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2018 Report on International Religious Freedom: South Africa

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 September Rastafarians welcomed a Constitutional Court ruling that declared unconstitutional a ban on marijuana cultivation and personal consumption by adults in private homes. 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.

On May 10, three men attacked the Imam Hussain Mosque, a Shia mosque, located in Durban, in what many stated they believed was a sectarian attack. The assailants stabbed two worshippers, cut the throat of another, and set parts of the mosque on fire, leaving one dead. In July police discovered five explosive devices around Durban. Police affidavits stated the 11 men arrested in connection with the devices and the mosque attack had links to ISIS. The South African Jewish Board of Deputies (SAJBD) recorded 62 anti-Semitic incidents during the year, compared with 44 in 2017. Numerous individuals made anti-Semitic comments throughout the year.

The U.S. consulates in Durban and Cape Town coordinated with several U.S. government agencies to offer workshops on social cohesion and peaceful religious coexistence to local audiences including government officials, law enforcement, NGOs, civil society organizations, religious leaders, academics, and representatives of refugee and immigrant communities. U.S. government officials met with religious groups and NGOs, including Muslim, Hindu, Christian, 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 to register with the government in order to operate.

Section I. Religious Demography

The U.S. government estimates the total population at 55.4 million (July 2018 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 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 for reasons that are “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, 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. A group registers once with the local office but their 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 September the Constitutional Court, the country's highest court, declared unconstitutional a ban on marijuana cultivation and personal consumption by adults in private homes. The court upheld a lower court ruling from 2017. 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.

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. 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 intent to regulate all religious organizations was unconstitutional and unnecessary because existing laws could be used to address governmental concerns of improper religious activities, such as feeding congregant's snakes and dangerous substances. In January 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. The committee recommended a national consultative conference, where a full discussion could take place on the issues in the CRL proposal. The committee also suggested a code of ethics. No member of the committee recommended that the CRL proposal be forwarded for adoption by parliament.

According to the 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 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. Opponents further stated that the supporting evidence upon which the CRL based its investigation consisted of 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.” The proposal remained with the parliamentary Portfolio Committee on Cooperative Governance and Traditional Affairs at year's end.

In May 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, punish offenders, and would mandate prison sentences of up to three years for first-time offenses. The Department of Justice invited public commentary on the draft bill in 2017 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; sexual identity is among the categories covered in the legislation. 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. The draft legislation was expected to be debated in parliament in early 2019, 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. The case continued at year's end.

In August the Western Cape High Court in Cape Town ordered the state to pass legislation that recognizes Islamic marriages. The Women's Legal Centre (WLC) successfully argued that 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. The court found that marriage was given “a seal of constitutional significance” and that the only reasonable way the state could fulfill its constitutional obligations would be by enacting legislation that recognized Islamic marriages. The court gave the government 24 months to pass the legislation; otherwise, all marriages validly concluded under sharia would be dissolved according to the existing legislation.

In September several Muslim pupils at Jeppe Girls School in Johannesburg were charged with “misconduct for repeated dress code infringements” for wearing hijabs without formally asking permission. The Gauteng Education Department launched an investigation into the matter. School officials agreed in principle to amend the school's code of conduct to allow for religious headwear. The girls' families retained counsel, who said that if the school attempted to hold a planned hearing on the “defiance and disregard” the school officials said the pupils had shown, they would sue for religious discrimination.

Some prominent individuals and politicians were quoted throughout the year making anti-Semitic statements. Economic Freedom Fighters political party leader Julius Malema stated at a media briefing in August, “There's a group of white right wingers who are being trained by Jews in Pretoria to be snipers.”

In February African National Congress Western Cape legislator Sharon Davids accused the Democratic Alliance party of fabricating the Cape Town water crisis in order to obtain desalination contract kickbacks from what she referred to as the “Jewish mafia.”

In February the Democratic Alliance party instructed deputy provincial chair nominee and Women's Network provincial leader Shehana Kajee to apologize for a 2013 online post in which she called for the Muslim community to “go on the attack” against non-Muslims in the name of Islam.

Section III. Status of Societal Respect for Religious Freedom

On May 10, assailants attacked the Shia Imam Hussain Mosque in Verulam, north of Durban, in what many stated they believed was a sectarian attack. The assailants entered the mosque during midday prayers, stabbed the imam and a worshipper, cut

the throat of a man who attempted to help the two being attacked, and set a section of the mosque on fire. The victim whose throat was cut later died of his injuries. According to police, the motives behind the targeting of the mosque remained unknown. Representatives of the KwaZulu-Natal (KZN) Muslim community pointed to growing anti-Shia rhetoric – from some of KZN’s Muslim leaders, local analysts, and community members – as fomenting hate and divisions between majority Sunni and minority Shia Muslims. In July police discovered five explosive devices around Durban. Police affidavits stated the 11 men arrested for the mosque attack and the explosive devices were linked to ISIS. The investigation remained ongoing at year’s end.

In June a man killed two worshippers and wounded two others during prayers at the Sunni Malmesbury Mosque near Cape Town. Police responding to the incident killed the attacker, who was described by authorities as a Somali national. The motivation for the attack remained unclear, according to a local news channel.

In a Friday sermon in March at the Masjid Al Furqaan in Cape Town, Sheikh Riyaad Fataar, Deputy President of the Muslim Judicial Council, said the Al-Aqsa Mosque in Jerusalem was “slipping from the hands of the Islamic nation...because the plans of the Jews are moving [ahead]...There is a new page coming that is going to exclude the Zionists from that page.” The SAJBD stated anti-Semitism increased after South Africa recalled its ambassador to Israel in May following the deaths along the Gaza border of 52 Palestinians in clashes with Israeli security forces.

In June the SAJBD filed a criminal complaint against three individuals it accused of using anti-Semitic and threatening hate speech. Muhammad Hattia, Tameez Seedat, and Matome Letsoalo made disparaging remarks on social media, including “The #Holocaust Will be like A Picnic When we are done with all you Zionist Bastards” (Letsoalo), and “Hitler [expletive] he should’ve killed you all” (Hattia). The SAJBD withdrew the charges against Hattia and Seedat after they met with SAJBD and said they showed “remorse” and “anguish.” Letsoalo did not apologize but instead created additional Twitter accounts.

In June a man arriving at Tambo International Airport in Johannesburg shouted at fellow passengers on a flight from Tel Aviv, “Jews are wicked.” The man said he had been denied entry into Israel and returned to South Africa. The incident was filmed in the baggage claim area by a passenger who had just arrived in Johannesburg on the flight.

In August the South African Human Rights Commission ruled that Tony Ehrenreich, former Western Cape Secretary of the Congress of South African Trade Unions, was guilty of hate speech for a Facebook post in which he said, “If a woman or child is killed in Gaza, then the Jewish board of deputies, who are complicit, will feel the wrath of the people of South Africa with the age old biblical teaching of an eye for an eye.”

In November pro-Palestinian groups and supporters of the academic and cultural boycott of Israel called for the withdrawal of seven professors from Israeli universities from participation in a December conference at the University of Stellenbosch titled “Recognition, Reparation, Reconciliation: The Light and Shadow of Historical Trauma.” The conference chair, Pumla Gobodo-Madikizela, issued a statement defending the

participation of the Israeli scholars, but she later posted a letter to delegates on the conference website stating the scholars had “rescinded their participation” after discussion. The media and others, however, stated conference organizers had withdrawn their invitations.

The SAJBD recorded 62 anti-Semitic incidents during the year, compared with 44 during 2017. The incidents included verbal threats and intimidation, verbal abuse, abusive communications, and graffiti/offensive slogans.

In June in Cape Town, several Islamic leaders, both Sunni and Shia representatives, signed the “Cape Accord,” a document meant to encourage peace and unity and to eradicate extremism in the country. The document also emphasized a tolerance of differences among Muslims and a call not to escalate intrafaith hostilities.

Section IV. U.S. Government Policy and Engagement

In September the U.S. Consulates in Durban and Cape Town coordinated with several U.S. government agencies to offer workshops on social cohesion and peaceful religious coexistence to local audiences including government officials, law enforcement, NGOs, civil society organizations, religious leaders, academics, and representatives of refugee and immigrant communities.

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

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