

# RELIGIOUS FREEDOM

*A Guide to Your Rights*

## FRENCH POLYNESIA



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*“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*

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# FREEDOM OF RELIGION AND WORSHIP IN FRENCH POLYNESIA

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

The right to freedom of religion is a principle that supports the freedom of an individual to believe or not believe in a religion. This right also includes the freedom of the individual to practice the religion of their choice, or to change their religion at any time.

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

The right to freedom of belief is the freedom of an individual to hold the values, principles, opinions, religions and beliefs that he or she wants, independent of others' viewpoints.

## *3. What are the laws that protect religious freedom?*

In French Polynesia, the laws that protect freedom of religion and the freedom of conscience are:

- Article 10 of the Declaration of the Rights of Man and of the Citizen of 1789;
- Articles 1, 5 and 16 of the Preamble to the Constitution of October 27, 1946;
- Article 1 of the Constitution of October 4, 1958.

These rules guarantee the freedom of religion and belief, promote religious tolerance, and protect against discrimination based on belief and religious convictions.

#### ***4. What is the official religion of French Polynesia?***

There is no official religion in French Polynesia. The various religions can be freely practiced by people.

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

In case of violation of the right to freedom of religion, the person concerned may bring their complaint before:

- The Administrative Court, if the violation was committed by a public person,
- The competent civil court, if the violation was committed by a private person,
- The police or the Procureur de la république, if the violation corresponds to a criminal offence.

## RELIGION IN THE PUBLIC SQUARE

### *6. Can I express my religious views in public?*

Yes. Each person can express their religious views in public, provided that the ideology expressed does not pose a risk to public order and that the freedom or rights of others are not infringed.

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

Yes. Anybody has the right to share or preach their beliefs to others.

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

Yes. Under the law of French Polynesia, anybody is entitled to be part of the activities of any religious entity or organization. The members of the entity or organization are free to leave at any time.

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

It is the Decree of January 16, 1939 establishing overseas Administrative Councils of religious missions (known as the "Mandel decree") which regulates religious entities in French Polynesia. The public authority that oversees these religious entities is the High Commissioner of the Republic in French Polynesia.

## **RELIGIOUS FREEDOM IN THE WORKPLACE**

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

Under the Labor Code, the employer cannot take into account the religion of the employee in the hiring process. Furthermore, any sanction or discrimination because of the employee's religion is illegal.

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

In the Public service: Public officials have an obligation of neutrality. They must therefore not express their religious beliefs or practice them in the exercise of their function. However, certain adjustments to the working hours of public officials may be authorized in the name of freedom of worship, if they are compatible with the proper functioning of the public service.

In the private sector: The employee can ask for flexible working hours to practice his or her religion. The employer can grant it, but he or she is not obliged to. In addition, the employer can prohibit prayers if they take place during working hours or if they disrupt the work of other employees. But the employer cannot prohibit an employee from praying in his or her office during their break time if this does not interfere with the organization of work.

Outside working hours, the employee is free to practice his or her religion.

Religious holidays in French Polynesia are:

- The Day of the Arrival of the Gospel
- Good Friday and Easter Monday
- Ascension Thursday
- Whit Monday
- The Day of the Assumption of Mary
- All Saints Day
- Christmas Day

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

In the Public service: the public official must not wear any sign, in particular clothing, intended to mark his or her belonging to a religion.

In the private sector: The wearing of a religious symbol or clothing is authorized. However, the employer may prohibit certain outfits or accessories (or impose the wearing of certain outfits) for reasons of safety, health or sanitary hygiene. Employees are not authorized to hide their face when they work in a place open to the public or an organization in charge of a public service mission.

The employer may not impose on an employee clothing restrictions that are not justified by the nature of the tasks to be performed and proportionate to the aim sought (e.g. wearing protective clothing for safety reasons, or wearing a uniform as part of a commercial strategy, or to promote a brand image).

## **RELIGIOUS FREEDOM IN SCHOOLS**

### ***13. Can there be religion classes in public schools?***

No. In French Polynesia, religion classes are not allowed in public school.

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

Students in private schools under contract with the French State are not obliged to attend the religious lessons provided by these establishments.

As for students in private schools without contract with the French State, it is recommended that they contact the management of their establishment to find out whether their attendance at religious education classes provided are compulsory.

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

No. Students are subject to the obligation of attendance laid down by article L.P. 1 of the Law of the Country n ° 2017-15 of July 13, 2017 relating to the charter of education of French Polynesia, which imposes their presence at all the courses and activities in which the students are registered.

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

When the internal regulations of a school make it compulsory to wear a uniform, and do not allow the student to modify it, the latter cannot then modify it for religious reasons.



## MILITARY AND PUBLIC SERVICE

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

There is no compulsory military service in French Polynesia. However, every Frenchman from the age of 16 must take the compulsory citizen census in order to then participate in the Defense and Citizenship Day (JDC). If he does not take these steps, he cannot register for state exams and competitions (driving license, baccalaureate, etc.) before the age of 25.

It is not possible to be exempted from participating in the JDC by invoking a religious reason.

## RELIGION AND JUSTICE

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

No. Under the Criminal Procedure Code, any person summoned to be heard as a witness is required to appear and take an oath before testifying. Alternatively, the witness has the possibility of “undertaking and promising” to tell the whole truth, nothing but the truth (rather than taking an oath). The law does not offer any possibility to the witness to refrain from taking an oath or undertaking and promising to tell the whole truth because of his or her religious belief.

In the event of refusal to take an oath or undertaking and promising to tell the whole truth, the witness risks a fine of up to 3,750 euros (Article 434-15-1 of the Criminal Code).

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

No. The judges must make their decisions based on the law and the jurisprudence. They are not allowed to rule on the basis of their religious beliefs.

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

The Penal Code provides that the disclosure of information of a secret nature by a person who is the depositary of it, either by status or by profession, or because of a function or a temporary mission, is punishable by one year's imprisonment and a fine of 15,000 euros.

Case law has confirmed that statements made in confidence to a religious leader should be considered secret. However, the religious leader has the right to reveal, to the administrative or judicial authorities, information which has been given to him confidentially, if it concerns a crime whose effects it is still possible to prevent or limit, or ill-treatment or sexual abuse inflicted on a minor or a vulnerable person

# 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 or 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.

