

# Immigration and Refugee Board of Canada

[Home](#)

> [Research Program](#)

> Responses to Information Requests

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## Responses to Information Requests

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Responses to Information Requests (RIR) respond to focused Requests for Information that are submitted to the Research Directorate in the course of the refugee protection determination process. The database contains a seven-year archive of English and French RIRs. Earlier RIRs may be found on the UNHCR's [Refworld](#) website. Please note that some RIRs have attachments which are not electronically accessible. To obtain a PDF copy of an RIR attachment please email [Basesdedonnees.DatabaseUnit@irb-cisr.gc.ca](mailto:Basesdedonnees.DatabaseUnit@irb-cisr.gc.ca).

1 September 2015

### MLI105290.E

Mali: Contents of articles 94 and 101 of the Penal Code; whether it is an offence under the law of Mali to insult Islam, and, if yes, whether the law is enforced and the consequences if found guilty (2015)  
Research Directorate, Immigration and Refugee Board of Canada, Ottawa

#### 1. Articles 94 and 101 of the Penal Code of Mali

In correspondence with the Research Directorate, a lawyer with Jurifis Consult, a law firm based in Bamako, Mali, indicated that the Penal Code Law No. 01-079 of 20 August 2001 (*Code Pénal loi no. 01-079 du 20 août 2001*) is in force and has not been modified (24 Aug. 2015). Articles 94 and 101 of the Penal Code state the following:

[translation]

Article 94: Anyone who manufactures, offers, receives, imports, exports or possesses, without authorization, marks, materials, devices or other objects peculiarly adapted for the fabrication, counterfeiting, forgery, alteration or colouring of currency, shall be liable to two to five years' imprisonment and/or a fine of 1,000,000 to 10,000,000 francs [about \$C2,276 to \$C22,760].

Attempted crimes are punishable in the same way as crimes actually perpetrated. ...

Article 101: Anyone who knowingly uses or tries to sell spent revenue stamps shall be liable to the penalties provided for in article 99. (Mali, 2001, Art. 94, 101)

#### 2. Laws on Blasphemy and Defamation of Religion

According to the lawyer, the Penal Code of Mali does not have provisions regarding the offense of blasphemy or religious insult and as such, these acts "are not susceptible to criminal prosecution" (24 Aug. 2015). In correspondence with the Research Directorate, the Director of Communications at the International Humanist and Ethical Union (IHEU), a UK-based international NGO that seeks to "influence international policy" and "build the humanist network" [1] (IHEU n.d.a), stated that, based on the information they were able to access, their researchers "have found no evidence of either 'blasphemy' or 'apostasy' laws" in Mali, but noted that there is a "brevity" of information on the subject for Mali (ibid. 21 Aug. 2014).

The lawyer stated that Article 58 of the Penal Code prohibits racially motivated, regionalist or religious crimes (24 Aug. 2015). Article 58 states the following:

[translation]

All statements, all acts likely to establish or give rise to racial or ethnic discrimination, all statements or acts aimed at provoking or maintaining the spread of regionalism, all spreading of news with the intention to harm

the unity of the nation or the economic viability of the State, any expression or demonstration contrary to freedom of conscience and freedom of worship that may draw citizens against one another, shall be punished by imprisonment for one to five years, or optionally five to ten years of departure order (Mali 2001, Art. 58).

According to the lawyer, an attorney could use Article 58 to "prosecute any manifestation contrary to freedom of conscience and freedom of worship [that] may draw citizens against each other" (24 Aug. 2015). Further and corroborating information on the use of Article 58 could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

Without providing further detail, a 2011 research report produced by the Pew Research Center, a "nonpartisan fact tank" that conducts "data-driven social science research" (Pew Research Center n.d.), lists Mali among the countries that have a "law, rule or policy at some level of government penalizing defamation of religion, including hate speech, during the calendar year 2011" (ibid. 21 Nov. 2012). According to a 2007 research report on media legislation in Africa by Professor Guy Berger, former head of the School of Journalism and Media Studies at Rhodes University in South Africa and produced for UNESCO, Chapter 6 (Articles 33-51) of Law 00-046/AN-RM of 7 July 2000 "covers [defamation] crimes committed through the press or other forms of publication" and that "defamation is defined as allegations that compromise the dignity or integrity of a person (Article 38)" (Berger 2007, 59). The same source further states that "[s]evere punishment exists, and the accused are guilty until they prove their innocence" (ibid., 60). According to the report, in cases of religious defamation, "the Ministry of Public Affairs can initiate prosecution" (ibid.). Further and corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

Sources state that the Malian Ministry of Territorial Administration is responsible for religious affairs (PHW 2014, 908; US 28 July 2014, 2). The US Department of State's *International Religious Freedom Report for 2013* further states that the Ministry is able to "prohibit religious publications that 'defame' another religion," but that there were no such cases in 2013 (ibid.) or in 2012 (ibid. 20 May 2013, 2).

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

#### Note

[1] IHEU "is the sole global umbrella organization embracing Humanist, atheist, rationalist, secularist, skeptic, *laïque*, ethical cultural, freethought and similar organizations worldwide" (IHEU n.d.a). IHEU conducts research on specific issues, including the *Freedom of Thought Report*, an annual report on "discrimination against atheists and the non-religious" (IHEU n.d.b).

## References

Berger, Guy. 2007. School of Journalism & Media Studies, Rhodes University, South Africa. *Media Legislation in Africa: A Comparative Legal Survey*. <<http://unesdoc.unesco.org/images/0015/001570/157072e.pdf>> [Accessed 18 Aug. 2015]

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*Political Handbook of the World 2014*. 2014. "Mali." Edited by Tom Lansford, Washington, DC: CQ Press. <[http://library.cqpress.com/phw/document.php?id=phw2014\\_Mali&type=toc&num=112](http://library.cqpress.com/phw/document.php?id=phw2014_Mali&type=toc&num=112)> [Accessed 20 Aug. 2015]

United States (US). 28 July 2014. Department of State. "Mali." *International Religious Freedom Report for 2013*. <<http://www.state.gov/documents/organization/222283.pdf>> [Accessed 18 Aug. 2015]

\_\_\_\_\_. 20 May 2013. Department of State. "Mali." *International Religious Freedom Report for 2012*. <<http://www.state.gov/documents/organization/208382.pdf>> [Accessed 25 Aug. 2015]

## Additional Sources Consulted

**Oral sources:** Juri Partner; Mali – Embassy in Washington D.C.

**Internet sites, including:** Amnesty International; British Broadcasting Corporation; ecoi.net; European Union – European Parliament Intergroup on Freedom of Religion or Belief and Religious Tolerance; Factiva; Freedom House; Georgetown University – Berkley Center for Religious Studies; Human Rights Watch; International Humanist and Ethical Union; *Jane's Intelligence Review*; Mali – Malian High Council of Islam, Ministry of Justice, Ministry of Territorial Administration; Minority Rights Group International; *The Muslim World*; *The New York Times*; Open Doors; United Nations – Refworld, Special Rapporteur on Freedom of Religion or Belief; United States – US Commission on International Religious Freedom.

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[Top of Page](#)

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