MEMORANDUM

To: Ms Shereen Cassiem, COGTA Parliamentary Portfolio Committee Secretary

From: Dr JP (Hannes) van der Walt, Secretary and General Manager of the *Association of Christian Religious Practitioners (ACRP)[[1]](#footnote-1)*

Re: **CRL Commission Report on the “Commercialisation” of Religion, and the formation of a professional body for religious professionals**

Date: 2017/08/12

At its August 2017 conference, *the Association of Christian Religious Practitioners (ACRP)* approved the following resolution regarding the Report of the CRL Rights Commission (“the CRL”) on the “Commercialisation” of Religion and Abuse of People’s Belief Systems:

*a. That the problems in the church and ministry environment identified by the Commission be noted with concern.*

*b. That ACRP management be requested to determine the appropriate way for ACRP to respond to these problems, with an emphasis on positive steps such as support to intensified training, while also applying disciplinary measures that fall within ACRP’s scope as professional body service provider.*

*c. That the CRL Commission be informed that ACRP is strongly opposed to the idea of any institution of government being placed in the position to regulate religion in the country; that solutions to the identified problems should be sought within the framework of existing legislation and policies; and that ACRP is willing to play its part to help solving problems within the existing framework.*

With this resolution the ACRP wanted to express its unequivocal support to the CRL’s view that irresponsible activities performed by some churches and faith leaders are unacceptable and should be eliminated, the ACRPs’ view is however that the measures and control structures envisaged by the CRL are harsh and will put religious freedom seriously at risk. The explanations and good intentions formulated by the CRL in their final report are appreciated, but do not remove the risk of seriously impairing the right to religious freedom.

To safeguard religious freedom as intended in the South African Constitution, the principle of self-regulation of religious communities and professions need to be maintained and strengthened. A proper role for the CRL in this regard would be to assist and strengthen existing processes and instruments, instead of creating new, and may we say rather harsh, structures and processes. Existing lines of communication, structures, laws and processes can be used effectively to overcome the identified problems.

If the existing laws, processes and structures are not used properly, the lack of effective utilisation thereof needs to be addressed. ***Ineffective use of existing instruments will not be solved by creating more instruments.*** The promulgation of more laws and the creation of intricate new structures with costly processes will be counterproductive. New legislation and structures will be superfluous and will put religious freedom at risk.

One of the matters that the CRL wants to address through new legislation and through the establishment of new structures relates to the ***professionalisation of religious professions***. The CRL envisages the introduction of mechanisms to serve as *professional bodies for religious professionals*. In their final report, the CRL wrote (Par 19.1):

*“The CRL Rights Commission report also recommends a process that will establish a mechanism for registering religious leaders' places of worship and umbrella organisations through the recommendations of umbrella bodies on behalf of their constituencies. This registration mechanism for religious leaders would be* ***similar to that of other professional bodies such as that of Lawyers, Nurses, Doctors and Engineers****. We believe this registration mechanism will also help to professionalise the religious sector further, without compromising the internal requirements of various institutions for recognising those of a religious leader.”*

This statement suggests that the CRL is unaware of the mechanism for the formal professionalisation and effective self-regulation of professions, including religious professions, which has already been created in an Act of Parliament. ***The National Qualification Framework Act, 67 of 2008 (“the NQF Act”), does precisely that.*** The NQF Act was *inter alia* promulgated to enable a variety of professions to establish such bodies and through these bodies to regulate and professionalise themselves. (See Annexure 2 for the sections of the NQF Act that relate to the establishment of professional bodies.)

Through the NQF Act, the ***SA Qualifications Authority (SAQA) was tasked to manage the establishment of professional bodies*** for professions that were identified in the Organising Framework for Occupations (OFO). The OFO was compiled in 2012 by the Department of Higher Education and Training (DHET) in cooperation with the Department of Labour. The OFO *inter alia* identifies ***religious professionals*** (code 2636) and ***religious associate professionals*** (code 3413) as professions that professional bodies have to be established for. In terms of the provisions of the NQF Act and SAQA policy, the establishment of the professional body has ***to be done by the relevant community of expert practitioners of that profession - not by an institution or instrument of state.*** The professionalisation mechanism in the Act ***guarantees full self-regulation by the relevant occupation***. SAQA’s policies and processes regarding the professional bodies are described in the policy document entitled *“Policy and Criteria for Recognising a Professional Body and Registering a Professional Designation for the Purposes of the National Qualifications Framework Act, Act 67 of 2008*"[[2]](#footnote-2). SAQA has furthermore established the ***Directorate Registration and Recognition*** to oversee the complex processes of guiding the relevant communities of expert practitioners to establish and manage their professional bodies.

After lengthy preparations, ***ACRP was recently registered by SAQA as professional body for religious professionals*** in terms of the requirements of the NQF Act. In preparing for this, ACRP developed all the systems and processes to fulfil the functions of a professional body under the auspices of SAQA and QCTO. These functions include:

* ***Defining designations*** on various levels for the profession (in this case religious professionals and practitioners)
* ***Determining the qualifications and training standards*** for persons holding such designations.
* ***Developing formally accredited qualifications*** for levels of designations where accredited training does not yet exist.
* Introducing a ***code of ethics / code of good practice*** for persons in the profession.
* Introducing and applying a ***disciplinary code*** and ***disciplinary procedures*** for persons in the profession.
* Introducing a Continued Professional Development (CPD) dispensation for persons in the profession.
* Introducing a formal strategy for Recognition of Prior Learning (RPL) to advance persons with experience in the profession but without the formal qualifications.
* To raise fees that will ensure the sustainability of the professional body.

***As formally recognised and registered professional body for religious professionals (Christian tradition), the ACRP has the statutory responsibility to fulfil these functions.***Important to note, however, is that although this function is supported by a statute of the State, this function is ***owned by the relevant profession and is fully based on the principle of self-regulation.***

With the experience gained, the ACRP will also be willing to assist other (non-Christian) religious groups with the development of similar self-regulatory professional bodies (SAQA’s policies do allows for such a development).

Should the CRL continue with its intention to establish a structure to fulfil the role of professional bodies, it will duplicate what is provided for in the NQF Act, and what has already been put in place within the SAQA framework.

The CRL should rather play a facilitative role in respect of the practice of religion, helping existing structures in their endeavour to make religious practitioners to be aware of their statutory and legal obligations, conducting training on proper NGO governance, facilitating the adoption of the general code of ethics for the religious sector etc. The clarion call here should always be about opposing an attempt by the state to regulate religion, considering how deep into history the fight for religious freedom goes. Undoing this at this stage (along with the equally important right of freedom of association) would be a major setback indeed.

***To conclude:*** ample provision has already been made in existing laws and legal practices for the level of control that is needed to overcome the problems identified by the CRL. The combination of existing structures and communication lines of religious institutions, together with common law, corporate governance measures in company and social development legislation and the King reports, financial and tax laws, immigration laws, labour laws, educational laws, etc provide all the required mechanisms and instruments to do this. Among these the provision that has already been made for the establishment of a professional body or professional bodies in terms of an Act of Parliament should be noted as a significant development. Additional laws and structures will be superfluous, will complicate matters, and will jeopardise religious freedom. The CRL should rather focus on facilitating self-regulatory processes and on promoting the effective use of the opportunities, practices, structures and laws that already exist.

**ANNEXURE 1:**

**NOTES ON THE IDENTITY OF ACRP**

The *Association of Christian Religious Practitioners (ACRP)* was established on the suggestion of officials of the *South African Qualifications Authority (SAQA*). It was established by a representative group of religious professionals, representing a wide range of formal and informal churches (pastors, ministry leaders, teachers, pastoral counsellors), church networks, training institutions (faculties of theology, private seminaries, Bible schools) and pastoral counsellors. The purpose of creating ACRP was to utilise opportunities and mechanisms created in the *National Qualifications Framework Act, 67 of 2008 (“the NQF Act”)* to (a) address the need for formalised training of the very large numbers of pastors who did not have the opportunity for formal training in the past; and (b) to introduce a professionalisation mechanism for pastors and other persons in ministry.

Since its inception the ACRP focused on achieving these purposes. Two parallel processes were followed:

Firstly, the ACRP went through all the processes to develop itself into a professional body in terms of the requirements of the NQF Act and SAQA policies and standards. This took some time. It *inter alia* involved the creation of a wide network of cooperation within the Church and Christian ministry network, and the development of the institutional structures and mechanisms needed to fulfil the role of a professional body. By October 2016, the ACRP was ready and submitted its application to be recognised by SAQA as a professional body for religious professionals. The application went through all SAQA’s evaluation processes which included the publication of the application in the Government Gazette (19 May 2017), and subsequently on 6 October 2017 the ACRP was informed that it has been registered by SAQA ***as professional body for religious professionals*** in terms of the NQF Act, with the power to fulfil the functions of a professional body in respect of participating religious leaders. (See the SAQA letter in Annexure 1.)

A second, parallel process involved the development of formal qualifications for pastors who did not have the opportunity for formal training in the past. For this, the ACRP cooperated with the Quality Council for Trades and Occupations (QCTO) to develop pastoral and ministry (occupational) qualifications for pastors who do not have the opportunity to attend theological training at universities or private tertiary institutions. The ACRP was appointed by the QCTO to manage the assessment component of these new qualifications.

Through these measures, the ACRP in cooperation with SAQA and the QCTO, and with wide support from churches, Christian ministries and training institutions, is working to fully utilise the provisions in the NQF Act towards the professionalisation of religious professions in South Africa, with the focus on the Christion religious tradition.

**ANNEXURE 2**

**EXCERPT FROM NATIONAL QUALIFICATIONS FRAMEWORK ACT 67 OF 2008**

**CHAPTER 1**

**DEFINITIONS, OBJECT AND APPLICATION OF ACT**

**1. Definitions**

“professional body” means any body of expert practitioners in an occupational field, and includes an occupational body;

“professional designation” means a title or status conferred by a professional body in recognition of a person’s expertise and right to practise in an occupational field;

**3. Application of Act**

(1) This Act applies to-

(a) education programmes or learning programmes that lead to qualifications or part-qualifications offered within the Republic by-

(i) education institutions; and

(ii) skills development providers; and

(b) professional designations,

subject to the limitations prescribed in this Act.

**CHAPTER 4**

**SOUTH AFRICAN QUALIFICATIONS AUTHORITY (SAQA**)

**13. Functions of SAQA**

(1) The SAQA must, in order to advance the objectives of the NQF-

(a)- (h)...

(i) with respect to professional bodies-

(i) develop and implement policy and criteria for recognising a professional body and registering a professional designation for the purposes of this Act, after consultation with statutory and non-statutory bodies of expert practitioners in occupational fields and with the QCs; and

(ii) recognise a professional body and register its professional designation if the criteria contemplated in subparagraph (i) have been met;

**CHAPTER 6**

**PROFESSIONAL BODIES**

**28. Co-operation with QCs**

Despite the provisions of any other Act, a professional body must co-operate with the relevant QCs in respect of qualifications and quality assurance in its occupational field.

**29. Recognition by SAQA**

A statutory or non-statutory body of expert practitioners in an occupational field must apply in the manner prescribed by the SAQA in terms of section 13(1)(i)(i) to be recognised as a professional body in terms of this Act.

**30. Registration of professional designation**

A professional body that is recognised in terms of section 29 must apply to the SAQA, in the manner determined by the SAQA in terms of section 13(1)(i)(ii), to register a professional designation on the NQF.

**31. Information**

A professional body must, in consultation with the SAQA-

(a) maintain a database for the purposes of this Act;

(b) submit such data in a format determined in consultation with the SAQA for recording on the national learners’ records database contemplated in section 13(1)(l).

**ANNEXURE 2**

**EXCERPT FROM**

**SAQA POLICY AND CRITERIA FOR RECOGNISING A PROFESSIONAL BODY AND REGISTERING A PROFESSIONAL DESIGNATION FOR THE PURPOSES OF THE NATIONAL QUALIFICATIONS**

**FRAMEWORK ACT, ACT 67 OF 2008**

**OBJECTIVES OF THE POLICY AND CRITERIA**

14. The objectives of these policy and criteria are to:

i. Advance the objectives of the NQF

ii. Promote public understanding of, and trust in, professions through the establishment of a nationally regulated system for the recognition of professional bodies and for the registration of professional designations

iii. Encourage social responsibility and accountability within the professions relating to professional services communities and individuals

iv. Promote pride in association for all professions, including traditional trades and occupations

v. Promote the protection of the public by professional bodies from malpractice related to the fulfilment of the professional duties and responsibilities of professionals registered with them

vi. Encourage international leading practice and the raising of esteem for all professions in South Africa

vii. Facilitate access to, and analysis of, data related to professions, including traditional trades and occupations, for the purposes and use as prescribed by the NQF Act

viii. Support the development of a national career advice system

ix. Encourage the development and implementation of continuing professional development.

1. Notes on the identity of ACRP are provided in Annexure 1 [↑](#footnote-ref-1)
2. http://www.saqa.org.za/docs/guide/2012/policy\_2008.pdf [↑](#footnote-ref-2)