

RELIGIOUS FREEDOM

A Guide to Your Rights

VANUATU



“Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.”

—Universal Declaration of Human Rights, Article 18

FREEDOM OF RELIGION AND WORSHIP IN VANUATU

1. What is the right to freedom of religion and worship?

Freedom of religion is the right to choose what religion to follow and to worship without undue interference. It is the freedom of an individual or community, in public or private, to manifest religion or belief in teaching, practice, worship, and observance. It also includes the freedom to change one's religion or beliefs.

In Vanuatu, the right to freedom of religion and worship is enshrined in the Constitution of the Republic of Vanuatu whereby the Country is founded on faith in God and on Christian principles.

Vanuatu, as a country, recognizes that all persons are entitled, as a fundamental right, to religious freedom, and they cannot be discriminated against by reason of their religious beliefs.

The right to freedom of religion, conscience and worship in Vanuatu means that one has the right to choose and practice his/her own religion or denomination, which also includes the freedom to express such religion and worship.

2. What is the right to freedom of belief or conscience?

It is the right to think freely, to entertain ideas, and to hold positions based on conscientious, religious, or other beliefs. People also have the right to demonstrate or manifest religious or other beliefs, by way of worship, observance, practice, and teaching, subject to certain limitations (e.g., so long as such manifestations do not pose risks to public safety, order, and health or jeopardize the rights of others).



3. What are the laws that protect religious freedom?

The laws that protect religious freedom in Vanuatu are:

- a. The Constitution of the Republic of Vanuatu Consolidated Edition 2006:
 - i. Article 5(1)(f) recognizes the rights of freedom of conscience and worship as fundamental rights and individual freedom from discrimination on any grounds, including religious or traditional beliefs.
 - ii. Article 5(1)(g) guarantees freedom of expression.
- b. The Convention on the Rights of the Child (Ratification) [Cap 219]:
 - i. Article 2 requires the States to:
 - Respect and ensure to each child the rights set forth in the convention without discrimination based on the race; colour; sex; language; religion; political or other opinion; national, ethnic or social origin; property; disability; birth, or other status of the child, his or her parents or legal guardians.
 - Take all appropriate measures to protect the child against all forms of discrimination or punishment based on the status, activities, expressed opinions, or beliefs, of the child's parents, legal guardians, or family members.
 - ii. Article 14 requires that States respect each child's right to freedom of thought, conscience and religion as well as respect the rights and duties of parents and legal guardians to provide direction to their child in the exercise of his or her rights in a manner consistent with the child's evolving capacities.



- iii. A child and parent's freedom to manifest their religion or beliefs is subject to limitations prescribed by law, or as are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others.
- iv. Article 30 prohibits the state from depriving a child, who is of an ethnic, religious, linguistic or indigenous minority, as well as other members of the minority group, of the right to enjoy their culture, profess and practise their own religion, and use their own language.

c. Education Act [Cap 272],

- i. Section 8 (1) prohibits admission to any school based on the child's gender, religion, nationality, race, language, or disability.
- ii. Section 9 allows a student, at the request of his or her parents, to be excused from attending religious instruction at a school.

4. What is the official religion of Vanuatu?

There is no official religion in Vanuatu.

5. What can I do when my right to freedom of religion and worship is violated?

Article 6 of the Constitution of the Republic of Vanuatu allows for anyone who considers that his or her right to freedom of religion and worship is being, or is likely to be, infringed may, independently of any other possible legal remedy, apply to the Supreme Court to enforce that right. The Supreme Court may make such orders, issue such writs, and give such direction, including the payment of compensation, as it considers appropriate to enforce the right.



RELIGION IN THE PUBLIC SQUARE

6. Can I express my religious views in public?

Yes. Article 5-1(f) of the Constitution of Vanuatu guarantees this freedom as a fundamental human right. However, this right is subject to the protection of public safety, order, and health and the fundamental rights and freedoms of others.

7. Can I share or preach my beliefs to others?

Yes, on the same basis as expressing one's religious views in public.

8. Can I be part of a religious entity or organization?

Yes. Under the law, people have the right to associate and participate in religious activities as communities, which includes, among other rights, the right to establish places of worship or gathering for religious purposes, to freely exercise their own ministry, to establish their own leaders, and to have and direct their own faith institutes. Religious freedom also includes the right not to join, and to leave, a religious entity or organization.

9. What are the government authorities that regulate religious entities?

The Ministry of Internal Affairs regulates religious entities.

RELIGIOUS FREEDOM IN THE WORKPLACE

10. What influence does freedom of religion have in the relationship between an employer and an employee?

Article 5 of the Constitution of Vanuatu serves as a general protection from religious and other forms of discrimination. If this protection is infringed in an employment or any other situation, Article 6(1) provides for recourse to the Supreme Court.

Freedom of religion may influence the relationships between employers and employees. For example, it can lead to disagreements, tension, and conflict if working hours coincide with worshipping hours (usually Saturdays or Sundays). However, such matters may be resolved by discussion and the establishment of mutually agreed-upon working arrangements.

11. What is the relationship between religious freedom and working hours?

Under the Employment Act, the employee must work 40 to 44 hours per week. Outside of these working hours the employee is free to practice her or his religion without interference of the employer.

The employee can practice his or her religion during the religious public holidays in Vanuatu, which are: Good Friday, Easter Monday, Ascension Day, Assumption Day, and Christmas Day. Every employee is entitled to enjoy these religious public holidays without working and without discrimination.

Religious freedom and working hours must be reconciled so everyone can work in harmony and peace.



12. Can I wear religious clothing to work or refuse to wear part of a uniform because of my religious beliefs?

The Constitution provides for freedom of conscience, worship and religion, and prohibits religious-based discrimination, including in employment. However, employees should notify their employers in a timely manner of any needs or special circumstances that arise due to religious beliefs or practices.

Employees are free to wear the clothing of their choice, so long as it is decent. An employer may impose a dress code (colour or type of wear); however, if the employee objects to wear any uniform, this should be discussed. The general imposition of the employer would still be subject to the general protection against discrimination based on religion in Article 5 of the Constitution.

RELIGIOUS FREEDOM IN SCHOOLS

13. Can there be religion classes in public schools?

Yes, but they are not compulsory.

14. Is it mandatory for students to attend religious education or religious observances in their schools?

No. According to Section 9 of the Education Act, if the parents of a student request that he or she be excused from attending religious instruction at a school, the student is to be excused in accordance with the request.



15. Can students refrain from attending school or scheduled school activities because of their religious beliefs?

In Vanuatu, there is compulsory education for students in primary school based on Article 28 of the Convention on the Rights of the Child. This requirement cannot be waived for reasons of religious belief.

Generally, absences from school should be justified by a written note from a parent or guardian. If a school is regularly holding activities that are contrary to a student's religion or belief, this may represent a breach of rights and should be raised with the school. If this concern cannot be resolved at that level, it can potentially be escalated to the Supreme Court to seek an appropriate legal remedy. The Supreme Court may make such orders, issue such writs, and give such directions, including the payment of compensation, as it considers appropriate to enforce the right.

16. Can students modify school uniforms because of their religious beliefs?

The law is silent on this matter. This freedom should be reconciled with the school.

MILITARY AND PUBLIC SERVICE

17. Is there mandatory military or public service, and if so, are there any religious exemptions?

No. There is no mandatory military service or public service in Vanuatu.



RELIGION AND JUSTICE

18. Can I refrain from taking an oath in legal proceedings because of my religious beliefs?

Yes. You can refrain from taking an oath in legal proceedings, but you may be required to make a non-religious affirmation instead.

19. Can judges make decisions based on their religious beliefs?

No. Judges cannot make decisions based on their religious beliefs. Their decisions must be based on law, fairness, and justice. Judges must always be neutral when making decisions.

20. Is there any protection for statements made in confidence to religious leaders?

In Vanuatu, the law is silent on this matter. Confidentiality and/or the Clergy-Penitent Privilege may come into play, especially for Catholic and Anglican religions. Some faith-based communication may be brought to Court if it breaches the fundamental rights of an individual (e.g., right to life, right to religious freedom, or threat to public safety and health).

RELIGIOUS FREEDOM IN INTERNATIONAL LAW

In addition to local protections for religious freedom in individual countries, there are also different international instruments or legal documents that protect this right. In 1948, the right to freedom of religion and conscience was introduced by the Universal Declaration of Human Rights. Since then, there have been different covenants and conventions that establish and develop this right at the international level.

What protections do I receive under international law?

International instruments establish that all people are equal before the law, regardless of their religion. These laws also state that no one may be discriminated against on the basis of religion. This is an offense against human dignity and is condemned as a violation of human rights and fundamental freedoms.

What freedoms do these international instruments include?

- **Freedom of thought, conscience, and religion.**

This freedom includes freedom of thought on all matters, freedom to hold beliefs, freedom of commitment to religion or belief, and freedom of personal conviction. It does not allow any limitations on the freedom to have or adopt a religion or belief of one's choice. No one can be compelled to reveal his or her thoughts or adherence to a religion or belief.

- **Freedom to change religion or beliefs.**

All people have the right to leave their own religion or belief and to adopt another, or to remain without any belief at all. The use of physical force, penal sanctions, policies, or practices to force a person to adopt, change, or maintain a certain religion or belief is prohibited.

- **The freedom to manifest and profess your own religion or beliefs, individually and collectively, both publicly and privately.**

Everyone enjoys the right to peacefully manifest and share one's religion or belief with others without being subject to the approval of the state of another religious community. This right is not limited to members of registered religious communities. Moreover, registration should not be compulsory for religious communities or organizations in order to enjoy their rights.

- **The freedom to manifest your religion through teaching, practice, worship, and observance.**

The freedom to manifest religion or belief in worship, observance, practice, and teaching includes a broad range of acts:

- Worship and observance extends to ritual and ceremonial acts giving direct expression to belief, as well as various practices integral to such acts, including the building of places of worship, the use of ritual formulae and objects, the display of symbols, and the observance of holidays and days of rest.
- Practice and teaching of religion or belief include acts integral to the conduct by religious groups of their basic affairs, such as the freedom to choose their religious leaders, priests, and teachers; the freedom to establish seminaries or religious schools; and the freedom to prepare and distribute religious texts or publications.

- **The freedom of parents and guardians to have their children or pupils receive religious or moral education that is in accordance with their own convictions.**

Children enjoy the right to have access to religious education in accordance with the wishes, religious beliefs, or convictions of their parents or guardians. Likewise, children should not be forced to receive religious instruction that is contrary to the wishes of their parents or guardians. In accordance with the principle of the best interests of the child, the State should encourage an atmosphere of religious tolerance in schools and promote respect for pluralism and religious diversity.

Are there any limitations to these freedoms?

Yes. There are some limitations that are given by law, and their purpose is to protect public safety, order, health, morals, and the fundamental rights and freedoms of others. However, restrictions may not be imposed for discriminatory purposes or applied in a discriminatory manner.



FINDING COMMON GROUND

As people, we have the freedom to choose, share, and live what we believe. We generally hold our religious freedoms and beliefs dear as guiding principles in our lives. Just as we value our own religion and beliefs, we should highly value all people's rights to religious freedom and belief. Knowing the importance of these freedoms, how can we share the principles of freedom of religion in our communities? Is there a way to find common ground when we interact with people holding different beliefs?

The following strategies may allow you to find common ground in your community:

BECOME INFORMED

Before you can protect the religious beliefs of yourself or others, it is important to be informed and understand the rights and basic principles of freedom of religion. This brochure contains some relevant information with regards to your rights and the basics of freedom of religion. Seek to stay aware of changes in religious freedoms by watching developments that affect these freedoms in the news.

LISTEN TO ALL SIDES

Listen and show concern for other people's religions and sincere beliefs. Even if you disagree with the beliefs, or convictions of another, seek to understand and to be respectful of his or her perspective. People's words, beliefs and actions are influenced by many factors. You should be sensitive to the feelings of others as you explain and pursue your positions, and you should ask that others not be offended by your sincere religious beliefs.



PRACTICE CIVILITY

In order to live as a community with differences of opinion and beliefs, it is critical to know how to debate and not just what to debate. Your communications on controversial topics should not be contentious. All people should treat one another with civility and respect while striving to be accurate and fair. When your positions do not prevail, you should accept unfavorable results graciously and civilly. Remember to reject persecution of any kind, including persecution based on race, ethnicity, religious belief or nonbelief, and differences in sexual orientation.

PROMOTE TOLERANCE

People must be able to peaceably live together while having differences. To live peaceably does not mean you need to abandon your positions; rather, it means you should strive to live peacefully with others who do not share your values or accept the teachings upon which they are based. Strive to teach values and standards of behavior to those around you without having them distance themselves or show disrespect to any who are different.

BUILD TRUSTED RELATIONSHIPS

Build trusted relationships in your community among people of diverse opinions. You will be better able to protect the rights of others in a way that benefits everyone as you get to know more people and as those people come to understand each other's beliefs. Concentrate on what you have in common with your neighbors and fellow citizens. Then, as you work together, speak out for religion and the importance of religious freedom.

