

# RELIGIOUS FREEDOM

*A Guide to Your Rights*

**ZIMBABWE**



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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 ZIMBABWE

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

This is the fundamental right to act in accordance with your own beliefs and feelings. This right protects people from being subjected to unjust demands or prohibitions in the development of their personal religious life.

As a complement to freedom of religion, Zimbabwe also safeguards freedom of worship, which is a person's right to perform ceremonies, rites or acts in accordance with his or her religious convictions, and includes the right not to be compelled to practice any specific religion, or to be punished or pressured for deciding not to participate in practices other than the person's own religious tradition. It allows all to have their own religious beliefs or to have no religious belief. Included in that right is the right to change those beliefs.

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

This is the fundamental right to follow personal reasoning and convictions, and not to be subject to actions that are against a person's deeply held judgement of right and wrong. The Constitution of Zimbabwe, Section 60, states that freedom of conscience includes "freedom of thought, opinion, religion or belief; and freedom to practice and propagate and give expression to their thought, opinion, religion or belief, whether in public or in private and whether alone or together with others."

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

The Constitution of Zimbabwe is the supreme law of the land. It contains provisions that expressly defend and protect religious freedom.

- Sections 3(1)(d) states that Zimbabwe is founded on respect for the nation's diverse cultural, religious and traditional values.
- Section 3(2)(i)(i) states that recognition of the rights of religious groups is a principle of good governance that binds the state and all institutions of government at every level.
- Section 56(3) prohibits discrimination based on religious belief.
- Section 60 specifically establishes and protects freedom of religion, belief and opinion.

Other Constitutional provisions reinforce religious freedom in Zimbabwe.

- Sections 16, 63, 282, and 286 address the freedom to practice one's culture and the protection of cultural values.
- Sections 34 and 327 incorporate into domestic law any rights established in international treaties, conventions, and agreements. For example, Zimbabwe ratified the International Covenant on Civil and Political Rights, which states that "everyone shall have the right to freedom of thought, conscience and religion." This right was enacted in Section 60.
- Section 51 protects a person's inherent dignity in private and public life.
- Section 58 protects freedom of assembly and association.
- Section 61 protects freedom of expression.
- Section 66 protects freedom of movement.
- Section 63(b) protects the right to participate in the cultural life of one's choice.
- Section 326 upholds rights under customary international law if it is consistent with the Constitution of Zimbabwe.

The Constitution, Sections 86 and 87, provide limits to the exercise of these fundamental rights, requiring that they be "exercised reasonably with due regard for the rights and freedoms of other persons," and that they not limit specified rights,

such as the right to human dignity. These rights may be limited by laws of general application and laws that deal with public emergencies, provided that such laws meet express requirements set forth in the Constitution.

Other laws implement many of the rights granted by the Constitution.

- The African Charter on Human and People's Rights, also known as the Banjul Charter.
- The Universal Declaration of Human Rights, which upholds religious freedom and may be considered customary international law.

#### ***4. What is the official religion of Zimbabwe?***

There is no official religion of Zimbabwe.

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

The Constitution of Zimbabwe, Section 85, provides that a person, acting in their own interests or on behalf of someone who cannot act for themselves, may bring an action in court alleging that their fundamental right or freedom has been, is being, or is likely to be infringed. Unfavorable Court decisions can be appealed to a higher Court, with the Constitutional Court of Zimbabwe being the highest Court in the Country over constitutional matters such as religious freedom.

Peaceful methods of resolving religious freedom conflicts should always be pursued, as no one has the right to take the law into his or her own hands. When judicial intervention is not possible or desirable, another option for conflict resolution is to involve religious, tribal, or community leaders. Through a third party, these leaders may communicate and suggest solutions to a religious freedom conflict.

## RELIGION IN THE PUBLIC SQUARE

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

Yes. The Constitution, Section 60(1), guarantees Zimbabweans the freedom to “practice... and give expression to their thought, opinion, religion or belief, whether in public or private.” The Constitution allows a person to share their beliefs individually or in association with other individuals. This right should not be affected by prior or subsequent interference of public authorities or other persons who profess different religions. While the Maintenance of Peace and Order Act, enacted in 2019, regulates freedom of expression, assembly, and association in certain situations in the public sphere, Chapter 11:23 of the act states that it does not apply to “public gatherings held exclusively for bona fide religious, educational, recreational, sporting or charitable purposes.”

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

Yes. Along with the right to disclose one's religious beliefs, Section 60(1) of the Constitution provides for the freedom to express and share information or ideas, which includes your religious belief. This section also ensures the freedom to “propagate... thought, opinion, religion or belief.” The freedom to express a creed or belief implies the possibility of making the doctrine and teachings of one's religion known to others. People may share beliefs peacefully with others to gain adherents to their faith.

This right also includes the expressions of atheist groups, heterodox religious groups, or associations that partially promote religious aspects of its members. When believing, professing, and preaching their religion, all people have the duty to submit to the rules of conduct which have been established for the purpose of promoting justice, peace, good manners, and other values that must be preserved in the society.

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

Yes. Section 58 of the Constitution provides that people have the right to associate and participate in religious activities as communities, which includes the right to establish places of worship or gathering for religious purposes, to freely exercise their own ministry, to establish their own hierarchy, and to provide religious instruction in places of education maintained wholly by the community or denomination. This right also includes the right, as stated in Section 58(2), to not be “compelled to belong to an association or to attend a meeting or gathering.” These rights may not be exercised in a manner inconsistent with the Bill of Rights, Chapter 4 of the Constitution. For example, membership in religious places of education may not be restricted by race, and such establishments must be registered with the state.

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

While one government agency does not oversee all religious matters in Zimbabwe, several agencies interact with religious organizations. For example, religious groups have to register with the Zimbabwe Revenue Authority (ZIMRA) to receive tax-exempt status and duty-free privileges. Religious groups must also register with the Department of the Registrar General to be able to perform legally recognized marriages. In addition, religious groups running schools or medical facilities must register those facilities with the correct department. Registration with other agencies may be required before building places of worship, opening bank accounts, or signing contracts.

The Constitution Chapter 12, Part 3, Section 243, established the Zimbabwe Human Rights Commission to promote, monitor, and protect human rights and freedoms, including religious freedom. Some of the Commission’s duties include raising awareness of these rights, investigating potential violations of these rights, and providing guidance on potential remedies to violations.

## RELIGIOUS FREEDOM IN THE WORKPLACE

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

The Labour Act Section 5 regulates the employment relationship between employers and employees and prohibits unfair discrimination on various grounds but does not specifically mention religion. Section 5(7b) of the Act acknowledges that there is no discrimination if “on the grounds of political opinion or creed” there is evidence that an act or omission of a political, cultural, or religious organization is done in good faith to achieve a lawful purpose of the organization.

The Constitution, Section 56(1), holds that “all persons are equal before the law and have the right to equal protection and benefit of the law.” Section 56(3) specifically prohibits discrimination based on religion. Therefore, an employer should not impose religious obligations on its employees nor force an employee to act in a way that is contrary to his or her religious beliefs. Furthermore, there should be no difference in wages due to an employee’s religion.

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

According to the Labour Act, Section 14(C), workers are entitled to a weekly rest period of at least 24 consecutive hours, which can either be on the same day of each week or an agreed upon day by the employer and employee. Employees receive paid time off on religious public holidays that occur on their normal workdays, or they can consent to working the holiday for additional pay. Some religious public holidays include Good Friday, Easter Sunday, and Christmas Day. Employees should note that heavy workloads and employer expectations can lead to working beyond the hours and days set forth in employment contracts, potentially impacting observance of religious worship and/or prayer. Employees should discuss these situations with their employers, and employers should work to accommodate religious beliefs and the expression of these beliefs where possible.



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

While these actions are not specifically protected by law, the Constitution provides for freedom of religion and prohibits religious-based discrimination. The Constitution also states in Section 14(1) that “the State and all institutions and agencies of government at every level must endeavor to facilitate and take measures to empower...all marginalized persons, groups and communities in Zimbabwe.”

The State and all institutions should respect religious groups including one's beliefs to wear or not wear certain clothing. In 1995, the Supreme Court of Zimbabwe, in *In Re Chikweche*, held it was unconstitutional to deny a certified attorney acceptance to the Zimbabwean bar because of his dreadlocks, which were part of his Rastafarian religion. The Court reasoned that Rastafarianism was a religion protected under the Constitution therefore making the discrimination against the attorney unconstitutional. This case supports the positions that a person can wear religious clothing at work and is not required to wear a uniform that goes against one's religious beliefs.

Employees should notify their employers in a timely manner of any needs or special circumstances that arise due to religious beliefs or practices. If an employee needs to wear religious clothing or cannot comply with the required attire or uniform established by his or her employer, then the employee should discuss this at the beginning of employment. This allows the employer to become aware of such circumstances and honor the religious freedom of employees more adequately.

## **RELIGIOUS FREEDOM IN SCHOOLS**

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

Yes. The Ministry of Primary and Secondary Education provides for Family, Religion and Moral Education to be incorporated into the standard

curriculum with the purpose of exposing students to and fostering appreciation of different religions practiced in Zimbabwe.

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

It is mandatory for students to attend religion and moral education courses in primary school, but they may opt out at the secondary level where students have more freedom to choose their courses. Although religion education is part of the public-school curriculum of Zimbabwe, it is different than religious instruction, and teaches a variety of religions with the objective of promoting respect for other religions. Private schools can determine their own religious instruction and observance.

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

School-aged children must be enrolled in school and attend school, regardless of religious beliefs. No student may be absent from school during a school day without permission. The Constitution, Section 60, states that parents and guardians of children have the right to choose the “moral and religious upbringing of their children,” but it cannot infringe on children’s constitutional rights like the right to education. The Constitution, Section 3(1)(d), states that Zimbabwe is based on respect for “the nation’s diverse cultural, religious and traditional values,” so schools should work with families to ensure religious beliefs and practices are being respected.

Schools should be respectful of students who, because of their religious beliefs, do not participate in activities scheduled for Saturday, Sunday, or any other day established by their religion in which they refrain from performing certain activities. Parents or the interested parties should communicate with school leaders to discuss any religious reasons for not participating in school activities.

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

There are no specific governing laws or policies on this subject, but Section 4 of the Education Act of 2020 states that no child in public schools shall "be discriminated against by the imposition of onerous terms and conditions in regard to his or her ... class religious belief." Measures should be included to accommodate learners whose religious beliefs are compromised by a uniform requirement.

The case *Dzvova v. Minister of Education, Sports and Culture and Others* (2007), supports an accommodationist approach between religious beliefs and school policies. In that case, the Supreme Court held that a public school cannot ban a student from attending the school because of his dreadlocks, which were part of his Rastafarian religion.

Zimbabwe courts tend to rule in favor of accommodation more in public schools than in private schools. For example, the court ruled in *Makani & Ors v. Arundel School & Ors* that it was constitutional for a private religious school to require students to attend chapel. Even though freedom of religion includes the right to practice one's beliefs as well as the right to not participate in religious activities, the mandatory chapel attendance was deemed to be constitutional because it applied to everyone, and the students agreed to abide by the school's general policies.

## **MILITARY AND PUBLIC SERVICE**

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

There is no current mandatory military service and no conscription in Zimbabwe.

## RELIGION AND JUSTICE

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

Yes. The laws governing both civil and criminal proceedings allow a person for religious reasons to make an affirmation in lieu of an oath.

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

No. According to Constitution Section 164, the judiciary must apply the Constitution and the law “impartially, expeditiously and without fear, favour or prejudice.” No matter their religious beliefs, judges have the responsibility to ensure justice for all and to protect fundamental rights of all people. Judges are required to refrain from being biased or prejudiced in the performance of their judicial duties.

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

Yes. There is a conditional clergy privilege that can be asserted by either an individual or religious leader, but the court exercises discretion in determining whether information is privileged.

Civil Evidence Act, Section 9, gives factors courts may consider in determining whether information is privileged in civil cases. They include the potential harm caused to interested persons from divulging such information, the relevance of the confidential information in the case, whether any information has already been disclosed, whether an interested person gave consent to disclose confidential information, or the cause of action and facts of the case.

Section 244 of the Criminal Procedure and Evidence Act, states that “every person not expressly excluded by this Act from giving evidence shall be competent and compellable to give evidence in a criminal case.” The Act does not specifically exclude priests, so they may be required to disclose information in criminal cases. The law does not require a religious leader to report an intended crime, except if the crime be one of treason. If religious leaders choose

to divulge information of intended crimes, they are most likely protected under Section 4 of the Access to Information and Protection of Privacy Act, which provides there is not an “unreasonable invasion” of a person’s privacy if “there are compelling circumstances affecting another person’s health or safety.” In addition, there is no mandatory duty for religious leaders to report any kind of abuse.

## 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.

