

Is the Witchcraft Suppression Act (No 3, 1957) doing an injustice to the neo-pagans in South Africa?

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Abstract

The presence of the so called neo-pagans became well-known since 1994 in South African with their claims that their religious, cultural and constitutional rights as individuals and as a group are endangered by the Witchcraft Suppression Act (No 3, 1957). Their constant demands that the Act must be repealed seem to become a controversial and a very demanding issue for the authorities. The aim of the research was to determine if the claims and demands of the so called neo-pagans are legitimate and if Act No 3 (1957) is doing an injustice to them.

Keywords: affiliation, bona fide, discriminative, doctrine, incetations, neo-paganism, transgressing.

1. Introduction and background

A prominent group of appellants in South Africa, trying to have Act No 3 (1957) reviewed and repealed, is the so-called neo-pagans, also referred to them selves as pagan-witches and self-identified witches. This group enters the scene after the promulgation of the Constitution in 1996. Three splinter groups of neo-pagans can be identified, namely the Pagan Federation of South Africa (PFSA) that was formed in 1996, the South African Pagan Rights Alliance (SAPRA) formed in 2004 and the Pagan Council of South Africa (PCSA/SAPC) formed in 2006. These three mouthpieces – PFSA, PCSA (SAPC) and SAPRA – make the public very well aware of their assumed rights and status in terms of Section 5 of the Civil Union Act (No 17, 2006). Specific prominent is their demand to have Act No 3 (1957) repealed because they argue that it transgresses not less than 11 clauses of Chapter 2 of the Constitutional Act and the Bill of Rights. Their main opinion is that Act No 3 (1957) penalises them as a religious group in their daily life and has the implication to criminalise them ("Neo-paganism", 2014; SA 1957, 2006; SAPRA, 2014; "The1957 Witchcraft", 2014; "Witchcraft Suppression", 2014a).

It seems that the so-called neo-pagans, besides their actions through the PFSA, PCSA (SAPC) and

SAPRA, in an aggressive effort to strengthen their legal appeal with the South African Law Review Commission (SALRC), also motivated their so-called members to agitate as individuals to have the Act repealed. The PCSA (SAPC) and SAPRA, with the help of support organisations like the Lawyers for Human Rights (LHR), tried in vain since 2000 to have Act No 3 (1957) repealed or reviewed with various applications to the SALRC (“Make witchcraft”, 2014; “Neo-paganism”, 2014; SAPRA, 2014; “The Witchcraft”, 2014; “Using the”, 2011; “Witchcraft Suppression” 2014a,2014b).

2. The self-promotion drive and incitation of the neo-pagans

It seems that the neo-pagans are making well-used of modern telecommunication aids in the form of websites, newsletters and journals and various other public efforts to promote and to mark themselves exclusively as an aggrieved party inside the South African religious and cultural community (“Make witchcraft”, 2014; SAPRA, 2014; “The 1957 Witchcraft” 2014a, 2014b; “Using the”, 2014; “Women, witchcraft”, 2016); “Witchcraft Suppression” 2014a;

Various exclusive claims, statements, assumptions and allegations are made by the neo-pagans. They lay claim that they, as the true witches, hold the sole right to the ownership of the names “witch” and “witchcraft”, together with the right of interpretation of the meaning/description of these names; that they can and may describe themselves as “witches”, ignoring outright the legal regulations of Act No 3 (1957) forbidding it; that they claim to have the right to practise processes that are forbidden in terms of Section 1 of the Act (but failed on the other side to describe fully which of the rules they are claiming to transgress their rights or which they feel are discriminated against them); they claim that they did not, will not and shall not agree to accept the regulations of Section 1 of Act No 3; they allege that their practices contravening Section 1 of the Act were always part of their religion and culture; they claim also that they are a bona fide religion and an indigenous / traditional African religion / culture (SAPRA, 2014; “The 1957 Witchcraft”, 2014; “Using the”, 2011; “Witchcraft Suppression”, 2014a; “Witches want”, 2014).

3. A literature perspective

3.1 Leadership anomaly

In light of above claims, statements, opinions and allegations and the neo-pagans efforts to do away with Act No 3 (1957), it was found necessary to evaluate the general South African literature on neo-paganism as well as the self-described literature of the neo-pagan fraternity in-depth.

These literature shows throughout contradictions of who they really as a group are, what their true mission, vision and aims are, their specific and real role in the South African religious and cultural setup, and thus primarily their right to appeal to the SALRC to have Act No 3 (1957) repealed.

Regarding literature it seems by the own references of the neo-pagans that the persons claiming to be the rightful appointed leaders, conveyers, spokes-persons and decision-makers for the neo-pagans in South Africa, that these so called representative executive power is centred in the hand of a few non-selective and self-appointed representatives of the three separate, and sometimes opposing, bodies active inside paganism in South Africa. This shows a small segment of individuals acting on behalf of the so called neo-pagans, reflecting their own views, aims and intentions. What is immediate clear is that these splinter bodies and their insignificant leaderships failed totally to offer a trustworthy membership-listing or -numbering of neo-pagans in South Africa. This outcome puts immediately not only the existence of true paganism in South Africa in doubt, but also puts the existence of a true and powerful leadership, representing a significant group of individuals with constitutional rights, in doubt. The impression of a very small group of activists meddling in trivial matter or an aimless few law-obstructionists, falsely reflected them selves as a significant religious and cultural group fighting specific for religious freedom, is put to the foreground (“Neo-paganism”, 2014; SAPRA, 2014; “The 1957 Withcraft”, 2014; “Using the”, 2011).

3.2 Indigenous African religion and culture affiliation

The neo-pagans of South Africa are undoubtedly not at all an indigenous African religious or African cultural group as they profess. There is no linking evidence of Black supporters to make the so called South African neo-pagans a movement that is African-founded or driven. Indeed, an evaluation shows that most of their so-called spokespersons and leaders are from European and other non-African descent. Further, in linking to their claim of an African root, it is important to note that “witches” and “witchcraft” do have negative connotations in the traditional African context. It is not terms generally used by traditional African religions to identify themselves (“Neo-paganism”, 2014; SAPRA, 2014; “The 1957 Witchcraft”, 2014; “Using the”, 2011).

3.3 English/European affiliation

The South African neo-pagans claim to have also roots in the European- or English witchfamily or brotherhood, is also unfounded. It can at most be said that paganism is the indigenous pre-Christian body of religion of Old Europe, which had included branches such as Druidism and Wicca. A review of the history of the South African pagan-bodies, like the PFSA, reflects that although they pride themselves to have a constitution [assumed based on the United Kingdom Pagan Federations (UKPF)'s one], they do not enjoy international standing or affiliation with either UKPF or the Pagan Federation International (PFI). They seem to be outer eggs in the modern-day European pagan-family, isolated and limited in pagan-empowerment (“Make witchcraft”, 2014; “Neo-paganism”, 2014; “Using the”, 2011).

3.4 Knowledge and understanding of religion-philosophies

From their literature studied, the opinion is left that the so called South African neo-pagans experience a lack of knowledge and understanding of religion-philosophies, occultism, devil-worshipping, atheism or symbolism, reality and reasoning. The opinion is also that they reflect an inability to do self-introspection or to understand their own psyche, cognitive and emotional functioning inside the bigger South African Social System. This lacking seems to confuse them and is limiting their understanding of the true meaning of spiritualism, shamanism, atheism, witchcraft, occultism and even paganism that they underwrite (“Make witchcraft”, 2014; “Neo-paganism”, 2014; “Using the”, 2011).

3.5 Future life-style and -planning

The opinion that the neo-pagans are confused on their own future, lifestyle, life-planning, etc. seems to be confirmed by their unspecified reasons why they want Act No 3 (1957) to be repealed. Research-evidence shows that their lifestyle, -planning and-future are not endangered or discriminated against, nor are they in line for prosecution (Louw, 2016a, 2016b, 2016c).

This policy of non-discrimination is well-confirmed by the fact that they were never prosecuted over the years for their provocative use of the name “witch” and the fact that the law-enforcing agencies seemingly allowed them to practice unrestricted certain activities that are prohibited by Act No 3 (1957). It seems specific to be subsections 1(f) and (d) that reads “like to pretend to exercise or use supernatural power, witchcraft, sorcery, charms, enchantment or conjuration and fortune-telling and knowledge of occult science”, which are apparently contravened by them and are the reasons why they fight to repeal the Act. Linking to the opinion of confusion, as been reflected above, seems their apparent ignorance and the lack of understanding how the regulations of Act No 3 (1957) are partial applied by the South African Police Services (SAPS) and the National Prosecution Authority (NPA) in their prosecutions and conviction approaches of offences in terms of the Act (SA, 1957; SAPRA, 2014; “The 1957 Witchcraft”, 2014; “Witchcraft Suppression” 2014a, 2014b).

4. Exposure to prosecution

The neo-pagans' only possible exposure to prosecution by the regulations of Act No 3 (1957) is the transgression of specific subregulations, namely 1(a), 1(c) and 1(e). On the other side it must be noted that this specific transgressing are not only applicable on the neo-pagans, but on all South African citizens transgressing it, because it is an essential part of the country's criminal code to safeguard the individual's rights and life (Mazibila, 2014a, 2014b; "Neo-paganism", 2014; "Polisie het", 2014; SAPRA, 2014; "Women, witchcraft", 2016).

The partial sanction by the SAPS and NPA of certain neo-pagans' behaviour that can strictly be interpreted as criminal, seeing that it stands on the law books as offences, is not a failure of the Act, nor negligence by the SAPS and NPA to execute their duties or orders. It is basically an outcome of the fact that it becomes well-known over the years that neo-pagans are not generally involved in crime-related behaviour, as general literature and public talk try to profess. The SAPS and NAP understand, it seems, very well that the neo-pagans have suffered prejudice and misunderstanding, and that they have been mistakenly classed with the much feared satanic worshipping ("Make witchcraft", 2014; Mazibila, 2014a, 2014b; "Neo-paganism", 2014; "Polisie het", 2014; "Women, witchcraft", 2016).

5. Witch scape-goating

The negative classification of the witch as a criminal-intended and as a dangerous persona is a direct and a wrong outcome of the medieval scape-goating of the witch as a person who makes a conscious pact with the devil. This religious-narrative incorporated mythologies of the witch-graze of medieval times, but are still stigmatised and stereotyping up today by naming the witch as a harmful person and a danger to the community. In real life this early scapegoating [starting officially in 1957 in South Africa with Act No 3 (1957)], distracts successfully the attention from the true culprits in witch-related crimes: the traditional healer, insangoma, inyanga and the Christian and other religion priests and spiritualists doing criminal wrong. This one-sided scape-goating gives the delinquent traditional healer and various others a free pass to practice unhindered and unofficial since 1957 while the witch became criminal-blacklisted. In their prosecution approach, witchcraft, in its true context, is seemingly not solely seen by the SAPS as a unique supernatural-crime, executed specific by the "wizard" as described by Act No 3 (1957), but only as an inclusive name use to "umbrella" a series of other criminal activities committed by various other culprits as the "witch". This view of the SAPS is well-reflected by their "X-files" approach to prosecute only certain witchcraft criminal-related behaviour ("Make witchcraft", 2014; Mazibila 2014a, 2014b; "Neo-paganism", 2014; "Polisie het", 2014; SAPRA, 2014; "The 1957Witchcraft", 2014; "Women, witchcraft", 2016:

6. Philosophy of Paganism

The philosophy of paganism seems to be based on pre-modern, even childish, inclinations (that is possible also the guidelines that the SAPS and NPA follow in their lenient treatments of the neo-pagans in South Africa), as the under mentioned description expresses it ("Neo-paganism", 2014: para.4) : "Pagan belief is based on the notion of life as an endless circle, with the promise of rebirth, renewal and recycling as embodied in the 'wheel of the year', a calendar of events following the solar and lunar cycles. Rituals are performed, in sacred places, on occasions linked to cyclic events such as the full moon, the summer solstice, the spring equinox and the autumn equinox. Pagans emphasise healing, the use of magic, and journeys to the 'other world' through meditation, drumming, dance, divination, and the use of an assortment of sacred tools including crystals, candles, drums, and feathers. Paganism is associated with a strong reverence for the Earth, and for human life, and places women in a special position in religious worship".

It is clear that the South African paganism is not a religion as the neo-pagans here try to profess in terms of Section 5(1) and (2) of the Civil Union Act (Act No 17, 2006), but at most a kind of lifestyle of a small number of mainly White South Africans. It is only when this lifestyle becomes criminal-intended, that prosecution is enacted. On the other side the neo-pagans as a so-called "religious group" is so small that

law-breaking and –obstruction, to can be identified as a class-action for claims and demands in terms of the Constitution, is minimal (“Neo-paganism”, 2014; SA, 2006).

The South African neo-pagans fail in general to offer a written and proven religion-doctrine, although the PFSA claims to have a constitution and the fact that pagans call on writers like a Professor Philip Harrison and a Dr Dale Wallace to offer some authority and foundation to their belief-system. They fail further to show some constructive forms of religion-affiliation, religious opinions, standpoints, views and relation-references. They fail also to offer research-outcomes and -findings to support their beliefs and legal arguments, but save emotional and unsubstantial rhetoric on their so-called rights as a “religion”. Descriptions of the roles of the member, priest, healer and “practitioner of witchcraft” of neo-paganism, are also missing in their “religious writings” and websites, journals and newsletter manifestos. Their literature it seems is only aimed to promote and to mark themselves superficially, acknowledging unknowingly and unguarded their own limited definitions, understandings and the meanings of the concepts and connotations of “witch”, “witchcraft”, “pagan-witch” or “neo-pagan”. The opinion is left that the neo-pagan ideology is incomplete, superficial and without an academic- or religion-integrity in present-day South Africa. It is thus not without reason that there are references to the neo-pagans as “amateurs” (“Neo-pagans”, 2014; SAPRA, 2014; “Witchcraft Suppression”, 2014a; 2014b; “Women, witchcraft”, 2016).

7. Membership-numbers of neo-pagans in South Africa

The official membership of an organization is very important to can decided if a group can be a role player claiming rights per se for the group in terms of the Constitution and if claims are limited to the individual’s rights. Hereto even the South African neo-pagans unofficial membership-numbers seems to be unknown. Literature reflects an unorganised group of seemingly bohemian and uncommitted supporters. In 2003 a president of the PFSA, Norman Geldenhuys, reported 50 000 pagans in South Africa, while a later president, Donna Vos, reported in 2008 between 10 000 and 50 000 followers (a deviation of 40 000!). SAPRA itself, which seems to be the leader in the neo-paganism-marketing and-promotion, had reflected in 2007 only 3 000 to 5 000 neo-pagans in South Africa. The neo-pagans’ leadership’s above own admittance of an “unknown” about the true neo-pagans numbers in South Africa, reaffirms the reason why the South African Census 2011-forms did not made any provisions for questions on neo-paganism: basically because their numbers are too low to be significant. Memberships seems even to be below the 3 000 minimum numbers as estimated by SAPRA (“Make witchcraft”, 2014; “Neo-pagan” 2014; “Witchcraft Suppression”, 2014b).

The neo-pagans’ claim that they is a significant indigenous African or South African group, can further be tested by comparing their numbers with the South African Census (2012) statistics of 2001 on religion groups and their numbers. From these statistics it is reflected that only 124 946 Black South Africans (out of a total of 35,416,616 Blacks) were adherents of the indigenous African religions (this represent only 0.35%). Memberships to these indigenous African religions do clearly not include neo-pagans. When non-Blacks who can belong to the so-called “non-traditional” African religions, which can possible include neo-pagans, are calculated, the number are only 955 persons. This number is much less than the 3 000 to 5 000 neo-pagans as alleged by SAPRA (SA, 2012; “Witchcraft Suppression”, 2014a, 2014b; “Women, witchcraft”, 2016).

A more objective view about the true numbers of neo-pagans is obtained by the using of Pretorius (1999) calculation-approach that she had used to deviate between bogus and bona fide traditional healers (Her finding is that there is as much as 90% bogus healers versus a 10% bona fide healers). With this calculation-guideline (that she used effectively to offer some bona fide reliability on the alleged and unsubstantiated number of 200 000 traditional healers in South Africa), it seems that the bona fide neo-pagans are at most between 300 and 500 (using the SAPRA-count of 3 000 to 5 000) “uncommitted members” in South Africa, a

finding in line (although lower) with that of the South African Census (2012) number of 955. This declares also why there was no provision made on the South African Census 2011-form to include an explicit count of neo-pagans ("Neo-pagans", 2014; Pretorius, 1999: SA, 2012).

Above outcome alone contradicts outright their claim to be a committed and identifiable group, either religious, cultural, politically or ethnic, that must be recognised in terms of the Constitution, and thus have rights to may call on Chapter 2 of the Constitution (SA, 1957; "The 1957 Witchcraft", 2014; "Witchcraft Suppression", 2014a, 2014b).

8. Mental dysfunction and politico-religious-cultural dissidence

A point of concern that went unnoticed with unique cultural, religious and lifestyle groups worldwide and also in South Africa, is the role that mental impairment in the thinking, doings and motivations of religious and cultural dissidents play or can play. This dysfunction is specific common in politico-religion groups: it is common fact that religious and cultural dissidents are attracted by non-common ideologies and lifestyles in which mental impairment play a strong role. This is applicable on followers as well as leaders: Mental dysfunction can go unnoticed on for years before it is clearly manifested, with unsocial and illicit behaviour. The neo-pagans lack of aims, a vision, a mission, a meaningful doctrine, together with their obsession to be know as "witches" and to have Act No 3 (1957) repealed without any convincing reason why, seems more and more a point of concern (Anitos, 2014; "A not so", 2014; Briggs, 1998; Cronje, 2014; De Groot, 2014; Fihlani, 2013; Hofstatter, 2014; Marais, 2014; Swaab, 2014).

9. Conclusions

The misuse of the South African Constitution by groups and individuals including the present doings of the neo-pagans, have limits. The other citizens also have rights, privileges and freedom, equal to that of the neo-pagans, which must at all times be protected as Sections 12(2) and 32(1)(b) of Act No 108 (1992), a pre-1994 version of the Constitution, already was in 1992 clear and loud about (SA, 1992). There is also a great difference between private rights and public rights, with the last mentioned as the favoured (a fact that the individual-orientated leaders of the so called neo-pagans in South Africa must take note of). Differences between South Africans, as the neo-pagans try to profess about them selves and the rest of the population cannot be addressed or solved by misuses of the Constitution or other laws as the neo-pagans try to do (Titus, 2014). It is nothing less than religious, cultural and ethnic discrimination by the neo-pagans against the rest of the population.

It is clear that there exists a misunderstanding of the working of the South African Constitution, as well as a misused and disrespect for it by some South Africans since 1994 who think the Constitution gives them rights without limitations. The neo-pagans seem such a newcomer on the scene (Joubert, 2014; Shoba, Mokane, Joubert, 2014).

In retrospect is it clear that the South African neo-pagans are neither a religious nor a cultural group of social standing. They failed thus the legal test of the Constitution to be classified as a group who is been discriminated and criminalised by the Act. The neo-pagans of South Africa can at most be described as a social lifestyle-group of individuals that chose a way of life that is not special or unique, but can be deviated to a certain extend from the rest of the bigger society. Neo-paganism is at all thus not a religion, nor a culture, as the neo-pagans try to profess ("Make witchcraft", 2014; "Witchcraft Suppression" 2014a, 2014b;"Women, witchcraft", 2016).

The Act No 3 of 1957 fulfils fully to the neo-pagans present constitutional needs and rights to can and may practice a specific life-style as a South African group, as well as an individual neo-pagan. There is no evidence that the Act discriminates with criminalising the law-abiding neo-pagan who declares himself a witch in public. The only action against him is when he contravenes a focussed criminal law or threatens

or endanger the life of other people in terms of subsection 1(a) , 1(c) and 1(e) of the Act (SA, 1957; “Witchcraft Suppression”, 2014a, 2014b).

In studying the general literature on neo-paganism as well as their own writings, their arguments and objections, the opinion is left that the South African neo-pagans seem to be public nuisances and attention-seekers, persons apparently without any real aims or intention to better the community. Their continuous feeble efforts to be recognised, specific as a religious or a cultural group, are viewed by some critics as an obscure effort by SAPRA, which sees itself as a “faith-based human rights organisation”, simply to uphold the Constitution’s intentions to promote so-called guaranteed liberties and freedom (“Make witchcraft”, 2014; “Neo-pagans”, 2014).

These efforts are seen by other critics as dark and masked motives of the neo-pagans, as a commentator clearly pinpointed the issue out to the neo-pagans; not only by asking them for self-clearance about their intentions but also sending a clear warning about their true social, religious and legal position when he said straight and honestly (“Make witchcraft”: response 28): “You need to very carefully examine your motives because in fact, nobody really gives a hairy goat’s knee about a bunch of wannabees running around at full moon and purporting to be witches, etc”.

Their continuous appeals over many years to the SALRC to have Act No 3 (1957) repealed must be regarded by the SALRC as obstructive, unnecessary time-consuming and a cost for the taxpayer. It is time that “stop law” is executed on them, because they are a few quarrelsome grouse, looking for controversy to position only self-interest. Their foolish and aimless behaviour to be “witches” and to be recognised as role-players in the South African dissident-religion and -culture societies, is excellent reflected by the following remark (“Make witchcraft”: response 16): “The only real witches in the 21st century are a bunch of tree-hugging pagans and they don’t harm anybody. It’s time these superstitions were put into perspective and revealed for exalting what they are – superstitious nonsense. Kill the nonsense”.

The finding in principle by the SALRC more recently that certain sections of the Act can be unconstitutional, is not an approval at this stage that the Witchcraft Suppression Act (No 3, 1957) is a failure or is going to be repealed or changed immediately. The matter must first be considered by the law-makers and the Parliament. It will be wise for the SALRC in future to consider the neo-pagans appeals and actions still with great caution (SALRC, 2014; Ward, 2016).

If the SALRC and Parliament yield to their request to repeal Act No 3 (1957), a miscarriage of justice will be done, not only to the Constitution and the Bill of Rights, but to every law-abiding citizen. Act No 3 (1957) must be kept for the present to control and restrain possible dangerous, criminal-minded and mental impaired quasi-religious believers and other problem-makers (SA, 1957).

The Witchcraft Suppression Act (No3, 1957) is not doing any injustice to the so called neo-pagans. The South African neo-pagans are unrestricted in their daily and night life; they are free to hug as many trees as they wanted, to call them selves witches and to practice dances and rituals when the moon is full or the sun is shining. The golden rule that they must remember and respect at all times is that they are subordinate as every other South African to the country’s laws: not more, not less.

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CONFLICT OF INTEREST

The authors declare that they have no competing interests

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