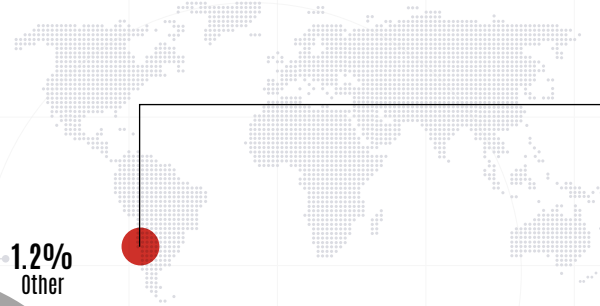
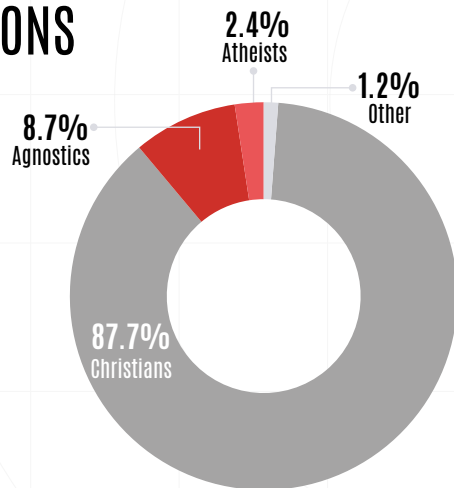




CHILE

RELIGIONS



LEGAL FRAMEWORK ON FREEDOM OF RELIGION AND ACTUAL APPLICATION

Article 1 of the Constitution of Chile¹ states that people are born free and equal in dignity and rights. The state recognises that the “Family is the fundamental unit of society” whilst protecting “intermediate groups through which society organizes and structures itself”. “The State is at the service of the human person” and must ensure that each individual can achieve “their greatest spiritual and material realization possible”.

Article 19 (6) guarantees “freedom of conscience, expression of any belief and the free exercise of all religions which are not contrary to morals, good customs or public order.” It also stipulates that “Religious denominations may erect and maintain temples and their dependencies under the safety and hygiene conditions established by the laws and ordinances”. The same article states that houses of worship “shall be exempt from all taxes” if they are used solely for their stated purpose.

“Parents have the preferential right and duty to educate their children” (Article 19, 10), whilst “freedom of education includes the right to open, organize and maintain educational institutions” (Article 19, 11).

Since September 2017, abortion is legal under three grounds. Individual medical staff as well as institutions can opt out, invoking the right to conscientious objection.²

Chile’s Constitution and laws protect religious freedom for more than 4,000³ recognised religious groups. Under Law No. 19 638 of 1999⁴ on the Legal constitution of Churches and Religious Organisations, any religious group can apply for non-profit status. The Ministry of Justice cannot turn down any request for registration, but it can object to any submission within 90 days if the application falls short of what is legally required. In such a case, applicants have 60 days to make their own counterarguments to the state or seek redress in court. The state cannot deregister a religious organisation after acceptance. The Catholic Church has legal personality under public law and does have to register under the aforementioned law.

Law No. 19638⁵ stipulates that no one shall be discriminated on the basis of their religious beliefs. It enshrines freedom of religion and worship, with autonomy and immunity from coercion. Thus, everyone can freely profess the religious belief of their choice, engage in acts of worship in public or in private, individually or collectively, celebrate festivities, and perform their rites or none at all. This entails the right to leave a religion as well. Recognised religious groups

are autonomous in education and are entitled to set up their own colleges, clubs or any other organisation.

Law No. 20609⁶ prohibits arbitrary discrimination, as well as any form of exclusion or restriction that lacks reasonable justification that might cause hardship and disorder, or threaten the legitimate exercise of fundamental rights. This is particularly the case if discrimination is based on specific grounds, such as race, ethnicity or religion.

Different treatment is deemed reasonable when the person is exercising other legitimate fundamental rights such as freedom of conscience, belief and religious practice.⁷

INCIDENTS AND DEVELOPMENTS

As in the previous period, arson attacks were reported in conflict-torn Araucanía with, most notably, a string of incidents in July and August 2018 involving Evangelical churches.⁸

In October 2019, social unrest broke out as part of a broader movement of citizen mobilisation. Violent protests accompanied social activism, which led to the destruction of public and private property. Repeated attacks and acts of vandalism were reported against churches.⁹ A report by the NGO Comunidad y Justicia¹⁰ for the Inter-American Commission on Human Rights, released during the latter's visit to the country (January 2020),¹¹ noted that at least 57 churches (51 Catholic and six Evangelical) were the targets of acts of vandalism since October 2019.

In this context, religion remained an important issue. In November 2019, a bill came before the National Congress of Chile aimed at imposing stiffer sentences for criminal actions against places of worship.¹²

In December 2019, Cardinal Francisco Javier Errázuriz Ossa, Archbishop Emeritus of Santiago de Chile, was verbally attacked in the capital Santiago for allegedly being an accessory to a cover-up of sexual abuse cases.¹³ In January 2020, a video went viral showing a group of hooded men attacking a man dressed as a priest and dragging him out of the cathedral; however, according to official sources, the incident was staged.¹⁴

In that same month, a group of protesters disrupted the inauguration Mass of the new Archbishop of Santiago and threw remnants of tear gas canisters during communion.¹⁵ In southern Chile, the Court of Appeals in the town of Concepción dismissed an appeal filed against the local archdiocese for celebrating 8th December (Feast of the

Immaculate Conception), fearing that it could lead to vandalism.¹⁶ On that day, protests were held in various parts of the country with insults against the Virgin Mary.¹⁷

In October 2020, on the first anniversary of the country's current period of social unrest, more acts of vandalism were carried out against places of worship, including arson attacks against patrimonial churches, like the La Asunción parish church, in central Santiago, whose dome "collapsed in the flames",¹⁸ and the church of the Carabineros (Chile's national police force).¹⁹

The government also held meetings with various religious groups.²⁰ Joint working commissions were set up as was an advisory group of experts on religious matters.²¹ One advisory board on the Religion Law was established²² and an interfaith body was created to cope with the COVID-19 pandemic.²³ However, it is unclear what all this achieved. In April 2019, land was given to the Muslim and Jewish communities to establish a cultural centre and a Holocaust Museum.²⁴

Over the past two years, the courts were busy dealing with issues related to religious freedom. In one case in September 2019, the Supreme Court of Chile upheld a fine imposed on a television station for a humorous sketch that was insulting to the Virgin Mary.²⁵

In September 2019, the Supreme Court accepted a request for legal protection (*recurso de protección*) against the neighbour of a parish, for closing access to the chapel of the Virgin Mary.²⁶ In relation to blood transfusions, which Jehovah's Witnesses refuse,²⁷ the courts authorised a hospital to perform transfusion; on one occasion, surgery was ordered without blood transfusion.²⁸

In just a few years, immigration has doubled the number of foreign religious groups in Chile.²⁹

Before the COVID-19 pandemic, popular religious holidays continued to be celebrated.³⁰

Following the outbreak of the pandemic, the government proclaimed a state of emergency, without special regulation regarding religion. Most notably, it banned gatherings of more than 50 people in any one place. Some regional authorities issued bylaws exclusively affecting religion, thus restricting religious freedom, but they were later revoked.³¹ Meanwhile, requests for legal protection were presented, but in two cases the courts ruled without taking into account the right to religious freedom,³² whilst in another, administrative regulations were deemed unconstitutional, thereby upholding the right to assembly for religious

worship.³³

Religious organisations have contributed in various ways to the fight against the pandemic.³⁴ They have backed the authorities in their decisions, and refrained from celebrating liturgies and sacraments.³⁵ In order to tackle the emergency, they have also provided facilities, such as homes and shelters for the sick,³⁶ as well as food, religious assistance, care for migrants, etc.³⁷

PROSPECTS FOR RELIGIOUS FREEDOM

The 2018-2020 period saw an upsurge in attacks against churches. Previously they were centred in a region of the

country linked to the Mapuche cause, but since October 2019, violence and vandalism against churches spread to include several cities, a symptom of intolerance towards religion and a sign that the state is unable to protect it. Courts have also failed to uphold the right to religious freedom because of a poor understanding of this fundamental right. Consequently, prospects for the near future are negative and a cause for concern.

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