# **Draft suggestions to the COGTA Committee**

Presented by Prof Dr Christof Sauer to deliberate on the way forward and

making statements or taking resolutions

on the occassion of the Indaba with religious communities on harmful religious practices

11 March 2020

# Appreciation

COGTA Committee appreciates the opportunity to interact with and receive input from representatives of religious communities and organizations.

# Alternative Solutions

COGTA Committee

* acknowledges that alternative solutions have been submitted compared to those proposed by the CRL Rights Commission and its report.

# Code of Conduct

COGTA Committee

• acknowledges that religious communities spearheaded by CRRF have produced a draft “Code of Conduct for Religions in South Africa” as one means of self-regulation by religious communities;

• Encourages religious communities

* to consider this Code of Conduct as a proposal for voluntary action on the part of religious communities, in addition to codes and rules already applicable in individual communities and institutions;
* to take ownership of it, endorse it, or adjust it, or to draft and produce their own Codes of Conduct in line with the values and principles set out in the draft Code.

# Networks of religious practitioners

COGTA Committee

• recognizes that religious communities

- keep on regulating themselves as they have always done;

- are under no legal obligation to report to government about this;

- have formed multiple new and additional networks on national, regional and local level;

• supports the establishment of networks of religious practitioners (such as fraternals among religious communities) on a purely voluntary basis.

# Training and Education

COGTA Committee

• encourages (on a voluntary basis) greater levels of training and education (both in religious reflection and practical management skills) for religious practitioners to support their calling, as well as increased collaboration among religious communities for this purpose.

• recognizes that the CRL Rights Commission has a key educational role to play in that regard.

# Investigation and dealing with matters

COGTA Committee

• Urges the CRL to improve its capacity to investigate possible “abuses” and to recommend appropriate remedial action to the responsible organs of state.

# Information Register

COGTA Committee

• supports the activation/implementation of section 5(1)(j) of the CRL Act, which empowers the CRL to register in a database (but not regulate) religious practitioners and organisations.

# Enforcement of existing laws

COGTA Committee

• recognises that religious communities

- maintain that there are sufficient existing laws to cover the problems identified;

- call for the implementation and enforcement of existing laws;

- maintain that crimes must be prosecuted no matter where they occur.

# Law enforcement by state organs

COGTA Committee

• commits to further investigate as soon as possible among existing state organs

- why they are not enforcing existing laws with regard to the problems at hand;

- how to rectify this in their capacity.

# Freedom or Religion or Belief

COGTA Committee recognizes

• that the human right of freedom or religion or belief (FORB) rests in individuals and juristic persons (and not in religions per se);

• that a fundamental difference exists between unalienable rights that the State recognizes (such as FORB) and those that the State grants (such as the right to housing);

• that it is the duty of the State to protect FORB and to facilitate the enjoyment of this right to the fullest among all people under its jurisdiction.

# Permissible limitations of FORB

COGTA Committee recognizes

• that, as in the case of every right, FORB may be limited only in terms if section 36 of the Constitution, in other words if it is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom;

• that therefore, if the State wants to limit any right in the Bill of Rights it must adopt the least invasive means to do so.

# Social ills and moral decay

• COGTA Committee

• recognizes that religious communities are the strongest voices and forces for moral reconstruction;

• acknowledges the multiple reports it has received about past and current activities of religious communities for the wellbeing of their communities;

• recognizes that by their nature religious communities have their own prior identity, while their contribution to society at large is a secondary function.

# Further Engagement

COGTA Committee

• acknowledges the complexity, diversity and fluidity of religious communities in South Africa;

• acknowledges the differences of opinion among religious communities on public and societal issues and even on the relationship between religions and the state;

• commits to further engage with religious communities in a amicable spirit and is eager to continue hearing their voice on matters of concern to society.

# Public Relations

COGTA Committee

• will deliberate how to make their statements and resolutions public in an appropriate way.