

SOUTH AFRICA 2017 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. In June the High Court ruled that public schools could not promote one religion to the exclusion of others. The Organization for Religious Education and Democracy, which brought the court case against six schools, argued that religious practices at these schools resulted in the suppression of scientific teachings of evolution and that a religious ethos was a form of coercion and an abuse of learners' rights. Throughout the year, religious groups and nongovernmental organizations (NGOs) continued to express concerns that two separate draft laws requiring religious groups to register with the government and to define and punish hate crimes and speech could potentially infringe on religious freedom and freedom of speech. In January twin brothers Brandon-Lee and Tony-Lee Thulsie appeared in court to face terrorism charges after their 2016 arrests for allegedly planning to attack U.S. and Jewish targets. The Johannesburg High Court postponed their trial to February 20, 2018, to allow for arguments regarding the constitutionality of the Terrorism Act, under which they were arrested. In March Rastafarians welcomed a High Court ruling that declared a ban on marijuana use by adults in private homes to be unconstitutional.

The South African Jewish Board of Deputies (SAJBD) recorded 44 anti-Semitic incidents in 2017, compared with 43 in 2016. The SAJBD also reported members of the Palestinian Solidarity Committee made anti-Semitic comments during Israel Apartheid Week in March. Other individuals publicly made anti-Semitic comments throughout the year. Unknown individuals vandalized two mosques in Western Cape Province, smearing pig's blood and leaving a pig's snout at one of the mosques.

U.S. government officials met with religious groups and NGOs, including Muslim, Hindu, and Jewish 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 receive permission to operate.

Section I. Religious Demography

The U.S. government estimates the total population at 54.8 million (July 2017 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 are likely adhere to indigenous beliefs. Muslims constitute 1.7 percent of the population, while 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 (Mormons), 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 75,000 to 80,000 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 if the limitation is “reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom” and takes 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 (SAHRC), 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 allows for the presence and 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. 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 marriages to be conducted under customary law; however, it only applies 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 June the High Court ruled that a public school could not promote that it adhered to only one or predominantly only one religion to the exclusion of others and could not favor or promote the interests of one religion over others. The ruling would also be binding on other schools nationwide. The Christian Action Network criticized the ruling, arguing that parents must be allowed to decide the religious ethos of schools through the School Governing Bodies (school boards). The Organization for Religious Education and Democracy (OGOD) brought suit against six schools: Randhart, Baanbreker, and Garsfontein primary schools; and Linden, Oudtshoorn, and Langenhoven secondary schools. The OGOd argued that required religious practice at these schools resulted in the suppression of scientific teachings of evolution and that a religious ethos was a form of coercion and an abuse of students' rights.

In March the High Court issued a ruling declaring unconstitutional a ban on marijuana use by adults in private homes. The court gave parliament two years to change the related sections of the relevant legislation. Since 2002, the Rastafarians had called for the drug, colloquially known as dagga, to be declared lawful on religious grounds. Jeremy Acton, the head of the Dagga Party of South Africa, brought the court case.

In June Muslim inmates at the Tswelopele Correctional Service in Northern Cape Province stated the prison was preventing them from practicing their religious beliefs and sometimes forced them to attend Christian gatherings against their will. The Northern Cape Department of Correctional Services denied the allegations.

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 opposition to a CRL legislative proposal in 2016 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 to create a peer review council, consisting of representatives from various religious groups, which would grant organizations and individual religious leaders permission to operate. Accredited umbrella organizations for each religious group would recommend the licensing of institutions and individual members of the clergy. Another recognized umbrella organization would then either approve or decline licensing the institutions. The groups in opposition stated the proposal's envisioned regulation of all religious organizations was unconstitutional and unnecessary because existing laws could be

used to address governmental concerns of improper religious activities, such as feeding congregants snakes and dangerous substances. In a May 16 open letter to CRL Chairwoman Thoko Mkhwanazi-Xaluva, FORSA argued that the proposal's designation of the CRL as the final arbitrator of religious affairs exceeded its constitutional and self-described mandate as a governmental advisory body. The groups also expressed concern that the bill would prevent religious groups that are independent of mainstream religious faiths and organizations from legally operating in the country.

According to the media, the 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 CRL also found that some religious organizations failed to adhere to tax rules and demonstrated a lack of financial transparency. Opponents of the proposal stated the CRL based its investigation and subsequent report that justified the recommendation for legislation on generalizations about alleged abuses. They said the supporting evidence was based on an inadequate number of interviews with religious groups. The Council for the Protection and Promotion of Religious Rights and Freedoms – established to oversee the process drawn up by religious and civil organizations that define religious freedoms, rights, and responsibilities of citizens – described the report's proposals as “the fruit of a poisonous tree.” In October the CRL submitted its report and recommendations for draft legislation to the Portfolio Committee on Cooperative Governance and Traditional Affairs for review before parliament recessed.

In February and December, the government held public meetings with religious groups, civil society, and NGOs to discuss a draft hate crimes and hate speech bill. The bill, first introduced in October 2016, would criminalize any action or statement motivated by bias or hatred towards an individual based upon 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 would mandate prison sentences of up to three years for first-time offenses. The Ministry of Justice invited public commentary on the draft bill and received more than 77,000 responses from individuals, religious groups, and other organizations. 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. FORSA expressed concern that the bill's provisions were “over-broad and unconstitutional” and could

punish churches and Christians who spoke out against homosexuality. The Hate Crimes Working Group, a network of civil society groups, stated that existing laws adequately addressed hate speech and the bill, if passed, could have unintended consequences. As of December, the government took no further action on the draft bill, and the draft legislation was expected to be debated in parliament in early 2018, according to media reports.

In January twin brothers Brandon-Lee and Tony-Lee Thulsie appeared in court to face terrorism charges after their 2016 arrest for allegedly planning to attack U.S. and Jewish targets. The Johannesburg High Court postponed their trial to February 20, 2018, to allow for arguments regarding the constitutionality of the Terrorism Act, under which they were arrested.

In August the Western Cape High Court in Cape Town heard a case brought by the Women's Legal Centre (WLC) regarding the nonrecognition of Islamic marriages by the state. The WLC stated the failure of legislation to recognize Islamic marriages degraded Muslim women's rights. The Association of Muslim Women of South Africa and the United Ulama Council of South Africa opposed the WLC case, stating it violated freedom of religion by singling out Islam. According to media sources, the president, the minister of home affairs, and the minister of justice and correctional services all filed papers opposing the WLC on the grounds that Muslim communities in the country did not support the idea of new legislation. The case was pending as of year's end.

Some prominent individuals were quoted throughout the year making anti-Semitic statements. According to the South African Jewish Report, on June 29, the South African Equality Court ruled that Bongani Masuku, International Relations Secretary of the Congress of South African Trade Unions (COSATU), had to issue a formal apology to the Jewish community for anti-Semitic comments he made in 2009. The COSATU announced its intention to appeal the ruling. In September the *Times of Israel* reported the South African Jewish Board of Directors filed a lawsuit against Black First Land First leader Andile Mngxitama after the board said he posted several anti-Semitic messages online. The Equality Court reviewed the case and reportedly dismissed it.

Section III. Status of Societal Respect for Religious Freedom

In January unknown individuals vandalized two mosques in the Cape Town region, smearing pig's blood and leaving a pig's snout at one of the mosques. As of the end of the year, police had not charged or prosecuted anyone in the case.

The SAJBD recorded 44 anti-Semitic incidents in 2017, compared with 43 in 2016. The incidents included verbal threats and intimidation (7), verbal abuse (15), abusive communications – all mediums (16), and graffiti/offensive slogans (6). The organization also reported members of the Palestinian Solidarity Committee made anti-Semitic comments during Israel Apartheid Week in March. One member said he wanted to kill Jews because “they don’t behave when they are in other people’s countries,” and another member impersonated Hitler and made Nazi-style salutes.

On February 3, the media news service quoted Edward Zuma, son of President Jacob Zuma, as saying that “white fund managers and many more Jewish-based entities” enjoyed preferential treatment from the Public Investment Corporation.

On May 29, a student from Edenvale High School in Johannesburg interrupted a Holocaust-related student theater performance with anti-Semitic statements. The student and his school’s principal apologized for the incident, and the school agreed to work with the Jewish community to improve sensitivity training for students. In August unknown individuals painted anti-Semitic messages and swastikas on several University of Pretoria message boards. The university condemned the incident.

In October during a sermon at Masjid Al-Furqaan in Cape Town, Imam Abduragmaan Alexander addressed the Islamic community, saying: “You have no guts, no courage, no power, and no motivation to liberate the Al-Aqsa Mosque from the bloody hands of the Zionist entity.” Imam Alexander further said Palestine and the Al-Aqsa Mosque were crying out, “Nation of Islam, you are a billion Muslims, yet you are unable to liberate the Al-Aqsa Mosque from the hands of the oppressive occupying Jews.” Iman Alexander continued to say “never will the Jews or the Christians approve of you until you follow their religion.”

As of December the Equality Court had yet to render a ruling on the 2015 case of Port Elizabeth lawyer Maureen Jansen, who posted anti-Semitic statements on social media.

Section IV. U.S. Government Policy and Engagement

U.S. embassy representatives met with religious leaders and NGOs, including individuals from the Muslim Judicial Council, Islamic Council of South Africa, the Church of Scientology, the Inner Circle (a Muslim lesbian, gay, bisexual,

transgender, and intersex organization), Hindu Maha Sabha, and the SAJBD to discuss the environment for religious freedom and concern over cases of anti-Semitism and anti-Muslim sentiment. In February a representative from the Office of International Religious Freedom met with representatives from Jewish organizations to discuss anti-Semitism trends in the country and campus anti-Semitism. He also met with CRL, FORSA, and SAHRC representatives to discuss the draft legislation regarding registration and hate crimes and hate speech.