
ANTI - REGULATION OF RELIGION

Summit

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We Submit That¹

THE CULTURAL, RELIGIOUS AND LINGUSITIC RIGHTS COMMISSION IS FUNCTIONING OUTSIDE ITS CONSTITUTIONAL MANDATE AND IN THE PROCESS VIOLATING THE RELIGIOUS COMMUNITIES' FREEDOM OF RELIGION AND FREEDOM OF ASSOCIATION BY SEEKING TO REGULATE RELIGION AND SEEKING TO CONTROL THE RELIGIOUS COMMUNITY

PREAMBLE

1. The CRL Rights Commission is functioning outside its Constitutional Mandate and in the process violating the Religious Communities' Constitutional Rights in attempting to Regulate Religion
 - 1.1. With the past and present investigations / interviews, or scrutiny of a specific sector of the CRL Communities - the African Independent Churches and African Indigenous Charismatic-Pentecostal Churches; the CRL commission is operating outside its legal mandate.
 - 1.2. If the CRL Commission's present modus operandus is informed by a political or legal mandate; both or either one of them is/are unconstitutional.
 - 1.3. The Separation of Church and State is the only viable solution towards uninterrupted harmony between these two institutions, and
 - 1.4. Recognition, protection and promotion of Religion's Constitutional Right be preserved and the Regulation of Religion be rejected by parliament as it violates the Religion and Churches' Constitutional Rights to Freedom of Conscience, Freedom of Religion, Freedom of Speech and Freedom of Association

¹ Here set forth the case or circumstances to be brought to the notice of Parliament and the nature of the relief asked for.

2. HERE IS OUR CASE

2.1. Whereas according to Section 185 (3) of the RSA Constitution, the Commission may refer any matter that falls within its powers and functions to the South African Human Rights Commission for investigation; the Commission has with regards to "human rights violations" by churches in feeding congregants grass, stepping on people, giving them petrol, rats and snakes taken over the role of the HRCSA by investigating these violations itself.

It is the SAHRC's Constitutional Mandate to monitor, both pro-actively and by way of complaints brought before it - violations of human rights and seeking redress for such violations. It also has an educational role in that regard.

Whereas the CRL Rights Commission was set up to protect and promote the cultural, religious and linguistic rights of all its diverse communities, not only has it neglected its broader vision and mission, but has arbitrarily taken over the role of the SAHRC by chasing churches over "violations of individual human rights", and this it does without necessarily any individual approaching it with a complaint.

This means, regarding such "violations", the CRL Commission is both Complainant And Arbitrator. So, in essence; the Commission Is Both the Watchdog and the Judge; both "Cop" and "Judiciary"; as it arbitrates over its own complaints, hence it has since 2015,

- Identified suspect churches,
- Summoned them to its internal hearings,
- Declared them guilty, and
- Decided on the sanction – *"they must be regulated"*

All these the CRL Commission has accomplished without the involvement of any external agencies or other organs of State; thus lending the process to the severest display of bias

This is the CRL Commission's Vision and mission

The vision of the CRL Rights Commission is "a united South African nation that protects and promotes the cultural, religious and linguistic rights of all its diverse communities". Its mission is to "promote and protect the rights of cultural, religious and linguistic communities".



So, instead of protecting and promoting even the very rights of miracle believing, holy water drinking, rat eating and snake eating communities as they have a constitutional right to practice their beliefs thus as long as it is within the confines of the law; the commission is threatening, jeopardizing and acting in a manner prejudicial to those rights.

We ask a few questions regarding the CRL Commission's mandate and modus operandus:

- If the SAPS see a suspect they later identify as an Italian, stealing from a bakery; do they arrest him or set up a Commission to investigate criminal tendencies of all Italians in South Africa? If they choose the latter option, aren't they discriminating against, victimizing and singling out for persecution all Italians? While they target Italians for "legal compliance" how do they deal with all other Non-Italian Suspects?

The above example is the essence of our concern with the CRL Commission, specifically singling out African Independent Churches and African Indigenous Charismatic-Pentecostal Churches for "investigation" on account of a few "religious charlatans" the CRL Commission has identified as "Christian Churches".

If individual citizens or residents commit acts of "crime"; isn't it discrimination if you, instead of arresting and persecuting these individuals, you set out to first establish which population or demographic group within society they represent; then subpoena all of them to come and prove their innocence? Isn't this exactly what the CRL Commission is doing with this witch hunt specifically targeting African Independent Churches and African Charismatic-Pentecostal Churches? But then the other question is - even if this kind of investigation was appropriate, should it be done by an institution not Constitutionally mandated to execute it on the basis that it involves a sector of their target communities?

3. The CRL Commission's Probe into the "Commercialization of Religion"

Regarding the present investigation into the "commercialization of religion", the CRL Commission (prior to the launch of the probe) set itself the Terms of Reference and Scope

"To investigate amongst others:

3.1. The conditions that led to many South Africans going out to places where they are harmed in search of spiritual solutions (TB Joshua's Synagogue Church Of All Nations building collapse as a case)"



This exercise is in the least superfluous , considering the following -

A. Whereas RSA has diplomatic ties with Nigeria and the latter went into a full-blown Commission of Enquiry into same deaths, it would have been expedient if RSA had concluded a diplomatic deal with Nigeria to second or delegate officials from the Department of International Cooperation and Relations (DIRCO) in order to get first hand evidence from all stakeholders. But then, how were these Synagogue Church of all Nations (SCOAN) deaths which happened abroad so significant to the CRL Rights Commission that it would necessitate its involvement? Does their Constitutional Mandate extend to international disasters?

B. How would the CRL Commission or any commission in the world know what "conditions lead South Africans to visit foreign countries in search for any solution?" How was that investigation within the scope of the CRL Commission's Constitutional Mandate? While at the most a few hundred South Africans have visited the SCOAN? Does the CRL Commission already know what leads hundreds of thousands RSA Muslims to Mecca annually for Hadji (Holy Pilgrimage)? Don't Muslims all over the world often die in Mecca annually? Has the RSA government ever set up any commission to probe these and any other RSA citizen's death in Mecca specifically and abroad generally?

C. It is both hypocritical and discriminatory for the CRL Rights Commission to hold the South African Christian faith guilty and call for its regulation over 84 deaths of RSA spiritual pilgrims to Nigeria who regrettably died in a single incident, but remain tactful over 3000 deaths in cultural initiation schools that have happened on RSA soil since 1994 and still continue as per the recent deaths of 21 Eastern Cape initiates in December 2018 ?

D. But then, if the CRL Commission wants to know what drives RSA Christians to seek spiritual solutions abroad, do they know what drives RSA Muslims to Mecca, RSA Buddhists to China, RSA Hindus to India and RSA sons to initiation schools? If the CRL commission knows; the next question is - how did they know without setting up any commission of enquiry, since they have set up enquiries only for African Churches?

The CRL Commission also probed –

3.2. "Other foreign churches taking donations and offerings outside SA borders to empower their home countries."

This task should have been given already established and appropriate government agencies like the SAPS - HAWKS, The Commercial Crimes Unit, Crime Intelligence and SARS.



But then, if there is any genuine concern in this regard,, why was the Brazilian based South African super cult- the Universal Church of the Kingdom of God (UCKG) not investigated first for taking billions of RSA rand out of this country? The reason is obvious - The CRL Commission is targeting solely, exclusively and specifically the African Independent Churches and the African Indigenous Charismatic-Pentecostal Churches and the UCKG does not fall within this group.

But then, are the millions of RSA Rand going to Mecca from RSA Muslims, to China by RSA Buddhists and to India by RSA Hindus too insignificant to be investigated by the CRL Commission?

We find it both discriminatory and hypocritical that while the CRL Rights Commission is concerned over the “Commercialization of Religion” which let to various African Church Leaders subpoenaed, the Islamic Council were not summoned to account for the Halaal Scam (why is every South African sponsoring the multi-billion Rand Halaal Industry)? Why is the CRL Commission not probing this if it is concerned with the commercialization of Religion?

The CRL Commission also investigated -

3. 3. “The possible manipulations by foreign forces to use religious groups as platforms to advance their agendas that may put our country in security risk. There are churches receiving foreign aid and are not checked thoroughly.”

A. Would an agency established for the protection and promotion of cultural, religious and linguistic rights be tasked with probing Foreign Affairs Related and National Security Threats? If government is concerned about foreign forces manipulating religious groups at the expense of or to the detriment of national security; shouldn't The Department of International Relations And Cooperation (DIRCO), The National Intelligence Agency (NIA), SAPS and Crime Intelligence be Agencies Of Choice For This Assignment?

B. If there was any degree of objectivity with this probe, wouldn't it have moved RSA based religions most associated with Terrorist Groups to the very top of those subpoenaed to account to a more appropriate commission than the CRL? Doesn't everyone know that the currently most prominent terrorist groups – Al Qaeda, ISIS and Boko Haram all coincidentally have no links to everyone who has since appeared before the CRL Commission; but to Islam? Shouldn't Muslim groups have already been subpoenaed to swear that they have no links to these Islamic Militant Groups? If this concern was genuine, the African Christian Churches are wondering why the CRL Commission or more specifically, a more relevant RSA Government agency has not called the Muslims to any probe or hearings.



C. By demanding Pastors' qualifications, proof of ordination and affiliation; the Commission has embarked on an illegal and unconstitutional process of regulating religion; a role the commission is not constitutionally mandated with.

D. By demanding churches' financial statements , the Commission is encroaching on the mandate of the following agencies / institutions -

- SARS, which is the only revenue taxation and compliance authority in RSA
- CIPRO, the sole custodian of company and organizational registration and compliance in RSA and
- the DSD, (the Department of Social Development) which is specifically responsible for registering and monitoring NGOs.

E. By threatening to arrest non-compliant pastors, the Commission is also encroaching on the role both SAPS (South African Police Services) and NDPP/NPA (National Directorate of Public Prosecutions)

The sad reality is in the fact that the Commission is unfortunately alienating the very Religious and Cultural Communities whose rights it has been mandated to protect and promote; and this it does by further discriminating against a particular sector of the Religious Communities - Christians. Among the Christian Communities, the Commission has targeted a specific sector - African Independent Churches and African Indigenous Charismatic-Pentecostal Churches.

4. The Issue of The Bill of Rights

4.1. Chapter 2 (Bill of Rights), Section 31 of the RSA Constitution 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, practice their religion and use their language; and to form, join and maintain cultural, religious and linguistic associations and other organs of civil society.”

If in the practice of their religion individuals or communities do not violate the rights of others and such practice is not illegal; no one can dictate how they should practice it, what they should wear, what they should eat, drink or how they should celebrate.

Since these rights are granted an individual, not groups; an individual would have to personally (unless they are a minor or mentally incapacitated) approach any organ of state to seek protection or redress if he/she felt violated, abused or marginalized. The CRL Commission cannot raise such concerns on behalf of cultural, linguistic or religious groups or their adherents; which is the case with the commission probing churches in exclusion of all other linguistic, cultural and religious groups.



4.2. The CRL Commission's probe of the "violation or abuse of religious rights of individuals within churches is baseless until a specific individual within a specific church seeks protection or intervention. Government cannot say, " On behalf of individuals within a specific church, we initiate an investigation into why he or she was fed grass, a snake or a rat", when the adult individual with full mental capacity is happy, not only to eat a rat but to return to the same church voluntarily.

5. Conclusion

5.1. If at the heart of the investigations and regulation of the churches are organizational and legal compliance; then the CRL is not the institution to do that. The suitable institutions to do that are the Department of Trade and Industry, and the Department of Social Development.

5.2. If concern is over tax evasion, the CRL is not the institution of choice to handle this. The relevant institution is the South African Revenue Services.

5.3. If concern is over the criminal element within the church, the CRL is not a Criminal Law Enforcement Agency; the SAPS through its Organized Crime Unit, the Hawks and the Commercial Crimes Unit is.

5.4. If concern is over human right abuses of congregants; the matter should have been referred to the South African Human Rights Commission.

5.5. The Traditional Healers Association has already said they shall not cooperate with the commission because "the work of ancestors cannot be regulated". What makes the work of the Holy Spirit "regulatable"?

5.6. The question is - Don't Traditional Healers also use public funds? Do they keep accounts? Do they submit audited statements to government?

5.7. If any public figure, including a preacher, steals money - call the SAPS Organized Crimes unit or the HAWKS; don't regulate

5.8. If any public figure is defaulting in their personal and organizational taxes, get SARS onto their case; don't regulate religion

5.9. If anyone makes people eat rats and snakes, send the SPCA after him and remember that others eat dogs, snakes and reptiles in their homes. Whatever you do, do not regulate religion



5.10. Traditional Healers slaughter goats and chickens and have initiates suck their blood publicly while these animals are alive. Why is this not probed or investigated? How many Traditional Healers have been subpoenaed to account to the CRL Commission? The point is, no one who ate these snakes, grass, petrol and rats is a legal minor - they are all consenting adults who keep going back to these " churches" in the exercise of their constitutional freedom of religion and freedom of association

5.11. Should anyone be investigated because he eats or feeds other adults unconventional food? Are mopani worms part of the state's classification of conventional food? Should we arrest all Chinese and Koreans who eat dogs and snakes? Should we arrest all sangomas for drinking blood? Who decides if anything eaten is acceptable for human consumption?

5.12. If a "Christian preacher" making people drink petrol is a crime because of its potential harm to their health; what makes the annual Hindu fire walks, fire-spitting, and sword-piercings safe and legal in the state's eyes?

5.13. Is spirituality even government's constitutional or electoral mandate?

6. Our Submission

We submit that the only concern the CRL Rights Commission should have regarding Cultural, Religious and Linguistic Rights is in ensuring that no one in the exercise of their CRL rights violates the rights of another. This was the Constitutional Mandate given to the CRL.

7. Solutions Suggested

Religion and Christians have a Constitutional right to belong to any group of their choice and to practice their religion in whatever way they deem fit, as long as they are not harming anyone or doing anything unlawful, illegal or criminal -

7.1. Stop this unconstitutional attempt at regulating religion

7.2. Stop the discriminatory persecution of African Independent Churches and African Indigenous Charismatic-Pentecostal Churches by the CRL Commission

7.3. Stop any attempt at regulating our creed and philosophy, because spirituality and spiritual matters cannot be regulated.

7.4. Confine the operation of the CRL Commission to its Constitutional Mandate

7.5. Promote and Protect the rights of all CRL Communities to practice their beliefs without interference, discrimination, persecution and harassment



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7.6. Respect, recognize and maintain the separation of the Church and the State.

7.7. Further to the above, our response to the COGTA Committee's 2020 March 5th questions is as follows

What is the role of churches addressing social ills and moral decay in our society?

- What is the religious sector doing to address these social ills?

ANSWER: The church is not a Law enforcement agency; so our commitment is a voluntary code of conduct. On 21 March 2019, all Anti Regulation of Religion Summit aligned churches signed the "ALBERTON DECLARATION", which is a code of conduct we have gone to 7 provinces to promote and get more signatories to.

- Why is the church no longer seemingly at the forefront of upholding moral integrity in society?

ANSWER: The church's role in this regard has not changed as perceived by many of her detractors. Statistically speaking, perpetrators of misconduct constitute a very negligible percentage of the broader Christian population in RSA

1. What is in the view of your organisation considered to be harmful religious practices?

ANSWER: Any practice that leases to the actual physical harm of people within the context of it meter against minors and adults without consent

2. What can your religious body do to sanction individuals and organisations perpetrating harmful practices in the name of religion?

ANSWER: We have, since 2009 campaigned by naming and shaming, warning the gullible and ignorant against such unscrupulous characters and challenging directly those involved. Besides these efforts, we recognize that only the adherents of these cults can put them out of business

3. Is a voluntary non-binding Code of Conduct for religious sector feasible and practical? What are the strengths and pitfalls?

ANSWER: As already stated above, all churches aligned to the Anti Regulation of Religion Summit, have signed a voluntary code of conduct (The Alberton Declaration). Its strength lies in the fact that every true believer in Christ would never reject it. Its second strength is in the fact that its rejectors immediately stick out as false, unethical and unbiblical operators

4. Should the conduct of the religious practitioners be regulated? If so would such regulation not amount to violation of the rights of the practitioners to exercise their freedom of religion without inhibitions?



ANSWER: If what anyone is doing isn't unlawful, illegal and does not lead to harm or physical hurt, let them be. This was the finding of the Constitutional Court in the 1998 Prince Case ruling

5. What is the international religious best practices with regard to effectively addressing harmful religious practices?

Answer: All Constitutional Democracies around the world subscribe to the implementation of the rule of law in dealing with any societal atrocities

ALLOW US TO STATE FURTHER THAT -

1. It is a great pity that the CRL Rights Commission doesn't understand the political and business concept of "CASE FOR CHANGE", because if they did, they would understand why the Cogta Portfolio Committee rejected their recommendations in 2018 as UNWORKABLE, UNNECESSARY AND UNCONSTITUTIONAL and they would understand why THE SAME CIRCUMSTANCES AND STATUS QUO within the Religious Community when parliament said so, STILL PREVAIL TODAY. THERE IS NO COMPELLING CASE FOR CHANGE (need for regulation of religion), EXCEPT THAT THE CRL Rights Commission IS TRYING TO PULL A HEGELIAN DIALECTICS ON RSA, ON PARLIAMENT AND THE RELIGIOUS COMMUNITY (Problem! Reaction! Solution!)
2. Don't confuse Religion with Christianity - most of Christianity occurs outside religious institutions
3. Do not confuse Christianity with Church - much of Christianity unfolds outside church organizations
4. The CRL Commission should realize that your argument on preservation of human dignity should also apply to SANGOMA initiation and initiation schools; as from where any outsider to these practices sits, initiated are subjected to undignified and inhumane rituals
5. Licensing of SANGOMAS is not tantamount to regulation of traditional healing in the absence of standard national traditional healing protocol. So, in essence, SANGOMAS cannot claim to be licensed and left on their own to give people anything they deem "ancestor-sanctioned". Since it is impractical to enforce protocol on the decree of ancestors' spirits, why do some believe that the work of the Holy Spirit can be sanctioned by a secular state?
6. Most of religion happens outside the institutionalization of each interest group
7. Bizarre, unconventional and unnatural practices are common to all cultures and religions; not just to Christianity
8. It is no more imperative for a religious leader to get formal training as it is for a newager or Rasta or secular humanist
9. We do not have to be institutionalized to be recognized



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10. Freedom to associate is also freedom not to associate
11. The calling to be a preacher is as personal as a calling to be a SANGOMA
12. Religion is not a profession
13. Preaching is the sharing of a philosophy, EVEN PERSONAL PHILOSOPHY and not a practice (requiring a certificate for college qualified practitioner)
14. In view of 12 above and considering that every citizen has a right to start his / her own religion, who is going to teach, certify and qualify me if I START MY OWN RELIGION LIKE MUHAMMAD, BUDDHA AND JESUS CHRIST HAVE?
15. Not all religion operates within organizations; so insisting on registration is absurd and unconstitutional
16. Who has the right and authority to authentic another's religious, denominational and doctrinal belief and practice?
18. With so many Christian practices and beliefs, whose is the right way to be enforced upon all others?
19. Isn't the painful practice of incision / ukugqaba of babies, teens and toddlers ABUSE AND VIOLATION OF THEIR HUMAN RIGHTS?
20. How different is voluntary submission to adult incision / ukugqaba by SANGOMAS from voluntary adult religious rituals?
21. There is therefore no case for either regulation or alternative strategies
22. Looking at SOEs and State schools / hospitals, none can reasonably, soberly and honestly entrust the regulation of religion to the state
23. If the assumption is that regulation of the religious community shall stamp out crime and corruption, how has the regulation of both the corporate world and politics stamped out corruption and crime? IF REGULATION HAS NOT PERFECTED SECULAR INSTITUTIONS, WHAT IS THE BASIS FOR BELIEVING IT SHALL SANCTIFY THE SPIRITUAL REALM?
24. The Global Corruption Barometer (GCB) Africa in 2019 revealed that the South African Police Service (SAPS) is considered the most corrupt institution in RSA; YET MANY STILL BELIEVE THAT THE REGULATION OF RELIGION WILL CLEAN THE CHURCH?



25. Anyone who has had sex, who has gone for a massage, who has seen a woman give birth or watched a boxing match, KNOWS THAT DIGNITY IS BOTH RELATIVE AND CONTEXTUAL; because the difference between actual abuse and perceived abuse is participatory willingness / willing participation by the subject. For example, Acupuncture and traditional healing incisions are a type of self-inflicted abuse and undignified participatory willingness / willing participation

Sincerely



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