

Briefing to COGTA PC: Petition from religious community re Government's actions and responses to Covid-19 24 June 2020

FREEDOM OF RELIGION SOUTH AFRICA

Background

Freedom of Religion South Africa (FOR SA) is a **legal advocacy organisation** working to protect and promote the constitutional right to religious freedom.

response to Parliament's call for comments In on Government's actions and response to COVID-19, a wide range of religious leaders and organisations representing 18.5 million people of the faith community from across the denominational and faith spectrum (including ± 10 million from the African Indigenous and Spirituality Churches) mandated FOR SA to address correspondence (incl. the present Petition) to Government on their behalf. The vast majority of these structures do not form part of / their views on this matter are **not represented by the** South African Council of Churches (SACC).

Background

Petition was sent on 20 May 2020, i.e. while Level 4 Regulations were in place.

- The Level 4 Regulations did not mention the religious sector in any way, and the only services which religious leaders / organisations were <u>allowed</u> (by implication) to perform were:
 - Food distribution and other social relief; and
 - Presiding over funerals.
- At the time, there was great uncertainty regarding the application of various of the Regulations/Directions to religious organisations, and also great concern that the sector was not mentioned at any of the Levels 5 to 1.

Purpose of Petition

To **obtain clarification** with regards to various questions submitted to the President, COGTA Minister, COGTA PC, Nerve Centre (to which no response has been received to date).

- To propose the staggered opening up of the religious sector across the different levels, similar to the economic sector.
- To request an opportunity for a senior level representation of the religious community represented by this Petition, to engage and discuss these matters with Government – given that they / their views are not necessarily represented by the religious structures Government is engaging with.

Subsequent Events



At or about the same time as sending the Petition, the President met with the SACC and other interfaith leaders.

- This resulted in the **President's announcement** on 28 May that (as part of the regulations for Alert Level 3):
 - Religious leaders will be recognised as "essential religious frontline workers" for purposes of spiritual counselling;
 - Religious buildings will be permitted to open, thereby allowing the administration offices of churches / religious organisations to re-open and start functioning again; and
 - Places of worship will be able to resume services limited to 50 people or less, depending on the space available.

Subsequent Events

On the same day (28 May), the COGTA Minister issued Level 3 Regulations and Directions relating to norms and standards for religious gatherings, both applicable from <u>1</u> June.



Effect on / Status of Petition:

- 1) <u>Questions for clarification</u> raised in the Petition: Have been resolved by Regulations and Directions issued.
- Proposed staggered re-opening of the religious sector across the various Levels: Partly resolved – catered for at Level 3, but not at any of the other Levels.
- 3) <u>Request for engagement</u>: Is first opportunity. Have not had any response from the Presidency, COGTA Minister, Speaker and/or Nerve Centre.

New Uncertainties / Questions

Various of the clauses in the Level 3 Regulations, and Directions for religious gatherings, **are not clear or unambiguous**. As a result, they are open to varying interpretations (and are indeed being interpreted differently by religious organisations).

The lack of clarity / ambiguity has far-reaching consequences, because if a religious leader / organisation misunderstands the law, there may be legal consequences (including potential arrest or prosecution).

As a result, FOR SA addressed a letter to the COGTA Minister on 1 June, indicating the particular Clauses on which clarification is sought. <u>To date, no response received</u>.

New Uncertainties / Questions

The religious leaders, churches and religious organisations represented by FOR SA, are committed to obeying the laws of the land including the Regulations and Directions issued. This will be exceptionally difficult however as a result of the lack of clarity / ambiguity.

It is thus imperative that these questions be resolved as a matter of extreme urgency – particularly as various religious organisations have been operating / meeting for 24 days already (since 1 June)!

Issues for Urgent Clarification

(Refer FOR SA's letter to the Minister dated 1 June)

- 1) Religious leaders' status as "essential workers" not recognised in the Regulations / Directions.
- 2) Definition of "places of worship" does it include homes?
- **3) Definition of "religious gathering"** does it include drive-in gatherings?
- **4)** Limitation of 50 persons is it per site / hall with separate entrance? Also propose that the limit rather be fixed as a % of the normal seating capacity.
- 5) Children's church should be resolved by anticipated Directions by Minister of Social Development regarding "partial care" facilities.

FOR SA Contact details

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