



REPUBLIC OF NAMIBIA

EMBASSY/ PERMANENT MISSION OF THE REPUBLIC OF NAMIBIA

Information submitted to the Office of the High Commissioner for Human Rights in contribution to the Report of the UN Secretary-General on Combating Intolerance and Violence Against Persons based on Religion or Belief

INTRODUCTION

1. The Namibian Constitution under Article 10 provides for the right to non-discrimination on grounds of sex, race, colour, ethnic origin, nationality, religion, creed or social or economic status. This constitutional right is complemented by the right to freedom to practice their religion and manifest such practice under Article 21(1)(b) of the Namibian Constitution. Chapter 3 of the Namibian Constitution continues to protect and support the promotion of a culture of tolerance and peace by recognizing the inherent dignity and the equality of all persons without distinction as to race, sex, language, or religion.
2. Article 14 of the Namibian Constitution provides that marriage shall be entered into only with the free and full consent of the intending spouses between men and women of full age without any limitation due to race, colour, ethnic origin, nationality, religion, creed or social or economic status. It further provides for the right “to marry and found a family.”

THE RIGHT TO FREEDOM OF THOUGHT, CONSCIENCE AND RELIGION

3. In terms of Article 1 (1) of the Namibian Constitution, Namibia is a secular state, and this means that although it is estimated that 90% of Namibians follow the Christian faith, there is complete separation between the state and organized religion. Although the Christian faith is the dominant religion in the country, all religions enjoy the same rights and protections, and minority religious groups such as Muslims, Jews, followers of the Baha’I Faith, and followers of indigenous African religions are free to practice their religion without any interference or intimidation from the State or any other persons. The

Government also continues to work with faith-based organizations to combat social ills such as gender-based violence, harmful practices, drug and alcohol abuse.

4. Religious groups may also register as non-profit organizations (an “association without gain”) with the Ministry of Trade and Industry. Both religious groups registered as non-profit organizations and religious groups formed as voluntary associations are exempt from paying taxes. Other faith-based organizations may also register as welfare organizations with the Ministry of Health and Social Services (MoHSS). A welfare organization may apply to the Department or Inland Revenue to receive tax-exempt status. Once registered as a welfare organization, a religious group may seek to obtain communal land at a reduced rate, which is at the discretion of traditional authorities or town councils, based on whether they believe the organization’s use of the land will benefit the community.
5. In public schools, at primary level, the subject Religion and Moral Education is compulsory for all learners irrespective of their religious affiliation. The subject does not endorse a particular religion but is rather accommodative and teaches all kinds of religions to learners focusing mainly on their similarities instead of their differences. This approach promotes tolerance amongst learners from different religious backgrounds. The Ministry of Education offers Religion and Moral Education in Government schools as part of the national curriculum taught from Pre-Primary up to Grade 9. After Grade 9, the topics are covered within the Life Skills syllabus, which is allocated one period per week on the school time-table. Religion and Moral Education is within the spiritual and ethical areas of learning in the curriculum and has thematic links to other subjects across the curriculum. Learners are expected to have a clear understanding and respect for the diversity and freedom of beliefs, awareness of the highest moral, ethical and spiritual values, such as integrity, responsibility, equality and reverence for life.
6. Religious institutions are allowed to run their own schools while applying the same curriculum approved by the Government. For example, the Catholic Church, Anglican Church and Lutheran Church all run a number of private schools across the country. The Government appreciates the role that religious institutions play in delivering health services to citizens. In this regard, the Ministry of Health and Social Services (MoHSS) has a long-standing agreement with the Roman Catholic Church to provide medical services and accommodate state patients in its hospitals.
7. As mentioned above, the Christian faith has the largest following in the country, and the Government recognizes several Christian holidays. Christian holidays such as Easter, Ascension and Christmas day have been declared as public holidays by way of an Act of Parliament, the Public Holidays Act, 1990 (Act No. 26 of 1990). Followers of minority

religions such as those mentioned above are also allowed to celebrate and commemorate their religious holidays without any intimidation from the state and the general public.

8. The right to religion was tested in the case of *ES v AC*¹. The case involved a mother who was medically admitted and needed to receive blood transfusion to save her life but refused the blood transfusion on account of being a Jehovah witness. Her brother applied to court for an order declaring her mentally impaired due to her health condition and appointing him as her curator so that he may consent to medical staff administering blood transfusion on Mrs. ES. The High Court ruled in favour of the applicant. The Supreme Court however overturned the decision of the High Court and held that the interest of the child though very important does not always supersede the rights of the parent to body autonomy. The Court held:

“The right to choose what can and cannot be done to one’s body, whether one is a parent or not, is an inalienable human right [...] Moral autonomy is of central importance to the protection of human dignity and liberty in free and open democracies such as ours.”

This is an indication that the right to manifest one’s freedom of religious practice is respected and highly valued.

PROHIBITION OF PROPAGANDA FOR WAR, NATIONAL, RACIAL OR RELIGIOUS HATRED

9. The Racial Discrimination Prohibition Act, 1991 (Act No 26 of 1991) as amended, remains the principal piece of legislation that criminalises all forms of racism in the country. Regrettably, discriminatory apartheid era laws are still in existence of our legal system. However, the Government is progressively working towards repealing discriminatory and redundant laws through the Law Reform office in the Ministry of Justice. In 2019, Parliament passed the Repeal of Obsolete Laws Act, 2018 (Act No. 21 of 2018) which provides for the repeal of certain obsolete laws. The intention of the Act is to repeal about 143 proclamations, ordinances and Acts which were discriminatory on the grounds of sex, race, colour, ethnic origin, creed and social and economic status.
10. The Namibian Government continues to promote national, racial as well as religious harmony amongst its citizens. Namibians have the right to practice their religion without any intimidation from the state.

End.