

BRIEFING MEMORANDUM

Subject: What Changed on 11 February 2026?

A follow-up report to FOR SA's constituency

The engagement with the Portfolio Committee on Cooperative Governance and Traditional Affairs (COGTA PC) on 11 February 2026 marked a significant shift in the ongoing dispute between the CRL Rights Commission and South Africa's faith communities.

Until now, the CRL's Section 22 process and its push toward a legislative framework for regulating religion had largely advanced within the CRL's own institutional space and agenda. On 11 February, that changed. For the first time since the CRL revived its regulatory agenda, Parliament formally convened a multi-stakeholder hearing to examine the concerns raised by faith communities.

The matter has now moved decisively from a unilateral CRL initiative to parliamentary oversight scrutiny.

This shift is not cosmetic. The COGTA PC confirmed that it is actively engaging the issue, has sought legal opinion, and will continue consultations before reporting back to the Speaker of Parliament. No endorsement of legislation was given. No mandate for state regulation of religion was affirmed.

Instead, the COGTA PC publicly reaffirmed two core principles:

- Freedom of religion is constitutionally protected, and
- Abuse must be addressed within a constitutional framework.

Another important development was the visible demonstration of cross-faith consensus. The presentations were not confined to one tradition. Christian, Muslim and African Traditional Spirituality representatives all raised concerns. The message was consistent: ***abuse and criminal conduct must be prosecuted fully and without hesitation, but the creation of a religion-specific regulatory regime is unnecessary and constitutionally problematic.***

This firmly dispels the suggestion that opposition to the CRL's proposals is confined to one sector of the Christian community. It is now clearly a broader constitutional concern shared across traditions.

The litigation context is also now politically visible. Two court challenges — one by the South African Church Defenders (SACD) and another by the Muslim Lawyers Association (MLA) —

were referenced before Parliament. It is highly unusual for faith communities to litigate against a Chapter 9 institution established to protect their rights. The very existence of these cases signals serious institutional strain.

Importantly, Parliament is now formally aware that the Section 22 process proceeds under active legal challenge.

The 2018 precedent has also been firmly reintroduced into the public and parliamentary record. Between 2016 and 2019, the CRL's earlier proposals for a legislatively backed peer review mechanism were fully ventilated. After six days of hearings, Parliament declined to adopt legislation and preferred self-regulatory solutions within the existing constitutional framework. That history now stands at the centre of the debate once again. The essential question before COGTA PC is simple: what has materially changed since 2018 to justify reopening a path that Parliament previously declined?

At the same time, viable alternatives are now formally before Parliament. The Religious Freedom Charter, the collaboratively developed Code of Conduct, the growth of SACOFF and other accountability structures, and FOR SA's detailed Alternative Solutions proposal are all on record. The debate is no longer framed as "regulation or nothing". It is now properly framed as a constitutional choice between coercive state intervention and workable, less restrictive alternatives that respect freedom of religion while addressing abuse decisively.

It is equally important that the tone of engagement on 11 February was measured and principled. Faith representatives unequivocally condemned abuse and affirmed the enforcement of existing laws. The arguments were rooted in constitutional analysis, particularly the requirement under section 36 that any limitation of rights must be necessary, proportionate and the least restrictive means available. ***This disciplined approach strengthens credibility and reinforces that the concern is not to avoid accountability, but to protect constitutional equilibrium.***

What has not changed is that the Section 22 Committee remains in place, litigation continues, and the CRL has not formally withdrawn its regulatory trajectory. The COGTA PC has not yet issued a binding directive. The process is ongoing.

However, the environment has changed significantly:

- ✓ ***The CRL's regulatory project is no longer advancing without scrutiny. It now proceeds under parliamentary oversight, legal challenge and broad public attention. Cross-faith opposition has been demonstrated.***
- ✓ ***The absence of a parliamentary mandate for legislation has been reaffirmed.***
- ✓ ***Alternatives have been placed on record.***

In short, 11 February 2026 did not resolve the conflict, but it did change the arena in which it is being contested. The issue is now firmly situated where it belongs: within Parliament, within the courts, and within the constitutional framework that protects both freedom of religion and the rule of law.

FOR SA remains cautiously optimistic. Although we are encouraged that Parliament has taken these concerns seriously, we remain vigilant. ***The protection of faith and freedom requires steady, principled engagement, contesting the CRL's agenda at every turn.*** We are grateful to all who continue to stand with us in this important work.
