



## Commentary

### “Un-capturing Religion”

#### **Towards a better future for religious communities and the CRL Rights Commission in South Africa**

*A commentary by Professor Dr. Christof Sauer in view of the impending appointment of new CRL Commissioners. Presented during a keynote lecture at an academic conference on “Abuse of religion and gullibility of the public in the democratic South Africa” organized by the College of Human Sciences of the University of South Africa, in Pretoria, 6–7 March 2019.*

**The South African government must regain the trust of the religious communities. Wisely choosing the next Commissioners for the Commission for the Promotion and Protection of Cultural, Religious and Linguistic Rights (CRL) is crucial for that. The actions and attitudes of the Commission in the past five years have drastically lowered its credibility in the eyes of most religious communities.**

Five characteristics could ensure a better future of the CRL. These partly stand in contrast with my observations about the approach the CRL has adopted in the past. It has been trying to deal with problems caused by a minority of self-appointed, self-serving individuals pretending to be pastors or prophets with miraculous powers. But the approach of the CRL has actually caused greater problems. Some of the proposed measures would actually lead to unconstitutional restrictions for bona fide religious communities.

**1. The CRL is mandated to be the best friend and defender of the rights of religious communities. Therefore, instead of heavy-handed hostility, a friendly attitude must characterize the commissioners and the commission.**

The investigations of CRL started completely on the wrong foot and poisoned the atmosphere from the start. Bona fide religious communities were deeply upset, when in 2015 they received subpoenas to attend so called “hearings” before the CRL without proper explanation. Non-compliance was threatened with a jail sentence.

**2. Instead of stirring up emotions by rash media statements, a commitment to presenting honest facts is required. Instead of sloppy research and the propagation of misleading half-truths, thorough evidence and documentation leading to sober conclusions is indispensable.**

The CRL has claimed before the COGTA Parliamentary Portfolio Committee that its recommendations had the support of major religious groups, which was promptly refuted by letters and authorized representatives of some of said groups. At COGTA’s hearing into the CRL’s Report on “The Commercialisation of Religion and Abuse of People’s Belief Systems”,

when over 40 denominations and organisations made representations in October 2017, MP Kevin Mileham accused the CRL Commission of having misled Parliament.

Academics responding to the CRL Report lambasted it as sloppy and drawing generalized conclusions without sufficient evidence.

COGTA observed that most of the religious organizations raised the issue that the CRL did not conduct sufficient public participation. COGTA therefore recommended that a “National Consultative Conference” should be convened to discuss challenges, out of which a “Charter for self-regulation” and a “Code of conduct” should arise.

### **3. Instead of controlling, the CRL must be empowering. Instead of bullying religious leaders, the CRL must be facilitating.**

In September 2018, the CRL unilaterally appointed the controversial Pastor Ray McCauley of Rhema Bible Church to convene a “Religious Leaders’ Summit”, but excluded those who had spoken critically at COGTA. McCauley had in the past also been the chair of a national religious leaders forum that was created by former president Zuma, and which had the effect of side-lining the South African Council of Churches and other established religious networks.

At the Religious Leader’s Summit called conjointly by the CRL and McCauley at Rhema Bible Church in Sandton on 13 February this year, the CRL chairlady pressured the approximately 750 religious leaders gathered: “Tell the nation how you are going solve all these problems that we are bombarded with all the day”. She concluded: “We need to warn you ... government will take over if you don’t take these things seriously enough.”

In protest to such thinly veiled threats, and what was perceived as a predetermined agenda and outcome, the religious leaders asked the CRL Commission to leave the gathering in order to let them deliberate among themselves uninhibited. According to the report by the task team, entitled “National Religious Consultative Forum”, the Summit was attended by “95% of prominent religious leaders”.

### **4. Instead of predetermined outcomes, hidden agendas and manipulated processes, full transparency and open process is required for the CRL dealing with religious communities.**

I was a participant at several crucial meetings and it seems to me that the CRL created great confusion. While claiming to have “handed over” the matter to the religious communities, the CRL itself issued invitations to the Religious Summit on its own letterhead. The status and authority of the Summit remained unclear and seems to have shifted as it suited CRL.

The invitation was circulated to some barely a week before the event. The intended outcomes however were already announced at a CRL press conference in November 2018, but the agenda for the meeting and documents to be deliberated on were only communicated to the participants the day before the meeting took place.

The Religious Summit in the end came up with four motions. These affirmed that CRL needed to excuse itself and that the religious communities themselves would take a consultative process forward, culminating in a national conference in October 2019. These motions were contained in a report officially communicated to the CRL the next day by the task team of the Religious Summit. However the CRL deliberately chose to ignore these motions and to withhold them from the 600 delegates at the CRL National Consultative Conference (NCC) on 25–26 February 2019, despite interventions from the floor. Moreover, only 30 religious leaders had been invited, despite the fact that resolutions on major issues regarding religious communities were to be voted on.

Instead of the motions by the Religious Summit, the CRL made the NCC adopt four contrary resolutions for the next five-year term of the CRL, which mandate CRL to pursue its proposed

“Peer Review Mechanism”, a process to control Religious Practitioners, and pushing the CRL proposals previously made to Parliament.

**5. The CRL needs to allow diverging opinions within the CRL Commission itself as well as competing interpretations and narratives in civil society. The CRL must not be dividing the religious communities but has a mandate to foster unity in diversity.**

I find it surprising that a Commission of 12 members would unanimously come up with the “one and only” normative solution for a complex problem and then pursue its implementation relentlessly.

An additional example is the creation of a competing Code of Conduct in a top down approach by the CRL. There is a draft “Code of Conduct for Religions in South Africa” which resulted from a bottom up process within civil society. It had been proposed at the COGTA hearings as a natural counterpart to the “South African Charter for Religious Rights and Freedoms” which has already been endorsed by the majority of religious groups, representing over 22 million people in South Africa. This Code had reached its third draft after an extensive and widely mandated consensus process by mid 2018. The CRL however chose to ignore this. It developed its own “Code of Best Practice for Religious Organizations” and “Principles of Good Governance for Religious Bodies”, claiming that it could not leave religious communities “with nothing to start with”. The CRL handed over its documents to Ray McCauley mandated with convening the Religious Summit, in the expectation that these be revised and adopted there. However the meeting did not adopt the CRL documents. A report from the Commission at the Religious Summit dealing with the topic is still pending.

Regarding the divisiveness of the CRL’s actions, representatives of African Traditional Religions, African Initiated Churches, as well as Pagans and others have complained of having been left out or marginalized by the CRL’s endeavours. The member churches of the South African Council of Churches are divided over the question whether to support the CRL proposals or not. The CRL effectively has caused a rift among religious communities, is what various religious leaders bemoan. This is contrary to the objects of the Commission “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” (CRL Act, Part 1, Section 4b).

In light of this troubled history, I advise the following:

### **Conclusion**

**It seems essential that a completely new set of CRL commissioners be appointed. Only a new commission will enable a new start, untainted from past flaws in procedure and attitude.**

If these new commissioners personify the characteristics presented above, I have hope for a better future of religious communities in South Africa.

The South African Government and the ruling party, the African National Congress, in appointing the next Commissioners, must show their cards, whether the pursuits of the previous CRL Commissioners were actually the agenda of the Government and the ANC or not. People at the grassroots and religious communities might not distinguish this otherwise.

**The CRL Rights Commission is a unique and helpful instrument to promote and protect the rights of cultural, religious and linguistic communities. However, it must be uncaptured from controlling agendas.**

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