

## MEMORANDUM

To: Ms Shereen Cassiem, COGTA Parliamentary Portfolio Committee Secretary  
From: Dr Vincent Mazibuko, Chairperson of the Board of Directors, *Association of Christian Religious Practitioners* (“ACRP”)<sup>1</sup>  
Re: Submission to COGTA Portfolio Committee on the ***CRL Commission Report on the “commercialisation” of religion***  
Date: 7 March 2020

### OVERVIEW

The purpose with this memorandum is to communicate to the COGTA Portfolio Committee ACRP’s views on the CRL Commission’s reports. The Association’s views can be summarised as follows:

1. ACRP concurs with the CRL Commission (“the CRL”) that there are that certain serious issues in the field of religious activity that need to be corrected. The Association shares the concern of many about the evidence of misconduct in certain churches and among some faith leaders in our country.
2. It is however our contention that ample institutions and instruments to deal with the situation are already in place. These could and should certainly be used better. The solution is however not to duplicate these through new laws and highly coercive structures that would seriously jeopardise religious freedom in our country.
3. A proper role for the CRL would rather be to support existing structures, instruments and processes, and through this to strengthen the hand of the responsible component of the religious profession itself to deal with irresponsible activities where these occur among peers.

To the extent that the CRL will involve itself with support to and strengthening of the responsible component of the profession, and focus on the use of existing structures, instruments and processes, ACRP wants to register its unequivocal support to such action. But we clearly want to state that duplication of existing processes and instruments and the creation of coercive structures that will jeopardise religious freedom are strongly opposed.

There are many angles from where the proposals of CRL could be addressed. It will be left to other participants to the hearings to address important matters such as maintenance of religious freedom and related arguments. It can also be argued that 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. The rest of this submission will focus on one aspect only, namely that what CRL wants to do boils down to the statutory establishment of a professional body for religious professionals – but this has also already been provided for, and should not be duplicated through the new legislation and processes envisaged by CRL.

### MATTERS REGARDING A PROFESSIONAL BODY FOR RELIGIOUS PROFESSIONALS

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<sup>1</sup> Notes on the identity of ACRP are provided in Annexure 1

The CRL Commission recently recommended to COGTA to address irregularities that do occur from time to time in the religious sphere through new legislation and through the establishment of new structures. **Core to the recommendations is the concept of the professionalisation of religious professions.** For this the CRL envisaged 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 was unaware of the existing statutory mechanism that supports 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 promulgated among others 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 identifies ***religious professionals*** (code 2636) and ***religious associate professionals*** (code 3413) among others 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”*<sup>2</sup>. 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 extensive consultations and lengthy preparations, ACRP was registered in) October 2017 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 the *Quality Council for Trades and Occupations (QCTO)*.

ACRP as professional body was formed through a wide consultative and participatory process. It was formed as a service to churches, ministries and training institutions who experience a need for such services to create trust among the members of the public. ***Its purpose was primarily to make formally recognised professional body services available to churches, ministries and training institutions in the “informal” church sector. ACRP's services are obviously also available to any other church who may want to use such services.*** The intention is not to force any church or ministry to use these services. The intention is that ACRP will be used voluntarily by churches, ministries and trainers as a joint platform, based on a statute of government, to promote professionalism and self-regulation or peer review across the board. (See Annexure 1 for a brief account of how ACRP came to be established.)

In terms of the ACT and SAQA policies, the professional body functions include:

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<sup>2</sup> [http://www.saqa.org.za/docs/guide/2012/policy\\_2008.pdf](http://www.saqa.org.za/docs/guide/2012/policy_2008.pdf)

- Defining *generic professional designations* on various levels for the profession (in this case religious professionals and practitioners)<sup>3</sup>.
- Defining the *level of qualifications and broad training standards* for persons holding such designations.
- Facilitate the development of *formally accredited qualifications* for levels of designations where accredited training does not yet exist.
- Keeping *a database of persons having been awarded a designation*.
- Introducing, in consultation with the profession, a generic *code of ethics / code of good practice* for persons holding a designation.
- Introducing and applying a *disciplinary code* and *disciplinary procedures* for persons holding a designation – in cooperation with the participating churches and institutions.
- Introducing a Continued Professional Development (CPD) dispensation for persons holding a designation.
- Introducing a formal strategy for Recognition of Prior Learning (RPL) to formally advance the professional status persons with experience in the profession but without formal qualifications and formal professional recognition.
- To raise fees that will ensure the sustainability of the professional body.

*As legally recognised and registered professional body for religious professionals (Christian tradition), the ACRP now has the legal responsibility to fulfil these functions* in cooperation with the participating churches and institutions. 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 participating institutions. It is fully based on the principle of self-regulation. Its power is not coercion, but trust built through voluntary participation of institutions of goodwill, and through the proper performance of the relevant functions.*

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 allow for such a development).

Should the CRL report's intention to establish a structure to fulfil the role of a professional body be followed through, it will duplicate what is already provided for in the NQF Act, and what has already been put in place within the SAQA framework.

It is our conviction that CRL should rather play a facilitating role in respect of the practice of religion, strengthening the application of existing laws that deal with the relevant matters and 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.

**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. It should also be noted that a first such professional body for religious professions has indeed already been appointed by SAQA in terms of the Act.*

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<sup>3</sup> Generic, non-ecclesiastical terms are used for the designation, namely: *religious practitioner, advanced religious practitioner, religious professional, and religious specialist*. Participating churches has the choice to decide which of the generic designations they want to link to their offices. For example: one church may link the office of "pastor" to the level of "religious practitioner". Another church may want to link the office of "pastor" to "religious specialist". It is for participating churches themselves to decide how to apply the concept of statutory recognise designations to their own situation.

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 THE 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 Christian religious tradition.

Important to note: ACRP as professional body was formed as a service to churches, Christian ministries and training institutions who experience a need for such services to create trust among the members of the public. Its purpose was primarily to make formally recognised professional body services available to churches, ministries and training institutions *in the independent church sector*. ACRP's services are obviously also available to any other church who may want to use such services. The intention is not to force any church or ministry to use these services. The intention is that ACRP will be used voluntarily by churches, ministries and trainers as a joint platform, based on a statute of government, to promote professionalism and self-regulation or peer review across the board.

## ANNEXURE2

# EXCERPT FROM NATIONAL QUALIFICATIONS FRAMEWORK ACT 67 OF 2008

## CHAPTER 1 DEFINITIONS, OBJECT AND APPLICATION OF ACT

### 1. Definitions

- “professional body” means anybody 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 4**  
**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.