

The Dynamics of the Legal Construction of Blasphemy in Indonesia and Singapore

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Abstract

The legal regulation of blasphemy has followed markedly uneven trajectories across jurisdictions. The United Nations and the international human rights movement have criticized the persistence of blasphemy norms, and many states have removed such prohibitions from their criminal codes; Indonesia and Singapore, however, continue to regulate blasphemy and related intolerant conduct. This study addresses two questions: how freedom of religion is protected under international law and within the legal systems of Indonesia and Singapore, and how blasphemy is legally constructed in the two jurisdictions. It adopts a normative juridical method combining statutory, conceptual, and comparative approaches. At the international level, religious freedom is enshrined in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. Both Indonesia and Singapore recognize and guarantee freedom of religion, although Singapore presents itself constitutionally as a secular state. Indonesia maintains comprehensive and strict prohibitions on blasphemy, whereas Singapore does not prohibit blasphemy as such but regulates religion in the interest of social order and national security. Singapore's criminal sanctions are less severe than Indonesia's, and Singapore allows conviction records to be rendered spent. Indonesia, by contrast, treats blasphemy as a serious offense and provides for it in numerous legal instruments carrying severe criminal penalties. The comparison demonstrates that the two states adopt structurally different models of legal protection: Indonesia frames blasphemy as an offense against the sanctity of religion itself, whereas Singapore frames comparable conduct as a threat to public order and inter-group harmony rather than to religion as such. This distinction, rather than the severity of criminal sanctions alone, explains the divergent trajectories of legal reform in the two jurisdictions.

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Introduction

The protection and regulation of religious expression has become a pressing international issue, because it requires balancing freedom of religion against respect for the beliefs of others. In almost every country, and particularly where religious and cultural pluralism is pronounced, difficulties arise in defining the boundary between criticism, differences of interpretation, and acts regarded as insulting to religion. The most contested legislation in this field is the law of blasphemy. In the absence of an internationally accepted definition, blasphemy law remains open to interpretation shaped by cultural, political, and legal contexts. Since the late 1990s, several states—Pakistan, for instance, acting through the Organisation of Islamic Cooperation (OIC)—have argued that blasphemy should be brought within the framework of international law in order to combat discrimination, hatred, and religiously motivated violence. Its application, however, remains uneven and often inconsistent with human rights standards.¹

Internationally, approximately 71 countries—roughly 37 percent of all states—still retain blasphemy laws on their statute books, and these laws are frequently applied in ways that generate serious problems. Cekli Setya Pratiwi and Sidik Sunaryo observe that, over the past three decades, blasphemy laws have consistently attracted international attention, particularly in Muslim-majority countries such as Pakistan, Malaysia, and Indonesia. Prosecutions under these laws are often accompanied by violence, intimidation, stigmatization as heresy, forced displacement, and the destruction of places of worship, as well as by severe punishments or extrajudicial killings. Such laws tend to inflame social tension by provoking horizontal conflict and by operating as instruments of pressure against minority groups.²

In multi-religious and multicultural societies, the risk of conflict is heightened because diversity of belief and interpretation is often perceived as a threat to other religions. Blasphemy laws are frequently invoked to restrict expression regarded as offensive to religious symbols, teachings, or figures, even though such judgments are highly subjective. The international community and human rights organizations have widely criticized these laws for obstructing freedom of expression and freedom of religion.³ Blasphemy laws are also commonly used to suppress political opposition, marginalize minority views, and entrench the dominance of majority religions. Iceland, Norway, Sweden, France, the Netherlands, Denmark, Malta, Australia at the federal level, Canada,

¹ Heather Marshall, “‘We Don’t Have Blasphemy Laws in England.’ What Does This Mean for RE?,” *Journal of Religious Education* 72, no. 1 (2024): 109–28.

² Joelle Fiss and Jocelyn Getgen Kestenbaum, *Respecting Rights? Measuring the World’s Blasphemy Laws* (Washington, DC: United States Commission on International Religious Freedom, 2017).

³ Fira Mubayyinah, Febri Handayani, and Moh. Agus Sifa, “Legal Pluralism, Epistemic Tensions, and the Reformulation of the Adultery Offense in Indonesia’s New Penal Code,” *Volksgeist: Jurnal Ilmu Hukum dan Konstitusi* 8, no. 2 (December 17, 2025): 573–94, <https://doi.org/10.24090/volksgeist.v8i2.14957>; Herlambang Perdana Wiratraman, “Indonesia’s Press Freedom and Law at Twenty-Five: Achievements, Legal Changes and Continuing Challenges,” *Jurnal IUS Kajian Hukum dan Keadilan* 13, no. 2 (July 2025): 290–308, <https://doi.org/10.29303/ius.v13i2.1761>.

and New Zealand have repealed or amended their blasphemy provisions. Most other states, however, continue to retain such provisions in their criminal codes, constitutions, or sectoral legislation.⁴

Penalties for blasphemy also vary widely across jurisdictions, ranging from imprisonment and fines to the death penalty. At least thirteen states still retain capital punishment as a mandatory sanction for blasphemy or apostasy.⁵ In Nigeria, for example, a musician was sentenced to death by hanging in 2020 for allegedly defaming the Prophet Muhammad. Jurisdictions such as Pakistan, Iran, and Saudi Arabia maintain particularly severe regimes that consistently attract international criticism for the harshness of their punishments. In Malaysia, blasphemy is addressed under Chapter XV of the Penal Code, Sections 295 to 298A, which provide for imprisonment of up to three years or a fine of up to RM1,000. Although Malaysia has no dedicated hate speech statute, elements of hate speech are addressed within its sedition legislation.

Indonesia and Singapore are instructive examples of Southeast Asian states that continue to regulate blasphemy, but do so through markedly different approaches. Indonesia addresses blasphemy in the Penal Code and in various sectoral statutes. Article 156 of the Penal Code prohibits the public expression of hatred or contempt toward groups within society, while Article 156a criminalizes hostility, abuse, or defamation directed at a religion adhered to in Indonesia, including incitement to renounce religion. Instruments such as Presidential Decree No. 1/PNPS/1965, the Press Law, and the Electronic Information and Transactions Law further extend the reach of blasphemy provisions into public life and cyberspace.

Several blasphemy cases in Indonesia have attracted extensive public attention. These include Basuki Tjahaja Purnama (Ahok), convicted on the basis of remarks concerning Surah Al-Maidah verse 51; Rusgiani in Bali, sentenced to fourteen months for insulting Hinduism; Sebastian Joe, convicted of blasphemy committed online; Tajul Muluk, whose trial resulted in the violence in Sampang; Antonius Richmond Bawengan, convicted of insulting Islam and Catholicism; Lia Eden, the leader of a religious sect; and Arswendo Atmowiloto, convicted over comments considered offensive to the Prophet Muhammad. These cases illustrate the extent to which the enforcement of Indonesian blasphemy law is accompanied by social, political, and religious pressure.⁶

Singapore maintains a strict separation between religion and politics while guaranteeing freedom of worship. Stability is secured through the Penal Code and the Maintenance of Religious Harmony Act 1990. The Act promotes harmony among different faiths, prevents the intrusion of religion into politics, and sustains tolerance within a multicultural society. It seeks to ensure that religious leaders conduct themselves in a manner consistent with the national interest and with social cohesion. The Singaporean

⁴ Bagir Manan, Ali Abdurahman, and Mei Susanto, "Pembangunan Hukum Nasional yang Religius: Konsepsi dan Tantangan dalam Negara Berdasarkan Pancasila," *Jurnal Bina Mulia Hukum* 5, no. 2 (2021): 176–95.

⁵ Faiq Tobroni et al., "The End of Blasphemy Crimes in Indonesia: Shifts in Human Rights Limitations and MUI's Fatwa Authority," *LITIGASI* 26, no. 2 (October 2025), <https://doi.org/10.23969/litigasi.v26i2.31471>.

⁶ Kadek Wiwik Indrayanti and Anak Agung Ayu Nanda Saraswati, "Criminalizing and Penalizing Blasphemy: The Need to Adopt a Human Rights Approach in the Reform of Indonesia's Blasphemy Law," *Cogent Social Sciences* 8, no. 1 (2022): 2104704.

experience illustrates a secular model designed to prevent religion from becoming a source of conflict without restricting citizens' freedom of belief.⁷

Blasphemy laws thus remain at the center of the controversy between the protection of religious belief and the protection of freedom of expression. On the one hand, some segments of society regard such legislation as indispensable to the preservation of social order and public morality. On the other hand, others contend that these laws are prone to exploitation as instruments of repression, that they facilitate human rights violations, and that they obstruct interfaith dialogue. The enduring challenge is to develop a legal framework that upholds the dignity of religion without compromising civil rights, and whose enforcement is neither discriminatory nor conducive to intolerance and violence.

Despite growing scholarly attention to blasphemy regulation in Southeast Asia, existing studies have largely treated Indonesia and Singapore as discrete cases rather than as the subject of a structured comparison. Indrayanti and Saraswati criticize the criminalization of blasphemy in Indonesia and call for a human-rights-based reform of the relevant provisions, but they do not extend that critique into a comparative frame capable of accounting for jurisdictions, such as Singapore, that regulate comparable conduct without a discrete blasphemy offense. Comparative work such as that of Chao examines how Singapore, Indonesia, and Myanmar respond to insults to religion through the lens of shared "Asian values," yet this approach privileges cultural explanation over the structural difference in the object of legal protection—religious sanctity in one jurisdiction, social and racial order in the other. The existing literature has therefore not systematically clarified what, precisely, is being compared when Indonesian blasphemy law is placed alongside Singapore's overlapping regime of racial harmony, religious harmony, and public order provisions.

This study addresses that gap by identifying and comparing the underlying object of legal protection in each jurisdiction, rather than assuming a direct doctrinal equivalence between Indonesia's blasphemy offenses and Singapore's racial and religious harmony provisions. Its novelty lies in the timing and analytical focus of the comparison: it examines Indonesia's blasphemy-related provisions as reconstructed under the National Penal Code, which takes effect on 2 January 2026, alongside Singapore's most recent racial and religious harmony reforms, including the Maintenance of Racial Harmony Act 2025, passed on 4 February 2025. It treats the object of legal protection—rather than the severity of punishment—as the primary axis of comparison.

Problem Statement

This study proceeds from the fundamental question of how Indonesia and Singapore—two multicultural states with divergent historical, political, and constitutional experiences—shape, sustain, or reconstruct their blasphemy laws amid global pressure to accommodate freedom of religion and freedom of expression. Indonesia continues to maintain a range of legal instruments that treat blasphemy as a serious criminal offense, notwithstanding the reformulations introduced by the National Penal Code and by

⁷ Mudzakkir, *Kajian terhadap Praktik Penegakan Hukum dan Prospek Pengaturannya dalam Hukum Positif Indonesia* (Jakarta: Kementerian Hukum dan Hak Asasi Manusia Republik Indonesia, 2012), 12–13.

sectoral legislation. Singapore, by contrast, does not criminalize blasphemy as such, but regulates religion through measures directed at social harmony and national security, principally by means of racial harmony and information technology legislation. The absence of a settled definition of “blasphemy,” the divergence of regulatory objectives, and the evolution of legal standards—from the removal of the blasphemy provision in Indonesia’s National Penal Code to the availability of criminal record expungement and strengthened restorative measures in Singapore—raise questions about the effectiveness, equity, and direction of the legal protection of religion and religious freedom in both countries.

Building on the foregoing, this study is guided by two research questions. First, how is freedom of religion protected under international human rights law, and how has this protection been incorporated into the domestic legal systems of Indonesia and Singapore? Second, how is blasphemy, or its functional equivalent, legally constructed in Indonesia and Singapore, and what does this construction reveal about the differing objects of legal protection in the two jurisdictions?

Methods

This study of the dynamics of the legal construction of blasphemy in Indonesia and Singapore is normative juridical research that traces the historical evolution of blasphemy regulation. It employs statutory, conceptual, and comparative approaches, with Indonesian and Singaporean law as the principal objects of comparison. These two jurisdictions were selected because they share Asian cultural roots while differing in their models of statehood: Indonesia is founded on belief in God, whereas Singapore is founded on secularism. In Indonesia, the prohibition of blasphemy is directed at preserving the sanctity of religion; in Singapore, comparable prohibitions are directed at preserving public order and social stability. Legal materials—including statutes, judicial decisions, and secondary legal literature—were collected through library-based legal research and analyzed qualitatively using the statutory, conceptual, and comparative approaches described above.

Protection of Freedom of Religion under International Law, Indonesia, and Singapore

Freedom of thought, conscience, and religion is a non-derogable right that remains in force even in situations of public emergency. As a non-derogable right, it is inalienable, and states are bound to respect it under the doctrine of the intangibility of human rights.⁸ Freedom of religion is guaranteed by Article 18 of the Universal Declaration of Human Rights (UDHR), adopted by the United Nations General Assembly on 10 December 1948 through Resolution 217 A (III).⁹ Freedom of religion and belief is also codified in other

⁸ Eko Hertanto, “Implikasi Reformulasi Delik Penodaan Agama dalam Undang-Undang Nomor 1 Tahun 2023 terhadap Pelaksanaan Fungsi Kejaksaan dalam Pengawasan Aliran Kepercayaan Keagamaan Masyarakat,” *The Prosecutor Law Review* 2, no. 3 (2024): 57–81.

⁹ Universal Declaration of Human Rights, G.A. Res. 217 A (III), U.N. Doc. A/810 (10 December 1948), art. 18: “Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.”

foundational human rights instruments, including the French Declaration of the Rights of Man and of the Citizen (1789), the United States Bill of Rights (1791), and the International Bill of Human Rights (1966).¹⁰

Freedom of religion comprises two core dimensions: inner belief (*forum internum*) and the external manifestation of belief in public life (*forum externum*). The freedom to hold a belief within the *forum internum* is absolute and may not be limited by law.¹¹ As a human right, freedom of religion is enshrined in a number of international legal instruments. Article 18 of the UDHR provides that “[e]veryone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.”

Within the generations of human rights, the right to freedom of religion is a civil right belonging to every individual. Article 18 of the International Covenant on Civil and Political Rights (ICCPR) reaffirms this protection:

1. *Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.*
2. *No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.*
3. *Freedom to manifest one’s religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others.*
4. *The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.*

Indonesia, with a population of more than 284 million and six state-recognized religions, the great majority of whose people are Muslim (87.2 percent), places religion at the center of social and cultural life. Religious freedom is guaranteed under the 1945 Constitution and the Human Rights Law. Singapore, by contrast, is a multicultural and multireligious state comprising Chinese, Malay, and Indian communities and Buddhist, Muslim, Christian, Hindu, and Taoist populations, and it sustains stability through a firm form of secularism. The experience of the racial riots during the period from 1964 to 1969 prompted the state to delimit the relationship between religion and politics through measures including the Maintenance of Religious Harmony Act and the establishment of the Presidential Council for Minority Rights. Singapore emphasizes tolerance, moderation, and the separation of religion from politics as a safeguard against conflict,

¹⁰ Mahmoud Masud, “Conceptual and Legal Harmonisation of Offensive Anti-Religious Speech: Reconciling the Jurisprudence of the European Court of Human Rights with the Approach of Muslim States for the Protection of Islamic Beliefs, and Muslim and Non-Muslim Minority Groups” (2023).

¹¹ Al Khanif, *Hukum dan Kebebasan Beragama di Indonesia* (Yogyakarta: LaksBang Mediatama, 2010), 110.

whereas Indonesia emphasizes the constitutional guarantee of religious belief and practice within a society in which religion is pervasive.¹²

Singapore consistently presents itself as a secular state in seeking to balance its religiously and ethnically diverse population.¹³ This position is articulated in the Constitution itself, in Article 15, which addresses freedom of religion. Article 15 of the Constitution of the Republic of Singapore provides as follows:

1. *Every person has the right to profess and practise his religion and to propagate it.*
2. *No person shall be compelled to pay any tax the proceeds of which are specially allocated in whole or in part for the purposes of a religion other than his own.*
3. *Every religious group has the right :*
 - (a) *to manage its own religious affairs;*
 - (b) *to establish and maintain institutions for religious or charitable purposes; and*
 - (c) *to acquire and own property and hold and administer it in accordance with law.*
4. *This Article does not authorise any act contrary to any general law relating to public order, public health or morality.*

Article 15 guarantees every person the right to profess, practice, and propagate religion, and guarantees religious groups the right to manage their own affairs, institutions, and property. Article 15(4) qualifies this freedom by withholding constitutional protection from any act contrary to general laws relating to public order, public health, or morality. Because Singapore is a secular state, religious affairs are not administered by a dedicated ministry but are governed through legal provisions and national security policy falling within the remit of the Ministry of Home Affairs and the Ministry of Culture, Community and Youth, together with bodies such as the Islamic Religious Council of Singapore (MUIS). Situating religion within the agendas of social harmony and national security, rather than treating it as a purely private matter, gives Singaporean secularism its distinctive character. Public law and state policy bind every citizen irrespective of religion or ethnicity, and law enforcement is presented as impartial. State neutrality was illustrated in a 2013 District Court decision upholding the claim of a woman against a Baptist church that had dismissed her for pregnancy outside marriage, and affirming that civil law prevails over religious norms in the resolution of disputes.¹⁴

Legal Construction of Blasphemy in Indonesia and Singapore

Blasphemy, desecration of religion, and religious insult are terms that have been used interchangeably, although they refer to essentially the same idea. Defamation of religion can generate social tension and result in physical violence. In order to safeguard religious

¹² Jean Lim, "Maintenance of Religious Harmony Bill," Singapore Infopedia (National Library Board), <https://www.nlb.gov.sg/main/article-detail?cmsuuiid=3edc3e5f-7333-4ae9-ba2d-7c355c4a1cee>.

¹³ Andrew Yu and Stephanie Kwan Nga Lam, "Decriminalising Homosexuality in Singapore: Political Responses from the Perspective of Secularism and Electoral Pragmatism," *The Round Table* 112, no. 2 (2023): 163–72.

¹⁴ Mohammad Alami Musa, "Singapore's Secularism and Its Pragmatic Approach to Religion," *Religions* 14, no. 2 (2023): 219.

sensitivities, speech that offends religion may be criminalized even in states where freedom of expression is constitutionally guaranteed.¹⁵ Any Rufaedah observes:

Uniquely in Indonesia, a democratic country with Muslims as the majority, a lenient critique expressed from minority to majority could be deemed as an insult or a blasphemy in which it might result in protests and collective action to punish the blasphemer. One such event happened during the political electoral campaigns (2016–2017) for the Jakarta governor. There were a series of Muslim protests during the 2017 Jakarta elections accusing the Chinese-Christian incumbent of having insulted Islam. At one point, a protest rally against the alleged blasphemy became violent.¹⁶

Blasphemy is a criminal offense with distinctive characteristics: it arises from acute religious conflict and encompasses acts, words, or symbols that offend the teachings, scriptures, individuals, or divine entities of a religion, and it therefore carries the threat of social unrest. In Indonesia—a plural society that remains vulnerable to intolerance, religiously motivated violence, and identity-based sensitivities—multiculturalism and pluralism have become essential to social cohesion and conflict prevention. Although Indonesians are generally regarded as religious and hospitable, the country continues to contend with rising radicalism and with acute sensitivity on matters touching religious or ethnic sentiment. To secure stability and safeguard religious interests, the state introduced criminal provisions on blasphemy in Presidential Decree No. 1/PNPS/1965 and in the Penal Code, framed as measures to guarantee national security and to prevent the misuse of religion. Scholars such as Wirjono Prodjodikoro have characterized blasphemy as a criminal offense against religious interests.¹⁷

The General Elucidation of Presidential Decree No. 1/PNPS/1965 on the Prevention of Abuse and/or Defamation of Religion sets out the socio-empirical background to its enactment. It records that various sects and mystical groups had emerged throughout Indonesia whose doctrines conflicted with established religious teaching and with the law. In their beliefs and practices, many had given rise to unlawful conduct, undermined national unity, and desecrated religion. The proliferation of sects and mystical groups misusing religion had by then reached a level considered highly detrimental to the existing religions. In juridical terms, defamation of religion belongs to the category of religious offenses already covered by the Penal Code.¹⁸ Indonesia is among the states that classify blasphemy within Book II of the Penal Code on Criminal Offenses. These provisions are intended to protect Indonesia, as a multi-religious, multi-ethnic, and multiracial state, from disruptive conduct, and in particular from confrontation between religious communities. Although the Penal Code does not regulate religious offenses as a

¹⁵ Musa, "Singapore's Secularism," 219.

¹⁶ Any Rufaedah, "Accounting for a Riot: Religious Identity, Denying One's Prejudice, and the Tool of Blasphemy," *Journal of Social and Political Psychology* (2021): 69–85.

¹⁷ Wirjono Prodjodikoro, *Asas-Asas Hukum Pidana Indonesia* (Bandung: Eresco, 1986), 6.

¹⁸ Ali Masyhar et al., "Reclaiming the Unwritten: Living Law's Prospects under Indonesia's 2023 Penal Reform," *Jambe Law Journal* 8, no. 1 (July 2025): 255–85, <https://doi.org/10.22437/home.v8i1.502>; Yusrizal Hasbi et al., "Criminalising Women, Silencing Victims: Human Rights and Sharia Enforcement in Aceh," *De Jure: Jurnal Hukum dan Syar'iah* 17, no. 1 (June 2025): 175–203, <https://doi.org/10.18860/j-fsh.v17i1.29635>.

distinct category, certain offenses may be described as religious offenses, namely offenses based on religion, offenses against religion, and offenses connected with religion.¹⁹

The Penal Code provisions on religious offenses that may be applied to blasphemy are Articles 156 and 156a, which fall within Book II, Chapter V, on Offenses Against Public Order. Classifying blasphemy among offenses that disturb public order reflects the view that such conduct is liable to infringe upon the public interest; in short, religious offenses are also treated as offenses against public order. Article 156a addresses offenses relating to religion and belief more specifically.²⁰

In both theory and practice, Article 156 of the Penal Code protects “groups of the population,” that is, individuals in their capacity as members of groups recognized under state law or as adherents of particular faiths. The object of protection is not material interest but the personal sense of dignity. Conduct that offends the dignity of members of a group is capable of causing distress to those members and therefore amounts to a disturbance of public order, particularly where the statement is made in public. Insults, expressions of hostility, or contempt directed at a religious group, if expressed publicly, are punishable under Article 156.²¹

Article 156 provides for imprisonment of up to four years or a fine for any person who publicly expresses feelings of hatred, hostility, or contempt toward groups of the population. The legal subject “whoever” denotes a natural person capable of criminal liability, since the Penal Code in its classical form recognizes only natural persons as subjects of criminal law. A defining element of the offense is that the expression must be made in public—that is, in a place accessible, audible, or visible to the public—because the risk materializes only when such statements enter the wider social sphere, an approach reflected in Constitutional Court decisions and subsequent case law. Police Circular No. SE/6/X/2015 defines hate speech as conduct that may be communicated orally, in writing, or through behavior, and that includes insult, defamation, slander, provocation, incitement, the dissemination of false information, and other conduct likely to encourage discrimination, violence, or social unrest. In Decision No. 71 K/Kr/1973, the Supreme Court construed the act of “expressing feelings of hostility, hatred, or contempt” by reference to the offense of insult under Chapter XVI of the Penal Code, which covers insult directed at individuals and at public officials, false imputation, and defamation of the deceased. The offense therefore cannot be construed so expansively as to encroach upon the legitimate exercise of freedom of expression.²²

Presidential Decree No. 1/PNPS/1965 introduced a new offense into the Penal Code as Article 156a, directed at insults against religions adhered to in Indonesia rather than merely at the disturbance of religious feelings or of public order. This article was subsequently given statutory force by law in 1969. Article 156a provides for

¹⁹ Muhammad Hatta, Zulfan, and Husni, “Kejahatan Penistaan Agama dan Konsekuensi Hukumnya,” *Al-‘Adl: Jurnal Hukum* 13, no. 2 (2021): 354–55.

²⁰ Randy A. Adare, “Delik Penodaan Agama Ditinjau dari Sudut Pandang Hukum Pidana di Indonesia,” *Lex et Societatis* 1, no. 1 (2013): 94.

²¹ Oemar Seno Adji, *Herziening, Ganti Rugi, Suap, Perkembangan Delik* (Jakarta: Erlangga, 1981), 298.

²² Reza Bierhoff Xaverius Rumagit, “Tinjauan Yuridis mengenai Delik Penodaan Agama dalam Peraturan Perundang-Undangan,” *Lex Administratum* 11, no. 5 (2023).

imprisonment of up to five years for any person who intentionally and publicly expresses or commits acts of hostility, abuse, or defamation toward a religion, or who acts with the intention of dissuading others from adhering to any religion. Intent (*dolus*) lies at the core of the provision. In criminal law, intent takes three forms: intent as purpose (*opzet als oogmerk*), intent with awareness of certainty (*opzet bij zekerheidsbewustzijn*), and intent with awareness of possibility (*opzet bij mogelijkheidsbewustzijn*). Although the article is generally read as requiring intent as purpose, some authors, including P. A. F. Lamintang, take the view that it encompasses all three forms of intent.²³

Like Article 156, Article 156a requires that the act be committed in public. It criminalizes expressing or performing acts that constitute hostility toward, abuse of, or defamation of a religion, as well as seeking to persuade others not to adhere to any religion. The provision does not define hostility, abuse, or defamation, leaving these terms to judicial interpretation. The prevailing view is that objective and scientific criticism does not attract criminal liability, provided that it does not constitute hostile speech. Subsections (a) and (b) are framed in the alternative, so that satisfaction of either suffices to establish criminal responsibility. In substance, the offense is directed at acts that contradict religious teaching and disturb the sense of security of religious adherents. Oemar Seno Adji has drawn attention to the incongruity between the article's classification among offenses against public order and its wording, which creates the impression that it affords urgent protection to religion, since it may be applied even where neither public order nor the sense of security of religious adherents has in fact been disturbed.²⁴

Under the National Penal Code, which takes effect on 2 January 2026, blasphemy is regulated in Chapter VII on Offenses Against Religion, Belief, and Religious or Belief Life. The National Penal Code thus introduces a dedicated chapter on religion that had no counterpart in the previous Code. Chapter VII contains six provisions, Articles 300 to 305: Part One addresses Offenses Against Religion (Articles 300–302), and Part Two addresses Offenses Against Religious Life and Places of Worship (Articles 303–305). Article 300 of the National Penal Code provides:

Any person who, in public:

- a. commits acts of hostility;
- b. expresses hatred or hostility; or
- c. incites hatred, hostility, or violence, or discrimination based on religion, against religion, another's belief, a group, or community on the basis of religion or belief in Indonesia, shall be punishable with a maximum of three years' imprisonment or a category IV fine.

Article 300 of the National Penal Code makes clear that scientific and objective statements or publications, addressed to limited circles and expressed without hostile, hateful, inciting, or defamatory language, do not constitute criminal conduct. The provision is framed in alternative and restrictive terms, and the protected objects are

²³ P. A. F. Lamintang and Theo Lamintang, *Delik-Delik Khusus: Kejahatan terhadap Kepentingan Hukum Negara* (Bandung: Sinar Grafika, 2023), 480.

²⁴ Barda Nawawi Arief, *Delik Agama dan Penghinaan Tuhan (Blasphemy) di Indonesia dan Perbandingan Berbagai Negara* (Semarang: Universitas Diponegoro, 2008), 5.

religion, belief, and religious or belief-based groups. The assessment of speech should take into account the socio-political context—for example, whether the targeted group is in a situation of conflict or vulnerability—and the position of the speaker, including whether the speaker is a public figure or otherwise influential. Intent is established on the basis of evidence of an intention to provoke hatred, discrimination, or violence, together with the probable effect of the statement. Speech that incites hostility grounds criminal responsibility, whereas the Elucidation of Article 300 provides the basis for exclusion from prosecution where the standards of objectivity and prudence are satisfied. The National Penal Code further extends this scheme in Article 301, which criminalizes religious hate speech disseminated through media, recordings, writing, or information technology, including by broadcasting, posting, reproducing, or otherwise propagating hatred, violence, or discrimination against a religion, a belief, or a religious or belief-based group or community. Article 301 in substance restates Article 300 while focusing expressly on public dissemination, and Article 300(2) prescribes aggravated penalties, including the restriction of certain rights, in cases of recidivism.²⁵

Article 302 goes further by criminalizing public acts intended to induce another person to abandon a religion, to renounce a belief, or to convert, while leaving untouched the private right to change one's belief voluntarily. The elements of the offense are the subject, "any person"; the setting, "in public"; the conduct, "inciting"; and the intention of persuading a person to renounce a religion or belief adhered to in Indonesia. The applicable form of intent is intent as purpose. This construction accords with international human rights instruments such as the ICCPR and the International Convention on the Elimination of All Forms of Racial Discrimination, together with General Recommendation No. 35, which characterize incitement as an active effort to influence the mind of another, whether openly or covertly, through persistent exhortation, threats, symbols, or expressive materials. Article 302(2) penalizes an aggravated form of the offense—compelling a person by violence or the threat of violence—which is treated as more serious than incitement, with violence encompassing both physical and verbal violence.²⁶ The relationship between the blasphemy provisions of the former Penal Code and those of the National Penal Code, specifically between Article 156a of the former Code and Article 302 of the National Penal Code, may be summarized as set out in Table 1.²⁷

Table 1. *Comparison of Blasphemy Offenses under the Former Penal Code and the National Penal Code*

Prohibited Acts under Article 156a of the Former Penal Code	Prohibited Acts under Article 302 of the National Penal Code
Article 156a: intentionally and in public, expressing feelings or committing acts: a. that are essentially hostile in nature, or that constitute abuse or desecration of a religion adhered to in Indonesia;	-

²⁵ Eddy O. S. Hiarij and Topo Santoso, *Anotasi KUHP Nasional* (Jakarta: RajaGrafindo Persada, 2025).

²⁶ Hiarij and Santoso, *Anotasi KUHP Nasional*.

²⁷ Hiarij and Santoso, *Anotasi KUHP Nasional*.

b. with the intention of preventing others from adhering to any religion based on belief in the One and Only God.	Article 302(1): publicly inciting another person, with the intention that the person renounce a religion or belief adhered to in Indonesia;
-	Article 302(2): by violence or the threat of violence, compelling a person to renounce a religion or belief, or to convert from one religion or belief adhered to in Indonesia to another.

Source: compiled by the authors from Article 156a of the Penal Code and Articles 300–302 of the National Penal Code (Law No. 1 of 2023).

The repeal of Article 156a(a) by Article 622(1)(h) of the National Penal Code has generated a debate that is, on the argument advanced here, mis-specified. Because the phrase “misuse or defamation of religion” no longer appears in the classification of offenses, some commentators read the reform as abolishing the offense of blasphemy, whereas the Constitutional Court has characterized it as a revision.²⁸ Both readings assume that the survival of the offense can be settled by asking whether its label survives. The more probative question is whether the protective function that Article 156a(a) performed has been discontinued or redistributed, and on the evidence of the Code itself it has been redistributed: Articles 300 and 301 retain liability for public hostility, hatred, and incitement directed at religion and belief; Article 302 retains liability for public incitement to renounce religion; and Articles 303 to 305 extend protection to acts of worship, to those who lead them, and to sacred places and objects. The label has been withdrawn, but the normative content has been re-articulated across six provisions. The 2023 reform is therefore better described as a disaggregation of the blasphemy offense than as its abolition.

That disaggregation is not merely formal, because the resulting provisions do not rest on a single rationale. Articles 303 to 305 are organized around the sanctity of religious practice, protecting the conduct of worship, the person of the officiant, and the physical spaces and objects of veneration, and the disorder they contemplate is confined to physical acts and does not extend to conduct online.²⁹ Article 300 is organized around hostility between groups, and its Elucidation exempts scientific and objective statements addressed to limited circles—an exemption intelligible only if the protected interest is social peace rather than sanctity, since a proposition framed in objective terms may wound religious feeling as effectively as an intemperate one. The National Penal Code thus carries two rationales at once: it preserves a sanctity rationale for the physical practice of religion while adopting an order-protective rationale for religious speech. This article argues that this internal bifurcation, rather than the presence or absence of the word “blasphemy,” is the most consequential feature of the reform. Its practical effect appears once the digital plane is brought into view, for by confining Article 303 to physical acts the Code leaves the medium in which contemporary religious conflict

²⁸ Muflih Munazih and Dina Faramida, “Constitutional Judicial System: A Comparison between Indonesia and France,” *Trunojoyo Law Review* 7, no. 2 (August 2025): 391–413, <https://doi.org/10.21107/tlr.v7i2.30462>.

²⁹ Hiarije and Santoso, *Anotasi KUHP Nasional* [AUTHOR VERIFICATION REQUIRED: page number].

predominantly occurs to Article 28(2) of Law No. 1 of 2024 on the Second Amendment to Law No. 11 of 2008 on Electronic Information and Transactions, which provides:

Any person who knowingly and with malice spreads and/or transmits electronic information and/or electronic documents that incite, persuade, or instigate others to act in a manner likely to cause hatred or hostility against individuals and/or particular groups of the community on the grounds of race, nationality, ethnicity, colour of the skin, religion, belief, gender, mental disability, or physical disability.

Three features of that provision bear on the argument. Its legal subject is “any person,” a category expressly extending to corporations, whether incorporated or not, whereas the classical Penal Code recognized only natural persons; liability therefore now reaches organizations and intermediaries, not only individual speakers. Its protected object is not religion but a list of group markers, within which religion appears as one attribute among eight rather than as a value protected in its own right. And although it requires that the resulting hatred or hostility be capable of proof, it supplies no standard against which that proof is to be measured, leaving the question to judicial assessment. Taken together, these features support a conclusion that runs against the prevailing reading of the 2023 and 2024 reforms as liberalizing: Indonesia has narrowed the definition of the offense while widening the class of persons who may be liable, the range of media covered, and the discretion available to the courts in determining when the requisite social harm has occurred. Where the operative element is a socially constituted effect—whether hatred or hostility has in fact arisen—and no threshold is specified, the provision is structurally responsive to the intensity of public reaction. That feature connects the doctrinal analysis to the pattern of prosecutions surveyed above, in which the mobilization of collective grievance has repeatedly preceded and shaped the legal response.³⁰

Singapore permits a controlled comparison because it confronts a comparable regulatory problem from a different doctrinal starting point. It maintains no discrete criminal offense labelled blasphemy. Conduct that Indonesian law would classify as blasphemy is addressed instead through three frameworks with distinct protected objects: Sections 298 and 298A of the Penal Code, which locate the wrong in injury to group feeling and in the promotion of enmity between groups; the Maintenance of Religious Harmony Act 1990, which protects interfaith relations and the separation of religion from politics; and the Maintenance of Racial Harmony Act 2025, passed on 4 February 2025, which consolidates and extends the racial harmony framework. What unites them is not the subject matter they address but the interest each defines as worthy of protection, which in every case is relational: the condition of relations between groups, rather than the integrity of any religion as such. This is what justifies treating them as the closest functional, rather than doctrinal, equivalent of Indonesia’s blasphemy provisions, and the comparison that follows accordingly proceeds on equivalence of function rather than of

³⁰ Indrayanti and Saraswati, “Criminalizing and Penalizing Blasphemy”; Rufaedah, “Accounting for a Riot,” 69–85.

legal form. Within the Singapore Penal Code, the relevant provisions are found in Chapter XV, which comprises Sections 298 and 298A.³¹ Section 298 provides:

Whoever, with deliberate intention of wounding the racial feelings of any person, utters any word or makes any sound in the hearing of that person, or makes any gesture in the sight of that person, or places any object in the sight of that person, or causes any matter however represented to be seen or heard by that person, shall be punished with imprisonment for a term which may extend to 3 years, or with fine, or with both.

The threshold of liability under Section 298 lies in the accused's state of mind. The offense requires a deliberate intention to wound and is complete upon the utterance, sound, gesture, or display, without proof that any person's feeling was in fact wounded, and it carries a maximum of three years' imprisonment, a fine, or both. Section 298A, introduced by the 2007 amendment to the Penal Code,³² keeps the threshold on the same side of the analysis while modulating it:³³

Promoting enmity between different groups on grounds of race and doing acts prejudicial to maintenance of harmony, whoever :

- (a) by words, either spoken or written, or by signs or by visible representations or otherwise, knowingly promotes or attempts to promote, on grounds of race, disharmony or feelings of enmity, hatred or ill will between different racial groups; or*
- (b) commits any act which he knows is prejudicial to the maintenance of harmony between different racial groups and which disturbs or is likely to disturb the public tranquility, shall be punished with imprisonment for a term which may extend to 3 years, or with fine, or with both.*

Limb (a) requires knowledge in promoting or attempting to promote enmity; limb (b) requires knowledge that the act is prejudicial to harmony, together with actual or likely disturbance of public tranquility. Neither limb requires proof that any individual's sentiment was injured. The contrast with Article 28(2) of Law No. 1 of 2024 is more productive than a comparison of maximum sentences. Both jurisdictions must fix the point at which expression becomes criminal, and both must do so in relation to an interest—offense to group or religious sentiment—that resists objective measurement. Indonesia resolves that difficulty on the side of effect, requiring that hatred or hostility be provable while declining to specify how; Singapore resolves it on the side of intention, requiring a demanding mental element and, in Section 298A(b), a risk assessment framed in terms of public tranquility. The consequence is a difference in who is practically positioned to activate the criminal law. Where liability turns on a socially constituted effect, the aggrieved community exercises substantial influence over whether the

³¹ Both provisions carry the amendment annotation “[Act 31 of 2019 wef 01/11/2022]” in Singapore Statutes Online.

³² Ministry of Home Affairs (Singapore), “Commencement of the Sedition (Repeal) Act 2021,” press release, 1 November 2022, <https://www.mha.gov.sg/mediaroom/press-releases/commencement-of-the-sedition-repeal-act-2021>.

³³ Ministry of Home Affairs (Singapore), “Commencement of the Sedition (Repeal) Act 2021.”

threshold is met; where it turns on proven intention and on an assessment of risk to public order, that influence passes to the prosecuting and administrative authorities. This, and not the one-year difference between the three-year maximum under Section 298 and the four-year maximum under Article 156 of the Indonesian Penal Code, is the difference that carries analytical weight.

The same conclusion is confirmed by a feature of the Singaporean regime that comparative accounts of blasphemy regulation routinely overlook, namely the treatment of the criminal record. A contravention of Section 298A does not automatically give rise to a criminal record, and whether the offense is recorded lies within the discretion of the Commissioner of Police under the Registration of Criminals Act 1949. Where a record is made it may subsequently be rendered spent, provided that any term of imprisonment did not exceed three months, that any fine did not exceed S\$2,000, that the offender has no other criminal record, and that no previous conviction record has been rendered spent; once five years have elapsed from release or from payment of the fine without further offending, the record becomes spent automatically and the offender is deemed in law to have no criminal record.

The analytical significance of that mechanism lies in what it presupposes. A regime that permits the record of an offense to expire treats the harm as done to a state of affairs capable of restoration—the equilibrium between groups—and treats the offender as capable of reintegration into it. A regime that provides no equivalent mechanism treats the offense as directed at something that the passage of time cannot repair. The National Penal Code contains no comparable route to expungement for the offenses in Chapter VII. The sanction architecture therefore encodes the object of legal protection rather than merely registering the seriousness with which each state regards the conduct, and it is on this footing that the central claim of this article rests: the divergence between the two jurisdictions is not one of severity along a shared scale, but one of the value each has selected for protection.

A final structural difference reinforces that conclusion and carries implications for reform. In Singapore the criminal law operates as a residual instrument within a predominantly anticipatory framework. The Maintenance of Racial Harmony Act 2025 empowers the authorities to issue restraining orders against persons producing content prejudicial to racial harmony, adopting mechanisms comparable to those of the Maintenance of Religious Harmony Act; it provides for community-based remedial initiatives; and it channels accountability through the Presidential Council for Racial and Religious Harmony, which advises the President on restraining orders.³⁴ Intervention is designed to occur before the harm crystallizes, through administrative measures that stop short of conviction. Indonesia has no functional counterpart, and its response to religiously offensive expression is activated after the fact and, in the ordinary case, through prosecution. This carries a consequence for the reform debate that the existing literature, concentrated on the wording of the criminal provisions, has not adequately registered. Proposals to liberalize Indonesian blasphemy law by narrowing or repealing the offense—of which the 2023 reform is itself an instance—address only one component

³⁴ Goh Yan Han, “New Law to Protect Racial Harmony Passed,” *Straits Times*, <https://www.straitstimes.com/singapore/politics/new-law-to-protect-racial-harmony-passed>.

of a wider regulatory architecture. Where no preventive or restorative mechanism exists to absorb the conflicts that religiously offensive expression generates, narrowing the criminal provision does not extinguish the demand for state intervention but redirects it toward whichever provisions remain sufficiently open-textured to accommodate it. The migration of blasphemy-related enforcement toward Article 28(2) of Law No. 1 of 2024 is evidence of precisely that dynamic.

Conclusion

Indonesia and Singapore both recognize the right to freedom of religion, and both manage the risk of religious conflict through the regulation of blasphemy or its functional equivalent, whether in the Penal Code or in specific legislation. Although Singapore is a secular state, it treats religious conflict as a matter of serious concern; the object of its regulation, however, is not the preservation of the sanctity of religion but the preservation of national security and public order. As regards criminal sanctions, Singapore's provisions are less severe than Indonesia's, and Singapore additionally allows conviction records to become spent for offenders convicted of offenses relating to religious or racial disharmony.

These findings indicate that the two jurisdictions do not merely differ in the severity of blasphemy-related sanctions, but rest on fundamentally different objects of legal protection: Indonesia protects the sanctity of religion as such, while Singapore protects public order and inter-group harmony, with religious sensitivity treated as one consideration among several—alongside race—rather than as the direct object of criminal protection.

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