

RESPECTING RIGHTS?

MEASURING THE WORLD'S BLASPHEMY LAWS

Abbreviated Version



U.S. COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM

A gavel is seen in a hearing room in Panama City April 7, 2016. REUTERS/Carlos Jasso

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This abbreviated version of USCIRF's 2017
Respecting Rights?--Measuring the World's Blasphemy Laws
does not include Annex A ("Compendium of Laws")
for the 71 countries analyzed in the original report,
or Annex B (the "Codebook") for evaluating laws.
These annexes may be found in the full report at
www.USCIRF.gov.

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ABOUT THE UNITED STATES COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM

WHO WE ARE

The U.S. Commission on International Religious Freedom (USCIRF) is an independent, bipartisan U.S. federal government commission created by the 1998 International Religious Freedom Act (IRFA) that monitors the universal right to freedom of religion or belief abroad. USCIRF uses international standards to monitor violations of religious freedom or belief abroad and makes policy recommendations to the President, the Secretary of State, and Congress. USCIRF Commissioners are appointed by the President and Congressional leaders of both political parties. The Commission's work is supported by a professional, nonpartisan staff of regional subject matter experts. USCIRF is separate from the State Department, although the Department's Ambassador-at-Large for International Religious Freedom is a non-voting, ex officio Commissioner.

WHAT IS RELIGIOUS FREEDOM

Inherent in religious freedom is the right to believe or not believe as one's conscience leads, and live out one's beliefs openly, peacefully, and without fear. Freedom of religion or belief is an expansive right that includes the freedoms of thought, conscience, expression, association, and assembly. While religious freedom is America's first freedom, it also is a core human right international law and treaty recognize; a necessary component of U.S. foreign policy and America's commitment to defending democracy and freedom globally; and a vital element of national security, critical to ensuring a more peaceful, prosperous, and stable world.

INTRODUCTION BY USCIRF

Across the globe, billions of people view blasphemy, defined as “the act of insulting or showing contempt or lack of reverence for God,” as deeply offensive to their belief in a deity or deities.

Based on this view, a number of nations continue to maintain and enforce laws against blasphemy. These laws, which penalize expression or acts deemed blasphemous, defamatory of religions, or contemptuous of religion or religious symbols, figures, or feelings, include punishments ranging from public censure and fines to imprisonment and death.

As members of the U.S. Commission on International Religious Freedom (USCIRF) who believe that all human beings should be accorded dignity and respect no matter their convictions, we understand the opposition to blasphemy. However, while it is legitimate to speak out against blasphemy, we believe that laws against blasphemy are detrimental to religious freedom.

Freedom of religion or belief implies that people have the right to embrace a full range of thoughts and beliefs, including those that others might deem blasphemous; freedom of expression implies that they have the right to speak or write about them publicly. People also have a right to speak out against what they consider blasphemy as long as they do not incite others to violence. These rights are guaranteed in international documents to which most countries have agreed, including the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

We have seen in our monitoring of religious freedom worldwide how blasphemy laws, in both theory and practice, harm individuals and societies. In commissioning the study found in the following pages, USCIRF sought to ascertain the prevalence of blasphemy laws worldwide and measure how the content of these laws adheres to basic principles of international law.

The findings are sobering indeed. According to the study:

- Blasphemy laws are astonishingly widespread. Seventy-one countries, spread out across many regions, maintain such statutes.
- Every one of these blasphemy statutes deviates from at least one internationally recognized human rights principle. Most of these laws fail to respect fully the human right of freedom of expression.
- All five nations with blasphemy laws that deviate the most from international human rights principles maintain an official state religion.
- Most blasphemy laws studied were vaguely worded, as many failed to specify intent as part of the violation. The vast majority carried unduly harsh penalties for violators.
- Most blasphemy laws were embedded in the criminal codes and 86 percent of states with blasphemy laws prescribed imprisonment for convicted offenders. Some blasphemy statutes even imposed the death penalty.

Clearly, blasphemy laws, in both conception and scope, remain problematic. We trust that this report will draw greater attention to the problem, provoke further discussion about the challenges and encourage constructive attempts to reform or repeal blasphemy measures.

OVERVIEW

This report examines and compares the content of laws prohibiting blasphemy (“blasphemy laws”) worldwide through the lens of international and human rights law principles. The laws examined in this study prohibit or criminalize the expression of opinions deemed “blasphemous,” or counter to majority views or religious belief systems, and many impose serious, often criminal, penalties. Blasphemy laws are actively enforced in many states throughout the world. Many governments deem repeal not feasible or desirable and justify the prohibition and criminalization of blasphemy as necessary to promote religious harmony.

This study seeks to evaluate the language and content of blasphemy laws to understand what aspects of these laws adhere to—or deviate from—international and human rights law principles. A better understanding of the laws’ compliance with these principles may assist in the public policy community in developing clear, specifically-tailored recommendations for areas for reform. By analyzing and quantifying the adherence to or deviation from international and human rights law principles, examined systematically through a point-system assessment tool, this study identifies specific language that may increase blasphemy laws’ risk for abuse, indicating areas where targeted advocacy for reform potentially could lower that risk.

Part I defines blasphemy for the purposes of this study and explains the risks for potential abuse in the implementation of these laws.

Part II introduces the study methodology, including the collection of laws, the creation of indicators to measure adherence or non-adherence to international and human rights principles, the coding process, and the analysis.

Part III explains the underlying international and human rights law principles on which the indicators are based. Additionally, it outlines the questions developed to measure each indicator and the points assigned to each question to evaluate the extent to which each law respects the core principles of international and human rights law implicated by prohibiting blasphemy.

Part IV discusses the numerical composite scores attributed to each country, and examines findings and patterns within and among the eight indicators.

Part V highlights the study results and situates select findings within the political, cultural, and legal contexts that shape how blasphemy laws may be implemented.

Part VI concludes the study, noting some of its limitations and provides a template for future studies of blasphemy law.

REPORT FINDINGS

1. Blasphemy laws were found in 71 countries from all regions of the world. Regionally, 25.4 percent of the laws found are from countries in the Middle East and North Africa, 25.4 percent from Asia-Pacific, 22.5 percent from Europe, 15.5 percent from Sub-Saharan Africa, and 11.2 percent from the Americas.
2. A majority—62 percent—of these laws received scores between 29 and 40 points out of 80 total points, indicating that all blasphemy laws studied deviate from some—and most deviate from a significant number—of the international and human rights law principles examined.
3. The data indicate that a majority of laws do not fully respect international standards of freedom of opinion and expression. In fact, every state received at least some points on the indicator measuring **Freedom of Expression**.
4. Most laws received the lowest scores, on average, for the indicator measuring the language of the laws' adherence to the principle of **Freedom of Religion or Belief**. This finding of relative adherence may be unexpected, or even counter-intuitive, because, in many countries, individuals belonging to religious or belief minorities are disproportionately accused of—and punished for—blasphemy. One reason for this apparent contradiction is that only a detailed, precisely worded law explicitly reflecting its coercive capacity with regard to religion or belief will receive a high score on this indicator.
5. An overwhelming majority of the laws analyzed were found in national penal codes, with many of these laws containing moderately to grossly disproportionate criminal punishments ranging from prison sentences to the death penalty.
6. The most common punishment among blasphemy laws is imprisonment, with 86 percent of all states imposing a prison penalty (and a few laws imposing lashings, forced labor, and the death penalty).
7. Blasphemy laws are vaguely worded, and few specify or limit the forum in which blasphemy can occur for purposes of punishment. Only one-third (33 percent) of criminal laws studied specify intent, or *mens rea*, as an element of the crime.
8. Each of the top five countries with the highest scoring laws has an official state religion. Although state religions can exist without necessarily resulting in discrimination against other belief groups, the coders did note a pattern where higher scoring (less adherent) laws are found in states where a state religion exists.
9. The countries with the lowest scores, and thereby adhering more closely to international law principles, have blasphemy laws that neither discriminate among different belief groups nor protect a state religion through punitive measures. The five countries with the

lowest scoring laws received 0 points under **Discrimination Against Groups and State Religion Protections**, with agreement among all three coders.ⁱ

10. Conversely, the laws that discriminate among different belief groups have the highest scores, are the most human rights noncompliant, and, thus, are at higher risk for abuse. The countries with the five highest scoring laws received 10 out of 10 possible points on the indicators measuring **Discrimination Against Groups and State Religion Protections**.
11. The indicators receiving the highest average number of points are: **Freedom of Expression, Vagueness of the Law, and Speech and Forum Limitations**. This indicates that all blasphemy and related laws analyzed: (1) deviate from international free speech standards in some way; (2) have vague formulations and are difficult to interpret narrowly; and (3) have limitations that are seldom narrowly defined.
12. Given that blasphemy laws are vague and therefore difficult to measure, we recognize that the indicators tend to underestimate the laws' deviations from international law principles and therefore also underestimate the risk of abuse of these laws in practice.
13. **Speech and Forum Limitations**, the indicator concerned with the degree to which a blasphemy law limits the forum, either public or private, in which a person can express or display his/her opinions or beliefs and control written or spoken words, was a high-scoring indicator across almost all countries. Of the 71 countries, 64 countries, or 90 percent, had laws that received an average of 5.5 points or higher out of 10 points for this indicator, suggesting that the laws have few forum and types of speech limitations.
14. Although they are often enforced in abusive ways, blasphemy laws are also on the books in regions with low levels of enforcement, such as the Caribbean and Europe, which signals potential for reform or even repeal.

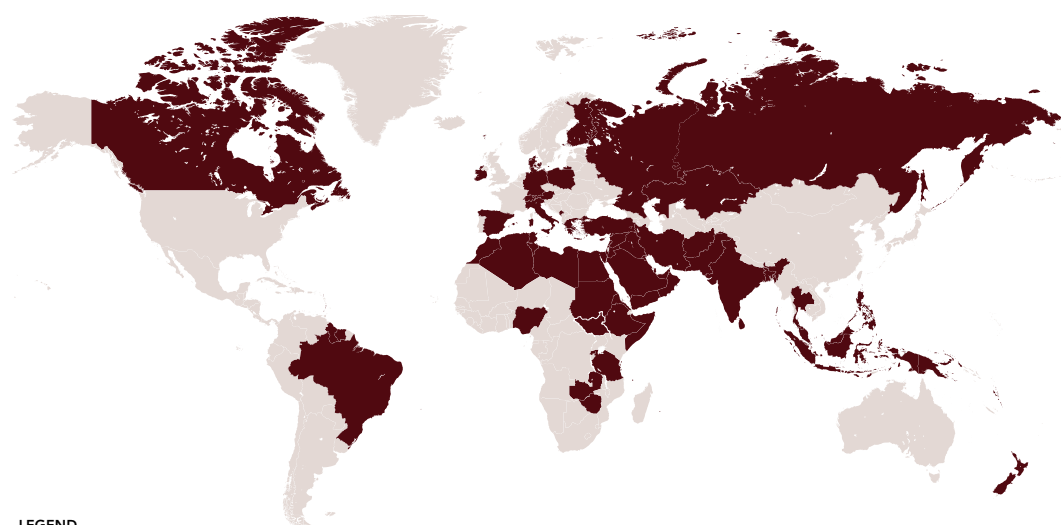
ⁱ This research was a team effort over several years with more than a dozen participants. Three of the researchers were trained to code and analyze the compendium of blasphemy and related laws.

PART I. BACKGROUND: LAWS PROHIBITING BLASPHEMY

“Blasphemy is defined as the act of expressing contempt or a lack of reverence for God or sacred things.”² For the purposes of this study, laws prohibiting blasphemy (“blasphemy laws”) include provisions that sanction insulting or defaming religion and seek to punish individuals for allegedly offending, insulting, or denigrating religious doctrines, deities, symbols or “the sacred,” or for wounding or insulting religious feelings.³ Blasphemy laws are located throughout the states’ legal texts, including constitutions, criminal codes, and media laws, among others.

This study compiles and examines blasphemy laws⁴ currently on the books in 71 countries from each region of the world. Most of the blasphemy laws examined in this study criminalize in national penal codes the expression of opinions deemed “blasphemous” or counter to majority views or religious belief systems.

71 COUNTRIES THAT HAVE BLASPHEMY LAWS ON THE BOOKS



LEGEND

- Countries without blasphemy laws
- Countries with blasphemy laws

Afghanistan	Cyprus	Iraq	Montenegro	San Marino	Syria
Algeria	Denmark*	Ireland	Morocco	Saudi Arabia	Tanzania
Andorra	Egypt	Israel	New Zealand	Singapore	Thailand
Antigua and Barbuda	Eritrea	Italy	Nigeria	Somalia	Tunisia
Austria	Ethiopia	Jordan	Oman	South Sudan	Turkey
Bahrain	Finland	Kazakhstan	Pakistan	Spain	United Arab Emirates
Bangladesh	Germany	Kuwait	Papua New Guinea	Sri Lanka	Vanuatu
Barbuda	Greece	Lebanon	Philippines	St. Lucia	Yemen
Brazil	Grenada	Libya	Poland	St. Vincent and the Grenadines	Zambia
Brunei	Guyana	Liechtenstein	Qatar	Sudan	Zimbabwe
Canada	India	Malaysia	Russia	Suriname	
Comoros	Indonesia	Malta*	Rwanda	Switzerland	
	Iran	Mauritius			

*Blasphemy laws for Malta and Denmark were repealed after the data for this report was coded and analyzed.

Blasphemy laws are generally deemed inconsistent with universal human rights standards and violate international standards of freedom of expression and freedom of religion or belief. Despite the fact that some UN member states publicly support blasphemy laws, several UN reports and authoritative documents contest their legality. For example, the Human Rights Committee has found that:

[p]rohibitions of displays of lack of respect for a religion or other belief system, including blasphemy laws, are incompatible with the [International Covenant on Civil and Political Rights], except in the specific circumstances envisaged in article 20, paragraph 2, of the Covenant. . . . [I]t would be impermissible for any such laws to discriminate in favour of or against one or certain religions or belief systems, or their adherents over another, or religious believers over non-believers. Nor would it be permissible for such prohibitions to be used to prevent or punish criticism of religious leaders or commentary on religious doctrine and tenets of faith.⁵

Furthermore, the UN Special Rapporteur on freedom of religion or belief has called for repeal of criminal blasphemy laws, finding that:

[a]t the national level, blasphemy laws are counter-productive, since they may result in de facto censure of all inter-religious or belief and intra-religious or belief dialogue, debate and criticism, most of which could be constructive, healthy and needed. In addition, many blasphemy laws afford different levels of protection to different religions and have often proved to be applied in a discriminatory manner.”⁶

When examined through a human rights lens, blasphemy laws, as a category of laws, run serious risk of inviting abuse on several vectors. They position states as arbiters of truth and ultimate deciders of what is or is not offensive to the sacred, an assessment with inherent subjectivity. In addition, these laws protect religions, not human beings.⁷ The enforcement of blasphemy laws is particularly problematic, leading in some cases to human rights abuses and violence.⁸ In some contexts, individuals have been subjected to severe state sanctions and both non-state and state-sponsored violence for expressing their beliefs that, to the listener, are offensive to the sacred.⁹

Blasphemy laws empower authorities to sanction citizens who articulate what are often minority positions. Those who support and enforce the laws argue that such prohibitions are necessary to: (1) fight incitement to discrimination, hostility, and violence pursuant to the International Covenant on Civil and Political Rights’ (ICCPR) article 20(2); and (2) protect freedom of religion under article 18 of the ICCPR.¹⁰ Unfortunately, however, the evidence tells a very different story. Accusations of blasphemy have resulted in arrests and arbitrary detentions and have sparked assaults, murders, and mob attacks. Allegations of blasphemy can serve as a pretext for religious extremists to polarize society and to foment hate and riots, as was the case when the posting of the Innocence of Muslims video on YouTube led to violent protests and attacks on U.S. embassies. They have also led to individuals committing extra-judicial killings to punish alleged blasphemers.¹¹

Thus, blasphemy laws can promote intolerance through governmental restrictions on the freedoms of expression, thought, and religion. Such intolerance can result in devastating consequences for society and, in particular, for religious minorities and political dissidents, including the weakening of religious pluralism.

WHY DOES THE WORDING OF THE LAWS MATTER?

Examining the language of blasphemy laws and measuring their adherence to international law principles is important because each law is central to the state's reasoning for sanctioning expression concerning religion. The laws' content can provide insight as to how governments view speech related to religion and the state's role in regulating such speech. This regulation of expression can be a valuable indicator to measure a state's tolerance for pluralistic discourse and the respect for human rights. In addition, pinpointing problematic language can assist policymakers in reform or repeal efforts in order to protect individual rights and freedoms.

PART II. INTERNATIONAL LAW PRINCIPLES IMPLICATED BY BLASPHEMY LAWS AND INDICATORS TO MEASURE ADHERENCE

To evaluate blasphemy laws, the research team developed eight indicators and questions within each indicator that reflect the international law principles implicated by blasphemy laws. The research team based these eight indicators on international law principles or norms found in the core human rights instruments—such as the ICCPR and the Universal Declaration of Human Rights (UDHR)—international jurisprudence, and general principles of international law.¹² The standards within these instruments and principles generally apply to all countries irrespective of geography, culture, ethnicity, or religious affiliation.¹³ The coding questions reflect both the fundamental nature of the rights and interpretations of their legitimate limits.

Principle 1: Freedom of Opinion and Expression (Indicator 1: Freedom of Expression)

The first international law principle examined is the right of all persons to freedom of opinion and expression.¹⁴ Article 19 of the ICCPR mandates that:

1. Everyone shall have the right to hold opinions without interference.
2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

Although a fundamental human right, the right to freedom of expression has limitations enumerated in both the UDHR¹⁵ and ICCPR.¹⁶ These limitations generally allow states to protect other important social goods, including the rights and freedoms of others, morality, public order, and the general welfare.

Given these limitations, international human rights law permits laws, such as those prohibiting blasphemy, to limit the right to freedom of opinion and expression if they: (1) are provided by

law, and not based on traditional, religious, or other customary laws;¹⁷ (2) do not confer unfettered discretion to authorities;¹⁸ (3) are necessary, proportional, and narrowly tailored;¹⁹ (4) are based on principles not deriving from any single tradition;²⁰ and (5) are based on the universality of human rights and the principle of nondiscrimination.²¹

Based on this international human rights law principle, the research team developed the following list of questions. The coders then were required to answer each question and attribute a score to each blasphemy law.

IS THE LAW IN COMPLIANCE WITH THE PRINCIPLES OF FREEDOM OF EXPRESSION UNDER INTERNATIONAL LAW, AS SPECIFIED UNDER ARTICLE 19 OF THE UDHR AND ARTICLE 19 OF THE ICCPR?

- (1.1) Does the language of the law specify its purpose to be:
 - (1) To respect the rights or reputations of others?
 - (2) For the protection of national security or of public order (ordre public)?
 - (3) For the protection of public morals?
 - (4) For the general welfare in a democratic society?
 (A lower score is attributed when purpose as allowed under international law is written in the law
(0 – 2.5 points))
- (1.2) Is the law criminalizing the expression of opinions that may run counter to a religion or belief?
(Y=2.5 points, N=0 points)
- (1.3) Is the law providing for a blanket prohibition on the seeking, receiving, and imparting of information and ideas? (Y=2.5 points, N=0 points)
- (1.4) Could the law impede on expression over religious discourse? (Y=2.5 points, N=0 points)

Principle 2: Freedom of Thought, Conscience, and Religion (Indicator 2: Freedom of Religion or Belief)

International human rights law also protects the freedom of thought, conscience, and religion.²² Article 18(1) of the ICCPR obligates that:

Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.²³

Article 18(3) enumerates exceptions to the freedom of religion. Specifically, states can limit the freedom of thought, conscience, and religion if:

... such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.²⁴

For freedom of religion, the exceptions are narrower than those found in the human rights principles of freedom of expression.²⁵ To evaluate whether blasphemy laws were drafted in such a way as to permit only narrow limitations on freedom of thought, conscience, and religion, questions that researchers asked focused on, inter alia, whether the language of the law infringed upon rights

to adopt a religion or belief, imposed a particular religion or belief, or otherwise curbed religious belief or practice in any way that was beyond the permissible scope of human rights norms.

Based on this principle, the research team devised the following list of questions.²⁶ The coders were then required to answer each question and attribute a score to each blasphemy law.

IS THE LAW IN COMPLIANCE WITH THE PRINCIPLES OF FREEDOM OF RELIGION UNDER INTERNATIONAL LAW, AS SPECIFIED UNDER ARTICLE 18 OF THE UDHR AND ARTICLE 18 OF THE ICCPR?

- (2.1) Does the language of the law infringe upon the freedom to have or to adopt a religion or belief of one's choice? (Y=1 point, N=0 points)
- (2.2) Does the language of the law specify its purpose to be necessary in order to respect the freedom of another person to practice a religion? (Y=1 point, N=0 points)
- (2.3) Does the language of the law actually impose the respect of one religion or belief? (Y=1 point, N=0 points)
- (2.4) Does the law subject one to coercion that would impair one's freedom to have or adopt a religion or belief of one's choice? (Y=1 point, N=0 points)
- (2.5) Does the language of the law infringe upon the freedom, either individually or in community with others, in public or in private, to manifest one's religion or belief in worship, observance, practice, and teaching? (Y=1 point, N=0 points)
- (2.6) Does the language of the law infringe upon the freedom to worship or assemble in connection with a religion or belief, and to establish and maintain places of worship for these purposes? (Y=1 point, N=0 points)
- (2.7) Does the language of the law infringe upon the right to display religious symbols? (Y=1 point, N=0 points)
- (2.8) Does the law infringe upon the freedom to write, issue, and disseminate religious publications to express one's religious beliefs? (Y=1 point, N=0 points)
- (2.9) Does the law infringe upon the freedom to establish and maintain communications with individuals and communities in matters of religion and belief at the national and international levels? (Y=1 point, N=0 points)
- (2.10) Does the law infringe upon the freedom of religion in time of public emergency? (Note: public emergency is not a valid derogation.) (Y=1 point, N=0 points)

Principle 3: Legality (Indicator 3: Vagueness of the Law)

Found in various human rights instruments as well as core general principles of international law,²⁷ the principle of legality requires that the applicable law define offenses clearly and narrowly²⁸ so that “the individual can know from the wording of the relevant provision and, if need be, with the assistance of the court’s interpretation of it, what acts and omissions will make him liable.”²⁹ Moreover the principle of legality in criminal law requires that crimes be enumerated in “precise and unambiguous language that narrowly defines the punishable offense.”³⁰ Thus, vague laws are generally found to be void when people in typical situations may not understand the meaning of the prohibition and would not be able to comport themselves in a manner consistent with the law.³¹

The Human Rights Committee’s General Comment No. 34 on Freedom of Opinion and Expression stresses the importance of precision in law drafting to ensure that individuals are: (1) given notice of what a law prohibits and how to adhere to the law accordingly; and (2) protected from executing authorities’ abuse of discretion.³² Thus, researchers evaluated blasphemy laws’ language to assess whether states drafted their provisions with the precision required under international law.³³

Based on this principle, the research team devised the following questions. The coders were required to answer each question and to attribute a score to each blasphemy law:

IS THE LAW IMPERMISSIBLY VAGUE UNDER PRINCIPLES OF INTERNATIONAL LAW?

- (3.1) Is the prohibited conduct clearly and narrowly defined? (*Y=0 points, N=2 points*)
- (3.2) Are there any limitations on authorities to decide for themselves what constitutes blasphemy? (*Y=0 points, N=2 points*)
- (3.3) Does the law demonstrate in specific and individualized fashion the precise nature of the threat to “public order, public health, safety, morals, reputation of others”? (*Y=0 points, N=1 point*)
- (3.4) Does the law specify the intent, or mens rea, of the accused to commit the crime? (*Y=0 points, N=3 points*)
- (3.5) Does the law distinguish expression that constitutes a criminal offense and expression that justifies a civil lawsuit or administrative sanctions? (*Y=0 points, N=2 points*)

Principle 4: Proportionality of Punishment (Indicator 4: Severity of Penalty)

A general principle of law, proportionality is a criterion of fairness and justice that ensures balance between the restriction or punishment imposed by a corrective measure and the severity of the prohibited act. The concept evolved from a prohibition of disproportionality (the state must not act too broadly or harshly); consequently, the state should clearly define crimes and use proportional means to the legitimate end of punishing crimes.³⁴ In criminal law, proportionality conveys the idea that the punishment should fit the crime.

The European Court of Human Rights (ECtHR) has outlined four stages to a proportionality test.³⁵ A measure must: (1) have a legitimate aim and be (2) suitable, (3) necessary, and (4) reasonable to achieve that aim.³⁶ Thus, the proportionality principle requires a relationship between means and ends and, in particular, that the state chooses a means that is suitable or appropriate, and no more restrictive than necessary to achieve a lawful end.³⁷

International law strictly prohibits certain penalties, such as forced or compulsory labor,³⁸ or torture and other cruel, inhuman, and degrading treatment or punishment.³⁹ At present, international law requires that the principle of proportionality reserve the use of the death penalty and hard labor only for the most serious crimes.⁴⁰

Based on this principle, the research team devised the following questions. The coders were required to answer each question and to attribute a score to each country’s blasphemy laws.

IS THE PENALTY PERMISSIBLE UNDER PRINCIPLES OF PROPORTIONALITY IN INTERNATIONAL LAW?

- (4.1) Is the measure the death penalty? (*Y=10 points, N=0 points*)
- (4.2) Is the measure torture or other cruel, inhuman, or degrading treatment or punishment? (i.e., lashings) (*Y=10 points, N=0 points*)
- (4.3) Is the measure penal or forced labor? (*Y=10 points, N=0 points*)
- (4.4) Is the measure detention or incarceration? (*Y=5 points, N=0 points*)
- (4.5) Is the measure depriving a person of his property? (i.e., fine, taking of goods, etc.) (*Y=1 point, N=0 points*) (Score the highest penalty only.)

Principle 5: Nondiscrimination and Equality (Indicator 5: Discrimination Against Groups)

Indicator 5 (discrimination against groups) is rooted in the principles of nondiscrimination and equality, which apply to all rights implicated by blasphemy laws. The ICCPR's Articles 2(1)⁴¹ and 26⁴² guarantee respectively the rights to equality and nondiscrimination with regard to all rights under the Covenant, including the rights to freedom of religion⁴³ and expression.⁴⁴

The UN Special Rapporteur on the Freedom of Religion or Belief has found that:

... [A]ggravated discrimination tends to intensify or become more likely to occur when the State itself officially adopts the religion of the majority or of the ethnically dominant minority, or subscribes to a particular ideology.⁴⁵

Based on this principle, the research team devised the following questions. The coders were required to answer each question and to attribute a score to each blasphemy law.

DOES THE LAW DISCRIMINATE AGAINST DIFFERENT RELIGIOUS OR BELIEF GROUPS OR VALUES?

(Y=10 points, N=0 points)

Factors to consider:

Does the law express preference for specific religious or belief groups?

Does the law exclude certain religious or belief groups?

Does the law restrict the activities of some religious or belief groups but not others?

Principle 5: Nondiscrimination and Equality (Indicator 6: State Religion Protections)

Also related to the principles of nondiscrimination and equality is the protection or preference of state religions. Although international human rights law does not prohibit the establishment of an official or state religion, states must not privilege a state religion or discriminate against other religions or beliefs.⁴⁶ In particular, Article 27 of the ICCPR prohibits states from denying ethnic, religious, or linguistic minorities their "right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language."⁴⁷

Based on this principle, the research team devised the following questions. The coders were required to answer the questions and to attribute a score to each blasphemy law.

ARE THE PROTECTIONS AFFORDED TO STATE RELIGION CONSISTENT WITH PRINCIPLES OF INTERNATIONAL LAW?

(6.1) Does the law recognize certain religions or groups of believers and not others, or institute a different status among certain categories of religions?

(Y=5 points, N=0 points)

(6.2) Does the law protect the official state religion through sanctions/punishment? (Y=5 points, N=0 points)

Principle 7: Protection of Privacy (Indicator 7: Speech and Forum Limitations)

International law protects individuals' rights to privacy.⁴⁸ Moreover, the right to freedom of opinion and expression includes the "freedom to seek, receive and impart information and ideas of all kinds . . . orally, in writing or in print, in the form of art, or through any other media . . ."⁴⁹ with specific restrictions.⁵⁰

To varying degrees, blasphemy laws: (1) prohibit acts, writings, or other forms of speech; and (2) place limitations on the forum in which individuals could be manifesting or expressing beliefs or opinions. Thus, Indicator 7 is concerned with the degree to which a particular blasphemy law limits the forum, both public or private, in which a person can express or display his/her opinions or beliefs and controls written and/or spoken words.

Based on this principle, the research team devised the following questions. The coders were required to answer the questions and to attribute a score to each blasphemy law.

DOES THE BLASPHEMY LAW REFER TO THE SPEECH (SPOKEN V. WRITTEN WORDS) OR FORUM (PUBLIC V. PRIVATE PLACE)?

- (7.1) Are the forum limitations clearly and narrowly defined? (Y=0 points, N=4 points)
- (7.2) Does the law seek to punish individuals who disseminate the idea/speech with both spoken and written words? (Y=2 points, N=0 points)
- (7.3) Does the law distinguish speech that is spoken in the public versus the private sphere? (Y=2 points, N=0 points)
- (7.4) Does the law seek to punish individuals who disseminate the idea/speech in public? (Y=1.5 points, N=0 points) In private? (Y=2 points, N=0 points) Both? (Y=2 points, N=0 points)

Principle 8: Hierarchy of the Law (Indicator 8: Hierarchy of the Law)

As an attempt to express the notion of statutory interpretation that all laws are not created equal—for example, provisions of a country's constitution carry more weight than a local ordinance—Indicator 8 measures the blasphemy law's position in the hierarchy of laws of that state.⁵¹ In addition, rooted in this hierarchy, the research team assumed: (1) it is the most difficult to pass or repeal constitutional provisions; (2) national laws are also difficult to repeal, given the broader consensus inherent in the legislative process in most countries; and (3) national penal laws and constitutional provisions are more visible and carry with them more legitimacy or, at least, greater reverence in most societies. Thus, the research team concluded that blasphemy laws enshrined in constitutions and national laws, including national penal codes, are more entrenched and more widely accepted than those found in state or local laws.⁵²

Based on this principle, the research team devised the following questions. The coders were required to answer each question and to attribute a score to each blasphemy law.

CONSIDERING THE FOLLOWING GENERAL HIERARCHY AS AN INDICATION, WHERE DOES THE BLASPHEMY LAW FALL?

- A. Country Constitution (Y=10 points, N=0 points)
- B. Country Statutory Laws (i.e. national civil and criminal codes) (Y=5 points, N=0 points)
- C. All other laws (Y=1 point, N=0 points)

PART III. METHODOLOGY

This study is a comparative law analysis based on: (a) extensive desk research from multiple sources to assemble a compendium of blasphemy laws from 71 countries; (b) legal analysis of relevant international and human rights law principles to develop a set of indicators to measure the laws' compliance with those principles; (c) qualitative coding of each law's content against those indicators; and (d) analysis of the results of the coding process, and situating the findings within the relevant political, cultural, and legal contexts.

A. Compendium Compilation

The original compendium of laws from 52 states was compiled by Human Rights First and the Cardozo Law Human Rights and Atrocity Prevention Clinic (the "research team") and published in May 2014.⁵³ The research team in this 2014 study collected laws that refer to sanctioning insult, blasphemy or defamation of religion, in accordance with the concept of blasphemy as defined by Human Rights First.⁵⁴ This definition, and therefore the compendium, did not include laws against hate speech aimed at members of religious groups.

Since its original publication, the authors have updated and expanded the compendium to include a total of 71 laws. Through extensive desk research, the laws no longer applicable were removed, and additional laws were identified and added. Many sources were used for cross checking and verification, including those from the Pew Research Center, the International Humanist and Ethical Union,⁵⁵ the Library of Congress,⁵⁶ and the Venice Commission.⁵⁷ When the language of a law was identical in all sources, the research team added that linguistic version to the compendium. When the language of a law differed across different versions, the authors selected the linguistic version found in the majority of sources consulted.

In determining whether a law was a "blasphemy law" for inclusion in the compendium and in going beyond the original compendium, the authors defined blasphemy laws narrowly as laws that pay a specific reference to sanctioning insult, blasphemy, or defamation of religion and "seek to punish individuals for offending, insulting, or denigrating religious doctrines, deities, symbols or the sacred, and . . . for wounding or outraging religious feelings."⁵⁸ Laws included in the compendium specifically reference such prohibitions. The authors also included provisions to assist researchers in determining whether a country had a state religion and whether that state religion received protections under the law.

All research was conducted in English. When the authors could only find laws in the original language, every attempt was made to locate translations or translate laws as closely as possible to

the original wording, with the assistance of USCIRF’s translation services. Where exact wording of the laws was not available in English, researchers included detailed summaries of the laws.

Excluded from the compendium and study are: (1) laws that restrict criticizing religion but do not prohibit blasphemy *per se*;⁵⁹ (2) laws prohibiting apostasy,⁶⁰ which can sometimes be used to convey blasphemy; (3) “hate speech” laws and/or “hate crime” laws (for example, desecration of places of worship or graves);⁶¹ and (4) the laws of countries where complete information was lacking. This study focuses solely on the parts of laws that prohibit and/or criminalize “blasphemy” or insult to religion or “the sacred.” It takes into account the broader legal landscape of the country, only as indicated *supra*.

B. Indicators Development

Next, the research team studied the compendium of laws and conducted an in-depth legal analysis to determine the international and human rights legal principles relevant to—or implicated by—the existence and implementation of blasphemy laws.⁶² This phase of the work was undertaken in order to create a set of indicators to measure the laws’ adherence to—or deviation from—such principles. This process identified, defined, and delineated the following international and human rights law principles—as well as the indicators to measure such principles, explained *infra*—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)

Next, the research team developed a method for legal analysis—an indicator assessment tool, or codebook—composed of indicators with numerical ratings reflecting the weight, or importance, attached to each question. (See Annex B, Codebook.) The indicators and the questions to score each indicator weigh the adherence of each country’s law or laws to the enumerated international law principles. In developing these questions, the research team considered interpretations of the language of the international and human rights law norms, as interpreted by international monitoring institutions and international courts and defined in a codebook. The assessment tool measures—based on the text of the law and without regard to the specific context in which it operates—the extent to which a blasphemy law, at least on its face, adheres to international and human rights law principles. Thus, this study is limited to examining the content of the laws.⁶³

The research team trained three law student coders to undertake a qualitative analytical coding study based on this set of eight indicators. A 13-page codebook was prepared for the coders' use. (See Annex B, Codebook.) Each indicator was valued equally, although certain legal principles, such as the principles of nondiscrimination and equality, are reflected across more than one indicator,⁶⁴ giving such principles additional weight. Each indicator theoretically could receive a minimum score of 0 points (complete adherence to the relevant legal principle) and a maximum score of 10 points (complete deviation from the principle). Coding questions were assigned points to weight certain aspects of certain norms more heavily than others depending on the importance of particular aspects of the norms.⁶⁵ Where necessary, guidance notes were provided in the codebook to assist the coders in understanding the international norms and the rationale behind their relevance to blasphemy laws.

C. Qualitative Coding and Analysis

Countries were randomized and de-identified⁶⁶ in order to reduce internal bias, or, in other words, to ensure that context did not influence coders' scores.⁶⁷ Using randomizer.org, the authors entered the 71 countries in alphabetical order, and the online program generated a list in random order. At that stage, each country was assigned a random number. The authors then replaced each country's name with the corresponding number and removed any mention of specific religions, religious deities or leaders, religious sites, religious objects, and religious texts. The research team replaced these words with generic terminology in brackets (e.g., [RELIGION OR RELIGIOUS FOLLOWERS]).

TABLE 1	
Example of a de-identified law: Somalia	
SOMALIA	COUNTRY 71
Religious framework of the state	Religious framework of the state
CONSTITUTION Article 2 State and Religion (1) Islam is the religion of the State. (2) No religion other than Islam can be propagated in the country. (3) No law which is not compliant with the general principles of Shari'a can be enacted	CONSTITUTION Article 2 State and Religion (1) [RELIGION OR RELIGIOUS FOLLOWERS] is the religion of the State. (2) No religion other than [RELIGION OR RELIGIOUS FOLLOWERS] can be propagated in the country. (3) No law which is not compliant with the general principles of [RELIGIOUS HOLY TEXTS] can be enacted
2. Laws that pay a specific reference to sanctioning insult, blasphemy, or defamation of religion:	2. Laws that pay a specific reference to sanctioning insult, blasphemy, or defamation of religion:

TABLE 1	
Example of a de-identified law: Somalia	
SOMALIA	COUNTRY 71
Religious framework of the state	Religious framework of the state
PENAL CODE Part IV, Chapter 1 Article 313 [Bringing the Religion of the State into contempt] 1. Whoever publicly brings the religion of Islam [1 Const.] into contempt shall be punished with imprisonment [96 P.C.] up to two years. 2. Whoever publicly insults the religion of Islam [1 Const.] by bringing into contempt persons professing it or places or objects dedicated to worship shall be liable to the same punishment.	PENAL CODE Part IV, Chapter 1 Article 313 [Bringing the Religion of the State into contempt] 1. Whoever publicly brings the religion of [RELIGION OR RELIGIOUS FOLLOWERS; RELATED TO STATE RELIGION] [1 Const.] into contempt shall be punished with imprisonment [96 P.C.] up to two years. 2. Whoever publicly insults the religion of [RELIGION OR RELIGIOUS FOLLOWERS; RELATED TO STATE RELIGION] [1 Const.] by bringing into contempt persons professing it or places or objects dedicated to worship, shall be liable to the same punishment.

After de-identifying all countries and laws, the coders used the codebook to guide their assessment and record their scores on an Excel spreadsheet for each question, tallying up all scores for each indicator and coming up with a composite score for each country. Each of the three coders independently analyzed each of the 71 countries' laws. The coders were prohibited from discussing their findings with each other before entering their final scores. According to the coding design and process, coders could assign a score between 0 and 10 points for each indicator, which meant that countries could receive a total composite score between 0 and 80 points for all indicators.

The coders sent their coding scores separately to the research team for comparison and analysis. The research team next compared the coder's scores for each country. In instances in which a variance of more than 5 points existed among the coders' findings regarding a particular indicator, the research team met with the coders to discuss the reasoning behind their scoring to improve inter-coder reliability in the process.⁶⁸ In addition, in order to ensure a continually shared understanding of indicators and codes, the research team met weekly with the coders to resolve misunderstandings in order to ensure that similar laws or provisions of laws would be treated consistently moving forward. If necessary, the research team made minor adjustments to the codebook to reflect any new insights or fine tuning of the indicators.

Through this process of coding followed by discussions and recoding laws if necessary, the authors reduced potential errors that are introduced when multiple coders code the laws, and resolved discrepancies in the definition of indicators and accuracy in applying codes to laws. Similar to previous studies, the steps taken here have ensured a high level of consistency across the coding team (with a Pearson's Correlation Coefficient 0.60 – 0.65, indicating a moderate-strong linear relationship between and among coders)⁶⁹ and assisted in maximizing the inter-coder reliability in the study.⁷⁰ In the few instances in which the coders, under the supervision of the

researchers, identified or modified questions for specific indicators that were not in the original codebook, these notes to clarify questions were added to the codebook. In these instances, previously analyzed laws were re-coded to ensure consistency across the coding process.⁷¹

PART IV. STUDY FINDINGS

This research compiles the largest collection of laws prohibiting blasphemy to date. Although the world's legal landscape is constantly shifting, the research team has tried to collect the most accurate, up-to-date information as of June 2016.

We have compiled laws that fit our definition from 71 countries, which means that at least one-third (37 percent) of the world's countries have blasphemy laws.⁷² The laws are found in all regions of the world as follows:

TABLE 2	
Regional Distribution of the Laws	
Regions of the World (%) ⁷³	Countries in Region with Blasphemy Laws
Middle East and North Africa (25.4%)	Algeria, Bahrain, Egypt, Iraq, Israel, Jordan, Kuwait, Lebanon, Libya, Morocco, Oman, Qatar, Saudi Arabia, Sudan, Syria, Tunisia, United Arab Emirates, Yemen
Asia-Pacific (25.4%)	Afghanistan, Bangladesh, Brunei, Cyprus, India, Indonesia, Iran, Kazakhstan, Malaysia, New Zealand, Pakistan, Papua New Guinea, Philippines, Singapore, Sri Lanka, Thailand, Turkey, Vanuatu
Europe (22.5%)	Andorra, Austria, Denmark, Finland, Germany, Greece, Ireland, Italy, Liechtenstein, Malta, Montenegro, Poland, Russia, San Marino, Spain, Switzerland
Sub-Saharan Africa (15.5%)	Comoros, Eritrea, Ethiopia, Mauritius, Nigeria, Rwanda, Somalia, South Sudan, Tanzania, Zambia, Zimbabwe
Americas (11.2%)	Antigua and Barbuda, Brazil, Canada, Grenada, Guyana, Saint Lucia, Saint Vincent and the Grenadines, Suriname

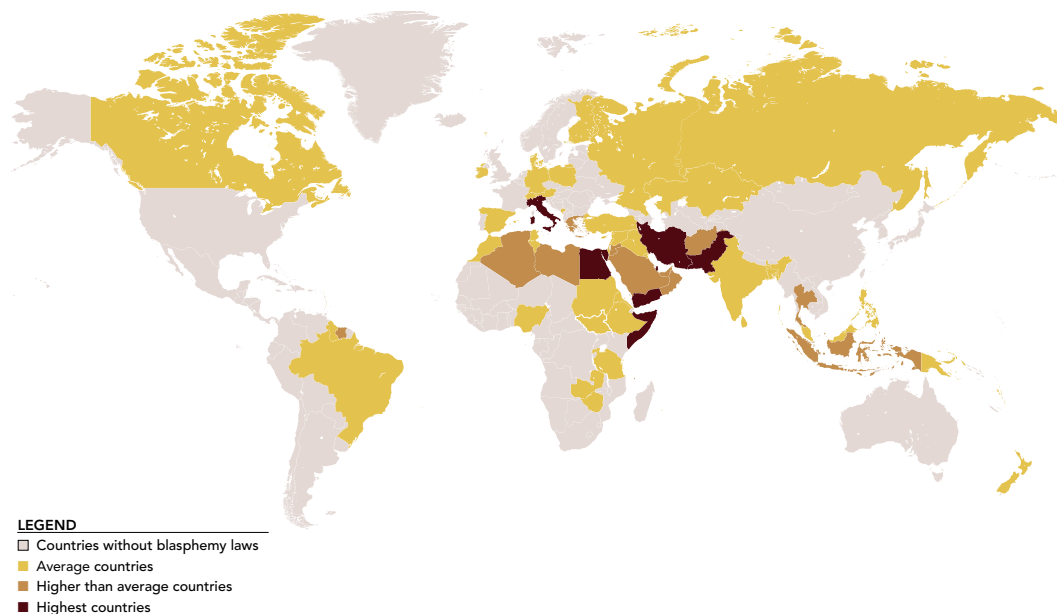
Total composite scores (0 to 80 possible points) vary from a low average score of 25.7 points to a high average score of 66.7 total points, with most countries (59 percent) scoring between an average of 29 and 40 points. The discrepancies among the countries are not wide despite the broad margin between the lowest scoring country (Ireland) and the highest scoring country (Iran).

One finding that was quickly noted was that *all* blasphemy laws analyzed:

- Deviate from international free speech standards in some manner;
- Have vague formulations and are difficult to interpret narrowly; and
- Have limitations that are rarely narrowly defined.

For example, many blasphemy laws tend to deviate from international human rights law standards for freedom of expression in some respect. Therefore, when laws were analyzed according to **Freedom of Expression**, coders assigned points to every country with a blasphemy law. The research team concluded that the very existence of a blasphemy law could compromise

TABLE 3
Total Scores and Trends



full compliance with free speech standards (if legal exemptions are not fulfilled). All countries obtaining higher scores have a “higher than average” or the “highest” deviation from international and human rights law principles.

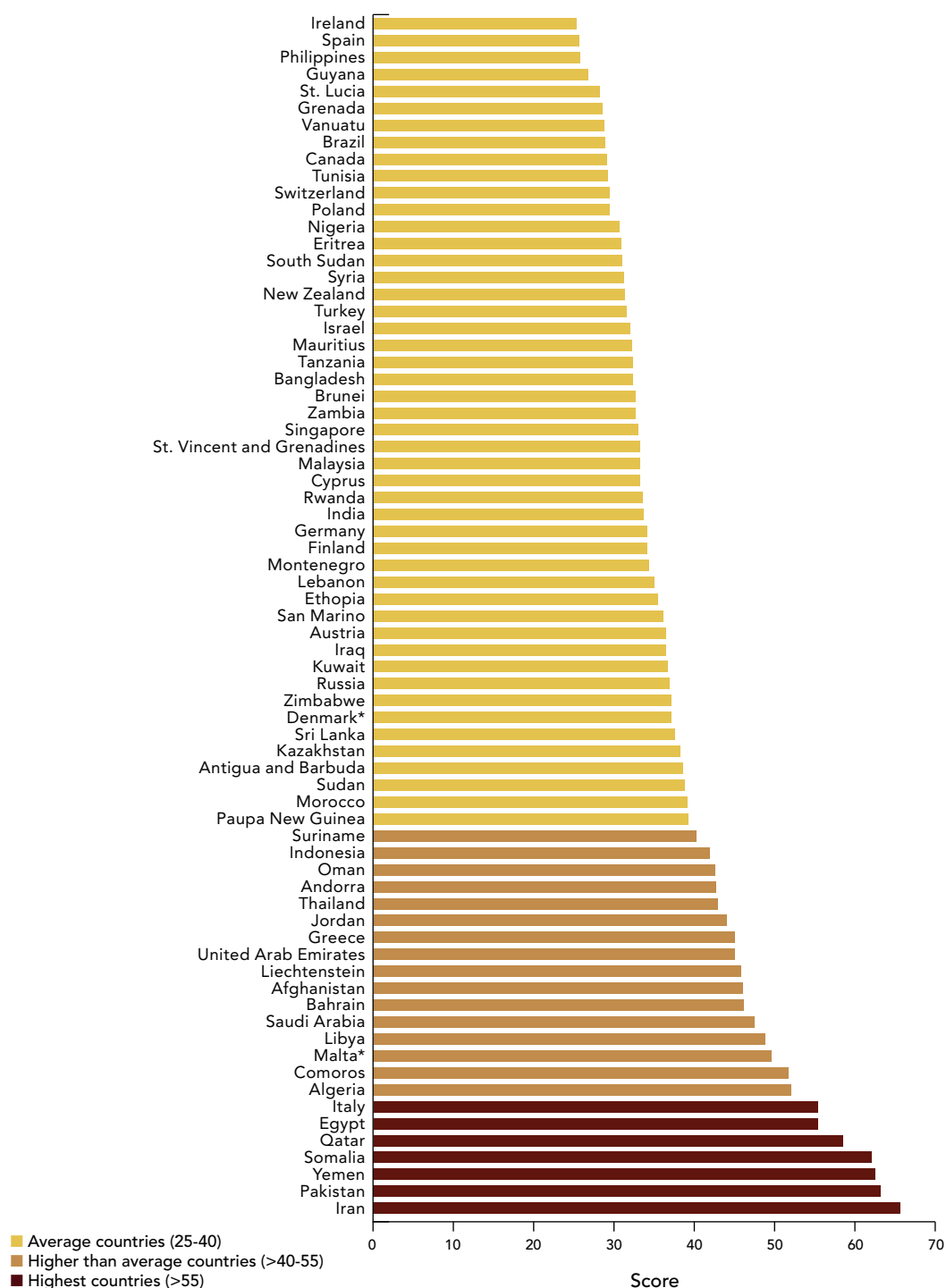
In addition to **Freedom of Expression**, other indicators receiving the highest number of points were: **Vagueness of the Law** and **Speech and Forum Limitations**. On these three indicators, all laws received some points.

The research team observed that the scores of some states’ blasphemy laws place that state in the “highest deviation” category (meaning lowest adherence to international and human rights law principles). Generally, higher than average scores mean that blasphemy laws of these states deviate from principles of nondiscrimination and equality in that they **Discriminate against Groups** and include **State Religion Protections**.

The **10 highest scores** (indicating that these states’ prohibitions on blasphemy most run counter to international law principles) were:

1. Iran (66.7)
2. Pakistan (64.2)
3. Yemen (63.5)
4. Somalia (63.0)
5. Qatar (59.3)
6. Egypt (56.2)

TABLE 3A
Total Scores and Trends



*Since the data for this report was collected, coded, and analyzed, both Malta and Denmark repealed their blasphemy laws.

7. Italy (56.2)
8. Algeria (52.8)
9. Comoros (52.5)
10. Malta (50.3)
11. Libya (49.5)

NOTE ON COMOROS

Comoros proved to be one of the hardest countries to code. It has a high score but with low/weak inter-coder reliability.⁷⁴ It posed great difficulties to the coders because in its de-identified form, it was not clear if the law was singling out one religion or not.

MALTA'S AND DENMARK'S BLASPHEMY LAWS REPEALED

After all of the data was coded and analyzed for this report, the researchers noted that the Maltese Parliament repealed its blasphemy law. The researchers kept Malta's law in the report, but it is no longer valid as of July 2016.⁷⁵ As the report was being finalized in June 2017, Denmark's Parliament repealed its blasphemy law.

Some indicators proved to be “game-changers” when it comes to obtaining a high number of points. The three indicators that steeply increase the scores are: **Severity of the Penalty**, **Discrimination against Groups**, and **State Religion Protections**. In the case of the states with the highest scoring laws—Iran and Pakistan—both countries’ laws enforce the death penalty against individuals for insulting the Prophet Mohamed, which raises each of their scores by an additional 10 points for **Severity of Penalty**.

Similarly, all of the countries with the top five highest scoring laws received 10 out of 10 possible points on both **Discrimination against Groups** and **State Religion Protections**. Official state religions can exist without necessarily discriminating against the followers of other belief systems; however, the coders noted a pattern in which **State Religion Protections** led to more points, indicating less adherence to relevant international human rights law norms. The five highest scoring countries have a state religion. Although permissible, state religions can indicate a preference for the state religion or **Discrimination Against Groups**—that is, direct or indirect discrimination against a minority religion or belief to the detriment of individuals’ freedom of religion or belief. For example, Somalia’s identification of its state religion is in the constitutional language of “Islam is the religion of the State,” with the following restriction: “No religion other than Islam can be propagated in the country.”⁷⁶ This language constitutes direct discrimination of non-Muslims.

As noted earlier, as to **Freedom of Expression**, the majority of blasphemy laws (42 out of 71, or 59 percent) received 7.5 out of 10 points indicating their violations of the right to freedom of expression. However, all of the top five countries obtain scores above that average: Yemen (9.2), Pakistan (9.2), Somalia (9.2), Iran (8.3), and Qatar (8.3). This trend also applies to risks of violations of **Freedom of Religion or Belief**, where the top five countries also acquire higher scores

than the average (which lies between 1 and 3): Somalia (6.7), Yemen (6.3), Iran (4.0), Pakistan (3.7) and Qatar (3.0).

To summarize, all of the top-scoring five countries:

- Received 10 out of 10 total points on **Discrimination Against Groups and State Religion Protections**;
- Received higher scores than average in diverging from the requirements of **Freedom of Expression**;
- Received higher scores than average in diverging from the requirements of **Freedom of Religion or Belief**;
- Received average or higher than average scores on **Severity of the Penalty**, and the top two countries impose the death penalty;
- Have official **state religions** and protect or prefer them; and
- Include **Italy** as the highest scoring law in Europe.

FACT: In July 2015, following the terrorist attacks on *Charlie Hebdo* (and *Hyper Cacher*) in France, Iceland repealed its 75-year-old blasphemy law.⁷⁷

The **10 lowest scores** (indicating that these states' prohibitions on blasphemy are most adherent to international law principles) were:

1. Ireland (25.7)
2. Spain (26.0)
3. The Philippines (26.2)
4. Guyana (27.2)
5. St. Lucia (28.7)
6. Grenada (29.0)
7. Vanuatu (29.2)
8. Brazil (29.3)
9. Canada (29.5)
10. Tunisia (29.7)

The lowest-scoring states obtain fewer points for exactly the same reasons as the highest scoring states obtain more points. The three indicators most impacting the lower scores are: **Severity of the Penalty**, **Discrimination Against Groups**, and **State Religion Protections**. For example, the two lowest scoring countries (Ireland and Spain) are two out of three countries catalogued in the compendium with a low **Severity of the Penalty** since their laws sanction blasphemy through a monetary fine only (in addition to Switzerland). The remaining three

of the five lowest scoring countries (Philippines, Guyana, and St. Lucia) sanction blasphemy through a prison penalty—which was by far the most common penalty among all the countries (83.0 percent).

In addition, the five countries with the lowest scores received 0 points for **Discrimination Against Groups** and **State Religion Protections**—with agreement among all coders. This is notable, as the indicators **Discrimination Against Groups** and **State Religion Protections** were the most difficult to code. For example, in terms of state religion, Spain specifies in its constitution that “No religion shall have a state character,” but the state will “maintain appropriate cooperation relations with the Catholic Church and other confessions.”⁷⁸ The preamble of the Constitution of the Philippines, for example, states: “We, the sovereign Filipino people, imploring the aid of Almighty God, in order to build a just and humane society,”⁷⁹ thereby referring to monotheistic religion, but without explicit discrimination among faiths.

Regarding **Freedom of Expression**, as noted previously, the majority (59.0 percent) of blasphemy laws received 7.5 out of 10 points. However, Guyana (6.7), Philippines (4.2), and Ireland (5.8) have lower than average scores. With regard to **Freedom of Religion or Belief**, none of the lowest five countries have a score above 2 points, which is on the lower side of the average range (between 1 and 3 points).

To summarize, all of the ten countries with the lowest scores and, thus, the highest level of adherence to international law principles:

- Received 0 points on **Discrimination Against Groups** and **State Religion Protections**;
- Received lower than average scores on **Freedom of Expression** and **Freedom of Religion or Belief**;
- Received average or lower than average scores on **Severity of the Penalty** and include two of the three countries that impose the least severe penalties in the form of **monetary fines** for committing blasphemy;
- Include **Tunisia**, which has the lowest score of the all states in which the official state religion is Islam;
- Include four **Caribbean states**, which means that 40 percent of the lowest scoring states in the world are from the Caribbean region.

DISCUSSION OF FINDINGS

Indicator 1: Freedom of Expression

High scores pertaining to **Freedom of Expression** for all states is not surprising, as laws prohibiting blasphemy, by definition, are placing limits on speech and expression. Many of the blasphemy laws analyzed contained language that criminalizes the expression of opinions that may be counter to a religion or belief, and, consequently, impedes free expression over open discourse concerning religion.

To illustrate, Yemen (along with Pakistan and Somalia) scored the highest number of points on this indicator (9.2 out of 10 points), making the laws of these states the least adherent to principles of **Freedom of Expression**. In answering the assessment tool questions, the coders found the language of Yemen's blasphemy laws to: (1) not specify a purpose for the infringement on expression; (2) criminalize expression of opinions that may run counter to religions; (3) serve as a blanket prohibition on expressing ideas; and (4) potentially impede expression over religious discourse.

In looking at particular questions, coders answered “yes” for 94 percent of states⁸⁰ on the question *Is the law criminalizing the expression of opinions that may be counter to a religion or belief?* (Question 1.2 of the codebook), which means that nearly all laws may impede expressions of opinions pertaining to freedom of religion or belief. Regarding the question, *Could the law impede on religious discourse?* (Question 1.4 of the codebook), all of the coders answered “yes” for 92 percent of states evaluated.

On the question evaluating whether the language of the law specifies a legitimate purpose—in other words, whether the law complies with acceptable limits on freedom of expression under international law—only two states' laws were found to specify a legitimate purpose according to unanimous agreement of the coders: Germany and Israel. Finally, the coders found it very difficult to answer in the affirmative the question: *Is the law providing for a blanket prohibition on the seeking, receiving, and imparting of information and ideas?* Indeed, for no state did the coders unanimously agree that such a prohibition is clearly articulated.

Indicator 2: Freedom of Religion or Belief

Most laws received the lowest scores, on average, for the indicator that measures adherence to the principle of **Freedom of Religion or Belief**. Reasons for this relative adherence may include that: (1) most laws were found to have been drafted with vague language, which does not explicitly target the freedom of religion; and (2) the legal framework on freedom of religion or belief is relatively robust and, thus, questions to measure this indicator are more detailed than other indicators (compared to x, y, or z indicators or all others?).

The questions selected to measure the level of compliance to international standards were taken from precise criteria outlined by the UN Special Rapporteur on freedom of religion or belief.⁸¹ Among the questions coders asked were: *Does the language of the law infringe upon the freedom to have or to adopt a religion or belief of one's choice? Does the law impose the respect of one belief? Does it subject one to coercion that would impair one's freedom to have or adopt a religion or belief of one's choice?*

This finding of relative adherence may be unexpected, or even counter-intuitive, because in many country contexts, individuals belonging to religious or belief minorities are disproportionately accused of—and punished for—blasphemy. When examined further, however, this finding signals a weakness in evaluating laws' adherence to the principle of freedom of religion or belief through an examination of the language of the law alone, without a fuller examination

of the particular country context. Only a detailed, precisely worded law that explicitly reflects its coercive capacity with regard to religion or belief would receive a high score on this indicator. Blasphemy laws, in contrast, are often promulgated for the purpose of protecting religion, albeit a particular (usually majority or state-sponsored) religion. As a result, the language in many of these laws is seemingly neutral with regard to religious belief and practice.

The countries obtaining the highest scores for **Freedom of Religion or Belief** have laws that are more specific in their non-adherence to freedom of religion principles. Somalia received the highest score (6.7 out of 10), followed by Yemen (6.3 out of 10), Egypt (4.0 out of 10), Iran (4.0 out of 10), Pakistan (3.7 out of 10) and Comoros (3.7 out of 10).

CONTEXT MATTERS: ABUSES OF BLASPHEMY LAWS AGAINST RELIGIOUS MINORITIES

In states where there are unresolved conflicts between two or more religious groups, accusations of blasphemy can be used as a tool to strengthen one group's power over another.⁸² In particular, members of a majority religion can accuse members of religious minorities of blasphemy, who then face harsh consequences.⁸³ Many state-sponsored human rights abuses were found in the highest-scoring states, for example, in Pakistan and Egypt.⁸⁴ Religious minorities and non-conventional thinkers continue to be victims of blasphemy allegations. Still, some states where there is violence did not receive very high scores for this indicator. For example, there have been numerous extra-judicial killings of atheists in Bangladesh (2.0) or instances of violence in Indonesia (2.3).⁸⁵

Indicator 3: Vagueness of the Law

Results for this indicator demonstrate that many of the blasphemy laws were not drafted with adequate precision to satisfy international law standards. In particular, laws were found to contain ambiguous or indefinite language and often failed to specify intent, enumerate the acts prohibited, or place limits on the forum for prohibited acts. (See Table 4.) The top scoring states for **Vagueness of the Law**, with scores of 9.4 out of 10 points, are Algeria and Iran. The five states that follow in second place, with scores of 8.7 out of 10 points, are Antigua and Barbuda, Germany, Jordan, Papua New Guinea, and Saudi Arabia.

In examining whether blasphemy laws are impermissibly vague under international law standards, the coders asked questions such as: (1) *Is the prohibited conduct clearly and narrowly defined?* and (2) *Are there any limitations on authorities to decide for themselves what constitutes blasphemy?* In only one case—Canada—did all coders find adequate the statutory language limiting the governmental authority's ability to interpret the meaning of the word "blasphemy." Indeed, the Canadian criminal code specifies that "no person shall be convicted of an offence under this section for expressing *in good faith and in decent language*, or attempting to establish by argument used *in good faith and conveyed in decent language*, an opinion on a religious subject."⁸⁶

Another related aspect measured in this study was whether the language of the law contains a requirement of specific intent, or *mens rea*, for an accused to be found guilty of the crime of blasphemy. One third (34 percent) of countries with criminal blasphemy laws include *mens rea* explicitly in the law's language,⁸⁷ which rendered these laws more precise (less vague) and, thus, more adherent to the principle of legality.

TABLE 4	
States whose blasphemy laws specify the intent (<i>mens rea</i>) of the accused	
<i>Mens rea</i> language	Countries whose laws specified <i>mens rea</i>
"Intention" or "intending"	Brunei, Bangladesh, Cyprus, India, Malaysia, Nigeria, South Sudan, Sri Lanka, St. Vincent and the Grenadines, Tanzania, Zambia, Zimbabwe
"Good faith"	Canada, Guyana, St. Lucia
"Maliciously"	Greece, Switzerland
"Purpose of offending," "in order to offend"	Finland, Russia, Spain
"Deliberate," "deliberately," or "deliberate intention"	Indonesia, Kazakhstan, Singapore

Indicator 4: Severity of Penalty

Of the 71 states studied, 59 or 83 percent sanction blasphemy with imprisonment. Iran and Pakistan, the two countries with the highest-scoring laws for **Severity of the Penalty**, include the death penalty as punishment for "insulting the Prophet."⁸⁸ Sudan's blasphemy law specifies corporal punishment that includes "whipping, which may not exceed forty lashes."⁸⁹ Russia's blasphemy law includes compulsory labor as punishment,⁹⁰ and Kazakhstan punishes blasphemy with correctional labor.⁹¹

Harsh penalties could implicate the states' level of political and judicial commitment to enforce its ideology or theological vision.

TABLE 5	
Countries' Maximum Sanctions for Blasphemy	
Death penalty	Iran, Pakistan
Corporal punishment (whipping)	Sudan
Compulsory labor	Russia
Correctional labor	Kazakhstan
Imprisonment	Algeria, Andorra, Austria, Antigua and Barbuda, Bangladesh, Bahrain, Brazil, Brunei, Canada, Comoros, Cyprus, Denmark, Egypt, Ethiopia, Finland, Germany, Greece, Grenada, Guyana, India, Indonesia, Iraq, Israel, Italy, ⁹² Jordan, Kuwait, Lebanon, Libya, Lichtenstein, Malaysia, Malta, Mauritius, Montenegro, Morocco, Nigeria, New Zealand, Oman, Papua New Guinea, Philippines, Poland, Qatar, Rwanda, San Marino, Singapore, Somalia, South Sudan, Sri Lanka, St. Lucia, St. Vincent and the Grenadines, Suriname, Syria, Tanzania, Thailand, Tunisia, Turkey, United Arab Emirates, Vanuatu, Yemen, Zambia, Zimbabwe
Fines	Ireland, Spain, Switzerland
No sanction specified in written law	Afghanistan, Eritrea, Saudi Arabia

In several countries—Afghanistan, Eritrea, and Saudi Arabia—the laws do not specify the sanction in writing; thus, the laws received 0 points for this indicator. When the law does not specify a sanction in writing, the penalty may be contained within another law, or it may rely on judges’ interpretations of Shari’a law.

CONTEXT MATTERS: SAUDI ARABIA

Saudi Arabia’s blasphemy law received 0 points for **Severity of the Penalty** because the punishment is not ascribed in the blasphemy law itself. Despite this low score, its penalties are very severe. Saudi Arabia’s law allows for great discretion in designating penalties and, therefore, the penalties imposed are among the harshest in practice. The resulting penalty depends upon judicial interpretations of Shari’a law.⁹³ The vague wording of the law empowers prosecutors to be rigorous in charging and prosecuting alleged blasphemers. In addition, the lack of specified penalties allows judges to impose harsh sentences, such as long prison terms and repeated public lashings. In several recent high-profile cases, courts have sentenced individuals convicted of “blasphemy” to imprisonment and public floggings, despite international campaigns to pressure the government into releasing them. For example, blogger Raif Badawi was convicted of blasphemy when he created a website dedicated to fostering debate on religion and politics. Originally sentenced to seven years in prison and 600 lashes, he was later resentedenced to the harsher terms of “10 years in prison, separated from his wife and children; 1000 lashes, given in installments of 50 lashes every week, in public; a 10-year travel ban after his prison sentence; and a massive fine.”⁹⁴

Indicator 5: Discrimination Against Groups

If a law expresses a preference for specific religious or belief groups, it may indicate an officially-endorsed hierarchy of faiths, which could pave the way to state-sanctioned discrimination against excluded faiths. Some countries do express preferences for religious groups and exclude others. The countries obtaining the highest scores for this indicator generally received the highest overall scores. All three coders gave points on this indicator to: Afghanistan, Egypt, Italy, Iran, Pakistan, Qatar, Somalia, and Yemen.

The coders were provided with key constitutional provisions to enable them to respond to the questions indicating discrimination against groups. In taking a closer look at the high-scoring countries, Afghanistan’s constitution specifies that followers of other religions (aside from Islam) are free to exercise their faith and perform their religious rites “within the limits of the provisions of the law.”⁹⁵ Egypt’s constitution declares Islam as the religion of the state and formally acknowledges Christian and Jewish religious affairs, and its blasphemy law refers to “heavenly religions or the sects that belong thereto;” other denominations or religions are therefore disregarded.⁹⁶ The Italian criminal code includes the offence of insulting the state religion or a minister of the Catholic Church, thereby separating Catholicism from other faiths.⁹⁷ Qatar affirms that Shari’a provisions are applicable only to Muslims, while criminalizing offenses against Islam.⁹⁸

CONTEXT MATTERS. HOW DO STATES DISCRIMINATE AGAINST BELIEF GROUPS?

Countries with formal state religions can discriminate, at least in some cases, not by recognition but by omission. One revealing example is Indonesia, a state that terms itself secular but formally recognizes six official religions through its state philosophy Pancasila (Islam, Protestantism, Catholicism, Hinduism, Buddhism, and Confucianism).⁹⁹ In addition to favoring these faiths through formal recognition, Indonesia’s constitution reiterates that the state shall be based upon the belief of “[o]ne and only God,” which effectively places atheists or members of other religions outside of the contemplation of the law and, thus, poses risks to these groups.¹⁰⁰

Indicator 6: State Religion Protections

This indicator touches upon similar questions as the previous indicator, examining the level of adherence to the principle of equality of treatment. To evaluate **State Religion Protections**, coders assessed whether states with an official religion actively protected that religion or its followers. The coders unanimously gave 10 points out of 10 to Afghanistan, Algeria, Iran, Italy, Pakistan, Qatar, Somalia, and Yemen for this indicator. In these states, the laws recognize certain religions and not others, and protect the official religions through sanctions.

Qatar's blasphemy law, for example, includes a provision specifically prohibiting "offending, misinterpreting or violating the Holy Koran."¹⁰¹ In addition, it bans the cursing of any of the "divine religions," setting up a clear hierarchy of beliefs within the confines of the state religion.¹⁰² Article 12 of Yemen's penal code has a specific provision criminalizing "ridicule of the Islamic Religion or any of its Sects."¹⁰³ Italy's criminal code has a series of provisions which criminalize "insulting the State religion"¹⁰⁴ (Catholicism), "insulting the State religion by insulting individuals,"¹⁰⁵ "insulting the State religion by offending against property"¹⁰⁶ and "offences against religions recognized by the State"¹⁰⁷ and "blasphemy and insulting the dead."¹⁰⁸

For **State Religion Protections** question (1), *Does the law recognize certain religions or groups of believers and not others, or institute a different status among certain categories of religions?*, all coders gave points to Afghanistan, Algeria, Andorra, Bahrain, Comoros, Egypt, Iran, Italy, Pakistan, Qatar, Somalia, and Yemen. For example, Bahrain refers to "recognized religious communities" in its penal code,¹⁰⁹ thereby creating a different status among categories of religious groups.

For question (2), *Does the law protect the official state religion through sanctions/punishment?*, all coders gave points to: Afghanistan, Algeria, Greece, Iran, Italy, Jordan, Libya, Malta, Morocco, Oman, Pakistan, Qatar, Saudi Arabia, Somalia, Thailand, and Yemen. For example, Article 199 of Greece's penal code states: "anyone who publicly and maliciously and by any means blasphemes the Greek Orthodox Church or any religion tolerable in Greece shall be punished by imprisonment for not more than two years."¹¹⁰ The wording presumes that some religions are not "tolerable" in Greece. The constitution of Thailand calls on the state to "protect Buddhism" and in its penal code declares that those who insult "such religion, shall be imprisoned as from two years to seven years or fined . . ."¹¹¹

Indicator 7: Speech and Forum Limitations

Indicator 7: Speech and Forum Limitations—measuring the level of adherence to the principle of right to privacy—was a high-scoring indicator nearly across the board. Of the 71 countries, 64 or 90 percent had laws that received an average of 5.5 points or more out of 10 total points on this indicator. The research team determined that if a law included the word "public" alone (i.e., whosoever "publicly mocks"), the law was still not defining forum

limitations clearly or narrowly enough. As a result, nearly all laws were still found to be impermissibly broad in their reach into private speech or actions. As written, few laws specify a forum, which means that public or private speech and writing, among other actions, are criminalized under most laws.

There are exceptions to the broad, sweeping laws that do not delineate permissible types of speech or forums. For example, St. Lucia (2.8), Grenada (2.8), Zimbabwe (3.5), the Philippines (4.3), and Guyana (4.5) all received lower scores on this indicator.

WHAT ARE SPEECH AND FORUM LIMITATIONS? A LOOK AT GRENADA

A good example of relevant language to this indicator is Grenada's law:

Section 429 -- Publication or Sale of Blasphemous or Obscene Matter.

Whoever publishes, sells, or offers for sale any blasphemous or obscene book, writing or representation, shall be liable to imprisonment for two years.

This law is very specific on what type of speech (books, writings, or representations) is illegal and in which forum the blasphemous material is prohibited (publishing, selling, or offering to sell). Thus, the adherence to the principle of privacy is higher and risk of impermissible reach into an individual's private life is lower for this particular law.

Indicator 8: Hierarchy of the Law

Indicator 8: Hierarchy of the Law was the most objective indicator to code since the coders were examining the location of the blasphemy law in the hierarchy of the laws in that country. If the blasphemy law was located within a country's constitution, then coders assigned a score of 10 points. If the blasphemy law was located within the country's statutory laws, then the law received 5 points. Finally, if the blasphemy law was not located in either the constitution or national statutory laws, then coders assigned 1 point.

Coders found that most countries' blasphemy laws were found in the national penal code. A few laws, such as in Eritrea,¹¹² Ireland,¹¹³ and Papua New Guinea,¹¹⁴ were found at the national level in civil codes.¹¹⁵ In rare cases, such as the Philippines,¹¹⁶ prohibitions of blasphemy are included directly in the constitution. Additional laws were also found in lower order laws, such as media laws.¹¹⁷ The main limitation of this indicator is that, although local level ordinances may exist, these lower level laws are difficult to find online or in English. As a result, the compendium itself may be skewed toward national level laws.¹¹⁸

Additional Findings:

The research team noted that extensively worded laws were easier to evaluate for attribution of points under some of the indicators. For instance, the highest scoring states are Iran and Pakistan, and their blasphemy laws are extensively worded, with detailed descriptions of the constituent offenses. Article 513 of Iran's Penal Code states: "Anyone who insults the Islamic sanctities of any of the imams or her excellency Sadigeh Tahereh should be executed if his insult equals to speaking disparagingly of Prophet Muhammad. Otherwise [sic] should be imprisoned from one to five years."

Pakistan's penal code has no less than eight provisions sanctioning blasphemy. Article 295-C states: "Whoever by words, either spoken or written, or by visible representation or by any imputation, innuendo, or insinuation, directly or indirectly, defiles the sacred name of the Holy Prophet Muhammad (peace be upon Him) shall be punished with death, or imprisonment for life, and shall also be liable to a fine." Laws with long, extensively worded provisions facilitate answering the questions, especially those associated with the indicators **Freedom of Expression** and **Freedom of Religion or Belief** and, therefore, may affect the laws' overall evaluations and scores.

Nonetheless, the presence of low scores does not necessarily mean high levels of adherence to human rights and international law principles. Saudi Arabia, for example, does not have a written penal code. Judges rely solely on interpretations of the Shari'a for crimes and punishments. Therefore, with no formal criminal code, the application of the country's blasphemy law relies on jurisprudence. As a result, the overall score for Saudi Arabia is low because the wording of its laws does not indicate deviations from international law principles in the way that the wording of Pakistan's or Iran's laws do. As indicated in Part V *supra*, Saudi Arabia's score may be disproportionately low in comparison to the way its legislation, granting broad discretion to adjudicators, is enforced in practice.

PART V. BEYOND THE STUDY OF THE LAWS: THE IMPORTANCE OF NATIONAL CONTEXT AND IMPLEMENTATION

Laws do not operate in a vacuum devoid of political, judicial, and social contexts. In the case of blasphemy laws, implementation can vary significantly, depending on a range of considerations that include a state's political landscape, governing structures, law-enforcement capabilities, judicial culture, socio-historical relationship to religion(s), and pattern of responses to violence, as well as public attitudes about blasphemy and blasphemy laws.

In some cases, states proactively prosecute individuals for transgressing blasphemy laws. In other cases, the laws are rarely enforced, if at all. Evaluating the wording of each law helps to assess the risk of abuses and identify which aspects of the laws adhere to—or deviate from—international and human rights law principles and may be amenable to targeted reform. However, evaluating the plain language of the law cannot quantify the scope or intensity of the abuses that may occur in practice.

In addition to assessing each state law's score on content, therefore, the following questions can be asked to evaluate the context within which blasphemy laws are implemented:

CONTEXTUAL FACTORS	
State structures	
✓	Does the state rely on a specific religion to form the basis of its political legitimacy?
✓	Does the government explicitly support a particular interpretation of religion or belief?
✓	What is the relationship between the government and religious fundamentalist groups? Are religious fundamentalists groups battling for power against the government?
✓	Is there Internet censorship by the government concerning questions relating to religion or belief?
✓	Is there a clear delineation of power between different branches of government?
✓	Are prosecutors, judges, lawyers, police, or other state officials threatened or intimidated by religious fundamentalists or other groups that the government is unable or unwilling to control?
Judicial proceedings	
✓	Have there been recent convictions for blasphemy, apostasy, or similar charges?
✓	Do courts frequently apply the maximum penalties?
✓	Is there a right to appeal?
✓	Do appeals courts frequently uphold the convictions?
✓	Do higher courts/supreme courts overturn harsh sentences upon appeal?
✓	Can the accused be released on bail?
✓	Do some courts deny bail after an accused is arrested on blasphemy charges?
✓	Is there pre-trial detention?
✓	Do accused individuals wait for long periods in pre-trial detention?
✓	Do courts take into consideration the physical and mental conditions of the accused?
✓	Is the burden of proof placed on the accused?
✓	Have lawyers defending accused individuals been threatened in the past?
✓	What role does the intent of the accused play in order to convict?
✓	Do citizens often abuse blasphemy laws to settle personal disputes?
Law enforcement and state responses to violence	
✓	Do the police enforce laws for all groups equally on the basis of nondiscrimination?
✓	Are arrests for blasphemy frequent?
✓	Do police protect those who face death threats?
✓	Are police sanctioned for inaction or misconduct?
✓	Is there a history in the country of angry mobs reacting to allegations of blasphemy and threatening to use or using violence?
✓	Do police protect the accused in instances of mob violence?
✓	Do police actively assist victims who are caught in the violence?
✓	Are perpetrators of violence properly sanctioned and brought to justice?
✓	Are prisons safe for the accused?
✓	Is there a religious police force responsible for enforcing religious norms or morals in the country?
✓	Are there fundamentalist or violent groups that the government is unable or unwilling to control?
✓	Is there any unresolved conflict between two or more religious or belief groups?

CONTEXT MATTERS: EGYPT AND ITALY

Blasphemy laws from Egypt and Italy score the same number of points and put these states in the top ten scoring countries. Both ranked sixth out of 71 countries and received an average composite score of 56.2 points. The coders determined that both laws were equally vague, receiving 8 points out of 10 possible points for **Vagueness of the Law**. Both states also received 5 points out of 10 possible points on **Severity of the Penalty**, with the highest sanction being imprisonment. All of the coders awarded the maximum of 10 points to both states on Indicator 5, evaluating **Discrimination against Groups**.

Despite receiving identical scores, the contextual realities in Egypt and Italy are starkly different. The most recent known blasphemy indictments in Italy occurred in 2009, but the accused was acquitted three years later.¹¹⁹ In Egypt, however, the situation is deteriorating, and prosecutions are on the rise. Despite the overthrow of Muslim Brotherhood President Mohamed Morsi in 2013 and the subsequent more “secular” leadership of President Abdel Fattah al-Sisi, blasphemy arrests and prosecutions remain frequent.¹²⁰ Press reports have noted that crackdowns under President al-Sisi are part of the regime’s effort to win public support and “cast itself as a guardian of religion”¹²¹ after the fall of the Muslim Brotherhood from power.

USCIRF’s 2016 annual report notes in its chapter on Egypt that “[b]lasphemy cases have increased since 2011, and this trend continued during the reporting period. While the majority of charges are leveled against Sunni Muslims, most of those sentenced by a court to prison terms for blasphemy have been Christians, Shi’a Muslims, and atheists, largely based on flawed trials. According to Egyptian human rights groups, there were at least 21 new blasphemy cases between the beginning of 2015 and the end of the reporting period [on February 29, 2016], a sharp increase when compared to the previous year.”¹²²

The Italian legal framework was challenging for the coding process. Italy received a high score because Articles 402 to 406 of the penal code prohibit “offence to religion,” subject to a penalty of imprisonment. Articles 403, 404, and 405 have been amended by the Constitutional Court so as to provide equal protection to all believers and religions. Whereas legal experts continue to discuss the status of Articles 402–406, these provisions still endure formally in Italian law. Most importantly, Italy reformed its blasphemy law under Article 724 of the penal code, and changed it to a public administrative offense, with the penalty of fines instead of imprisonment.¹²³ Additionally, in 1995, the Constitutional Court declared article 724’s reference to “state religion” discriminatory and unconstitutional.¹²⁴ As such, the law, in effect, was modified to apply to insults to all religions.¹²⁵ Italy received the same score as Egypt on **Severity of the Penalty** and **Discrimination against Groups**. As for **State Religion Protections**, Italy received an even higher score than Egypt. Egypt received an average of 6.7 points out of 10 possible points, while Italy received 10 out of 10 possible points. In Italy the Catholic Church still receives a number of privileges, benefits, and subsidies from the government, although the Church is independent.¹²⁶

Although the content of the blasphemy laws in Egypt and Italy both significantly deviate from international and human rights principles, the enforcement of their laws operates in very distinct contexts. As a result, the consequences for alleged blasphemers are very different.

CONTEXT MATTERS: VIOLENCE IN BANGLADESH HAS INCREASED

Although Bangladesh’s law received an “average” score of 32.8 (and scored lower than several other countries, such as Brunei or Cyprus), violence against alleged blasphemers has substantially increased in 2015 and 2016 in Bangladesh. The law obtains an average number of points for indicators of **Freedom of Expression**, **Vagueness of the Law**, and **Severity of Penalty**. Furthermore, the wording of Bangladesh’s law does not discriminate against groups. On **State Religion Protections**, Bangladesh receives 0 points because according to its constitution: “the state religion of the republic is Islam, but other religions may be practiced in peace and harmony in the Republic.”¹²⁷

In reality, those accused of blasphemy face very serious consequences, indicating that the situation is far more volatile than is reflected in the law’s wording. For instance, in 2015, four Bangladeshis were assassinated for their writings on secularism and freedom of thought.¹²⁸ Groups such as Al Qaeda in the Indian Subcontinent (AQIS), Ansar al Islam, and Ansarullah Bangla Team (ABT) claimed responsibility.¹²⁹ A “Hit List,” which appeared in 2013, named 84 “atheist bloggers” targeted for assassination.¹³⁰ Critics then urged the government of Bangladesh to better protect secular bloggers and arrest perpetrators. According to press reports, in June 2016, police arrested more than 3,000 people in a series of raids intended to quell these attacks.¹³¹

CONTEXT MATTERS: SAUDI ARABIA AND IRAN

When governments rely on a faith as a basis of their political legitimacy, laws prohibiting blasphemy can increase risks for human rights abuses.¹³² Blasphemy laws can be manipulated to uphold religious doctrines, enforce rigid theological interpretations, or otherwise to defend the political legitimacy of the state and its official religion.¹³³ In some situations, states can equate alleged blasphemers with political dissidents. Saudi Arabia and Iran are two examples. Iran's law resulted in coding scores of 10 points out of a possible 10 points for **State Religion Protections**, whereas Saudi Arabia scored 8.33 points out of 10 total points on the same indicator. Both regimes, however, have used their blasphemy laws as a tool to persecute political dissidents and opponents as blasphemers.¹³⁴ The Saudi Kingdom's promotion of Wahhabism as the state-sponsored religion plays a role in the enforcement of its blasphemy law, as does the promotion of Shi'ism by the Islamic Republic.¹³⁵

PART VI. STUDY LIMITATIONS**Vagueness of Laws**

In this study, researchers found that a significant majority of the blasphemy laws examined are vague. The two indicators that consistently received the highest number of points were **Vagueness of the Law** and **Forum and Speech Limitations**. In assessing these two indicators, high scores resulted when a law's language was ambiguous, indefinite, or non-existent regarding the prohibited actions, the resulting sanctions, or the location or form of the prohibited conduct or speech.

The laws' vagueness has implications for the findings on other indicators. Vague language makes it difficult to evaluate whether or not the laws adhere to certain international law principles—especially **Freedom of Religion or Belief** and **Nondiscrimination and Equality**—that are contingent on an evaluation of language. As a consequence, the low scores consistently received on these indicators may overestimate the laws' adherence to international and human rights principles. Given that laws are more open to interpretation when written with indefinite language, vagueness also makes the context in which the laws are implemented more important.

Notably, laws can be vague with regard to international legal principles even when they are extensively worded, as is the case of Iran's blasphemy law. For example, while the law details prohibited acts, it omits important language that would adequately adhere to principles of legality or limit the forum in which blasphemy can be punished. (See Annex A.) Thus, ultimately, the linguistic analysis undertaken here must be complemented with an in-depth contextual analysis of the country conditions, legal landscape, and particularly the implementation and enforcement of blasphemy laws, to understand more completely these laws' inconsistencies with international norms and the resulting human rights violations.

SUDAN

Sudan's blasphemy law illustrates the difficulty in evaluating vaguely written laws for adherence to international and human rights law principles. Article 125 of Sudan's Criminal Act of 1991 penalizes insulting religious creeds and received an overall score of 39.3 out of a possible 80 points. The law received 8 out of 10 total points for non-adherence to the principle of legality (**Vagueness of the Law**). In other words, the researchers found the law to be extremely vague. The law uses such imprecise terms as "by any means," "abuses," or "insults" to define prohibited behavior, leaving the law open to wide interpretation as to which acts would qualify as "abusive" or "insulting." At the same time, the vague language led researchers to assign low scores to the Sudanese law on the indicators for **Freedom of Religion or Belief**, **Discrimination against Groups**, and **State Religion Protections** (1.3, 0, and 0 points out of 10 total points, respectively).

What these scores mean is that the Sudanese law generally does not discriminate on its face; this study, however, cannot capture the potential or actual discrimination that a vaguely written law can achieve in its implementation.

Coding and Dataset

There also are inherent limitations in a study employing coding as a basis for analyzing laws. For example, biases inherent in the dataset—in the laws compiled and in the de-identification process—may impact the authors' ability to draw full conclusions about a country's blasphemy law's adherence to international legal principles. Laws not available in English have been translated or summarized from their original languages into English, and the authors relied on these unofficial translations to analyze the provisions. In addition, the dataset may constitute an oversampling of states whose laws are available in English, accessible online, or found in related reports. The dataset may also have oversampled laws from countries that prohibit blasphemy at the national (rather than local) level, as the collection was based on searches for provisions in national constitutions and penal codes, which sometimes led researchers to additional related national laws, such as media laws.

Moreover, the analysis looked solely at countries' laws related to blasphemy, whereas states could theoretically use other legal provisions to charge or sanction alleged blasphemers. Although this method was deliberate, it may have omitted other laws that should be read in conjunction with the actual laws explicitly prohibiting blasphemy in particular countries. For example, general sentencing laws or guidelines were not included in our analysis, even though they could be relevant to the adherence to the principle of proportionality.

Despite the best efforts of the study team, the researchers may not have captured successfully all repeals and modifications of all of the blasphemy laws included in the compendium. (See for example the discussion of the legal changes in Italy in Part V *supra*.¹³⁶) This constantly shifting reality of states' legal frameworks applies to *all* states examined.

Study Tool: Human Rights Indicators

Researchers carefully selected the main principles of international law implicated by laws prohibiting blasphemy. The decision was made not to weight indicators; rather, the tool itself became a reflection of the various issues raised. In other words, given the inter-related nature of the principles and indicators, the researchers felt that the tool itself naturally "weighed" particular

principles more heavily than others. For example, two indicators attempt to measure different aspects of the principles of nondiscrimination and equality: one indicator examines the explicit discrimination against groups, while another investigates whether countries with official or state religions give preference to that religion to the detriment of other religions or groups of believers. In this way, these two separate indicators place more weight on the principle of nondiscrimination as a fundamental principle of international law. As a consequence, the study tool may be biased with regard to certain international legal principles over others.

Notwithstanding these limitations, this innovative study provides important findings on blasphemy laws' relative adherence to principles of international law. It also provides hypotheses for future studies on blasphemy through an international and human rights law lens. And from a policy perspective, it indicates areas where targeted law reform may be feasible based on a rights-based approach, which recognizes that specific revisions to the laws themselves could improve overall adherence to international and human rights principles and could lower the risk of abuses in the implementation of blasphemy laws.

ENDNOTES

¹ This research was a team effort over several years with more than a dozen participants. Three of the researchers were trained to code and analyze the compendium of blasphemy and related laws.

² THE U.S. COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM, POLICY BRIEF, PRISONERS OF BELIEF: INDIVIDUALS JAILED UNDER BLASPHEMY LAWS (2014) [hereinafter USCIRF Prisoners of Belief].

³ Press Release, Human Rights First, Compendium Details Blasphemy Laws Challenging Human Rights Worldwide (May 22, 2014), <http://www.humanrightsfirst.org/resource/compendium-blasphemy-laws> [hereinafter HRF Press Release].

⁴ For the purposes of this study, researchers examined laws in addition to the blasphemy law in a particular country in order to understand the blasphemy laws' meaning with regard to specific indicators. For example, with regard to state religion protections, researchers needed to look at constitutions or other laws declaring an official state religion to know whether or not a country protected an official state religion.

⁵ Human Rights Committee, General comment no. 34, Article 19: Freedoms of opinion and expression, U.N. Doc. CCPR/C/GC/34, ¶ 48 (Sept. 12, 2011) [hereinafter HRC General Comment No. 34].

⁶ Human Rights Council, Report of the Special Rapporteur on freedom of religion or belief, Heiner Bielefeldt, U.N. Doc. A/HRC/25/58, ¶ 59 (Dec. 26, 2013). Additionally, in his report presented to the UN General Assembly (2012), the UN Special Rapporteur on the promotion and protection to the right to freedom of opinion and expression, Frank La Rue, states: "Anti-blasphemy laws, for example, which are inherently vague and leave the entire concept open to abuse, are often used as a means of quashing the right to freedom of expression," calling upon states to repeal anti-blasphemy laws and to initiate legislative and other reforms that protect the rights of individuals in accordance with international human rights standards.

⁷ THE U.S. COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM, USCIRF WELCOMES MOVE AWAY FROM "DEFAMATION OF RELIGIONS" CONCEPT (2011).

⁸ USCIRF Prisoners of Belief, *supra* note 2, at 3.

⁹ Id.

¹⁰ Joelle Fiss, *Anti-blasphemy offensives in the digital age: When hardliners take over*, 25, THE BROOKINGS PROJECT ON U.S. RELATIONS WITH THE ISLAMIC WORLD, 6 (Sept. 2016), https://www.brookings.edu/wp-content/uploads/2016/09/brookings-analysis-paper_joelle-fiss_web.pdf [hereinafter Brookings Report].

¹¹ THE U.S. COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM, ANNUAL REPORT: PAKISTAN (2015), <http://www.uscirtf.gov/sites/default/files/Pakistan%202015.pdf>.

¹² Vienna Convention on the Law of Treaties, art. 38, *opened for signature* May 23, 1969, 1155 U.N.T.S. 331.

¹³ Hurst Hannum, *The Status of the Universal Declaration of Human Rights in National and International Law*, 25 GA. J. INT'L & COMP. L. 287, 291 (1995).

¹⁴ Article 19 of the Universal Declaration of Human Rights (UDHR) declares that:

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Universal Declaration of Human Rights, art. 19, G.A. Res. 217A (III), U.N. Doc. A/810, (1948) [hereinafter UDHR].

¹⁵ Article 29(2) of the UDHR outlines the restrictions as:

... subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

Id., at art. 29(2).

¹⁶ Article 19(3) of the International Covenant on Civil and Political Rights (ICCPR) states that:

3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

(a) For respect of the rights or reputations of others;

(b) For the protection of national security or of public order (ordre public), or of public health or morals.

International Covenant on Civil and Political Rights, art 19(3), Dec. 16, 1966, S. Exec. Rep. 102-23, 999 U.N.T.S. 171, [hereinafter ICCPR].

¹⁷ Human Rights Committee, General comment no. 22, Article 18: Freedoms of Thought, Conscience or Religion, U.N. Doc. CCPR/C/21/Rev.1/Add.4, ¶ 2 (Sept. 27, 1993) [hereinafter HRC General Comment No. 22].

¹⁸ HRC General Comment No. 34, *supra* note 5, at ¶ 25.

¹⁹ HRC General Comment No. 22, *supra* note 17, at ¶ 8.

²⁰ *Id.*

²¹ HRC General Comment No. 34, *supra* note 5, at ¶ 32.

²² UDHR, *supra* note 14, at art. 18.

²³ Article 18 of the UDHR stipulates the following:

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

UDHR, *supra* note 14, at art. 18.

²⁴ The UDHR's Article 29(2) on the other hand stipulates the conditions whereupon a restriction on the enumerated rights can be imposed:

In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

UDHR, *supra* note 14, at art. 29(2).

²⁵ Elizabeth K. Cassidy, *Restricting Rights? The Public Order and Public Morality Limitations on Free Speech and Religious Liberty in UN Human Rights Institutions*, 13 REV. FAITH & INT'L AFF. 5 (2015) (explaining that, unlike for freedom of expression, there is no derogation allowed for freedom of religion under the ICCPR); see ICCPR, *supra* note 16, at art. 4; see also Human Rights Council, Report of the Special Rapporteur on freedom of religion or belief, U.N. Doc. A/HRC/31/18, ¶ 59 (Dec. 23, 2015).

²⁶ Many of these questions were adapted from the UN Special Rapporteur's Digest on Freedom of Religion or Belief. HUMAN RIGHTS COUNCIL, RAPPOREUR'S DIGEST ON FREEDOM OF RELIGION OR BELIEF (2011), available at <http://www.ohchr.org/Documents/Issues/Religion/RapporteursDigestFreedomReligionBelief.pdf> [hereinafter HRC Rapporteur's Digest].

²⁷ See, e.g., ICCPR, *supra* note 16, at art. 15(1); Convention on the Rights of the Child, art. 40(2), Nov. 20, 1989, 1577 U.N.T.S. 3, 28 I.L.M. 1448, entered into force Sept. 2, 1990; European Convention for the Protection of Human Rights and Fundamental Freedoms, art. 9, Nov. 4, 1950, 312 E.T.S. 5, *as amended by* Protocol No. 3, E.T.S. 45, Protocol No. 5, E.T.S. 55, Protocol No. 8, E.T.S. 118, and Protocol No. 11, E.T.S. 155, *entered into force* Sept. 3, 1953 (Protocol No. 3 on Sept. 21, 1970, Protocol No. 5 on Dec. 20, 1971, Protocol No. 8 on Jan. 1, 1990, Protocol 11 on Jan. 11, 1998); American Convention on Human Rights, art. 9, Nov. 22, 1969, 9 I.L.M. 673 (1970), *entered into force* July 18, 1978; African Charter on Human and Peoples' Rights [Banjul Charter], art. 7(2), June 27, 1981, 21 I.L.M. 59, *entered into force* Oct. 21, 1986; UDHR, *supra* note 14, at art. 11(2).

²⁸ In order for individuals to be able to adhere to a law, the law's proscriptions must be clearly and narrowly defined. A law that meets the standard of "clearly and narrowly defined" uses precise language without room for interpretation. See HRC Rapporteur's Digest, *supra* note 26, at 58, 101. For this purpose, the research team concluded that subjective terms in a blasphemy law, such as "insulting," "mocking," or "humiliating," were not sufficient to meet the clearly and narrowly defined standard. The terms in the law had to be concrete and unambiguous in order to be compliant with Indicator 3 and the principle of legality.

²⁹ Kokkinakis v. Greece, Judgment of May 25, 1993, Eur. Ct. H.R., (ser. A), No. 260-A, ¶ 52 (1993).

³⁰ Castillo Petruzzi et al. v. Peru, Merits, Reparations, and Costs, Judgment, Inter-Am. Ct. H.R. (ser. C) No. 52, ¶ 121 (May 30, 1999).

³¹ See *Connally v. General Construction Company*, 269 U.S. 385, 391 (1926); *Champlin Ref. Co. v. Corporation Comm'n*, 286 U.S. 210 (1932); *United States v. Evans*, 333 U.S. 483 (1948).

³² HRC General Comment No. 34, *supra* note 5, at ¶ 25. Each of the treaty bodies publishes its interpretation of the provisions of its respective human rights treaty in the form of "general comments" or "general recommendations." U.N. Human Rights Office of the High Commissioner, Human Rights Treaty Bodies—General Comments, <http://www.ohchr.org/EN/HRBodies/Pages/TBGeneralComments.aspx>.

³³ A valid penal law with adequate precision is one that specifies the intent, or *mens rea*, in the statute. See Mohamed Elewa Badar, Iryna Marchuk, & Sara Porro, *Mens Rea, International Crimes*, OXFORD BIBLIOGRAPHIES IN INTERNATIONAL LAW (2015), <http://www.oxfordbibliographies.com/view/document/obo-9780199796953/obo-9780199796953-0122.xml>.

³⁴ Eric Engle, *The History of the General Principle of Proportionality: An Overview*, 10 Dartmouth L.J. 1, 6 (2012).

³⁵ Jeroen Schokkenbroek, *The Basis, Nature and Application of the Margin of Appreciation Doctrine in the Case-Law of the European Court of Human Rights*, 19 HUM. RTS. L. J. 30, 31 (1998); PAUL CRAIG & GRÁINNE DE BÚRCA, *EU Law* 526 (5th ed. OUP 2011); Eric Engle, *The History of the General Principle of Proportionality: An Overview*, 10 Dartmouth L. J. 1, 8 (2012).

³⁶ Schokkenbroek, *supra* note 35, at 31.

³⁷ Eric Engle, *The History of the General Principle of Proportionality: An Overview*, 10 DARTMOUTH L. J. 1, 8 (2012); Ralph G. Steinhardt, *Book Review, European Administrative Law*, 28 GEO. WASH. J. INT'L L. & ECON. 225, 231–32 (1994).

³⁸ UDHR, *supra* note 14, at art. 4; ICCPR, *supra* note 16, at art. 8.

³⁹ UDHR, *supra* note 14, at art. 5; ICCPR, *supra* note 16, at art. 7. These rights are jus cogens norms and, therefore, nonderogable. See, e.g., Erika de Wet, *The Prohibition of Torture as an International Norm of jus cogens and Its Implications for National and Customary Law*, 15 Eur. J. Int'l L. 97, 98 (2004).

⁴⁰ ICCPR, *supra* note 16, at art. 6. Article 6(1) states that:

Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.

Article 6(2) mandates that:

In countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and not contrary to the provisions of the present Covenant and to the Convention on the Prevention and Punishment of the Crime of Genocide. This penalty can only be carried out pursuant to a final judgment rendered by a competent court.

Since the ICCPR's adoption, steps have been taken to develop a legally binding instrument that requires the abolition of the death penalty. Accordingly, the U.N. has adopted the Second Optional Protocol to the ICCPR, which abolishes the death penalty during peacetime. *See* Second Optional Protocol to the International Covenant on Civil and Political Rights, Aiming at the Abolition of the Death Penalty, *adopted* Dec. 15, 1989, G.A. Res. 44/128, U.N. GAOR Supp. No. 49, U.N. Doc. A/RES/44/128 (1989).

⁴¹ ICCPR, *supra* note 16, at 2(1), which reads:

Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

⁴² ICCPR, *supra* note 16, at art. 26, which declares that:

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

⁴³ *Id.* at art. 18(3).

⁴⁴ *Id.* at art. 19.

⁴⁵ *See* Human Rights Committee, *Waldman v. Canada*, Communication No. 694/1996, U.N. Doc. CCPR/C/67/D/694/1996 (Nov. 5, 1999).

⁴⁶ *See, e.g.*, Commission on Human Rights, Implementation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, U.N. Doc. E/CN.4/1996/95/ADD.1, ¶ 81 (Feb. 9, 1996); Commission on Human Rights, Implementation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, UN Doc. E/CN.4/1996/95/ADD.2, ¶ 88 (Feb. 9, 1996); General Assembly, Implementation of the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, Note by the Secretary-General, UN Doc. A/51/542/ADD.1, ¶ 132 (Nov. 7, 1996).

⁴⁷ ICCPR, *supra* note 16, at art. 27.

⁴⁸ *Id.* at art. 17. Article 17 reads as follows:

1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.

2. Everyone has the right to the protection of the law against such interference or attacks.

⁴⁹ *Id.* at art. 19(2).

⁵⁰ *Id.* at art. 19(3). Article 19(3) reads as follows:

3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

(a) For respect of the rights or reputations of others;

(b) For the protection of national security or of public order (*ordre public*), or of public health or morals.

⁵¹ See, e.g., Dinah Shelton, *Normative Hierarchy in International Law*, 100 Am. J. INT'L L. 291, 291 (2006) ("Systems of law usually establish a hierarchy of norms based on the particular source from which the norms derive. In national legal systems, it is commonplace for the fundamental values of society to be given constitutional status and afforded precedence in the event of a conflict with norms enacted by legislation or adopted by administrative regulation; administrative rules themselves must conform to legislative mandates, while written law usually takes precedence over unwritten law and legal norms prevail over nonlegal (political or moral) rules.").

⁵² Our study may have an inbuilt bias as laws enshrined in national constitutions and national codes are more likely to be found online and in English, even where English is not the primary language of the particular state. This limitation is discussed further in Section VI, *infra*.

⁵³ Human Rights First, *Compendium of Blasphemy Laws* (May 20, 2014), <http://www.humanrightsfirst.org/sites/default/files/Compendium-Blasphemy-Laws.pdf> [hereinafter HRF Compendium].

⁵⁴ See definition of "blasphemy," *supra* note 2.

⁵⁵ INTERNATIONAL HUMANIST AND ETHICAL UNION, *FREEDOM OF THOUGHT 2014: A GLOBAL REPORT ON THE RIGHTS, LEGAL STATUS, AND DISCRIMINATION AGAINST HUMANISTS, ATHEISTS AND THE NON-RELIGIOUS* (2014), available at <http://freethoughtreport.com/download-the-report/>.

⁵⁶ THE LAW LIBRARY OF CONGRESS, *LAWS CRIMINALIZING APOSTASY IN SELECTED JURISDICTIONS* (2014), available at <https://www.loc.gov/law/help/apostasy/apostasy.pdf>.

⁵⁷ VENICE COMMISSION, *BLASPHEMY, INSULT AND HATRED: FINDING ANSWERS IN A DEMOCRATIC SOCIETY, SCIENCE AND TECHNIQUE OF DEMOCRACY*, No. 47 (2010), available at [http://www.venice.coe.int/web-forms/documents/?pdf=CDL-STD\(2010\)047-e](http://www.venice.coe.int/web-forms/documents/?pdf=CDL-STD(2010)047-e).

⁵⁸ HRF Press Release, *supra* note 3.

⁵⁹ See, e.g., *Jamaica*, End Blasphemy Laws, <http://end-blasphemy-laws.org/countries/americas/jamaica/>.

⁶⁰ This report does not map out the existing apostasy laws. "Apostasy laws" criminalize the act of abandoning one's religion and changing to another. The freedom to change one's religion or belief is enshrined in international law. See, e.g., UDHR, *supra* note 14, at art. 18. Although different laws sanction apostasy and blasphemy, a conflation of human rights abuses can sometimes occur. For example, insulting a religion or committing "blasphemy" may be considered in some contexts as abandoning one's faith. Prosecutions of apostasy often appear in very similar contexts to those of blasphemy. However, for purposes of this study, apostasy laws were not systematically compiled. Research and examination of apostasy laws and their interactions with blasphemy laws merit additional study.

⁶¹ Blasphemy laws, at times, sanction hate speech or hate crimes in the same legislation. Hate speech laws were not included in the blasphemy laws compendium. HRF Compendium, *supra* note 53.

⁶² These international and human rights principles are explained in detail in Section II, *supra*.

⁶³ This study does not purport to analyze state compliance with these international law principles in its enforcement or implementation practices.

⁶⁴ Indicators 5 (Discrimination against Groups) and 6 (State Religion Protections) are both measuring different aspects of the adherence to principles of nondiscrimination and equality. See Section II, *supra*.

⁶⁵ Given that each indicator had different numbers of questions that determined adherence to the norm, the authors weighed each question as equal to other questions within that particular indicator. Where indicators and questions overlapped, these questions naturally weighed more heavily in the results.

⁶⁶ The researchers removed any information that could reasonably be used to identify a country and replaced such information with generic terms.

⁶⁷ See DONALD T. CAMPBELL & JULIAN C. STANLEY, EXPERIMENTAL AND QUASI-EXPERIMENTAL DESIGNS FOR RESEARCH (1963) (describing the importance of internal validity, or how well a study is designed and conducted, and the need to avoid biases in selection).

⁶⁸ See Kathleen M. MacQueen et al., *Codebook Development for Team-Based Qualitative Analysis*, 10(2) CULTURAL ANTHROPOLOGY METHODS 31, 35 (1998) [hereinafter MacQueen et al.] (explaining inter-coder reliability. “[T]wo or more coders are then given the task of independently coding the same sample of text. The results of their coding are then compared for consistency of text segmentation and code application. If the results are acceptable and consistent, the coding continues with periodic checks for continued inter-coder agreement. If the results are unacceptable and inconsistent, the inconsistencies are reviewed by the coders and team leader(s).”).

⁶⁹ Correlation between data sets is a measure of how well they are related. The most common measure of correlation in statistics is the Pearson’s Correlation Coefficient, which shows the linear relationship between two sets of data. The Pearson’s Correlation Coefficient r can be calculated using the following formulae:

$$r = \frac{\sum_{i=1}^n (x_i - \bar{x})(y_i - \bar{y})}{\sqrt{\sum_{i=1}^n (x_i - \bar{x})^2} \sqrt{\sum_{i=1}^n (y_i - \bar{y})^2}}$$

Where: x = one dataset $\{x_1, \dots, x_n\}$ containing n values Y and another dataset $\{y_1, \dots, y_n\}$ containing n values x : the sample mean; and analogously for y . The strength of the correlation using the following guide that Evans (1996) suggest for the absolute value of r can be verbally described as follows:

.00–.19 “very weak”
 .20–.39 “weak”
 .40–.59 “moderate”
 .60–.79 “strong”
 .80–1.0 “very strong”

JAMES D. EVANS, STRAIGHTFORWARD STATISTICS FOR THE BEHAVIORAL SCIENCES (1996).

⁷⁰ See Benjamin Mason Meier & Yuna Kim, *Human Rights Accountability through Treaty Bodies: Examining Human Rights Treaty Monitoring for Water and Sanitation* 26 DUKE J. OF COMP. & INT’L L. 141 (2015) (examining the content of state human rights law reporting to the United Nations Committee on Economic, Social and Cultural Rights with regard to water and sanitation rights). Consistency refers to each coder identifying and applying the same code to a given law or provision of a law. In other words, consistency “examines the extent to which different interviewers, observers, or coders using the same instrument or measure get equivalent results.” ROYCE A. SINGLETON, JR. & BRUCE C. STRAITS, APPROACHES TO SOCIAL RESEARCH 136 (5th ed. 2010). In applying “consistency” to the coding process, the “[i]ntercoder reliability assesses the degree to which codings of text by multiple coders are similar.” Daniel J. Hruschka et al., *Reliability in Coding Open-Ended Data: Lessons Learned from HIV Behavioral Research*, 16 FIELD METHODS 307, 310 (2004).

⁷¹ See MacQueen et al., *supra* note 68, at 35 (explaining that problems identified in the codebook may be revised and, as a result, all previously coded text is reviewed and recoded to ensure consistency with the revisions).

⁷² Number is based on the fact that there are 193 member states of the United Nations.

⁷³ These world regional groupings are derived from the regional groupings used in Pew Research Center's *Trends in Global Restrictions on Religion*, available at <http://www.pewforum.org/2016/06/23/trends-in-global-restrictions-on-religion/>.

⁷⁴ See MacQueen et al., *supra* note 68.

⁷⁵ *Repealing blasphemy law a victory for freedom of speech, says Humanist Association*, TIMES OF MALTA (July 14, 2016), <http://www.timesofmalta.com/articles/view/20160714/local/repealing-blasphemy-law-a-victory-for-freedom-of-speech-says-humanist.618859>; Paul Cocks, *Religious vilification removed from Maltese law, Archbishop: 'Lord forgive them . . .'*, TIMES OF MALTA (July 12, 2016), http://www.maltatoday.com.mt/news/national/67475/parliament_approves_bill_decriminalising_porn_and_repealing_religious_vilification#.V9awiDuO7q0.

⁷⁶ SOM. CONST. ART. 2, 2012, available at https://www.constituteproject.org/constitution/Somalia_2012.pdf.

⁷⁷ Kevin Rawlinson, *Iceland repeals blasphemy ban after Pirate party campaign*, the Guardian (July 3, 2015), <https://www.theguardian.com/world/2015/jul/03/iceland-repeals-blasphemy-law-pirate-party-campaign>.

⁷⁸ CONSTITUCIÓN ESPAÑOLA, BOLETÍN OFICIAL DEL ESTADO, Dec. 29, 1978.

⁷⁹ CONST. (1987), preamble (Phil.).

⁸⁰ This percentage reflects 67 states out of the 71 states evaluated.

⁸¹ HRC Rapporteur's Digest, *supra* note 26.

⁸² Brookings Report, *supra* note 10, at 8.

⁸³ *Id.* at 7.

⁸⁴ THE U.S. COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM, ANNUAL REPORT, 91, 113 (2016) [hereinafter USCIRF 2016 Report].

⁸⁵ *Id.* at 167, 209.

⁸⁶ Canada Criminal Code, R.S.C. 1985, c. C-46 (emphasis added).

⁸⁷ A total of 23 out of 67 criminal blasphemy laws examined included *mens rea*.

⁸⁸ TA'AZIRAT [ISLAMIC PENAL CODE OF THE ISLAMIC REPUBLIC OF IRAN], art. 513 (1996); Pak. Penal Code, Ch. XV, art. 295-C (1860).

⁸⁹ SUDAN, CRIM. ACT, art. 125 (1991).

⁹⁰ Закон О свободе совести и о религиозных объединениях [Law on Freedom of Conscience and Religious Associations] art. 148 (1997).

⁹¹ KAZAKHSTAN, PENAL CODE, art. 164 (2014). Correctional labor is a form of forced labor in prison, either used as a form of punishment or as a secured labor force.

⁹² Strictly speaking, Italy's blasphemy law (Article 724) triggers an administrative fine, but insulting the state religion (Article 402) is subject to a prison sentence. Committee on Culture, Science and Education, Blasphemy, religious insults and hate speech against persons on grounds of their religion, Doc. 11296 (June 8, 2007), <http://www.assembly.coe.int/nw/xml/XRef/X2H-Xref-ViewHTML.asp?File-ID=11521&Lang=EN>.

⁹³ USCIRF 2016 Report, *supra* note 83, at 57–61.

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- ⁹⁷ Penal Code (Italy), arts. 402–06 [hereinafter Italy Penal Code].
- ⁹⁸ QATAR PENAL CODE 11/2004, part 1, art. 1.
- ⁹⁹ USCIRF 2016 Report, *supra* note 83, at 167.
- ¹⁰⁰ CONST. OF THE REP. OF INDONESIA, art. 29 (1945).
- ¹⁰¹ HRF Compendium, *supra* note 53, at 48–9.
- ¹⁰² *Id.*
- ¹⁰³ YEMEN PENAL CODE art. 12 (1994), as *amended by* Law 24 (2006).
- ¹⁰⁴ Italy Penal Code, *supra* note 96, at art. 402.
- ¹⁰⁵ *Id.* at art. 403.
- ¹⁰⁶ *Id.* at art. 404.
- ¹⁰⁷ *Id.* at art. 405.
- ¹⁰⁸ *Id.* at art. 724.
- ¹⁰⁹ *Id.* at art. 309.
- ¹¹⁰ Ar. 199 PK.
- ¹¹¹ Radthathammanoon (B.E. 2534) – 1997; CRIM. CODE, 206 (Thailand), *available at* <http://library.siam-legal.com/thai-law/criminal-code-religion-sections-206-208/>.
- ¹¹² Proclamation No. 90/1996 The Press Proclamation GAZETTE OF ERITREAN LAWS Published by the Government of Eritrea PART I, ERIGAZETTE, <http://erigazette.org/?p=5419>.
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- ¹¹⁴ Customs (Prohibited Imports) Regulation, INDEPENDENT STATE OF PAPUA NEW GUINEA (1974), faolex.fao.org/docs/texts/png51771.doc.
- ¹¹⁵ Afghanistan’s law is a Mass Media Law; however, it criminalizes “works and materials contrary to the Constitution” and references the Penal Code. Law on Mass Media, 2009, art. 45(5) (Afghanistan), *available at* http://gfmd.info/images/uploads/English-Media_Law_2009.pdf (last visited April 18, 2013).
- ¹¹⁶ CONST. (1987), art. 133 (Phil.).
- ¹¹⁷ *See, e.g.*, Iran, Jordan.
- ¹¹⁸ *See* Limitations, Section VI, *infra*.
- ¹¹⁹ Lautsi and Others v. Italy, App. no. 30814/06 Eur.Ct.H.R. (2011).
- ¹²⁰ Hazel Haddon, *In Sisi’s Egypt, Blasphemy Is Still a Crime*, FOREIGN POLICY (Apr. 21, 2015), <http://foreignpolicy.com/2015/04/21/in-sisis-egypt-blasphemy-is-still-a-crime/>.
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- ¹²² THE U.S. COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM, ANNUAL REPORT: EGYPT, 94 (2016).
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¹²⁴ U.S. DEPT. OF STATE, ITALY: INTERNATIONAL RELIGIOUS FREEDOM REPORT (2008), <http://www.state.gov/j/drl/rls/irf/2008/108453.htm>.

¹²⁵ *Id.*

¹²⁶ U.S. DEPT. OF STATE, EXECUTIVE SUMMARY: INTERNATIONAL RELIGIOUS FREEDOM REPORT (2015), <http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm#wrapper>.

¹²⁷ HRF Compendium, *supra* note 53, at 7.

¹²⁸ THE U.S. COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM, BANGLADESH, http://www.uscifr.gov/sites/default/files/USCIRF_Monitored_Bangladesh.pdf.

¹²⁹ *Id.*

¹³⁰ Maajid Nawaz, *In Bangladesh, Serial Killing in the Name of God*, THE DAILY BEAST (Apr. 26, 2016), <http://www.thedailybeast.com/articles/2016/04/26/in-bangladesh-serial-killing-in-the-name-of-god.html>.

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¹³³ *Id.*

¹³⁴ THE U.S. COMMISSION ON INTERNATIONAL RELIGIOUS FREEDOM, SAUDI ARABIA (2015); National Laws on Blasphemy: Iran, Berkley Center for Religion, Peace & World Affairs, Georgetown University, <https://berkleycenter.georgetown.edu/essays/national-laws-on-blasphemy-iran> (last visited Oct. 14, 2016).

¹³⁵ Dawood Ahmed, *Rise of blasphemy charges: Saudi Arabia, Iran, Indonesia in perspective*, Dawn (updated Jan. 1, 2015), <http://www.dawn.com/news/1154251>.

¹³⁶ Caytas, *supra* note 122.

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The Benjamin B. Ferencz Human Rights and Atrocity Prevention Clinic at Cardozo Law provides students the opportunity to engage in human rights litigation and advocacy toward preventing atrocity crimes—including war crimes, crimes against humanity, and genocide—protecting populations and rebuilding societies in the aftermath of atrocity. For more information, please contact Carolyn Patty Blum, pblum@yu.edu, or Jocelyn Getgen Kestenbaum, jocelyn.getgen@yu.edu.

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DEDICATION

This Project originated under the leadership and vision of Professor Sheri P. Rosenberg, and this Report is dedicated to her. A leader in the field of atrocity prevention and human rights, Sheri dedicated her life's work to genocide prevention, including through addressing issues of discrimination, citizenship and statelessness. Her commitment and compassion live on through the lives of all of those she touched.



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