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8 Protecting Muslims' Feelings, Protecting Public Order: Tunisian Blasphemy Cases from the Nineteenth and Early Twentieth Centuries

Two years following the Arab Spring uprising of 2011, in a carefully negotiated press conference, the Tunisian Minister of Culture responded to an allegedly blasphemous art exhibit by explicitly placing a limit on Tunisians' freedom of expression. This limit was defined as transgressing "the sacred" as well as "Muslims' feelings." In a televised conference, Minister Mehdi Mabrouk told reporters that the state's job was to "defend [...] the freedom of expression" as well as "the sacred [al-muqaddas], the sacred things [al-muqaddasāt], Muslims' feelings [mashā'ir al-muslimīn] and citizens' feelings [mashā'ir al-muwātīnīn]." He concluded, "we need to protect [these] just as we protect the freedom to be creative [hurriyyat al-ibdā']."¹

If there was a time for such confidence about what a state could do, perhaps the period of the post-Arab-Spring Tunisian transition was it. It was a time in which Tunisians saw that the world could be turned upside down: an Islamist who had been tortured in the basement of the Ministry of the Interior literally found himself Minister of the Interior; foreign factories closed their doors, as they could not or would not deal with euphoric workers who had suddenly realised they could successfully make demands on their superiors; election lists that had long been populated principally by regime cronies were suddenly brimming with local independents with little or no experience, who got to introduce themselves in a running live stream on national television.² After a long-time strong-armed dictator, who had embraced an anti-Islamist line, fled the country, it felt like a free-for-all: the lines of freedom of expression, so long closely surveilled, were open to be tested.³ In this peculiar and extraordinary moment, a slew of

¹ Tuniscope.com, "Intervention de M. Mehdi Mabrouk suite à l'affaire d'Al Abdeliyya," *YouTube*, June 12, 2012, accessed July 3, 2021, <https://www.youtube.com/watch?v=SOAI7PFeK1E>.

² The Carter Center, "Les élections de l'assemblée constituante en Tunisie le 23 Octobre 2011: rapport final," *TheCarterCenter.org*, accessed August 14, 2021, https://www.cartercenter.org/resources/pdfs/news/peace_publications/election_reports/tunisia-final-oct2011-fr.pdf, 107.

³ Malika Zeghal, "Competing Ways of Life: Islamism, Secularism, and Public Order in the Tunisian Transition," *Constellations* 20, no. 2 (2013).

blasphemy cases were prosecuted, resulting in several guilty verdicts.⁴ This may seem like a blip, or a peculiar and stupendous aberration made possible only by the convergence of unlikely circumstances.

Though these prosecutions were indeed unprecedented in the context of independent Tunisia, they were certainly not the only blasphemy prosecutions in Tunisia since the nineteenth century. This chapter turns back to look at two prosecutions that took place in what is modern-day Tunisia, the first in 1857 and the second in 1904. Despite the oft-repeated refrain I heard during my fieldwork that blasphemy is a Tunisian past-time, these two prosecutions are the only cases in Tunis which received death sentences and for which substantial documentation – court records, newspaper accounts, and contemporaneous letters and writings – exist.⁵ This chapter will focus on one thread that binds these cases together with the post-Arab-Spring cases: that of a shared understanding of blasphemy as criminally hurting people’s feelings – as a form of violence deeply, often physically, felt. This chapter will first examine the meaning of blasphemy in Islam before moving to look more closely at the two cases as well as their historiographies. The chapter will finish by considering why the blasphemers from 1857 and 1904 were prosecuted and prosecutable, and how blasphemy was represented across these two cases as constituting a type of emotional violence.

Blasphemy against Islam

Lacking a precise equivalent in Arabic, “blasphemy” is instead rendered in specifics, such as *istikhfāf* (disdain) or *sabb* (denigration) of the prophets or holy figures, of God, or of religious texts; or *istihlāl* (making licit) of something illicit, embodying a rejection of clear religious tenets.⁶ All of these, in different ways, constitute a type of disrespectful affront to Islam, either through explicit slurs or insults or by neglecting (perceived) foundational tenets (and therein

⁴ Amnesty International, “One step forward, two steps back? One Year Since Tunisia’s Landmark Elections,” *AmnestyInternational.org*, October 23, 2012, accessed August 26, 2021, <https://www.amnesty.org/ft/documents/mde30/010/2012/fr/>, 24–27.

⁵ Most documentation from the Tunis Shariah Court was burned by the Ministry of Justice in the 1980s, according to Tunisian historian Leila Blili. Leila Blili, personal communication to author, June 25, 2021.

⁶ All prophets, including those associated with Christianity and Judaism. Even so, there is a particular sensitivity to blasphemy against the Muslim Prophet Muhammad.

the religious tradition more largely).⁷ Much like in the Christian world, Islamic conceptualisations of blasphemy have largely focused on speech acts.⁸ Importantly, and as we shall see here, both Muslims *and* non-Muslims can commit blasphemy against Islam; historically, increased rigor in managing emerging sects as well as relations with non-Muslims (especially Christians and Jews, *ahl al-kitāb*) has paralleled the post-classical proliferation of legal literature detailing means of blaspheming and apostasising.⁹ Blasphemy can also be an indication of a Muslim's apostasy, and punishment for apostasy has historically intensified alongside the growth of religious heterodox movements and political challengers.¹⁰ This later development in Islamic jurisprudence diverges from early Islamic practice, in which the widespread institution of repentance made it virtually impossible to execute anyone for apostasy.¹¹

Notably, under Muslim rule, blasphemy, like apostasy, challenged the political order as it “detracted from the veneration due to Islam and the obligation to maintain public recognition of the dignity and superiority of Islam” and those who claimed to protect it.¹² It was also destabilizing due to its potential contagiousness: its public commission could encourage others to follow suit. As

⁷ Devin J. Stewart lays out six broad categories of blasphemy in Islam, which can all be understood as constituting a type of insulting rejection of the tradition's main figures or beliefs: “vilification of God; vilification of the Prophet; vilification of other prophet or holy personages; vilification of sacred texts, monuments and so forth; denial of fundamental religious doctrines such as the existence of the Day of Judgment, paradise, hell and so on; vilification of the Prophet's companions.” Devin J. Stewart, “Blasphemy,” in *The Princeton Encyclopedia of Islamic Political Thought*, ed. Richard Bulliet et al. (Princeton: Princeton University Press, 2012).

⁸ Alain Cabantous centers his understanding of blasphemy on speech acts (i.e., the “word”), while Javier Villa-Flores notes early Christian theologians described blasphemy as a “sin of the tongue”. Alain Cabantous, *Blasphemy: Impious Speech in the West from the Seventeenth to the Nineteenth Century*, trans. Eric Rauth (New York: Columbia University Press, 2002), 1; Javier Villa-Flores, *Dangerous Speech: a Social History of Blasphemy in Colonial Mexico* (Tucson: University of Arizona Press, 2006), 9.

⁹ Baber Johansen maps growing and proliferating lists of “expressions that imply disbelief” during the post-classical period. Baber Johansen, “Apostasy as Objective and Depersonalized Fact: Two Recent Egyptian Court Judgments,” *Social Research* 70, no. 3 (2003): 692. The category of *ahl al-kitāb* generally describes Jews, Christians and sometimes Zoroastrians. Yohanan Friedmann posits that the early Muslim community was principally preoccupied with managing its relationship with Arab idolaters, and later shifted its attention to *ahl al-kitāb*. Yohanan Friedmann, *Tolerance and Coercion in Islam: Interfaith Relations in the Muslim Tradition* (Cambridge: Cambridge University Press, 2003), 86.

¹⁰ Johansen, “Apostasy as Objective,” 691. For the intensification of apostasy, see *ibid.*, 692.

¹¹ Frank Griffel, “Apostasy,” in *Encyclopaedia of Islam*, 3rd edition, ed. Kate Fleet et al. (Leiden: Brill Publishers, 2007).

¹² Stewart, “Blasphemy,” 72.

Selim Deringil writes, apostasy from Islam (e.g., a Muslim leaving the community of Islam) was viewed in the Ottoman Empire as a type of betrayal by an internal enemy, and “[a]t times when Islam was weak, apostates from Islam were considered particularly dangerous, because they could infect others by their example.”¹³ In the cases we examine here, two men living in Tunis were accused of insulting Islam via speech acts. Upon closer examination, they were also challenging (knowingly or not) the dominance of a certain vision of Islam.

Looking More Closely at the Two Cases in Question

Both of the historical cases addressed here deal with young men living somewhat on the margins of their societies. Bātū Sfāz [Batto Sfez], a Jew accused of blasphemy in 1857 Tunis, was a lowly cart-pusher (for a high-ranking Jewish official) and a religious minority in a Muslim-majority Ottoman province. Married with young children, Sfez was almost certainly not older than forty. ‘Abd al-‘Azīz al-Thālibī [Abdelaziz Thaalbi], the defendant in a 1904 blasphemy case in Tunis, was a young Muslim man in his twenties who had passed through some of the most prestigious religious universities within his reach, in both Tunis and Egypt; yet he was also a zealously overconfident reformist with family ties to northern Algeria, living in a Tunis whose elite religious scholars were overwhelmingly from longstanding Tunis-based families.¹⁴ In some ways, there is little remarkable about Sfez’s and Thaalbi’s profiles: that they were young men, not members of the elite but gainfully employed. Herein the two cases echo trends in other countries across the eighteenth- and nineteenth-century world, where young males from the (lower) middle classes would find themselves disproportionately implicated in accusations of blasphemy.¹⁵ The blasphemies committed by Sfez and Thaalbi were also public speech acts; as Alain Ca-

¹³ Selim Deringil, *Conversion and Apostasy in the Late Ottoman Empire* (Cambridge: Cambridge University Press, 2012), 22.

¹⁴ Cf. Arnold Green, “Political Activities and Activities of the Ulama in the Liberal Age: Tunisia as an Exception Case,” *International Journal of Middle East Studies* 7, no. 2 (1976).

¹⁵ For France see Cabantous, *Blasphemy*, 235, fn. 13. For Spain see M. Escamilla-Colin, *Crimes et châtiments dans l’Espagne inquisitoriale (1659–1734)* (Paris: Berg International, 1992), vol. 2, 228. On the spread of blasphemy among male workers in Colonial Mexico, see Villa-Flores, *Dangerous Speech*, 17, 75–76.

bantous has noted with regard to French history, the dominant spaces for blasphemous crimes were “road, square, street, cabaret, and workshop.”¹⁶

Yet, at the same time, even if Thaalbi and Sfez may fit the profile of blasphemers, their trials deviated from the norm. Drawing principally on the work of nineteenth-century Tunisian statesman and chronicler Ahmad ibn Abi al-Diyāf, historian Gerard S. van Krieken writes that though blasphemy cases were not rare in mid-nineteenth century Tunis, charges were typically dismissed when the accused simply denied the accusations made against them.¹⁷ And Sfez and Thaalbi were certainly not the only Tunisians to (allegedly) publicly blaspheme: then French consul Léon Roches writes that while walking through the streets of the city, “at every instant my ear is injured [blessé] by the blasphemies of Muslims.”¹⁸ Similarly, in the early twentieth century, a weekly newspaper headquartered in Paris, *Archives Israélites*, laments “the arrest of Jews [Israélites] for an offense of words [un délit de paroles], considered perhaps a little carelessly [légèrement] as an affront [outrage] to the Muslim religion.”¹⁹ Yet despite this reported ubiquity of blaspheming, both Thaalbi and Sfez found themselves not only on trial but, extraordinarily, condemned to death. We must ask then: why?

The Case of Batto Sfez

We will start in 1857 Tunis, a province of the Ottoman Empire under the waning authority of the Sublime Porte. Batto Sfez, an indigenous Tunisian Jew, was then working as a “cart-pusher” (*charretier*) for a prominent Tunisian Jewish qā‘id [caïd] named Nissim Shamāma.²⁰ At the time, Shamāma was working as a type of intermediary for the local representative of the Sultan, the Tunis-based bey, dispensing civil justice and collecting taxes²¹; later, he would play a part

¹⁶ Cabantous, *Blasphemy*, 102.

¹⁷ Gerard S. van Krieken, *Khayr al-Din et la Tunisie (1850–1881)* (Leiden: Brill, 1976), 3.

¹⁸ French Consul Léon Roches to French Minister of Foreign Affairs Count Alexandre Colonna-Walewski, June 29, 1857, in *Série correspondance politique*, Ministère des Relations Extérieures, Fonds du Quai d’Orsay, vol. 17, 101–111, held at the University of Manouba, Tunisia.

¹⁹ “En Tunisie,” *Archives Israélites: Recueil politique et religieux*, 34th edition, ed. H. Prague and Emile Cahen (Paris: Bureau des Archives Israélites, August 21, 1902), vol. 63, 259, accessed October 29, 2021, https://www.google.com/books/edition/_/7WUpAAAAYAAJ?hl=en&gbpv=0.

²⁰ Abdelkrim Allagui, *Juifs et musulmans en Tunisie: des origines à nos jours* (Paris: Editions Tallandier, 2016), 40–42.

²¹ Caïds served as intermediaries for the bey, vis-à-vis a particular population. Cf. M’hammed Oualdi, *Esclaves et maîtres: Les Mamelouks des Bey de Tunis du XVII^e siècle aux années*

in a major nineteenth-century drama, allegedly absconding to Europe with a good part of the Tunisian treasury lining his pockets.²² In mid-June 1857, Sfez, pushing his cart through downtown Tunis, reportedly ran over or bumped into a Muslim child. Some sources contend that Sfez was drunk at the time, and others that he was a habitual drunkard, though contemporaneous court documents describe Sfez as in full possession of his faculties.²³ These documents describe in detail the mêlée that ensued, in which Sfez struggled with police officials sent to bring him to the courthouse. A contemporaneous historian, Ahmād ibn Abī Al-Ḍiyāf, summarizes the accused's objectionable actions thus: Sfez "insulted a Muslim (*shatama musliman*) and cursed his religion (*sabba dīnahu*)."²⁴ Sfez was then taken before the Tunis Shariah court, where he denied having blasphemed.²⁵

Such a move on Sfez's part would normally have resulted in a lesser punishment than a death sentence, or even in the case's dismissal, when heard by the Hanafi Shariah judges, the Hanafi school of law (or *madhhab*) being one of two official schools of Islamic law at that time in Tunisia.²⁶ In comparison to the other three schools of Islamic law followed by Sunni Muslims, the Hanafi school had historically developed a more lenient position on blasphemy (at least

1880 (Paris: Editions de la Sorbonne, 2011), 190–195, accessed April 23, 2019, DOI: 10.4000/books.psorbonne.2469.

22 Jean Ganiage, *Les origines du protectorat français en Tunisie* (Paris: Presses Universitaires de France, 1959), 69. For the ensuing drama surrounding his nationality and fortune following Shāmāma's death, see Jessica M. Marglin, "La Nationalité en Procès: Droit International Privé et Monde Méditerranéen," *Annales. Histoire, Sciences Sociales* vol. 73, no. 1 (2018).

23 The sources reporting Sfez as drunk at the time, as well as habitually drunk, draw on contemporaneous accounts from Ahmād ibn Abī Al-Ḍiyāf [*Iḥṭāf ahl al-zamān bi-akhbār mulūk Tūnis wa 'ahd al-amān*, 8 vols. (Tunis: Kitābat al-Dawla li-l-Shu'ūn al-Thaqāfiyya wa al-Akhbār, 1963–1966) vol. 4, 233], as well as British and French consuls then stationed in Tunis (see for example: Léon Roches to Count Walewski, June 29, 1857, Archives du Ministère des Affaires Étrangères, Fonds du Quai d'Orsay à Paris, Ministère des Relations Extérieures, Série Correspondance politique, 1857, Vol. 17, Bobine 293, part 1, 109 A). For assertions of Sfez's competence at time of commission of the crime, see Witness Testimonies, June 19, 1857, carton 117, folder 390 bis, 1855–1857, document 31, Tunisian National Archives, Tunis, Tunisia.

24 ibn Abī Al-Ḍiyāf, *Iḥṭāf ahl al-zamān*, vol. 4, 233.

25 Robert Brunschwig, "Justice religieuse et justice laïque dans la Tunisie des Deys et des Beys: jusqu'au milieu du XIXe siècle," *Studia Islamica* 23 (1965): 68.

26 The assertion that less punishment would have been given was made by Ahmād ibn Abī Al-Ḍiyāf (see footnote 30) and followed by other secondary scholars who mention the case, e.g., Brunschwig, "Justice religieuse" and Van Krieken, *Khayr al-Din*. However, more research should be done into the late Hanafi adjudication of blasphemy cases. For more information on the historical adjudication of blasphemy see Sarah Islam, *Blasphemy (Sabb al-Rasul) as a Legal Category in Islamic Legal History (650–1850 CE)* (PhD diss., Princeton University, 2022).

when the defendant denied having blasphemed or repented).²⁷ The Hanafi *madhab* of Islamic jurisprudence was the school used by the elite of the Ottoman Empire, including the highest-ranking religious scholars in a distant province like Tunis. The Maliki school, on the other hand, was the dominant school of law in North Africa, and thus the school of the ulama born into local notable families (though these distinctions waned throughout the nineteenth century).²⁸ Yet, in the case of Sfez, instead of basing its ruling on the more lenient (in terms of blasphemy prosecutions) Hanafi school, the Shariah Majlis sentenced Sfez to death under the Maliki *madhab*, meaning that the court's highest-ranking figure (the Shaykh al-Islam, who was Hanafi) accepted adjudication under the local jurisprudential school.²⁹

In the wake of this seemingly exceptional occurrence, in which the Hanafi Shaykh al-Islam assented to a ruling "in contradiction with" his own school, European and Ottoman authorities hastily intervened on Sfez's behalf, despite the fact that he was, as a Tunisian Jew, the subject of the bey and not entitled to the consular protection afforded to European Jews.³⁰ According to diplomatic correspondence among Europeans and also between the Ottoman authorities and the bey, European Christians as well as local and European Jews in the regency were terrified at how rapidly a misstep could lead to death. With the support of the Sicilian, British, Spanish, Danish, and American consuls, the French consul

²⁷ For Hanafi jurisprudence on blasphemy and apostasy, see Baber Johansen, "Apostasy as Objective"; Yohanan Friedmann, *Tolerance and Coercion in Islam*; Deringil, *Conversion and Apostasy*. For Maliki jurisprudence on blasphemy and apostasy, see Louis Bercher, "L'apostasie, le blasphème et la rébellion en droit Musulman malékite," *Revue Tunisienne* 30 (1923).

²⁸ Cf. Brunschvig, "Justice religieuse".

²⁹ Though the execution is widely presented as exceptional, including by critics such as Ahmād ibn Abī Al-Ḍiyāf, more research on contemporaneous blasphemy executions in the region and on general jurisprudential practice (in particular regarding the selective use of Hanafi and Maliki law by the Tunis Shariah Majlis, as in Sfez's case) is needed. This research is made difficult by the lack of sources. In his own work on the Battu Sfez case, Joshua Picard has suggested that the Tunis Shariah Court in this period "had the uncontested prerogative of trying cases of blasphemy that disturbed public order and an obligation to impose the death sentence when the evidentiary requirements were met." However, he argues that "cases that could be dispatched quietly, without public knowledge, were appropriate venues for [the bey's] discretionary punishment." Joshua Picard, "Revisiting Ahmād Ibn Abī al-Ḍiyāf's relationship with the 'Ahd al-Amār" (paper presented at the annual meeting of the Middle East Studies Association, virtual, November 29–December 3, 2021).

³⁰ Ibn Abī Al-Ḍiyāf, *Iḥāf ahl al-zamān*, vol. 4, 233. Of course, Ibn Abī al-Ḍiyāf's condemnation of the Hanafi Shaykh al-Islam's ruling as outside of jurisprudential norms fits neatly with his own reformist position, and so cannot be read as a disinterested evaluation of the ruling's actual conformity with the school.

took his constituencies' concerns directly to the bey. At the same time, the Ottoman authorities disapproved of Sfez's death sentence in light of an Ottoman decree from the previous year (the Hatt-ı Hümayun of 1856) that guaranteed equality to all subjects of the empire and established mixed tribunals with jurisdiction over conflicts among Muslims and non-Muslims (among others).³¹ Two months after Sfez's execution, the Ottoman Grand Vizier would send a letter to the bey suggesting that Sfez's death sentence, and especially the drama surrounding it, would have been avoided had the bey applied the 1856 decree.³² Yet, despite this significant foreign pressure, the bey refused to yield to pleas for clemency, and Sfez was executed, possibly by having molten lead poured down his throat (according to at least one English observer), and then beheaded.³³

Why this seemingly exceptional decision to serve Sfez with the death penalty? European and Tunisian historians offer a few hypotheses. First, they broadly follow the thesis offered by the aforementioned historian Ibn Abi Al-Ḍiyāf, an official furthermore in the bey's inner circle, that the decision to execute Sfez was made in order to calm public anger following the recent unpopular execution of a Muslim soldier, sentenced to death for murdering a Jew.³⁴ In this way, Sfez's execution is read as a kind of balancing act. Second, historians underline that Tunis-based religious scholars had a history of refusing Ottoman tanzimat (i.e., modernizing reforms), like the Sultanic Gülhane decree of 1839 and the Hatt-ı Hümayun of 1856, the latter of which they claimed "weakened Islam."³⁵ Executing Sfez could have been a small declaration of independence on the part of Tunis's elite religious corps. Finally, the bey may have assented to

³¹ See article 11 of the Hatt-ı Hümayun. Richard Ayoun, "Le status des juifs dans l'Empire Ottoman au XIXème siècle," *Revue Historique de Droit Français et Etranger* 70, no. 2 (April–June 1992), 208.

³² We know of this disapproval due to letters from the Ottomans sent after Sfez's execution, currently held in the Tunisian National Archives (Grand Vizier to Bey, October 25, 1857, carton 117, folder 390 bis, 1855–1857, document 4, Tunisian National Archives, Tunis, Tunisia). The bey would have probably known that the Ottoman authorities would not approve of Sfez's execution due to their repeated requests that these Sultanic edicts be implemented.

³³ Though this report appears only once, and so may well be untrue, its luridness points to the dramatic sense of excessive injustice felt by many opponents of Sfez's execution. A.M. Broadley, *The Last Punic War: Tunis, Past and Present (With a Narrative of the French Conquest of the Regency)*, 2 vols. (Edinburgh and London: William Blackwood and Sons, 1882), vol. 1, 110–111.

³⁴ Van Krieken, *Khayr al-Din*, 3–4; Brunschwig, "Justice religieuse," 68; Allagui, *Juifs et musulmans*, 58. For the original source, see Ibn Abi Al-Ḍiyāf, *Iḥāf ah� al-zamān*, vol. 4, 233.

³⁵ André Raymond, "La France, la Grande Bretagne et le problème de la réforme à Tunis (1855–1857)," *Etudes Maghrébines: Mélanges Charles-André Julien, Série: "Etudes et Méthodes*, ed. Pierre Marthelot and André Raymond (Paris: Presses Universitaires de France, 1964), vol. 11, 145.

Sfez's execution because of the pressure put on him by local religious scholars, whose approval (as safekeepers of the religious canon) he needed.³⁶

However, recognising the equally massive pressure put on the bey by both European and Ottoman authorities, we could conversely read the bey's ultimate sanctioning of Sfez's execution as his own declaration of independence, at a moment of increasing European military might and financial encroachment alongside Tunis's disastrous support of the Ottomans in the costly Crimean War (with French colonisation, it bears mentioning, right next door in Algeria).³⁷ Sfez's execution would provide lurid details for European travelogues and diplomatic reports, and it further increased pressure on the bey to submit to reform, which he did just two months later, in September 1857. The resulting Security Pact, '*Ahd al-Amān*', largely reaffirmed the 1856 Sultanic edict, allowing Europeans to purchase property, a long-time goal of the European consuls.³⁸

The Case of 'Abd Al-'Azīz al-Tha'ālibī

In 1904, just under fifty years later, 'Abd Al-'Azīz al-Tha'ālibī [Abdelaziz Thaalbi], a young Tunisian 'ālim (religious scholar) freshly returned from Cairo and full of reformist ideas, was prosecuted for blasphemy.³⁹ By this time, Tunisia was under the growing control of French authorities, who had declared Tunisia a "protectorate" in 1881, promising "protection" in exchange for the bey's implementation of desired reforms.⁴⁰ Opting for a strategy in Tunis that differed from the direct colonisation model followed in Algeria, French officials sought to implement their authority via an existing indigenous bureaucracy, a type of "indirect rule," or as Mary Lewis terms it, a "divided rule," which would increasingly require French management of diverse (and ultimately unmanageable) loci of au-

36 Van Krieken, *Khayr al-Din*, 4.

37 Just a few years before Sfez's execution, the Ibn 'Ayyād Affair (in which a Tunisian official absconded with money from the newly established national bank, money with which he purchased property in France and therefore subsequently acquired French nationality) highlighted, as Julia Clancy-Smith puts it, "the problem of justice begot by settlement in North Africa" as well as "another ominous trend [...] state bankruptcy to European creditors." Julia Clancy-Smith, *Mediterraneans: North Africa and Europe in An Age of Migration, c. 1800–1900* (Berkeley, CA: University of California, 2011), 326.

38 Van Krieken, *Khayr al-Din*, 38–39.

39 Thaalbi returned to Tunis in 1903, before departing for Morocco in 1904, and then returning again to Tunis.

40 Mary D. Lewis, *Divided Rule: Sovereignty and Empire in French Tunisia, 1881–1938* (Berkeley, CA: University of California, 2014), 55.

thority.⁴¹ Thaalbi's case represented an important opportunity for agents behind growing French control over the local judicial system: it allowed the French to test out the adjudication of a case that could fall under the jurisdiction of the Shariah Court, within a civil court under the supervision of the Office of Muslim Judicial Services (*Bureau des services judiciaires musulmans*), a technical service created to surveil newly-created Tunisian civil courts in 1896.⁴²

Tunisian historian Abdelmajid Kraiem helpfully groups the blasphemy accusations against Thaalbi into four categories. First, Thaalbi stood accused of making “irreverent observations concerning the Qur'an and the Prophet,” including labelling the Qur'an an “outdated book that cannot adapt to the present times” as well as questioning the eloquence of the Qur'anic *sūrat al-falaq*.⁴³ Next, he was accused of criticising the deeply respected companions of the Prophet Muhammad, including condemning Caliph ‘Uthmān ibn ‘Affān of despotism and introducing tyranny (*al-istibdād*) into Islamic government, and then, of “putting into question certain Islamic prescriptions,” particularly those related to the consumption of improperly slaughtered meat and to wine, apparently declaring that “drunkenness is better than *dhikr* [ritual Sufi prayer].”⁴⁴ Finally, Thaalbi stood accused of cursing Sufi figures and local holy men and women, one of whom he had allegedly called “son of a dog” (*ibn kalb*) and “bastard” (*ibn zinā*).⁴⁵ Newspaper reports furthermore described Thaalbi as critical of the educational system at the Zaytuna, the prestigious Tunisian religious institution of higher education where he had also been a student.⁴⁶

⁴¹ Ibid., 3.

⁴² Moncef Dellagi, *Abdelaziz Thaalbi: naissance du mouvement national tunisien* (Carthage: Editions Cartaginoiseries, 2013), 46. These courts emerged out of the Beylical court system, the *siyāsa* part of the shariah system. Sana Derouiche-Ben Achour describes such institutions as part and parcel of French strategy: Once a new Tunisian institution would be established (sometimes ceding to local and eventually nationalist demands), a parallel French institution would be created to oversee or operate alongside it. Sana Derouiche-Ben Achour, “Aux sources du droit moderne tunisien” (PhD diss., Université de Droit, d’Économie et de Gestion de Tunis, 2013), 77; Abdelmajid Kraiem, “Le premier procès de Abdelaziz Thaalbi (juillet 1904),” *Revue d'Histoire Maghrébine* 13, no. 41–42 (1986): 107.

⁴³ Kraiem, “Le premier procès,” 104 (citing *Al-Hādira*, July 5, 1904).

⁴⁴ Ibid., 104–105. The question of improperly slaughtered animals related to Muhammad ‘Abduh's recent Transvaal fatwa. ‘Abduh had specifically ruled that (among other things) Muslims living in Christian countries could consume meat slaughtered by Christians. Thus, Thaalbi's accusers (including members of the ‘ulama) argued that Thaalbi, in embracing ‘Abduh's fatwa, “does not see the difference between an animal slaughtered according to the Islamic rite and that killed via other parts of the body.”

⁴⁵ Ibid., 105.

⁴⁶ *Al-Hādira* (July 2, 1904); *Al-Qalam* (July 3, 1904); *La Dépêche Tunisienne* (July 17, 1904).

On June 30, Hanafi and Maliki Shariah court judges gathered to consider Thaalbi's case and summoned him to appear before them. Perhaps warned by friends, a distrustful Thaalbi instead made his way to the Tunis office of the French colonial official Henri Guyot, the director of the Muslim Judicial Services. In the meantime, the Shariah court allegedly ruled in Thaalbi's absence that he be put to death and demanded his extradition. Guyot refused, asserting his jurisdiction over Thaalbi and requesting more information from Shariah judges, who, in the meantime, had threatened to resign. Accepting the judges' resignation, Guyot sarcastically told them he could replace them "within 24 hours."⁴⁷ He then routed Thaalbi into a "Tunisian" judicial system that, though emerging out of the Ottoman beylical court system, functioned under French authority and was tasked with implementing beylical decrees, themselves issued under French oversight. Guyot sent Thaalbi to the Wizāra Court, where an investigating magistrate determined that the latter's crimes fit the charge of "insult to/disdain for religion [*injures à la religion / al-istikhfāf bil-dīn*]," which was a crime prosecutable under the decree of the 18th of March 1896. He was placed under the jurisdiction of a minor civil court in Tunis, the *Driba*.

Thaalbi appeared before the *Driba* in July 1904, with two lawyers, one a Christian Frenchman and one a Tunisian Jew and naturalised Frenchman.⁴⁸ Despite his lawyers' best efforts, and the sympathy of the local French-language press, Thaalbi was found guilty of "scorning" or "insulting religion" by a team of three Tunisian judges and sentenced to two months in prison (taking into account time already served). The accused did not appeal, but instead doubled down on some of his most controversial positions: in 1905, he published *L'Esprit libéral du Coran* (*The Liberal Spirit of the Qur'an*), which declared the Qur'an a pristine source of liberal values and called for Muslims to throw off the chains of their backwardness so that, with France's "civilising collaboration," "Muslim minds, finally rid of all superstitions and prejudices, could contribute one day, in collaboration with their Protectors, to the advancement of world civilization."⁴⁹

⁴⁷ Ahmād ibn Mīlād and Muḥammad Maṣ'ūd Drīs, *Al-Shaykh 'Abd al-'Azīz al-Thālibī wa al-haraka al-waṭāniyya, 1892–1940* (Carthage: Bayt al-Ḥikma, 1991), 66. They cite a now-lost document.

⁴⁸ Kraiem suggests that the identity of the lawyers may be revealing. Tunisian lawyers may have preferred to avoid involvement in the case or may have been pressured to do so, particularly in the midst of the reported public outrage as well as nondescript threats. Kraiem, "Le premier procès," 109.

⁴⁹ Abdelaziz Ettéalbi, César Benattar, and El Hadi Sebāï, *L'Esprit libéral du Coran* (Paris: Ernest Leroux, 1905), 4.

Why Prosecute Thaalbi and Sfez?

Both Sfez and Thaalbi represented minority groups in nineteenth-century Tunisia that were worth sidelining; in other words, their prosecutions allowed local authorities to make particular claims to power, to control of the public sphere, and to management of religious practice, training, and corpus. First, Sfez was a Jew in a Tunis whose ruler had been accused of being “the bey not of Tunisians but of Jews and Christians,” and who worked for a rising local star of this minority group, Nissim Shamāma.⁵⁰ Shamāma was himself a Jew who had reached Tunis’s upper echelons, which had only been open to Jews since the 1830s. His ascension was not without its paradoxes: at the time of Sfez’s trial, for example, Jews were not legally permitted to wear the red *shāshiyā* (or fez) then sported by Muslims.⁵¹ Sfez was therefore a member of a group who could be corrected, or reminded of its position, via a court case. Even more importantly, Sfez was a lower-class Tunisian Jew, lacking both social capital and the European protégé status.⁵² Either might have more rapidly attracted the attention of European consuls (who would finally seize the opportunity to intervene only the day before Sfez’s execution, perhaps once they grasped how his execution would help them push for reform).⁵³ Sfez was also a Jew who had dared to do something reportedly banal and commonplace – curse an adversary by cursing their religion in the midst of a heated street scuffle – but which, in its context, became (to some) full of meaning, or at least usable.

A half century later, Thaalbi was a member of another minority group – that of religious reformists. He was a man with just enough enemies and just enough youthful brashness to rub enough of Tunis’s rank-and-file the wrong way. Already as a student at the Zaytuna in 1890s Tunis, Thaalbi had dared to criticize his professors in a student newspaper he himself had founded. Upon returning from several years of travel in the early 1900s, Thaalbi dressed and spoke

50 Raymond, “La France,” 148; cited also by Khalifa Chater, “Le constitutionnalisme en Tunisie au XIXème siècle,” *Revue Tunisienne de Sciences Sociales* 12, no. 40 (1975): 250.

51 According to Lucette Valensi, “Tunisia” as well as “Libya” underwent political reforms in the 1830s that entailed a “redistribution of roles among the different religious components of society.” Valensi also describes angry reactions in the wake of the Security Pact later that year (1857), which would authorise Jews to wear the red *shāshiyā* as Muslims. Lucette Valensi, “La culture politique des juifs du Maghreb entre le XIXe et le XXe siècle,” in *Juifs et musulmans en Tunisie*, ed. Sonia Fellous (Paris: Somogy Éditions d’Art, 2003), 231–241, 233.

52 Other Jews residing in Tunis enjoyed protection from European powers. Sfez, as a member of the *twānsa* (Tunisians), was a subject of the Bey and did not enjoy such protection.

53 Thanks to Joshua Picard for drawing my attention to the dates of the consuls’ first letters.

strangely (or so many of his contemporaries thought). According to one biographer, he had grown a beard and was almost obese; he dressed in a colourful yellow and green Indian cloak that “overjoyed and caught the eye of onlookers and children alike.”⁵⁴ And most importantly, Thaalbi brought the divisive reformist ideas he had acquired in Tunis and Cairo to the streets, as he began to give lectures in Tunis’s first European-style café, Café *Al-Tūt*, located downtown. In this way, he created a secondary forum for religious instruction, outside the walls of established educational and religious institutions.

Both Sfez and Thaalbi were minorities, though very different types: one a local Tunisian Jew in a Muslim majority city where Jews’ roles were carefully circumscribed; another a young man educated in the religious scholarly milieu, though not born to a line of Tunis-based scholarly notables, who spread reformist ideas in a milieu dominated by local families eager to maintain their hold on religious institutions. Fairly or not, it is also true that intent could be read into Sfez’s and Thaalbi’s allegedly blasphemous acts because of their membership in such minority groups. And it is clear that by punishing Sfez and Thaalbi, a message of warning was effectively sent to the groups they belonged to: outsider groups perceived by traditional insiders as attempting to encroach on privileges not historically within their reach. Sending this message may have been the intent of the blasphemy accusations, but it also may have merely been a corollary. It may simply have only been possible to actually punish those alleged blasphemers because they were already just outsider enough.

It is also notable that these two cases occurred during moments of political instability, teeming with uncertainty over who precisely sat at the helm of the state. This is unsurprising. Cabantous, for instance, describes a jump in blasphemy cases in sixteenth-century Western Europe, as the rise of the Protestant Reformation challenged the predominance of the Catholic Church.⁵⁵ In the same vein, Javier Villa-Flores attributes an “early, fierce campaign against blasphemy” in postconquest Mexico to the Spanish crown’s need to impose order in the midst of real and potential disorder and “multiple conflicts and local power struggles among Spaniards.”⁵⁶ In our case, Sfez was prosecuted in the final decades of Ottoman control over the regency of Tunis amidst French and Tunisian challenges to the authority of the Sublime Porte, while Thaalbi was prosecuted in the early decades of encroaching French control over its Tunisian protectorate. We know from letters exchanged among Ottoman, French and Tunisian author-

⁵⁴ Dellagi, *Abdelaziz*, 35.

⁵⁵ Cabantous, *Blasphemy*, 16–19.

⁵⁶ Villa-Flores, *Dangerous Speech*, 46.

ties as well as news reports that control over the judiciary and sources of law were eagerly and intensely contested.⁵⁷ Blasphemy accusations emerge as tools for boundary drawing, and for staking claim to the truth and to how that truth should be adjudicated.

Indeed, perhaps more so than a story of outsiderness, Sfez's and Thaalbi's prosecutions may simply be stories of states, eager and able to punish someone who puts its authority to the test. Though unexamined in secondary literature on Sfez's case, Sfez did not only blaspheme against the religion of his adversary in the street scuffle but also blasphemed against the religion of the police officers sent by the local security official, the dey, and furthermore against the dey himself.⁵⁸ In this way, Sfez's blasphemy perhaps was read as a too-true assertion of the emperor's parabolic lack of clothing – and was punished as such, offering the beylical state an opportunity to reassert itself.

Thaalbi's prosecution similarly can be read as an opportunity seized upon by both local religious scholars and the nascent French colonial administration in a moment characterised by struggles for control and jurisdiction over Tunisian subjects. Thaalbi's very public alleged blasphemies, some of them reportedly uttered in the presence of the religious scholars themselves, offered Tunis-based religious scholars an opportunity to claim jurisdiction over the public sphere and what one could say in it.⁵⁹ Thereafter, intervening in Thaalbi's case subsequently offered the French colonial administration the opportunity to spread its tentacles more deeply into the Tunisian judicial system, particularly into the “civil” system it was attempting to produce and grow, in opposition to the jurisdiction of the religious scholars’ Shariah Court. In this way, then, both Sfez's and Thaalbi's stories may be not so much about boundary making among communities, as about states trying to hang on, and leaders trying to claim a place at the helm, in moments of transition and uncertainty.

⁵⁷ See, for example, Arabic translation of the letter to Muhammad Bey from the Ottomans, ND, série H, Carton 117, Dossier 390 bis, doc #1, National Archives of Tunisia, Tunis, Tunisia; Leon Roches to His Excellency Monsieur le Comte Walewski, Minister of Foreign Affairs, June 29, 1857, 128 A-134B, vol. 17, série correspondance politique, Ministère des Relations extérieures, fonds du Quai d'Orsay, University of Manouba, Tunisia; *al-Šawāb* (July 22, 1904); *La Tunisie Française* (July 24, 1904).

⁵⁸ Witness Testimonies, June 1857, carton 117, folder 390 bis, 1855–1857, document 29, Tunisian National Archives, Tunis, Tunisia.

⁵⁹ Dellagi, *Abdelaziz*, 45.

How to Prosecute? Blasphemy as Violence that is Felt

Across the cases examined here, actors repeatedly cite the “Muslim outrage” that blasphemous acts supposedly caused – some highlighting it as a pretext for prosecution, while others dismiss it as irrational in arguing against prosecution. In the 1857 case against Sfez, the bey justified Sfez’s execution to his Ottoman superior by arguing that a failure to execute Sfez would unleash Muslims’ “religious passions [*al-ghayra al-dīniyya*].” In a draft of a letter to the Ottoman sultan, he framed Sfez’s crime in terms of the corporal, emotive reaction it allegedly provoked among Tunisian Muslims, describing it as “something from which bodies shake [*taqsha‘ir...al-abdān*].”⁶⁰ Sfez’s blasphemy indeed appeared to produce such shared hurt and anger that the Muslim population allegedly came out to participate in the desecration of Sfez’s corpse. The British consul Richard Wood lamented in a letter, perhaps with some self-serving exaggeration, that “the head of the wretched man was kicked about by the boys, while men were endeavouring to smash it with stones. A large number of Moors went to meet the corpse in order to drag it through the town, in which design they failed, owing to the interference of the police, but the Moorish women, who repaired to the Jewish cemetery, assisted at its burial with songs and exclamations of joy.”⁶¹

Similarly, in the 1904 case against Thaalbi, Arabic-language papers argued for the accused’s prosecution by spotlighting “streets [...] packed with creatures” whose “hearts were full [...] of hate,” while French-language newspapers dismissed his prosecution as spurred along by “the blind intolerance of a crowd riled up by a few dangerous people.”⁶² Just like in the Sfez case, Thaalbi’s alleged blasphemous crimes appeared to “provoke real emotion [*soulever une véritable émotion*] in all Tunisian milieus.”⁶³ And this emotion pushed Tunisians into the streets. A French-language newspaper reported on a crowd of 2,000 Tunisians who allegedly invaded the Muslim Judiciary Services around 11 AM one morning. Thaalbi, then exiting the Wizāra tribunal after being questioned, was reportedly saved by fast-thinking French colonial officials from “certain death”

⁶⁰ Draft letter from Muhammad Bey to the Ottomans, ND, pg 101–111, série H, Carton 117, Dossier 390 bis, doc #10, National Archives of Tunisia, Tunis, Tunisia.

⁶¹ Broadley, *The Last Punic War*, vol. 1, 111.

⁶² *Al-Qalam* (July 3, 1904); *La Dépêche Tunisienne* (July 6, 1904).

⁶³ *La Dépêche Tunisienne* (July 13, 1904).

at the hands of “the blind intolerance of an overexcited crowd.”⁶⁴ According to an Arabic newspaper, and a biography written by a fellow nationalist figure, this animated crowd chanted curses and called for Thaalbi’s death, with one sign reading, “[t]his unbeliever [*kāfir*] is an enemy of God.”⁶⁵ A letter from the General Residence to the French Minister of Foreign Affairs communicated concerns that after his release Thaalbi may find himself a “victim of religious resentment,” on the part of Muslims who felt “injured in their beliefs [*blessés dans leurs croyances*].”⁶⁶ Much like the bey, writing in 1857, the Tunisian Arabic newspaper *Al-Qalam* categorised Sfez’s crime in terms of the visceral reaction it allegedly provoked among Muslims, as “matters that make your body skin crawl [*al-umūr allatī taqsha’irr minha al-julūd*].”⁶⁷ In this way, we see in both Sfez’s and Thaalbi’s trials a combined emphasis on the hurt feelings that blasphemy causes and their destabilizing effects on public order: specifically, anger and violence in the streets as well as an outrage that seems to threaten to boil over.

Conclusion and Other Questions

In a collection of essays on the Danish Cartoon Controversy, some prominent anthropologists based at American universities have attempted to parse why blasphemy seems to “hurt” (some) contemporary Muslims so much – much to the confusion and sometimes disdain of Western observers.⁶⁸ What the present chapter shows is that this conception of hurt caused by blasphemy existed historically: in 1857 and 1904 Tunis, various observers (supporting and resisting blasphemers’ prosecution) document a particular type of hurt created in the wake of blasphemy. Indeed, these affective representations of injury are useful:

64 “Thaalbi, victime de l’intolérance aveugle d’une foule surexcitée par quelques personnages dangereux, a échappé à une mort certaine.” *La Dépêche Tunisienne* (July 6, 1904). Cited also in Kraiem, “Le premier procès,” 107.

65 *Al-Rushdiyya* (July 6, 1904), cited and translated by Kraiem, “Le premier procès,” 107; Bayshir al-Fūratī, “Al-Shaykh ‘Abd al-‘Aziz al-Thā’albī,” in *Al-Shaykh ‘Abd al-‘Aziz al-Thā’albī min khilāl wathīqa lil Bayshir al-Fūratī*, ed. Ḥammādī Al-Sāḥlī and Al-Jilānī Ibn Al-Ḥāj Yāhiyya. *Rawāfid* 5 (1999 – 2000): 238.

66 “Report from the delegate at the Résidence Générale in Tunis to Delcassé, Minister of Foreign Affairs, on the trial of Thaalbi,” July 25, 1904, Carton 23 (D2), Bobine 123, Folios 97–103, Nouvelle Série: Tunisie – 1883 – 1917, Quai d’Orsay. Reprinted in *Wathā’iq* 19 (Tunis: Université de Tunis I’s Institut Supérieur d’Histoire du Mouvement National, 1993), 37–41.

67 *Al Qalam* (July 3, 1904).

68 Talal Asad, Wendy Brown, Judith Butler, and Saba Mahmood, *Is Critique Secular? Blasphemy, Injury and Free Speech* (New York: Fordham University Press, 2013).

emotions are understood as surging up from within for reasons the feeler themselves does not sometimes fully understand; emotions are truth tellers which, once externalised, the feelers or observers can attempt to discern. Emotions, then, are a particularly effective means of placing demands on the state, or of crafting a state at which one is the head, without necessarily providing explanation or justification. They are also a way of diagnosing (for those critical of blasphemy) that there is something constitutionally wrong – and in need of fundamental reform – deep inside those injured by blasphemous acts.

With the retreat of blasphemy laws in parts of Europe, it may be that we can no longer find analogues north of the Mediterranean for contemporary Tunisian blasphemy cases. To put it provocatively, could it be that blasphemy is becoming a “Muslim” issue? This concluding section suggests that the prosecution of Tunisian blasphemy cases in the past ten years has much in common with contemporary incidents of religious hate speech cases across Europe. This is perhaps not surprising: as Christopher S. Grenda, Chris Beneke and David Nash have argued, Western democracies have shifted away from protecting the divine, or religion itself, towards protecting the new sacred: individuals, in the form of religious believers.⁶⁹

I propose in closing that we consider how hurt feelings undergird contemporary understandings of both Tunisian blasphemous crimes and European hate speech. In his 2012 defense of hate speech laws, philosopher Jeremy Waldron, then teaching at Oxford University, gingerly sketched out the close relationship he sees between hate speech and hurt feelings. The law, Waldron argues, does not and should not protect people from hurt feelings. Instead, hate speech laws are intended to protect people against indignity, against feeling that they are “not worthy of being treated as members of society in good standing.” Yet, Waldron concedes two important points: first, those who deploy hate speech “no doubt” do so “hoping for certain psychological effects” – hoping, in other words, to hurt feelings, to create a “traumatic sense of [...] not being perceived as worthy of ordinary citizenship [...] of being always vulnerable to discriminatory and humiliating exclusions and insults.”⁷⁰ Therefore, one may prohibit

⁶⁹ Christopher S. Grenda, Christ Beneke, and David Nash, “Introduction: On the Modern Confluence of Blasphemy, Free Expression, and Hate Speech,” in *Profane: Sacrilegious Expression in a Multicultural Age*, ed. Christopher S. Grenda, Christ Beneke, and David Nash (Oakland, CA: University of California Press, 2014), 2. Alain Cabantous similarly suggests that the contemporary focus on human rights is an indication of the shifting sacralisation of the human. Cabantous, *Blasphemy*, 205.

⁷⁰ Jeremy Waldron, *The Harm in Hate Speech* (Cambridge, MA: Harvard University Press, 2012), 106 – 107.

hate speech not because it hurts feelings, even though that is what it seeks to do. Second, and in a similar vein, Waldron acknowledges that though hate speech laws should not be geared specifically towards protecting feelings, they do so anyway: “Protecting people from assaults on their dignity indirectly protects their feelings.” What is important to Waldron, here, is that the protection of feelings is a result of the law, and not its motivation: “it [law against hate speech] does so [protects feelings] only because it protects them from a social reality – a radical denigration of status and an undermining of assurance – which, as it happens, naturally impacts upon their feelings.”⁷¹ However, it is probably fair to ask if it ever were that hate speech did not cause such deleterious emotions, such feelings of alienation and worthlessness, would hate speech even be worth prohibiting? If the goal of prohibiting hate speech is (as Waldron says) to sustain a functioning democratic society, in which all members participate fully and equally, then would hate speech – emptied of its power to make people feel particular ways – even be worth prohibiting?

The lines between Tunisian blasphemy cases and European hate speech cases are, indeed, not so clear. In contemporary Tunisia, young Amna al-Sharqī [Emna Chargui] was recently prosecuted for sharing a cartoonish imitation Qur’anic verse about the Coronavirus – urging readers to wash their hands – on Facebook, an act which implicitly questions the sacrality and divine origin of the holy text. Though Chargui did not author the verse (but simply shared it), she was sentenced to six months in prison for “incitation to hate between religions and races” and was issued a 2000 Tunisian dinar (615 euro) fine for “attack on the sacred and on public decency [*bonnes moeurs*].”⁷² In France, Tunisia’s former colonizer, a Swiss man, Alain Jean-Mairet, was sentenced in 2016 to pay a fine of 5,000 euros for “incitement to racial hate” for posting a “violent diatribe” online entitled, “And if Islam was the religion of sexual and moral perversion?” The criminal tribunal of Paris determined that “under the guise of explaining facts that he denounces as the supposed moral deviance of Islam, the author then imputes to Muslims, in an explicit manner, without any reservation and without distinction among them, moral perversion and abject behaviours.”⁷³ Jean-Mairet was guilty because he was not criticizing Islam,

71 Ibid., 108.

72 “Condamné à six mois de prison, Emna Chargui fait appel,” *Mosaique FM*, June 14, 2020, accessed August 27, 2021, <https://www.mosaiquefm.net/fr/actualite-national-tunisie/769101/condamnee-a-six-mois-de-prison-emna-chargui-fait-appel>.

73 “Site d’extrême-droite dirigé par un Suisse condamné,” *Tribune de Genève*, June 4, 2016, accessed October 20, 2021, <https://www.tdg.ch/monde/site-extremedroite-dirige-suisse-condamne/story/26082601>.

but Muslims, and all Muslims, meaning he had moved from the domain of intellectual debate to the domain of the unthinking, the indelicate (note the “in an explicit manner” and “without any reservation” above) and the excessive. He had moved, not unlike Chargui, to inappropriate and perhaps unsophisticated insult: the banality of the acts reinforced their artlessness.

These cases come full circle, in a sense, too. Where is Chargui today, following her prison sentence? In asylum in an undisclosed Western European country.⁷⁴ And Jean-Mairet, where was he living at the time of his trial? According to his lawyer, Stéphane Haddad, in Tunis. Tunis, Haddad pointed out, hoping to make a jurisdictional argument, is no longer “a French protectorate.”⁷⁵ The court rejected Haddad’s argument. We may ask is Tunis, and its history of blasphemy cases censured by Europeans then and now, really quite so distant?

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⁷⁴ Hela Ben Salem, personal communication with the author, May 26, 2021.

⁷⁵ “Un Suisse poursuivi par la justice française pour incitation à la haine raciale,” *Le Temps*, February 18, 2016, accessed August 27, 2021, <https://www.letemps.ch/suisse/un-suisse-poursuivi-justice-francaise-incitation-haine-raciale>.

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