

SOUTH AFRICAN CHARTER OF RELIGIOUS RIGHTS AND FREEDOMS

(As endorsed on 21 October 2010)

PREAMBLE

1. WHEREAS human beings have inherent dignity, and a capacity and need to believe and organise their beliefs in accordance with their foundational documents, tenets of faith or traditions; and
2. WHEREAS this capacity and need determine their lives and are worthy of protection; and
3. WHEREAS religious belief embraces all of life, including the state, and the constitutional recognition and protection of the right to freedom of religion is an important mechanism for the equitable regulation of the relationship between the state and religious institutions; and
4. WHEREAS religious institutions are entitled to enjoy recognition, protection and co-operation in a constitutional state as institutions that function with jurisdictional independence; and
5. WHEREAS it is recognised that rights impose the corresponding duty on everyone in society to respect the rights of others; and
6. WHEREAS the state through its governing institutions has the responsibility to govern justly, constructively and impartially in the interest of everybody in society; and
7. WHEREAS religious belief may deepen our understanding of justice, love, compassion, cultural diversity, democracy, human dignity, equality, freedom, rights and obligations, as well as our understanding of the importance of community and relationships in our lives and in society, and may therefore contribute to the common good; and
8. WHEREAS the recognition and effective protection of the rights of religious communities and institutions will contribute to a spirit of mutual respect and tolerance among the people of South Africa,

Now therefore the following South African Charter of Religious Rights and Freedoms is hereby enacted:

1. Every person has the right to believe according to their own religious or philosophical beliefs or conviction (hereinafter convictions) and to choose which faith, worldview, religion or religious institution to subscribe to, affiliate with or belong to.

- 2 No person may be forced to believe, what to believe or what not to believe, or to act against their convictions.
 - 2.1 Every person has the right to change their faith, religion, convictions or religious institution, or to form a new religious community or religious institution.
 - 2.2 Every person has the right to have their convictions reasonably accommodated.
 - 2.3 Every person has the right on the ground of their convictions to refuse (a) to perform certain duties, or to participate or indirectly to assist in, certain activities, such as of a military or educational nature, or (b) to deliver, or to refer for, certain services, including medical or related (including pharmaceutical) services or procedures.
 - 2.4 Every person has the right to have their convictions taken into account in receiving or withholding medical treatment.
 - 2.5 No person may be subjected to any form of force or indoctrination that may destroy, change or compromise their religion, beliefs or worldview.
- 3 Every person has the right to the impartiality and protection of the state in respect of religion.
 - 3.1 The state must create a positive and safe environment for the exercise of religious freedom, but may not promote, favour or prejudice a particular faith, religion or conviction, and may not indoctrinate anyone in respect of religion. In approving a plan for the development of land, the state must consider religious needs.
 - 3.2 No person may be unfairly discriminated against on the ground of their faith, religion, or religious affiliation.
- 4 Subject to the duty of reasonable accommodation and the need to provide essential services, every person has the right to the private or public, and individual or joint, observance or exercise of their convictions, which may include but are not limited to reading and discussion of sacred texts, confession, proclamation, worship, prayer, witness, arrangements, attire, appearance, diet, customs, rituals and pilgrimages, and the observance of religious and other sacred days of rest, festivals and ceremonies.
 - 4.1 Every person has the right to private access to sacred places and burial sites relevant to their convictions. Such access, and the preservation of such places and sites, must be regulated within the law and with due regard for property rights.
 - 4.2 Every person has the right to associate with others, and to form, join and maintain religious and other associations, institutions and denominations, organise religious meetings and other collective activities, and establish and maintain places of religious practice, the sanctity of which shall be respected.

- 4.3 Every person has the right to communicate within the country and internationally with individuals and institutions, and to travel, visit, meet and enter into relationships or association with them.
- 4.4 Every person has the right to conduct single-faith religious observances, expression and activities in state or state-aided institutions, as long as such observances, expression and activities follow rules made by the appropriate public authorities, are conducted on an equitable basis, and attendance at them is free and voluntary.
- 5 Every person has the right to maintain traditions and systems of religious personal, matrimonial and family law that are consistent with the Constitution. Legislation that is consistent with the Constitution may be made to recognise marriages concluded under any tradition, or a system of religious, personal or family law, or to recognise systems of personal and family law under any tradition, or adhered to by persons professing a particular religion.
- 6 Every person has the right to freedom of expression in respect of religion.
 - 6.1 Every person has the right (a) to make public statements and participate in public debate on religious grounds, (b) to produce, publish and disseminate religious publications and other religious material, and (c) to conduct scholarly research and related activities in accordance with their convictions.
 - 6.2 Every person has the right to share their convictions with another consenting person.
 - 6.3 Every religious institution has the right to have access to public media which access must be regulated fairly.
 - 6.4 Every person has the right to religious dignity, which includes not to be victimised, ridiculed or slandered on the ground of their faith, religion, convictions or religious activities. No person may advocate hatred that is based on religion, and that constitutes incitement to violence or to cause physical harm.
- 7 Every person has the right to be educated or to educate their children, or have them educated, in accordance with their religious or philosophical convictions.
 - 7.1 The state, including any public school, has the duty to respect this right and to inform and consult with parents on these matters. Parents may withdraw their children from school activities or programs inconsistent with their religious or philosophical convictions.
 - 7.2 Every educational institution may adopt a particular religious or other ethos, as long as it is observed in an equitable, free, voluntary and

non-discriminatory way, and with due regard to the rights of minorities.

- 7.3 Every private educational institution established on the basis of a particular religion, philosophy or faith may impart its religious or other convictions to all children enrolled in that institution, and may refuse to promote, teach or practice any religious or other conviction other than its own. Children enrolled in that institution (or their parents) who do not subscribe to the religious or other convictions practised in that institution waive their right to insist not to participate in the religious activities of the institution.
- 8 Every person has the right to receive and provide religious education, training and instruction. The state may subsidise such education, training and instruction.
- 9 Every religious institution has the right to institutional freedom of religion.
- 9.1 Every religious institution has the right (a) to determine its own confessions, doctrines and ordinances, (b) to decide for itself in all matters regarding its doctrines and ordinances, and (c) in accordance with the principles of tolerance, fairness, openness and accountability to regulate its own internal affairs, including organisational structures and procedures, the ordination, conditions of service, discipline and dismissal of office-bearers and members, the appointment, conditions of employment and dismissal of employees and volunteers, and membership requirements.
- 9.2 Every religious institution is recognised and protected as an institution that has authority over its own affairs, and towards which the state, through its governing institutions, is responsible for just, constructive and impartial government in the interest of everybody.
- 9.3 The state, including the judiciary, must respect the authority of every religious institution over its own affairs, and may not regulate or prescribe matters of doctrine and ordinances.
- 9.4 The confidentiality of the internal affairs and communications of a religious institution must be respected. The privileged nature of any religious communication that has been made with an expectation of confidentiality must be respected insofar as the interest of justice permits.
- 9.5 Every religious institution is subject to the law of the land A religious institution must be able to justify any non-observance of a law resulting from the exercise of the rights in this Charter.
- 10 The state may allow tax, charitable and other benefits to any religious institution that qualifies as a juristic person.
- 11 Every person has the right, for religious purposes and in furthering their objectives, to solicit, receive, manage, allocate and spend voluntary

financial and other forms of support and contributions. The confidentiality of such support and contributions must be respected.

12. Every person has the right on religious or other grounds, and in accordance with their ethos, and irrespective of whether they receive state-aid, and of whether they serve persons with different convictions, to conduct relief, upliftment, social justice, developmental, charity and welfare work in the community, establish, maintain and contribute to charity and welfare associations, and solicit, manage, distribute and spend funds for this purpose.

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