

# **SOUTH AFRICA 2016 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 October the Commission for the Promotion and Protection of the Rights of Cultural, Religion and Linguistics Communities (CRL) released its Preliminary Report of the Hearings on Commercialization of Religion and Abuse of People's Belief System. The commission found evidence of commercialization of religion; illegal and unethical advertising of religious and traditional healing services; and a lack of financial transparency and adherence to tax rules by religious entities. The CRL recommended parliament adopt legislation that would create a peer review council, which would consist of peers from various religious groups that would grant individual religious leaders permission to operate. Each religious group would then have accredited umbrella organizations, which would recommend the licensing of institutions and individual practitioners. Several Christian organizations, however, expressed concern that the broad scale regulation of all religious institutions and practitioners was unconstitutional and unnecessary. In September the Western Cape High Court in Cape Town heard a case brought by the Women's Legal Centre (WLC) regarding the alleged failure of the government to grant Muslim marriages the same status as civil ones. Also in September Home Affairs Minister Malusi Gigaba denied a U.S. clergy member entry to the country on the grounds of hate speech.

In July twins Brandon-Lee and Tony-Lee Thulsie were arrested on charges of planning to attack U.S. and Jewish targets. The South African Jewish Board of Deputies (SAJBD) reported a drop in the number of anti-Semitic incidents during the year, which the organization attributed to a decrease in reports of Israeli-Palestinian conflicts in the country's media. The SAJBD recorded 38 anti-Semitic incidents from January to November in comparison to 55 from January to November 2015. There were several anti-Muslim incidents, including an incident of hate speech written on walls in Tshwane (Pretoria) and a protest over the construction of a new mosque in Valhalla, also in Tshwane.

U.S. government officials met with religious groups and nongovernmental organizations (NGOs), including Muslim and Jewish representatives, to gauge and

discuss issues of religious freedom, including cases of anti-Semitism and anti-Muslim sentiment.

### **Section I. Religious Demography**

The U.S. government estimates the total population at 54.3 million (July 2016 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 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, Roman Catholics, Seventh-day Adventists, and members of the Greek Orthodox, Dutch Reformed, and Congregational churches.

Persons of Indian or other Asian heritage account for 2.5 percent of the total population. Roughly 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 CRL with the mission of fostering the rights of communities to freely observe and practice their cultures, religions, and language.

The law does not require religious groups to register; however, registered religious and other nonprofit groups can qualify as public benefit organizations (PBOs), allowing them to open bank accounts and exempting them from paying income tax. To register as a PBO, 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.”

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 October the CRL released its Preliminary Report of the Hearings on Commercialization of Religion and Abuse of People's Belief System. This was a response to reports of some church leaders instructing their congregations to eat live snakes and drink gasoline. The CRL summoned officials from religious organizations for presentations on their respective religious and organizational practices. The commission found evidence of commercialization of religion; illegal and unethical advertising of religious and traditional healing services; and a lack of financial transparency and adherence to tax rules by religious entities. The CRL recommended parliament adopt legislation that would create a peer review council, which would consist of peers from various religious groups that would grant individual religious leaders permission to operate. Each religious group would then have accredited umbrella organizations, which would recommend the licensing of institutions and individual practitioners. In response to the report, the South African Council of Churches stated "we all have a problem with rogue pastors" but that "self-regulation might have some challenges and problems passing constitutional muster." Freedom of Religion South Africa (FORSA), a non-profit Christian organization, expressed concern that the broad scale regulation of all religious institutions and practitioners was unconstitutional and unnecessary, as there were already existing laws in place that could deal with problems identified by the commission in the report. FORSA added that the problems the commission identified should not be dealt with by creating another law that would potentially limit religious freedom, but to implement existing laws to stop those who are not legally compliant and perpetrating abuses in the name of religion.

In September the Western Cape High Court in Cape Town heard a case brought by the Women's Legal Centre (WLC) regarding the nonrecognition of Muslim marriages by the state. A draft bill prepared specifically to recognize Muslim marriages under the law was published for comment in 2011, but was not proposed to parliament. The WLC stated that the failure of current legislation to recognize Muslim 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 that 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 legislation. The High Court postponed the case until 2017 to permit the SAHRC and the CRL also to be heard on the matter.

In September Home Affairs Minister Malusi Gigaba denied a U.S. clergy member entry to the country on the grounds of hate speech, which by law is specifically excluded from protection of free speech in the constitution. The CRL supported the home affairs minister's decision. The Jewish community also welcomed the move citing the individual's previous Holocaust denial statements and anti-Semitic comments that included calling the Talmud blasphemous.

The December 2015 case of Cassim Mahomed Jasat, a local government education employee who posted anti-Semitic statements on other people's social media sites, was still in mediation with the SAHRC at year's end.

Several government sessions began with prayers or remarks from religious leaders, including from Muslim, Jewish, Hindu, and traditional African faith communities. On May 22, the National Day of Prayer, President Jacob Zuma gave remarks at the prayer service with various religious, civil society, and government leaders.

In a September 17 speech to leadership of *The Christian News*, Minister of Communications Faith Muthambi reaffirmed the country's commitment to religious tolerance, describing South Africa as "a secular democracy with freedom of religion."

The Church of Scientology reported a cooperative partnership with the government in the Church's nationwide anti-drug use campaign.

The government and schools accommodated religious groups' holy days when scheduling national examinations. Prisoners and detainees were permitted religious observances.

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

In July authorities arrested twins Brandon-Lee and Tony-Lee Thulsie on charges of planning to attack U.S. and Jewish targets in South Africa. The individuals were charged under antiterrorism legislation and were in jail pending trial at the end of the year.

The SAJBD recorded 38 anti-Semitic incidents from January to November, in comparison to 55 from January to November 2015. The incidents included verbal threats and intimidation (10), verbal abuse (15), abusive communications – all mediums (8), and graffiti/offensive slogans (5). In November the messages "[Expletive] the Jews" and "Kill a Jew" were painted on buildings at the

University of the Witwatersrand in Johannesburg. Some media sources speculated the graffiti was linked to demands for the release of #FeesMustFall leader Mcebo Dlamini from prison where he was awaiting trial on several criminal charges; however, no one publicly took responsibility for the graffiti. In 2015 Dlamini made several anti-Semitic comments on the radio and through social media. The Democratic Alliance Student Organization at the University of Witwatersrand reportedly submitted evidence to the SAHRC and the South African Police Service for further investigation into anti-Semitic graffiti. The university condemned the act and stated it would hold perpetrators accountable for their actions. The university also stated it planned to meet with members of the South African Union of Jewish Students concerning the matter.

In January the media reported singer-songwriter Loyiso Matana Ka-Zikhali posted anti-Semitic comments on his Facebook page that included, “Indeed Zionist Jews are a cancer to the world,” and “The native agenda of the Jew is to control the currency and economy.” No legal action was taken against him.

In September on Eid al-Adha, vandals painted anti-Muslim messages on walls in various locations in the township of Eersterust in Tshwane which has a mosque and a sizable Muslim community. Signs included “No Muslims” and “[Expletive] Muslims.” The perpetrators were identified and no arrests were made.

In June the principal of King’s School, a Christian school in the Johannesburg suburb of Linbro Park, was accused of being “Islamophobic” for urging parents, in a letter, to “pray for Muslims to come to the saving knowledge of Jesus Christ.” The Gauteng Department of Education strongly condemned the principal’s comments. The principal issued a public apology.

In June a guesthouse owner in KwaZulu Natal (KZN) province refused service to black patrons on the basis of his religion. According to media sources, the owner reportedly cited the Bible as his basis of belief and said blacks were servants, sub-human, and that the races should not mix. A few days later the owner confirmed his business was no longer operating commercially after the media publicized his statements. KZN Member of the Executive Council for Economic Development and Tourism Sihle Zikalala filed criminal charges against the owner for discrimination, hate speech, illegal trading, and tax evasion and began proceedings for the owner’s eviction from the lodge.

In April 3,000 of the 10,000 residents of Valhalla, near Pretoria, protested the future construction of a mosque. The media reported some protestors threatened to

slaughter pigs on the construction site, while others said the future mosque would become a breeding ground for terrorists. Some protestors held signs that read “Paris Brussels Valhalla??? NO!” and “Geen ISIS in Valhalla (No ISIS in Valhalla).” In March 2013 the Tshwane city council donated the land to the Tshwane Islamic Trust to build the mosque in an effort to create social cohesion and promote diversity in the area. Tshwane Mayor Kgosientso Ramokgopa noted the city had previously donated land to two Christian groups for houses of worship and was in the process of finalizing three more donations. The city councilor at the time, who later became a member of the Mayoral Committee for Tshwane, Sakkie du Plooy, said Valhalla was a Christian Afrikaner community and if the mosque were built, residents would immediately leave as they wouldn’t be able to bear the noise from the mosque. He also expressed concern that Muslims would “expand” in the area.

FORSA reported some Christian wedding venues received threats of legal action for allegedly refusing to allow gay wedding ceremonies to be performed in their facilities. The owners reportedly did not object to the use of their facilities for receptions, but objected to gay weddings due to their Christian beliefs. FORSA expressed concern that draft legislation on hate speech would make it a criminal offense for Christian churches to speak out against homosexuality. The draft bill would criminalize the hate crimes and hate speech based on one’s race, gender, sex, pregnancy, marital status, ethnic or social origin, color, sexual orientation, age, disability, religion, conscience, belief, culture, language, and birth and related intolerance.

In January the SAHRC found corporal punishment in the home unconstitutional and unlawful in response to a 2015 complaint from an atheist couple against the Joshua Generation Church for violation of human rights. The couple stated the Church’s promotion of spanking to correct children’s behavior violated children’s rights. The Church appealed to the SAHRC on substantive and procedural grounds and was awaiting the SAHRC’s ruling at year’s end. FORSA filed a complaint with the CRL against the SAHRC, citing the SAHRC’s findings and stating its recommendations violated religious freedom and rights. The atheist couple also lodged a complaint with the Commission for Gender Equality (CGE) that the Church discriminated against women in its belief and practice that a husband is head of the household and men are heads of church governance. The matter was also under consideration with the CGE at year’s end. The CRL issued reports in favor of the Church in both cases.

Although the alleged perpetrators were identified by the end of the year, no formal charges were filed in response to a 2015 incident in which three Jewish teenagers wearing kippahs were allegedly physically assaulted. The perpetrators reportedly made anti-Semitic comments, including associating their religion with political tension in the Middle East.

No formal ruling was released as of year's end regarding the 2015 case of Port Elizabeth lawyer Maureen Jansen, who posted anti-Semitic statements on social media. The SAJBD lodged a complaint of hate speech with the SAHRC, which referred the matter to the Equality Court.

According to the SAJBD, the SAHRC ordered the Western Cape provincial secretary of the Congress of South African Trade Unions to pay one month's salary as a fine for calling for the 2014 killing of SAJBD members in retaliation for deaths of Palestinians in Gaza. Authorities made no arrests nor imposed penalties regarding the 2014 case of a Congress of South African Students member for placing a pig's head in the kosher section of a Woolworth's grocery store in Cape Town in protest of the store's marketing of Israeli produce.

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

U.S. embassy representatives met with religious leaders and NGOs, including individuals from the Muslim Judicial Council (MJC), Islamic Council of South Africa (ICSA), the Church of Scientology, and the SAJBD to discuss the environment for religious freedom and concern over cases of anti-Semitism and anti-Muslim sentiment.

During a trip in January, the U.S. Special Envoy for the Rights of LGBTI Persons met with representatives of the Inner Circle, an LGBTI-friendly mosque, in Cape Town. The meeting focused on the importance of tolerance, understanding, and nondiscrimination.

In September an embassy representative met with members of the SAJBD to discuss past incidences of anti-Semitism still being heard in the Equality Courts and SAHRC. In October an embassy officer met with the MJC and ICSA to assess religious freedom from the Muslim community's perspective and discuss ways the embassy could help promote tolerance of Islam.