



REPORT OF THE PC ON COGTA ON THE COMMISSION FOR THE PROMOTION AND PROTECTION OF THE RIGHTS OF CULTURAL, RELIGIOUS AND LINGUISTIC COMMUNITIES (CRL RIGHTS COMMISSION) ON THE COMMERCIALISATION OF RELIGION AND ABUSE OF PEOPLES BELIEFS DATED 14 FEBRUARY 2018

1. INTRODUCTION

The Report of the hearings on the commercialisation of religion and abuse of peoples's belief system of the Commission on the promotion and protection of the rights of Cultural, Religious and Linguistic communities (CRL Rights Commission, herewith known as the Commission) was referred to the PC on Cogta for consideration and report and to the SC on Finance, PC on Trade and Industry, PC on Home Affairs and PC on Social Development for consideration.

The PC on Cogta organised a workshop to discuss the report on 27 June 2017, and invited the other committees the report was referred to including the PC on Women in the Presidency. The Commission made presentation to the workshop and invited some of the participants of the hearings to attend the workshop.

2. BACKGROUND

Controversial news reports and articles in the media about pastors instructing the congregants to eat grass, snakes, drink petrol or part with considerable sums of money in exchange for a miracle or blessing, raised significant public concern. In response, the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities (CRL Rights Commission) undertook an investigative study on the commercialisation of religion and abuse of people's belief systems in South Africa. This was in accordance with the constitutional mandate of the Commission.

The study aimed to:

- Investigate and understand further issues surrounding the commercialisation of religion and traditional healing;
- Identify the causes underlying the commercialisation of religion and traditional healing;

- Understand the deep societal thinking that makes some members of our society vulnerable and gullible on views expressed and actions during religious ceremonies;
- Assess the religious legislative framework and its relevance to deal with prevailing religious challenges;
- Formulate findings and recommendations that address the status quo on commercialised religion and traditional healing;
- Investigate the spread of religious institutions in the country; and
- Enquire about the various miraculous claims religious leaders and traditional healers make regarding the powers to heal and create miracles.

To mitigate the impediments, the Commission, in preparation for and during the hearings, took various steps, such as to facilitate the monitoring and control of potential and incoherent threats of disruptive behaviour of supporters or summoned persons; convened meetings; and explained the procedure of the hearings. Despite all these measures, varying degrees of resistance emerged during the hearings from a few institutions, even those which had committed to cooperate with the requirements of the Commission.

The Commission was of the view that there were several reasons for the Religious Sector to be regulated. Therefore, after the extensive investigation, an amendment to the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities, Act no. 19 of 2002 (CRL Act) legislation was recommended. That would assist all religious institutions to create an environment where they, and not the State, could effectively regulate themselves, and held people who brought religion into disrepute accountable, as per their various religious systems.

In the view of the Commission, proposed amendment to the CRL Act would ensure that freedom of religion was not only protected but it was also guaranteed in the country and that the religious sector was given space and capacity to resolve its challenges and made all relevant recommendations to the Commission.

3. THE COMMISSIONS INPUT

3.1 Methodology

For the purposes of the investigate study, the CRL Rights Commission opted for a random sampling method where random religious institutions were selected and summonsed to appear before the Commission. The sampling method ensured that everyone in the entire

target population of religious leaders/traditional healers had an equal chance of selection. Although random samples were the best method of selecting a sample from the target population, they tended to be costly in terms of time, effort and money. Given that the Commission had been pleading for more resources, one would not have expected it to opt for this method. However, the chosen method was welcomed.

In constructing the random sampling plan, the Commission sourced religious/traditional healers' group distribution figures from the 2001 Census figures and community councils. Why the Commission did not utilise data from the 2011 Census, let alone the 2016 Community Survey, was puzzling. The sample design yielded a sample size of approximately 85 religious leaders and traditional healers whom the Commission summonsed to face-to-face interviews.

3.2 Findings

The Commission observed the following findings from the hearings:

- No comprehensive database of religious leaders and places of worship was available;
- There was a high number of unregistered religious institutions;
- There was a high surge, in the number of both local and foreign leaders;
- The death of worshipers who were using faith products and defaulting on their chronic medication was high;
- Financial abuse of worshipers – some churches directed threats to worshipers who did not pay for a prayer, some demanded cuts for successful business deals prayed for, the entrepreneurial religious organisations and challenges of “return of investment”;
- Lack of financial management and good governance structures;
- Lack of participation of women in religious practices;
- Cult-like religious organisations – children not allowed to attend school as school curriculum was labelled satanic, etc;
- Unconventional preaching styles – congregants made to eat grass, snakes, drink petrol etc;
- There was lack of training, peer support and understanding of legislation and legal procedures in the registration of religious institutions; and
- Lack of monitoring and peer review mechanism like in other professions;

3.3 Recommendations

The following recommendations were made:

- The investigative study highlighted the need to protect religious freedom without attempting to regulate it from the side of the State. However, as specific current practices in the religious sector infringed on constitutional rights of congregants and violated existing legislation, the Commission recommended religious communities to regulate themselves more diligently to be in line with the Constitution and the law.
- Communities should exercise their religious freedom with due regard to their legal, ethical and community responsibilities. The Constitution left scope for all kinds of beliefs and opinions. Even views which some might regard as extreme, were allowed and should not be regulated. However, when views led to the abuse of human rights (for example, hate speech as indicated in article 16(2)), or to the violation of the law, there was cause for concern.
- Although religious organisations existed as voluntary organisations, the CRL Rights Commission should provide essential assistance in helping them to get their house in order and to ensure compliance with existing legislation and propose new legislation. The current disregard of fiduciary responsibilities was a serious concern.
- Religious organisations needed to understand their responsibility in connecting Religious Freedom and recourse to ethical and community responsibility.
- Religious organisations which were guilty of fraud, or misappropriation of funds, should be prosecuted and held liable regarding the law of serious concern was that that did not happen.
- There was a definite need to refer specific cases, where organisations did not comply with the law, to the relevant authorities (e.g. the National Prosecution Authority).
- There was an established and exponential increase in religious organisations and leaders of foreign origin. There was an appreciation for bona fide foreigners serving the South African nation, but the evidence had shown that in some cases they displayed a propensity for amassing money. The Department of Home Affairs should play a crucial role in curbing the abuse when considering visa applications.
- Each institution must have a finance committee, chaired by a duly elected member of the institution. The Treasurer must also be duly elected, while the religious leader should become an ex-officio member, if necessary.
- To solve the leadership succession challenges, each Religious institution should elect its leadership as per the provisions of its own constitution.
- Religious Institutions should elect their own oversight structures to manage the financial and internal affairs of the institution.

- An anomaly exists where religious leaders buy property with the communities' money and later own that property, proper investigations must be conducted first to establish the allegation. Where the fact was established, the facts must be tabled to the congregation and the religious leader must take corrective measures.
- Clear separation between business activity and religious activity should always be maintained. While the Religious institutions were free to start businesses in their own business.

4.1 On the religious legislative framework and its relevance to deal with prevailing religious challenges:

- There were enough existing laws that could deal with the prevailing religious challenges. However, there were loopholes in the legislation, including lack of enforcement.
- Some churches not registered with the Department of Social Development either as NPOs or with SARS as public benefit organisations (PBOs).
- Some of those registered with the Department of Social Development did not even report to the Department annually, as required by law.
- Some did not even disclose to SARS the amount of money they made per year and thus avoided paying tax.
- In some cases, money collected from the members never banked with any commercial bank.
- In other cases, instead of banking with the institution's account, the money went into the spiritual leader's account, whereby the pastor also became the treasurer.
- Some religious institutions told their congregants to pay money to the head offices and, as the Commission discovered, most of these head offices were outside the country.
- Some religious leaders did not apply to the Reserve Bank before repatriating money out of the country.

4.2 On the spread of religious institutions in the country:

- There was an established and exponential increase in religious organisations and leaders of foreign origins.
- Unlike in other African countries, it had become very easy to establish churches in South Africa.

- In some cases, the title deeds of these religious properties end up being inappropriately registered. For example, the church registered in the spiritual leader's name, which encouraged the building of a family empire while using public money.
- Lack of clear separation between religious activity and business activity.
- Some Institutions had no Codes of Conduct.
- Lack of oversight structures, such as a Church Council, Disciplinary Committee etc.
- In some instances, a single person owned and controlled the entire institution.
- In some cases, the finance committee and other church committees constituted of the spiritual leader, his wife, and some of his friends.
- Lack of leadership succession plans, which eventually led to conflict, division and litigation.

4.3 On the various miraculous claims that are made by religious leaders and traditional healers regarding the powers to heal and create miracles.

- Abuse of media privileges, such as using television slots to advertise themselves or their faith or holy products and claims of healing powers of a wide range of illnesses and socio-economic challenges.
- Newspaper adverts, posters, and leaflets used to advertise and promised people healing, enrichment, jobs, luck, or solved problems.
- Recommending or prescribing untested diagnosis/prognosis in health matters.

5. Committees observations

The Committee noted that most of the organisation raised the following issues:

- The Commission did not do sufficient public participation as only 85 denominations was invited to the hearings;
- There was disagreement over Constitutionality of recommendations of the CRL
- The religion should not be commercialised.
- Denominations have been self-regulated and this have been working well for them;
- The commercialisation is an infringement on the Constitutional right of people;
- The CRL Rights Commission is not the body that should be regulating the sector; and

6. Recommendations

The Committee notes that across the sector there is agreement that there is abuse in the religious sector and thus recommends the following:

- A National Consultative Conference (NCC) (including the linguistic and cultural communities) should be convened to give a platform to discuss challenges in the religious sector;
- Arising from the NCC the following should be established:
 - A charter for self-regulation;
 - Code of conduct for the sector which should be recognised by legislation.
- Strengthening the mandate of Independent Communications Authority of South Africa (ICASA) and other such bodies to penalise misleading media claims;
- Strengthening legislation like the Non-Profit Organisation Act and the Income Tax Act to ensure registration of religious institutions.

7. CONCLUSION

The Committee noted the report of the CRL Rights Commission and would like to commend all that participated in the process. The Committee made recommendations to the report and table it to the National Assembly for consideration

ADDENDUM

PARTICIPANTS AT THE HEARINGS

The Committee received inputs on the above-mentioned report from the following:

- Freedom of Religion South Africa (FORSA);
- Association of Christian Religious Practitioners;
- SA Council for Religious Rights and Freedoms
- South African Catholic Bishops Council (SACBC);
- International Institution for Religious Freedom (IIRF);
- Western cape Ecumenical Network (WCEN);
- Apostolic Faith Mission (AFM);
- Christian Ministers Council of Southern Africa (CMCSA);
- All African Federation of Churches;
- Assemblies of God;
- Evangelical Alliance of South Africa (TEASA);
- Christian Family Church (CFC)
- Christian Concern Network of the Baptist Union of Southern Africa;
- Association of Cristian Media;
- Anglican Catholic Church;
- Northern Conference of the Seventh Day Adventures
- Dutch Reform Church;
- Alliance of Pentecostal and Charismatic Churches in South Africa;
- Wesleyan Church;

- Old Apostolic Church;
- Christian Science Church;
- National Interfaith Council of South Africa (NICSA);
- South African Union Council of Independent Churches (SAUSIC);
- South African Institute of Professional Pastors, Reverends and Ministers (SAiPREM);
- Christians for Peace in South Africa;
- Church Leadership Empowerment Foundation Africa (CLEFA);
- Royal House of Eastern Cape (Amaxhosa);
- The Great Commission;
- South African Religious Forum;
- South African Ministers Fraternal;
- UKZN – Africology Department
- NUPAATHPSA;
- Kingdom Governors;
- Zion Christian Church (ZCC)
- CRL Rights Commission;