

AFRICAN CHRISTIAN DEMOCRATIC PARTY  
SUBMISSION TO THE CONSTITUTIONAL ASSEMBLY  
THEME COMMITTEE FOUR

FREEDOM OF RELIGION, BELIEF & OPINION

Content of the Right

The ACDP is in full agreement that this right must be included in the Bill of fundamental rights.

South Africa is a Christian country of up to 80% adherents, and this is besides the other religious faiths in our country.

We are of the opinion that a State represents the will of the people, and if the will of the people represents a large interest in religion, then South African is a State of religious people.

We, therefore, believe that South Africa cannot be defined as a secular State.

We believe that a secular State, by its very nature, will hold the following dangerous implications.

it is an attempt to erase the belief that God is present in the interplay between the human and State spheres.

it reduces the meaning of humans as a disposable entity.

it stands outside of the limitation of God's authority.

A secular State is a distortion of the meaning of human society. Society is made up of a collective unit of people, each with a spirit nature that invests into the State its spiritual character.

By virtue of this religious value, human society offers its allegiance to the State by ascribing to it the recognition to protect its citizens against any irreverent prescriptions. In view of this religious-normative responsibility, the secular State is an anathema that usurps and denies the rights of the God-created individual to function within a non-secular State.

We further believe that the strength of the sovereignty of the constitution will lay in its recognition of God as sovereign over the state, be reflected in the preamble of the Constitution that states we are a nation under that authority of God.

As South Africa is blessed with a multitude of faiths and religions, such a preamble will provide for a great deal of religious tolerance.

As freedom of religion holds great advantages for the regular function of the State, with regards to responsibility, lawfulness, productivity, tolerance, etc., it is of equal right the religious observances should be tolerated in State and state aided institutions, eg. schools, government institutions and others.

The Bible teaches us that Man does not live by bread alone, "but by every word that proceeds out of the mouth of God," (Matthew 4:4). It is certainly true that once our bodily needs for food, water, shelter and clothing have been satisfied, human beings also seek to have their physical, emotional, mental and spiritual needs met. This would involve acquiring of information, enquiring about destiny of life and the world, reflecting on religious questions, etc. However, these activities seem to create avenues of hostility among people, instead of harmony. Not only are we inclined to oppress, persecute, exploit and deprive each other from material gains, we are also inclined to persecute others who have a belief different to ours.

The ACDP is, however, against such types of authoritarianisms and despotism, but we will oppose any belief system that includes in its practise, activities such as murder rituals, cultic practises, witchcraft, or any form of repressive acts. Here we include practises of Satanism, anarchic belief, etc.

Government is instituted to uphold justice and moral integrity, and in instances where these principles are perverted, these should be prosecuted against.

Government authorities have been ordained by Almighty God for the preservation of law and order, for the punishment of criminals, for the rewarding of those who are good, and for the promotion of all godliness, morality and honesty (c.f. Genesis 6-5-6, Exodus 18:15-23; Romans 13.3-4; Timothy 2.-1-2, Titus 2:1-2.)

Authority is to be feared by evil-doers and in as much as political government is a servant of God, which does not bear the sword as a mere ornament, but which, as God's servant, wields the sword and thereby wreaks vengeance and punishes evil-doers.

The ACDP believes that, any belief-system that stray from Godly morality and perform murderous rituals should be seen as evil-doers and such systems prohibited.

We further oppose any State interference in the normal function of religious practises or reject the idea of a State religious Ministry that regulates religious affairs.

Furthermore, no rule should be made to prohibit members of the clergy from holding public office, insofar as the role of the State and Church is not confused.

With regards to academic freedom and educational preferences, section 32(c) of the interim constitution proceeds to give "every person the right to establish, where practicable, educational institutions, based on a common culture, language or religion, provided that there shall be no discrimination on the grounds of race." The ACDP believes that this right is compatible with the freedom of religion and should be included as stated.

The ACDP accepts Section 14 of the Constitution on religion, belief and opinion as a whole, with S14 (1 & 2), to read as follows:

- 1 "Every person shall have the right to freedom of conscience, religion, thought, belief and opinion, which are consonant with public order and Godly morality, which shall include freedom in institutions of higher learning."
2. "Without derogating from the generality of subsection (1), religious observances may be conducted at State or State-aided institutions, basis and attendance at them is free and voluntary."

## Application of the Right

### 2.1 Nature of the Duty to be imposed on the State.

Section 14 (1), as revised by the ACDP imposes the duty upon the State to ensure that religious practises uphold public order and Godly morals.

The State's obligation in respect of section 14 (2) where it mentions that religious observances, which are conducted at State or State-aided institutions, should be regulated "under rules established by an appropriate authority for that purpose," is unacceptable and the ACDP rejects any State body that aims to regulate religious affairs.

### 2.2 Application to common law and customary law

The right should apply to common laws and customary law.

### 2.3 Should the right under discussion impose a constitutional duty on actors other than the State?

The rights are applicable to all levels of Society in both a horizontal and vertical manner. Because of it's general definition, no-one is excluded in respect of this right. A moral responsibility is clearly attached to this right.

### 2.4 Who should be the bearers of this right?

All natural persons are bearers of this right, yet juristic persons, like churches, religion and academic institutions may also lay claim to the right.

2.5 Should the right under discussion be capable of limitation by the legislative?

Religious beliefs that manifest themselves through ritual murders, enforced polygamy, cultic expressions, or violence explicitly promoting public immorality, should have limitations imposed.

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