

POLITICAL AND LEGAL STATUS OF APOSTATES IN ISLAM



Council of Ex-Muslims of Britain

The Council of Ex-Muslims of Britain was formed in June 2007 in order to break the taboo that comes with renouncing Islam. The main aims of the organisation are to provide support to and highlight the plight of ex-Muslims, challenge Sharia and apostasy laws and take a stand for reason, universal rights and secularism.

Atheist Alliance International is a global alliance of atheist and freethought groups and individuals, committed to educating its members and the public about atheism, secularism and related issues. Atheist Alliance International is proud to support its Affiliate, the Council of Ex-Muslims of Britain, in the publication of this report.

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Died Standing

*A severed head in between your hands
my eyes on the broken clock
And sad and rebellious poems
and the wolf, unafraid of the gun
On my doubts of the origin of existence,
on choking loneliness when drunk
And longing and inhaling you,
and the depth of the tragedy not seeing you
The artery destined to blockage,
and your crime, a scream against the wind
The end of the story is always a bitter one,
and the poet whose conviction is apostasy
The good God sleeping in my book,
the dried semen on my bed
The good God of wrath, death, and fatwa,
and my cries over Yaghma's poetry
Let me be like a cactus
Stay with me who has read poetry,
next to you, with covenant with the desert,
that our code is to die standing up
that our code is to die standing up
Tell them, our Hadith was a Hadith of blood,
contempt, born out of insanity
Tell them, how I did not give in
Tell them, how I died standing up
The good God sleeping in my book,
the dried semen on my bed
The good God of wrath, death, and fatwa,
and my cries over Yaghma's poetry
Let me be like a cactus
Stay with me who has read poetry,
next to you, with covenant with desert,
that our code is to die standing up
that our code is to die standing up
Tell them, my story was a tale of blood,
contempt, born out of insanity
Tell them, how I did not give in
Tell them, how I died standing up
that our code is to die standing up*

Song by Shahin Najafi, Iranian musician living in Germany, in response to death fatwas for apostasy issued by Grand Ayatollahs in Iran after the release of another song "Hey, Naghi!" about the tenth Imam in Shi'a Islam.

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Introduction

This report examines sources of Sharia law, namely the Quran, Hadith and Islamic jurisprudence which form the basis for laws that prohibit apostasy from Islam in a large number of countries. In countries such as Malaysia, Morocco, Jordan and Oman, punishments for apostasy include fines, imprisonment, flogging and exclusion from civil or family rights (such as the right to child custody). In 11 countries—Afghanistan, Egypt, Iran, Maldives, Mauritania, Qatar, Saudi Arabia, Somalia, Sudan, UAE, and Yemen—apostasy is punishable by the death penalty. Other countries without apostasy laws, such as Pakistan and Bangladesh, use blasphemy and other religious protection laws to persecute apostates.

This report reviews legislation and government policies that persecute apostates, and highlights individual cases to provide a better understanding of the appalling situation of apostates from Islam.

- Apostates from Islam are persecuted in various ways:
- Charging and sentencing on the basis of the Sharia concept of apostasy—even if apostasy is not specifically defined as a crime in legislation
- Using public disorder or incitement to hatred legislation against apostates
- Capricious arrest and harassment
- Restrictions on media outlets that restrict freedom of speech. These approaches target journalists, writers and, more recently, bloggers.

The freedom afforded by the internet has allowed people from all over the world to express their opinions on the government, Islam and atheism; but these opinions have created cases against them. Activists such as Ahmed Rajib and social network users Imad Iddin Habib and Alexander Aan have been harassed, imprisoned, or killed for their words.

Because of the subjectivity and discretion involved in defining and punishing offences of blasphemy and apostasy, different practices are carried out between countries and even within the one country. As a result, victims of allegations often do not realise that they have committed an “offence”.

This report exposes the laws and countries that persecute and execute apostates and blasphemers, and highlights the cases of some of the many persecuted individuals, with a focus on atheists, secularists and freethinkers. It calls for the condemnation of such laws and full protection for apostates and blasphemers across the globe.

Apostasy and Islam¹

The Arabic word for apostate is murtadd, “the one who turns back from Islam,” and apostasy is denoted by irtidād and ridda. Ridda seems to have been used for apostasy from Islam into unbelief (in Arabic kufr), and irtidād from Islam to some other religion. A person born of Muslim parents who later rejects Islam is called a murtadd fitri; fitri meaning “natural,” it can also mean “instinctive, native, inborn, innate.” One who converts to Islam and subsequently leaves it is a murtadd milli; from milla, meaning “religious community.” The murtadd fitri can be seen as someone unnatural, subverting the natural course of things, whose apostasy is a wilful and obstinate act of treason against God and the one and only true creed, and a betrayal and desertion of the community. The murtadd milli is a traitor to the Muslim community and equally disruptive.

Punishing apostates is a long-standing and fundamental feature of all major religions. Repudiating religion is deemed to be the worst of crimes.

In the twenty-first century, however, it is only apostates from Islam that continue to face execution. This is because of the political Islamic movement’s power and influence. This far-right movement is this era’s inquisition and totalitarianism.

To the degree political Islam or Islamism has power, that is the degree it controls every single aspect of people lives and society via its Sharia law—from what people wear, who they have sex with, what music they listen to—even what they are allowed to think.

One of the characteristics of an inquisition is the policing of thought. Freethinking and freedom of conscience are banned. Even for Muslims, a ‘personal’ religion is impossible under an inquisition. You can’t pick and choose as you’d like. Any transgression is met with threats, intimidation, imprisonment or execution. Islamists will kill, threaten or intimidate anyone who interprets things differently, dissents, thinks freely or transgresses their norms. Of course people resist day in and day out but that is a testament to the human spirit despite Islamism and Sharia. If you look at the purpose of the Sharia “justice” system, it is there to teach the masses the damnable nature of dissent and free thought. Where it has power, like in Iran, there are 130 offences punishable by death—from heresy, blasphemy, enmity against god, adultery, and homosexuality.

1 All references and information pertaining to Islam and apostasy have been taken directly from Ibn Warraq’s book, *Leaving Islam: Apostates Speak Out* (Prometheus Books, 2003) with his permission.

Apostasy, however, is the highest and most heinous crime. Twenty-seven (27) countries consider apostasy from Islam illegal and a prosecutable offence. Depending on the influence of Islamism and Sharia law, in places like Malaysia, Morocco, Jordan and Oman punishments vary from fines, imprisonment, flogging and exclusion from civil or family rights. In eleven (11) countries (namely Iran, Sudan, Saudi Arabia, Egypt, UAE, Somalia, Afghanistan, Qatar, Yemen and Mauritania), apostasy is punishable by the death penalty.

And whilst there are religious justifications for the execution of apostates, apostasy laws today under the Islamic inquisition are the ultimate means of political rather than religious control.

Certainly from a religious standpoint, apostasy is the unravelling of the entire system from within by those considered to be “members” of the imagined Muslim community. Question one law, one Hadith (sayings and actions of Mohammad, Islam’s prophet), and one Sura in the Quran, and you begin to unravel it all. To question and dissent denies the Islamic inquisitor the opportunity to feign representation. And it prevents the submission that they demand. If you are allowed to leave, you undermine it all.

As a leading Egyptian cleric who supports the killing of apostates has said, “If they left apostasy alone, there wouldn’t have been any Islam”.

Historically apostasy laws have been used as a form of control. It’s no different today. Islamists use it as a means of political control. After all they represent God’s rule on earth and any opposition to their rule, is a direct affront to God himself.

Apostasy laws are the most convenient way for an inquisition to eradicate its political rivals, dissenters, and opponents. One need not renounce Islam, however, in order to be branded an apostate. Any verbal denial of any principle of Islamic belief is considered apostasy.

In fact if you look at those charged with apostasy, it could include anything from tweeting about Mohammad, Islam’s prophet to challenging the state. The charge of apostasy is often coupled with other charges such as blasphemy or enmity against god. With such charges, there is no need to prove anything in lengthy court proceedings or to meticulously gather evidence as any transgression can be deemed to be an act of apostasy—both a crime against God and political treason against his representatives on earth.

Under Islamic law an apostate must be put to death. There is no dispute on this ruling among classical or modern Islamic scholars; however, there is some controversy as to whether the Quran prescribes any punishment for apostasy in this world.

For example, in Surah XVI.106: “Whoso disbelieveth in Allah after his belief—save him who is forced thereto and whose heart is still content with the Faith—but who so findeth ease in disbelief: On them is wrath from Allah. Theirs will be an awful doom.”

Similarly, in Surah III.90–91: “Lo! Those who disbelieve after their (profession of) belief, and afterward grow violent in disbelief: their repentance will not be accepted. And such are those who are astray. Lo! Those who disbelieve, and die in disbelief, the (whole) earth full of gold would not be accepted from such an one if it were offered as a ransom (for his soul). Theirs will be a painful doom and they will have no helpers.”

This goes to the heart of the problem with various interpretations of religious texts and why religion must be kept out of the state and legal system to safeguard people’s rights and lives. Needless to say, it is those in power who decide the interpretation of the day and in an inquisition it is clear which interpretations take precedence. Plus, many leading authorities interpret certain Suras of the Quran to mean that the death penalty is prescribed for apostates.

Sura II.217 is interpreted by no less an authority than al-Shāfiʿī, the founder of one of the four orthodox schools of law of Sunni Islam, to mean that the death penalty should be prescribed for apostates. Sura II.217 reads: “...But whoever of you recants and dies an unbeliever, his works shall come to nothing in this world and the next, and they are the companions of the fire forever.” Al-Thaʿālibī and al-Khazan concur. Al-Rāzi, in his commentary on II.217, says the apostate should be killed.

Similarly, Sura IV.89 states: “They would have you disbelieve as they themselves have disbelieved, so that you may be all like alike. Do not befriend them until they have fled their homes for the cause of God. If they desert you seize them and put them to death wherever you find them. Look for neither friends nor helpers among them...”

Baydāwī, in his celebrated commentary on the Quran, interprets this passage to mean: “Whosoever turns back from his belief (irtada), openly or secretly, take him

and kill him wheresoever ye find him, like any other infidel. Separate yourself from him altogether. Do not accept intercession in his regard.”

Ibn Kathir, in his commentary on this passage, quoting Al-Suddi, says that since the unbelievers have manifested their unbelief they should be killed.

Abul Alâ Mawdudi (1903–1979), the founder of the Jamâ’at-i Islâmi, is one of the most influential Islamists of the twentieth century. He has called for a return to the Quran and a purified sunna as a way to revive and revitalize Islam. In his book on apostasy in Islam, Mawdudi argued that even the Quran prescribes the death penalty for all apostates.

He points to Sura IX:11,12 for evidence:

But if they repent and establish worship and pay the poor-due, then are they your brethren in religion. We detail our revelations for a people who have knowledge. And if they break their pledges after their treaty (hath been made with you) and assail your religion, then fight the heads of disbelief—Lo! they have no binding oaths in order that they may desist.

Mawdudi argues that:

...the following is the occasion for the revelation of this verse: During the pilgrimage (hajj) in A.H. 9 God Most High ordered a proclamation of immunity. By virtue of this proclamation all those who, up to that time, were fighting against God and His Apostle and were attempting to obstruct the way of God’s religion through all kinds of excesses and false covenants, were granted from that time a maximum respite of four months. During this period they were to ponder their own situation. If they wanted to accept Islam, they could accept it and they would be forgiven. If they wanted to leave the country, they could leave. Within this fixed period nothing would hinder them from leaving. Thereafter those remaining, who would neither accept Islam nor leave the country, would be dealt with by the sword. In this connection it was said: “If they repent and uphold the practice of prayer and almsgiving, then they are your brothers in religion. If after this, however, they break their covenant, then war should be waged against the leaders of kufr (infidelity). Here “covenant breaking” in no way can be construed to mean “breaking of political covenants.” Rather, the context clearly determines its meaning to be “confessing Islam and then renouncing it.” Thereafter the meaning of “fight the heads of disbelief” (IX:11,12) can only mean that war should be waged against the leaders instigating apostasy.

Even if there is disagreement on whether apostasy is punishable by death in this world according to the Quran, it is clear that such a punishment is called for in the Hadith, which are the sayings and actions of Mohammad, Islam's prophet.

There is dishonesty in the statement that the punishment of death for apostates is not in the Quran and is therefore not-Islamic. Even if there was no mention of apostasy in the Quran, Islamic law includes not only that which is in the Quran but also what is in the Hadith and Islamic jurisprudence.

In the Hadith, there are many examples of the death penalty for apostasy. According to Ibn Abbās, the Prophet said, "Kill him who changes his religion" or "behead him."

The only argument is over the nature of the death penalty. Don't burn them as that is Allah's job in the afterlife; in general, execution must be by the sword, though there are examples of apostates tortured to death, or strangled, burned, drowned, impaled, or flayed.

Bukhārī recounts this gruesome tradition:

Narrated Anas: Some people from the tribe of Ukl came to the Prophet and embraced Islam. The climate of Medina did not suit them, so the Prophet ordered them to go to the (herd of milch) camels of charity to drink their milk and urine (as a medicine). They did so, and after they had recovered from their ailment they turned renegades (reverted from Islam, irtada) and killed the shepherd of the camels and took the camels away. The Prophet sent (some people) in their pursuit and so they were caught and brought, and the Prophet ordered that their hands and legs should be cut off and that their eyes should be branded with heated pieces of iron, and that their cut hands and legs should not be cauterised, till they die.

Abu Dāwud has collected the following saying of the Prophet:

Ikrimah said: Ali burned some people who retreated from Islam. When Ibn Abbās was informed of it he said, If it had been I, I would not have them burned, for the apostle of Allah said: Do not inflict Allah's punishment on anyone. But would have killed them on account of the statement of the Apostle of Allah, Kill those who change their religion.

According to a tradition of Ā'isha's, apostates are to be slain, crucified, or banished.

Traditions giving apostates a chance to repent vary.

In one tradition, Mu'adh Jabal refused to sit down until an apostate brought before him had been killed "in accordance with the decision of God and of His Apostle." But in Abu Dāwud's version of this tradition, it seems they tried in vain to convert the apostate for twenty nights:

Abu Burdah said: A man who turned back from Islam was brought to Abu Musā. He invited him to repent for twenty days or about so. Mu'adh then came and invited him (to embrace Islam) but he refused. So he was beheaded.

Abu Dāwud also gives an example of the Prophet forgiving an apostate—once the latter had agreed to come back to the fold, of course. However, Ibn Hanbal and others have traditions according to which God does not accept repentance of an apostate.

The lionized "Sufi" theologian al-Ghazali promoted a broader definition of apostasy, accompanied by unforgiving punishment. For al-Ghazali, the application of the principle of charitable or lenient repentance in cases of apostasy by Islam's foundational jurists (such as Al-Shafii) was an exploitation of legal procedures. In his discussion of repentance for the clandestine apostate, Al-Ghazali rejected the universal obligation to grant the right of the *istitaiba* (the invitation to repent and to return into the community of Muslims). He says:

The meaning of 'repentance' of an apostate is his abandoning of his inner religion. The secret apostate does not give up his inner confessions when he professes the words of the *shahada* [the Muslim profession of faith]. He may be killed for his unbelief because we are convinced that he stays an unbeliever who sticks to his unbelief.

Ultimately, al-Ghazali's thought evolved to this more draconian view because he believed: "Islamic law could not remain on the same level it was in the times of Muhammad (and the nascent Muslim community) to combat the threat posed to the Islamic community by the activities of such 'secret apostates'."

Under Sharia law, the male apostate must be put to death, as long as he is an adult and in full possession of his faculties. If an underage boy apostatizes, he is imprisoned until he comes of age; if he persists in rejecting Islam he must be put to death. Drunkards and the mentally disturbed are not held responsible

for their apostasy. If a person has acted under compulsion he is not considered an apostate, his wife is not divorced, and his lands are not forfeited.

According to some schools, a woman is imprisoned until she repents and adopts Islam once more, but according to the influential Ibn Óanbal and the Malikis and Shâfi'is, she is also put to death.

Some jurists accept the distinction between murtadd fitri and murtadd milli, and argue that the former be put to death immediately. Others, leaning on Sura IV.137 ("Lo! those who believe, then disbelieve and then (again) believe, then disbelieve, and then increase in disbelief, Allah will never pardon them, nor will he guide them unto a way"), insist on three attempts at conversion, or have the apostate imprisoned for three days. Others argue that one should wait for the cycle of the five times of prayer and ask the apostate to perform the prayers at each. Only if he refuses at each prayer time is the death penalty to be applied. If he repents and embraces Islam once more, he is released.

If the apostate is not executed due to Islamism's limited influence or progressive social movements that have brought forth more secular laws, many lose all civil rights – their property is taken, their right to inheritance is denied, they are forcibly divorced, lose child custody and so on.

Of course, Islamists will often say that "there is no compulsion in religion" (II.256). Again this is another one of their dishonest attempts at duping the public because this verse is applicable only to Christians and Jews who have not converted to Islam and is not applicable to Muslims. Muslims are not free to choose any religion other than Islam. A Muslim has to live and die with Islam whether he or she likes it or not.

It's like the other verse they often mention: "Whoever killed a human being shall be looked upon as though he had killed all mankind" (V.32). The supposedly noble sentiments are in fact a warning to Jews:

That was why We laid it down for the Isrealites that whoever killed a human being, except as a punishment for murder or other villainy in the land, shall be looked upon as though he had killed all mankind; and that whoever saved a human life shall be regarded as though he had saved all mankind. Our apostles brought them veritable proofs: yet it was not long before many of them committed great evils in the land. Those that make war against God and His apostle and spread disorder shall be put to death

or crucified or have their hands and feet cut off on alternate sides, or be banished from the country.

Further Documents

There are four major schools of law in Sunni Islam; three are addressed below as are one modern Sunni pronouncement on apostasy and a modern Shi'a declaration.

Malik ibn Anas

His doctrine is recorded in the work *al-Muwatta'*, which has been adopted by most Muslims in Africa, with the exception of Lower Egypt, Zanzibar, and South Africa.

1410: Zayd b. Aslam reported that the Apostle of Allah (may peace be upon him) declared that the man who leaves the fold of Islam should be executed.

1411: Muhammad b. 'Abd Allāh b. 'Abd al-Qāri' reported that a man came to Umar b. al-Khattāb from Abu Musā Ashar (Yemen). Umar b. al-Khattāb asked him about the condition of the people there. He gave the information. Umar b. al-Khattāb then said: Have you anything extraordinary to report? The man said: Yes. Aman had left the fold of Islam and became an infidel. He asked: What treatment had been meted out to him? He replied: We caught him and beheaded him. Umar declared: It would have been better if you had cast him in prison for three days and given him one bread each day and asked him to repent. Perhaps he would have repented and obeyed the commands of the Lord. Umar added: Oh, Allah, I was not present there, neither did I give any order, nor did I feel happy when I learnt it." (chap. 440)

Abu Óanifa

The Muslims of India and Turkey follow this school.

The below quotes are from the greatest compendium of Hanifi law, called the *Hidāya*, which was compiled by Burhān al-Din Ali al-Marghināni:

"When a Mussulman apostatizes from the faith, an exposition thereof is to be laid before him, in such a manner that if his apostasy should have arisen from any religious doubts or scruples, those may be removed. The reason for laying

an exposition of the faith before him is that it is possible some doubts or errors may have arisen in his mind, which may be removed by such exposition; and as there are only two modes of repelling the sin of apostasy, namely, destruction or Islam, and Islam is preferable to destruction, the evil is rather to be removed by means of an exposition of the faith;—but yet this exposition of the faith is not incumbent, (according to what the learned have remarked upon this head), since a call to the faith has already reached the apostate.”

“An apostate is to be imprisoned for three days, within which time if he return to the faith, it is well: but if not, he must be slain.—It is recorded in the Jama Sagheer that ‘an exposition of the faith is to be laid before an apostate, and if he refuse the faith, he must be slain:’—and with respect to what is above stated, that ‘he is to be imprisoned for three days,’ it only implies that if he require a delay, three days may be granted him, as such is the term generally admitted and allowed for the purpose of consideration. It is recorded from Abu Hanifa and Abu Yusuf that the granting of a delay of three days is laudable, whether the apostate require it or not: and it is recorded from Shāfi’i that it is incumbent on the Imam to delay for three days, and that it is not lawful for him to put the apostate to death before the lapse of that time; since it is most probable that a Mussulman will not apostatise but from some doubt or error arising in his mind; wherefore some time is necessary for consideration; and this is fixed at three days. The arguments of our doctors upon this point are twofold.—First, God says, in the Quran, ‘Slay the unbelievers,’ without any reserve of a delay of three days being granted to them; and the prophet has also said ‘Slay the man who changes his religion,’ without mentioning anything concerning a delay: secondly, an apostate is an infidel enemy, who has received a call to the faith, wherefore he may be slain upon the instant, without any delay. An apostate is termed on this occasion an infidel enemy, because he is undoubtedly such; and he is not protected, since he has not required a protection; neither is he a Zimmee [Dhimmi], because capitation-tax has not been accepted from him; hence it is proved that he is an infidel enemy. It is to be observed that, in these rules, there is no difference made between an apostate who is a freeman, and one who is a slave, as the arguments upon which they are established apply equally to both descriptions.”

“The repentance of an apostate is sufficiently manifested in his formally renouncing all religions except the religion of Islam, because apostates are not a sect: or if he formally renounce the religion which he embraced upon his apostasy, it suffices, since thus the end is obtained.”

“If any person kill an apostate, before an exposition of the faith has been laid open to him, it is abominable, (that is, it is laudable to let him continue unmolested). Nothing however, is incurred by the slayer; because the infidelity of an alien renders the killing of him admissible; and an exposition of the faith, after a call to the faith, is not necessary.”

“If a Mussulman woman become an apostate, she is not put to death, but is imprisoned, until she returns to the faith. Shāfi’i maintains that she is to be put to death; because of the tradition before cited;—and also, because, as men are put to death for apostasy solely for this reason, that it is a crime of great magnitude, and therefore requires that its punishment be proportionally severe, (namely, death), so the apostasy of a woman being likewise (like that of a man) a crime of great magnitude, it follows that her punishment should be the same as that of a man. The arguments of our doctors upon this point are twofold.”

“First, the prophet has forbidden the slaying of women, without making any distinction between those who are apostates, and those who are original infidels. Secondly, the original principle in the retribution of offences is to delay it to a future state, (in other words, not to inflict punishment here, but to refer it to hereafter), since if retribution were executed in this world, it would render defective the state of trial, as men would avoid committing sin from apprehension of punishment, and therefore would be in the state of persons acting under compulsion, and not of free agents: but in the case of apostasy of men the punishment is not deferred to a future state, because it is indispensably requisite to repel their present wickedness, (namely, their becoming enemies to the faith), which wickedness cannot be conceived of women, who are, by natural weakness of frame, incapable thereof: contrary to men.”

“A female apostate, therefore, is the same as an original female infidel; and as the killing of the one is forbidden, so is the killing of the other also. She is however, to be imprisoned, until she returns to the faith; because, as she refuses the right of God after having acknowledged it, she must be compelled, by means of imprisonment, to render God his right, in the same manner as she would be imprisoned on account of the right of the individual. It is written in the Jama Sagheer,—‘A female apostate is to be compelled to return to the faith, whether she be free, or a slave’—The slave is to be compelled by her master;—she is to be compelled, for the reasons already recited; and this compulsion is to be executed by her master, because in this a regard is had to the right both of God and of the master. It is elsewhere mentioned that a female apostate must be daily beaten with severity until she return to the faith.”

Al-Shāfi'i

Al-Shāfi'i was considered a moderate in most of his positions. The adherents of his school are to be found in Indonesia, Lower Egypt, Malaysia, and Yemen. He placed great stress on the sunna of the Prophet, as embodied in the Hadith, as a source of the Sharia.

The quotes below are from the celebrated Minhāj al-tālibin a manual of Shāfi'i law, compiled by al-Nawawi:

Apostasy consists in the abjuration of Islam, either mentally, or by words, or by acts incompatible with faith. As to oral abjuration, it matters little whether the words are said in joke, or through a spirit of contradiction, or in good faith. But before such words can be considered as a sign of apostasy they must contain a precise declaration:

- a. That one does not believe in the existence of the Creator, or of His apostles; or
- b. That Muhammad, or one of the other apostles, is an imposter; or
- c. That one considers lawful what is strictly forbidden by the *ijmā'*, e.g., the crime of fornication; or
- d. That one considers to be forbidden what is lawful according to the *ijmā'*
- e. That one is not obliged to follow the precepts of the *ijmā'*, as well positive as negative; or
- f. That one intends shortly to change one's religion; Or that one has doubts upon the subject of the truth of Islam, etc.

As to acts, these are not considered to be incompatible with faith, unless they show a clear indication of a mockery or denial of religion, as, e.g., throwing the Quran upon a muck heap or prostrating oneself before an idol, or worshipping the sun. No account is taken of the apostasy of a minor or a lunatic, nor of acts committed under violent compulsion. Even where the guilty person, after pronouncing the words or committing the acts, becomes mad, he may not be put to death until he has recovered his sanity. This favour, however, does not, according to our school, extend to the case of drunken-ness. Apostasy, and a declaration of having returned from one's errors, pronounced by a drunken person, have the ordinary legal consequences.

Witnesses need not recount in all their details the facts that constitute apostasy; they may confine themselves to affirming that the guilty person is an apostate. Other authorities are of the contrary opinion; but the majority go so far as to make no account of the mere denial of the accused, even where the assertions of the witnesses are made in general terms. But where, on the other hand, the accused declares that he acted under compulsion, and the circumstances render this assertion plausible, e.g., if he has been kept a prisoner by infidels, he has a presumption in his favour, provided he takes an oath; but this presumption does not arise in the absence of such circumstances. Only where the two witnesses required by law do not declare that 'the accused is apostate,' but that 'the words pronounced by him are words implying apostasy,' and the accused then maintain that he only pronounced them under compulsion, the presumption is in his favour, and it is not necessary for him to give more detailed explanations.

Where, after the death of an individual whose faith has never been suspected, one of his sons who are both Muslims declares that his father abjured Islam and died impenitent, and adds the cause of the apostasy, this son alone is excluded from the succession, and his portion escheats to the State as a tax; but his deposition has no effect upon the rights of his coinheritors. The same rule applies also where the cause of the crime is not mentioned and the son limits himself to saying that his father died apostate.

An attempt should be made to induce the apostate to return from his or her errors, though according to one authority this is only a commendable proceeding. The exhortation should take place immediately, or, according to one jurist, in the first three days; and if it is of no effect, the guilty man or woman should be put to death. Where, on the contrary, the guilty party returns from his or her errors, this conversion must be accepted as sincere, and the converted person left alone; unless, according to some authorities, he has embraced an occult religion such as the Zend, whose adherents, while professing Islam, are none the less infidels in their heart, or some doctrine admitting of a mystic or allegorical interpretation of the Quran.

The child of an apostate remains a Muslim, without regard to the time of its conception, or to one of its parents remaining a Muslim or not. One authority, however, considers the child whose father and mother have abjured the faith to be an apostate, while another considers such a child to be by origin an infidel.

(The child should be considered as an apostate. This is what the jurists of Iraq have handed down to us as the universally accepted theory.)

As to the ownership of the property of an apostate dead in impenitence, it remains in suspense, i.e., the law considers it as lost from the moment of abjuration of the faith; but in case of repentance it is considered never to have been lost. However, there are several other theories upon the subject, though all authorities agree that debts contracted before apostasy, as well as the personal maintenance of the apostate during the period of exhortation, are Charges upon the estate. It is the same with any damages due in consequence of pecuniary prejudice caused to other persons, the maintenance of his wives, whose marriage remains in suspense, and the maintenance of his descendant or descendants.

Where it is admitted that ownership remains in suspense, the same principle must be applied to dispositions subsequent to apostasy, in so far as they are capable of being suspended, such an enfranchisement by will, and legacies, which all remain intact where the exhortation is successful, though not otherwise. On the other hand, dispositions which, by their very nature, do not admit of such suspension, such as sale, pledging, gift, and enfranchisement by contract, are null and void ab initio, though Shāfi'i, in his first period, wished to leave them in suspense. All authorities, however, are agreed that an apostate's property may in no case be left at his disposition, but must be deposited in charge of some person of irreproachable character. But a female slave may not be so entrusted to a man; she must be entrusted to some trustworthy woman. An apostate's property must be leased out, and it is to the court that his slave undergoing enfranchisement by contract should make his periodical payments.

A Sunni Muslim Pronouncement on Apostasy from Lebanon

Several years ago, a Lebanese family in Germany requested official information from the Office of the Mufti in Lebanon regarding the law of apostasy in Islam.

The translation of the response is as follows:

In the Name of the Merciful and Compassionate Allah, Dār al-Fatwā in the Republic of Lebanon, Beirut. Praise be to Allah, the Lord of the Universe; blessings and peace be upon our Master Muhammad, the Apostle of Allah, and upon his Family, his Companions, his Followers and those who have found the way through him.

A question has come: "What is the stand of the Islamic Law regarding the Muslim who has renounced Islam and embraced another religion?" The answer is, with Allah's help: Etymologically, raddah (renouncing) means to go back on

a thing to something else. As far as religious law is concerned, it means the severing of the continuity of Islam. The murtadd (apostate) is the one who has renounced Islam. The state of raddah (apostasy), should it continue and he die in it, will nullify the value of his work. Such a person will have died outside Islam. This is based on the saying of the Exalted One (i.e., Allah, in the Qur'ân): "Those who among you renounce their religion and die as unbelievers, their works would have failed them."

The loss of the merit of one's works is linked to two conditions: apostasy, and dying in the state of apostasy. These two conditions are necessary and are not the same. Should the apostate renounce his apostasy and return to Islam, his status would be valid as long as he gave these two testimonies:

"I testify that there is no god but Allah, and that Muhammad is the Apostle of Allah."

(The second testimony) should be a clear declaration that he is free from every religion which is contrary to Islam; that he no longer adheres to the faith which had caused him to apostatize; that he is not innocent from the transgression he fell into on account of his apostasy.

The person who renounces his apostasy is not obliged to repeat the performance of everything he had accomplished prior to his apostasy (i.e., while he was still a practicing Muslim), such as the hajj (pilgrimage) and the prayers. His works will no longer be counted as having failed him, now that he has returned to Islam. But he must perform all that he has missed during the raddah and the period leading up to it. For he is still under obligation, (even) while he was in the state of apostasy, to perform all that is required of a Muslim.

Now, should the apostate (male or female) persist in his apostasy, he should be given the opportunity to repent, prior to his being put to death, out of respect for his Islam. A misunderstanding on his part may have taken place, and there would thus be an opportunity to rectify it. Often apostasy takes place on account of an offer (of inducement). So Islam must be presented to the apostate, things should be clarified, and his sin made manifest. He should be imprisoned for three days, so that he may have the opportunity to reflect upon his situation. This three-day period has been deemed adequate. But if the man or the woman has not repented of his or her raddah, but has continued to persist in it, then he or she should be put to death. (This is in harmony with) Muhammad's saying, may Allah's blessings and peace be upon him: "Kill him who changes his religion," as related by the Hadith authority al-Bukhârî (in his

Hadith collection). He who executes the apostate is the imam (ruler or leader in Islam) or, with his permission, his deputy. When a person deserves capital punishment, in accordance with the will of Allah, the carrying out of the penalty is left to the imam or the one he has authorized. But if some person, other than the imam or his deputy, has not abided by this rule and executed the apostate, that person should be punished because he has usurped the function of the imam. This punishment is not specifically described. It is left to the judge to decide the amount of the punishment in order that it will keep people from usurping the role of the imam. An apostate may not be buried in the cemetery of the Muslims, since by his apostasy he has departed from them.

According to Imām Abu Hanifa, may the mercy of Allah be upon him, the female apostate should not be put to death, but must be imprisoned until she Islamizes. Reference is then made to Khatib al-Sharbini, Ibn Hajar al-Haythami, and other authorities. Allah knows best. May Allah bless our Master Muhammad, his Family and his Companions. Thanks be to God, the Lord of the universe.

Beirut, the 14th of Rabi' al-Thani in the year 1410 A.H. 13 November 1989.

Signed:

Signed:

Deputy to the Mufti of the Republic of Lebanon

A Shi'a Muslim Pronouncement on Apostasy

The following Shi'a pronouncement on apostasy in Islam appeared in the ultraconservative Tehran daily Kayhan International, March 1986.

Introduction

In Islam, apostasy is a flagrant sin and guilt for which certain punishments have been specified in fiqh (Islamic law). Apostasy means to renounce the religion or a religious principle after accepting it. In other words, one's departure from Islam to atheism is called apostasy.

A person who abandons Islam and adopts atheism is called an apostate.

There are special laws concerning apostates in the Islamic fiqh. In this lesson, we will be familiarized with them. With regard to the above-mentioned points, we will continue to discuss the issue of apostasy and apostates in the following parts:

(There follows an outline.)

1. Types of apostasy: As it was mentioned, apostasy means to return from Islam to atheism and polytheism. That is why it can also be called “reaction.” Therefore, from the standpoint of Islam and the Islamic fiqh, reaction is to actually give up Tawhid (monotheism) and return to atheism and polytheism. Reaction is to abandon monotheism and take up paganism, idolatry, and materialism. Reaction is to return from faith and knowledge to ignorance. Therefore, the exact examples of reaction in the current world, especially Muslim-inhabited regions, are apostate materialists, Marxists, and polytheistic capitalists and Zionists who have abandoned Tawhid and resorted to Trinity and racism. Heretical groups in the Muslim world, such as Ba’athists and the likes of them are reactionary and apostate. Because by denying the genuineness of Islam, or many of its rules, they have practically become apostate and contracted the fatal disease of apostasy and reaction.

Apostasy has two types: one is “voluntary” apostasy and the other is “innate” apostasy. Therefore, there are also two types of apostates: voluntary apostates and innate apostates who are treated according to different rules. In the jurisprudential book of Tahrir al-Wassilah voluntary and innate apostates are defined as follows:

An apostate, that is, one who abandons Islam and takes up atheism, may be of two types:

- a. Voluntary apostate: a person whose parents, or either of them, were Muslim at the time of his or her development in the mother’s womb and who takes up atheism after growing up.
- b. Innate apostate: a person who is born of atheist parents and who accepts Islam after growing up, but returns to atheism later.

2. The way to prove one’s apostasy: After the meaning of apostasy and its two types have been clarified, this question may come to mind: How can a person’s apostasy be proven?

In response, I should say that, since Islam is an easy religion, it has adopted an easy and untroubled manner in this connection, which does not involve any slander and accusation. Here, before anything else, the judge attaches importance to the confession of the accused person. Whatever the charged person says about himself or herself, the judge takes it as an evidence. If the

charged person confesses to his apostasy, his word will be accepted; if he denies the charge of apostasy and claims Islam, again his word will be taken as valid.

Tahrir al-Wassilah reads so in this regard:

Apostasy is proven in two ways: First, the person himself confesses to his apostasy twice. Second, two just and truthful men bear witness to the person's apostasy.

But women's testimonies do not prove apostasy in any case; either they bear witness individually, in a group or beside a man.

There should also be several conditions or prerequisites in a person charged with apostasy to be convicted of this guilt. These conditions are: adulthood, wisdom, free will, and intention. Therefore, apostasy does not apply to children, lunatics, and those who have been forced to pretend it. Also, apostasy does not apply for a Muslim who utters a blasphemous word or commits a blasphemous act neglectfully or jokingly and without intention, or in a coma, or in anger; that is to say, he is still a Muslim and considered a Muslim.

If a person utters or does something indicative of apostasy, and he claims that he was compelled to do so, or did not have real intention and uttered it unconsciously, his or her claim is accepted, even though there is already ample proof of his having done a blasphemous act.

3. The punishment of apostates: The punishment that Islam has considered for voluntary and innate apostates differ.

a. Voluntary apostate: If this apostate is a man, the following punishment will be imposed upon him:

His wife is separated from him (that is, she becomes forbidden to him) and, as though her husband is dead, she should not marry another man for a certain period of time and after that period, she can marry someone else if she wants. In addition to this, the property of a male apostate is divided among his lawful heirs. In this division, they won't await his death and his property is distributed among them while he is still living; of course, his debts are first repaid (and the apostate himself is executed). The repentance of a voluntary apostate is not accepted and has no effect in regaining his property and wife. His inward repentance will be accepted by God (that is to say, the other worldly chastisement will be lifted from him).

In some cases, a voluntary apostate's apparent repentance is also accepted and as a result his prayers and worship will be accepted, his body will be clean and touchable again; he will be allowed to gain new property through legitimate ways such as trade, work, and inheritance. He can also marry a Muslim woman or marry his former wife again.

This is the punishment of a male voluntary apostate. As you observe, Islam considers him a dead person and issues the rule of the dead about his property and wife.

The words of the great Faqih Imam Khomeini indicate that, if a voluntary apostate repents, he will be relieved of death punishment. However, some of the earlier Faqihs such as Allamah Helli believed that a voluntary apostate should be executed immediately and that his repentance was not acceptable.

Imam Khomeini's statement in this regard is based on common law and rationality. Some of the former Faqihs like Eskafi and Sahib al-Massalik were of the same opinion. Concerning the documents invoked by the opponents of this opinion, Sahib al-Massalik says, "Reliable jurisprudential documents generally indicate that an apostate's repentance is acceptable, and any different interpretation of these documents is doubtful."

A similar statement has also been narrated from the Sunnis. For example, al-'a Ibn Khuwaylid Asadi, a well-known apostate in the early years of Islam who was defeated after apostasy and rebellion against Muslims, repented after some time (and thus was pardoned). In the Nahavand battle, he was one of the commanders of the Muslims' army and was killed in that battle. But the punishment of a female voluntary apostate is as follows:

Her property remains in her ownership and is not transferred to her lawful heirs, unless she dies. (A female apostate is not executed on charges of apostasy.) She is separated from her husband without any need to remain unmarried for a certain period, of course if no intercourse has taken place between her and her husband. But if they have had sexual intercourse, she should remain unmarried for a certain period as of the moment of her apostasy just as if she were divorced. If the woman repents in the middle of the period of remaining unmarried, she will become the wife of her former husband without any need to hold marriage ceremonies again.

Therefore, a female apostate is never executed but is imprisoned.

b. Innate apostate. An innate apostate is treated in this way:

His or her property is not transferred to the heirs as a result of apostasy. An innate man or woman is separated from his or her spouse as a penalty for apostasy.

In case of repenting before the expiration of the period that the woman has to remain unmarried, they will again belong to each other. But if repentance is uttered after the expiration of this special period, they will no longer be each other's wife and husband.

An innate apostate is not executed if he repents. This is a matter agreed on by all faqihs (Islamic jurists).

4. Apostate's repentance. The case of an apostate's repentance has become clear and, therefore, there is no need to explain it again.

5. A view of the Quranic verses about apostasy. There are many verses in the Glorious Quran and numerous narrations in Islamic historical and narrative books that help us have a deep understanding of the phenomenon of apostasy. Let us take a look at some of them:

O you who believe! Whoever from among you turns back from his religion, then Allah will bring a people, He shall love them and they shall love Him, lowly before the believers, mighty against the unbelievers, they shall strive hard in Allah's way and shall not fear the censure of any censurer; this is Allah's grace, He gives it to whom He pleases, and Allah is Ample-giving, Knowing. (V.54)

And they will not cease fighting with you until they turn you back from your religion, if they can; and whoever of you turns back from his religion, then he dies while an unbeliever—these it is whose works shall go for nothing in this world and the hereafter; and they are the inmates of the fire; therein they shall abide. (II.217)

Surely (as for) those who return on their backs after that guidance has become manifest to them, the Shaitan has made it a light matter to them; and He gives them respite. That is because they say to those who hate what Allah has revealed: We will obey you in some of the affairs; and Allah knows their secrets. But how will it be when the angels cause them to die, smiting their backs. That is because they follow what is displeasing

to Allah and are averse to His pleasure, therefore He has made null their deeds. (XLVII.25–28)

O you who believe! If you obey a party from among those who have been given the Book, they will turn you back as unbelievers after you have believed. (III.100)

And Muhammad is no more than an apostle; the apostles have already passed away before him. If then he dies or is killed, will you turn back upon your heels? And whoever turns back upon his heels, he will by no means do harm to Allah in the least, and Allah will reward the grateful. (III.144)

As you observe, these verses have approached apostasy from different aspects and meditation upon them will shed light on many issues.

6. Answer to a controversial question. In connection with the subject of apostasy and the punishment that the holy religion of Islam has considered for it, the narrow-minded or the enemies of justice and truth may attempt to create doubt in the people's minds by raising a question and taking advantage of it opportunistically in their anti-Islamic propaganda. This is the question: Do the Muslims not claim that Islam is the religion of the freedom of belief and creed and that there is no compulsion in choosing one's opinion? Then why has Islam considered such heavy penalties and punishment for apostasy?

The answer to this irrelevant question is this: Yes, Islam and the Glorious Quran have denied compulsion and coercion in belief, and the Exalted God says so in the Glorious Quran: "There is no compulsion in religion" (II.256). But the issue of apostasy differs from the free adoption of an opinion or belief. In other words, I should say that from the viewpoint of the Islamic fiqh, there is a skeptic who is seeking the truth and there is also an obstinate apostate. These two are basically different from each other.

A skeptic is one who does not want to take up a creed and follow a religion in a hereditary way. He or she is doubtful and hesitant of what parents and family or society have inculcated upon his or her mind about God and Islam, and doubts whether they are true or not. That is why he doubts and thus embarks on studying and searching for the discovery of truth and reality. Not only is this doubt not reproachable and bad from the viewpoint of Islam, but it is also praised. Because the Glorious Quran reproaches ancient nations for having imitated their ancestors in religion and creed. Even research facilities should

be provided for the searching and studying of a skeptic out of the Muslims' public treasury. Because the root of this doubt lies in honesty, sincerity, and knowledge. Doubt is a very good passageway, but a very bad place to stop in. However, apostasy is a matter of treason and ideological treachery, which originates from hostility and hypocrisy. The destiny of a person who has an inborn handicap is different from the destiny of one whose hand should be cut off due to the development of a dangerous and infectious disease. The apostasy of a Muslim individual whose parents have also been Muslim is a very infectious, dangerous, and incurable disease that appears in the body of an ummah (people) and threatens people's lives, and that is why this rotten limb should be severed.

An apostate is an adversary who has penetrated the Islamic ummah as the faith column of the enemy of Islam and Muslims and who has taken advantage of his natural situation.

Apostasy is escape from the pattern of creation and nature and that is why the word "voluntary" has been adopted for such an apostate and that is the reason why the punishment of a voluntary apostate is heavier than that of an innate apostate.

Can the penalty of escaping from the path and pattern of nature and creation be anything other than annihilation? This is the same thing that has been crystallized in the penal code of Islam.

The anti-apostasy punishments of Islam are proper laws to rescue mankind from falling into the cesspool of treason, betrayal, and disloyalty and to remind the human being of his ideological commitments. A committed man should not violate his promise and vow, especially his promise to God. All the punitive laws of Islam have a similar goal. For example, they ask, why is a thief's hand cut for stealing five hundred or one thousand tomans? This is the denial of the value of the human being! But the fact is that a thief's hand is not cut off for the sake of a hundred or a thousand tomans, but his hand is severed for having deprived the human society of security. In other words, a thief's hand is cut for the revival of human values.

An objective and real proof of the fact that apostasy always has a treacherous and warlike nature and revolves around high political and social positions indeed, and not around the free adoption of a belief, as it is alleged, can be seen in the events of the early days of Islam.

After the demise of the Prophet of Islam (Praise Be Upon Him), most Arab tribes became apostate under the influence of their errant, arrogant, and idolatrous chiefs. These apostates were led by the false claimers of prophethood. Their first step after the Prophet's death was to attack Medina and other centres of Islam. In the wars that the bellicose apostates waged against Muslims, fifty or sixty thousand people were killed and the number of casualties is unprecedented in Arab history.

Their most heinous ringleaders were "Ablaha ibn Ka'b" known as "Asswad Ghassi"; in Yemen "Musaylima Kadhhab" at Hadramawt, and "Talha Ibn Khuwaylid Asadi" in the Bani Asad tribe. These wars, and similar wars, which occurred later, show the tyrannical nature of apostasy and justify the necessity of a decisive combat against it.

Another example, which is expressive of the insincere nature of the sinister phenomenon of apostasy, is the ruthless inhuman murder of faithful Muslims by Marxian apostates in Iran under the Shah's regime under the pretext of "changing their ideology." They committed these crimes as "revolutionary assassinations." Yet instead of assassinating the ringleaders of SAVAK (the Shah's secret police), they murdered anti-Shah and anti-U.S. Muslims who worshiped God. This is the shameful face of apostasy.

Conditions for Apostates by Country

Afghanistan

The Afghan Constitution—adopted under American auspices in January 2004—is heavily influenced by Islamic principles.²

According to the Constitution, Islam is the official state religion of Afghanistan.³ It states that “no law can be contrary to the beliefs and provisions of the sacred religion of Islam”.⁴ The Afghan Constitution holds no recourse to amend this as it states the “provisions of adherence to the fundamentals of the sacred religion of Islam and the regime of the Islamic Republic cannot be amended”.⁵ Article 2 states:

...the sacred religion of Islam is the religion of the Islamic Republic of Afghanistan. Followers of other faiths shall be free *within the bounds of law* in the exercise and performance of their religious rituals” (emphasis added).⁶

Article 54 declares that the state should ensure “the elimination of traditions contrary to the principles of the sacred religion of Islam”.⁷

There is no specific reference in the Afghan Penal Code to apostasy and blasphemy, however, the state’s reliance on Sharia mandates the death penalty for both. The Constitution stipulates that court decisions be made “in accord with the Hanafi jurisprudence” when “there is no provision in the Constitution or other laws regarding the ruling on an issue”.⁸ To date, the Afghani Supreme Court has dismissed cases requiring it to interpret the Constitution so as to remedy the apparent contradiction between Sharia law with the more universal principles of human rights (namely religious tolerance), both of which the Afghanistan Constitution claims to respect.⁹

2 Paul Marshall & Nina Shea, *Silenced: How Apostasy & Blasphemy Codes Are Choking Freedom Worldwide* (Oxford University Press, 2011).

3 *Afghan Constitution* article 1, available at <http://www.afghanembassy.com.pl/cms/uploads/images/Constitution/The%20Constitution.pdf>.

4 *Afghan Constitution* article 3.

5 *Afghan Constitution* article 149.

6 *Afghan Constitution* article 2.

7 *Afghan Constitution* article 54.

8 *Afghan Constitution* article 130.

9 Jay Tolson, ‘Why Afghanistan Should Not Have Dismissed the Apostasy Case’, *U.S. News & World Report* (Mar. 30, 2006), <http://www.usnews.com/usnews/news/articles/060330/30rahman.htm>.

Statute interpretation allows ample judicial discretion and may be supplemented, or replaced by, the judge's view of what Islam demands; this has led to calls of execution for those facing convictions of blasphemy or apostasy, if the defendant is a male over eighteen or female over sixteen years of age and of sound mind.¹⁰ If the accused recants their actions within three days, the sentence may be dropped.¹¹

In March 2008, the lower chamber of parliament passed a resolution to prohibit the broadcasting of "un-Islamic" activities, such as dancing, on the television.¹²

Documented Cases of Apostasy/Blasphemy Charges Against Freethinkers

In January 2009, two journalists—Aftab's chief editor Merhossin Mahdaw and Ali Raza Payam—were put on trial for publishing a blasphemous cartoon.¹³ The cartoon portrayed a monkey evolving into a man slumped over a computer with the words: "Government plus religion equals cruelty". The Supreme Court recommended that the two men be put to death; however they were ultimately released and are believed to have fled the country.¹⁴

23-year-old Sayed Perwiz Kambakhsh was arrested in January 2008 after downloading and distributing material from the Internet that was discussing Quranic verses about women.¹⁵ He was sentenced to death, and later commuted to twenty (20) years imprisonment.¹⁶ After a sustained effort by Afghan activists and international pressure—and serving two years of his term—in September 2009 he was secretly pardoned and fled the country.¹⁷

10 Marshall & Shea, *supra* note 2.

11 Id.

12 'IFJ Condemns Afghan Parliament Resolution to Censor Television Programs', *International Federation of Journalists* (IFJ), <http://www.ifj.org/fr/articles/ifj-condemns-afghan-parliament-resolution-to-censor-television-programs.print> (Apr. 1, 2008).

13 Human Rights First, *Blasphemy Laws Exposed: The Consequences of Criminalizing 'Defamation of Religions'* 11 (2011), available at http://www.humanrightsfirst.org/wp-content/uploads/Blasphemy_Cases.pdf (hereinafter *Blasphemy Laws Exposed*).

14 Id.

15 American Humanist Association, 2012. *Report On Non-Religious Discrimination 18* (2012), available at http://americanhumanist.org/system/storage/63/14/a/3436/2012_IRF_Report.pdf (hereinafter *AHA 2012 Report*).

16 "Afghan 'Blasphemy' Death Sentence", *BBC News*, http://news.bbc.co.uk/1/hi/world/south_asia/7204341.stm (last updated Jan. 23, 2008).

17 *Blasphemy Laws Exposed*, *supra* note 13, at 15.

Journalist Ali Mohaqiq Nasab, editor of a women's rights magazine Haqooq-i-Zan, was detained in 2005.¹⁸ He was sentenced to two (2) years in prison for blasphemy for questioning the harsh punishment imposed on women under traditional Islamic law and for advocating that apostasy from Islam should not be considered a crime.¹⁹ State prosecutor Zmarai Amiri stated that he would be requesting the appeals court to impose a more onerous sentence and that "Nasab must be punished more severely, up to and including execution".²⁰ He went on to condemn individuals who had publicly defended Nasab, saying, "There are some people who speak irresponsibly...we have decided to arrest and interrogate these people too".²¹ The sentence was eventually commuted on appeal with an apology from Nasab stating, "I ask the court to forgive me if I caused any confusion and problem".²² Nasab fled to Iran where he was subsequently arrested in 2008, after a warrant was issued for his arrest on unknown charges, which the police refused to disclose.²³

Algeria

According to the Algerian Constitution, Islam is the state religion.²⁴ The Algerian Penal Code does not allow "insulting" religious sentiments, seeking to convert Muslims to other faiths or inciting hatred against religion.²⁵ Conversion is not illegal under civil law and apostasy is not a criminal offence.²⁶ However, Article 144 bis 2 of the Penal Code explicitly prohibits insults against Islam or the

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- 18 'CP Calls on Karzai to Free Journalist Ali Mohaqiq Nasab', *Committee to Protect Journalists*, <http://cpj.org/2005/12/cpj-calls-on-karzai-to-free-journalist-ali-mohaqiq.php> (Dec. 8, 2005)
- 19 'High Court Allows Release of Journalist Ali Mohaqiq Nasab', *Reporters Without Borders* (Dec. 21, 2005), <http://en.rsf.org/afghanistan-high-court-allows-release-of-21-12-2005,16006.html>.
- 20 'Afghan Journalist Detained Without Explanation In Iran', *Committee to Protect Journalists* (Mar. 14, 2008), <http://cpj.org/2008/03/afghan-journalist-detained-without-explanation-in.php>.
- 21 CPJ, *supra* note 18.
- 22 'Jailed Journalist Ali Mohaqiq Released with Suspended Sentence', *Wikileaks*, <http://wikileaks.org/cable/2005/12/05KABUL5201.html> (Dec. 22, 2005).
- 23 CPJ, *supra* note 20.
- 24 Freedom House, *Policing Belief: The Impact of Blasphemy Laws on Human Rights* (2010), available at http://www.freedomhouse.org/sites/default/files/Policing_Belief_Full.pdf (hereinafter *Policing Belief*).
- 25 *Id.*
- 26 'International Freedom Report for 2012: Algeria', *US Dep't of State*, <http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?year=2012&dliid=208382> (last visited Sep. 25, 2013) (hereinafter *Algeria Report 2012*).

Prophet Muhammad.²⁷ It carries a penalty of up to five (5) years imprisonment or fine for insulting the prophet and any messenger of God, or denigrating the creed and precepts of Islam, whether by writing, drawing, declaration, or any other means.²⁸ Most blasphemy cases are brought under this provision or The Information Code 1990, which prohibits blasphemy under Article 26 and 77 in governing the media.²⁹ The Ministries of Religious Affairs, Foreign Affairs, Interior, and Commerce, which regulate religious matters, must approve the importation of non-Islamic religious writings.³⁰

In 2006, the Algerian Parliament enacted legislation prohibiting proselytizing of any minority faiths as a criminal offence with the punishment of one to three years imprisonment or a maximum fine of 500,000 dinars, depending on the severity.³¹ The legislation prohibits anyone who “incites, constrains, or utilises means of seduction tending to convert a Muslim to another religion,” or “stores or circulates publications or audio visual or other means aiming at ‘shaking the faith’ of a Muslim”.³²

In 2009, religious leaders declared that apostasy is subject to capital punishment, unless he or she repents by returning to Islam.³³

Documented Cases of Apostasy/Blasphemy Charges Against Freethinkers

On August 3, 2013, Algerians held a picnic during Ramadan in support of those harassed and arrested for eating during Ramadan.³⁴

jamila Salhi and her cousin were arrested in Algiers in 2009 for eating during prohibited hours of the Ramadan fast.³⁵ They were later released before further legal proceedings.³⁶

27 Policing Belief, at 13, *supra* note 24.

28 *Id.*

29 *Id.*

30 ‘International Freedom Report for 2011: Algeria’, *US Dep’t of State*, <http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?dliid=192877> (last visited Sep. 25, 2013) (hereinafter *Algeria Report 2011*).

31 *Id.*

32 *Id.*

33 ‘Clerics in Algeria Demand the Punishment of Apostates from Islam’, *Aafaq Online*, http://www.aafaq.org/news.aspx?id_news=8191 (Apr. 24, 2009) (in Arabic).

34 ‘Algerians Eat Lunch in Ramadan Protest’, *BBC News* (Aug. 4, 2013), <http://www.bbc.co.uk/news/world-africa-23564925>.

35 Policing Belief, at 17, *supra* note 24.

36 *Id.*

Ali Ahmad Said Asbar, often regarded as the greatest contemporary Arab poet, and Syrian by birth, gave a lecture in October 2008 at Algeria's National Library.³⁷ In the lecture, he argued against Islamists' attempts to impose their religion on society and the state, and was subsequently accused of being an apostate.³⁸ Algeria's Minister of Culture denounced his "ideological deterioration" and fired the library's director for inviting him.³⁹

Six (6) men were arrested in Biskra in 2008, for not fasting during Ramadan, even though this is not an official offence in Algerian law.⁴⁰ They were found guilty under Article 144 bis 2 of the Penal Code, each being sentenced to four years in prison and a fine of 100,000 dinars.⁴¹ Following an appeal the high court overturned the verdict and all six defendants were acquitted.⁴²

Four men were also arrested during Ramadan in September 2008 for smoking and were found guilty under Article 144 bis 2.⁴³ They were sentenced to three years imprisonment, although this was overturned in an appeal court decision in November 2008.⁴⁴ The court acquitted one defendant, S. Said, and reduced the sentences of the three others to time served of sixty (60) days during their trial proceedings.⁴⁵

In February 2006, director of the weekly Panorama and editor of Essafir, Berkane Bouderbala and Kamal Bousaad were arrested after the Ministry of Communications had lodged a complaint for their publication of the controversial Danish cartoons. Both Panorama and Essafir were shut down by the government with both journalists released the following month.⁴⁶ Others in the media, including Lotfi Cheriet general manager of the Canal Algérie television station and Houria Khatir, director of the television channel Thalita, were demoted, reassigned or fired for broadcasting the cartoons in 2006.⁴⁷

37 Marshall & Shea, *supra* note 3.

38 Marshall & Shea, *supra* note 3.

39 Id.

40 Policing Belief, at 17, *supra* note 24.

41 Id.

42 Id.

43 Policing Belief, at 18, *supra* note 24.

44 Id.

45 Id.

46 Policing Belief, at 16, *supra* note 24.

47 Id.

In October 1994, the AIS, military wing of the Islamic Salvation Front, issued a fatwa for the death penalty of twenty-two (22) Algerian journalists and writers.⁴⁸ Of the named apostates, editor-in-chief of the *Le Matin*, Said Mekbel, and Zine-Eddine Aliou-Salah from *Liberte*, were killed in 1994 and 1995 respectively.⁴⁹ Between 1993 and 1999, fifty-eight (58) journalists were murdered in relation to writings or speeches identifying them as apostates.⁵⁰

Bahrain

According to the Bahraini Constitution, Islam is the official state religion and Sharia law is the principal source of legislation.⁵¹ This implies that apostasy is illegal. The law prohibits and mandates imprisonment for “exposing the state’s official religion for offence and criticism”, citing that “any publication that prejudices the ruling system of the country and its official religion can be banned from publication by a ministerial order”.⁵² Specific rights vary according to an individual’s religious affiliation, but in all cases a Muslim woman may legally marry a non-Muslim man only if he first converts to Islam.⁵³

Documented Cases of Apostasy/Blasphemy Charges Against Freethinkers

In February 2013, two Bahrainis were sentenced to six months imprisonment for allegedly walking into an empty mosque, with one man mocking the Second Caliph from the platform where the sermons are held, while the other filmed him.⁵⁴ Police were called to the mosque after another man saw these activities. Police found that the men had filmed a similar act inside another mosque.⁵⁵

48 A. Saeed & H. Saeed, *Freedom of Religion, Apostasy and Islam* (Ashgate, 2004).

49 Id.

50 ‘58 Journalists Murdered in Algeria Since 1993’, *Committee to Protect Journalists* (Jan. 1, 1999), <http://cpj.org/1999/01/58-journalists-murdered-in-algeria-since-1993.php>.

51 *International Freedom Report for 2011: Bahrain*, US Dep’t of State, <http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?dclid=192879> (last visited Sep. 25, 2013) (hereinafter Bahrain Report 2011).

52 Id.

53 Dunya Ahmed Abdulla Ahmed, ‘Bahrain’, *Freedom House*, at 8 (2010), available at http://www.freedomhouse.org/sites/default/files/inline_images/Bahrain.pdf (last visited Oct. 9, 2013).

54 Habib Toumi, ‘Blasphemy charges faced by youths in Bahrain and Kuwait’, *Gulf News* (Feb. 12, 2013), <http://gulfnews.com/news/gulf/kuwait/kuwaiti-court-adjudges-blasphemy-appeal-1.1145379>.

55 Id.

In August, 2012, a Bahraini court sentenced a man to two years in prison for making insulting comments about Aisha, one of Mohammad's wives.⁵⁶

Bangladesh

Although the Bangladeshi Constitution and other laws claim to protect religious freedom, an amendment to the Constitution passed in 2011 established Islam as the state religion, while simultaneously confirming Bangladesh to be a "secular state".⁵⁷

Section 295A of the Bangladeshi Penal Code states that anyone who has "deliberate and malicious intention of outraging the religious feelings" can be imprisoned.⁵⁸ The Code of Criminal Procedure includes clauses (99a-f), stating that "the government may confiscate all copies of a newspaper if it publishes anything subversive of the state or provoking an uprising or anything that creates enmity and hatred among the citizens or denigrates religious beliefs."⁵⁹

In May 2012, the Supreme Court overturned a 2001 High Court ruling banning fatwas; however it restricted the manner in which fatwas can be issued, limiting them to settling religious matters.⁶⁰ Despite this, religious leaders made declarations they described as fatwas and which were used as a tool of extrajudicial punishment.⁶¹

Jamaat-e-Islami, the country's largest Islamic party, along with other Islamists, have long campaigned for Bangladesh to be renamed the 'Islamic Republic of Bangladesh' and adopt a Constitution based on Sharia law.⁶² Despite recent electoral rejection of Islamism, Jamaat-e-Islami continue to campaign on the

56 'Bahrain Jails Man Two Years for Insult to Prophet's Wife', *Reuters* (Aug. 12, 2012), <http://www.reuters.com/article/2012/08/12/us-bahrain-insult-idUSBRE87B0C020120812>

57 *Bangladesh Constitution* article 12, available at http://bdlaws.minlaw.gov.bd/print_sections_all.php?id=367.

58 *Penal Code*, Dhaka 1860 (amd. 1985), article 295A (ins. 1927) (Bangl.), see http://bdlaws.minlaw.gov.bd/print_sections_all.php?id=11.

59 *Code of Crim. Proc.*, Dhaka (1908), arts. 99(a)-(f) (Bangl.), available at http://bdlaws.minlaw.gov.bd/pdf_part.php?id=75.

60 'Bangladesh 2012 International Religious Freedom Report', at 5, *US Dep't of State*, available at <http://www.state.gov/documents/organization/208636.pdf> (hereinafter *Bangladesh Report 2012*); *Bangladesh Lifts Fatwa Ban but Forbids Enforcement*, BBC World News (May 11, 2011), <http://www.bbc.co.uk/news/world-south-asia-13379016>.

61 *Bangladesh Report 2012*, *supra* note 60, at 5.

62 Marshall & Shea, *supra* note 2.

promise of introducing a blasphemy law.⁶³ Persecutions and arrests on the basis of blasphemy charges continue to be made, despite no enacted blasphemy law in Bangladesh.⁶⁴

Documented Cases of Apostasy/Blasphemy Charges Against Freethinkers

Political blogger and outspoken atheist, Ahmed Rajib Haider, who was at the forefront of the Shahbag protests, was hacked to death outside his home in Dhaka on February 15, 2013.⁶⁵

In early 2013, Islamists called for the execution of eighty-four (84) “atheist” bloggers.⁶⁶ Rather than arresting the Islamists, the Bangladeshi government arrested four bloggers, namely Subrata Adhikari Shuvo, Mashiur Rahman Biplob, Rasel Parvez, and Asif Mohiuddin, who were brutally attacked in January 2013.⁶⁷ All four were eventually granted bail, although they still face criminal charges.⁶⁸ Two more bloggers were arrested from another district, one for ‘liking’ a Facebook page, the other for liking his ‘like’.⁶⁹ There are reports that the government is now planning to arrest 7 to 11 more bloggers.⁷⁰ An International Day to Defend Bangladesh’s Bloggers was called in April 2013 in order to stand with and support them.⁷¹

63 Id.

64 Id.

65 ‘Ahmed Rajib Haider’, *Committee to Protect Journalists*, <http://www.cpj.org/killed/2013/ahmed-rajib-haider-1.php> (Feb. 15, 2013).

66 ‘100,000 Bangladeshi Protestors Rallied to Demand the Execution of Atheist Bloggers’, *Business Insider*, <http://www.businessinsider.com/protestors-demanding-execution-of-atheist-bloggers-2013-4> (Apr. 6, 2013).

67 ‘Targeted by Islamists and Officials, Blogger Interrogated and Censored’, *Reporters Without Borders*, <http://en.rsf.org/bangladesh-targeted-by-islamists-and-26-03-2013,44261.html> (Mar. 26, 2013); see also ‘First Arrests of Bloggers After Creation of Anti-Blasphemy Committee’, *Reporters Without Borders*, <http://en.rsf.org/bangladesh-first-arrests-of-bloggers-after-02-04-2013,44289.html> (Apr. 2, 2012).

68 ‘Blogger Granted Bail on Health Grounds’, *Reporters Without Borders* (Aug. 7, 2013), <http://en.rsf.org/bangladesh-unjustifiable-decision-to-send-30-07-2013,44992.html>.

69 Maryam Namazie, ‘Hands Off Our Freethinkers!’ *Free Thought Blogs* (Maryam Namazie) (Apr. 16, 2013), <http://freethoughtblogs.com/maryamnamazie/2013/04/16/hands-off-our-freethinkers/>.

70 Id.

71 Id.

In January 2013, 29-year-old blogger Asif Mohiuddin was stabbed in the neck and back near his office in the Dhaka district of Uttara.⁷² Rather than prosecute the offending Islamists who attacked him, the government arrested more bloggers and shut down blogs and sites.⁷³ Amongst those in detention is Asif Mohiuddin, an atheist and award-winning blogger.⁷⁴

On March 21, 2012, the Dhaka High Court ordered authorities to shut down five Facebook pages and a website after a joint petition was filed by Dhaka University professors, alleging the content contained “disparaging remarks and cartoons about the Prophet Muhammad, the Muslim holy book of Quran, Jesus, Lord Buddha, and Hindu Gods.”⁷⁵ This was the first time that Facebook pages have been blocked on charges of “hurting religious sentiment.”⁷⁶

On January 4, 2012, the principal of a technical school, Yunus Ali, was arrested for keeping a copy of the novel *Lajja* (Shame) by Taslima Nasrin in the school library.⁷⁷ The book, considered blasphemous and banned in 1993, led to the author fleeing the country in 1994 after receiving death threats from Islamic fundamentalists.⁷⁸

A promising young cartoonist, Arifur Rahman, was arrested in December 2007 after publishing a cartoon titled “Naam” (Name), in which he jokes about the common practice in Islamic societies to name everything and everyone Muhammad.⁷⁹ Rahman stated that this was a common joke in his home village and was not meant as an insult, however the magazine’s deputy editor was duly dismissed, and in addition the magazine apologised for publishing such an

72 ‘Blogger Badly Wounded in Dhaka Stabbing’, *Reporters Without Borders*, <http://en.rsf.org/bangladesh-blogger-badly-wounded-in-dhaka-16-01-2013,43916.html> (Jan. 16, 2013) (hereinafter RSF Bangladesh).

73 ‘Bangladesh Islamists Rally Against Bloggers’, *BBC World News*, <http://www.bbc.co.uk/news/world-asia-22049408> (Apr. 6, 2013).

74 RSF Bangladesh, *supra* note 72.

75 ‘Bangladesh Court Blocks “Blasphemous” Facebook Pages’, *BBC World News*, <http://www.bbc.co.uk/news/world-asia-17465550> (Mar. 21, 2012).

76 Joelle Fiss, ‘Bangladesh’s Status Quo on Blasphemy’, *Human Rights First*, <http://www.humanrightsfirst.org/2013/04/10/bangladesh%E2%80%99s-status-quo-on-blasphemy/> (Apr. 10, 2013).

77 Robab Rosan, ‘Taslima Tweets to Save Teacher’, *Bangla News* 24, <http://www.banglanews24.com/English/detailsnews.php?nssl=832e5d231e3545d0900ef685cbb43baa&nttl=2012071330280> (Jan. 7, 2012).

78 *Id.*

79 ‘Cartoonist Arrested Over Harmless Play on Name Mohammed’, *Reporters Without Borders*, <http://en.rsf.org/bangladesh-cartoonist-arrested-over-harmless-19-09-2007,23700> (Sep. 19, 2007).

“impertinent” cartoon and promised never to publish Rahman’s work again.⁸⁰ Furthermore, Rahman was detained under Section 54 of the Criminal Procedure Code,⁸¹ and the situation sparked international demonstrations—both against him, calling for his death, and also in support of him, with the condemnation of the authorities.⁸² He was finally released in March 2008 but was found guilty the following year for “hurting the religious sentiments of the Muslim community” and sentenced to six months hard labour.⁸³

Brunei

The Bruneian Constitution states that: “The religion of Brunei Darussalam shall be the Muslim religion according to the Shafi’i sect of that religion”.⁸⁴ The government bans the importation of religious materials, and has also banned several religious groups it considers “deviant.”⁸⁵ Anyone who publicly promotes “deviant” beliefs or practices can be imprisoned and fined.⁸⁶ The Ministry of Religious Affairs is responsible for propagating and reinforcing Shafi’i beliefs and practices, as well as enforcing Sharia law, which exist alongside secular laws and apply only to Muslims.⁸⁷ Muslims may legally convert to another religion and must obtain permission from the Ministry of Religious Affairs; however such permission is rarely obtained and converts face significant official and societal opposition.⁸⁸

Article 189 of the 1984 Religious Council and Kadis Courts law states that “whoever in any theatrical performance or in any place of public entertainment uses passages of the Quran or any words having a sacred implication to persons professing the Islamic religion or derides or copies in a derisive manner any

80 Marshall & Shea, *supra* note 3.

81 ‘Cartoonist Arifur Rahman Discharged’, *The Daily Star*, <http://archive.thedailystar.net/newDesign/news-details.php?nid=28772> (Mar. 21, 2008).

82 Marshall & Shea, *supra* note 3.

83 *Id.*

84 ‘International Religious Freedom Report for 2011: Brunei’, *US Dep’t of State*, available at <http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?dliid=192613> (last visited Oct. 1, 2013) (hereinafter 2011 Brunei Report).

85 ‘International Religious Freedom Report for 2008: Brunei’, *US Dep’t of State*, available at <http://www.state.gov/j/drl/rls/irf/2008/108401.htm> (last visited Oct. 1, 2013) (hereinafter 2008 Brunei Report).

86 *Id.*

87 *Id.*

88 *Id.*

act or ceremony relating to the Islamic religion shall be guilty of any offence: penalty imprisonment for one month or a fine of USD \$8,000”.⁸⁹ This is strictly enforced to the extent that the government monitors any Muslim group it considers “non-orthodox” and usually bans such groups.⁹⁰

Throughout 2011, the Bruneian Sultan repeatedly called for the establishment of Islamic criminal law and the possibility of a parallel system with both Islamic and civil law.⁹¹

In March 2012, the Ministry of Religious Affairs discussed the possibility of drafting legislation to monitor and control cases of apostasy as there is no current law in implementation.⁹²

In April 2013, the State Mufti said that apostasy should be punishable by death.⁹³

Comoros

The Comorian Constitution states that the principles and laws of Islam shall govern the State and its institutions.⁹⁴ Specifically, it mandates the Comorian people “to solemnly affirm their will to draw from Islam, the religion of the state, the permanent inspiration of the principles and rules which govern the Union”.⁹⁵

A constitutional referendum passed in May 2009 states that “Islam is the state religion,” but in practice there was no change in the legal status for religious freedom.⁹⁶ In general, the authorities enforced all laws, including those

89 Jonathan Fox, *An Introduction to Religion and Politics* (Routledge, 2013).

90 Id.

91 2011 Brunei Report, *supra* note 84.

92 Fitri Shahminan and Bandar Seri Begwan, ‘Legislation to Monitor Apostasy to be Considered’, *The Brunei Times*, <http://www.bt.com.bn/legco/2012/03/16/legislation-monitor-apostasy-be-considered> (Mar. 16, 2012).

93 Hanaffi Hidup, ‘Apostasy Punishable by Death’, *The Brunei Times*, <http://www.bt.com.bn/news-national/2013/04/01/apostasy-punishable-death> (Apr. 1, 2013).

94 *Comoros Constitution Preamble*, article 1.

95 Id. at article 1.

96 ‘International Religious Freedom Report for 2011: Comoros’, *US Dep’t of State*, available at <http://www.state.gov/j/drl/rls/irf/2011religiousfreedom/index.htm?dliid=192697> (last visited Oct. 1, 2013) (hereinafter 2011 Comoros Report).

protecting religious freedom, but in an inconsistent and unpredictable manner.⁹⁷ Proselytizing for any religion except Islam is illegal and those who leave Islam, whether for another religion or no religion, may be prosecuted for apostasy.⁹⁸ Non-Muslims face widespread societal discrimination and all citizens, whether Muslim or non-Muslim, face “societal pressure to practice the most significant elements of Islam, particularly observing the fast and doing good works during Ramadan”.⁹⁹

Egypt

In 1971, the Supreme Constitutional Tribunal approved a law stating that: “Islam is the State and any law contrary to Islam is contrary to the Constitution”.¹⁰⁰ Although apostasy is not directly forbidden, Article 2 of the Egyptian Constitution stipulates that the principles of Sharia law are the main source of legislation in the country, implicitly permitting the prosecution of apostates.¹⁰¹ Rulings by the Supreme Administrative Court and the Court of Cassation hold that Muslims who apostatise are to be considered legally dead and to lose all civil rights and powers, including their marriage and inheritance rights.¹⁰²

Article 98(f) of the Egyptian Penal Code, as amended by law 147/2006, states that “whoever makes use of religion in propagating, either by words, in writing, or in any other means, extreme ideas for the purpose of inciting strife, ridiculing or insulting a heavenly religion or a sect following it, or damaging national unity” should be punished with between six months and five years’ imprisonment, and/or a fine.¹⁰³

Following another regime change, and a new Constitutional Declaration of 2011, a decree was issued to amend provisions of the Penal Code to explicitly prohibit

97 Id.

98 ‘International Religious Freedom Report for 2012: Comoros’, *US Dep’t of State*, available at <http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?year=2012&dliid=208134> (last visited Oct. 1, 2013) (hereinafter 2012 Comoros Report).

99 Id.

100 Patrick Sookhdeo, *Freedom to Believe* (Isaac Publishing, 2009).

101 Id.

102 Id.

103 Center for Inquiry, *Dissent Denied: A Suvery of Global Blasphemy and Incitement Laws & Cases* 9, available at http://www.centerforinquiry.net/docs/cfe/dissent_denied.pdf (2013) (hereinafter *Dissent Denied*).

religious and other forms of discrimination.¹⁰⁴ However, Islam continues to be the official state religion, and Sharia law the primary source of legislation.¹⁰⁵

The doctrine of hisba, a constant threat to dissenters, allows any Muslim to take legal action against anyone they consider harmful to Islam.¹⁰⁶ Islamist lawyer Nabih el Wahsh filed over a thousand hisba cases, although the majority of these were dismissed by the prosecutor general.¹⁰⁷ Mr. Wahsh is known for his many lawsuits, including ones against Britain's Queen Elizabeth II and Prime Minister Tony Blair.¹⁰⁸

Documented Cases of Apostasy/Blasphemy Charges Against Freethinkers

A well-known atheist activist Alber Saber was arrested in September 2012 after posting a link to the film *Innocence of Muslims*.¹⁰⁹ In December 2012, an Egyptian court sentenced Saber to three years in prison on the charge of "insulting religion".¹¹⁰ He was released on a bail during the appeals process and fled the country.¹¹¹

In October 2011, Aymnan Yusef Manseur, was sentenced to three years in prison and hard labour after he "intentionally insulted the dignity of the Islamic religion and attacked it with insults and ridicule on Facebook."¹¹² During the same month, Aliaa Magda Elmahdy, atheist blogger and FEMEN activist, posted nude pictures online in a protest against Islamic extremism.¹¹³ A group of Islamic

104 'International Religious Freedom Report for 2011: Egypt', *US Dep't of State*, available at <http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?dliid=192881> (last visited Oct. 1, 2013) (hereinafter 2011 Egypt Report).

105 *Id.*

106 Policing Belief, *supra* note 24, at 21.

107 Cam McGrath, 'RIGHTS-EGYPT Invoking Religion Against Liberals', *Inter Press Service*, <http://www.ipsnews.net/2009/10/rights-egypt-invoking-religion-against-liberals/> (Oct. 19, 2009).

108 Heba Saleh, 'Egyptian Feminist Threatened with Divorce', *BBC World News*, http://news.bbc.co.uk/1/hi/world/middle_east/1395079.stm (June 18, 2001).

109 'Egypt Court Jails Blogger Alber Saber for Blasphemy', *BBC World News*, <http://www.bbc.co.uk/news/world-middle-east-20695992> (Dec. 12, 2012).

110 *Id.*

111 'Campaign for Free Expression: Alber Saber', *Center For Inquiry*, available at http://www.centerforinquiry.net/cfe/cases/alber_saber (last visited Oct. 1, 2013).

112 Michael de Dora, 'Egyptian Man Sentenced to 3 Years in Jail for Blasphemy', *Center for Inquiry*, http://www.centerforinquiry.net/blogs/entry/egyptian_man_sentenced_to_3_years_in_jail_for_blasphemy/ (Oct. 24, 2011).

113 Gianluca Mezzofiore, 'Aliaa Magda Elmahdy Egypt's Naked Blogger Joins Femen Protest against Mursi Constitution', *International Business Times*, <http://www.ibtimes.co.uk/articles/417268/20121220/aliaa-magda-elmahdy-femen-egypt-Constitution-nude.htm> (Dec. 20, 2012).

law graduates filed a suit against her under the charges of “violating morals, inciting indecency and insulting Islam”.¹¹⁴ She has since moved to Sweden where she has been granted asylum.¹¹⁵

Blogger Kareem Amer was first detained by the Egyptian authorities for 12 days in October 2005 because of his writings on his blog, Karam903.¹¹⁶ The subject was about Islam and the sectarian riots that took place in Alexandria’s Maharram Bek district in the same month.¹¹⁷ In 2007, he was sentenced for posts deemed offensive to Islam—after he used his blog to criticise the Islamic institution al-Azhar University and President Hosni Mubarak, whom he called a dictator.¹¹⁸ Until trial, he was held in solitary confinement because he refused to recant.¹¹⁹ His family disowned him and his father called for the application of Sharia law to be used against him.¹²⁰ During a five-minute court session, an Egyptian judge found Kareem Amer guilty and sentenced him to serve three years in prison for insulting Islam and inciting sedition, and one year for insulting President Mubarak.¹²¹ He was released on November 17, 2010, following which he was re-detained by security forces and tortured.¹²²

In 2001, charges of apostasy were brought against the feminist writer Nawal al-Saadawi, as well as a separate lawsuit, demanding that as an apostate she be forced to divorce her husband.¹²³ Sheikh Nasr Farid Wassel reacted by urging Saadawi to retract her statements or face apostasy charges.¹²⁴

114 Gianluca Mezzofiore, ‘Aliaa Magda Elmahdy, the Egyptian Nude Blogger, Sued for “Insulting Islam”’, *International Business Times*, <http://www.ibtimes.co.uk/articles/252058/20111118/aliaa-magda-elmahdy-egyptian-nude-blogger-sued.htm>

115 Jessica Chasmar, ‘“No Shariah”: Topless FEMEN Activists Protest Swedish Mosque’, *Washington Times*, <http://www.washingtontimes.com/news/2013/jul/2/no-shariah-topless-femen-activists-protest-swedish/> (July 2, 2013); see also ‘Aliaa Magda Elmahdy, A Rebel’s Diary’, <http://arebelsdiary.blogspot.co.uk/> (last updated July 3, 2013).

116 ‘Egyptian Blogger Faces 10-Year Prison Sentence’, *Amnesty UK*, <http://www.amnesty.org.uk/content.asp?CategoryID=10827> (Feb. 20, 2007).

117 Id.

118 Id.

119 Blasphemy Laws Exposed, *supra* note 13, at 15.

120 Id.; see also ‘Father Wants Him Killed if He Does Not “Repent”’, *Free Kareem*, <http://www.freekareem.org/2007/02/18/kareem%E2%80%99s-family-disowns-him-father-wants-him-killed-if-he-does-not-%E2%80%9Crepent%E2%80%9D/> (Feb. 18, 2007).

121 Blasphemy Laws Exposed, *supra* note 13, at 15; see also ‘Egyptian Blogger Jailed for Insulting Islam’, *The Guardian*, <http://www.theguardian.com/technology/2007/feb/22/egypt.blogging> (Feb. 22, 2007).

122 Blasphemy Laws Exposed, *supra* note 13, at 15.

123 ‘Egyptian Writer Faces Apostasy Trial’, *BBC World News*, http://news.bbc.co.uk/1/hi/world/middle_east/1295075.stm (Apr. 24, 2001).

124 Saeed & Saeed, *supra* note 48.

Salaheddin Mohsen, a writer who was on trial for atheism and blasphemy against Islam, admitted under questioning that he did not believe in Islam and sought to promote secularism though in his books.¹²⁵ The prosecutors argued that in four of his books, Mohsen mocked Islam, its beliefs and religious rites and duties, in the context of a discussion of enlightenment ideas and the nature of free creativity.¹²⁶ Mohsen claimed that Islam is the reason for Egypt's "backwardness", that the Prophet Mohammed is not in fact a prophet, but rather the author of the Qur'an, and that the Qur'an moreover is full of contradictions.¹²⁷ The court gave him a "lenient" suspended six-month sentence, on the grounds that it did not want to turn him into a hero.¹²⁸ However, a retrial was ordered and the state security court sentenced him to three years in prison, with hard labour, for writings deemed offensive to Islam and ordered all his books and publications to be confiscated for containing 'extremist' ideas.¹²⁹

In 1992, a fatwa was issued against Farag Foda, an Egyptian secularist, after the al-Azhar Scholars Front declared his writings blasphemous.¹³⁰ Two weeks after a senior al-Azhar sheikh declared him an apostate, Foda was assassinated in his office by Islamists.¹³¹ During the trial of the murderers, Azhari scholar Muhammad al-Ghazali testified that those who opposed the implementation of Sharia law were guilty of apostasy and thus could be killed legitimately.¹³²

125 Institute for the Secularization of Islamic Society, 'Courageous Egytian Author, Salaheddin Mohsen, Defends Secularism', *Center for Inquiry*, http://www.centerforinquiry.net/isis/articles_and_books/courageous_egyptian_author_salaheddin_mohsen_defends_secularism/ (last visited Oct. 2, 2013).

126 *Id.*

127 *Id.*

128 Jailan Halawi, 'Prison Limelight', *Al-Ahram Weekly Online*, <http://weekly.ahram.org.eg/2001/519/eg6.htm> (Feb. 2001); see also 'Suspended Sentence for Egyptian "Blasphemer"', *BBC World News*, http://news.bbc.co.uk/1/hi/world/middle_east/825306.stm (July 8, 2000).

129 'International Religious Freedom Report: Egypt', *US Dep't of State*, <http://www.state.gov/j/drl/rls/irf/2001/5636.htm> (last visited Oct. 2, 2013).

130 Ian Black, 'Intellectuals Condemn Fatwa Against Writers', *The Guardian*, <http://www.theguardian.com/world/2008/apr/03/saudiArabia> (Apr. 3, 2008); see also Magda Ab-Fadil, 'Freedom, Journalism & Religion: How Safe a Mix?', *Huffington Post*, http://www.huffingtonpost.com/magda-abufadil/freedom-journalism--relig_b_3573838.html (July 10, 2013).

131 'Egypt: Human Rights Abuses by Armed Groups', *Amnesty International*, <http://www.amnesty.org/en/library/asset/MDE12/022/1998/en/3c53038a-dab2-11dd-80bc-797022e51902/mde120221998en.html> (Sep. 1998).

132 Saeed & Saeed, *supra* note 48, at 102

Indonesia

Indonesia officially only recognizes six religious communities: Islam, Catholicism, Protestantism, Buddhism, Hinduism, and Confucianism.¹³³ Those who do not identify with one of the official religions, including atheists or agnostics, experience harassment and discrimination.¹³⁴ Atheists who ascribe to no religion, or those who wish to leave the column blank or to register under one of the “non-recognized” religions, face discrimination and harassment, including refusal of employment.¹³⁵

Discrimination is condoned under Law No 1/1965 on the Prevention of Religious Abuse and Blasphemy, which amends the Indonesian Penal Code (Article 156 [a]) so as to allow the state to prosecute people deemed to commit blasphemous acts, which “principally have the character of being at enmity with, abusing or staining a religion adhered to in Indonesia.”¹³⁶ The maximum penalty is five years imprisonment.¹³⁷

The Joint Decree of the Minister of Religion and the Minister of Home Affairs No.1 1979, on regulations for propagation of religion and overseas donations, states “Religious propagation should not be directed toward a group of [already] converted people by any means, such as:

Conducting [propagation] in a persuasive manner or by offering donations, money, clothing, food and beverages, medical service and other forms of gifts, so that the group of converted people might be persuaded to change to the religion that is propagated;

Distributing pamphlets, magazines, books, bulletins, and other publications in the locality of the converted people;

By way of door-to-door visits to the converted peoples’ houses for whatever reasons”.¹³⁸

133 Avi Asher-Schapiro, *Religious Freedom in Indonesia*, <http://berkleycenter.georgetown.edu/essays/religious-freedom-in-indonesia> (last visited Oct. 2, 2013).

134 ‘Indonesia: Freedom of Religion Not Protected’, *Asian Human Rights Commission*, <http://www.humanrights.asia/resources/journals-magazines/eia/eiav4a1/7-indonesia-freedom-of-religion-not-protected> (Feb. 2010).

135 Id.

136 Id.

137 Id.

138 Saeed & Saeed, *supra* note 48, at 18.

In April 2010, the Constitutional Court upheld the 1965 Blasphemy Law, allowing the government the power to impose limitations on religious freedoms, based upon security considerations.¹³⁹

The Indonesian Ulema Council (MUI), is a quasi-governmental body formed of various Muslim groups.¹⁴⁰ Established in 1975, it works closely with the Minister of Religious Affairs.¹⁴¹ In July 2005 it issued a number of fatwas against pluralism, liberalism, interfaith marriage, secularism and all alternative religious texts.¹⁴²

Documented Cases of Apostasy/Blasphemy Charges Against Freethinkers

In June 2012, Alexander Aan, a civil servant, posted “God doesn’t exist” along with cartoons of the Prophet Muhammad, to the page of a Facebook group that he started, dedicated to atheism.¹⁴³ Aan was attacked by an angry mob at his workplace.¹⁴⁴ When the police finally arrived, they arrested him on charges of blasphemy, promoting atheism, lying on an official government document and incitement.¹⁴⁵ He was found guilty of “deliberately spreading information inciting religious hatred and animosity”, sentencing him to two years and six months imprisonment, with a fine of 100 million rupiah (equivalent to \$10,600).¹⁴⁶ Aan remains imprisoned during his appeal process; the authorities moved him from his local prison in Sumatra, after he was beaten-up by a group

139 ‘International Religious Freedom Report for 2012: Egypt’, *US Dep’t of State*, <http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?year=2012&dliid=208386> (last visited Oct. 2, 2013).

140 ‘In Religion’s Name: Abuses against Religious Minorities in Indonesia’ 45, *Human Rights Watch* (2012), available at http://www.hrw.org/sites/default/files/reports/indonesia0213_ForUpload_0.pdf.

141 *Id.*

142 *Id.*

143 Kimberly Winston, ‘Atheists Rally for Prosecuted Unbeliever in Indonesia’, *Washington Post*, http://articles.washingtonpost.com/2012-07-19/national/35487553_1_indonesian-embassy-indonesian-man-jail-cell (July 19, 2009) (hereinafter *WaPo Aan*); see also Maryam Namazie, ‘Islam Hasn’t Been Tarnished; Humanity Has’, *Freethought Blogs*, <http://freethoughtblogs.com/mariamnamazie/2012/06/14/islam-hasnt-been-tarnished-humanity-has/> (June 14, 2012).

144 ‘Campaign for Free Expression: Alexander Aan’, *Center for Inquiry*, http://www.centerforinquiry.net/cfe/cases/alexander_aan (last visited Oct. 2, 2013); see also Kate Hodal, ‘Indonesia’s Atheists Face Battle For Religious Freedom’, *The Guardian*, <http://www.theguardian.com/world/2012/may/03/indonesia-atheists-religious-freedom-aan> (May 3, 2012).

145 *Id.*

146 *WaPo Aan*, *supra* note 143.

of inmates who knew about his case.¹⁴⁷ The Islamic Society Forum (FUI), an umbrella group for several hard-line groups, said that a five-year jail term for Aan would not suffice.¹⁴⁸ “He [Aan] deserves the death penalty, even if he decides to repent. What he has done cannot be tolerated,” said Muhammad al-Khaththath, FUI’s secretary-general.¹⁴⁹

In May 2010, Abraham Felix, a 16-year-old student, was charged under Article 156 of the Indonesian Criminal Code for religious defamation.¹⁵⁰ He was arrested for creating a blog that showed him stomping on the Quran and putting the book into the toilet.¹⁵¹ In September 2010, Felix was sentenced by the Bekasi District Court to one year in prison.¹⁵²

In June 2005, police charged a lecturer at the Muhammadiyah University in Palu for heresy.¹⁵³ The police held the lecturer for five days before placing him under house arrest, after two thousand persons protested against his published editorial, “Islam, A Failed Religion”.¹⁵⁴ The editorial, among other things, highlighted the spread of corruption in Indonesia.¹⁵⁵ The lecturer was released from house arrest and dismissed by the University.¹⁵⁶

147 Matthew Bulger, ‘The Story Of Alexander Aan: An Indonesian Atheist Fears for His Life’, *American Humanist Association*, <http://www.americanhumanist.org/HNN/details/2012-05-the-story-of-alexander-aan-an-indonesian-atheist-fea> (last visited Oct. 2, 2013).

148 ‘Calls to Behead Indonesian Atheist Alexander Aan’, *Jakarta Globe*, <http://www.thejakartaglobe.com/archive/calls-to-behead-indonesian-atheist-alexander-aan/495308/> (Feb. 2, 2012).

149 Id.

150 ‘Muslims Protest in Bekasi Over Statue Of Women and Desecration of Koran’, *Jakarta Globe*, <http://www.thejakartaglobe.com/archive/muslims-protest-in-bekasi-over-statue-of-women-and-desecration-of-koran/> (May 15, 2010).

151 Id.

152 Blasphemy Laws Exposed, *supra* note 13, at 10.

153 ‘International Religious Freedom Report 2007: Indonesia’, *US Dep’t of State*, <http://www.state.gov/j/drl/rls/irf/2007/90137.htm> (last visited Oct. 2, 2013).

154 Id.

155 Id.

156 Id.

Iran

The Constitution of Iran mandates that the official religion of Iran is Shia Islam, but recognizes Zoroastrian, Jewish and Christian as minority religions.¹⁵⁷ Article 13 of the Constitution states:

Zoroastrian, Jewish, and Christian Iranians are the only recognized religious minorities, who, within the limits of the law, are free to perform their religious rites and ceremonies, and to act according to their own canon in matters of personal affairs and religious education (emphasis added).¹⁵⁸

There is a draft Iranian Penal Code, which imposes the death penalty for apostasy.¹⁵⁹ The death penalty for apostasy already exists in practice in Iran—under Sharia law.¹⁶⁰ Approval of the draft Penal Code will codify the death penalty for any Iranian who leaves Islam.¹⁶¹

Article 167 of the Constitution, often used in practice to punish apostasy, states that if there is no codified law, the judge should impose “his judgement on the basis of authoritative Islamic sources and authentic fatwa”.¹⁶² Other legal provisions, including Article 214 of the Criminal Procedure Act, Article 8 of the Modified Act on Establishment of General and Revolutionary Courts, and Article

157 ‘International Religious Freedom Report 2012: Iran’, *US Dep’t of State*, <http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?year=2012&dliid=208388> (last visited Oct. 2, 2013) (hereinafter Iran Report 2012).

158 *Iranian Constitution* article 13, available at [http://faculty.unlv.edu/pwerth/Const-Iran\(abridge\).pdf](http://faculty.unlv.edu/pwerth/Const-Iran(abridge).pdf).

159 Faraz Sanei, ‘The Problem with Iran’s Proposed Penal Code’, *Human Rights Watch*, <http://www.hrw.org/news/2012/09/04/problem-irans-proposed-penal-code> (Sept. 4, 2012); see also ‘Codifying Repression: An Assessment of Iran’s New Penal Code’ (2012), *Human Rights Watch*, available at <http://www.hrw.org/reports/2012/08/28/codifying-repression>.

160 ‘The Price of Faithlessness: Iran to Punish Apostasy with Death’, *Spiegel Online*, <http://www.spiegel.de/international/world/the-price-of-faithlessness-iran-to-punish-apostasy-with-death-a-538466.html> (Feb. 28, 2008); see also ‘Iran: Christian Pastor Faces Execution for “Apostasy”’, *Human Rights Watch*, <http://www.hrw.org/news/2011/09/30/iran-christian-pastor-faces-execution-apostasy> (Sep. 30, 2011).

161 ‘Islamic Penal Code of the Islamic Republic of Iran – Book Five’, *Iran Human Rights Documentation Centre* (IHRDC), <http://www.iranhrdc.org/english/human-rights-documents/iranian-codes/1000000351-islamic-penal-code-of-the-islamic-republic-of-iran-book-five.html> (July 18, 2013).

162 *Iranian Constitution* article 167, available at <http://www.iranhrdc.org/english/english/human-rights-documents/iranian-codes/3017-the-constitution-of-the-islamic-republic-of-iran.html>.

42 of the Regulations Governing Special Court for the Clergy, are used to convict and punish apostasy.¹⁶³

The proposed Penal Code defines blasphemy as a serious crime.¹⁶⁴ Article 513 states:

“Anyone who insults the Islamic sanctities or any of the imams or her Excellency Sadigheh Tahereh should be executed if his insult equals to speaking disparagingly of Prophet Muhammad. Otherwise, he should be imprisoned from one to five years”.¹⁶⁵

Article 26 of the Press Law of 1985 prohibits blasphemy by Iranian press.¹⁶⁶ It states: “Whoever insults Islam and its sanctities through the press and his/her guilt amounts to apostasy, shall be sentenced as an apostate and should his/her offence fall short of apostasy he/she shall be subject to the Islamic penal code”.¹⁶⁷

The enforcement of these laws is carried out by the Ministry of Intelligence and National Security, the Revolutionary Guards, the Basij paramilitary groups and pseudo-official Partisans of the Party of God, all under the command of the Supreme Leader.¹⁶⁸

Documented Cases of Apostasy/Blasphemy Charges Against Freethinkers

In May 2012, Shahin Najafi, an Iranian rapper and songwriter now living in Germany, received a fatwa of death by Iranian Ayatollahs Makarem Shirazi, calling him an apostate and that he should be punished according to Sharia law.¹⁶⁹ Najafi has been accused of offending Islam in his rap, with a bounty of

163 Randolph Dobbs, ‘Charged with Apostasy and Blasphemy in Iran’, *Examiner*, <http://www.examiner.com/article/charged-with-apostasy-and-blasphemy-iran> (Apr. 10, 2013).

164 Id.

165 ‘Understanding the Rushdie Affair: Blasphemy and Extrajudicial Killing in Shi’a Islam’, *Iran Human Rights Documentation Center*, <http://www.iranhrdc.org/english/publications/legal-commentary/1000000097-understanding-the-rushdie-affair-blasphemy-and-extrajudicial-killing-in-shia-islam.html> (May 2012).

166 Marshall & Shea, *supra* note 3.

167 Id.

168 Id.

169 Saeed Kamali Dehghan, ‘Iranian Rapper Faces Death Threats and Fatwa for “Blasphemous” Song’, *The Guardian*, <http://www.guardian.co.uk/world/2012/may/14/iranian-rapper-death-threat-fatwa> (May 14, 2012).

USD \$100,000 offered as reward for his murder on a website affiliated with the Islamic regime of Iran.¹⁷⁰

In May 2012, a number of Iranian media outlets published an “expose” on the UK-based atheist and political dissident, Maryam Namazie, entitled “Meet this anti-religion woman”. The article says she is “noticeable” for her “enmity” and “widespread activities against Islam and the Islamic Republic and in areas such as the defence of women’s rights and refugee rights”.¹⁷¹ It continues, saying that she is “in charge” of those “who are effectively apostates”. Namazie has received numerous death threats over the years for her work against political Islam and for her active support of human rights and secularism.¹⁷²

In January 2012, the Supreme Court upheld a death sentence imposed upon Canadian Saeed Malekpour. Malekpour had returned to Iran in 2008 to visit his dying father and was arrested for “insulting and desecrating Islam”, after a computer program he had created was used by others to download pornography.¹⁷³ The death sentence was later commuted to life in prison, after officials announced that he had repented and showed remorse.¹⁷⁴

In September 2010, blogger Hossein Derakhshan was sentenced to more than nineteen (19) years imprisonment after being convicted of “insulting Islamic thought and religious figures”, “spreading propaganda against the ruling establishment” and “promotion of counter-revolutionary groups”.¹⁷⁵ His conviction was upheld by an appeals court in June 2011.¹⁷⁶

Following the 2009-2010 “Green Revolution”, Arash Rahmanipour and Mohammad-Reza Ali-Zamani were charged by Iranian prosecutors with the capital crime of moharebeh (war against God).¹⁷⁷ Rahmanipour was arrested in

170 Id.

171 Id.

172 Marayam Namazie, ‘Meet This Anti-Islam Woman’, *Freethought Blogs*, <http://freethoughtblogs.com/maryamnamazie/2012/06/07/meet-this-anti-islam-woman/> (June 7, 2012).

173 Olivia Ward, ‘Saeed Malekpour: A Canadian on Iran’s Death Row’, *thestar.com*, http://www.thestar.com/news/world/2012/02/18/saeed_malekpour_a_canadian_on_irans_death_row.html (Feb. 18, 2012).

174 ‘Saeed Malekpour’s Death Sentence Commuted to Life Because “He Repented”’, *International Campaign for Human Rights in Iran*, http://www.iranhumanrights.org/2013/08/saeed_malekpour/ (Aug. 29, 2013).

175 Blasphemy Laws Exposed, *supra* note 13, at 8.

176 Id.

177 ‘Iran “Executes Two Over Post-Election Unrest”’, *BBC World*, <http://news.bbc.co.uk/1/hi/8484478.stm> (Jan. 28, 2010).

April 2009, weeks before the disputed June presidential election where the mass protests had erupted and charged regardless of that fact.¹⁷⁸ It also emerged that his plea of “guilty”, which led to his death penalty conviction, was coerced.¹⁷⁹ Ali-Zamani allegedly admitted guilt to working for a little-known exile group, the Iran Monarchy Committee, as well as US intelligence, during a series of public mass trials that began in August 2009, following Ahmadinejad’s victory.¹⁸⁰ Opposition leaders condemned the events as “show trials” and said that the defendants were tortured to force them to confess.¹⁸¹ Both Rahmanipour and Ali-Zamani were executed in January 2010.¹⁸² Rahmanipour was 20 years of age at the time of his execution.¹⁸³

In 2007, Iranian human rights activist Mina Ahadi formed the “Central Council of Ex-Muslims in Germany” and received anonymous death threats after declaring she wanted to help people leave their religions, if they so desired.¹⁸⁴ She is also a leading figure of the International Committee Against Executions and International Committee Against Stoning.¹⁸⁵ Despite intimidation and threats from pro-Iranian groups, Ahadi took up the public defence of Sakineh Mohammadi Ashtiani, an Iranian woman who was sentenced to death by stoning.¹⁸⁶ She has since been under police protection, following receipt of death threats.¹⁸⁷

In June 2009, Mohsen Namjoo, a renowned singer and composer who resides in Austria, was sentenced in absentia to five years imprisonment for “insulting sanctities, ridiculing the Quran and dishonouring the holy book of

178 Ramin Mostaghim & Borzou Daragahi, ‘Iran Lawyer Haunted by Young Man’s Execution’, *LA Times*, <http://articles.latimes.com/2010/feb/08/world/la-fg-iran-lawyer8-2010feb08> (Feb. 8, 2010).

179 Id.

180 Robert Tait, ‘Iran Activist Sentenced to Death for Election Protests’, *The Guardian*, <http://www.theguardian.com/world/2009/oct/08/mohammad-reza-ali-amani-death> (Oct. 8, 2009).

181 Id.

182 BBC, *supra* note 177.

183 Id.

184 ‘Interview with Founder of “Council of Ex-Muslims”: “Not Possible to Modernize Islam”’, *Spiegel Online*, <http://www.spiegel.de/international/spiegel/interview-with-founder-of-council-of-ex-muslims-not-possible-to-modernize-islam-a-468828.html> (Feb. 27, 2007).

185 ‘Mina Ahadi’, *Stop Stoning Now*, <http://stopstoningnow.com/wpress/about-mina-ahadi/mina-ahadi> (last visited Oct. 2, 2013).

186 Id.

187 Spiegel, *supra* note 184.

the Muslims".¹⁸⁸ He has been named by the New York Times as the "Bob Dylan of Iran".¹⁸⁹

Omidreza Mirsayafi, an Iranian blogger and author of the news blog Rooznegar, was sentenced to two-and-a-half years imprisonment for insulting religious leaders.¹⁹⁰ The court, however, did not specify the blog entries that it considered offensive.¹⁹¹ On March 18, 2009, he died in prison under suspicious circumstances.¹⁹² His family continues to contest the authorities' claim that his death was a suicide.¹⁹³ Mr. Mirsayafi's lawyer, Mohammad Ali Dadkhah, claimed that a doctor imprisoned at Evin named Hesem Firozi told him that the death could have been attributed entirely to the prison's failure to provide Mirsayafi with proper medical assistance.¹⁹⁴

Fariborz Shamshiri is the creator of an internet blog called "Rotten Gods".¹⁹⁵ During an interview in July 2010, he stated that he was receiving death threats because of his renunciation of Islam.¹⁹⁶

Iraq

The Iraqi Constitution recognises Islam as the official state religion.¹⁹⁷ Article 2 of the Constitution states that Islam is the "basic source of legislation" and that "no law can be passed that contradicts the undisputed rules of Islam".¹⁹⁸ According to many scholars, the 2006 Constitution of Iraq binds the new Iraqi

188 Blasphemy Laws Exposed, *supra* note 13, at 11.

189 Linda Wertheimer, 'The Bob Dylan of Iran', *NPR Online*, <http://www.npr.org/2013/08/03/208543533/the-bob-dylan-of-iran> (Aug. 3, 2013).

190 'Omidreza Mirsayafi', *Committee to Protect Journalists*, <http://cpj.org/killed/2009/omidreza-mirsayafi-1.php> (Mar. 18, 2009).

191 *Id.*

192 *Id.*

193 Blasphemy Laws Exposed, *supra* note 13, at 11.

194 Robert Mackey, 'Iranian Blogger Dies in Prison', *The New York Times*, http://thelede.blogs.nytimes.com/2009/03/19/iranian-blogger-dies-in-prison/?_r=0 (Mar. 19, 2009).

195 'Rise of Organized Discrimination Against Bloggers in Middle East', *Mideast Youth*, <http://www.mideastyouth.com/2010/07/19/rise-of-organized-discrimination-against-bloggers-in-middle-east/>.

196 *Id.*

197 'International Religious Freedom Report 2011: Iraq', *US Dep't of State*, <http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?dliid=192885> (last visited Oct. 2, 2013).

198 *Id.*

state to upholding both the freedom of religion and the principles of Islam, which includes capital punishment for leaving Islam.¹⁹⁹

What quickly distinguishes the Iraqi legal system from those of the other Arab Muslim countries that have adopted the civil law model is the presence of a powerful, assertive, non-state competitor for judicial power—the marja'īya.²⁰⁰ The term marja'īya refers to such scholars collectively, as an institution, the “authority” for adherents to the Shia faith.²⁰¹ The Iraqi opposition parties which were most strongly affiliated with the marja'īya, namely the Supreme Islamic Iraqi Council and to a lesser extent the Islamic Dawa Party, have since taken the reins of government in Iraq, an Iraq which they shaped in large part as drafters of the Constitution.²⁰²

Documented Cases of Apostasy/Blasphemy Charges Against Freethinkers

In 2012, Sarwar Penjweni, an Iraqi Kurdish writer, was threatened, arrested and imprisoned for researching Islam and Quranic texts.²⁰³ In February 2011, he was arrested and imprisoned for similar “offences” and nearly killed by inmates who knew of him.²⁰⁴ He receives constant death threats but receives no help or security from the Kurdish regional government in Iraq.²⁰⁵

Lanja Abdulla, the Kurdish Director of the Warvin Foundation for Women Issues, was threatened at a public meeting for challenging religious authority.²⁰⁶

In a 2005 article for The Independent (UK), Houzan Mahmoud wrote:

Across the country, a steady clampdown on women’s rights has been going unreported and unchecked by the government. Islamic terrorism is

199 Timothy G. Burroughs, *Turning Away from Islam in Iraq: A Conjecture as to how the New Iraq Will Treat Muslim Apostates*, 37 Hofstra L. Rev. 517, 517 (2008).

200 Id. at 572.

201 Id. at 573.

202 Id.

203 ‘Metro Center Urge KRG to Protect the Life of Sarwar Penjweni’, *MESOP*, <http://www.mesop.de/2012/02/01/protect-the-life-of-sarwar-penjweni/> (Feb. 2012).

204 Id.

205 ‘Metro Center Urge Kurdistan Gov’t KRG to Protect the Life of Kurdish Writer’, *KurdNet*, <http://www.ekurd.net/mismas/articles/misc2012/2/state5848.htm> (Feb. 1, 2012).

206 ‘Today is 14 March 2012: International Day of Action to Defend Blasphemers and Apostates’, *Organisation of Women’s Freedom in Iraq (OWFI)*, <http://www.equalityiniraq.com/campaigns/153-today-is-14-march-2012-international-day-of-action-to-defend-blasphemers-and-apostates> (Mar. 14, 2012).

killing and injuring Iraqi women daily, employing among other weapons, acid attacks.²⁰⁷

Mahmoud, a renowned Kurdish human rights activist, is the UK Head of the Organisation of Women's Freedom in Iraq and co-founder of the Iraq Freedom Congress.²⁰⁸ In May 2008, Mahmoud received death threats for these campaigns against Islamic Sharia law in Iraq.²⁰⁹

In 2008, a death fatwa was issued against Marewan Halabjaee for his book, titled: *Sex, Sharia and Women in the History of Islam*.²¹⁰ Islamic scholars from Halabja, Iraq, made an official complaint about Marewan to the Iraqi President, Jalal Talabani.²¹¹ Letters followed to the Kurdish newspapers, calling for him to be punished.²¹² Throughout December 2008, the verbal attacks continued from various mosques throughout Halabja, Irbil and Kirkuk.²¹³ The cleric who issued the fatwa, Najmuddin Faraj Ahmad (also known as Mullah Krekar), was sentenced to five years in prison in Norway, for making death threats against Marewan, as well as Norwegian officials.²¹⁴

Jordan

Article 14 of the Jordanian Constitution guarantees the freedom to practice the rites of one's religion, unless they violate public order or morality.²¹⁵ The Constitution states that Islam is the state religion, and that the King must be Muslim.²¹⁶ In reality, religious freedom is limited because the government

207 Houzen Mahmoud, 'Iraq Must Reject a Constitution That Enslaves Women', *Independent*, <http://www.independent.co.uk/voices/commentators/houzan-mahmoud-iraq-must-reject-a-constitution-that-enslaves-women-502896.html> (Aug. 15, 2005).

208 Id.

209 'Support Houzan Mahmoud against Death Threats of Ansar al-Islam in Iraq', *Organisation of Women's Freedom in Iraq (OWFI)*, <http://www.equalityiniraq.com/press-release/71-support-houzan-mahmoud-against-death-threats-of-ansar-al-islam-in-iraq> (May 5, 2008).

210 Mark Thomas, 'Mark Thomas Flushes Out a Fatwa', *New Statesman*, <http://www.newstatesman.com/node/152645> (Feb. 27, 2006).

211 Id.

212 Id.

213 Id.

214 'Norway: Cleric Sentenced for Threats', *Associated Press*, http://www.nytimes.com/2012/03/27/world/europe/norway-cleric-sentenced-for-threats.html?_r=2&scp=8&sq=Norwegian&st=cse (Mar. 27, 2012).

215 *Jordanian Constitution* article 14, available at http://www.kinghussein.gov.jo/constitution_jo.html.

216 Jordanian Constitution article 2.

relies heavily upon Sharia law in interpreting its own laws, with people facing apostasy charges and prosecution.²¹⁷

While not prohibited, leaving Islam to become an atheist or to follow another religion is very risky. Adherents of unrecognised religions and converts face societal discrimination and potential verbal and physical abuse from their family and community members.²¹⁸

The Government prohibits conversion from Islam and efforts to proselytize Muslims, but allows conversion to Islam and from one recognized non-Islamic faith to another.²¹⁹

As the government does not allow conversion from Islam, it simply does not recognise converts as non-Muslim and considers them subject to the same Islamic law governing Muslim's personal status.²²⁰ In cases decided by an Islamic law court, judges have annulled converts' marriages, transferred child custody to a non-parent Muslim family member, conveyed an individual's property rights to Muslim family members, deprived individuals of many civil rights, and declared non-Muslim minors as "wards of the state" without any religious identity.²²¹

The Jordanian Penal Code makes insulting Islam, the Prophet Muhammad, or insulting any Muslim's feelings, a crime punishable by up to three years in prison.²²² Atheists must associate themselves with a recognized religion for purposes of official identification.²²³

217 'International Religious Freedom Report 2012: Jordan', *US Dep't of State*, <http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?year=2012&dliid=208396> (last visited Oct. 2, 2013) (hereinafter Jordan Report 2012); see also 'International Legal Protection of the Right to Choose One's Religion and Change One's Religious Affiliation', *Eur. Center for Law & Justice*, available at http://ecj.org/pdf/070911_ecj_aclj_report.pdf (Sep. 2007) (hereinafter ECLJ Report).

218 Jordan Report 2012, *supra* note 217.

219 'International Religious Freedom Report 2011: Jordan', *US Dep't of State*, <http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?dliid=192891> (last visited Oct. 3, 2013) (hereinafter Jordan Report 2011)

220 *Id.*

221 *Id.*

222 Dissent Denied, *supra* note 103.

223 *Id.*

Documented Cases of Apostasy/Blasphemy Charges Against Freethinkers

Jordan's grand mufti Noah Alqdah Samas accused poet and journalist, Islam Samham, of apostasy in 2008.²²⁴ Terminology from the Quran was used in Samhan's work to compare the poet's loneliness to that of a prophet from the Quran.²²⁵ Samham was accused by the Printing and Publication Department of having "harming the Islamic faith and violating the press and publication law for combining the sacred words of the Quran with sexual themes".²²⁶ He received death threats whilst awaiting the court's decision.²²⁷ On June 22, 2009, he was sentenced to one year in prison, and a \$14,000 fine.²²⁸

Officials have also attempted to prosecute foreign acts of blasphemy using the country's blasphemy laws. This includes a court summons for the Dutch MP Geert Wilders, under charges of blasphemy and "contempt of Muslims", because of his film, *Fitna*.²²⁹

Kuwait

The Kuwaiti Constitution provides that freedom of belief is absolute and that all people are permitted to practice their religion "provided that it does not conflict with public policy or morals."²³⁰ However, Kuwait's Constitution affirms that Kuwait's state religion is Islam, and that Sharia law must be the main source of legislation.²³¹ Blasphemy is illegal, and the 1961 Press and Publications Law further prohibits the publication of any material that attacks religion or incites people to commit crimes, or spread hatred and dissension.²³²

The Kuwaiti authorities forbid any conversion from Islam, with converts facing "harassment, including loss of job, repeated summonses to police stations,

224 Marshall & Shea, *supra* note 2.

225 *Id.*

226 'Jordan Arrests Poet for Insulting Islam', *The Guardian*, <http://www.theguardian.com/books/2008/oct/24/poet-jordan-arrest-quran-islam> (Oct. 24, 2008).

227 Tom A. Peter, 'A Poet Faces Death for "Killing" God', *Global Post*, <http://www.globalpost.com/dispatch/jordan/090922/jordanian-poet-trial-apostacy> (Jan. 2, 2010).

228 *Id.*

229 'Dutch Politician Charged in Jordan over Anti-Koran Film', *The New York Times*, http://www.nytimes.com/2008/07/01/world/africa/01iht-jordan.5.14145081.html?_r=0 (July 1, 2008).

230 ECLJ Report, *supra* note 217.

231 Dissent Denied, *supra* note 103.

232 *Id.*

arbitrary detention, physical and verbal abuse, police monitoring of their activities, and property damage without legal recourse.”²³³

The laws against blasphemy, apostasy, and proselytizing, are actively enforced.²³⁴ The law requires jail terms for journalists convicted of defaming any religion and prohibits denigration of Islam or Islamic and Judeo-Christian religious figures, including the prophets Mohammad and Jesus.²³⁵ The law allows any citizen to file criminal charges against an author if the citizen believes that the author has defamed Islam or the ruling family, or harmed public morals.²³⁶

In May 2012, the Kuwaiti parliament passed new amendments allowing cruel and inhumane penalties, including long-term imprisonment and death, for blasphemy.²³⁷ On June 6, 2012, however, the Emir of Kuwait, whose approval was needed in order for the amendments to become law, rejected the amendments.²³⁸

On October 21, 2012, the Emir issued an emergency decree called the National Unity Law.²³⁹ The law criminalizes publishing and broadcasting content that could be deemed offensive to religious groups and expands existing law by explicitly including social media.²⁴⁰ The National Unity Law greatly increases penalties for those convicted, allowing for fines ranging from 10,000 Kuwaiti dinars (KD) (USD \$36,000) to KD 200,000 (USD \$720,000), and up to seven years in prison.²⁴¹

233 ECLJ Report, *supra* note 217.

234 ‘International Religious Freedom Report 2012: Kuwait’, *US Dep’t of State*, <http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?year=2012&dliid=208398#wrapper> (last visited Oct. 3, 2013) (hereinafter Kuwait Report 2012).

235 *Id.*

236 *Id.*

237 Global Legal Monitor, ‘Kuwait: Blasphemy Against Islam’, *Library of Congress*, http://www.loc.gov/lawweb/servlet/lloc_news?disp3_l205403199_text (June 18, 2012); see also Camilla Hall, ‘Kuwait Approves Death Penalty for Blasphemy’, *Financial Times*, <http://www.ft.com/cms/s/0/589e80cc-9525-11e1-ad72-00144feab49a.html> (May 3, 2012) (requires subscription).

238 Global Legal Monitor, *supra* note 237.

239 Kuwait Report 2012, *supra* note 234.

240 *Id.*

241 *Id.*

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In July 2011, a professor at Kuwait University was charged with blasphemy after he was overheard cursing God during an argument with a friend at a café in Salmiya.²⁴²

Egyptian blogger and atheist, Abdul Aziz Mohammed Al-Baz (also known as “Ben Baz”), was arrested on December 31, 2011 in Kuwait for exercising his right to free expression, conscience and belief.²⁴³ He was charged with blasphemy and the charges against him appeared to have a maximum sentence of five years in prison.²⁴⁴ A hearing on his case was held on February 28, 2013, although details of his current status and condition are unknown.²⁴⁵

On February 13, 2012, police arrested writer Mohammed Al-Mulaifi, on charges that included denigrating Shia doctrine.²⁴⁶ On April 9, 2012, the Court of First Instance sentenced Al-Mulaifi to seven years in prison.²⁴⁷ On May 31, 2012, the Court of Appeals reduced Al-Mulaifi’s sentence from seven years to six months, and he was released on October 9, 2012 after completing his sentence.²⁴⁸

Libya

Under the Ghadafi government, there were no explicit legal protections for religious freedom, and the government generally enforced laws and policies that restricted religious freedom.²⁴⁹ Since Gaddafi’s overthrow in 2011, the status of religious freedom in Libya has been difficult to assess.²⁵⁰

242 Id.

243 Michael Hartwell, ‘Lunenburg Man Working to Free Blogger I Kuwait’, *Sentinel & Enterprise*, http://www.sentinelandenterprise.com/local/ci_22514692/lunenburg-man-working-free-blogger-kuwait (Feb. 4, 2013).

244 Id.

245 Id.

246 Kuwait Report 2012, *supra* note 234.

247 Id.

248 Id.

249 ‘International Religious Freedom Report 2011: Libya’, *US Dep’t of State*, <http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?dliid=192897> (last visited Oct. 3, 2013) (hereinafter Libya Report 2012).

250 ‘Religious Freedom in Libya’, *Berkeley Center for Religion, Peace & World Affairs*, <http://berkeleycenter.georgetown.edu/essays/religious-freedom-in-libya> (last visited Oct. 3, 2013).

The interim Libyan governing authority, the Transitional National Council (TNC), issued a temporary constitutional declaration in August 2011 that protected freedom of religion.²⁵¹

Article 1 of this document states Islam is the state religion and Islamic law is the principal source of legislation, but that non-Muslims are accorded the freedom to practice their beliefs.²⁵² Article 6 states “there shall be no discrimination among Libyans on the basis of religion or sect”²⁵³ with regard to legal, political, and civil rights.²⁵⁴

However, numerous governmental organizations, including the European Union, continue to express doubt that the Libyan government ensures religious freedom for its citizens.²⁵⁵

Malaysia

Although the Constitution guarantees freedom of religion under Article 11,²⁵⁶ Islam is recognised as the official state religion. Religious identity is highly correlated with ethnicity, with the Constitution defining all ethnic Malays as Muslims.²⁵⁷ Article 3 of the federal Constitution provides that Islam is “the religion of the Federation” but “other religions may be practiced in peace and harmony”.²⁵⁸

Although blasphemy laws exist in both the secular and Islamic legal systems, the adoption of Sharia statutes and the establishment of the Sharia courts have brought severe limits to freedom of expression and freedom of religion.²⁵⁹

Articles 295-298A of the Malaysian Penal Code carries a USD \$1,000 fine, or up to three years in prison, for those who “commit offences against religion”.²⁶⁰

251 Libya Report 2012, *supra* note 249.

252 *Id.*

253 *Id.*

254 *Id.*

255 ‘Local EU Statement on Religious Freedom and Fundamental Rights’, *EU Delegation to Libya*, http://eeas.europa.eu/statements/local/130320103_local_statement_religious_freedom_fund_rights_en.pdf (Mar. 13, 2013).

256 Policing Belief, *supra* note 24.

257 Marshall & Shea, *supra* note 2.

258 *Id.*

259 Policing Belief, *supra* note 24.

260 Dissent Denied, *supra* note 103.

Malaysia has a two-track legal system consisting of civil or secular law, based on English common law, and Sharia law.²⁶¹ While the Sharia system was previously somewhat informal and subordinate to the civil court system, today the two operate in parallel with respect to hierarchy, as the government has steadily “upgraded” the status of the state-level Sharia court systems.²⁶² Although Sharia courts extend only to Muslims, both jurisdictions criminalize blasphemy.²⁶³ Over recent years, Sharia legislation enacted in various states has increased its ambit beyond marriage, divorce and inheritance.²⁶⁴ Apostasy offences exist only at the state level, with people convicted of apostasy are required to repent.²⁶⁵ However, even if they do repent, they may still be sentenced to up to five years imprisonment depending on the state; in Kelantan and Terengganu, those who refuse to repent for apostasy can be sentenced to death,²⁶⁶ despite the fact that it is only federal courts who have the authority to hand down death sentences.²⁶⁷

Malaysia limits the use in non-Islamic publications of certain words that are considered to be under the sole jurisdiction of Islam.²⁶⁸ For example, use of words such as Allah, Baitullah (House of God), solat or salat (prayer), al-Kitub (Bible), wayhu (revelation), doa or dua (prayer) can result in the banning of a non-Muslim religious publication.²⁶⁹

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On May 23 2012, Nik Raina Nik Abdul Aziz, a 36-year-old manager at the Borders bookstore in Mid Valley City, Malaysia, was accused of blasphemy for distributing a book entitled Allah, Liberty and Love by the Canadian author Irshad Manji, which had been translated into Bahasa Malaysia.²⁷⁰ She faced a fine, or a maximum of two years’ jail sentence, or both, under Section 13(1)

261 Policing Belief, *supra* note 24.

262 Id.

263 Id.

264 Shahram Akbarzadeh & Benjamin MacQueen (eds.), *Islam and Human Rights in Practice*, (Routledge, 2008).

265 Policing Belief, *supra* note 24.

266 Id.

267 Akbarzadeh & MacQueen, *supra* note 264.

268 Id.

269 Id.

270 Berjaya Books Sdn. Bhd., ‘Borders Gets Go Ahead to Challenge JAWI’s Actions’, *borders.com.my*, <http://www.borders.com.my/WebLITE/Applications/news/uploaded/docs/Borders%20Leave%20Statement%20260612%20THE%20FINAL%20ONE.pdf> (June 26, 2012) (hereinafter Borders Press Release).

Syariah Criminal Offences Act (Federal Territories) 1997, if convicted.²⁷¹ Borders pursued her defence in court.²⁷² In August 2013, a civil court judge ruled in favour of Abdul Aziz, stating that the “criminal charge against [Nik Raina] in the Syariah High Court is an infringement of Article 7 which is a provision concerning fundamental liberties, guaranteed by our federal Constitution.”

In September 2008, Raja Petra Kamarudin, a prominent blogger and the founder of the online newspaper Malaysia Today, was arrested under Malaysia’s Sedition Act and detained without trial under Section 73 (1) of the country’s Internal Security Act, as a threat to public security.²⁷³ Kamarudin was accused of publishing articles that “tarnished the image of Islam” and defamed the Prophet Mohammed.²⁷⁴ The Malaysia Today website was blocked for three weeks, and Kamarudin was detained in an unknown location, before his release through a writ of habeas corpus.²⁷⁵

Maldives

Maldives bans all religions other than Sunni Islam.²⁷⁶ With Sharia law as the basis of its own law, it has restrictions on blasphemy and heresy, and according to Article 9 of the 2008 constitutional revision, non-Muslims may not even be granted citizenship.²⁷⁷ Article 36 of the Constitution requires every citizen “to preserve and protect the State religion of Islam, culture, language and heritage of the country”.²⁷⁸ In 2004, legislators reconsidered the 50-year-old Maldivian Penal Code and proposed revisions seeking to implement punishments based on Sharia law, including killing apostates.²⁷⁹

271 ‘Borders Manager Charged Over Banned Book’, *The Star*, <http://www.thestar.com.my/News/Nation/2012/06/20/Borders-manager-charged-over-banned-book.aspx> (last updated May 29, 2013).

272 Borders Press Release, *supra* note 272.

273 ‘Blogger Raja Petra Kamarudin’s Arrest was a Warning to the Growing Online Media’, *Reporters Without Borders*, <http://en.rsf.org/blogger-raja-petra-kamarudin-s-01-08-2011,40727.html> (Aug. 1, 2011).

274 Blasphemy Laws Exposed, *supra* note 13, at 11.

275 *Id.*

276 Marshall & Shea, *supra* note 3.

277 Sookhdeo, *supra* note 100.

278 Marshall & Shea, *supra* note 3.

279 *Id.*

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In July 2010, Ismail Mohamed Didi, a 25-year-old air traffic controller who had been investigated by his employers at Male International Airport in the Maldives for apostasy, was found hanged from the airport's control tower.²⁸⁰ The Islamic website Raajjeislam reported that Ismail "was a person inclined to atheism" and had declared his atheism to his friends.²⁸¹ The Managing Director of Malé International Airport confirmed that Bibi was the subject of an internal investigation and even referred him to the Ministry of Islamic Affairs, to report his professed apostasy.²⁸² In an email he wrote to an international humanitarian organisation on June 23, 2010, and June 25, 2010, pleading for help to leave the country, he states "I cannot bring myself to pretend to be I am something I am not, as I am a staunch believer in human rights. I am afraid for my life here and know no one inside the country who can help me."²⁸³ And "Just 3 days ago, I received two anonymous phone calls threatening violence if i do not start openly practicing Islam."²⁸⁴ Soon after he was found hanged.²⁸⁵

In June 2010, Muhammad Nazim asked a Muslim preacher, Zakir Naik, at a public event how Islam viewed people such as himself: those who tried to believe in Islam but could not.²⁸⁶ Naik replied that the death penalty must not necessarily be evoked on every person who leaves Islam, but on those who propagate the non-Islamic faith and speak against it.²⁸⁷ An enraged crowd attempted to attack Nazim and he was taken away by the police.²⁸⁸ The Islamic Ministry arranged for him to receive "religious counselling" before determining

280 JJ Robinson, 'Hanged Air Traffic Controller Sought Asylum for Fear of Religious Persecution', *Minivan News*, <http://minivannews.com/society/hanged-air-traffic-controller-sought-asylum-for-fear-of-religious-persecution-9381> (July 14, 2010) ; see also Barry Duke, 'Muslim Apostate Found Hanged After Admitting He Was an Atheist', *The Freethinker*, <http://freethinker.co.uk/2010/07/14/muslim-apostate-found-hanged-after-admitting-he-was-an-atheist/> (July 14, 2010).

281 Robinson, *supra* note 280.

282 Charles Haviland, 'Maldives Atheist Who Felt Persecuted "Hangs Himself"', *BBC World News*, <http://www.bbc.co.uk/news/world-south-asia-10644685> (July 12, 2010).

283 Robinson, *supra* note 280.

284 *Id.*

285 *Id.*

286 'What Will Happen to the Maldivian Who Renounced Islam?', *Haveeru Online*, <http://www.haveeru.com.mv/english/details/30427> (May 31, 2010).

287 *Id.*

288 Haveeru, *supra* note 284; see also JJ Robinson, 'Islamic Foundation Calls for Death Sentence if Apostate Fails to Repent', *Minivan News*, <http://minivannews.com/politics/islamic-foundation-calls-for-death-sentence-if-apostate-fails-to-repent-7606> (May 30, 2010).

whether he should be executed for apostasy.²⁸⁹ He was saved by “embracing Islam” during his counselling.²⁹⁰

Mauritania

The Mauritanian Constitution, and other laws and policies, restrict freedom of religion or belief. The 1991 Constitution defines the country as an Islamic republic, with Islam as the sole religion of its citizens and the state.²⁹¹ All non-Muslims are restricted from being citizens of the country; and Mauritians who leave Islam for another religion or for no religion lose their citizenship.²⁹² Additionally, Article 306 of the Mauritanian Penal Code outlaws apostasy stating that “anyone found guilty of converting from Islam will be given the opportunity to repent within three days and if the person does not repent, the individual will be sentenced to death and the person’s property will be confiscated by the Treasury.”²⁹³

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In April 2012, twelve (12) anti-slavery activists were arrested in Mauritania’s capital city of Nouakchott, after they burned books written by Islamic scholars and renounced the literature for its attempts to justify slavery in the region.²⁹⁴ Seven of the activists remained in prison until September 2011, when proceedings were terminated on technical grounds and a court order was issued to free them.²⁹⁵

289 ‘Nazim Who Publicly Claimed as a Non-believer, Reverts Back to Islam Publicly’, *Miadhu*, <http://www.miadhu.com/2010/06/local-news/nazim-who-publicly-claimed-as-a-non-believer-reverts-back-to-islam-publicly/> (June 2, 2010).

290 AHA 2012 Report, *supra* note 15.

291 *Mauritanian Constitution* article 4, section 5, available at <http://unpan1.un.org/intradoc/groups/public/documents/un-dpadm/unpan042393.pdf>; see also ‘Mauritania’, *Library of Congress*, <http://www.loc.gov/law/help/guide/nations/mauritania.php> (last visited Sep. 24, 2013).

292 *Id.*

293 ‘Mauritania’, *US Dep’t of State*, <http://www.state.gov/documents/organization/192947.pdf>

294 ‘International Religious Freedom Report 2011: Mauritania’, *US Dep’t of State*, <http://www.state.gov/documents/organization/192947.pdf> (last visited Oct. 3, 2013).

295 *Id.*

Morocco

The Moroccan Constitution defines Morocco as a Muslim state in its preamble and states that Islam is the state religion in Article 3, which also guarantees freedom of religious practices to all faiths.²⁹⁶ Article 106 of the Constitution states that the constitutional provisions related to the place of Islam cannot be changed.²⁹⁷ The Constitution also stipulates that the king is “commander of believers (amir al-mumineen)” and “defender of the faith (ad-din)” in the country.²⁹⁸

Although voluntary conversion is in principle legally acceptable, the authorities have harassed apostates and others.²⁹⁹ Article 220 of the Moroccan Penal Code prescribes a prison term of six months to three years for “anyone who employs incitements to shake the faith of a Muslim or to convert him to another religion”.³⁰⁰ In addition, Article 220 of the Moroccan Penal Code prohibits proselytizing conversion.³⁰¹

Morocco’s High Council of Ulemas (the highest government religious institution headed by the King) issued a fatwa decreeing the death penalty for Moroccans who leave Islam.³⁰² Currently, under Morocco’s Penal Code, those who impede or prevent worship, face imprisonment and fines.³⁰³ The ruling is in a book entitled *Fatwas For The Years 2004-2012*.³⁰⁴

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22-year-old Imad Iddine Habib, a well-known atheist and founder of the Council of Ex-Muslims of Morocco (the first atheist organisation in a country with Islam

296 Marina Ottaway, ‘The New Moroccan Constitution: Real Change or More of the Same?’, *Carnegie Endowment for Int’l Peace*, <http://carnegieendowment.org/2011/06/20/new-moroccan-constitution-real-change-or-more-of-same/51> (June 20, 2011).

297 Id.

298 ‘International Religious Freedom Report 2011: Morocco’, *US Dep’t of State*, <http://www.state.gov/documents/organization/193111.pdf> (last visited Oct. 3, 2013).

299 Id.

300 James Kirckick, ‘Exiled After Threats: Blogger Wants More Freedoms in Morocco’, *Spiegel Online*, <http://www.spiegel.de/international/world/moroccan-blogger-champions-freedom-in-swiss-exile-a-891561.html> (Mar. 29, 2013).

301 Id.

302 Samira Arabi, ‘Morocco’s High Council of Ulemas’s Death Sentence Fatwa on Apostates Sparks Controversy’, *Morocco News Tribune*, <http://morocconewstribune.com/moroccos-high-council-of-ulemass-death-sentence-fatwa-on-apostates-sparks-controversy/> (Apr. 19, 2013).

303 Id.

304 Id.

as a state religion), received a number of death threats for his apostasy.³⁰⁵ In May 2013, secret service agents warned his father that Habib was considered an enemy of the country.³⁰⁶ His home was raided and Habib went into hiding.³⁰⁷

Kacem El Ghazzali, a young Moroccan author, blogger and member of several human rights organizations, has sought refuge in Switzerland after receiving death threats and harassment for (originally anonymously) creating an atheist blog.³⁰⁸ Ghazzali appeared in a television interview with France 24 regarding the role the Internet plays in connecting atheists across the Muslim world.³⁰⁹ Four days after his appearance, the principal of his school accused him of working for a “foreign agenda,” alleged that he had violated Article 220, and physically assaulted him.³¹⁰ Following regular death threats, he was forced to flee Morocco.³¹¹

Nigeria

Religious freedom is protected in the 1999 Constitution, with Article 10 forbidding the federal or state government to “adopt any religion as state religion”.³¹² Furthermore, Article 38 guarantees “freedom of thought, conscience and religion”, and Articles 15 and 42 forbid religious discrimination.³¹³ Despite these supposed protections, twelve northern states extended Sharia law beyond personal status matters, shortly following reinstallation of democracy in Nigeria.³¹⁴ Some, in contravention of the Constitution, imposed Islam as

305 Press Release, ‘Moroccan Government: Hands off Imad Iddine Habib’, *Council of Ex-Muslims of Britain*, <http://ex-muslim.org.uk/2013/05/moroccan-government-hands-off-imad-iddine-habib/> (May 1, 2013).

306 Id.

307 Id.

308 Kirchick, *supra* note 300.

309 Id.

310 Id.

311 Id.

312 *Nigeria Constitution* article 10, available at http://www.wipo.int/wipolex/en/text.jsp?file_id=179202.

313 *Nigeria Constitution* articles 15, 38, 42.

314 United States Commission on International Religious Freedom, ‘USCIRF Annual Report 2004 – Nigeria’, *Refworld*, <http://www.refworld.org/docid/4855696b2.html> (last visited Oct. 3, 2013) (hereinafter USCIRF Report 2004); see also Ekwutosi Collyer, ‘Law and Disorder in Nigeria’s Sharia States’, *Radio Netherlands (RNW)*, <http://www.rnw.nl/africa/article/law-and-disorder-nigeria%E2%80%99s-sharia-states-0> (Dec. 23, 2011).

the official state religion.³¹⁵ While neither blasphemy nor apostasy is explicitly punishable, those accused face extrajudicial persecution and violence.³¹⁶

Boko Haram, whose name means “Western education is a sin” in the Hausa language, is an Islamic militant organization.³¹⁷ It has carried out gun and bomb attacks across Nigeria’s mainly Muslim north, and the capital, Abuja, killing thousands of people since 2009 in its campaign to establish an Islamic state in Nigeria.³¹⁸ Between 2009 and 2012, hundreds of attacks by suspected Boko Haram members have left more than 1,500 people dead, according to media reports monitored by Human Rights Watch.³¹⁹

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In anticipation of the Miss World competition to be held in Nigeria in 2002, several Muslim clerics denounced the pageant as immoral.³²⁰ In response, 22-year-old Isioma Daniel, a journalist with *This Day* newspaper wrote, “What would Muhammad think? In all honesty he probably would have chosen a wife from one of them”.³²¹ The comment sparked riots in Kaduna where Daniel lived, resulting in over 200 deaths and leaving thousands homeless.³²² Despite an apology issued by the newspaper in November 2002, Islamic authorities issued a fatwa urging Muslims to kill Daniel.³²³ The fatwa has since been declared void by the Federal Information Minister, and Daniel has fled the country.³²⁴

315 USCIRF Report 2004, *supra* note 312.

316 *Id.*

317 *Id.*

318 Damien McElroy, ‘Boko Haram Fighting Nigerian Troops in Abuja’, *The Telegraph*, <http://www.telegraph.co.uk/news/worldnews/africaandindianocean/nigeria/10323226/Boko-Haram-fighting-Nigerian-troops-in-Abuja.html> (Sep. 20, 2013).

319 ‘Nigeria: Boko Haram Attacks Likely Crimes Against Humanity’, *Human Rights Watch*, <http://www.hrw.org/news/2012/10/11/nigeria-boko-haram-attacks-likely-crimes-against-humanity> (Oct. 11, 2012) (hereinafter HRW Boko Haram Report).

320 *Id.*

321 ‘Nigerian Fatwa Journalist’, *BBC Today*, http://www.bbc.co.uk/radio4/today/reports/archive/international/nigeria_riots.shtml (last visited Oct. 3, 2013).

322 *Id.*

323 *Id.*

324 HRW Boko Haram Report, *supra* note 319.

Oman

The law in Oman declares that Islam is the state religion, and that Sharia law is the basis of all legislation.³²⁵ Article 209 of the Omani Penal Code prescribes a prison sentence and fine to anyone who publicly blasphemes Allah or a prophet, commits an affront to religious groups by spoken or written word, or breaches the peace of a lawful religious gathering.³²⁶

Laws governing family and personal status are adjudicated by the country's civil courts, according to the Personal Status and Family Legal Code.³²⁷ Article 282 of the Code exempts non-Muslims from the Code's provisions, allowing them to follow their own religious rules pertaining to family or personal status.³²⁸ Apostasy is not a criminal offence, but the Personal Status and Family Legal Code prohibit a father who converts from Islam from retaining paternal rights over his children.³²⁹

Pakistan

The Constitution establishes Islam as the state religion, and along with other laws and policies that restrict religious freedoms.³³⁰ While the Constitution declares that adequate provisions be made for minorities to profess and practice their religious beliefs freely, other provisions of the Constitution and laws impose limits on this right.³³¹ The Constitution (Article 19) grants freedom of speech, but also specifically limits this right "subject to any reasonable restrictions imposed by law in the interest of the glory of Islam".³³²

325 'International Religious Freedom Report 2012: Oman', *US Dep't of State*, <http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?year=2012&dliid=208406> (last visited Oct. 3, 2013) (hereinafter Oman Report 2012) .

326 *Id.*

327 *Id.*

328 *Id.*

329 *Id.*

330 'International Religious Freedom Report 2012: Pakistan', *US Dep't of State*, <http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?year=2012&dliid=208438> (last visited Oct. 3, 2013) (hereinafter Pakistan Report 2012).

331 'International Religious Freedom Report 2011: Pakistan', *US Dep't of State*, <http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?dliid=192933> (last visited Oct. 3, 2013) (hereinafter Pakistan Report 2011).

332 Fox, *supra* note 89.

During the 1980s, Pakistan introduced blasphemy laws as part of its Penal Code, restricting the right to freedom of speech with regard to religion.³³³ Since then, it has been extremely dangerous to express dissent against Islam.³³⁴ Apostasy is not explicitly punishable, however blasphemy is a capital offence under the Pakistani Penal Code.³³⁵ Amendments were made in 1982 (section 295-B), 1980, 1984 (sections 298 A,B and C), and 1986 (section 295-C) to the Penal Code often referred to as the “Blasphemy Laws”.³³⁶ Under these provisions, desecration of the Quran became a crime carrying life imprisonment; defiling the name of Muhammad became a crime incurring a death penalty, life imprisonment and/or a fine (295-C).³³⁷ In 1990, the federal Sharia Court ruled that the penalty for defiling the name of Muhammad is “death and nothing else”, making the death penalty mandatory for this offence.³³⁸

Article 295c states that:

[W]hoever 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 fine.³³⁹

An estimated 1,274 people have been charged under the stringent blasphemy laws of Pakistan between 1986, between the years 1986-2010.³⁴⁰ They were included in the Constitution by General Zia ul Haq.³⁴¹ Blasphemy cases are brought regularly to the courts,³⁴² with criminal blasphemy prosecutions being common. Any person can bring a blasphemy charge against another and there

333 Marshall & Shea, *supra* note 2.

334 Nahal Toosi, ‘Pakistanis Mourn a Once Religiously Tolerant, Relaxed Nation’, *Huffington Post*, http://www.huffingtonpost.com/2011/01/07/pakistanis-mourn-a-once-t_n_805809.html (Feb. 7, 2011).

335 Sookhdeo, *supra* note 100.

336 Sookhdeo, *supra* note 100; see also Mohammed Hanif, ‘How to Commit Blasphemy in Pakistan’, *The Guardian*, <http://www.theguardian.com/world/2012/sep/05/pakistanis-blasphemy-laws-colossal-absurdity> (Sep. 5, 2012).

337 Sookhdeo, *supra* note 100.

338 *Id.*

339 Fox, *supra* note 89.

340 ‘Timeline: Accused Under the Blasphemy Law’, *Dawn News*, <http://beta.dawn.com/news/750512/timeline-accused-under-the-blasphemy-law> (last updated Aug. 18, 2013) (hereinafter Dawn Timeline).

341 *Id.*

342 Fox, *supra* note 89.

is no requirement to prove intent.³⁴³ The rising number of cases was such that in 2005, the government passed a law requiring that the police investigate accusations of blasphemy before charges are filed.³⁴⁴ This reduced arrest rates in half: from 74 per year to 34 per year.³⁴⁵

At least 51 people accused of blasphemy were murdered before their respective trials were over.³⁴⁶ However, the death sentence has never been implemented.³⁴⁷

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In March 2013, a university lecturer and member of Pakistan Atheists and Agnostics was arrested on blasphemy charges. His blog was hacked into by Islamists and he has received death threats.³⁴⁸ His lawyer has also received death threats.³⁴⁹

In January 2013, the Supreme Court admitted a petition filed against Pakistan's ambassador to the United States, Sherry Rehman, on charges of blasphemy.³⁵⁰ The petition claims that Rehman committed blasphemy whilst speaking on a news channel two years ago.³⁵¹

The Governor of Pakistan's Punjab province, Salmaan Taseer, was assassinated on January 4, 2011, for his opposition to the blasphemy laws.³⁵² The Governor of Punjab was an outspoken critic of the laws, and his assassination marks the most high-profile killing of a political figure in Pakistan since the slaying of Benazir Bhutto in December 2007.³⁵³

343 Marshall & Shea, *supra* note 3.

344 Fox, *supra* note 89.

345 *Id.*

346 Dawn Timeline, *supra* 321

347 *Id.*; see also 'High-profile Blasphemy Cases in the Last 63 Years', *Dawn News*, <http://dawn.com/news/589587/high-profile-blasphemy-cases-in-the-last-63-years> (Dec. 8, 2010).

348 'Blasphemer University Teacher Sent to Prison on Remand in Multan', *South Punjab News*, <http://southpunjabnews.blogspot.com/2013/03/blasphemer-university-teacher-sent-to.html> (Mar. 14, 2013).

349 Owais Jafri, 'Blasphemy Case: Lawyer of Accused Receives Death Threats', *Pakistan Express Tribune*, <http://tribune.com.pk/story/558110/blasphemy-case-lawyer-of-accused-receives-death-threats/> (June 3, 2013).

350 Dawn Timeline, *supra* note 342.

351 *Id.*

352 'Punjab Governor Salman Taseer Assassinated in Islamabad', *BBC World News*, <http://www.bbc.co.uk/news/world-south-asia-12111831> (Jan. 4, 2011).

353 'Pakistan's Blasphemy Law: Timeline', *The Telegraph*, <http://www.telegraph.co.uk/news/worldnews/asia/pakistan/8356855/Pakistans-blasphemy-law-timeline.html> (Mar. 2, 2011).

In October 2000, medical professor Mohammad Younus Shaikh explained to a group of students that Muhammad was neither a prophet nor a Muslim, prior to his alleged revelations (according to Islamic teaching, Muhammad received Quranic revelation when he was forty).³⁵⁴ For some students who believed the prophet was divinely preordained, Shaikh's statements were considered blasphemous, and one student complained to a cleric.³⁵⁵ The Movement for the Finality of the Prophet, an organisation that often targets alleged blasphemers, lodged a complaint against Shaikh and incited a mob.³⁵⁶ Three days later, Shaikh was arrested on blasphemy charges.³⁵⁷ His trial was held in closed session, inside the Central Jail.³⁵⁸ His lawyers were threatened with a fatwa of apostasy.³⁵⁹ After originally being sentenced to the death penalty, a retrial was ordered in 2003, where Shaikh conducted his own defence and was acquitted.³⁶⁰ When his accusers later sought to appeal the acquittal, Shaikh fled to Europe.³⁶¹

Qatar

Islam is the state religion and Sharia law is the main source of legislation.³⁶² The law does not recognise religions outside the three Abrahamic faiths—with legal, cultural and institutional discriminations outweighing government enforcement of non-discriminations laws.³⁶³

The law provides for two years imprisonment and a fine for possession of written or recorded materials or items that support or promote missionary activity.³⁶⁴ The law imposes a prison sentence of up to seven years for defaming, desecrating, or committing blasphemy against Islam, Christianity, or Judaism.³⁶⁵ The law

354 Marshall & Shea, *supra* note 3.

355 *Id.*

356 *Id.*

357 *Id.*

358 *Id.*

359 Marshall & Shea, *supra* note 3.

360 *Id.*

361 *Id.*

362 'International Religious Freedom Report 2012: Qatar', *US Dep't of State*, <http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?year=2012&dliid=208408> (last visited Oct. 3, 2013) (hereinafter Qatar Report 2012).

363 *Id.*

364 *Id.*

365 *Id.*

stipulates a one-year prison term or a fine for producing or circulating material containing slogans, images, or symbols defaming those three religions.³⁶⁶

National law incorporates both secular legal traditions and Sharia law.³⁶⁷

Documented Cases of Apostasy/Blasphemy Charges Against Freethinkers

In 2011, Amnesty International reported that at least six (6) foreign nationals were convicted of blasphemy, four (4) of whom received maximum seven-year prison sentences.³⁶⁸ In July 2011, the Doha Court of First Instance sentenced a Lebanese man to seven years' imprisonment for blasphemy; he was reported to have "uttered blasphemous words" while being carried on a stretcher to an ambulance.³⁶⁹ It was not clear whether the prison sentence was enforced in this and other cases.³⁷⁰

Saudi Arabia

Saudi Arabia does not have a Constitution.³⁷¹ The primary source of law is the Quran and the Sunnah.³⁷² Under the provisions of Sharia law, as practiced in the country, judges may discount the testimony of people who are not practicing Muslims or who do not adhere to the official interpretation of Islam.³⁷³ The law combines royal decrees and Sharia law, in which apart from commercial matters, there is no unified code.³⁷⁴ Apostasy is subject to Sharia hudud rules, which means that the punishment of death is seen as a fixed divine order and not subject to judicial discretion; although the king can commute sentences.³⁷⁵ Blasphemy against Sunni Islam also can be punishable by death, but the more

366 Id.

367 Qatar Report 2012, *supra* note 362.

368 'Annual Report 2011: Qatar', *Amnesty International*, <http://www.amnesty.org/en/region/qatar/report-2011> (last visited Oct. 3, 2013).

369 Id.

370 Id.

371 'International Religious Freedom Report 2012: Saudi Arabia', *US Dep't of State*, <http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?year=2012&dld=208410> (last visited Oct. 3, 2013) (hereinafter Saudi Report 2012).

372 Id.

373 Id.

374 Marshall & Shea, *supra* note 3.

375 Id.

common penalty is a long prison sentence, lengthy detention without trial, or protective custody.³⁷⁶

Children born to Muslim fathers are by law deemed Muslim, and leaving Islam is considered apostasy, which can be punishable by death.³⁷⁷

The Saudi religious police (known as Mutaween or officially as Commission for Promotion of Virtue and Prevention of Vice) have the duty to enforce these prohibitions and are especially intolerant of minority religions and non-belief.³⁷⁸

Documented Cases of Apostasy/Blasphemy Charges Against Freethinkers

In February 2012, 23-year-old journalist and poet Hamza Kashgari was accused of blasphemy after posting messages on Twitter, in which he imagined himself in conversation with Muhammad, Islam's prophet.³⁷⁹ Saudi King Abdullah ordered that Kashgari be arrested "for crossing red lines and denigrating religious beliefs in God and His Prophet".³⁸⁰ While attempting to flee to New Zealand, Kashgari was arrested in Malaysia and deported to Saudi Arabia where he faced charges that could have resulted in the death penalty.³⁸¹ He was released after nearly a two-year detention on October 29, 2013.³⁸²

In March 2010, complaints were filed against a Saudi writer who allegedly described a Hadith as barbaric, during a program on the Al Hurra TV Channel.³⁸³ Prosecutors sought to punish the writer in accordance with Sharia law.³⁸⁴

376 Saudi Report 2012, *supra* note 371.

377 *Id.*

378 Dissent Denied, *supra* note 103.

379 David Keyes, 'Saudi Writer Hamza Kashgari Faces Charge of Blasphemy After Tweets About Muhammad', *Washington Post*, http://articles.washingtonpost.com/2012-02-09/opinions/35445807_1_hamza-kashgari-tweets-saudi-arabia (Feb. 9, 2012).

380 'Campaign for Free Expression: Hamza Kashgari', *Center for Inquiry*, http://www.centerforinquiry.net/cfe/cases/hamza_kashgari (last visited Oct. 3, 2013).

381 Maryam Namazie, 'The Saudi Government Will Be Held Accountable for Hamza Kashgari's Life and Security', *Freethought Blogs*, <http://freethoughtblogs.com/maryamnamazie/2012/02/19/the-saudi-government-will-be-held-accountable-for-hamza-kashgaris-life-and-security/> (Feb. 19, 2012).

382 'Hamza Kashgari Freed From Prison', *Al Jazeera*, <http://stream.aljazeera.com/story/201310291916-0023153> (Oct. 29, 2013).

383 Blasphemy Laws Exposed, *supra* note 13, at 10.

384 *Id.*

In March 2008, a Turkish national, who owned a barber shop in Jeddah, was arrested and convicted on charges of blasphemy, and sentenced to death.³⁸⁵ Allegedly, he had been heard swearing at Allah during an argument with an Egyptian neighbour; he was later pardoned by the King in January 2009 and deported to Turkey.³⁸⁶

Somalia

The provisional federal Constitution replaced the Transitional Federal Charter (TFC) in August 2012.³⁸⁷ It establishes Islam as the state religion and prohibits laws that do not comply with Sharia principles.³⁸⁸ It states that all citizens, regardless of religion, are afforded equal rights and duties before the law, and that each person is free to practice his or her religion, but prohibits propagation of religions other than Islam.³⁸⁹ The provisional federal Constitution does not explicitly prohibit apostasy or the denouncing of one's religion.³⁹⁰

The Somali Penal Code, developed in 1963, applies to all regions of the country.³⁹¹ It does not prohibit conversion from Islam, but criminalizes blasphemy and defamation of Islam, which carry fines of up to two years in prison.³⁹²

The militant Islamic organisation Al-Shabaab, meaning "the youth" in Arabic,³⁹³ remains in control of most of southern and central Somalia.³⁹⁴ It emerged as the radical youth wing of Somalia's now-defunct Union of Islamic Courts in 2006, as it fought Ethiopian forces which had entered Somalia to back the weak interim government.³⁹⁵ It is well-known for its attacks against secular and non-

385 Id.

386 Id.

387 'International Religious Freedom Report 2012: Somalia', *US Dep't of State*, <http://www.state.gov/j/drl/rls/irf/2012/af/208194.htm> (May 20, 2013) (hereinafter *Somalia Report 2012*); see also 'Somali Leaders Back New Constitution', *BBC World News*, <http://www.bbc.co.uk/news/world-africa-19075685> (Aug 1, 2012).

388 *Somalia Report 2012*, *supra* 387.

389 Id.

390 Id.

391 Id.

392 Id.

393 'Q&A: Who Are Somalia's al-Shabab?', *BBC World News*, <http://www.bbc.co.uk/news/world-africa-15336689> (Sep. 24, 2013) (hereinafter *Al-Shabab Q&A*).

394 'What is al-Shabab?', *PBS Newshour*, <http://www.pbs.org/newshour/rundown/2013/09/what-is-al-shabaab.html> (Sep. 23, 2013).

395 *Al-Shabab Q&A*, *supra* note 393.

Muslim groups and individuals—including the beheading of several so-called apostates.³⁹⁶

Documented Cases of Apostasy/Blasphemy Charges Against Freethinkers

Abdirahman Ahmed, a prominent Somali politician, was executed in January 2009 by an Islamist militia for apostasy.³⁹⁷ He was tried and convicted by a Sharia court, but was not allowed legal representation, according to his family.³⁹⁸

In September 2013, Al-Shabaab stormed Kenya's Westgate Mall, frequented by Westerners, tourists, and wealthy Kenyans.³⁹⁹ The group killed at least sixty-five (65) people and held many others hostage for days.⁴⁰⁰ Shortly after the storming, Al-Shabaab tweeted online: "The Mujahideen entered #Westgate Mall today at around noon and are still inside the mall, fighting the #Kenyan Kuffar (infidels) inside their own turf."⁴⁰¹ Witnesses recounted how Al-Shabaab gunmen had told Muslims to leave and said non-Muslims would be targeted.⁴⁰² They also recounted the story of an Indian man, standing next to a gunman, who was asked for the name of the Prophet Muhammad's mother.⁴⁰³ When the man was unable to answer, he was shot dead.⁴⁰⁴

Sudan

Sudan has had a succession of military coups and brutal wars, interposed with sporadic legal and constitutional changes, often in response to Islamist pressure.⁴⁰⁵ Sharia law was first implemented in 1983 under Jafaar Numeiri's regime, after he sought Islamist support to avoid a coup attempt against him

396 PBS, *supra* note 394.

397 'Somali Executed for "Apostasy"', *BBC World News*, <http://news.bbc.co.uk/1/hi/world/africa/7833621.stm> (Jan. 16, 2009).

398 Id.

399 Id.

400 'Nairobi Attack: Kenya Forces Comb Westgate Site', *BBC World News*, <http://www.bbc.co.uk/news/world-africa-24216327> (Sep. 24, 2013).

401 Id.

402 'Somalia's Al-Shabab Claims Nairobi Westgate Kenya Attack', *BBC World News*, <http://www.bbc.co.uk/news/world-africa-24191606> (Sep. 22, 2013).

403 Id.

404 Id.

405 Id.

in 1971.⁴⁰⁶ The 1998 Constitution declared Sharia law as the source of the country's legislation.⁴⁰⁷

Currently, the 2005 Interim National Constitution of Sudan provides for freedom of religion throughout the entire country, although religious freedom faces high government and social restrictions in practice.⁴⁰⁸ However, this Interim Constitution enshrines Islamic law as a source of legislation in the country, and the official laws and policies of the government and the ruling National Congress Party favour Islam.⁴⁰⁹

Non-Muslims are forbidden to proselytise and for those in the North, section 126 of the Sudan Criminal Law 1991 makes apostasy from Islam a criminal offence punishable by death.⁴¹⁰ There is danger to apostates from vigilantes and mobs regardless of the legal process.⁴¹¹ Apostates face arrest, imprisonment and torture.⁴¹² Although there is no legal penalty for converting from another religion to Islam, converting from Islam to another religion or belief is punishable by imprisonment or death.⁴¹³ Persons convicted of conversion are given the opportunity to recant their conversion before execution.⁴¹⁴ The penalty for blasphemy and "defamation" of Islam is up to six months in prison, flogging and/or a fine.⁴¹⁵

There has also been a renewed focus on apostasy as a capital crime.⁴¹⁶ For example the last time Khartoum arrested and charged anyone with apostasy was in 1998, but between 2011-2012 the government arrested nearly 170 people under this charge.⁴¹⁷

406 Id.

407 Sookhdeo, *supra* note 100.

408 'Religious Freedom in Sudan', *Berkeley Center for Religion, PEace & World Affairs*, <http://berkeleycenter.georgetown.edu/essays/religious-freedom-in-sudan> (last visited Oct. 3, 2013).

409 *Sudan Constitution* article 5, section 1, available at <http://www.refworld.org/pdfid/4ba749762.pdf>.

410 Marshall & Shea, *supra* note 3.

411 Id.

412 Sookhdeo, *supra* note 100.

413 United States Commission on International Religious Freedom, 'USCIRF Annual Report 2012 - Countries of Particular Concern: Sudan', *Refworld*, <http://www.refworld.org/docid/4f71a672c.html> (Mar. 20, 2012).

414 Id.

415 Id.

416 Leonard A. Leo, Felice D. Gaer and Tiffany Lynch, 'Sudan's Continuing War on Religious Freedom', *World Affairs*, <http://www.worldaffairsjournal.org/article/sudans-continuing-war-religious-freedom> (last visited Oct. 3, 2013).

417 Id.

In July 2011, South Sudan became an independent country, six years after a peace agreement ended Khartoum's 20-year war to impose on the South its extremist interpretation of Islam.⁴¹⁸

Documented Cases of Apostasy/Blasphemy Charges Against Freethinkers

Nahla Mahmoud, a Sudanese secularist and co-spokesperson of the Council of Ex-Muslims of Britain, fled to Britain in 2010.⁴¹⁹ In January 2013, an interview on British Channel 4 featuring her as an ex-Muslim and a secularist, opposing Sharia law, triggered a mainstream debate within the Sudanese diaspora.⁴²⁰ She was threatened with death for being a "murtada" and "kafira".⁴²¹ In August 2013, the Council of Ex-Muslims started a campaign insisting that the police take action to protect Nahla from threats.⁴²²

In November 2007, British teacher Gilian Gibons was arrested on blasphemy charges, after her classroom of seven-year old students named their classroom teddy bear, Mohammad.⁴²³ She was held in detention for a week before being offered a full pardon by President Omar al-Bashir.⁴²⁴

In 1985, Mahmoud Mahammad Taha, an Islamic scholar, was condemned to death as an apostate and executed for his efforts to reform Islam and reinterpret the Quran with a liberal approach.⁴²⁵ In April 1985, the Numeiri regime under which Taha was executed, was overthrown by popular uprising.⁴²⁶ Later that year, under a new transitional government, Taha's daughter, Asma Taha, together with one of the four men convicted alongside her father, initiated a constitutional suit to nullify the trial and execution.⁴²⁷ In November 1986, the

418 Id.

419 'No God, Not Even Allah', *The Economist*, <http://www.economist.com/news/international/21567059-ex-muslim-atheists-are-becoming-more-outspoken-tolerance-still-rare-no-god-not> (Nov. 24, 2012).

420 Nahla Mahmoud, 'Here is Why Sharia Law Has No Place in Britain or Elsewhere', *National Secular Society*, <http://www.secularism.org.uk/blog/2013/02/here-is-why-sharia-law-has-no-place-in-britain-or-elsewhere> (Feb. 6, 2013).

421 Press Release, 'Update on the Threat Against Nahla Mahmoud', *Council of Ex-Muslims of Britain*, <http://ex-muslim.org.uk/2013/09/update-on-the-threat-against-nahla-mahmoud/> (Sep. 4, 2013).

422 Press Release, 'Protect Nahla Mahmoud', *Council of Ex-Muslims of Britain*, <http://ex-muslim.org.uk/2013/09/protect-nahla-mahmoud/> (Sep. 2 2013).

423 Blasphemy Laws Exposed, *supra* note 13.

424 Id.

425 Id.

426 Id.

427 Id.

Supreme Court sided with Taha and ruled that her father's trial and execution were null and void,⁴²⁸ a small legal victory for the price of his life.

Syria

While not declaring Islam the official religion of the state, article 3 of the Syrian Constitution states that "the religion of the President of the Republic has to be Islam (and) Islamic jurisprudence is a main source of legislation."⁴²⁹ The government does not recognise the religious status of Muslims who convert to other religions.⁴³⁰

In the context of the current civil war, government security services monitor all groups, religious and nonreligious.⁴³¹

Documented Cases of Apostasy/Blasphemy Charges Against Freethinkers

In June 2013, Islamists executed 15-year-old Muhammed Qatta in the northern province of Aleppo for blasphemy. He was reportedly shot dead in front of a crowd of onlookers, including his parents, for naming the Prophet Mohammed during an argument.⁴³² They targeted the boy because he had said he wouldn't give out coffee on credit "even if (Mohammad) comes back to life."⁴³³ The saying—or at least a variation of it—is a common phrase used by Syrians.⁴³⁴

428 Id.

429 Fox, *supra* note 89.

430 Id.

431 Id.

432 Umberto Bacchi, 'Syria Civil War: Aleppo Rebels Execute Teenager Muhammad Qatta for Blasphemy', *International Business Times*, <http://www.ibtimes.co.uk/articles/476670/20130610/syria-boy-executed-rebels-blasphemy-aleppo.htm> (June 10, 2013).

433 Id.

434 Hannah Strange, '15-year-old Boy Executed for Blasphemy by Syria Jihadists', *The Telegraph*, <http://www.telegraph.co.uk/news/worldnews/middleeast/syria/10111687/15-year-old-boy-executed-for-blasphemy-by-Syria-jihadists.html> (June 10, 2013).

Tunisia

The 1959 Constitution stated that Islam is the official religion and the state seeks to “remain faithful to the teachings of Islam”.⁴³⁵ Since the Arab Spring, there have been efforts to create a new Constitution.⁴³⁶ Islamists attempted to insert a clause against blasphemy in the new Constitution.⁴³⁷ The controversial clause, Article 3, stated, “The state guarantees freedom of religious belief and practice and criminalises all attacks on that which is sacred”.⁴³⁸ The clause was later dropped from the final text, after stoking fears of creeping Islamisation.⁴³⁹

In August 2012, Tunisia’s ruling party Ennahdha filed an anti-blasphemy bill that would criminalise “curses, insults, mockery, and desecration” of Allah, the prophets, the three Abrahamic books, the Sunnah, churches, synagogues and the Kaaba.⁴⁴⁰ The bill also forbids pictorial representation of God and the Prophet Muhammad.⁴⁴¹

Despite a fluctuating attitude within the Tunisian government towards criminalizing blasphemy, there has been an increase in prosecution and censorship of blasphemy speech.⁴⁴²

Article 121 (3) of the Tunisian Penal Code states that the “distribution, putting up for sale, public display, or possession, with the intent to distribute, sell, display for the purpose of propaganda, tracts, bulletins, and fliers, whether of foreign origin or not, that are liable to cause harm to the public order or public morals is prohibited”.⁴⁴³ The telecommunications code criminalizes “harming others or disrupting their lives through public communication networks”.⁴⁴⁴ Speech

435 ‘International Religious Freedom Report 2012: Tunisia’, *US Dep’t of State*, <http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?year=2012&dld=208414> (last visited Oct. 3, 2013) (hereinafter Tunisia Report 2012).

436 ‘The Role of Islamic Law in Tunisia’s Constitution’, *Library of Congress*, <http://www.loc.gov/law/help/tunisia.php> (June 3, 2013).

437 ‘Tunisia Plans to Outlaw Blasphemy Dropped’, *The Telegraph*, <http://www.telegraph.co.uk/news/worldnews/africaandindianocean/tunisia/9605965/Tunisia-plans-to-outlaw-blasphemy-dropped.html> (Oct. 12, 2012).

438 *Id.*

439 *Id.*

440 IHEU, *Freedom of Thought 2012*, at 45, <http://iheu.org/files/IHEU%20Freedom%20of%20Thought%202012.pdf> (2012).

441 *Id.*

442 *Id.*

443 *Id.*

444 Tunisia Report 2012, *supra* note 435.

that is deemed offensive to traditional religious values includes speech that is deemed blasphemous, and is therefore prosecuted under these provisions.⁴⁴⁵

In August 2013, work on the new Constitution and electoral law was suspended after Mohammad Brahmi, one of the members of the constituent assembly, was assassinated on July 25—almost six months after fellow leftist politician Chokri Belaid was killed.⁴⁴⁶

Documented Cases of Apostasy/Blasphemy Charges Against Freethinkers

In September 2013, Tunisia's Islamist-led government announced it had ordered a probe and contacted Interpol after a young Tunisian living abroad posted a photo of himself on the Internet, trampling on the Quran.⁴⁴⁷ The interior ministry said a preliminary inquiry had found that the photo, published on social networking sites, was taken "by a young Tunisian under 20 years old living in a European country".

In July 2013, defamation and other charges against atheist Amina Sboui were dropped.⁴⁴⁸ She first came to public attention after her topless activism against religious morality.⁴⁴⁹ Three activists, who staged a topless protest in support of Sboui during her imprisonment, were also arrested in May 2013 by Tunisian officials.⁴⁵⁰ During their staged protest, members of the crowd attacked journalists who were attempting to cover the event as well as lawyers who tried to protect the reporters.⁴⁵¹

In March 2012, two atheists, Jabeur Mejri and Ghazi Beji, were each sentenced to seven-and-a-half years imprisonment and a fine for posting images on Facebook which were deemed blasphemous.⁴⁵² Mejri, and Beji were put on trial

445 Id.

446 'Tunisia Constituent Assembly Suspended Pending Talks', *BBC World News*, <http://www.bbc.co.uk/news/world-africa-23596640> (Aug. 6, 2013).

447 'Tunisia Orders Probe into Photo of Youth Trampling Koran', *Yahoo! News (AFP)*, <http://news.yahoo.com/tunisia-orders-probe-photo-youth-trampling-koran-184104690.html> (Sep. 26, 2013).

448 'Tunisia Orders Release of FEMEN Activist Amina Sboui', *France 24*, <http://www.france24.com/en/20130801-tunisia-orders-release-femen-activist-amina-sboui> (Aug. 8, 2013).

449 Id.

450 'Foreign Activists Arrested for Topless Protest in Tunisia', *France 24*, <http://www.france24.com/en/20130529-french-german-activists-femen-arrested-topless-protest-tunisia> (May 29, 2013).

451 Id.

452 Asma Ghribi, 'Mahdia Blasphemy Case: Convicted Fugitive Speaks', *Tunisia Live*, <http://www.tunisia-live.net/2012/04/05/mahdia-blasphemy-case-convicted-fugitive-speaks/> (Apr. 5, 2012).

following a complaint lodged by a group of residents in Mahdia.⁴⁵³ Mejri and Beji were convicted under Article 121 (3) of the Tunisian Penal Code.⁴⁵⁴ Romania granted asylum to El-Beji after he fled the country.⁴⁵⁵ An appellate court upheld Mejri's conviction and he remains in prison.⁴⁵⁶ Jabeur's only recourse at this stage is a presidential pardon.⁴⁵⁷

In August 2012, journalist Sofiene Chourabi was arrested after calling for a protest against the blasphemy law.⁴⁵⁸ He was charged with "disturbing public morality" and of "drinking alcohol."⁴⁵⁹ Chourabi describes fearing for his life as people called for his hanging.⁴⁶⁰

In October 2011, approximately 100 extremists attacked Nabil Karoui (head of TV station Nessma) for airing *Persepolis*, an animated film about the 1979 Iranian Revolution in which God is depicted as a bearded old man.⁴⁶¹ Twenty (20) protestors forced their way into Karoui's home, armed with knives and Molotov cocktails.⁴⁶² The broadcast of the film provoked demonstrations which took part in other areas of the city, with Islamists turning violent and attempting to break into the offices of the Prime Minister in the Kasbah area of Tunis.⁴⁶³ Following an adjourned trial, Karoui was convicted for disrupting public order and violating moral values on May 3, 2012.⁴⁶⁴ He was ordered to pay a fine.⁴⁶⁵

In June 2011, six protestors were arrested after they broke down the glass doors of a movie theatre for screening *Neither Allah nor Master*, a film about secularism in Tunisia.⁴⁶⁶ Its atheist director, Tunisian Nadia El-Fani, is currently

453 Id.

454 Id.

455 Tunisia Report 2012, *supra* note 435.

456 Id.

457 'Release Blogger Jabeur Mejri, a Prisoner of Conscience', *Amnesty International*, <http://www.amnesty.ie/content/release-blogger-jabeur-mejri-prisoner-conscience> (last visited Oct. 3, 2013).

458 'Charged Tunisian Journalist Sofiane Chourabi Describes Fears for His Life', *EuroNews*, <http://www.euronews.com/2012/09/18/charged-tunisian-journalist-sofiane-chourabi-describes-fears-for-his-life/> (Sep. 18, 2012).

459 Id.

460 Id.

461 Blasphemy Laws Exposed, *supra* note 13.

462 Id.

463 Id.

464 'Tunisia: Persepolis Trial Spotlights Attacks on Freedom of Expression', *Amnesty International*, <http://www.amnesty.org/en/news/tunisia-2012-04-18> (Apr. 18, 2012).

465 Id.

466 Blasphemy Laws Exposed, *supra* note 13.

in exile.⁴⁶⁷ She has been the subject of death threats and could face charges of blasphemy if she returns to her home in Tunisia.⁴⁶⁸

Turkey

The Constitution claims to protect freedom of religion or belief, guaranteeing equal protection before the law and lists secularism as a fundamental characteristic.⁴⁶⁹ Article 24 of the Constitution forbids the state to be established on religious principles.⁴⁷⁰ Turkey's Prime Minister Recep Tayyip Erdogan's Islamist agenda has, however, created tensions.⁴⁷¹

Turkey's century-old secular ideals allow criticism of religious beliefs not possible elsewhere in the region, but one of the country's peculiarities is that the state's defence of nationalism can include Islam within its scope. For example, in 2005, Article 301 of the penal code was passed, which made it a crime to publicly denigrate "Turkishness", a provision amended in 2008 to refer instead to the "Turkish nation".⁴⁷² This law includes a religious dimension as Islam is considered integral to the nation's identity.⁴⁷³ Article 216 also provides sentences of one to three years for openly inciting enmity or hatred towards another person based on religion; and six months to a year for openly denigrating religious values.⁴⁷⁴

Documented Cases of Apostasy/Blasphemy Charges Against Freethinkers

In October 2012, Fazil Say, an atheist and world-renowned classical and jazz pianist, went on trial for denigrating Islam in a series of tweets earlier in the year.⁴⁷⁵ In one message, he re-tweeted a verse from a poem by Omar Khayyam,

467 'Having Lunch During Ramadan – A Controversial Film from Tunisia', *BBC World News*, <http://www.bbc.co.uk/news/world-africa-17679753> (Apr. 11, 2012).

468 Id.

469 *Turkish Constitution* articles 2, 5, available at http://global.tbmm.gov.tr/docs/constitution_en.pdf.

470 Marshall & Shea, *supra* note 2.

471 Barney Henderson, 'Turkey's Protestors Accuse Recep Tayyip Erdogan of Islamic Agenda', *The Telegraph*, <http://www.telegraph.co.uk/news/worldnews/europe/turkey/10093453/Turkeys-protesters-accuse-Recep-Tayyip-Erdogan-of-Islamist-agenda.html> (June 1, 2013).

472 Id.

473 Id.

474 Id.

475 Constanze Letsch, 'Turkish Composer and Pianist Convicted of Blasphemy on Twitter', *The Guardian*, <http://www.guardian.co.uk/world/2013/apr/15/turkish-composer-fazil-say-convicted-blasphemhy> (Apr. 16, 2013).

regarding pious hypocrisy.⁴⁷⁶ He received a suspended ten month sentence; he will have to serve the term if he commits a similar offence within the subsequent five years.⁴⁷⁷

In December 2011, a prosecutor filed a suit against a man who allegedly “ridiculed Muslim prayer rituals and the Islamic belief that the universe was created by God” on a comment forum website.⁴⁷⁸ One and a half years imprisonment was sought.⁴⁷⁹

In May 2009, Nedim Gursel was arrested for a description of the prophet Muhammad and his family, in the book, *Allah’s Daughters*.⁴⁸⁰ He was charged under Article 216 for “humiliating religious values and inciting hatred”,⁴⁸¹ despite emphasizing that his book was fictitious and did not mean to insult Islam.⁴⁸² He was acquitted on June 25, 2009 after it became apparent the prosecutors had no evidence of incitement of hatred.⁴⁸³

1,189 people were taken to court in the first quarter of 2007 for violating Article 301 of the Turkish Penal Code, including Nobel prize winning novelist Orhan Pamuk.⁴⁸⁴

In 2005, Hrant Dink, editor-in-chief of the weekly *Agos*, was convicted under Article 301 of the Turkish Penal Code for insulting Turkish identity, by referring to the 1915 mass slaughter of Armenians as “genocide”.⁴⁸⁵ He was shot and killed in January 2007 outside his Istanbul office.⁴⁸⁶ When questioning the suspect, who shouted immediately after shooting Dink, “I shot the non-Muslim”, he seems to have deemed Hrant Dink’s alleged insult to nationalism as an insult to Islam.⁴⁸⁷

476 Id.

477 Id.

478 Blasphemy Laws Exposed, *supra* note 13.

479 Id.

480 AHA 2012 Report, *supra* note.

481 ‘Gürsel Trial to Continue Against Prosecutor’s Advice’, *PEN*, <http://www.pen.org/rapid-action/2009/05/14/g%C3%BCrsel-trial-continue-against-prosecutors-advice-0> (May 14, 2009).

482 Marshall & Shea, *supra* note 3.

483 Id.

484 UK Border Agency, ‘Country of Origin Information Report: Turkey’, *Refworld*, <http://www.refworld.org/pdfid/49c366252.pdf> (Mar. 13 2009).

485 Id.

486 Id.

487 Id.

United Arab Emirates (UAE)

The Emirati Constitution states that Islam is the official state religion but also provides for freedom of religion in accordance with established customs.⁴⁸⁸ The law denies Muslims the freedom to change religion, and while it permits Muslims to proselytise, it prohibits efforts to convert Muslims.⁴⁸⁹

The judicial system applies Sharia law in relation to family law matters, and on rare occasion, for criminal matters.⁴⁹⁰ Courts apply civil law for all other matters, which is based on the French and Egyptian legal systems.⁴⁹¹

The government prohibits the distribution of non-Islamic religious literature, as well as blasphemy, swearing, profanities, insults, and all types of vulgar language and behaviour; all are all considered offences subject to penalties of criminal prosecution, fines, imprisonment, and deportation.⁴⁹²

Additionally, there are penalties for using the Internet to preach against Islam, proselytize Muslims, “abuse” a holy shrine or ritual of any religion, insult any religion, and incite someone to commit sin or contravene “family values.”⁴⁹³

Leaving Islam is punishable by death.⁴⁹⁴

Documented Cases of Apostasy/Blasphemy Charges Against Freethinkers

In 2012, a French businessman was arrested after allegedly defacing the Quran by spitting on it before he assaulted and threatened to kill a British Muslim convert when she refused to marry him.⁴⁹⁵ The Frenchman was accused of insulting Islam and all its prophets and throwing the Book of Hadiths on the

488 ‘International Religious Freedom Report 2012: Turkey’, *US Dep’t of State*, <http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?year=2012&dliid=208416> (last visited Oct. 3, 2013) (hereinafter Turkey Report 2012).

489 *Id.*

490 *Id.*

491 *Id.*

492 *Id.*

493 *Id.*

494 Turkey Report 2012, *supra* note 501.

495 Bassam Za’Za, ‘Businessman Accused of Defacing Quran, Insulting Islam’, *Gulf News*, <http://gulfnews.com/news/gulf/uae/crime/businessman-accused-of-defacing-quran-insulting-islam-1.1080653> (Sep. 24, 2012).

ground.⁴⁹⁶ He was sentenced to two years in prison, following his deportation from the UAE.⁴⁹⁷

In April 2008, three Filipino workers were jailed for allegedly ripping a page out of the Quran and scribbling on it.⁴⁹⁸ The allegation arose during a dispute between the workers and their employer.⁴⁹⁹ The three were not formally charged.⁵⁰⁰

Yemen

The Yemeni Constitution declares Islam as the state religion and Sharia law as the source of all legislation.⁵⁰¹ Article 103 of the 1990 Press and Publications Law prescribes fines and up to a year imprisonment for publication of anything that “prejudices the Islamic faith”.⁵⁰²

Once the cultural and economic centre of the Arabian Peninsula, Yemen represented a melting pot of diverse religious traditions until fairly recently.⁵⁰³ Today, the Yemeni government prohibits proselytizing directed at Muslims and denounces converting from Islam, considered apostasy, as a capital offence.⁵⁰⁴ The law allows those charged with apostasy three days to repent, which would absolve them from the death penalty.⁵⁰⁵

There have been documented reports of Al-Qaeda in the Arabian Peninsula occupying cities and imposing strict Sharia law, including forcing all residents to

496 Id.

497 Bassam Za'Za, 'Frenchman Sentenced to Two Years in Dubai Jail for Spitting on Quran, Assaulting Woman', *Gulf News*, <http://m.gulfnews.com/news/uae/crime/frenchman-sentenced-to-two-years-in-dubai-jail-for-spitting-on-quran-assaulting-woman-1.1109804> (Nov. 25, 2012).

498 Agence France-Presse, 'Three Filipinos Face Blasphemy Raps in UAE', *ABS-CBN News*, <http://www.abs-cbnnews.com/pinoy-migration/04/20/08/report-three-filipinos-face-blasphemy-raps-uae> (Apr. 20, 2008).

499 Id.

500 Id.

501 'International Religious Freedom Report 2012: Yemen', *US Dep't of State*, <http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm?year=2012&dld=208420> (last visited Oct. 3, 2013) (hereinafter Yemen Report 2012).

502 Id.

503 'Yemen', *Berkeley Center for Religion, World Peace & World Affairs*, <http://berkeleycenter.georgetown.edu/resources/countries/yemen> (last visited Oct. 3, 2013).

504 Id.

505 Id.

pray five times a day, harassment, floggings and various forms of murder.⁵⁰⁶ The government regained control of the cities in Abyan, however terrorist attacks still continue periodically.⁵⁰⁷

Documented Cases of Apostasy/Blasphemy Charges Against Freethinkers

Under pressure from local Islamist leaders, the government brought charges against Samir al-Yusufi, editor of the weekly *Al-Thaqafiya*, Yemen's foremost cultural magazine.⁵⁰⁸ The paper had serialized an allegedly blasphemous novel.⁵⁰⁹ In July, al-Yusufi went on trial for apostasy, a crime punishable by death, but was later acquitted.⁵¹⁰

506 Id.

507 Id.

508 'Attacks on the Press 2000: Yemen', *Committee to Protect Journalists*, <http://cpj.org/2001/03/attacks-on-the-press-2000-yemen.php> (last visited Oct. 3, 2013).

509 Max Rodenbeck, 'Witch Hunt in Egypt', *NY Books*, <http://www.nybooks.com/articles/archives/2000/nov/16/witch-hunt-in-egypt> (Nov. 16, 2000).

510 Id.

Appendix: Punishments for Apostasy and Blasphemy by Country

Country	Punishment for Apostasy	Punishment for Blasphemy
Afghanistan	Death (by adherence to Sharia law).	Death (by adherence to Sharia law).
Algeria	Not a criminal offence. Death (by adherence to Sharia law).	5 years of imprisonment and a fine of 50,000 to 100,000 dinars (US \$680 to US \$1,360).
Bahrain	Death (by adherence to Sharia law).	Death (by adherence to Sharia law).
Bangladesh	Death (by adherence to Sharia law).	Not a criminal offence. Death (by adherence to Sharia law).
Brunei	Death (by adherence to Sharia law).	1 month imprisonment, or a fine of \$8,000
Comoros	Death (by adherence to Sharia law).	Death (by adherence to Sharia law)
Egypt	Not forbidden by state. Death (by adherence to Sharia law).	Between six months to five years imprisonment, and/or a fine.
Indonesia	Death (by adherence to Sharia law).	5 years imprisonment.
Iran	Death (by adherence to Sharia law, Penal Code).	Treated as apostasy. Death (by adherence to Sharia law, Penal Code).
Iraq	Death (by adherence to Sharia law).	Imprisonment or death (by adherence to Sharia law).
Jordan	Not a criminal offence – legal rights stripped. Death (by adherence to Sharia law).	Up to 3 years imprisonment.
Kuwait	Death (by adherence to Sharia law).	Up to 7 years imprisonment and/or fines (up to KD 200,000 [USD \$720,000]).

Libya	Legal status currently unknown (interim government). Death (by adherence to Sharia law).	Death (by adherence to Sharia law).
Malaysia	Up to 5 years imprisonment, and/or death (by adherence to Sharia law, regional and federal law).	Up to 3 years imprisonment, and/or fines (USD \$1,000).
Maldives	Death (by adherence to Sharia law, Penal Code [pending]).	Denial of citizenship, revocation of citizenship.
Mauritania	Forced repentance, followed by death (by adherence to Sharia law, Penal Code). Confiscation of property.	6 months to 3 years imprisonment and/or fines.
Morocco	Death (by adherence to Sharia law).	Imprisonment and/or fines.
Nigeria	Death (by regional adherence to Sharia law).	Death (by regional adherence to Sharia law).
Oman	Not a criminal offence. Stripped of familial status and rights. Death (by adherence to Sharia law).	Imprisonment and/or fines.
Pakistan	Death (by adherence to Sharia law).	Life imprisonment and/or fines, death (by adherence to Sharia law, Penal Code).
Qatar	Death (by adherence to Sharia law).	Up to 7 years imprisonment and fines.
Saudi Arabia	Death (by adherence to Sharia law).	Life imprisonment and/or fines, death (by adherence to Sharia law).
Somalia	Death (by adherence to Sharia law).	Up to 2 year imprisonment (Penal Code)
Sudan	Imprisonment or death (by adherence to Sharia law).	Up to 6 months imprisonment, flogging and/or a fine.

Syria	Stripped of legal status. Death (by adherence to Sharia law).	Death (by adherence to Sharia law).
Tunisia	Legal status currently unknown (interim government). Death (by adherence to Sharia law).	Life imprisonment and/or fines, death (by adherence to Sharia law).
Turkey	Not a criminal offence.	6 months to 3 years imprisonment.
United Arab Emirates (UAE)	Death (by adherence to Sharia law, Penal Code).	Criminal prosecution, fines, imprisonment, and/or deportation.
Yemen	Forced repentance, followed by death (by adherence to Sharia law, Penal Code).	Up to 1 year imprisonment and fines.

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