

# **SOUTH AFRICA 2019 INTERNATIONAL RELIGIOUS FREEDOM REPORT**

## **Executive Summary**

The constitution provides for freedom of religion and belief and prohibits discrimination on the basis of religion. The government does not require religious groups to register; however, registered groups receive tax-exempt status.

Throughout the year, religious groups and nongovernmental organizations (NGOs) continued to express concerns that two separate draft laws, one requiring religious groups to register with the government and the other criminalizing, defining, and punishing hate crimes and speech, could potentially infringe on religious freedom and freedom of speech. In March the Pretoria High Court ordered the Dutch Reformed Church to allow individual church councils to recognize and bless same-sex relationships and to employ noncelibate gay clergy. In September the Constitutional Court ruled that parental rights to religious freedom did not include the right to discipline their children using corporal punishment (including spanking), in response to a case brought by the NGO Freedom of Religion SA.

The South African Jewish Board of Deputies (SAJBD) recorded 36 anti-Semitic incidents during the year – a 15-year low. Numerous individuals made anti-Semitic comments throughout the year. Religious leaders reported a number of anti-Muslim incidents, including vandalism of several mosques and desecration of Muslim graves in a Cape Town cemetery, and attempts to prevent the slaughter of animals for Eid-al-Adha.

U.S. government officials met with religious groups and NGOs, including Muslim, Hindu, Christian, Jewish, and humanist representatives, to gauge and discuss issues of religious freedom, including cases of anti-Semitism and anti-Muslim sentiment, and a proposed draft bill that would require religious institutions to register with the government in order to operate.

## **Section I. Religious Demography**

The U.S. government estimates the total population at 55.9 million (midyear 2019 estimate). According to a 2010 Pew Research Center report, 81 percent of the population is Christian. Approximately 15 percent of the population adheres to no particular religion or declined to indicate an affiliation; some of these individuals likely adhere to indigenous beliefs. Muslims constitute 1.7 percent of the population, of whom the great majority are Sunni. Shia religious leaders estimate

that not more than 3 percent of the Muslim population is Shia. Hindus, Jews, Buddhists, and adherents of traditional indigenous beliefs together constitute less than 4 percent of the population. Many indigenous persons adhere to a belief system combining Christian and indigenous religious practices. The Church of Scientology estimates it has approximately 100,000 members.

The Pew Research Center estimates 84 percent of the Christian population is Protestant, 11 percent Roman Catholic, and 5 percent other denominations (2010 estimate). African independent churches constitute the largest group of Christian churches, including the Zion Christian Church (approximately 11 percent of the population), the Apostolic Church (approximately 10 percent), and a number of Pentecostal and charismatic groups. Other Christian groups include Methodists, Anglicans, Baptists, Lutherans, Presbyterians, Seventh-day Adventists, and members of the Greek Orthodox, Dutch Reformed, The Church of Jesus Christ of Latter-day Saints, Assemblies of God, and Congregational Churches.

Persons of Indian or other Asian heritage account for 2.5 percent of the total population. Approximately half of the ethnic Indian population is Hindu, and the majority resides in KwaZulu-Natal Province. The Muslim community includes Cape Malays of Malayan-Indonesian descent, individuals of Indian or Pakistani descent, and approximately 70,000 Somali nationals and refugees. The SAJBD estimates the Jewish community at 60,000 persons, the majority of whom live in Johannesburg and Cape Town.

## **Section II. Status of Government Respect for Religious Freedom**

### **Legal Framework**

The constitution provides for freedom of religion and belief, including the right to form, join, and maintain religious associations. It prohibits religious discrimination and specifies freedom of expression does not extend to advocacy of hatred based on religion. The constitution permits legislation recognizing systems of personal and family law to which persons professing a particular religion adhere. It also allows religious observances in state or state-supported institutions, provided they are voluntary and conducted on an equitable basis. These rights may be limited for reasons that are “reasonable and justifiable in an open and democratic society based on human dignity, equality, and freedom” and take account of “all relevant factors.” Cases of discrimination against persons on the grounds of religion may be taken to Equality Courts, the South African Human Rights Commission, and the Constitutional Court. The constitution also provides

for the promotion and respect of languages used for religious purposes, including, but not limited to, Arabic, Hebrew, and Sanskrit.

The constitution establishes and governs the operation of the Commission for the Promotion and Protection of the Rights of Cultural, Religious, and Linguistic Communities (CRL) with the mission of fostering the rights of communities to freely observe and practice their cultures, religions, and language. The CRL is an independent national government institution whose chair is appointed by the president and whose commissioners include members of the clergy, scholars, and politicians, among others.

The law does not require religious groups to register; however, registered religious and other nonprofit groups may qualify as public benefit organizations, allowing them to open bank accounts and exempting them from paying income tax. To register as a public benefit organization, groups must submit a nonprofit organization application, including their constitution, contact information, and list of officers and documentation stating they meet a number of prescribed requirements that largely ensure accounting and tax compliance, to the provincial social development office. A group registers once with the local office but its status then applies nationwide. Once registered, the group must submit annual reports on any changes to this information, important achievements and meetings, and financial information, as well as an accountant's report.

The government allows but does not require religious education in public schools but prohibits advocating the tenets of a particular religion.

The law allows for marriages to be conducted under customary law; however, it applies only to “those customs and usages traditionally observed among the indigenous African people” and may be performed by all religious groups and their leaders.

The constitution grants detained persons visitation rights with their chosen religious counselor.

The country is a party to the International Covenant on Civil and Political Rights.

### **Government Practices**

In March the Pretoria High Court ordered the Dutch Reformed Church to allow individual church councils to recognize and bless same-sex relationships and to

employ noncelibate gay clergy. The case effectively ended the Church's 2016 policy banning LGBTI persons from marrying or becoming clergy, according to civil society activists. In September the Church's General Synod adopted a policy "in which everyone's human dignity is respected." The synod's decision allowed councils and ministers to "confirm civil unions between persons of the same sex" and called for the licensing of theological students without regard to their "race, gender, class, or sexual orientation and identity."

In June the South African National Defence Force (SANDF) charged an officer with disobedience for refusing to remove her religious headscarf. Major Fatima Isaacs worked in SANDF for more than a decade and always wore the Islamic garment under her military beret. According to her attorney, Isaacs received permission to wear her hijab from senior officers. One "colonel had continuously refused her request until he served her with a final written warning for repeatedly disobeying a lawful instruction," the attorney said. In August SANDF gave Isaacs interim relief while it reviewed its dress code. In November the case was postponed to January 2020.

In September the CRL denounced a public school in Alberton, Gauteng for promoting a specific religion. The CRL cited a 2017 ruling by the High Court in Johannesburg that found it unconstitutional for Laerskool Randhart and other public schools to promote one religion over others. A parent complained to the CRL that the school continued to hold Monday morning Bible reading and prayer along with Wednesday religious periods featuring a teacher from a church. "The outcome of the High Court matter is quite explicit about this because it said that schools have the right to determine access to any religion, but any preference given to one religion is not permitted," said CRL Chair Luka David Mosoma.

Also in September, in a case brought by the NGO Freedom of Religion SA, the Constitutional Court ruled that parents may not spank their children. The case concerned a father convicted in 2016 of assaulting his 13-year-old son and upheld an earlier ruling by the High Court to do away with the common-law defense of reasonable chastisement when spanking a child. The Constitutional Court found that "violence meted out to the son... took the form of vicious kicking and punching... The father could not... [have] relied on any religious or cultural ground to justify that unmistakably immoderate and unreasonable application of force... The application of force or a resort to violence, which could be harmful or abused, cannot in circumstances where there is an effective non-violent option available be said to be consonant with the best interests of the child." The court charged parliament with devising an appropriate regulatory framework to

implement the decision and stated, “The aim is not to prosecute parents but to get them to parent better. The removal of the defense does not mean that all cases of parental corporal punishment mean automatic or frequent prosecution of parents.” Freedom of Religion SA argued that “there is a clear distinction between violence or abuse, and mild (non-injurious) physical correction.” Freedom of Religion SA’s attorney said the judgment “sets a very dangerous precedent in that the State can dictate to people of faith how to read and live out the Scriptures, thereby seriously eroding their right to religious freedom.”

According to media, the Johannesburg Metro Police (JMPD) closed at least 16 churches for not complying with city bylaws regarding noise and fire safety. JMPD also created a forum with church leaders to raise awareness about the municipal code. “Rogue churches, they will never be allowed,” JMPD head David Tembe told the private broadcaster eNCA.

In February the then minister of cooperative governance and traditional affairs urged the CRL to “protect the public against abuse in the name of religion” after a video clip of a pastor allegedly raising someone from the dead was widely distributed on the internet. In July the new CRL chair stated that “the issue of regulation of religion is still on the plate... Parliament will have to take a position on whether religion is regulated or not.” Several groups, including the Southern Africa Catholic Bishops’ Conference, the nonprofit Christian organization Freedom of Religion South Africa (FORSA), and the International Institute for Religious Freedom, stated their continued opposition to a 2016 CRL legislative proposal requiring religious groups to register, stating it would restrict their religious freedom. The proposal would require religious groups to register formally with the government and would create a peer review council, consisting of representatives from various religious groups, which would grant organizations and individual religious leaders’ permission to operate. In 2018 the Parliamentary Portfolio Committee on Cooperative Governance and Traditional Affairs announced that every comment it had received from the religious community opposed the CRL proposal. No member of the committee recommended that the CRL proposal be forwarded for adoption by parliament. According to media, the legislative proposal was prompted by the CRL’s 2016 investigation that revealed some independent church leaders instructed their congregations to eat live snakes, expose their faces to insect repellent, drink gasoline, and pay large sums of money to receive blessings and miracles. The proposal remained with the parliamentary Portfolio Committee on Cooperative Governance and Traditional Affairs at year’s end.

In 2018 the Department of Justice introduced to parliament a hate crimes and hate speech bill that would criminalize any action or statement motivated by bias or hatred towards an individual based upon a number of categories, including his or her ethnic, national, religious, or sexual identity; health status; employment status or type; or physical ability. The bill would provide law enforcement officials and courts increased authority to arrest and punish offenders, and it would mandate prison sentences of up to three years for first-time offenses. Opponents to the bill, including religious figures, media representatives, and civil society and NGOs, argued the bill's definition of hate crimes and speech was too vague and could potentially restrict freedom of religion and speech. The draft legislation was expected to be debated in parliament in early 2020, according to media reports.

Twin brothers Brandon Lee Thulsie and Tony Lee Thulsie continued to await trial on charges of contravening the Protection of Constitutional Democracy Against Terror and Related Activities. The brothers, along with two others who were alleged to have links to ISIS, were arrested in 2016 for allegedly planning to set off explosives at the U.S. Embassy in Pretoria and Jewish institutions in the country. Their trial was expected to begin in March 2020.

### **Section III. Status of Societal Respect for Religious Freedom**

In June unknown individuals vandalized three Western Cape Jewish cemeteries. A Jewish group in Strand filed a police complaint after four Jewish gravestones were damaged.

In July at a Johannesburg university following the showing of a documentary, a student said that “if Hitler had succeeded in wiping out the Jews, there would be no apartheid state of Israel,” according to the SAJBD. The student subsequently apologized.

In August a driver rammed the trailer of a Muslim family in Saddlebrook Estate, a gated neighborhood in Midrand, Gauteng, as they were arriving home with animals to slaughter for Eid-al-Adha. The driver also slashed the tires of the family's vehicle, for which he was subsequently arrested. The slaughtering eventually took place under police guard. Representatives of the Society for the Prevention of Cruelty to Animals had visited the residents' premises and deemed them suitable for the slaughtering ceremony. The estate's board of directors denounced the “intolerant and illegal actions in the estate of some residents.”

In September protesters from nearby neighborhood Thokoza forced open the gate of Katlehong Mosque in Johannesburg and burned a parked car and some artwork in the building. Imam Sheikh Ishaq told media the attack stemmed from a hoax message circulating on social media alleging that Pakistanis and Bangladeshis were kidnapping students from a local school. Later in September, a man threw a Molotov cocktail at the Himayatul Islam Mosque while worshippers were inside. Police arrested two suspects, according to media reports.

In October vandals desecrated 80 Islamic graves in Mowbray in Cape Town and rearranged the headstones in the shape of a cross, according to media.

The SAJBD recorded a 15-year low of 36 anti-Semitic incidents during the year, a 40 percent drop from the 62 during 2018. The incidents included verbal threats and intimidation, verbal abuse, abusive communications, and graffiti/offensive slogans.

During Ramadan in Cape Town, a neighbor of the Zeenatul Islam Mosque in the neighborhood known as District Six lodged a noise complaint with the city over the mosque's call to prayer. A variety of organizations, including the Desmond and Leah Tutu Legacy Foundation, defended the mosque. "It defies logic that anyone living in District Six... would consider the call to prayer worthy of a complaint," it said in a statement, referring to the fact that District Six has historically had a significant Muslim population and the Zeenatul Islam Mosque had been broadcasting the call to prayer since 1919.

#### **Section IV. U.S. Government Policy and Engagement**

Embassy representatives engaged with religious leaders and NGOs, including individuals from the Muslim Judicial Council, Islamic Council of South Africa, Inner Circle (a Muslim lesbian, gay, bisexual, transgender, and intersex organization), Hindu Maha Sabha, Christian Coalition, Christian Social Services, American Jewish Committee, SAJBD, South African Secular Society, and Atheist Movement of South Africa to discuss the environment for religious freedom and concern over cases of anti-Semitism and anti-Muslim sentiment. They also discussed the draft bill that would require religious institutions to register with the government in order to operate.