

Brief Background Information on the CRL's Recommendations to Regulate Religion and the Developments and Process to Date

The following background information summarises the developments which have led to a process whereby the religious community of South Africa has been given the opportunity to develop alternative solutions to those proposed by the CRL Rights Commission's (CRL) report on the "Commercialisation" of Religion and the Abuse of People's Belief Systems (the Report)

- In response to various reports of abuses, the CRL issued the Report in which it recommended that the CRL be empowered through legislation (and possibly a change to the South African Constitution) to regulate (and thereby control) every religious practitioner, religious organisation and place of worship via a "peer review mechanism", with the CRL acting as the "final arbiter of religion" (page 48 of the Report) with the "final decision powers" regarding any dispute in the religious community (page 47 of the Report).
- The Report was duly reviewed and debated in October 2017 before the Cooperative Governance and Traditional Affairs Parliamentary Portfolio Committee (COGTA), with submissions and inputs received from a broad cross-section of the faith community, including denominations, religious organisations, lawyers and academics. While the overwhelming consensus agreed that the Report rightly identified that abuses were taking place amongst fringe elements in the religious community, they equally argued that the CRL's proposed solutions were unnecessary (existing South African laws covered all the issues identified, with the problem being a lack of effective enforcement of these laws); unconstitutional (the structures proposed by the CRL's Report would inevitably infringe constitutional religious freedom rights (section 15) and freedom of association rights (section 18); and unworkable (requiring a massive national bureaucratic structure to implement and enforce).
- COGTA subsequently rejected the Report's proposed regulatory solutions, calling instead for a National Consultative Conference (NCC) to be convened to give a platform for the religious community to discuss challenges in the religious sector and to develop solutions which would allow it to remain self-regulatory. COGTA specifically agreed with a solution proposed by many who made submissions at the hearings and supported the development of a charter for self-regulation, i.e. a "Code of Conduct".

- The development of this Code of Conduct was initiated in May 2018 by The Evangelical Association of South Africa (TEASA), which organised a meeting of 70+ senior religious leaders in Johannesburg. This meeting mandated the South African Council for the Protection and Promotion of Religious Rights and Freedoms (SACRRF) – author of the South African Charter for Religious Rights and Freedoms (which defines religious rights and is subscribed to by +/- 22 million people from the South African faith community) – to use the aforementioned Charter as a reference point to develop the corresponding responsibilities in the form of a Code of Conduct for religion and to prepare and circulate this for comment and input. This Code of Conduct is currently in its third draft.
- A Religious Leaders’ Summit (RLS), co-organised by the CRL and the National Religious Leaders Council (NRLF) and chaired by Pastor Ray McCauley, took place at Rhema Church, Randburg on 13th February 2019. The delegates at this event rejected the proposed agenda, which included proposals to (1) consider a legal constitutional framework to put forward proposals for legislation; (2) develop an accountability system in the form of the establishment of Peer Review Committees and (3) approve a Code of Conduct unilaterally developed by the CRL (which ignored the draft developed by the SACRRF).
- The delegates at the aforementioned RLS instead passed resolutions declaring that it was (1) inappropriate and unacceptable for the CRL to dictate to the Church how to regulate its affairs; (2) that the CRL should be excluded from the process so that Church (in particular) can take ownership and develop necessary solutions without undue interference; (3) that new members be added to the RLS “steering committee”; (4) that a broad consultation process with religious leaders be implemented at local, provincial and national levels to develop alternative solutions by the religious community for the religious community to the CRL’s proposals to regulate religion; and (5) that a further RLS be organized in October 2019 to present these findings and to agree on proposals.