

Dear Ms Mkhwanazi Xaluva

Regulating the Church will result in Government weakening the role of the Church in our society.

I write this letter to you following months of turmoil brought about by the work of the commission you lead. I felt compelled to raise these matters publicly.

In December last year, South Africans celebrated the 20th anniversary of our globally renowned constitution – the supreme law that guarantees us many rights including freedom of religion, belief and opinion.

This very constitution continues to affirm the critical role of Chapter 9 Institutions such as the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Minorities (the Commission) whose role is to monitor, investigate, and research any issue concerning the rights of cultural, religious, and linguistic communities.

Following a series of salacious media headlines and reports of believers seemingly being hypnotized by their leaders to do all sorts of abnormal things – ranging from eating grass and snakes, some to drinking petrol and others spayed with insect disinfectant to be cured of various evil spirits – the Commission you lead launched an investigation into what they called the ‘commercialization of religion’ to curb apparent and prevalent abuses and malpractices.

I wish to reiterate – as a pastor and leader of believers, I abhor all forms of exploitation, whether they are committed by politicians, religious leaders, employers or people in leadership positions. It is unacceptable for anyone to use their office to take advantage of people under their charge, especially the marginalized and the poor. In fact, I believe it is even more ungodly and wicked to use the Bible or any sacred book to exploit God’s people – this makes such leaders no different from the imperialists who used the Bible to steal land from the natives.

I must say, my initial response was that of suspicion due to your conduct that came across as partisan and gave an impression that you had a made up mind to entrench the rising culture of turning our country into a nanny state by regulating religion. Furthermore, the approach of the Commission seemed to have been targeting particular sections of the Christian faith thus coming across as pushing a witch hunt with the intent to humiliate those with divergent views.

However, as a firm believer in our constitution and what it represents – I chose to support this investigation and subsequently welcomed its preliminary findings while awaiting the release of the final report. I am also pleased that the Commission collaborated with UNISA’s Bureau of Market Research to produce an ‘Investigative Study of the Commercialization of Religion in South Africa’.

I hope that the Commission’s recommendations in the preliminary report were inspired by the judgement made by judge Sandile Ngcobo over the case presented by state prosecutors with regard to the arguments on whether possession of cannabis was not the central aspect of Rastafarianism or even not the key values of Rastafalian religion. And judge Ngcobo declined to pass judgement and made the following statement:

“(A)s a general matter, the court should not be concerned with questions whether, as a matter of religious doctrine, a particular practice is central to the religion. Religion is a matter of faith and belief. The beliefs that believers hold sacred and thus central to their religious faith may strike non-believers as bizarre, illogical or irrational. Human beings may freely believe in what they cannot prove. Yet, that their beliefs are bizarre, illogical or irrational to others or are incapable of scientific proof, does not detract from the fact that these are religious beliefs for the purposes of enjoying the protection guaranteed by the right to freedom of religion. The believers should not be put to the proof of their beliefs or faith. For this reason, it is undesirable for courts to enter into the debate whether a particular practice is central to a religion unless there is a genuine dispute as to the centrality of the practice.”

I welcome the recommendations of the Commission’s preliminary report that highlights the need to protect religious freedom without attempting to regulate it from the side of the state and the need for the religious communities to regulate themselves more diligently in line with the Constitution and the law. It has always been my view that the religious communities should exercise their religious freedom with due regard to their legal, ethical and community responsibilities.

In a society where 86% of us are Christian and only 5% not believing in a specific religion as reported in the 2016 Stats SA General Household Survey – now more than ever believers have more reason to self-regulate, as long as levels of governance and compliance are higher.

I also accept that as religious organizations, we need to understand our responsibility in connecting Religious Freedom and recourse to ethical and community responsibility. A few issues from the recommendations remain a challenge and will require further engagement between the Commission and the religious communities, they include:

1. Accreditation of Religions
2. Licensing of a Religions
3. All religious institutions expected to affiliate or fall under an umbrella Organisation
4. Establishment of a Peer Review Council which will consist of peers from each Religion that will give permission to operate to individual religious leaders
5. Establishment of Peer Review Committee with a defined Structure and a Chairperson who will be a member of the Council

However tempting as it might be, all due to a few unscrupulous religious leaders – South Africans must refuse for their freedom of religion to be regulated. The have a responsibility to hold their leaders up to high moral standards that promotes values of accountability, transparency, trust, honesty, fairness and most importantly – consideration for the right to dignity of others.

Complacency has no space in religion, believers must never feel disempowered to act against human rights violations including those perpetrated by their leaders. The gospel promotes accountability and respect for fellow human beings. Believers today owe it the future generations to report crime and maladministration – so as to weed out the bad elements among us.

In doing the work of the Lord, religious leaders have a responsibility to promote human rights and we ought to be examples and role models of ethical leadership. Any act that seeks to exploit congregants or extort money from them must be condemned in the strongest terms. Any acts to use spaces of worship for money laundering, tax avoidance and fraudulent activities ought to be reported to the law enforcement agencies.

I fully support the decision of the Commission to refer some of the non-compliant, truant and unrepentant religious institutions to be handed over to organs of state, which deal with such matters, including the National Prosecution Authority (NPA), Department of Home Affairs, and the Department of Social Development.

Lastly, the Commission needs not be as reactive as it is right now – knee-jack approaches have never won the day, therefore I implore the Commission to do all in its powers to carry out its mandate to the fullest. I understand that in some instances, action can only start as a result of reported cases by citizens – however, if part of its mandate is to ‘protect’, the Commission will have to be more proactive so that all South Africans can enjoy the tangible benefits of our constitutional democracy as a result of its work.

Yours in his glorious name,

Pastor Enoch F Phiri