

**REPORT
OF THE HEARINGS ON
THE COMMERCIALISATION
OF RELIGION AND ABUSE
OF PEOPLE'S BELIEF SYSTEMS**

2017

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FOREWORD

Recent controversial news reports and articles in the media about pastors have left a large portion of society questioning whether religion has become a commercial institution or commodity to enrich a few.

As per the mandate of the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities (CRL Rights Commission), a unanimous decision was made to undertake an investigative study regarding the commercialisation of religion and abuse of people's belief systems in South Africa. For this purpose, a random sampling method was utilised to select random religious institutions/organisations and summon them, as per the provision of the CRL Rights Act 19 of 2002, to appear before the CRL Rights Commission.

To mitigate the impediments, the CRL Rights 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; convene meetings; and explain 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 CRL Rights Commission.

The CRL Rights Commission is of the view that there are several reasons for the Religious Sector to be regulated. Therefore, after this 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. This will assist all religious institutions to create an environment where they, and not the State, can effectively regulate themselves, and hold people who bring religion into disrepute accountable, as per their various religious systems.

This proposed amendment to the CRL Act will ensure that freedom of religion is not only protected but it is also guaranteed in the country and that the religious sector is given space and capacity to resolve its challenges and make all relevant recommendations to the Commission.

Ms Thoko Mkhwanazi- Xaluva
Chairperson of the CRL Rights Commission

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The Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities (henceforth CRL Rights Commission) is indebted to all traditional healers, spiritual leaders, religious leaders and their religious communities who participated in the hearings on the commercialization of religion and the abuse of the peoples' belief systems. We are particularly grateful for their cooperation in working with the CRL Rights Commission.

Special appreciation is accorded to the Chairperson of the CRL Rights Commission, Mrs Thoko Mkhwanazi-Xaluva, Section 7 committee members, Deputy Chairperson Prof David Luka Mosoma, Commissioner Dr Anton Wynand Knoetze, Commissioner Fikile Sheila Mbele Khama, Commissioner Helen Julia Mabale, Commissioner Richard Darrel Botha and Commissioner Sicelo Immanuel Dlamini and all other CRL Rights Commissions' commissioners.

Finally, special appreciation is accorded to the CEO and all the staff of the CRL Rights Commission.



1. INTRODUCTION

Section 15(1) of the Constitution of the Republic of South Africa 1998 states that everyone has the right to freedom of conscience, religion, thought, belief, and opinion. In addition, Section 31(1) (a) states, persons belonging to a cultural, religious, or linguistic community may not be denied the right, to enjoy their culture, practice their religion, and use their language. The promotion and protection of religious freedom emanate from the acknowledgement and acceptance that religion in South Africa has over the years played a very prominent part in the lives of different communities, as most communities understand religion as a pathway towards a higher spiritual being.

However, recent controversial news reports and articles in the media about pastors instructing their congregants to eat grass, snakes, drink petrol or part with considerable sums of money to be guaranteed a miracle or blessing, have left a large portion of society questioning whether religion has become a commercial institution or commodity to enrich a few. Some communities have also started asking whether the government should leave the developments as are or should something be done about the perceived commercialisation of religion.

In response to this religious state of affairs, the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities (CRL Rights Commission) decided to undertake an investigative study 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 framework and its relevance to deal with the 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;
- enquire about the various miraculous claims that are made by religious leaders and traditional healers regarding the powers to heal and create miracles; and
- realize what form of legal framework regulates the religious and traditional sectors currently.



2. CONSTITUTIONAL MANDATE

The CRL Rights Commission is one of the Chapter Nine Institutions which is founded in terms of Section 181 of the Constitution of the Republic of South Africa 1996. The Commission was established to guard, promote democracy and the rights of the citizens of the country. It is an independent institution and subject only to the Constitution. Its activities and functions are to be impartial, and powers must be exercised and performed without fear, favour or prejudice.

Although the Chapter Nines are state institutions, they operate outside government and partisan politics, and they are free from interference by other organs of state. The Constitution asserts their independence in authoritative terms, using language that is in keeping with that used to declare the independence of the judiciary.

Chapter Nine Institutions are intermediary institutions which provide an opportunity for public participation in a way that the individual and collective needs of citizens can be articulated outside the partial environment of party politics. This independence provides a reliable voice for people and contributes to the programme of transformation to which the Constitution commits these institutions.

The mandate of the CRL Rights Commission, as stated in Section 185 of the Constitution, stipulates that the Commission must promote respect for the rights of cultural, religious, and linguistic communities and promote tolerance among such communities. The right to cultural, religious, and linguistic identity is an inalienable right inextricably connected to human dignity. It entails mutual respect and friendship concepts required to realize the South African dream of building a nation united in diversity. The mandate is also included in the provisions of Section 81 of the Constitution.



The CRL Rights Act, 19 of 2002, empowers the CRL Rights Commission to monitor, investigate and research any issue concerning the rights of cultural, religious, and linguistic communities. It also allows cognate and relevant matters to be referred to or brought to the attention of the appropriate authority or organ of state and where appropriate, makes recommendations to such authority or organ of state dealing with the matter. The above mandate formed the basis and rationale for an investigative study by the CRL Rights Commission on the commercialisation of religion and the abuse of people's belief systems.

3. LEGISLATION

Section 15 of the Constitution of South Africa, recognises that everyone has the right to freedom of religion. Again, Section 31(1) (a) states persons belonging to a cultural, religious or linguistic community may not be denied the right to enjoy their culture, practice their religion and use their language. The above sections emphasise the importance of the freedom of religion and what it means and the day-to-day rights and responsibilities associated with this freedom. These include the right to gather, to observe religious belief, freedom of expression regarding religion, the right of citizens to make choices according to their convictions, the right to change their faith, the right to be educated in their religion, the right to educate their children in accordance with their philosophical and religious convictions and the right to refuse to perform certain duties or assist or participate in activities that violate their religious beliefs.

4. BACKGROUND

In recent years, scores of churches, religious organisations, and traditional healing practices have mushroomed throughout the country, changing the face of the religious communities and practice irreversibly. Streets are marked with signs and advertisements with promises of miracles, ranging from healing to prosperity.

When companies place advertisements claiming that their products can deliver certain results, they are accountable to the Advertising Standards Authority and must verify and/or justify such claims. One of the questions raised by the investigative study was, why this standard does not apply to religious institutions and traditional healers? If leaders claim they can perform certain miracles and charge people for such activities, are they not accountable to ensure that they deliver on these promises?

Practices, which called for the attention of the CRL Rights Commission reported by the media included some religious leaders such as a pastor who fed live rats and snakes to his congregants and even made some of them drink petrol. There have been numerous other unusual practices that have been reported as being the norm in other religious circles. If the mandate of the CRL Rights Commission is to 'promote and protect the rights of religious and cultural communities, the intention of the study was to gain some understanding on why people allow such practices and what causes people to believe these, to the extent of inexplicable gullibility.

There has been a remarkable proliferation and increase in religious activities and acts such as:

- Advertisements of religious activities in public spaces, making fantastic and mythical promises, soliciting gifts/offerings/donations in cash or kind;
- The unprecedented increase in religious organisations/leaders from outside South Africa.

Some of the melodramatic demonstrations were even reported abroad. Here are examples of reports of such activities and acts:

- A South African preacher made his congregation eat grass to ‘be closer to God’ before stamping on them. Under the instruction of a certain Pastor, dozens of his followers dropped to the floor to eat the grass at his church after being told it would ‘bring them closer to God.’ These methods have drawn criticism from thousands of people although members of his congregation swear by his method – he is said to have claimed that human beings can eat anything to feed their bodies and survive whatever they choose to eat (Mail Online, Jim Reilly, 10 January 2014).
- Sixty-seven South Africans Killed in Nigeria building Collapse (All Africa).
- Independent churches concerned by the influence of false churches (29 August 2016 – Cajnews Africa (Henry Ifeanyi).
- Over and above these headlines and news reports, there were also complaints lodged with the CRL Rights Commission.

5. RESOLUTION OF APPOINTMENT

As per the mandate of the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities (CRL Rights Commission), a unanimous decision was made to undertake an investigative study regarding the commercialisation of religion and abuse of people’s belief systems in South Africa.

Furthermore, it was decided that a random sampling method would be utilised to select random religious institutions/organisations and then summon them, as per the provision of the CRL Rights Act 19 of 2002, to appear before the CRL Rights Commission.

The CRL Rights Commission would hold an investigative study comprising hearings across the country in all nine provinces, between 3 November,2015, and 23 March 2016.The dates and venues of the hearings were as follow:

PROVINCE	CITY	DATE
KWAZULU-NATAL	DURBAN	14-15 OCTOBER 2015
GAUTENG	JOHANNESBURG	3-6,9,16,17,18,20,24 NOVEMBER 2015, 2 DECEMBER 2015 AND 16 MAY 2016.
KWAZULU-NATAL	DURBAN	1-2 FEBRUARY 2016
WESTERN CAPE	CAPE TOWN	12 FEBRUARY 2016
LIMPOPO	POLOKWANE	16 FEBRUARY 2016
FREE STATE	BLOEMFONTEIN	25 FEBRUARY 2016
EASTERN CAPE	PORT ELIZABETH	1 MARCH 2016
NORTH WEST	MAHIKENG	9 MARCH 2016
NORTHERN CAPE	KIMBERLEY	16 MARCH 2016
MPUMALANGA	NELSPRUIT	23 MARCH 2016

Concluding the hearings, the CRL Rights Commission summarised its findings and drew up recommendations for submission to the National Assembly of the Republic of South Africa.



6. RATIONALE FOR THE STUDY

The rationale for a study of this nature included gaining a deeper understanding of the following:

- **Religious and traditional healing practices:** human beliefs relating to those which the different groups regard as sacred, holy, spiritual or divine and whether deities are involved. Practices will include rituals, sermons, commemoration or veneration, sacrifices, festivals, feasts, trances, initiations, funeral services, matrimonial services, meditation, prayer, music, art, dance, public service, or other aspects of human culture.
- **Dogma:** the religious and traditional healers' framework defining religious and traditional health practitioners' views, practices and beliefs.
- **Message and communication:** the content of the message proclaimed by the groups to the followers to guide their beliefs and lifestyle.

- **Community engagement:** the systematic approaches that have been developed to ensure the integration of religion and traditional healers' engagement into the wider range of community activities.
- **Registration and incorporation:** the filing of articles of incorporation under law for recognition of the entity by the local, provincial and national government.
- **Regulation and compliance monitoring:** regulations issued by the government to implement important information and instructions on applicable standards. The regulations define the types of facilities covered, set effective dates, and provide additional detail on certain provisions in the standards. They also address existing facilities and topics beyond building design, including access to programmes, services, and communication and provision of auxiliary aids and services.
- **Institutional strategic framework:** this incorporates the vision, mission, objectives and goals of the group as articulated in the organisational strategic framework.
- **Institutional governance and management:** the ownership, governance and role of the leadership team including practitioners, reverends, pastors, priests, imams, temple leaders, healers, abbots, elders, deacons, board members, small group leaders, and similar leadership positions.
- **Organisational structure:** the organisational arrangements including operational and enabling divisions and services.
- **Funding and financial accounting practices:** sources of income, budgeting and expenditure allocations, assets and liabilities, tax and other statutory deductions, compliance with the legislative systems, and processes and procedures for financial accounting.
- **The role of religion/traditional healing in the lives of the people:** why are communities compelled to search for spiritual meaning for their lives? How are religious leaders, traditional health practitioners and their ceremonies contributing to need of the people?



7. METHODOLOGY

- **Sampling plan**

The random sampling design adopted for the survey was a multi-stage stratified sample design which considers the proportionate distribution of religion in the country. This allows rural and urban, size, and mainline/traditional or charismatic and institutional differentials per category, denomination and branches.

In constructing the random sampling plan, religious/traditional healers group distribution figures have been sourced from the 2001 census figures and the community councils registered by the CRL Rights Commission.

The method for interviewing religious and traditional healers groups (sample elements) was via face-to-face interviews. People who were interviewed were told when and where they should present themselves for these interviews.

- **Sample size**

The sample for this study considered the proportionate distribution of various religious/traditional healer groups in the country. Given the many numbers of religious institutions in the country, the CRL Rights Commission decided to apply a random sampling of institutions from large to very small ones, from mainline or traditional churches to charismatic, Pentecostal, Islamic, Bahai Faith, Judaism, Hinduism, non-Christian religions, African Independent churches, and African Traditional Religion, etc, to ensure a fair representation. All in all, more than 85 religious leaders including traditional healers were interviewed.

- **Data collection method**

Personal face-to-face interview methods were used to collect primary data from the religious and traditional healers' groups.



8. PROCESS AND PROCEDURES

To roll out the hearing process, giving effect to the investigative study, the CRL Rights Commission established a Section 7 Committee, as per Section 7 of the CRL Rights Act, comprising the following Commissioners: Ms Thoko Mkhwanazi-Xaluva (Chairperson), Prof Luka David Mosoma (Deputy Chairperson), Mr Richard Daryl Botha, Ms Helen Julia Mabale, Ms Shelia Fihliwe Khama, Mr Sicelo Emmanuel Dlamini and Dr Anton Wynand Knoetze. The hearings were chaired by Commissioner Mkhwanazi-Xaluva (Chairperson). The panel followed consistent procedures throughout the hearings to ascertain procedural evenness and fairness. Following a ruling by the High Court, the proceedings of the hearings were open to the media and everything recorded audio-visually.

Religious organisations/institutions called to appear were served with the summons delivered by the Sherriff of the Court. The place, date, and time of the hearings were prescribed in the summons (see ANNEXURES). The summons was a legal instrument, which was meant to ensure attendance, prescribed by the governing act of the CRL Rights Commission. Important to note is using summons to ensure compliance, thereby avoiding findings of fruitless and wasteful expenditure by the Auditor General should most of the participants not honour letters of invitation or refuse to submit any documentation. The CRL Rights Commission could not “gamble” and hope that the invited religious leaders would comply, as the second round of hearings were financially impossible, and the whole investigative study would have had to be abandoned. A very critical matter was also to be seen treating all religious leaders the same and thus issuing them with the same summons asking for similar documents.

All persons who appeared before the panel signed an attendance register, stating their identity, religious affiliation or institution, which they were representing, and their contact details. The Chairperson of the hearings opened the meeting and welcomed everyone present. People present were introduced and a swear-in Commissioner administered an oath/solemn affirmation on religious representatives who appeared before the CRL Rights Commission to testify in terms of Section 7 (2) (c) of the CRL Rights Commission Act. The representatives had the opportunity to make their presentation, followed by fielding questions from the Commissioners. After the presentation, the Commissioners cross-examined the presenters on substantive matters.



9. MANAGING THE PROCESS

To mitigate the impediments, the CRL Rights Commission, in preparation for and during the hearings, took the following steps:

- Facilitated the monitoring and control of potential and incoherent threats of disruptive behaviour of supporters or summoned persons;
- Explained the statutory objectives, powers, and functions of the CRL Rights Commission;
- Participated publicly in media debates on the hearings and related religious problems;
- Convened meetings and invited religious leaders to clarify matters on the procedural and substantive matters of the hearings;
- Explained and affirmed the CRL Rights Commission's right to administer the prescribed oath/solemn affirmation;
- Explained and affirmed the CRL Rights Commission's right to have access to required documents specified in the summons;
- Explained the procedure of the hearings for proper conduct during the hearings;
- Granted requests for postponement where reasons for application were plausible;
- Followed up in cases of failure of persons summoned to appear on the set date and time;
- Took measures to locate physical operational addresses/places of the religious institutions/persons summoned;
- Held public meetings to clarify the purpose of the hearings;
- Undertook media campaigns to popularise understanding of the hearings;
- Explained the content of relevant documents in cases where representatives who appeared before the CRL Rights Commission had either not prepared in advance or misunderstood the purpose of the hearings;
- Explained and affirmed the obligation of the CRL Rights Commission to act without fear, favour, or prejudice.
- Took advice from some attendees on how the hearings could be more acceptable to those appearing, e.g. that a letter is sent to those who are to be summoned explaining what the hearings are about.

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 CRL Rights Commission. Examples of different forms of resistance will be reflected later in the presentations, which are quoted in this report.

10. INVESTIGATION/ RESEARCH QUESTIONS

Representatives who appeared before the CRL Rights Commission were informed in advance of their appearance in the summons to make presentations which addressed the following questions:

- the religious institution history;
- training of their religious leaders;
- the religious institution governance structures and fundraising strategies;
- soliciting of payments (Funerals, Weddings, Prayers, etc.);
- utilisation of their religious institution money;
- transfer of money outside South Africa;
- employment of foreign pastors;
- their understanding of Commercialisation and abuse of people's belief systems.

The African Religion and Traditional Healers representatives had to cover the following areas, among other things:

- History of African Religion;
- Apparent differences with other Organisations;
- Food and dietary regulations;
- Some suggestions, which could add value to the study of the CRL Rights Commission.

Variation was meant to encompass and accommodate variables in the nature and structure of different religious organisations to avoid preconceived typologies of institutions, for instance, into “mainstream” and “charismatic” religious institutions, etc. Religious personnel who appeared before the CRL Rights Commission were entitled to appear with legal representation and with some elders from their church. As soon as the hearings commenced, the CRL Rights Commission was inundated with calls from religious leaders seeking clarity and a better understanding of the process. Thus, the CRL Rights Commission sent out letters to all the remaining provinces, inviting religious leaders to meetings wherein the process, which had been undertaken until then, would be explained.

11. CHALLENGES AND OBSTACLES IN THE PROCESS

During the hearings, the CRL Rights Commission faced several challenges and impediments from certain religious persons who appeared before the CRL Rights Commission. These were manifested in several ways, among other things:

- Attendance of an entourage of members/supporters and in certain cases armed bodyguards;
- Undermining/defying and misunderstanding of the statutory objects, powers, and functions of the CRL Rights Commission;
- Refusal to take the prescribed oath;
- Refusal to submit the required documents including financial statements, AGM minutes, Constitution/Code of Conduct, Disciplinary Codes, Statement of Faith, Signatories to the bank accounts, deeds or leases of the land from where they were operating, and organograms;
- Obstinance and refusal to answer questions posed by the panel;
- Threatening/intimidating behaviour of supporters/members in the premises of the hearing;
- Request for postponements which the CRL Rights Commission could not afford because of inadequate funding;
- Failure to appear before the CRL Rights Commission on the set dates;
- Appearance of legal representatives without summoned persons being present;
- Appearance of certain religious representatives/leaders before the CRL Rights Commission without prior preparation;
- Refusal of certain religious leaders to provide physical addresses of residence or place of employment/business;
- Designing and implementing the study on an extremely inadequate budget.

A few religious leaders who were summoned to the hearings used the hearing venue as a stage for dramatising their objections to the hearings, whereby crowds of effusive supporters/followers and flashy cars were part of the theatre.

Herewith is an example from an ENCA television broadcast:

Thousands of Christian women, who were accompanying their religious leader to the hearings, were shown ululating and shouting to their religious leader “my father, my father, my father,” while others call out “my bishop” and men were shown blowing vuvuzelas and whistle excitedly as they occupied Queens Road in Parktown, Johannesburg. This was after a top-of-the-range black Mercedes-Benz S65 has just stopped opposite them, triggering this thrilled reaction from the crowd. They scream “my bishop” to their leader. Two heavily armed guards got out of this particular religious leader’s luxury car for a security check. As the crowd screamed more, another black Mercedes-Benz with tinted windows stopped opposite the S65. Unarmed guards carried out similar procedures. People in black T-shirts bearing the words “I am who God says I am” were shown shouting “my father, my father” to their leader.

Insults and death threats were the norms, and in certain instances, the chairperson of the CRL Rights Commission was even called a devil worshipper, a Satanist, and the Devil’s girlfriend. These types of challenges and impediments resulted in protracted hearing sessions and, in some instances, calls for emergency evacuations by security personnel, because of the dangerous situation for the CRL Rights Commission staff and Commissioners.

However, it should be noted that while some religious organisations posed challenges and impediments, most responded in a positive manner and appeared before the CRL Rights Commission relatively well-organised and prepared for the hearing. These manifested in several ways:



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- Understanding the statutory objects, powers, and functions of the CRL Rights Commission;
 - Taking the prescribed oath without objection;
 - Submitting the required documents;
 - Explaining the places/regions of operation within South Africa and in some cases outside South African borders;
 - Explaining their beliefs/dogmas/doctrines.
There were certain variables which brought to attention the lapses or failure to comply with legislation. We shall refer to examples under ‘Substantive Issues’.

12. SUBSTANTIVE ISSUES

A wide spectrum of issues surfaced as leaders/representatives of the religious organisations appeared before the CRL Rights Commission. These can be summed up in the following overarching themes:

- Serious, but not necessarily deliberate organisational and administrative deficiencies. This includes failure to register as non-profit organisations (NPOs) and maintaining financial records;
- Deliberate exploitation of the poor and vulnerable people because of the commercialisation of religious practices, through assumption of divine/missionary right to directly or indirectly solicit and receive gifts/offerings/tithes in cash or in kind from their members (e.g. earnings, pension payouts, movable property, immovable property, etc.) without commitment to responsible financial management and accounting;



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- Loopholes in the legislation which is enhanced by a lack of enforcement;
 - Abuse of media privileges, such as using TV 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. Advertising products without complying with the ASA legislation;
 - The unavailability of the police to come to the rescue of the CRL Rights Commission when under extreme physical threat from some religious leaders and their congregants;
 - Instigating/inviting/inspiring deification and hero-worship of church leaders by church members (“personality cult”);
 - Subjecting members to practices and rituals that evoke questions of human rights and ethics;
 - Subjecting members to being controlled by extremists/fundamentalists, such as forbidding children to attend school, refusal to use banking facilities and keeping money collected in safes in the institutions, etc.;
 - Recommending/prescribing untested diagnosis/ prognosis in health matters;
 - The use of personal bank accounts as the institutions’ account;
 - The assertion and justification of registering as private companies and earning funds as entertainers and not as religious practitioners.

The cases presented ranged from what can be described as “descending from the sublime to the ridiculous.” We would like to give six examples of substantive issues:

12.1 Distraught with the investigation

In Gauteng, one representative of a church asked to read a statement before making a presentation. The statement objected to the procedure, which the CRL Rights Commission followed: “We received the summons which were [sic] originally sent to our president who can’t be here because of other prior commitments. As a point of departure, we want to put the matter of the subpoena threatening us with arrest and jail sentence on the table. We are of the opinion that there is no clear complaint against our church.



The subpoena, therefore, is in our mind irregular, legally irrational. As a religious community, this is a clear violation of the rights afforded to us in Section 15, Section 30, and Section 31 of the South African Constitution. In the light of these facts, we want to put on record that your actions have violated our rights as enshrined in the Constitution of the Republic of South Africa.”

12.2 Extremists

As an example, we refer to a Ministry based in the Eastern Cape which explained their roles as being of divine intervention on earthly matters and comprising seven representatives. They objected to taking the prescribed oath, reluctantly opted for a solemn affirmation, then refused to repeat the words of the solemn affirmation after the swearing-in. In fielding the opening questions, they stated that the summons was not relevant to them. Their leader argued his case thus: “We have not brought along our documents [...] When I looked at the invitation I found that in that invitation there is nowhere where I fit in [...] Our mission is to return the world to Jehovah, God [...] We have not registered anything in this world [...] We do not have any of the documents which were required of us [...] we do not have them [bank statements] [...]”

He continued in [isi] Xhosa through an interpreter:

“The seven of us here are angels from the heavens [...] We came from Jehovah [...] On our way we created for ourselves a father, [...] Here on earth he was the founder of the Angel Ministry [...] In heaven we created a father and a mother [...] ... on his way we gave our father instructions to declare and pronounce the name of God on earth [...] We informed him that we would come through him on earth in the form of flesh [...] some were born, but this seven was [sic] given birth through the flesh. [...] Lucifer came to this world and breathed on the South African Constitution and schools ... he took schools for himself [...] took the constitution for himself ... God gave us an instruction that our time has come [...] we healed people [...] here we are saying that education is wrong [...] because Satan has taken over the schools ... he was allowed by Nelson Mandela, Rolihlahla [...] I am not a pastor, [...] I am an angel from heaven [...] I sit at the right hand of the father ... we say children should not go to school as the devil has infiltrated schools [...] and we say people should not listen to the constitution because Satan drives it [...] that is why we say people must stop working [...]



Mandela was forced to sacrifice his grandchild so that during the games [2010] there should not be disruptions [...] We are not ministers, [but] we are angels [...]"

12.3 Foreign religious leaders

We were presented with an example of a foreign-based church operating in South Africa. This church is registered in South Africa, but the headquarters are based in the Federal Republic of Nigeria. In South Africa, almost all its pastors are Nigerians. Its leader/head, a Nigerian citizen, is reputed to be one of the richest people on the African continent. The head of the church designation is "General Overseer". There are different branches in seven countries in southern Africa, and together they constitute the Regional Office.

Upon testifying on financial matters, the representative made the following points, among other things, that:

The Organisation received tithes and offerings from members, which were channelled to the Regional Office. The Organisation owns a TV Channel, the Television Ministries, and broadcasts across the world from studios in South Africa. The channel paid R400 000.00 (four hundred thousand Rand) monthly for broadcasts and received up to R9m per year from Nigeria. The Nigerian pastor in charge of the local church did not have a work permit with the church but had one for a private company. At the time of the hearing, he was no longer working for this company but full-time for the religious organisation, even though he did not have a relevant permit. Salaries of pastors from the local division of the religious organisation were paid from funds received from Nigeria. "If you look at our income and expenditure and financial statements and then you will realise that we are receiving millions of rands from Nigeria; it's money that comes into South Africa and [...] That's why we are growing in South Africa [...] We started with nothing [...] You will see in our financial statements that we have a whole lot of properties. Most of them, they are fully paid [...] so, we try to encourage our people so that they know the Lord but also give because it is when you give when you receive [...]"



12.4 Fear

An example is drawn from a religious community and their fears they expressed. The representatives cooperated with the CRL Rights Commission in all respects, i.e., appeared on the set date, took the oath and did a presentation as required. However, about the submission of financial statements and the summons, the Chairman of the Community raised the following concerns after their presentation:

“I have a concern with the procedure that was used to bring me here [...] it was unnecessary to bring me here by way of summons. I believe that it would suffice just to be invited to attend the hearing.



I have a problem with our community being connected today in the press, with an investigation into effectively religious malpractice. In the public perception, [...] we are now connected with this malpractice. I have brought the documentation that you have asked me for. However, I also wish to voice some concerns here. The first instance is, the Commission is entitled to request someone to bring documents, but there is also in Section 7 a clause, which says that the Commission is only entitled to hold those documents as long as is reasonable. There are, in particular, two documents, which I consider to be privileged. Firstly, one's bank statements; as a legal practitioner I'm fully aware I cannot walk into a bank and ask for somebody's bank statements [...] I believe that we have a constitutional right to privacy and what is discussed at an AGM is something which is private to those who have been invited to attend. I have the documentation you are looking for [...] Otherwise, I have got the other documentation".

12.5 Undesirable behaviour

Leaders of some religious organisations displayed undesirable behaviour, and serious disrespect to the Commissioners. They also instigated some of their followers/members, who gathered outside the premises of the hearing. An audio-visual recording of one of the sessions, which took place at the premises of the CRL Rights Commission, portrayed the following incidents: One religious leader is seen walking and talking to his fellow church members... The gathering sings, "Sibatshelile, wema [...] juyeza uJesu wethu[...] Ha,ba rebolaye man! Ha,ba rekwalle". (They will never stop us. 'Never' We told them [...] our Jesus is coming [...] Let them kill us, man! Let them lock us up. They will never stop us. 'Never').
Religious leaders: Kematlanthoena. Matla 'Matla' (This thing is power. Power, Power).



Stopping to talk with another pastor, who is on his way out.
Religious leader: “Ha kenatabahorenabareng, disatanetsena (he laughs). Re emeleha reqetareyakwana. Kereke e batlaho re fatjhelete. Satanetsenadieme [...]”(Wait for us and when we finish we go there. The church wants to give us money. These devils are standing in our way [...]).

12.6 Cyberbullying and disinformation

The CRL Rights Commission’s Facebook page was littered with insults directed at the Commission and the Chairperson of this Commission, in particular. This ranged from threats to her safety and general personal insults. One church even had, and still has a special video on their facebook page titled “The truth about the CRL”. This video shows the leader of this church telling congregants that the CRL is a creation of the Dutch Reformed Church and was established to close African Indigenous Churches. Interestingly, the insults on the CRL Rights Commission’s facebook page also came from this church’s congregants.

The CRL Rights Commission laid charges of intimidation against Mr K Qhobela who is a member of the Revelation Church of God whose leader is Prophet Radebe.

On the 17 February 2017 Mr Qhobela was found guilty on the following counts, namely:-

- Intimidation
- Crimen injuria
- Violation and disregard of section-CRL Act 19/2002

Subsequently, on the 03 March 2017 the Hilbrow Magistrate, Mr N.J. Shabangu sentenced Mr K Qhobela as follows:

Count 1: Intimidation

Sentence: Two (2) years direct imprisonment

Count 2: Crimen injuria

Sentence: Six (6) Months

Count 3: Violation and disregard of section-CRL Act 19/2002

Sentence: Eight (8) months



13. RELIGIOUS FREEDOM AND CRL RIGHTS COMMISSION

The CRL Rights Commission respects the right to religious freedom in all its dimensions as protected in Sections 15 and 31 of the Constitution of the Republic of South Africa and as explained further in the Charter of Religious Rights and Freedoms. Among other matters, outlined in the Charter are; the right of every person to believe and to manifest those beliefs and to determine their doctrines and regulate their internal affairs. The CRL Rights Commission further supports the duties of the state to create a positive and safe environment for the exercise of religious freedom and to act impartially and without unfair discrimination against anyone on the grounds of faith, religion, or religious affiliation. The CRL Rights Commission further respects the rights and status of religious organisations as institutions of civil society and acknowledges that much of what needs to be done, can only be achieved through cooperation between the state, the CRL Rights Commission, and the religious sectors.



However, while the CRL Rights Commission promotes and protects the religious freedoms, it also has the responsibility to guard against the undermining and abuse of this very religious freedom, hence the need for the investigative study.

14. ISSUES OF CONCERN RAISED BY RELIGIOUS LEADERS

The CRL Rights Commission published its preliminary report on its website and invited the religious leaders to download, study the contents, and make further comments and suggestions. The final date for submission of the comments on the preliminary report was set for February 28, 2017. Many submissions were received from different religious organisations, affiliations and individuals, however, most of them were about the same issues. This Section of the report shall answer some of the issues raised by these comments submitted by the religious leaders.

14.1. Fear of state control

The CRL Rights Commission is a constitutional body established regarding the Constitution of the Republic of South Africa 1996 and Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities Act no. 19 of 2002 (CRL Act). The mandate of the CRL Rights Commission is to promote and protect the cultural, religious and linguistic rights of communities. Thus, the core of its mandate is derived from s.15(1) of the Bill of Rights, which states that everyone has the right to freedom of conscience, religion, thought, belief and opinion. S.18 of the Bill of Rights also states that everyone has a right to freedom of association. The CRL Rights Commission, through its recommendations, wants to promote and protect the above quoted constitutional freedoms further by ensuring that religious institutions run their own affairs without any interference from the state. Nowhere in its recommendations does the CRL Rights Commission say that the state must interfere in the religious affairs of any religion. Instead, the recommendations encourage self-regulation, rather than state regulation.



14.2 Religious freedom being under attack

As a constitutional body, the Commission strives to promote and protect religious freedom as mentioned in s.15 of the Constitution of the Republic of South Africa, 1996. Through its recommendations, the CRL Rights Commission rather wants to get rid of those individuals who bring religion into disrepute than attack religious freedom.

14.3 Home schooling being abolished

The CRL Rights Commission encourages and promotes every child's right to receive education in any form or kind. Nowhere has the CRL Rights Commission condemned home schooling. The issue of home schooling is intentionally misquoted. Home schooling should be seen in the context of the Angel Ministries' case in the Eastern Cape, whose members prevent their children from attending school. This is because they believe the school is indoctrinating their children with teachings of the devil. In this context, we called on the "Seven Angels" to allow children to attend school and not keep them away from school.

14.4 A clamp down on religion and different ways of worship

The CRL Rights Commission wants all religions to thrive in this country. Hence, many a time we have gone on record to say that we are not at all suggesting or intending to interfere in any matters of dogma. It is not our intention to define who or what is right, we leave it to religious institutions to define their dogmas and ways of worship and where they want to worship.





14.5 Enough existing laws that need to be enforced that can deal with the current challenges

Yes, while we do have many existing laws in the country, some of these laws do not curb the abuses we read about or saw on television on the vulnerable members of our society. Some church members describe themselves as willing participants in whatever activities rather than victims of abuse by their religious leaders. Thus, our recommendations are to amend the current CRL Act, so that the CRL Rights Commission could have more powers to intervene in cases where there is abuse.

14.6 The registration of religious leaders and places of worship is invasive, unconstitutional, unworkable and unnecessary

Our recommendations recognise that religious practice and affiliation has such great following in the country. No one knows exactly how many religious affiliations there are. Therefore, our recommendations suggest that by registering we can know how many religious affiliations there are in the country, and where they can be found, especially when we want to discuss matters of concern with them. We find nothing invasive, unconstitutional and unworkable with this.

14.7 Encourage compliance as opposed to enforcing compliance

Our recommendations do touch on the issue of many religious affiliations not complying with the Department of Social Development registration requirements, like preparing annual audited financial statements. The recommendations also acknowledge that some might be failing to comply, not because of their own doing but because of a lack of information. Thus, our recommendations encourage training and skills sharing among religious leaders on matters of compliance.

14.8 The incidents are few and isolated, and there is no need to deal with them aggressively

The only aggression we have experienced thus far is from some religious leaders and their followers who even threatened our Chairperson with her life. The threats have been so serious that she permanently needed to have security.

14.9 The sector has a right to believe, teach, preach, and live out their religious convictions and beliefs without the control and interference of the State

The CRL Rights Commission through its recommendations agrees totally with this statement.

14.10 It's all in the scriptures, and the scriptures must be fulfilled

We are clear in our recommendations that we do not intend to interfere in matters of dogma.

14.11 Use legislation that already exists

Our recommendations take cognisance of the fact that our existing legislation may need to be amended so that the CRL Rights Commission may have the power to intervene in cases of continued abuse.

14.12 Create an ombudsperson to deal with the disciplining of all religions

Our recommendations talk about promoting and protecting freedom of religion and guarding against the interference of the State. We believe that having an ombudsperson for religions in the country would not be feasible. Imagine how many religious affiliations there are and whether this one office would be able to deal with all complaints from the religious sector. Again, we think that this suggestion would be taking the religious sector back to subjecting itself to the control of the State.

14.13 Interdict every religious leader who makes their congregants do something unusual

Our recommendations are clear that we want the umbrella organisations or religious sector to deal with matters of their peers.

14.14 How can one Peer-Review Committee adjudicate on matters of another different religion?

Our recommendations talk to the establishment of a Peer-Review Committee which is religion specific. This is to avoid different dogmas to be adjudicated by totally foreign ones which know nothing or very little about each other.

14.15 The definition of a Worship Centre is prejudicial to those worshipping in church buildings

Our recommendations describe any primary place of worship without any discrimination, be it under a tree, near a river, on a mountain, open field, school classroom, hall, etc.

15. SUMMARY OF FINDINGS

The investigative study has revealed that the ideas mentioned above seem to have been undermined by some factors. The CRL Rights Commission found the following:

15.1 There is a prima facie evidence of commercialisation of religion

We heard of many examples where:

- People are expected to pay substantial amounts of money before blessings and prayers could be said over them.
- Blessed water and oils are sold to congregants at a high marked-up price.
- Access to the spiritual leader or traditional healer is only guaranteed by payment of a fixed amount of money.
- T-shirts, towels, and Vaseline are sold to congregants for good luck.
- Bank speed points are used for people to swipe their bank cards during ceremonies.

15.2 Compliance with the existing laws

- Some churches are not registered with the Department of Social Development either as NPOs or with SARS as public benefit organisations (PBOs).
- Some religious organisations or institutions operate freely without registration or a licensing certificate.
- Some that are registered with Department of Social Development do not even report to the Department annually, as required by law.
- Some do not even disclose to SARS the amount of money they make per year and thus avoid paying tax.

15.3 Lack of good governance structures

- Some Institutions have no Codes of Conduct.
- Lack of oversight structures, such as a Church Council, Disciplinary Committee, etc.

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- In some instances, institutions are controlled and owned by one person.
 - In some cases, the finance committee and other church committees constitute the spiritual leader, his wife, and some of his friends.
 - Lack of leadership succession plans, which eventually lead to conflict, division and litigation.

15.4 Misuse of the visa application systems

- Some pastors apply for a different type of visa, like a visitor's visa or temporary visa, and yet once inside the country, they demand a permanent or residence visa.
- Some foreign religious leaders misuse the South African Visa Application processes.

15.5 Flouting of banking rules

- In some cases, money collected from the members is never banked with any commercial bank.
- In other cases, instead of banking with the institution's account, the money is banked into the spiritual leader's account, whereby the pastor also becomes the treasurer.
- Lack of fiduciary committees, such as finance, internal audit and financial management.

15.6 Avoidance to pay tax to SARS

- Most institutions are registered as NPOs, but their annual turnover is way beyond the NPO limit, and yet they do not declare this to SARS.

15.7 Uncontrolled movement of cash in and out of the country

- Some religious institutions tell their congregants that money has to be paid to their head office and most of these head office based outside the country.
- Some religious leaders do not apply to the Reserve Bank before money is repatriated out of the country.

15.8 Mushrooming of religious institutions

- Unlike in other African countries, it has become very easy to establish churches in South Africa.

15.9 Illegal and unethical advertising of religious and traditional healing services

- Newspaper adverts, posters, and leaflets are used to advertise and promise people healing, enrichment, jobs, luck, or to solve problems, for example, a woman who was struggling to have children had to part with more or less R250 000.00 with a promise of getting a child.

15.10 Property bought with the communities' money

- In some cases, the title deeds of these religious properties end up being inappropriately registered, for example, registered in the Spiritual leaders' name.
- This encourages the building of a family empire while using public money.

15.11 Operation of religious institutions as a business

- Lack of clear separation between religious activity and business activity.

15.12 Lack of religious peer-review mechanisms

- This has led to some people in the sector doing whatever they like with no accountability to anyone.
- No one can order people to undertake questionable religious practices like feeding them grass, snakes, rats, drinking petrol, locking them in a deep freezer, driving over people, etc.



16. RECOMMENDATIONS

- 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 infringe on constitutional rights of congregants and violate existing legislation, we recommend 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 leaves scope for all kinds of beliefs and opinions. Even views which some may regard as extreme, are allowed and should not be regulated. However, when views lead to the abuse of human rights (for example, hate speech as indicated in article 16(2)), or to the violation of the law, there is cause for concern. For example, when religious freedom is taken to the level where children are prevented from attending school, it is a violation of the Constitution and existing law.



- Existing legislation affecting the various aspects of religious organisations (training/ education, employment, registration, immigration legislation, etc.) needs to be enforced with due diligence because the hearings showed that many loopholes exist and create opportunities for abuse. For example, where a religious organisation is registered as a PBO but in fact operates as a business making a profit over and above the threshold allowed for PBOs, SARS has the power and responsibility to deal with the matter. Or if they are registered as an NPO and fail to comply with the requirements of the NPO Act (to have a Constitution; keep proper accounting records and regularly submit financial statements; regularly submit narrative reports of the organisation's activities and office-bearers, etc.). The Department of Social Development may cancel the church's registration as an NPO and, in certain circumstances, even refer the matter for criminal investigation. However, the hearings showed that this does not happen. Under the Immigration Act, foreign pastors who do not have the necessary visas to reside or work in the country may be arrested, deported, fined, imprisoned, etc. Numerous examples were also given where this does not happen.
- Although religious organisations exist 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 is a serious concern.
- Religious organisations need to understand their responsibility in connecting Religious Freedom and recourse to ethical and community responsibility.



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- Religious organisations which are guilty of fraud, or misappropriation of funds, should be prosecuted and held liable regarding the law of serious concern is that this does not happen.
 - There is a definite need to refer specific cases, where organisations do not comply with the law, to the relevant authorities (e.g. the National Prosecution Authority).
 - Schisms and disputes within religious organisations, which are often accompanied by or for financial reasons, could be avoided for the mutual benefit of the organisations and community.
Religious organisations must get their house in order, among other things by proper training and put proper internal rules in place.
 - There is an established and exponential increase in religious organisations and leaders of foreign origin. There is an appreciation for bona fide foreigners serving the South African nation, but the evidence has shown that in some cases they display a propensity for amassing money.
The Department of Home Affairs should play a crucial role in kerbing this 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 this allegation. Where the fact is established, a report 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 are free to start businesses in their own business space, businesses should be registered in the normal course.

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17. PROPOSED IMPLEMENTATION OF RECOMMENDATIONS

- Religious organisations as they enjoy various benefits when it comes to taxation should be organised and registered in some ways, either as non-profit companies, NPOs or as PBOs. Failure of some institutions to comply with the requirements of their registration should see institutions deregistered and licenses revoked.

18. MOTIVATION FOR NEW AMENDMENT

The CRL Rights Commission is of the view that there are several reasons for the Religious Sector to be self regulated:

- The Religious Sector needs the powers to self regulate itself with the aim of bringing their various religions the respect they deserve.
- The traditional structured religions along with religious institutions that have structured systems in place should be able to articulate and thus be accredited to act as “umbrella organisations” or associations.
- While religious institutions will all be expected to fall under an umbrella organisation, freedom of association should be paramount in affiliation to umbrella organisations.



19. THE PROPOSED STRUCTURE AND ITS PROCESSES

19.1 Introduction

The CRL Rights Commission, after an extensive investigation, recommended an amendment to the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities Act no. 19 of 2002 (CRL Act) legislation. This will assist all religious institutions to create an environment where they, and not the State, can effectively regulate themselves, and hold people who bring religion into disrepute accountable, as per their various religious systems.

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.

To help promote and protect the freedom of religion and freedom of association, the CRL Rights Commission believes that issuing registration certificates would be done by itself, in consultation with the Peer-Review Committees of umbrella bodies of each religious organisation, and not by the State or Government. Thus, the registration of a religious institution to operate or not would be determined by the relevant Peer-Review Committee members, who will then advise the CRL Rights Commission of the newly registered entities.

The CRL Rights Commission also proposes an organisational structure under which every religious organisation should fall and which they should adopt. The CRL Rights Commission believes that the adoption of the proposed structure for and by the religious organisations will safeguard that the mechanism, which is put in place, is one where the decisions are made by each religion on behalf of their affiliate members.



19.2. Legislative background

19.2.1 Freedom of religion

S.15 (1) of the Bill of Rights states that everyone has the right to freedom of conscience, religion, thought, belief and opinion.

This Section is in line with s.4(a) of the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities Act no. 19 of 2002 (CRL Act) which states that the objects of the Commission amongst others, are to promote respect for and further the protection of the rights of cultural, religious and linguistic communities.

19.2.2 Freedom of association

S.18 of the Bill of Rights states that everyone has a right to freedom of association. This Section is in line with s.4(b) of the CRL Act, which states that the objects of the Commission are to promote and develop peace, friendship, humanity, tolerance, and national unity among and within cultural, religious and linguistic communities on the basis of equality, non-discrimination and free association.



19.2.3 Freedom of trade, occupation and profession

S.22 of the Bill of Rights stipulates that every citizen has the right to choose their trade, occupation or profession freely. The practice of trade, occupation or profession may be regulated by law. This Section 22 of the Bill of Rights is realised by the CRL Act, which in s.5(1) states that the Commission may do all that is necessary or expedient to achieve its objects referred to in section 4, including to-

- make recommendations to the appropriate organ of state regarding legislation that impacts, or may impact, on the rights of cultural, religious and linguistic communities;
- bring any relevant matter to the attention of the appropriate authority or organ of state, and, where appropriate, make recommendations to such authority or organ of state in dealing with such a matter.

Thus, the proposal to regulate the religious institutions and practitioners as professionals is in line with the Constitution and the Bill of Rights.

Professionalising the religious sector cannot be deemed to be unconstitutional.

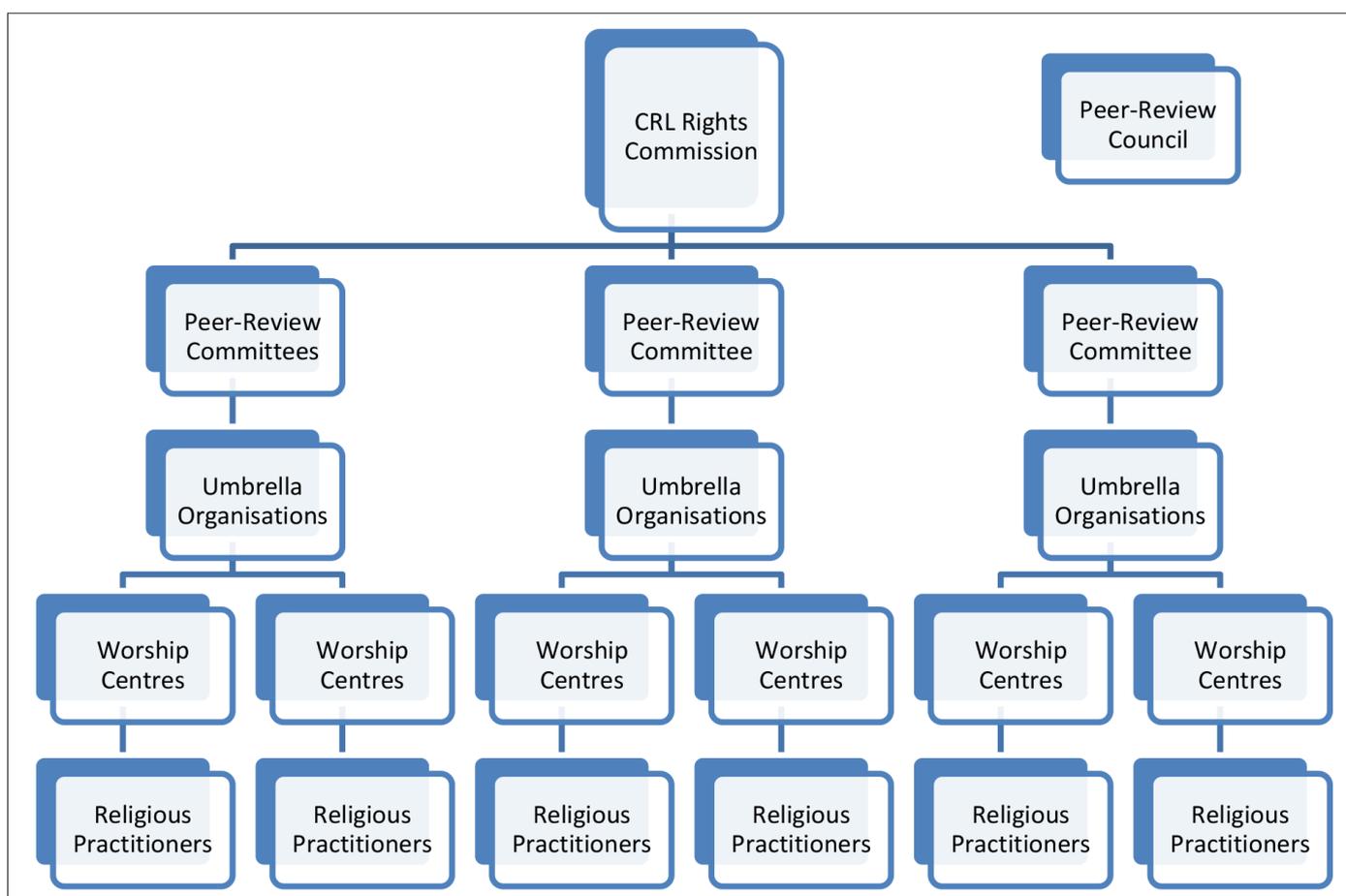


The systems that the CRL Rights Commission have developed and the structure that this Commission recommends is premised on freedom of religion and association. The underlying principle is respect for self-regulation by each religious institution and on the need to protect and promote the rights of each religious community.

19.3. The proposed structure

The proposed structure and amendments to the CRL Act have been made with the full understanding that these are within the Constitution and will ensure the promotion and protection of the rights of religious communities in the country. This broad proposal is based on and supported by s.22 of the Bill of Rights, which states that every citizen has the right to choose their trade, occupation or profession freely. The practice of trade, occupation or profession may be regulated by law.

Below is the structure that the CRL Rights Commission proposes for the regulation of religious institutions.



19.3.1. Explaining the structure (from bottom upwards)

19.3.1.1 Religious practitioners

S.5(1)(j) of the CRL Act states that the Commission may do all that is necessary or expedient to achieve its objects referred to in section 4, including to- establish and maintain databases of cultural, religious and linguistic community organisations and institutions and experts on these communities.

Thus, the proposal to have all religious practitioners registered in the country is premised on the above Section of the CRL Act. This was again necessitated by the fact that currently there is no comprehensive register where the communities can verify who is a bona fide religious practitioner. We believe that this will help professionalise religious leadership. The Register will also assist in ensuring that there is a database of various religious leaders when there is a need to consult and discuss challenges and other issues in the religious sector. This Register will also ensure that the religious leaders are compliant with the various laws of the country, and safeguard bringing certain religions into disrepute.



19.3.1.2 The Worship Centres

Every registered religious leader should have a location where he or she conducts religious ceremonies. This place is referred to as a Worship Centre. The Worship Centre shall be any place of primary worship including churches, mosques, private homes, temples, mountains, synagogues, open fields, next to rivers and the ocean, tents, school classrooms, school halls, etc.

In trying to capture this diversity, there is no intention to stretch the definition, for instance, of what every community understands as a church. These Worship Centres, in all their forms, shapes and locations will then also be registered. This excludes bible studies, prayer cells and normal family prayer sessions as well as the issue of bumper stickers on vehicles.



19.3.1.3 The umbrella organisations

Each Worship Centre would then freely form their various umbrella organisations. All umbrella organisations must be registered and known to the Peer-Review Committee. Guided by the principle of freedom of association, every Worship Centre would freely choose which umbrella organisation they want to belong to. This proposal is very conscious of the fact that most “traditional churches”, older charismatic churches and other religions already have their umbrella organisations or are already structured in that way. The ultimate aim of the registration and acknowledgement of umbrella organisations is to ensure that every Worship Centre and religious practitioner is attached to a broader organisation that will support and guide them in their spiritual work. However, traditional churches remain independent umbrella bodies of their own.



The roles and functions of the registered umbrella organisation will, among other things, be to:

- Capacitate their members in the various relevant legislations, policies and regulations that impact on the religious sector.
- Represent their members on forums where issues affecting the religious sector are discussed.
- Set minimum standards of good governance, ethics and acceptable religious practices as per their religious doctrine.
- Where necessary, be the spiritual leaders of the members to ensure that they remain on a good spiritual path.
- Where necessary, discipline members who have veered off the path to bring them back on track.
- Where necessary, recommend to the Peer-Review Committee and eventually the CRL Rights Commission that a member is removed from the Register of religious leaders as per the codes and standards of their religious beliefs and practices.



19.3.1.4 The Peer-Review Committee

The constitutional basis of the proposal to create the Peer-Review Committee is based on s.31(1) of the Bill of Rights which states that Persons belonging to a cultural, religious or linguistic community may not be denied the right, with other members of that community—

- to enjoy their culture, practise their religion and use their language; and
- to form, join and maintain cultural, religious and linguistic associations and other organs of civil society.

This means that each umbrella organisation will elect a member to represent them in their relevant Peer-Review Committee. The Peer-Review Committees will each cover a particular religion, for example, one for Christians, one for African Religion, one for Muslims, Jews, Hindus, Rastafari's. These Committees will ensure that there are religious self-regulation and accountability. The roles and functions of the Peer-Review Committee, among other things, shall be:

- To advise the CRL Rights Commission on matters affecting their particular religion.
- Each Peer-Review Committee will be the final mediator of disputes within their own religion.
- Religious leaders who want to appeal against the decisions taken by their umbrella organisations can refer their matters to the Peer-Review Committee.
- Complaints received by the CRL Rights Commission from ordinary members of various religions, who are dissatisfied with the decisions taken by the relevant umbrella organisations, will be referred to the relevant Peer-Review Committee for advice.
- The Peer-Review Committee of each religion will deal with complaints from ordinary members of society about umbrella organisations from their religion.
- Each religion's Peer-Review Committee will refer matters and advise the CRL Rights Commission on the resolutions they have taken regarding complaints.
- The Peer-Review Committee shall be an advisory body to the CRL Rights Commission. The final decision powers shall lie with the CRL Rights Commission.

19.4 The CRL Rights Commission

The Commission, through this proposal, is allowing the democratic participation of the religious sector in all matters affecting it. This proposed amendment to the CRL Act will ensure that freedom of religion is guaranteed in the country and that the religious sector is given space and capacity to resolve its challenges and make all relevant recommendations to the Commission.

The CRL Rights Commission, as the juristic person and a constitutional body, will remain the final arbiters in all matters as recommended by the Peer-Review Committee and the Peer-Review Council. The final decisions will be taken and implemented by the CRL Rights Commission so that these are implemented through the Commission's offices, and the legal obligations remain within the Commission.

Whatever decisions are taken by the CRL Rights Commission, after advice from the Peer-Review Committee and the Peer-Review Council can be challenged through a High Court review, like other decisions of Chapter 9 institutions.

The CRL Rights Commission will be represented at Peer-Review Committee and Peer-Review Council level to ensure that proper support, through research, legal support, secretariat and other necessary services are rendered.

All these recommendations will not warrant a new legislation but to request the amendment of the CRL ACT 19 of 2002 to accommodate the proposed needs.



20. CONCLUSION

The CRL Rights Commission set out to investigate and establish an understanding of the South African context about commercialization and abuse of people's beliefs, as explained in the Foreword of this report. This was to be able to protect and promote religious freedom and curb apparent and prevalent abuses and malpractices, by the governing Act. The CRL Rights Commission would like to make the following observations and conclusion:



- Throughout the hearings, the CRL Rights Commission adhered to the objectives of the project at hand, notwithstanding attempts of certain leaders/organisations to derail the hearings from core issues to irrelevant matters, and who sought to challenge its jurisdiction.
- During the hearings, the panel acted without fear, favour, or prejudice towards any organisation/institution, which was summoned to appear.
- The CRL Rights Commission observes and acknowledges Freedom of Worship and Freedom of Association as inalienable rights enshrined in the Constitution of the RSA, section 15(1) and 18, respectively,
- However, facts presented, explicitly and by implication, during the hearings, led to the conclusion that Religious Freedom has been interpreted, enacted, and exercised in ways, which cannot pass the “reasonable man/ person” or “objective observer” test.
- The imperative about exploitation and therefore financial matters led the CRL Rights Commission to infer that there were financial issues (income, expenditure, accounting practices, declaration of assets, banking, foreign exchange, etc.) which were unlikely to pass stringent tests and were not legally above board. This prima facie inference is plausible and remains to be tested by means and instruments other than the mandate and methodology of these investigative hearings.



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- The conclusion of the CRL Rights Commission is that some of these institutions need to be handed over to organs of State, which deal with such matters, for example, the National Prosecution Authority (NPA), Department of Home Affairs, and the Department of Social Development.
 - A serious concern remaining, is that because of fear or whatever other reason, some religious leaders gave the impression that they are above the law and that no process would affect them. They would simply contravene any legal framework put in place.



21. REFERENCES

21.1 Legislation

- Constitution of the Republic of South Africa, 1996.
- Promotion and Protection of the Rights of Cultural, Religious, and Linguistic Communities Act 19 of 2002.

21.2 Newspaper/online articles:

- *News24* “Churches cannot be spaza shops – rights commission” <http://www.news24.com/SouthAfrica/News/Churches-cannot-be-spaza-shops-rights-commission-20151025> 2015.10.25 16:38 (News24 correspondent) (accessed on 17.4.2016).
- 702 Afternoon Drive with Xolani Gwala, “Court rules that CRL hearings be made public,” 6 November 2015 12:24, www.702.co.za/articles/6226/crl-hearings-bishop-mosa-sono (accessed on 1.4.2016).
- *Business Day*, “Pastors call me a devil worshiper, says CRL Rights Commission head”, 20 November 2015, 08:49 (Lizeka Tandwa) <http://www.timeslive.co.za/local/2015/11/20/Pastors-call-me-an-Antichrist-and-a-devil-worshiper-says-CRL-Rights-Commission-head> (accessed on 1.4.2016).
- *JSD*, “S. African government investigates Commercialisation of religion and Abuse of People’s beliefs. Threatens church leaders with jail sentence...” November 26, 2016 <https://jide-salu.com/2015/11/26/s-african-govt-investigates-commercialisation-of-religion-and-abuse-of-peoples-beliefs-threatens-church-leaders-with-jail-sentence/> (accessed on 17.4.2016).
- *Sowetan*, “CRL rights commission puts ZCC on the radar for grilling” Dec 20, 2015 (Sibongile Mashaba) <http://www.sowetanlive.co.za/news/2015/12/20/crl-rights-commission-puts-zcc-on-the-radar-for-grilling> (accessed on 17.4.2016).
- *The Citizen*, “CRL must fall – Bishop Zondo,” 5.11.2015 11:00. (Vicky Abraham) <http://www.citizen.co.za/853475/crl-commission-must-fall-bishop-zondo/> (accessed on 17.4.2016).
- *IOL*, “Zion Church’s finances to remain private,” 16 February 2016 at 20:18 (ANA Reporter) <http://www.iol.co.za/news/south-africa/limpopo/zion-churchs-finances-to-remain-private-1985397> (accessed on 17.4.2016).
- *Rise in Shine* A fresh approach to local news in Limpopo: “ZCC leader praised by CRL Commission” (admin) <http://www.rise-n-shine.co.za/zcc-leader-praised-by-crl-commission-zcc-leader-praised-by-crl-commission/February18,2016>
- *ENCA*, “NOTHING UNHOLY ABOUT THE ZCC’s financial statements, Wednesday 17 February 2016 – 08:20 (<https://www.enca.com/south-africa/zccs-financial-affairs-order-church-council>) (accessed on 17.4.2016).

Ranalaine talk political analysis, “The CRL errs in narrow target and approach” (5 November 2015).

22. APPENDICES

Religious/Traditional institutions summoned by the CRL Rights Commission

Religious Institutions

A. CHARISMATIC (Special gifts e.g. healing)	[20]
B. PENTECOSTAL (Holy Spirit)	[27]
C. AFRICAN INDEPENDENT	[10]
D. MAIN LINE	[11]
E. JUDAISM	[2]
F. RASTAFARAI (Nayabhangi House & National Rastafari United Front)	[2]
G. AFRICAN RELIGION	[1]
H. AFRICAN TRADITIONAL HEALING AND SPIRITUALITY	[7]
I. HINDU MAHASABA	[1]
J. ISLAM	[1]
K. BAHAI FAITH	[1]
L. NICSA	[1]
M. FORSA	[1]
GRAND TOTAL:	85

RELIGIOUS INSTITUTION'S NAMES

RELIGIOUS INSTITUTION	LEADER	PROVINCE
1. Rabboni Centre Ministry	Pastor Lesego Daniels	Gauteng
2. Incredible Happenings Ministries	Prophet Paseka Motsoeneng	Gauteng
3. Rivers of Living Waters Ministries	Archbishop Stephen Zondo	Gauteng
4. Rhema Bible Church	Rev Ray McCauley	Gauteng
5. Rock of Victory Ministries	Rev Francis Anosike	Gauteng
6. Neder-DuitseGereformeerde Kerk	Dr Gustav Klaassen	Gauteng
7. Judaism	Chief Rabbi Dr. Warren Goldstein	Gauteng
8. Lutheran Church of South Africa	Bishop Horst Muller	Gauteng
9. Seventh Day Adventist	Dr Paul Ratsara	Gauteng
10. GereformeerdeKerk in Suid-Afrika	Dr Fanie van der Skyff	Gauteng
11. Universal Church	Bishop Marcelo Pires	Gauteng
12. Apostolic Faith Mission of South Africa	Dr J la Poort	Gauteng
13. Agape International Ministries	Pastor Busisiwe Thebehali	Gauteng
14. The Congregational Church of South Africa	Rev. Thulani Ndlanzi	Gauteng
15. AfrikaanseProtestantseKerk	Ds Leon Lubbe	Gauteng
16. Word in Action Ministries	Prophet Maurice	Gauteng
17. Grace Bible Church	Pastor MosaSono	Gauteng
18. Apostolic Faith Church	Rev Jacob Mogola	Gauteng
19. Enlightened Christian Gathering	Prophet Sheperd Bushiri	Gauteng
20. Methodist Church of South Africa	Rev Ziphozihle Siwa	Gauteng
21. The Southern African Catholic Bishops Conference	Archbishop Stephen Brislin	Gauteng
22. Kingdom of Life Embassy	Rev Maxwell Holland	Gauteng
23. Rastafari (Nayabhangi House)	Ras Peace and Ras Thabo	Gauteng
24. International Pentecostal Church	Comforter Glayton Modise	Gauteng
25. End of Time Ministries	Pastor Panuell Mnguni	Gauteng
26. Anglican Church of Southern Africa	Bishop Peter Lee	Gauteng
27. His Glory Worship Tabernacle	Pastor VusiDube	KwaZulu-Natal
28. Healing Centre Ministry	Pastor Val Wolff	KwaZulu-Natal
29. Apostolic Faith Church	Pastor T. Luhlongwane	KwaZulu-Natal
30. Umlazi Oasis Fellowship Centre	Pastor ThembaMthethwa	KwaZulu-Natal
31. Apostolic Faith Mission	Rev J.T. Mbotho	KwaZulu-Natal

32. Durban Christian Centre	Pastor John Torrens	KwaZulu-Natal
33. Covenant Fellowship Church International	Apostle MandlenkosiDhlomo	KwaZulu-Natal
34. Traditional Healer	Dr Bhedlindaba Mkhize (TRD)	KwaZulu-Natal
35. New Hope Ministries	Pastor Daniel Vengtas	KwaZulu-Natal
36. Glen Ridge Church	Pastor Ryan Matthews	KwaZulu-Natal
37. Traditional Healer	Dr Sechaba Motlounq	KwaZulu-Natal
38. AFM	Pastor Sabelo Mdletshe	KwaZulu-Natal
39. Jesus Dominion International Church	Pastor Tim Omotoso	KwaZulu-Natal
40. Nala Mandate International	Dr Hamilton Nala	KwaZulu-Natal
41. SA Hindu MahaSabha	President AshwinTrikamjee	KwaZulu-Natal
42. Muslim Judicial Council	Maulana Abdul-KhaliqEbrahim Allie (Secretary General)	Western Cape
43. FORSA	Mr Andrew Selly	Western Cape
44. General Faith Church in Zion	Archbishop PhakamisaFlekisi	Western Cape
45. Full Gospel Church of God	Pastor Gerhard du Preez	Western Cape
46. Shekinah Healing Ministry	Apostle Musa Mohlala	Western Cape
47. Iqamacu Spirituality	Mr OnkeCetwayo (National Chairperson)	Western Cape
48. African Religion, Culture and Health Forum	Mr Jan Ramothwala (TRD)	Limpopo
49. Kingsway Family Church	Pastor Joseph Nwokocha	Limpopo
50. Zion Christian Church	Bishop Dr. Barnabas Lekganyane	Limpopo
51. Dinamus Gemeenskap Kerk	Dr Johan Fourie	Limpopo
52. God's Terbanacle Christian Church	Pastor David Mulutsi	Limpopo
53. Manna Tabernacle	Pastor Strike Manganyi	Limpopo
54. Traditional Healing and Spirituality	Dr Florence Hlahane (TRD)	Free State
55. Christian Revival Church	Pastor AT Boshoff	Free State
56. African Presbyterian Bafolisi Church	Bishop N Swaartbooii	Free State
57. Bahai Community	National Spiritual Assembly of the Bahais of South Africa	Free State
58. Holy Reformed Congregation Apostolic Church	Bishop FJ Piet	Free State

59. Angels Ministry	Pastor BaneleMancobo	Eastern Cape
60. Lighthouse Family Church	Pastor Trevor Anderson	Eastern Cape
61. Presbyterian Church of Africa	Rev George Mokabo	Eastern Cape
62. Oasis Family Church	Pastor Clinton Swartz	Eastern Cape
63. Deeper Research Bible Ministries	Rev Robert Bagna	Eastern Cape
64. East Coast Christian Centre	Pastor Hannes Wessels	Eastern Cape
65. NUPAATSA	Dr Solly Nduku (TRD)	Eastern Cape
66. National Rastafari United Front	RasMotheoKoitsiwe	North West
67. Camp of Fire Ministries	Prophet Ebube Osuchukwu	North West
68. International Evangelical Christian Church	Pastor David Rampolokeng	North West
69. National Interfaith Council of South Africa	Bishop Matebese	North West
70. Traditional Healing	Dr Kgang Bojang (TRD)	North West
71. Living Water Ministry	Pastor Martyrboy Moswathe	North West
72. Evangelical Lutheran Church	Bishop William Bowles	Northern Cape
73. City of Hope Christian Church	Pastor Andre Venter	Northern Cape
74. Dynamic Living Christian Centre	Pastor Nkosinathi Bosman	Northern Cape
75. The Redeemed Christian Church of God	Pastor Christopher Ogunade	Northern Cape
76. Grigualand West Hebrew Community	Mr Adrian Horwitz (Chairperson)	Northern Cape
77. Traditional Healing and Spirituality	Mr Benny Collins (TRD)	Northern Cape
78. Traditional Healing and Spirituality	Dr Sonnyboy Msiza TRD	Mpumalanga
79. Church Unlimited	Pastor Alan Parfitt	Mpumalanga
80. Church on the Hill	Apostle Mxolisi Lephoko	Mpumalanga
81. Pastor Lovemore Manaka	Victory Tarbanacle	Mpumalanga
82. Nelspruit Baptist Church	Pastor Deon Versveld	Mpumalanga

A COPY OF SUMMONS



The Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities.

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Braamfontein, Johannesburg
Private Bag X 90 000, Houghton, 2140

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Fax. 011 403 2098
www.crlcommission.org.za

VERY URGENT

**NOTICE TO APPEAR BEFORE COMMISSION FOR THE PROMOTION AND PROTECTION OF THE RIGHTS OF CULTURAL, RELIGIOUS AND LINGUISTIC COMMUNITIES (CRL RIGHTS COMMISSION)
IN TERMS OF
SEC. 7(2) OF THE COMMISSION FOR THE PROMOTION AND PROTECTION OF THE RIGHTS OF CULTURAL, RELIGIOUS AND LINGUISTIC COMMUNITIES ACT, 19 OF 2002**

Place	Room No	Date and Time of the Hearing

PART A: NOTICE TO APPEAR AT A HEARING

1. TO ANY PERSON AUTHORISED TO SERVE

You are hereby directed to—
(a) Serve/give notice to the following person:

Full names and surname of Respondent (including person acting on behalf of another person, association, organisation or organ of state)	
ID No/Date of birth/Registration No Physical address	
	Code:

- to appear in person at the above-stated place, date and time; and
- to remain present until excused by the Chairperson of the CRL Rights Commission/Committee conducting the hearing, or a member of staff of the Commission, as duly designated.

(b) serve on each of the above-mentioned persons a copy of this notice and report to the CRL Rights Commission about the service of the notice.

2. TO THE PERSON/S WHO ARE HEREBY GIVEN NOTICE OF THE ABOVE PROCEEDINGS

- The CRL Rights Commission is currently conducting investigative study hearings regarding the Commercialization of Religion and the Abuse of People's Believe Systems among Religious Institutions. On the day stated above,
- You are required to deliver a 25/30 minutes' presentation covering the following areas:
 - **YOUR RELIGIOUS INSTITUTION HISTORY**
 - **TRAINING OF YOUR RELIGIOUS LEADERS**
 - **YOUR RELIGIOUS INSTITUTION GOVERNANCE STRUCTURE**
 - **YOUR FUNDRAISING STRATEGIES**
 - **SOLICITING OF PAYMENTS (Funerals, Weddings, Prayers etc.)**
 - **UTILIZATION OF YOUR RELIGIOUS INSTITUTION MONEY**
 - **TRANSFER OF MONEY OUTSIDE SOUTH AFRICA**
 - **EMPLOYMENT OF FOREIGN PASTORS**
- You are also required to bring with and produce articles or documents in your possession, or in your custody or under your control and which are necessary to the investigative study, including the following:

-
- **A Qualification Certificate from an Accredited Institution**
 - **Proof/Certificate of Ordination/Anointment**
 - **Religious Institution Registration Certificate**
 - **Annual Financial Statements (2012 -2014)**
 - **The last six-month bank statements of your Religious Institution**
 - **AGM Minutes (2012 – 2014)**
 - **Constitution/Code of Conduct, Disciplinary Codes, Statement of Faith**
 - **Signatories to the Bank Accounts**
 - **Title Deeds or lease agreement of the land you are operating from**
 - **Organogram**

Any other documentation that in your opinion will assist the Commission in reaching the truth during the hearing.

The following persons will be in attendance during the investigation hearings:

- The CRL Rights Commission Investigative Committee Members

- Please, note that you are entitled to appear with legal representation and/or a maximum of 5 members of your Religious Institution Leadership.
- It should be noted that section 41 of the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities Act 2002, provides that any person after having been summoned in terms of section 7(2)(a) fails to be present at a meeting of the Commission or of an investigating committee at the time and place specified in the summons; or to remain present until excused by the Commission or Committee; or after having been called in terms of section 7(2)(b) refuses to appear before the Commission or the Committee to answer any question; or to produce documents specified in the summons, or are not in that person's custody at the meeting, that person shall be guilty of an offence and liable on conviction to a fine or to imprisonment for a period not exceeding one year.

Should you have any enquiries, you can contact:

Name: **Mr Edward Mafadza**
CRL Rights Commission (CEO)

Email: Eddie@crlcommission.org.za

Copy of the Report can be downloaded from the
CRL Commission website, under Reports and Documents
www.crlcommission.org.za

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