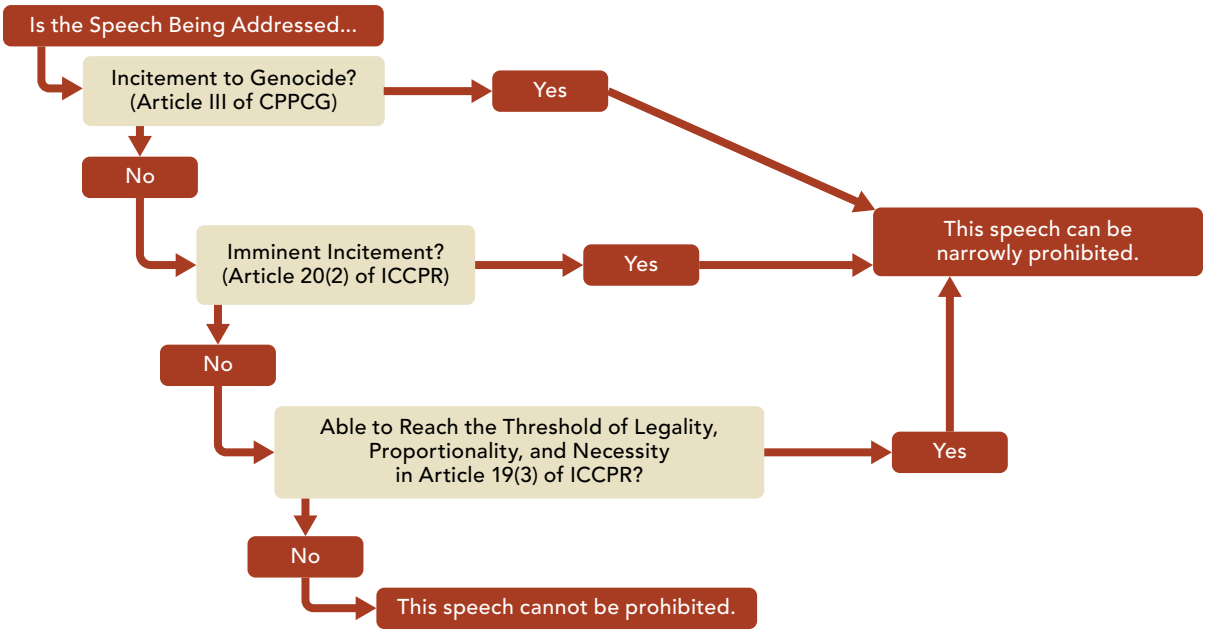


Figure 2 - Permissible Limitations on Speech in International Human Rights Law

Laws prohibiting apostasy ("apostasy laws") criminalize the act of abandoning one's religion. Apostasy laws are meant to protect the membership of a religion, at the expense of the freedom of religion or belief, and punish an individual for recruitment offenses or for renouncing the official belief system. Apostasy laws are often broad and prohibit additional activities beyond renouncing or changing one's religion, such as persuading or attempting to persuade another person to change religion. For example, the sweeping apostasy provision in Algeria criminalizes a wide range of activity:

ALGERIA

Punishment for Acts Beyond Apostasy

While conversion from Islam is not outlawed in Algeria, proselytizing by non-Muslims is illegal. Ordinance 06-03 of 2006 "Establishing the conditions and rules for the practice of beliefs other than Islam" and its implementing decrees prescribes a maximum punishment of one million dinars ($8,700) and five years' imprisonment for anyone who "incites, constrains, or utilizes means of seduction tending to convert a Muslim to another religion; or by using to this end establishments of teaching, education, health, social, culture, training … or any financial means."[3] Making, storing, or distributing printed documents or audiovisual materials with the intent of "shaking the faith" of a Muslim is also illegal and subject to the same penalties.

This ban on proselytizing is actively enforced in Algeria.[4] Along with impeding the rights of proselytizers to manifest their beliefs through expression intended to persuade another individual to change his or her religious beliefs or affiliation voluntarily, the law also hampers the rights of Muslims to discuss, consider, and ultimately convert to other religions. Furthermore, the law is implicitly discriminatory in that it only applies to non-Muslims and aims to protect membership in the majority religion. In practice, the law has been applied against Christians, along with minority Muslim sects like the Ahmadis.[5] The law has also had a chilling effect on religious practice and discourse. For example, Christian groups are regularly forced to restrict their activities, including ones that are not directly related to proselytizing, such as distributing religious texts and holding events in local communities that might be attended by Muslims.[6]

Apostasy laws are more common in North Africa than Sub-Saharan Africa, and less prevalent than blasphemy and hate speech laws on the continent overall. The punishment for apostasy ranges from civil penalties to a death sentence. However, cases of apostasy, and the application of the death penalty to punish the crime, are generally rare, including in Morocco:

MOROCCO

Penalties and Sources for Apostasy

In Morocco, unlike many countries with apostasy laws, a judge is no longer permitted to impose the death penalty on individuals found guilty of apostasy. This position was changed in 2017 and represents a reform of the country's previous interpretation under Islamic law.[7] Morocco also represents a unique example in that the source of the apostasy law is not the constitution or criminal code. Instead, it is prescribed by the High Council of Ulema—a religious authority appointed by the king to interpret Islamic law and issue fatwas (decisions on Islamic law), which, if approved by the king and ratified by parliament, can become law.[8]

Accusations and demands for punishment for apostasy also often come from among society, and these laws risk being enforced through vigilante justice if the state does not satisfy these demands, as illustrated in Sudan:

SUDAN

Targeting Minority Religious Groups; Tension between State and Societal Justice

Article 126 of the Sudanese Penal Code, on apostasy, provides that any Muslim who declares publicly that he or she has adopted any religion other than Islam commits the crime of apostasy and is punishable with the death penalty. However, the provision waives the death penalty if the convicted person repents within a certain period of time and recommits to Islam, but the individual may still face imprisonment.[9]

The ban on apostasy is actively enforced in the country, and is often used to silence minority Muslim groups with beliefs that differ from the state interpretation of Sunni Islam. In 2015, 25 Muslims were accused of apostasy for practicing beliefs the government deemed incorrect; however, they were released and charges were stayed in 2016.[10]

Societal accusations, threats of physical violence, and discrimination are also drivers of the continued application of apostasy laws in Sudan. In the past, armed vigilante groups have reportedly mobilized to fight against atheism and apostasy. At the same time, where individuals do not repent, the state is generally reluctant to implement the harshest penalty. Two cases in 2017 highlight the state's attempts at negotiating among societal expectations, religious interpretation, and minimal application of the law: 1) A female journalist, Marwa Al Tijani, was charged with apostasy over the content of her articles discussing religion, but she was declared mentally unfit to stand trial and the charges were dismissed. 2) A male student, Mohamed Salih Al Dsogi, was charged with apostasy after attempting to change his religion on his official identification card from "Muslim" to "Nonreligious." [11] He too was declared mentally incompetent by a state assessment and had his charges dropped. He attempted to challenge Article 126, but the Sudanese Constitutional Court dismissed the case. He subsequently fled Sudan over security concerns and continued to fear for his safety in his new diaspora community.

Under certain interpretations of Islamic law, apostasy is tantamount to blasphemy, as renouncing Islam is seen as equivalent to defaming the religion. As demonstrated by the situation in Egypt, this interpretation can mean that blasphemy laws effectively operate as prohibitions on apostasy, even when conversions are purportedly allowed:

EGYPT

Systematic Means of Preventing Conversions

In Egypt, the law does not explicitly prevent citizens from changing their religion. Nevertheless, the government formally recognizes conversions to Islam but does not do so for conversions from Islam to any other religion. The lack of recognition has serious implications for converts away from Islam. For example, Muslim-born converts to other religions cannot reflect their changes of religious affiliation on identity documents. Without the ability to do so, Muslim-born converts must continue to send their children to Islamic classes in school. There have also been reports of extrajudicial intimidation and arrests by security for when they learn of such conversions.[12]

Even in the absence of a specific law criminalizing apostasy, the blasphemy law and other policies operate as prohibitions on apostasy. Article 98(f) of the Egyptian penal code contains a blasphemy provision that prohibits citizens from "disdaining and contempting any of the heavenly religions or the sect belonging thereto, or prejudicing national unity or social peace."[13] Egyptian courts in cases regarding identity documents have ruled that Muslims are forbidden from converting from Islam because conversion would constitute an insult to Islam and threaten public order by enticing other Muslims to convert [14] Egyptian authorities have also used the blasphemy law to stifle discourse on religion, particularly in relation to those who question more traditional or mainstream religious teachings or practices. As just one example, in February 2017, Sunni Muslim cleric Mohamed Abdullah al-Nasr was sentenced to five years in prison for "contempt of religion" for questioning various interpretations of Qur'anic texts on Facebook.[15]

COUNTRY EXAMPLES: BLASPHEMY LAWS

Laws prohibiting blasphemy ("blasphemy laws") include provisions that sanction insulting or showing contempt or lack of reverence for God or sacred things. Blasphemy laws punish expression or acts deemed blasphemous, defamatory of religions, or contemptuous of religion or religious symbols, figures, or feelings. Blasphemy laws are intended to protect a belief, institution, or interpretation and punish an individual for an offense.

Under certain interpretations of Islamic law, blasphemy is secondary to apostasy, or emblematic of an apostasy offense, because publicly defaming the religion is interpreted as equivalent to renouncing the religion. In line with certain interpretations of these concepts, blasphemy laws often impose harsh penalties, including the death penalty or life sentences. The interconnection of blasphemy and apostasy in religious interpretations means that these categories may also be grouped together in law.

In 2017, the U.S. Commission on International Religious Freedom (USCIRF) published a study of blasphemy laws around the world, titled *Respecting Rights? Measuring the World's Blasphemy Laws*, which found that most of the 71 such laws examined failed to fully respect the human rights of freedom of expression and religion or belief. Countries were categorized as "average countries" (scoring 25–40 points), "higher than average" countries (scoring 40–55), and "highest" countries (scoring over 55) in terms of their laws' prohibitions on blasphemy most countering international law standards.16 The report used eight indicators that reflect the international principles implicated by blasphemy laws:

1. Freedom of Opinion and Expression (Indicator 1: Freedom of Expression)
2. Freedom of Thought, Conscience and Religion (Indicator 2: Freedom of Religion or Belief)
3. Legality (Indicator 3: Vagueness of the Law)
4. Proportionality (Indicator 4: Severity of Penalty)
5. Non-Discrimination and Equality (Indicator 5: Discrimination Against Groups)
6. Non-Discrimination and Equality (Indicator 6: State Religion Protections)
7. Protection of Privacy (Indicator 7: Speech and Forum Limitations)
8. Hierarchy of the Law (Indicator 8: Hierarchy of the Law)

In further research on the use of these laws in Africa, USCIRF has found that Botswana, Cameroon, Cape Verde, Kenya, Malawi, Mauritania, Seychelles, and The Gambia also maintain blasphemy laws that can be analyzed using the same method as the 2017 report. Sudan's law was also amended in 2015 to be broader and stricter; therefore, USCIRF updated the country's score. South Africa also maintains blasphemy as a common law crime, but without statutory language, South Africa's law cannot be textually analyzed like the other examples. USCIRF used the same scoring mechanism to analyze the laws for each of these countries, and except for Mauritania, most of the blasphemy laws fell in the category of "average countries"—see Figure 3.

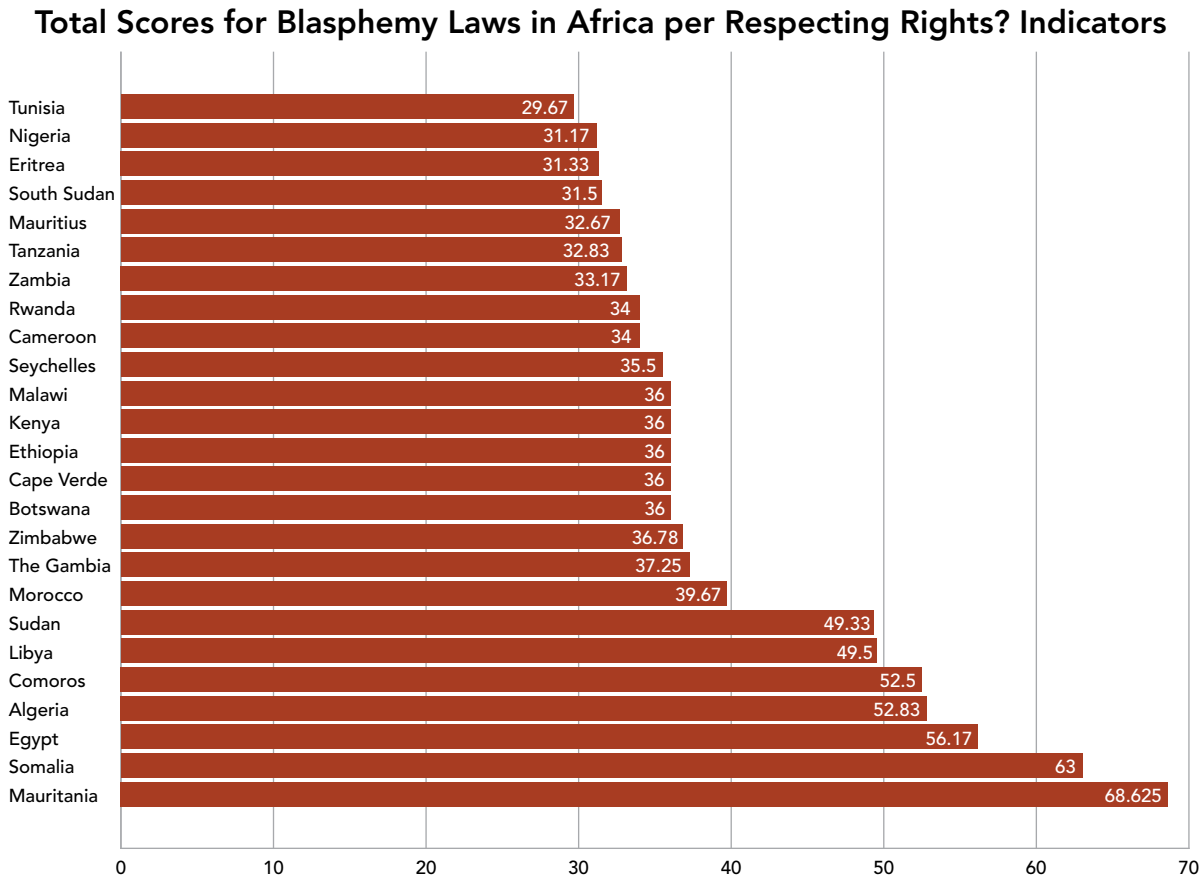


Figure 3 - Blasphemy Law Severity in Ascending Order

Blasphemy laws violate international and regional human rights law. Religious freedom includes the right to express a full range of thoughts and beliefs, including those that others might find blasphemous. USCIRF's *Respecting Rights?* report found that all blasphemy laws reviewed failed to fully respect at least one of the principles of international human rights law examined, including the freedom of expression and the freedom of religion or belief. The report also found that blasphemy laws are often vaguely worded, fail to limit the forum in which blasphemy can occur for purposes of punishment, and lack a requirement of specific intent.

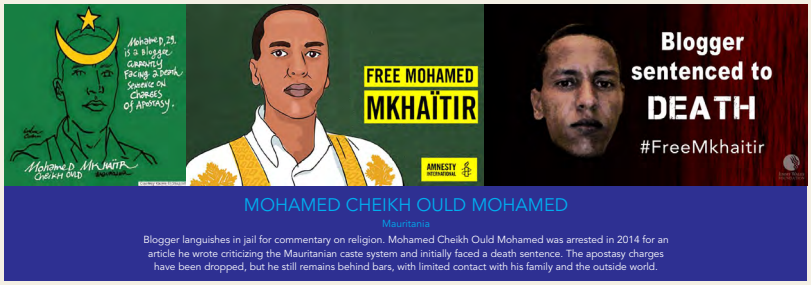
MAURITANIA

Worsening Blasphemy Law and Deteriorating Space for Religious Freedom

Score per Respecting Rights? indicators: 68.6

In Mauritania, apostasy and blasphemy are criminalized under the same provision of the criminal code—Article 306—which was updated with harsher language in 2017.[17] Using the same indicators and methods as the Respecting Rights? report, Mauritania's amended law would rank as the worst blasphemy law in the world, replacing Iran for the highest score. The law contains the severe penalty of death regardless of whether the accused individual repents for the alleged ridicule/insult. The law also requires the penalty of death for Muslims who persist in failing to perform prayers. The law severely limits the freedom of religion in terms of the rights to speak about religion critically, to convert, or to manifest religion in any particular way.

The law was made stricter after a high-profile apostasy case. In 2014, Mauritanian blogger Mohamed Cheikh Ould Mohamed Ould Mkheytir was convicted of blasphemy under Article 306 over an article he wrote discussing religion and racial discrimination against the "forgeron" caste of society, which the government said also criticized the Prophet Mohammed. Although he repented, which under the original law would have enabled a reduction of his sentence, he was sentenced to death by firing squad. While Mkheytir received broad international support, he and his lawyers faced violent threats from local communities. In 2017, following delays, the Supreme Court sent Mkheytir's case to the Court of Appeals. The appeals court found that he had repented appropriately, and mandated he pay a fine and serve two years, which he had already served by that point. In spite of the release order, there continued to be strong pressure by religious authorities and the general public against him, and he thus remained in detention in an unknown location.[18] International campaigns advocating for his freedom continued in 2018 and 2019, and on July 29, 2019, Mauritanian authorities released him from detention.[19]



Images shared on Twitter and used in online campaigns for Mkheytir's release.[20]

Blasphemy laws are problematic in promoting intolerance and discrimination against minorities, empowering authorities to sanction citizens who express minority views. USCIRF's *Respecting Rights?* report concluded that blasphemy laws in countries with official state religions were more likely to receive higher scores due to discrimination among religious groups.

Blasphemy laws also exist in secular countries, where these laws can also be applied in a discriminatory fashion. Laws such as these may inherently preference religion over non-belief, and prevent discourse around religious belief, such as the law of South Sudan:

SOUTH SUDAN

Blasphemy Laws in Secular States
Score in Respecting Rights? report: 31.5

Although a majority of the population is Christian, the constitution of South Sudan provides that the country is secular.[21] Despite this status, South Sudan maintains a blasphemy law in the country's penal code, criminalizing both (1) insulting or inciting contempt of a religious creed and (2) injuring or defiling a place of worship (§201 and §203 of the penal code, respectively).[22]

In Respecting Rights? South Sudan's blasphemy law received a score of 34, placing the country in the average score category. South Sudan placed 15th on the list of countries scored, falling between Eritrea and Syria. The law received its highest scores for its vagueness (Indicator 3) and the lack of forum limitations (Indicator 7). The crime of insulting or inciting contempt of religious creeds is particularly problematic in its vagueness, as it fails to specify the intent required for the crime. The lack of intent is especially apparent given that the second crime of injuring or defiling a place of worship requires the "intent to insult the religion of any class." Instead, the crime of insulting or inciting contempt of religious creeds penalizes anyone who "by any means publicly insults or seeks to incite contempt of any religion in such a manner as to be likely to lead to a breach of the peace." In addition to failing to define the forum where blasphemy can occur, the law empowers the judge to be the arbiter of religious feelings. The penalty for blasphemy in South Sudan is a prison term of three years, a fine, or both.

The law received a favorable score of 1.33 for its compliance with the principles of freedom of religion or belief. The law also received a 0 for its discrimination against groups, as the law expressly protects all religions equally.

While USCIRF found no reports of the blasphemy provision being enforced, by maintaining the law, South Sudan cannot ensure it will uphold international human rights standards as such a law could lead to future prosecutions and otherwise silence speech.

Blasphemy laws are found in a range of sources, national constitutions and penal codes, which were the main legal instruments examined in the *Respecting Rights?* report. However, blasphemy prohibitions in other instruments can still impose harmful limitations on rights. For example, in Lesotho, media regulations are the source of prohibitions of both blasphemous and hate speech:

LESOTHO

Blasphemy Laws in Media Laws

In Lesotho, the Telecommunications Authority directs broadcasters not to broadcast content which "contains the gratuitous use of offensive language, including blasphemy; [or which] is likely to incite or perpetuate hatred against or gratuitously vilifies any person or section of the community on account of race, ethnicity, nationality, gender, marital status, sexual preference, age, physical or mental disability, religion, or culture." Blasphemy is not defined in the code of conduct and not prohibited in the Media Act itself. Content which is "likely to incite or perpetuate hatred" is vague and broad. The Telecommunications Authority has the discretion to sanction a violator of these rules with a fine or require that the violator issue a correction and/or apology. Lesotho's criminal code also prohibits hate speech.[23]

The Respecting Rights? report also considered the vagueness of laws, finding that a significant majority of these laws are vague. Reflected in the indicators on vagueness of the law and forum and speech limitations, many laws were ambiguous, indefinite, or non-existent regarding the prohibited actions, the resulting sanctions, or the location of the prohibited speech or conduct. This vagueness compounds the human rights concerns associated with blasphemy laws. In some cases, vagueness made it more difficult to assess a law's adherence to international and human rights principles. Vaguely drafted laws are more open to interpretation, and thus, the context in which these laws are implemented is more important. Vague laws are more prone to result in potential or actual discrimination in implementation, even when these dangers are not reflected in the score of the legislation, as demonstrated in Sudan's law:

SUDAN

The Challenges of Reviewing Vaguely Drafted Laws

Score per Respecting Rights? indicators: 39.3

Sudan's blasphemy law is contained in Article 125 of the country's Criminal Act of 1991, which penalizes insulting religious creeds. This law received an overall score of 39.3. Notably, the law received 8 out of 10 total points for its vagueness. The law uses imprecise terms, such as "by any means," "abuses," or "insults," to define the prohibited behavior, leaving the law open to wide interpretation as to which acts would qualify as "abusive" or "insulting." At the same time, due to the vague language, the Sudanese law received low scores on indicators for Freedom of Religion or Belief, Discrimination against Groups, and State Religion Protections. Although the law does not discriminate on its face, the study cannot capture the potential or actual discrimination that a vaguely written law can cause in its implementation. In light of the 2015 amendment which specifies insult to Islam, USCIRF re-scored the blasphemy law.[24]

COUNTRY EXAMPLES: INTERSECTION OF BLASPHEMY AND HATE SPEECH LAWS

There can be significant overlap between the speech prohibited through blasphemy laws and hate speech laws. This is particularly true when hate speech laws are formulated in vague terms or target specific content. Vagueness in the legislation can also result in a lack of clarity regarding the purpose and intent of the law, as demonstrated in The Gambia where the blasphemy law can also be interpreted as a hate speech prohibition:

THE GAMBIA

Vagueness in the Purpose of Blasphemy Laws
Score per Respecting Rights? indicators: 37.25

The Criminal Code of The Gambia, Chapter 14 (articles 117–120) prohibits offences to any religion such as damaging places of worship or objects considered sacred, or wounding religious feelings in a variety of ways. Article 120 states that: "Any person who, with the deliberate intention of wounding the religious feelings of any person, utters or writes any word, or makes any sound in the hearing of that person, or makes any gesture in the sight of that person, or places any object in the sight of that person, is guilty of a misdemeanor, and is liable to imprisonment for one year." Most laws that address "intent to wound religious feelings" are blasphemy laws under the definition used in USCIRF's 2017 report. However, because Article 120 is focused on an individual insult to a person belonging to a faith group, rather than to an entire religious group, it also could be interpreted as a hate speech law.[25]

Using the scoring method of the Respecting Rights? report, The Gambia could be considered an "average" country. Its blasphemy law is broad, and specifically infringes on individuals' rights to freely express views on any religion in any forum, public or private. It does not preference a specific or state religion; however, it does preference belief over non-belief. The purpose of the law is also unclear, but appears to be to protect an individual from insult or emotional hurt, rather than to secure public order or prevent discrimination, or another potential intent of the law.

The intentions of apostasy and blasphemy laws are to protect religious faiths and their followers, while hate speech laws are usually explicit in their goal of protecting individuals of protected groups from harm. Hate speech laws are sometimes misused to penalize and prevent the expression of views offending religious feelings. In those cases, the intents of these laws are often similar in their goal of protecting believers from perceived harm resulting from the criticism of their religious beliefs. Another example in which the speech prohibited may appear to be addressing both blasphemy and hate speech, is the law in Eritrea:

ERITREA

The Intersection of Blasphemy and Hate Speech Laws Score in Respecting Rights? report: **31.3**

Eritrea maintains several blasphemy laws that aim to protect religious feelings. Eritrea's Press Proclamation was ranked 46 in the Respecting Rights? report, receiving a score of 31.3. This law prohibits the press from publishing and disseminating "any matter which vilifies or belittles humanitarian and religious beliefs" and "any matter which incites religious and sub-national differences…." One of the reasons for the lower score was that this provision does not specify a sanction in writing, thus receiving a score of zero on that indicator.[26]

In addition to this law, Eritrea's 2015 Penal Code criminalizes several types of blasphemous conduct. The code contains a provision that criminalizes the "Disturbance of Religious or Ethnic Feelings," defined as "intentionally and publicly disparag[ing] a ceremony or rite of any lawful religious group, or profan[ing] a place, image or object used for such religious ceremonies or ceremonies relating to any ethnic group." The penal code also criminalizes "Insulting Behavior and Outrage," which is defined as "offend[ing] the honour of [another] person by insult or injury by: (a) distastefully touching upon the latter's physical or mental impairment, or the latter's ethnic, religious or racial background." The offense of "Defamation of or Interference with Religious and Ethnic Groups" is contained in Article 195. This offense is defined as "intentionally and publicly assert[ing] fabricated or distorted facts, knowing them to be such, in order to cast disparagement upon any religion or ethnic group, or unlawfully disrupt[ing] or attempt[ing] to obstruct a religious service or assembly." The penalties for all three offenses are possible imprisonment for up to a year.[27]

These laws demonstrate the potential overlap between blasphemy and religious hate speech legislation. None of these laws directly use the terminology blasphemy or hate speech, which makes a clear categorization difficult. The provisions that protect individuals more easily fall within the category of hate speech. As hate speech laws, these provisions are overbroad in limiting speech that is merely offensive. However, in aiming to protect religious groups from speech that is disturbing, insulting, or defaming, certain provisions can also be interpreted as blasphemy provisions. Regardless of how these laws are packaged, they in effect suppress religious discourse and broadly prohibit criticism about ideas, beliefs, or religions.

In order to prevent them from functioning as blasphemy laws, hate speech laws cannot prohibit criticism directed at or about ideas, beliefs, or religions. To this aim, hate speech laws must not focus exclusively on the content of the speech, but instead include a contextual assessment using a range of factors in determining whether the speech is protected. Provisions that rely on subjective feelings or aim to protect religious groups from speech that is disturbing, insulting, or defaming must be revised.

Limiting different forms of hate speech: As explained previously, several types of speech fall under the broad umbrella of hate speech, including incitement to genocide and imminent incitement. This section reviews hate speech laws in a range of African countries and considers their application in different contexts. Key excerpts from the legislation of each example discussed can be found in Appendix 3.

In considering the different types of hate speech legislation, it is essential to remember the purpose of these laws. The aim of hate speech legislation is to stem the potential impact of intolerant speech. For example, the purpose of imminent incitement provisions is to curtail speech that is likely to result in hatred, discrimination, or violence against a specific individual or group. Hate speech legislation must strike an appropriate balance between allowing protected speech, while at the same time protecting individuals and groups from harm. The more likely the speech is to provoke this harm, and the clearer the intent is to do so, then the stronger the obligation is on states to prohibit the speech. In addition, the greater the risk for violence, the stronger the calls will be from the international community to intervene.

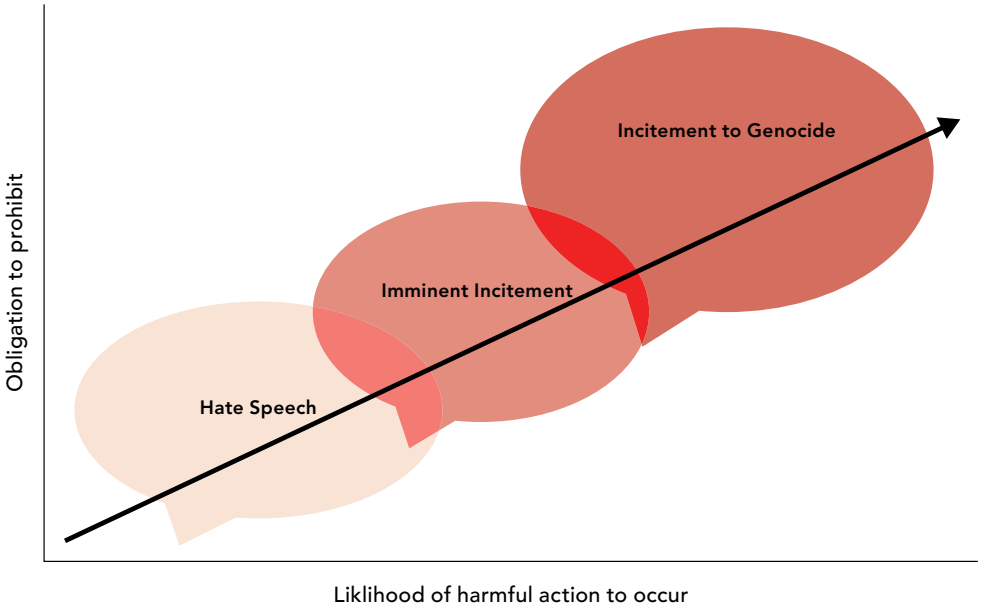


Figure 4 - Rising Severity of Speech in Relation to the State's Obligation to Prohibit Speech

Hate speech legislation often focuses on imposing criminal sanctions. However, criminal sanctions on speech should only be applied as a remedy of last resort in the most serious cases, as determined by a contextual assessment. Legislation should also outline civil, administrative, and policy measures that can be taken in response to hate speech, particularly speech that does meet the threshold of severity required by ICCPR 20(2).

Like blasphemy laws, many hate speech laws in Africa are vague and ambiguous. These laws frequently fail to define prohibited actions, the resulting sanctions, or the location of the prohibited speech or conduct. The purpose of these laws is to protect individuals or groups, but such laws are ripe for arbitrary application and abuse. Vague laws are more open to interpretation, leading to the laws being overbroad and inappropriately used to suppress dissenting views. For example, in South Sudan, imminent incitement has fueled mass atrocities. Instead of punishing perpetrators of incitement, the government uses its laws to silence newspapers that are critical of its policies.

SOUTH SUDAN

Misapplication of Vague Hate Speech Laws

In 2013, a civil war erupted in South Sudan. The violence in South Sudan has been fueled by incendiary speech that targets individuals and communities based on their ethnicity, perceived beliefs, or political views. Online dangerous speech, often from the diaspora, has also catalyzed mass violence and atrocities.[28]

According to the UN Mission in South Sudan (UNMISS)'s Report on the Right to Freedom of Opinion and Expression in South Sudan since the July 2016 Crisis, hate speech has been spread through various means of communication, including private conversations, SMS messages, cartoons published in the press, and threatening letters. For example, UNMISS documented that threatening letters were placed on the gates of the Roman Catholic Church in Aweil. Also contained in this report, the below cartoon demonstrates the common use of degrading terms that equate communities with animals in an attempt to dehumanize groups.

While the cartoon depicts a religious leader engaging in hate speech, religious leaders in many parts of South Sudan have been instrumental in defusing ethnic tensions within communities and advocating for peace.[29] Interfaith institutions have convened local meetings to develop strategies to better combat hate speech and raise awareness about the dangers of incitement.[30]

Despite the serious concern that inflammatory language can spark violence, the government has made only a few efforts to address incidents of incendiary speech. These responses are typically public condemnations and reprimanding alleged perpetrators. The government abuses the hate speech law contained in the Media Authority Act to place undue restrictions on speech and censor the press.[31] These restrictions are imposed by state institutions, including the National Security Service, and often restrict speech that does not meet the threshold of imminent incitement or incitement to genocide.[32] Frequently, newspapers and radio programs that are critical of the government are censored. There are no reports of the law being used to punish hate speech that has incited conflict-related violence.[33]

1. Incitement to genocide: To mitigate the most severe dangers of hate speech, incitement to genocide is criminalized in many countries in Africa. However, these provisions often fail to meet international standards, which only allows prohibitions on direct and public calls to action to commit genocide.

   In addition, some countries go beyond prohibiting incitement to genocide to also limit discourse about genocide and discussion of past atrocities. These laws discourage open dialogue that can contribute to a society coming to terms with the legacy of the past and also suppress freedom of expression and political dissent. An example of a country facing challenges in implementing laws that criminalize incitement to genocide is Rwanda:

RWANDA

Incitement to Genocide as an International and Domestic Crime

Between April and July 1994, members of the Hutu majority in Rwanda killed at least 500,000 people, mostly members of the Tutsi minority. Following the genocide, the United Nations International Criminal Tribunal for Rwanda (ICTR) considered the role of speech, including in the seminal "Media Trial" (appeal), in which two media executives were convicted for the crime of direct and public incitement to genocide. The defendants were executives of a pro-Hutu radio station and newspaper.[34]

In drawing a line between protected speech and incitement to genocide, the decision emphasized that incitement to genocide requires calling on an audience to take action. Depending on the context, this call does not need to be explicit. For example, the ICTR found that a 1993 broadcast by one defendant regarding the discrimination he experienced as a Hutu child was protected speech, because the purpose was to raise ethnic awareness and there was no call to violence. The context was also significant, as the genocide was not ongoing then. In contrast, the same defendant was found guilty of incitement to genocide for a broadcast in 1994 in which he called on the audience to exterminate the Tutsi, stating "Look at the person's height and his physical appearance. Just look at his small nose and then break it." Within the context of the ongoing genocide, the ICTR found that the language was clear in its promotion of ethnic violence. The case also established that incitement to genocide does not require a showing that the incendiary speech caused actual violence; so, there was no requirement of demonstrating that the broadcast in fact invoked violence.

Today, Rwanda continues to confront the legacy of the genocide, including through enacting laws that criminalize incitement and so-called "genocide ideology."[35] Article 93 of the Rwandan Penal Code criminalizes the "direct or indirect incitement to commit genocide," which is much broader than the international standards requiring public speech with more than an indirect or vague suggestion of genocide.[36] The Genocide Ideology Law is also vague and sweeping in stipulating punishments for crimes that include genocide ideology, denial of genocide, minimization of genocide, and justification of genocide. Instead of promoting genuine discourse on the genocide and fostering a culture of human rights protections, these laws suppress dissent and discussion of the country's past.

2. Imminent Incitement: As mentioned previously, the ICCPR requires states to prohibit imminent incitement, which is defined in Article 20(2) as "any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence." None of the legislation USCIRF reviewed that purports to prohibit imminent incitement explicitly referenced Article 20(2) standards and defined these key terms, as suggested by the Rabat Plan of Action.

   Without this clarity, vague hate speech laws are often overbroad and reach beyond the permissible scope of Article 20(2). These vague laws are also often subjective, protecting the feelings of individuals instead of actual harms. The hate speech law in Uganda demonstrates the problems in failing to define, or even include, these essential terms:

UGANDA

Failure to Reference Language of Article 20(2)

Some states in Africa criminalize sectarianism instead of imminent incitement. For example, the Ugandan Penal Code in §41 prohibits the promotion of sectarianism. The law provides that "a person who prints, publishes, makes or utters any statement or does any act which is likely to: (a) degrade, revile or expose to hatred or contempt; (b) create alienation or despondency of; (c) raise discontent or disaffection among; or (d) [p]romote, in any other way, feelings of ill will or hostility among or against, any group or body of persons on account of religion, tribe or ethnic or regional origin commits an offence." Section 41(2) provides a defense for statements made with the intent to expose, discourage, or fight practices that promote sectarianism.[37]

Human rights organizations have criticized this provision for being vague and overbroad, leading to arbitrary application and politicization of the law[38] In addition to failing to reference the language advised in Article 20(2) in its conceptualization of incitement as sectarianism, the law does not define sectarianism. Such vagueness could lead to inconsistent implementation of the law. Furthermore, section 41(d) also prohibits the promotion of feelings of ill will or hostility against individuals or groups on account of protected grounds, including religion. This section is particularly problematic as it relies on the subjective feelings of individuals and groups, failing to protect against actual harm. Additionally, in application, this overbroad hate speech law can appear similar to a blasphemy law in that it protects religious feelings rather than protected group members.

3. Hate speech: Broader hate speech laws that legislate beyond imminent incitement and incitement to genocide must conform with the requirements of ICCPR Article 19(3), which requires legality, proportionality, and necessity. Hate speech must be defined in a way that differentiates it from merely offensive speech, which is protected under international law.

KENYA

Navigating an Array of Hate Speech Prohibitions

In Kenya, the constitution and several pieces of legislation regulate hate speech. The 2010 Constitution of Kenya expressly provides that the right to freedom of expression does not extend to incitement to violence, hate speech, or advocacy of hatred. Despite hate speech not being a legal term, the Kenyan constitution does not define any of these terms or explain the boundaries among these overlapping speech categories.[39]

Alongside the constitution, the Penal Code of Kenya creates an offense of incitement to violence. This provision is overbroad and far reaching in its application to speech, acts, omissions, and even implications that can cause bodily injury or death, and places the evidentiary burden on the defendant.40 The penal code also contains a blasphemy provision that protects the religious feelings of individuals. Furthermore, the National Cohesion and Integration Act, passed in response to widespread ethnic violence following 2007 elections, states: "a person who uses threatening, abusive or insulting words or behavior, or displays any written materials … commits an offence if such a person intends thereby to stir up ethnic hatred, or having regard to all the circumstances, ethnic hatred is likely to be stirred up." This provision is extremely broad, and carries a penalty of up to three years imprisonment.

Human rights groups have criticized Kenya's regulatory framework as confusing and far reaching. Although hate speech is prohibited in the constitution and other laws, it is never defined or tethered to international standards that allow for restrictions on speech. As such, there have been calls for authorities to review the laws on hate speech to harmonize these provisions and ensure conformity with international standards.[41]

Concerns about overly broad language and the question of necessity have been raised with pending bills to criminalize hate speech in Nigeria and South Africa. As described in USCIRF's report *Central Nigeria: Overcoming Dangerous Speech and Endemic Religious Divides*, multiple bills in Nigeria have been proposed to specifically focus on hate speech, but none have passed. In addition, as hate speech legislation often serves to protect multiple different identity groups, at times it can be perceived as a threat to one group's freedom to speak negatively about another. This issue has arisen in the case of South Africa's bill to criminalize hate speech and hate crimes:

SOUTH AFRICA

Intention vs. Potential Impact of Hate Speech Laws

Freedom of religion, belief, and opinion are enshrined in Article 15 of the South African Constitution. Article 16 of the constitution, which protects freedom of expression, notes that this right "does not extend to– …(b) incitement of imminent violence; or (c) advocacy of hatred that is based on race, ethnicity, gender or religion, and that constitutes incitement to cause harm."[42] South Africa currently has a pending bill on hate speech, which has seen vigorous debate among civil society and lawmakers. The bill has been put forward after years of increasing hate crimes and hate speech, which are most prominently related to racism and xenophobia, but at times manifesting in hate against religious groups/individuals, particularly against Muslims and Jews.[43]

The draft law is intended to protect against hate speech and crimes based on religious identity and other protected categories, and does not explicitly limit the freedom of religion. Nonetheless, some religious groups see the law as a threat to their ability to express and practice their religious beliefs freely. One group of Christian leaders argued that the bill would criminalize their ability to preach against immorality and homosexuality in their communities.[44] Other rights groups in support of the bill have said that the hate speech law is needed as some religious leaders' preaching has on occasion promoted intolerance and put members of protected groups at risk of being violently attacked. A religious exemption clause was added to a revised version of the bill.[45]

The implementation of overbroad and vague hate speech laws can lead to violations of the freedom of religion or belief. This is particularly true when authorities act swiftly in trying to diffuse tensions caused by inflammatory speech, as seen in Sierra Leone where authorities closed six churches in response to alleged hate speech by a religious leader:

SIERRA LEONE

Impact of Hate Speech Laws on Religious Leaders

Sierra Leone does not have a specific hate speech law. However, the Public Order Act describes as seditious libel spoken or written words that "encourage or promote feelings of ill-will and hostility between different tribes or nationalities or between persons of different religious faith in Sierra Leone."[46] Measured against international standards for hate speech laws, this law is overbroad in protecting against feelings of ill-will and hostility, while also being under-inclusive in limiting its application to speech between persons of different religious faiths.[47]

In September 2017, officials in Sierra Leone detained "for his own safety" a Nigerian evangelical pastor after a video of his sermon went viral on social media.[48] In the video, he equated Islam to terrorism and claimed that there were only Christians and animists in Sierra Leone (despite the Muslim population of the country being reported at 60 percent). With ongoing threats to burn down some of his six churches, the Ministry of Social Welfare, Gender, and Children's Affairs suspended all activity in all branches of his churches pending an investigation into the pastor's alleged hate speech. Ultimately, no charges were brought under the libel provision or otherwise. The pastor made a public apology, and his churches reopened.[49]

Civil society organizations raised concern regarding the impact on freedom of religion or belief caused by the closure of the churches, as members of the congregation were not able to choose their place of worship during the duration of the investigation. Also alarmed by the growing inter-religious tensions, local organizations worked to promote religious tolerance and counteract inciteful speech in the wake of the controversary. In particular, the Inter-Religious Council of Sierra Leone, while condemning the pastor's statements, played an important role in mediating tensions and securing his release.[50]

Increasingly, hate speech is being explicitly criminalized in Africa specifically when it is published or aired by the news media. At the same time, media laws limiting hate speech are sometimes viewed as political tools used by governments to crack down on journalists, bloggers, other media actors, or political opposition. The Democratic Republic of the Congo's (DRC) press law is an example of one which as written intends clearly to criminalize incitement to violence and hate, but in practice has been misused by the government:

DEMOCRATIC REPUBLIC OF THE CONGO

Hate Speech and the Media

In the DRC specific laws restrict the press and journalists from using hate speech. Article 77 of the 1996 Freedom of Press Law criminalizes incitement to violence, discrimination, and hate against a person or group of persons on the basis of their appearance, ethnicity, nationality, race, and religion. The law appropriately uses the standards articulated in Article 20(2). The High Council for Audiovisual and Communication also has the power to suspend media outlets for incitement to violence and hate speech on the basis of tribe, ethnicity, race, and religion.[51]

In practice, the government exercises broad authority in censoring media that it views as politically threatening. In the leadup to December 2018 elections, officials shut down internet access and media outlets and arrested, detained, and even killed journalists.[52] Repression of press freedom was a consistent issue under former president Joseph Kabila. One opposition radio station was shut down in 2014 in part for "incitement to hatred and insurrection."[53]

CONCLUSION

Limitations on speech that impact the freedom of religion or belief are prevalent across Africa. Nonetheless, blasphemy, apostasy, and hate speech laws are often analyzed in separate categories, even though they are often not as distinctly defined in text or in implementation. Blasphemy, apostasy, and hate speech laws can simultaneously impede the rights to freedom of expression and freedom of religion or belief, particularly in restricting religious discourse. Such laws often protect religious institutions and views at the expense of non-belief or atheism. Governments across Africa continue to grapple with how to prohibit or regulate speech that is hateful or potentially incites violence, discrimination, or hostility towards religious and other groups. With many new and pending laws across the continent, it is important that states share best practices and ensure laws protect rather than harm citizens' rights. While blasphemy and apostasy laws are particularly problematic from an international law perspective, vague hate speech laws can similarly impede human rights. To ensure the protection of these fundamental freedoms, hate speech laws must be narrowly drawn and enforced carefully. Citizens must be allowed to openly and robustly discuss sensitive topics, including questioning and even criticizing religion. Apostasy and blasphemy laws across the continent should be repealed to allow the space for these discussions.

Even when intolerant speech cannot be addressed through legislation because the speech is protected, states can implement other measures and policies to combat such speech and its underlying tensions. Religious and community organizations are often engaged in counter-speech efforts, which can be used to disrupt dangerous patterns of hate speech, help prevent violent extremism, and shift the culture towards greater understanding and respect. Using their societal influence and moral authority, religious leaders in particular can be influential in countering hate speech and mobilizing people toward positive engagement rather than violence.

AFRICA

Religious Leaders Diffusing Hate Speech

The UN's Plan of Action for Religious Leaders and Actors to Prevent Incitement to Violence that Could Lead to Atrocity Crimes ("the Fez Plan of Action ") was launched in 2017, and recognizes that religious leaders can play a particularly influential role in stopping incitement, as they have the potential to influence the behavior of those who follow them and share their beliefs. The Plan of Action was developed through a process of consultations and dialogues with religious leaders worldwide, and provides recommendations for religious leaders to (1) take specific actions to prevent and counter incitement to violence, (2) strengthen the capacity to prevent incitement to violence, and (3) build peaceful, inclusive, and just societies that counteract incitement to violence.

In the development of the Fez Plan of Action, regional consultations were held to contribute recommendations into the broader UN plan. In the African Plan of Action, religious leaders noted that "incitement to hatred, hostility and violence is prevalent in Africa, as it is in all regions" and committed "to respect and promote human rights; respond to and counter incitement speech; increase interfaith collaboration; and partner with traditional and new media, as well as with state authorities and education institutions, to prevent and respond to incitement to violence and build communities that support each other, across faiths, and are resilient to incitement to violence."

RECOMMENDATIONS FOR U.S. POLICY

To better promote freedom of religion or belief in Africa and elsewhere, USCIRF recommends the U.S. government:

1. Push for the repeal of blasphemy and apostasy laws, and engage in high-level dialogues on their impact, even if not enforced.
   - Continue to push for the release of prisoners held on apostasy and blasphemy charges.
   - Support House Resolution 512 calling for the global repeal of blasphemy, heresy, and apostasy laws.
2. Push partners in Africa to assess and reform hate speech laws to ensure they fully respect freedoms of expression, opinion, press, and religion or belief in compliance with international standards.
3. Provide funding and other support to programs that engage civil society to counter hate speech, discrimination, and violence based on identity through non-legislative means.
4. Regularly document the impacts of hate speech laws and other limits on freedom of expression on religious freedom in the Department of State's annual international religious freedom reports.
5. When regulating U.S.-based social media and communication platforms, take into account the potential impact of regulatory strategy on FoRB and religious minorities in Africa and globally.
6. Partner with African states to conduct additional workshops with officials centered on responsive government practice and inclusive approaches to minority community needs that discuss the impact of speech limitations on religious minorities as well as strategies to counter intolerance and hateful speech.

APPENDIX 1: APOSTASY LAWS ANALYZED[54]

Country	Source of Law	Text of Law
Algeria	Ordinance no. 06-03– Establishing the conditions and rules for the practice of beliefs other than Islam"	Article 11 - Without prejudice to more serious penalties, any person who commits the following shall be punished by a term of imprisonment of two (2) to five (5) years and a fine of 500,000 DA to 1,000,000 DA: 1. incites, coerces or uses means to persuade a Muslim to convert to another religion, or uses educational, health, social, cultural, or training institutions, or any other institution or financial means toward this purpose; 2. produces, stores or distributes printed documents or films, or any other medium or means, to shake the faith of a Muslim.
Sudan	Penal Code Article 126 (Amended in 2015)	(1) There shall be deemed to commit the offence of apostasy (Ridda) (a) "…every Muslim, who propagates for renunciation of the creed of Islam or publicly declares his renouncement thereof by express statement, or conclusive act" (b) "whoever questions the credibility of, or insults, Mohammed the Messenger of God, peace be upon him, publicly by any conclusive act" (c) "whoever questions the credibility of the Holy Qur'an by citing contradiction, revisionism, or otherwise" (d) "Whoever excommunicates (act of takfir—leveling the charge of unbelief) the Companions of Mohammed the Messenger of God, peace be upon him, collectively, or their 'Masters: Abu Bakr, or Umar, or Othman, or Ali, giving oneself permissibility and lawfulness (halal) to engage in this denunciation" (e) "Whoever questions the moral integrity and righteousness of Ā'ishah, the Mother of the Believers (umm al-mu'minīn), with respect to matters in which her innocence has been established by the Holy Qur'an." (2) Whoever commits apostasy shall be given a chance to repent during a period to be determined by the court; where he insists upon apostasy, and not being a recent convert to Islam, he shall be punished with death. (3) The penalty provided for apostasy shall be remitted whenever the apostate recants apostasy before execution and may be punished with whipping and imprisonment for a term not exceeding five years.

APPENDIX 2: SELECT BLASPHEMY LAWS[55]

Country	Source of Law	Text of Law
Botswana Blasphemy law Score: 36	Criminal Code – Division III – Offences relating to Religion	**136. Insult to religion of any class** Any person who destroys, damages or defiles any place of worship or any object which is held sacred by any class of persons with the intention of thereby insulting the religion of any class of persons or with the knowledge that any class of persons is likely to consider such destruction, damage or defilement as an insult to their religion, is guilty of an offence. **137. Disturbing religious assemblies** Any person who voluntarily causes disturbance to any assembly lawfully engaged in the performance of religious worship or religious ceremony is guilty of an offence. **138. Trespassing on burial places** Every person who, with the intention of wounding the feelings of any person or of insulting the religion of any person or with the knowledge that the feelings of any person are likely to be wounded, or that the religion of any person is likely to be insulted thereby, commits any trespass in any place of worship or in any place of sepulture, or in any place set apart for the performance of funeral rites or as a depository for the remains of the dead, or offers any indignity to any human corpse, or causes disturbance to any persons assembled for the purpose of funeral ceremonies, is guilty of an offence. **139. Hindering burial of dead body, etc.** (1) Whoever unlawfully hinders the burial of the dead body of any person, or without lawful authority in that behalf disinters, dissects, or harms the dead body of any person or, being under a duty to cause the dead body of any person to be buried, fails to perform such duty, is guilty of an offence. (2) In this section the word "burial" means burial in earth, interment or any other form of sepulture, or the cremation or any other mode of disposal of a dead body and "buried" has a corresponding meaning. 140. Writing or uttering words with intent to wound religious feelings Any person who, with the deliberate intention of wounding the religious feelings of any other person, writes any word or any person who, with the like intention, utters any word or makes any sound in the hearing of any other person or makes any gesture or places any object in the sight of any other person, is guilty of an offence and is liable to imprisonment for a term not exceeding one year.
Cameroon Blasphemy law Score: 34	Law No. 2016/007 of 12 July 2016 Relating to the Penal Code - Chapter II – Offences Against Public Peace	**Section 152: Contempt** (1) A contempt shall mean any defamation, abuse, or threat conveyed by gesture, word or cry uttered in any place open to the public, or by any procedure intended to reach the public… **Section 241: Contempt of Race or Religion** (1) Whoever commits a contempt, within the meaning of section 152 of this Code, of the race or religion of a number of citizens or residents shall be punished with imprisonment for from 6 (six) days to 6 (six) months and with fine of from CFAF 5 000 (five thousand) to CFAF 500 000 (five hundred thousand). (2) Where the offence is committed by means of the press or wireless the fine may extend to CFAF 20 000 000 (twenty million). (3) Where the offence is committed with intent to arouse hatred or contempt between citizens, the penalties provided by the foregoing subsections shall be doubled.

Country	Source of Law	Text of Law
Cape Verde Blasphemy law Score: 36	Constitution – Article 49 – Freedom of Conscience, Religion, and Cult	English Translation 7. The protection of places of worship, as well as religious symbols, insignias and rites shall be guaranteed and imitation or ridicule thereof shall be prohibited. Portuguese Original 7. É assegurada protecção aos locais de culto, bem como aos símbolos, distintivos e ritos religiosos, sendo proibida a sua imitação ou ridicularização.
Egypt Blasphemy law Score: 56.17	The Penal Code Law No. 5801	**Article 98(f)** Detention for a period of not less than six months and not exceeding five years, or paying a fine of not less than five hundred pounds and not exceeding one thousand pounds shall be the penalty inflicted on whoever exploits and uses the religion in advocating and propagating by talk or in writing, or by any other method, extremist thoughts with the aim of instigating sedition and division or disdaining and contempting any of the heavenly religious or the sects belonging thereto, or prejudicing national unity or social peace.

Country	Source of Law	Text of Law
Eritrea Blasphemy law Score: 31.3	Proclamation No. 90/1996 "The Press Proclamation" - Part V Article 12	**12. Matters not to be disseminated** All those participating in public or private press in general, and heads of press in particular, [illegible] chief editors and journalists, are prohibited from publishing and disseminating the following matters. (1) any matter which vilifies or belittles humanitarian and religious beliefs… (3) any matter which incites religious and sub-national differences, promotes the spirit of division and dissension among the people, vilifies the Eritrean people's tradition of struggle and incites violence and terrorism…
	Penal Code	**Art. 195. - Defamation of or Interference with Religious and Ethnic Groups.** A person who intentionally and publicly asserts fabricated or distorted facts, knowing them to be such, in order to cast disparagement upon any religion or ethnic group, or who unlawfully disrupts or attempts to obstruct a religious service or assembly, is guilty of defamation of or interference with religious and ethnic groups, a Class 1 petty offence, punishable with a definite term of imprisonment of not less than 6 months and not more than 12 months, or a fine of 20,001 – 50,000 Nakfas, to be set in intervals of 2,500 Nakfas. **Art. 196. - Disturbance of Religious or Ethnic Feelings.** A person who intentionally and publicly disparages a ceremony or rite of any lawful religious group, or profanes a place, image or object used for such religious ceremonies or ceremonies relating to any ethnic group, is guilty of disturbance of religious or ethnic feelings, a Class 1 petty offence, punishable with a definite term of imprisonment of not less than 6 months and not more than 12 months, or a fine of 20,001 – 50,000 Nakfas, to be set in intervals of 2,500 Nakfas. **Art. 302. - Insulting Behavior and Outrage.** (1) A person who, by addressing himself to another person or by referring to another person, offends the honour of that other person by insult or injury by: (a) distastefully touching upon the latter's physical or mental impairment, or the latter's ethnic, religious or racial background; (b) use of grossly obscene words or utterances; (c) reference to the victim's profession or (d) any other words or utterances of similar severity, is guilty of insulting behavior and outrage, a Class 2 petty offence, punishable with a definite term of imprisonment of not less than 1 month and not more than 6 months, or a fine of 5,001 – 20,000 Nakfas, to be set in intervals of 1,000 Nakfas.

Country	Source of Law	Text of Law
Kenya Blasphemy law Score: 36	Criminal Code - Chapter XIV – Offences Relating to Religion	**134. Insult to religion** Any person who destroys, damages or defiles any place of worship or any object which is held sacred by any class of persons with the intention of thereby insulting the religion of any class of persons or with the knowledge that any class of persons is likely to consider such destruction, damage or defilement as an insult to their religion, is guilty of a misdemeanour. **135. Disturbing religious assemblies** Any person who voluntarily causes disturbance to any assembly lawfully engaged in the performance of religious worship or religious ceremony is guilty of a misdemeanor. **136. Trespassing on burial places** Every person who, with the intention of wounding the feelings of any person or of insulting the religion of any person, or with the knowledge that the feelings of any person are likely to be wounded, or that the religion of any person is likely to be insulted thereby, commits any trespass in any place of worship or in any place of sepulture, or in any place set apart for the performance of funeral rites or as a depository for the remains of the dead, or offers any indignity to any human corpse, or causes disturbance to any persons assembled for the purpose of funeral ceremonies, is guilty of a misdemeanour. **137. Hindering burial of dead body, etc.** Whoever unlawfully hinders the burial of the dead body of any person, or without lawful authority in that behalf disinters, dissects or harms the dead body of any person, or, being under a duty to cause the dead body of any person to be buried, fails to perform that duty, is guilty of a misdemeanour. **138. Writing or uttering words with intent to wound religious feelings** Any person who, with the deliberate intention of wounding the religious feelings of any other person, writes any word, or any person who, with the like intention, utters any word or makes any sound in the hearing of any other person or makes any gesture or places any object in the sight of any other person, is guilty of a misdemeanor and is liable to imprisonment for one year
Lesotho	Broadcasting Rules 2004; Part III: Code of Practice	**Community standards** 6. A licensee shall not broadcast content which, measured by contemporary community standards – a) offends against good taste or decency; b) contains the gratuitous use of offensive language, including blasphemy; c) presents sexual matters in a gratuitous, explicit and offensive manner; d) glorifies violence; e) is likely to incite crime or lead to disorder; or f) is likely to incite or perpetuate hatred against or gratuitously vilifies any person or section of the community on account of race, ethnicity, nationality, gender, marital status, sexual preference, age, physical or mental disability, religion, or culture.

Country	Source of Law	Text of Law
Malawi Blasphemy law Score: 36	Criminal Code – Chapter XIV Offences Relating to Religion	**127. Insult to religion of any class** Any person who destroys, damages or defiles any place of worship or any object which is held sacred by any class of persons with the intention of thereby insulting the religion of any class of persons or with the knowledge that any class of persons is likely to consider such destruction, damage or defilement as an insult to their religion, shall be guilty of a misdemeanour. **128. Disturbing religious assemblies** Any person who voluntarily causes disturbance to any assembly lawfully engaged in the performance of religious worship or religious ceremony shall be guilty of a misdemeanour. **129. Trespassing on burial places** Every person who with the intention of wounding the feelings of any person or of insulting the religion of any person, or with the knowledge that the feelings of any person are likely to be wounded, or that the religion of any person is likely to be insulted thereby, commits any trespass in any place of worship or in any place of sepulture or in any place set apart for the performance of funeral rites or as a depository for the remains of the dead, or offers any indignity to any human corpse, or causes disturbance to any persons assembled for the purpose of funeral ceremonies, shall be guilty of a misdemeanour. **130. Writing or uttering words with intent to wound religious feelings** Any person who, with the deliberate intention of wounding the religious feelings of any other person, writes any word, or any person who, with the like intention, utters any word or makes any sound in the hearing of any other person or makes any gesture or places any object in the sight of any other person, shall be guilty of a misdemeanour and shall be liable to imprisonment for one year.

Country	Source of Law	Text of Law
Mauritania Blasphemy law Score: 68.6	Criminal code (full law before amendment in French, copy of amendment) (Apostasy and Blasphemy Law)	English Translation: [Stamp}: Visa Legislation [Signature] **Islamic Republic of Mauritania** **Office of the President of the Republic** **Reference**: *mim ain ta' ta' nun jim ra'* **Draft bill to cancel and replace the provisions of Article 306 of Legal Order No. 162-83 issued on July 9, 1983, including the criminal law** **Article 1:** The provisions of Article 306 of Legal Order No. 162-83 issued on July 9, 1983, including the criminal law, are abrogated and replaced by the following provisions: Article 306 (new): Anyone who commits an act that violates modesty or Islamic values or who violates any of the sanctities of God, or who helps to do so, and this act is not a crime of *hudud* [refers to crimes whose punishment is mandated by God], *qisas* [refers to a crime of revenge], or *diyah* [refers to a crime requiring compensation paid to the victim], shall be punished through *tazir* [i.e., at the discretion of the judge] by imprisonment of three months to two years and by a fine of 50,000 (fifty thousand) ouguiyas to 600,000 (six hundred thousand) ouguiyas. Any Muslim, male or female, who ridicules or insults God or His messenger (may God bless him and grant him salvation), or His angels, or His books, or one of His prophets, shall be put to death, and he will not be called on to repent. Even if he repents, the death penalty will not be removed. Any Muslim who explicitly apostatizes from Islam, or who says or does something that would require or include that, or who renounces what he knows to be required by the religion, shall be imprisoned for three days, during which time he will be asked to repent. If he does not repent, he will be sentenced to death for blasphemy, and his property will be transferred to the treasury of the Muslims. Any person who professes Islam outwardly but is secretly an infidel is considered a disbeliever and he will be punished by death when he is discovered, without being asked to repent. His repentance will not be accepted unless it is declared before his apostasy has been discovered. Any legally competent Muslim who fails to perform his prayers despite acknowledging that they are required will be ordered to do so and he will be expected to do the last required *rak'ah* [a series of bending and prostrations in Islamic prayer]. If he persists in failing to perform the prayers, he will be put to death in the end. If he denies that prayer is required, he will be put to death for apostasy. His body will not be prepared or buried in the way Muslims are. His property will be transferred to the treasury of the Muslims. This crime will be proved only by admission.

Country	Source of Law	Text of Law
Mauritania Blasphemy law Score: 68.6 (continued)	Criminal code (full law before amendment in French, copy of amendment) (Apostasy and Blasphemy Law) (continued)	**Article 2:** All prior provisions that are contrary to this law are abrogated. Arabic Original: **الجمهورية الإسلامية الموريتانية** **رئاسة الجمهورية** **تأشيرة: م ع ت ت ن ج ر** **مشروع قانون يلغي ويحل محل أحكام المادة 306 من الأمر القانوني رقم 162.83 الصادر بتاريخ 9 يونيو 1983 المتضمن القانون الجنائي** **المادة الأولى:** تُلغى أحكام المادة 306 من الأمر القانوني رقم 83-162 الصادر بتاريخ 9 يوليو 1983 المتضمن القانون الجنائي وتُستبدل بالأحكام التالية: **المادة 306 (جديدة):** كل من ارتكب فعلاً مخلاً بالحياء والقيم الإسلامية أو انتهك حرمة من حرمات الله أو ساعد على ذلك، ولم يكن هذا الفعل داخلاً في جرائم الحدود والقصاص أو الدية، يعاقب تعزيرًا بالحبس من ثلاثة أشهر إلى سنتين وبغرامة من خمسين ألف 50.000 أوقية إلى ستمائة ألف 600.000 أوقية. كل مسلم ذكرًا كان أو أنثى استهزأ أو سب الله أو رسوله صلى الله عليه وسلم أو ملائكته أو كتبه أو أحد أنبيائه يُقتل ولا يستتاب وإن تاب لا يسقط عنه حد القتل. كل مسلم ارتد عن الإسلام صراحة، أو قال أو فعل ما يقتضي أو يتضمن ذلك، أو أنكر ما عُلم من الدين ضرورةً، يُحبس ثلاثة أيام يستتاب في أثنائها فإن لم يتب حُكم عليه بالقتل كفرًا وآل ماله إلى بيت مال المسلمين. كل شخص يُظهر الاسلام ويُسِر الكفر يعتبر زنديقًا يُعاقب بالقتل متى عُثر عليه بدون استتابة ولا تُقبل توبته إلا إذا أعلنها قبل الاطلاع على زندقته. كل مسلم مكلف امتنع عن أداء الصلاة مع الاعتراف بوجوبها يؤمر بها ويُنتظر به آخر ركعة من الضروري، فإن تمادى في الامتناع قُتل حدًا، وإن كان منكرًا وجوبها قُتل كفرًا، ولا يُفعل في تجهيزه ودفنه ما يُفعل في موتى المسلمين، ويكون ماله لبيت المسلمين. ولا تثبت هذه الجريمة إلا بالإقرار. **المادة 2:** تُلغى كافة الأحكام السابقة المخالفة لهذا القانون.

Country	Source of Law	Text of Law
The Gambia Blasphemy law Score: 37.2	Criminal Code - Chapter XIV. – Offences Relating to Religion	**117.** Insult to religion of any class. **118.** Disturbing religious assemblies. **119**. Trespassing on burial places. **120**. Uttering words with the intent to wound religious feelings. **117.** Any person who destroys, damages or defiles any place of worship or any object which is held sacred by any class of persons with the intention of thereby insulting the religion of any class of persons or with the knowledge that any class of persons is likely to, consider such destruction, damage or defilement as an insult to their religion, is guilty of a misdemeanour. **118.** Any person who voluntarily causes disturbance to any assembly lawfully engaged in the performance of religious worship or religious ceremony, is guilty of a misdemeanour. **119.** Every person who, with the intention of wounding the feelings of any person or of insulting the religion of any person, or with the knowledge that the feelings of any person are likely to be wounded, or that the religion of any person is likely to be insulted thereby, commits any trespass in any place of worship or in any place of sepulture, or in any place set apart for the performance of funeral rites or as a depository for the remains of the dead, or offers any indignity to any human corpse, or causes disturbance to any persons assembled for the purpose of funeral ceremonies, is guilty of a misdemeanour. **120**. Any person who, with the deliberate intention of wounding the religious feelings of any person, utters or writes any word, or makes any sound in the hearing of that person, or makes any gesture in the sight of that person, or places any object in the sight of that person; is guilty of a misdemeanour, and is liable to imprisonment for one year.

Country	Source of Law	Text of Law
Seychelles Blasphemy law Score: 35.5	Penal Code – Division III- Offences Injurious to the Public in General - Chapter XIV – Offences Relating to Religion	**Insult to religion of any class** 125. Any person who destroys, damages or defiles any place of worship or any object which is held sacred by any class of persons with the intention of thereby insulting the religion of any class of persons or with the knowledge that any class of persons is likely to consider such destruction, damage or defilement as an insult to their religion, is guilty of a misdemeanour. **Disturbing religious assemblies** 126. Any person who voluntarily causes disturbance to any assembly lawfully engaged in the performance of religious worship or religious ceremony, is guilty of a misdemeanour. **Trespassing on burial places, etc.** 127. Every person who with the intention of wounding the feelings of any person or of insulting the religion of any person, or with the knowledge that the feelings of any person are likely to be wounded, or that the religion of any person is likely to be wounded, or that the religion of any person is likely to be insulted thereby, commits any trespass in any place of worship or in any place of sepulture or in any place set apart for the performance of funeral rites or as a depository for the remains of the dead, or offers any indignity to any human corpse, or causes disturbance to any persons assembled for the purpose of funeral ceremonies, is guilty of a misdemeanour. **Writing or uttering words with intent to wound religious feelings** 128. Any person who, with the deliberate intention of wounding the religious feelings of any other person, writes any word, or any person who, with the like intention, utters any word or makes any sound in the hearing of any other person or makes any gesture or places any object in the sight of any other person is guilty of misdemeanour and is liable to imprisonment for one year. **Hindering burial of dead body, etc.** 129. Whoever unlawfully hinders the burial of the dead body of any person, or without lawful authority in that behalf disinters, dissects, or harms the dead body of any person or, being under a duty to cause the dead body of any person or, being under a duty to cause the dead body of any person to be buried, fails to perform such duty, is guilty of a misdemeanour. In this section the word "burial" means burial in earth, interment or any other form or sepulture or the cremation or any other mode of disposal of a dead body and "buried" has a corresponding meaning.
South Sudan Blasphemy law Score: 31.5	Criminal Code – Chapter XV Offences Relating to Religion	**201.** [Insulting or Inciting Contempt of Religious Creed.] Whoever by any means publicly insults or seeks to incite contempt of any religion in such a manner as to be likely to lead to a breach of the peace, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term exceeding three years or with a fine or with both. **203.** [Injuring or Defiling Place of Worship with Intent to Insult the Religion of any Class.] Whoever destroys, damages or defiles any place of worship or any object held sacred by any class of persons with the intention of thereby insulting the religion of any class of persons is likely to consider such destruction, damage or defilement as an insult to their religion, commits an offence, and upon conviction, shall be sentenced to imprisonment for a term not exceeding three years or with a fine or with both.

Country	Source of Law	Text of Law
Sudan Blasphemy law Score: 49.33	Criminal Code – The Criminal Act of 1991 – Part XIII Offenses Relating to Religion Amended in 2015	**Article 125 [Insulting Religious Creeds]** Whoever by any means publicly abuses or insults any religion, their rights or beliefs or sanctifications or seeks to excite feelings of contempt and disrespect against the believers thereof, shall be punished with imprisonment for a term not exceeding one year or with a fine or with whipping which may not exceed 40 lashes. *Note:* In 2015, articles 125 and 126 of the 1991 Criminal Act were amended to be broader and stricter. Article 125, regarding blasphemy, now allows any non-Muslim who criticizes or offends Islam, the Prophet Muhammad, his wife Aisha, or the Sahaba and the four Caliphs in particular, to be charged. The potential length of a prison sentence for this crime was also raised to up to five years. Full text of amendments: المادة ١٢٥ (إهانة العقائد الدينية) ١ .من يسب علناً أو يهين، بأي طريقة أيًا من الأديان أو شعائرها أو معتقداتها أو مقدساتها أو يعمل على إثارة شعور الاحتقار والزراية بمعتنقيها، يعاقب بالسجن مدة لا تجاوز ستة أشهر أو بالغرامة أو بالجلد بما لا يجاوز أربعين جلدة. ٢ .من يسب علناً أو يطعن في سيدنا محمد صلى الله عليه وسلم من غير المسلمين يعاقب بالسجن مدة لا تجاوز خمس سنوات والجلد بما لا يجاوز ٤٠ جلدة ٣ .من يسب علناً أو يطعن بأي طريقة في أي من صحابة سيدنا محمد صلى الله عليه وسلم أو أي من زوجاته أو آل بيته يعاقب بالسجن مدة لا تجاوز خمس سنوات والجلد بما لا يجاوز ٤٠ جلدة. ٤ .عند الإدانة بالجريمة الواردة في البندين (٢) (٣) للمرة الثالثة تجب مضاعفة العقوبة المادة ١٢٦ (الردة). يعد مرتكبًا جريمة الردة كل مسلم: أ. يروج للخروج من ملة الإسلام أو يجاهر بالخروج عنها بقول صريح أو بفعل قاطع الدلالة. ب. يطعن أو يسب سيدنا محمد رسول الله صلى الله عليه وسلم علناً بأي طريقة . ج. يطعن في القرآن الكريم بالتناقض أو التحريف أو غير ذلك. د. يكفر أصحاب سيدنا محمد رسول الله صلى الله عليه وسلم بالجملة أو سادتهم أبابكر أو عمر أو عثمان أو على مستحلاً ذلك . هـ. يطعن في أم المؤمنين عائشة فيما برأها منه القرآن الكريم. ٢ .يستتاب من يرتكب جريمة الردة ويمهل لمدة تقررها المحكمة، فإذا أصر على ردته ولم يكن حديث عهد بالإسلام، يعاقب بالإعدام. ٣ .تسقط عقوبة الردة متى عدل المرتد قبل التنفيذ. ٤ .كل من يرتكب أي من الأفعال الواردة بالبند (١) (ب) إذا سقطت عنه عقوبة الردة يعاقب بالسجن مدة لا تجاوز خمسة سنوات وبالجلد.

APPENDIX 3: HATE SPEECH LAWS ANALYZED

Country	Source of Law	Text of Law
Central African Republic	Criminal Code Chapter 3 – Violations to the internal security of the state	**Art. 292:** The dissemination, by any means whatsoever, of propaganda tending to inspire in citizens or inhabitants contempt for certain categories of persons or hate, to urge them to attack by violence, to revolt, to subvert, against the constitution, the legally established State powers, State officers and Judges carrying out their duties, the military, the collection of taxes, the economic and social structures of the nation, the distribution of real property and real property wealth, is prohibited. The dissemination of propaganda of such a kind as to harm the vital interests of the State and the nation is also prohibited. The offenders specified above shall be punished by a sentence of imprisonment for five to ten years and a fine of 500,000 to 10,000,000 francs. **Art. 293:** Anyone who makes public statements or propaganda supporting racial, tribal, ethnic, regional segregation, genocide and any acts contrary to human conscience shall be punished by a sentence of imprisonment for two to five years and a fine of 100,002 to 1,000,000 francs.
Democratic Republic of the Congo	Law No. 96-002 On freedom of the press	**Title 4: Penalties; Chapter 1: Press Offences** **Article 77:** The following shall also be punished in accordance with the provisions of Article 76 above: • All those who directly incite theft, murder, looting, arson, any of the offences against the external and internal security of the State, including where this incitement has no effect; • All those who directly incite discrimination, hate or violence with respect to a person or group of persons, on account of their origin or the fact that they belong or do not belong to an ethnic group, nation, race, ideology or specific religion; • All those who, by any means stated above, offend the person of the Head of State; • All those who, by any means stated in Article 76, incite members of the armed forces and police with the aim of diverting them from their duties.

Country	Source of Law	Text of Law
Kenya	Constitution	**33. Freedom of Expression** … (2) The right to freedom of expression does not extend to— (a) propaganda for war; (b) incitement to violence; (c) hate speech; or (d) advocacy of hatred that— (i) constitutes ethnic incitement, vilification of others or incitement to cause harm; or (ii) is based on any ground of discrimination specified or contemplated in Article 27(4).
	Penal Code	**96. Incitement to violence and disobedience of the law** Any person who, without lawful excuse, the burden of proof whereof shall lie upon him, utters, prints or publishes any words, or does any act or thing, indicating or implying that it is or might be desirable to do, or omit to do, any act the doing or omission of which is calculated— (a) to bring death or physical injury to any person or to any class, community or body of persons; or (b) to lead to the damage or destruction of any property; or (c) to prevent or defeat by violence or by other unlawful means the execution or enforcement of any written law or to lead to defiance or disobedience of any such law, or of any lawful authority, is guilty of an offence and is liable to imprisonment for a term not exceeding five years.
	National Cohesion and Integration Act	**13. Hate speech** (1) A person who— (a) uses threatening, abusive or insulting words or behaviour, or displays any written material; (b) publishes or distributes written material; (c) presents or directs the performance the public performance of a play; (d) distributes, shows or plays, a recording of visual images; or (e) provides, produces or directs a programme, which is threatening, abusive or insulting or involves the use of threatening, abusive or insulting words or behavior commits an offence if such person intends thereby to stir up ethnic hatred, or having regard to all the circumstances, ethnic hatred is likely to be stirred up. (2) Any person who commits an offence under this section shall be liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding three years or to both. (3) In this section, "ethnic hatred" means hatred against a group of persons defined by reference to colour, race, nationality (including citizenship) or ethnic or national origins.

Country	Source of Law	Text of Law
Rwanda	Law N.68/2018 of 30/08/2018 Determining Offences and Penalties in General	**Article 93: Other acts punished as the crime of genocide** Without prejudice to other provisions of this Law in relation to attempt, conspiracy and complicity, the following acts are punishable by the penalties stipulated for the crime of genocide: 1. conspiracy to commit genocide; 2. planning of the genocide; 3. direct or indirect incitement to commit genocide; 4. attempt to commit genocide; 5. complicity in genocide.
Sierra Leone	Public Order Act (No. 46 of 1965)	**Seditious Libel** **33. (1) Any person who—** a) does or attempts to do, or makes any preparation to do, or conspires with any person to do, any act with a seditious intention; or b) utters any seditious words; or c) prints, publishes, sells, offers for sale, distributes or reproduces any seditious publication; or d) imports any seditious publication, unless he has no reason to believe that it is seditious, shall be guilty of an offence and liable for a first offence to imprisonment for a term not exceeding three years, or to a fine not exceeding one thousand leones or to both such imprisonment and fine, and for a subsequent offence shall be imprisoned for a term not exceeding seven years, and every such seditious publication shall be forfeited to the Government. … **37. In this Part—** … "seditious intention" includes an intention— i. to bring into hatred or contempt or to excite disaffection against the person of Her Majesty, her Heirs or successors, or the Governor-General or the Cabinet or the administration of the Government of Sierra Leone as by law established; or ii. to excite citizens of Sierra Leone or other residents in Sierra Leone to attempt to procure the alteration, otherwise than by lawful means, of any other matter in Sierra Leone as by law established; or iii. to bring into hatred or contempt or to excite disaffection against the administration of justice in iv. Sierra Leone; or v. to raise discontent or disaffection amongst citizens of Sierra Leone or other residents in Sierra Leone; or vi. to encourage or promote feelings of ill-will and hostility between different tribes or nationalities or between persons of different religious faith in Sierra Leone; …

Country	Source of Law	Text of Law
South Africa	Draft bill introduced to the National Assembly: Prevention and Combating of Hate Crimes and Hate Speech Bill	**Offence of hate speech** 4. (1) (a) Any person who intentionally publishes, propagates or advocates anything or communicates to one or more persons in a manner that could reasonably be construed to demonstrate a clear intention to— (i) be harmful or to incite harm; or (ii) promote or propagate hatred, based on one or more of the following grounds: (aa) age; (bb) albinism; (cc) birth; (dd) colour; (ee) culture; (ff) disability; (gg) ethnic or social origin; (hh) gender or gender identity; (ii) HIV status; (jj) language; (kk) nationality, migrant or refugee status; (ll) race; (mm) religion; (nn) sex, which includes intersex; or (oo) sexual orientation, is guilty of an offence of hate speech. (b) Any person who intentionally distributes or makes available an electronic communication which that person knows constitutes hate speech as contemplated in paragraph (a), through an electronic communications system which is— (i) accessible by any member of the public; or (ii) accessible by, or directed at, a specific person who can be considered to be a victim of hate speech, is guilty of an offence. (c) Any person who intentionally, in any manner whatsoever, displays any material or makes available any material which is capable of being communicated and which that person knows constitutes hate speech as contemplated in paragraph (a), which is accessible by, or directed at, a specific person who can be considered to be a victim of hate speech, is guilty of an offence.

Country	Source of Law	Text of Law
South Africa (continued)	Draft bill introduced to the National Assembly: Prevention and Combating of Hate Crimes and Hate Speech Bill (continued)	(2) The provisions of subsection (1) do not apply in respect of anything done as contemplated in subsection (1) if it is done in good faith in the course of engagement in— (a) any bona fide artistic creativity, performance or other form of expression, to the extent that such creativity, performance or expression does not advocate hatred that constitutes incitement to cause harm, based on one or more of the grounds referred to in subsection (1)(a); (b) any academic or scientific inquiry; (c) fair and accurate reporting or commentary in the public interest or in the publication of any information, commentary, advertisement or notice, in accordance with section 16(1) of the Constitution of the Republic of South Africa, 1996; or (d) the bona fide interpretation and proselytising or espousing of any religious tenet, belief, teaching, doctrine or writings, to the extent that such interpretation and proselytisation does not advocate hatred that constitutes incitement to cause harm, based on one or more of the grounds referred to in subsection (1)(a). (3) Any prosecution in terms of this section must be authorised by the Director of Public Prosecutions having jurisdiction or a person delegated thereto by him or her. --- **Penalties or orders** 6. (3) Any person who is convicted of an offence referred to in section 4 is liable, in the case of— (a) a first conviction, to a fine or to imprisonment for a period not exceeding three years, or to both a fine and such imprisonment; and (b) any subsequent conviction, to a fine or to imprisonment for a period not exceeding five years or to both a fine and such imprisonment.

Country	Source of Law	Text of Law
South Sudan	Media Authority Act, 2013	**5. Interpretation** "Hate Speech" means any speech made publicly to advocate racial, ethnic or religious hatred or incitement to hostility, xenophobia or violence towards a target group; **Chapter 3, Section 29: Hate Speech and Incitement to Violence** (1) It shall be an offense to publish, broadcast or otherwise disseminate statements that threaten, insult, ridicule or otherwise abuse a person or group with language that is intended to, and does or may provably incite others to commit acts of violence or to discriminate against that person or group, or is published, broadcast or otherwise disseminated in reckless disregard of the probability that it may incite such violence or discrimination. (2) In all cases, a nexus must be established between the words and an actual or probable act of violence or discrimination. Language that is merely offensive or insulting may not be subjected to liability under this Section. Language that is followed by an act of violence or discrimination that was not intended or could not reasonably have been foreseen shall not be the basis of liability under this Section. (3) Complaints of such offensive language shall be made to the Press and Broadcast Council, which shall investigate the merits of the complaint and attempt to resolve the matter through mediation and negotiation. (4) If the Council finds merit to the complaint but is unable to negotiate a resolution acceptable to both parties, the Council shall refer the case to the Board of the Authority, which may dismiss the claim or hear it and reach a resolution. (5) Sanctions for a finding of liability under this Section may include: (a) The requirement to publish or broadcast a correction, apology or both. (b) Compensation for actual damages. (c) A punitive fine. (d) A warning; (e) Suspension of the broadcast license; (f) Denial of entry into premises; (g) Seizure of equipment; (h) Closedown of broadcast operations; or (i) Termination of the broadcast license. (j) In the case of print publications found to have violated this section with intent or reckless disregard, where the damage is serious, the publication may be ordered to cease publication and all equipment may be seized. (6) In serious cases where malicious intent or recklessness is shown and damage is serious, a prison term of up to five years may be imposed by a competent court. Malice may be defined in this section as intent to arouse hatred or discrimination because of religious, ethnic and gender or other reason recognized as discriminatory.

Country	Source of Law	Text of Law
Uganda	Penal Code Act 1950	**41. Promoting sectarianism.** (1) A person who prints, publishes, makes or utters any statement or does any act which is likely to—degrade, revile or expose to hatred or contempt; create alienation or despondency of; raise discontent or disaffection among; or promote, in any other way, feelings of ill will or hostility among or against, any group or body of persons on account of religion, tribe or ethnic or regional origin commits an offence and is liable on conviction to imprisonment for a term not exceeding five years. (2) It shall be a defence to a charge under subsection (1) if the statement was printed, published, made or uttered, or the act was done with a view to exposing, discouraging or eliminating matters which promote or have a tendency to promote sectarianism. (3) Sections 42, 43 and 44 shall apply to a charge under subsection (1).

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[54] This appendix contains the apostasy laws analyzed in this paper.

[55] This appendix contains the blasphemy laws analyzed in this paper, along with the laws identified that were not contained in USCIRF's *Respecting Rights* report.

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