

ALTERNATIVE SOLUTIONS TO INTRUSIVE REGULATION OF RELIGION

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INTRODUCTION

In this document, FOR SA sets out practical, constitutionally sound alternatives to the proposed regulation of religion in South Africa. It demonstrates that accountability, protection of the vulnerable, and effective oversight can be achieved without new legislation and without undermining the constitutional right to religious freedom by placing religion under State control.

Six practical and implementable solutions are proposed for immediate adoption – measures that strengthen accountability, protect the vulnerable, and enable the CRL to fulfil its mandate while preserving the autonomy and diversity of South Africa’s faith communities. These solutions fall variously within the responsibility of religious communities, the mandate of the CRL and the State, or require cooperative engagement between them.

South Africa’s faith communities occupy a unique and constitutionally protected space. The [Constitution](#) guarantees freedom of religion, belief, and opinion ([section 15](#)) and recognises the autonomy of religious communities to practise, organise, and govern their internal affairs ([section 31](#)).

In order to give substantive content to the constitutional right to religious freedom, the *South African Council for the Promotion and Protection of Religious Rights and Freedoms* (SACRRF) were mandated to develop a foundational, cross-faith document through an extensive participatory process. This resulted in the [South African Charter of Religious Rights and Freedoms](#), together with its [“Explanatory Notes”](#), which was formally signed in 2010 by numerous faith leaders representing over 20 million people. The CRL Rights Commission was among its signatories. The same SACRRF organisation subsequently developed the [Code of Conduct](#) for the religious sector through a similar process.

Against this background, the CRL Rights Commission has raised concerns about misconduct within certain religious contexts. These concerns must be taken seriously. However, the CRL’s proposed legislative model, involving State-appointed or facilitated peer review councils with oversight powers over all religious practitioners and organisations, risks turning an inalienable constitutional freedom into a conditional licence issued by the State.

☒ Not only is this unconstitutional, but it is also unnecessary when viable alternative solutions already exist that can resolve the issues the CRL identifies.

SOLUTION #1: Strengthen and support ministers' networks and fraternals

Across South Africa, voluntary networks, councils, and fraternals of religious leaders already play a significant role in fostering accountability and strengthening ethical leadership. These structures, whether local, provincial, or national, are rooted in relationship, shared values, and mutual trust. They represent a flexible, community-embedded model of self-regulation that is far more responsive and respected than any externally imposed bureaucratic system.

Why this matters

Many of the challenges raised by the CRL arise not from the absence of regulation, but from isolation. Independent ministries or leaders without peer relationships may lack support, guidance, or external accountability. Strengthened fraternals can fill this gap.

What networks and fraternals can do

Well-resourced and intentionally supported fraternals can:

- **Identify and report misconduct** (especially criminal acts) to appropriate authorities without delay.
- **Provide education** on governance, financial compliance, labour requirements, children's rights, non-profit obligations, and general legal responsibilities.
- **Mediate leadership disputes** or succession challenges before they escalate into public conflict.
- **Offer relational accountability**, mentoring, and intervention where doctrinal or ethical concerns arise.
- **Develop trust**, connection, and coherence across sectors, reducing isolation and vulnerability.

These functions strengthen the fabric of the faith sector while respecting doctrinal diversity.

Why legislation is unnecessary

Community-based accountability works because it is voluntary, relational, and values-driven. It honours each faith tradition's internal governance and avoids the constitutional dangers of direct or indirect State oversight or entanglement.

Implementation

Faith leaders are encouraged to:

- Join existing networks
- Create new local groups where none exist
- Formalise agreed standards of conduct
- Establish crisis-response or advisory teams
- Provide peer-driven training and workshops
- Create referral pathways for serious concerns

This approach builds accountability organically, without sacrificing religious freedom.

SOLUTION #2: Promote a faith-led voluntary Code of Conduct

During the 2018 parliamentary hearings into the CRL's "[Commercialisation of Religion](#)" [report](#), the COGTA Portfolio Committee's [2018 final report](#) recommended that the religious sector develop a **Code of Conduct** to strengthen accountability. This is possible **without** introducing legislative regulation of religion.

The process that was followed

In 2019, more than 70 senior religious leaders, representing major denominations, minority faiths, and interfaith bodies, met at *Christian Family Church International*. At this meeting, TEASA proposed the creation of a Code of Conduct. The proposal was supported by the *South African Council of Churches* (SACC), other interfaith organisations, and the assembly of leaders present.

The **South African Council for Religious Rights and Freedoms (SACRRF)** were assigned and mandated to draft this Code. The Code of Conduct sets out the responsibilities that correspond to the rights set out in the **South African Charter of Religious Rights and Freedoms** and was a natural extension of the SACRRF's earlier work on the Charter.

What the SACRRF-drafted [Code of Conduct for Religions in South Africa](#) provides:

- Identifies ethical standards and responsibilities for leaders
- Articulates behavioural expectations for religious leaders
- Encourages transparency, good governance, and integrity
- Promotes accountability without State interference
- Can be adapted to the doctrines of different faith traditions

It is a resource created *by the faith sector, for the faith sector*, through a legitimate, inclusive, and faithful process.

Why legislation is not required

The CRL does not need to (and therefore should not) create its own compulsory Code of Conduct through legislation. Such an approach would violate constitutional protections, undermine religious independence, and interfere with the doctrine and internal governance of religious communities.

Implementation

Faith organisations are encouraged to:

- Incorporate the **South African Charter of Religious Rights and Freedoms** and the **Code of Conduct for Religions in South Africa** into their constitutions or governance documents
- Use the Code of Conduct as a basis for evaluating leadership behaviour
- Create internal disciplinary processes aligned with the Code of Conduct
- Publicly affirm commitments to ethical and transparent practice.

☑ This allows faith communities to model integrity while remaining free from direct or indirect State control.

SOLUTION #3: Strengthen investigation, enforcement, and remedial action

No one may use religion as a shield for crime or misconduct. All abuses — physical, sexual, financial, or psychological — must be confronted decisively. **South Africa already has comprehensive laws** dealing with every category of wrongdoing identified by the CRL.

Existing laws already cover all concerns

The following comprehensive legal frameworks are already in place:

- **Criminal law** (assault, sexual offences, fraud, theft, intimidation, etc.)
- **Children’s Act** (mandatory reporting, safeguarding requirements)
- **NPO Act, tax law, anti-money laundering regulations**
- **Consumer protection and advertising standards**
- **Labour law and public health regulations**

The problem is not a lack of law — it is the inconsistent *enforcement* of existing law.

The CRL’s existing powers are sufficient

Under the [CRL Act](#), the CRL already has the authority to:

- Monitor, investigate, and research
- Summon witnesses and call for documents
- Resolve conflicts and disputes
- Refer cases to SAPS, NPA, Social Development, SARS, or other authorities
- Make recommendations for remedial action

The CRL does **not** need additional powers or new legislation to act effectively.

What needs strengthening

To be more effective, the CRL should enhance its capacity to:

- Receive and triage reports of misconduct
- Conduct preliminary investigations within its mandate
- Refer cases accurately and promptly to the appropriate authorities
- Create a hotline or digital reporting portal for faith communities
- Promote awareness of legal obligations
- Facilitate cooperation between faith bodies and enforcement agencies
- Research possible gaps or shortcomings in existing general laws

Implementation

Faith communities can support this by:

- Encouraging immediate reporting of criminal conduct
- Providing factual documentation where needed
- Helping congregants understand their rights and obligations
- Establishing their own ombuds persons on spiritual abuse
- Establishing voluntary financial accountability council(s) for religious organisations

☑ This protects victims, strengthens accountability, and respects legal constitutional boundaries.

SOLUTION #4: Encourage practical training and education for religious practitioners

Strong governance, legal compliance, and ethical leadership are essential components of healthy faith communities. Many instances of non-compliance arise not from intentional wrongdoing, but from **lack of awareness** about (or lack of resources to meet) legal and administrative requirements.

Training is essential — but must remain voluntary

Requiring State-approved (theological) qualifications as a condition of ministry would violate freedom of religion. It would enable the State to determine what constitutes acceptable ministry — an intrusion that is incompatible with constitutional protections.

Faith communities must remain free to:

- Establish their own theological/religious training institutions
- Recognise calling based on doctrine and tradition
- Set internal standards and expectations for leadership
- Train leaders in ways consistent with their beliefs

How the CRL can help: Removing obstacles to accessible faith-based education

Government policies that inadvertently hinder theological formation or vocational training should be reviewed and corrected, ensuring genuine freedom of religious education. The scrutinising of such policies falls within the explicit mandate of the CRL.

Existing voluntary initiatives

Several voluntary bodies already help equip and professionalise ministry leaders, including:

- The [Association of Christian Religious Practitioners \(ACRP\)](#) — a SAQA-recognised professional body that supports ethical practice, CPD, and recognised training pathways.
- The [South African Institute for Church Administration \(SAICA\)](#) — offering governance training, compliance support, and consulting services for churches and ministries.

These initiatives demonstrate how the faith sector is already raising standards without the need for State intervention. It is also welcomed that state universities, such as [Unisa](#) offer short courses in theology by distance education for pastors, lay preachers and church leaders.

Implementation

Faith communities are encouraged to:

- Provide regular training on legal compliance
- Partner with voluntary accreditation or training bodies
- Offer governance support to smaller or newer ministries
- Recognise prior ministry experience within their structures
- Consider establishing an observatory on world views in South Africa with a research and educational mandate

Voluntary training strengthens integrity while protecting religious independence.

SOLUTION #5: Strengthen child and vulnerable-person protection

All religious organisations must fully adhere to current child-protection and safeguarding laws, guaranteeing that every place of worship remains a safe environment for everyone. Protecting children and vulnerable individuals is both a legal mandate and a moral imperative. Every place of worship must be safe, and every faith community must demonstrate a zero-tolerance approach to abuse.

Legal requirements already exist

The law already obliges religious organisations to:

- Obtain **police clearance certificates** for staff and volunteers
- Conduct checks through the [National Register for Sex Offenders \(NRSO\)](#)
- Conduct checks through the [National Child Protection Register \(NCPR\)](#)
- Report abuse under the [Children's Act](#)
- Implement safeguarding and supervision practices

No new legislation is necessary to enforce these standards.

Operational challenges — not legal gaps

The barriers are often:

- Lack of awareness
- Lack of administrative capacity
- Limited coordination with statutory bodies
- Confusion about reporting pathways

Practical steps

Faith communities should:

- Implement a written safeguarding policy
- Include screening, supervision, training, and incident reporting
- Establish confidential processes for internal complaints
- Support victims with reporting crime, counselling or referrals
- Ensure compliance through annual reviews
- Consider appointing ombuds persons on spiritual abuse

How the CRL can help within its mandate

The CRL can:

- Facilitate cooperation between SAPS, NPA, DSD, and faith communities
- Promote awareness of legal duties
- Host a central reporting access point
- Assist with referral of legitimate cases

☑ This strengthens protection for the vulnerable while preserving religious autonomy and avoiding unnecessary State regulation.

SOLUTION #6: Create a non-intrusive register of religious practitioners and organisations

A simple, voluntary register of religious practitioners and organisations can improve communication, education, and coordination, **without** giving the State any power to approve, vet, or license religious practitioners, organisations or activity.

Registration versus restrictive regulation

It is essential to distinguish:

- **Registration** = a record-keeping function
- **Restrictive regulation** = State approval or permission to operate

The former is acceptable within constitutional protections; the latter is not.

What the CRL is already empowered to do

Under the **CRL Act**, the CRL may maintain databases for:

- Monitoring
- Research
- Education
- Communication
- Facilitating cooperation

But it **may not** use such a database to regulate or control religious practice.

A light-touch, affidavit-based model

A practical, non-intrusive model includes:

- A simple “take-on form” completed under oath
- Limited information (identity, contact details, organisational details)
- Annual updates or updates upon material change
- Clear warnings against providing false information (similar to FICA/RICA declarations)

This improves accuracy and communication without creating control.

Why is a voluntary register beneficial?

- Helps identify trends or areas needing education
- Allows rapid communication on legal updates or safeguarding guidance
- Assists with liaison between religious bodies and government departments
- Provides basic data without intruding into doctrine, governance, or internal affairs

Implementation

Faith communities should support a register that is:

- Voluntary
- Non-intrusive
- Clearly separated from regulatory authority
- Used solely for education, engagement, and research

This maintains independence while strengthening cooperation.

CONCLUSION

South Africa's Constitution safeguards the right to freedom of religion, belief, and opinion as a fundamental aspect of our democracy.

According to [Section 36 of the Constitution](#), this right may only be limited in terms of law of general application to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom, taking into account all relevant factors.

Crucially, it must use the least restrictive means available to achieve a legitimate purpose.

The six practical solutions presented in this paper clearly show that the concerns raised by the CRL can be effectively addressed within the current constitutional and legislative framework. These measures encourage accountability, ethical leadership, and protection for the vulnerable, while fully maintaining the independence of faith communities.

Since these alternatives already exist and can address the legitimate issues raised, they must be fully implemented and explored before considering any additional legislative intervention. To do otherwise, by imposing new, more intrusive forms of regulation, would be both unnecessary and unconstitutional, breaching the constitutional requirement that rights may only be limited in the least restrictive manner possible.

The way forward, therefore, lies not in control but in co-operation. Faith communities, working alongside the CRL within its current statutory mandate, can lead reform from within by modelling integrity, transparency, and accountability. In doing so, they will uphold the spirit of the Constitution, strengthen public trust, and preserve the essential freedom of religion that underpins South Africa's democratic order.

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