



U.S. Commission on International Religious Freedom Briefing

Silencing Religious Freedom in Africa: The Impact of Speech Restrictions

Statement

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Thank you, Chair Perkins. I am Kirsten Lavery, International Legal Specialist at USCIRF. Ferdaouis and I appreciate the opportunity to launch this report on Human Rights Day. I'd like to start by framing the relevant international human rights standards and defining the speech restrictions surveyed in our report: blasphemy, apostasy, and hate speech.

USCIRF's definition of **blasphemy** is 'an act insulting or showing contempt or lack of reverence for God or sacred things.' Blasphemy laws punish expressions or acts deemed blasphemous or defamatory of religions or religious symbols, figures, or feelings. We identified 26 African countries with blasphemy laws, some of which were not previously identified by USCIRF in our 2017 report tracking these laws globally. Mauritania also added a specific blasphemy law in 2018, joining Iran and Pakistan as the only countries that impose the death penalty for this crime. For those tracking, the new total of countries that USCIRF has identified with blasphemy laws is 84 countries, more than 40% of states worldwide. While not enforced in every country, there are still serious human rights concerns with maintaining these laws on the books, whether in Africa or elsewhere.

Apostasy is the act of renouncing one's religion. Apostasy laws are often broad and extend to activities beyond just renouncing one's faith, such as attempting to persuade others to change religion. We identified 9 countries with apostasy laws in Africa, most of these are in North Africa.

Blasphemy and apostasy laws are inconsistent with international human rights as they (1) violate the right to change religion and the right to discuss, and even criticize religion, and (2) these laws impermissibly protect religion. International human rights laws provide protections to individuals, and not religions, belief systems, or religious symbols. One way to think about this is that human rights protect believers and not beliefs.

These laws also frequently impose harsh penalties, lack a requirement of intent, and are vague and discriminatory. As one example, Algeria's law criminalizing proselytizing, which is actively enforced, includes a ban on "shak[ing] the faith of Muslims." What is meant by shaking the faith of a person is clearly open to debate and relies on subjective feelings. This provision has had a grave chilling effect on religious activity and discourse.

Now, to turn to the last, and the most nebulous category of speech we are discussing today, hate speech. There is no international definition of **hate speech**, but in the report, we use the definition contained in the UN Strategy and Plan of Action on Hate Speech of "any communication that prejudices a particular group based on their race, religion, ethnicity, or other factor." We found 29 hate speech laws in Africa, and four countries with pending legislation to criminalize hate speech.

Hate speech is a broad term and not all hate speech can be prohibited under international law. Legislation must strike a delicate balance between allowing protected speech and, at the same time, protecting individuals and groups from harm. This is important, as open and robust debate of ideas can be one of the best protections against religious intolerance. Only the speech most likely to spark violence, harm, and/or discrimination may be narrowly regulated.

Two categories of speech that states are required to prohibit are (1) direct and public incitement to genocide and (2) any advocacy of national, racial, or religious hatred that constitutes incitement to discrimination, hostility or violence under Article 20(2) of the International Covenant on Civil and Political Rights (ICCPR), which we refer to as "imminent incitement." Outside imminent incitement and incitement to genocide, states can, but are not required, to limit broader hate speech under strict requirements found in Article 19(3) of the ICCPR.

In our review, we found that hate speech laws are almost always vague and overbroad, which jeopardizes the freedom of speech. I would also like to highlight one implication for the freedom of religion – the effects of overbroad hate speech laws can be similar to blasphemy prohibitions, particularly when hate speech laws limit speech based on the subject matter, rather than a contextual analysis to determine the likelihood of harm to an individual or group. Blasphemy, apostasy, and hate speech laws are often analyzed in separate categories, but they are often not as distinctly defined in text or in implementation.

With this in mind, I will now turn it over to Ferdaouis to provide some additional examples regarding the implementation of these laws.

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