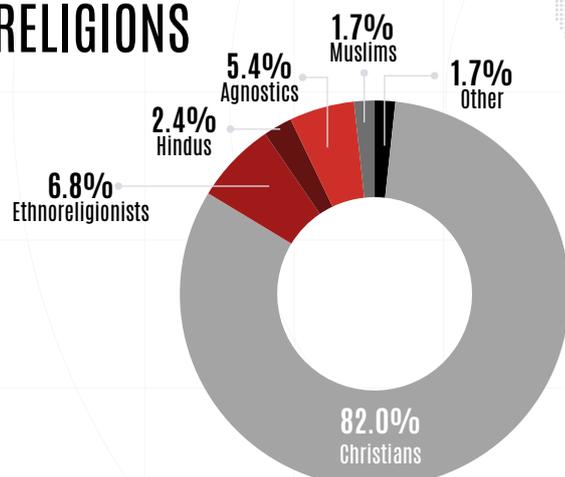




SOUTH AFRICA

RELIGIONS

LEGAL FRAMEWORK ON FREEDOM OF RELIGION
AND ACTUAL APPLICATION

Article 9 (2-5) of the South African Constitution of 1996 (as amended) prohibits all forms of discrimination, including discrimination on the grounds of religion.¹ Under Article 15 (1), “[E]veryone has the right to freedom of conscience, religion, thought, belief and opinion.” Under Article 31 (1, 5), members of particular religious communities have the right to practise their religion and to form or join religious associations.

Religious instruction is allowed but not compulsory in public schools; however, it cannot promote the views of any single religion.² The school calendar takes into account the holy days of the main religious communities. Christmas and Good Friday are among the religious festivities that are observed nationwide.

The South African Human Rights Commission (SAHRC) is the agency that supports “constitutional democracy” and promotes “respect for, observance of and protection of human rights for everyone without fear or favour”,³ including religious freedom. Together with the courts, it is responsible for the prosecution of suspected violators.⁴

Religious communities are not required by law to register with the authorities, but those that do may benefit from tax benefits.⁵

South Africa also has a Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistics Communities (CRL Rights Commission), whose members include politicians, clergy and scholars.⁶ Like the SAHRC, its mandate includes the protection of “constitutional democracy,” upholding “cultural, religious, and linguistic community rights” by providing “space for [. . .] cultural, religious and linguistic communities” while promoting “unity amongst” them.⁷

In 2016, following complaints and media stories about the commercialisation and abuse of religion and beliefs, the Commission launched an investigation into the matter, which produced a report released in 2017.⁸ The report found that some religious organisations took advantage of legislative loopholes and poor law enforcement to engage in unethical advertising of religious and traditional healing services and abuse of people’s beliefs.⁹

In an effort to end this, the report issued a number of recommendations, such as encouraging religious communities to register so that the authorities might “know how many religious affiliations there are in the country,

and where they can be found, especially when we want to discuss matters of concern with them.” In the Commission’s view, there is “nothing invasive, unconstitutional and unworkable with this.”¹⁰ At the same time, it “wants to promote and protect the above quoted constitutional freedoms further by ensuring that religious institutions run their own affairs without any interference from the state.”¹¹

INCIDENTS AND DEVELOPMENTS

Violence has affected South Africa’s Muslim communities during the reporting period.

In May 2018, a deadly attack was carried out against the Imam Hussein Mosque in Durban.¹² A month later, Islamic Sunni and Shi’a leaders met to sign the “Cape Accord”,¹³ “a document meant to encourage peace and unity and to eradicate extremism in the country.”¹⁴

Despite the accord, violence continued. In June 2018, two men were stabbed to death after religious observances in Cape Town’s Sunni Malmesbury Mosque.¹⁵ In Khayelitsha, also in Cape Town, a man was shot and an imam injured after religious observances in a local mosque in November 2018.¹⁶ In Durban, two mosques suffered arson attacks, the Masjid-e-Mukhtar mosque in July 2018¹⁷ and the Faizane Mariam Masjid mosque in February 2019.¹⁸ A month later, another man was killed after a religious observances at the Taqwa Bakerton Mosque in Johannesburg’s East Rand region.¹⁹ And lastly, in January 2019, a Muslim cleric was killed while visiting a patient at a Durban hospital.²⁰ For most of these crimes, the authorities have not found the culprits.

In August 2019, a case of discrimination was reported involving a teenager who was asked to shave his beard, which he was growing for religious reasons. His family tried to defend his right to have a beard, but the school did not revoke its decision.²¹

At the same time, there have also been positive developments in regard to the freedom of religion for the Muslim community. In August 2019, the South African National Defence Force announced that it would consider allowing women who serve in the military to wear a headscarf after a Muslim major refused to take hers off.²² In Cape Town, a school changed its 2019 exam schedule to accommodate Muslim students and ensure that the exams did not fall on a Muslim holy day.²³

Other religious groups have also experienced various

forms of hostility. The South African Jewish Board of Deputies (SAJBD) reported 62 cases of anti-Semitism in 2018 and 36 cases in 2019.²⁴

In the first 10 months of 2019, the Johannesburg Metro Police closed down 16 Christian churches claiming that they did not comply with the bylaws that regulate noise and fire safety.²⁵

In September 2019, the Inter-Regional Meeting of the Catholic Bishops of Southern Africa (IMBISA) bringing together the Bishops’ Conferences of Angola and Sao Tome, Mozambique, Lesotho, Namibia, Zimbabwe and that of South Africa, Botswana and Eswatini (Swaziland), condemned the surge in violence against foreigners, particularly against members of the Nigerian community.²⁶

In January 2020, Belgian missionary Fr. Jozef Hollanders was killed in the parish of Bodibe during a robbery.²⁷

On 18th April 2020, the Cathedral of Our Lady of the Flight into Egypt (also known as St Mary’s), in Cape Town, was vandalised. As South Africa’s oldest Catholic cathedral, it is considered to be “the mother church to all Catholics”.²⁸

In July 2020, the Islamic State (IS) threatened South Africa with attacks on its territory should they support the Mozambique army to repel their attacks in Cabo Delgado.²⁹ The presence of a jihadist insurgency and international terrorism groups “at South Africa’s doorstep” prompted national reflection and concern.³⁰ In July 2020, State Security Minister Ayanda Dlodlo “admitted that South Africa’s intelligence services were having ‘sleepless nights’ because of the threat posed by IS in neighbouring Mozambique.”³¹ Echoing Dlodlo’s words, the country’s Directorate for Priority Crime Investigation (DPCI) stated one month later that South Africans were aiding IS in Mozambique with “financial and material support.”³² Some estimates indicated that as many as 100 South African citizens were found to be fighting in Mozambique alongside the Islamic State.³³

In December 2020, The South African Catholic Bishops’ Conference, in an act of solidarity, visited the Cabo Delgado region of Mozambique bring aid to the internally displaced in ten camps set up in Pemba, the provincial capital.³⁴

Due to the COVID-19 pandemic, places of worship were closed in late March 2020 to meet strict regulations imposed to contain the coronavirus. Reopening was allowed on 1st June 2020.³⁵ Social distancing measures were implemented and the number of attendees at Masses, marriages and baptisms was reduced.³⁶

The Southern African Catholic Bishops' Conference condemned a surge in sexual and gender-based violence that took place during the lockdown.³⁷

PROSPECTS FOR RELIGIOUS FREEDOM

Violence continued to affect some of South Africa's Muslim communities in the period under review. Various improvements were nevertheless achieved at government level and in schools.

Following a surge in violence against Nigerians, the Inter-Regional Meeting of Bishops of Southern Africa took a strong stance against xenophobia targeting migrants. The Catholic Church has continuously rejected xenophobia identifying social inequalities in the country and hate speech as the main drivers.³⁸

Of concern to the authorities was the arrival of Islamist jihadist attacks, and the presence of international terrorist groups such as the Islamic State, in neighbouring Mozam-

bique - and a public soul searching following the discovery of South Africans fighting alongside the terrorists.

On an encouraging note, 2019 recorded the lowest number of anti-Semitic incidents in 15 years. It remains to be seen if this positive trend will continue in the future.

Religious freedom is guaranteed and respected by the state and the future prospect for this human right remains positive.

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