

# 'Rituals' in the Public Sector: Appraising Cultural Practices, Professional Conduct and Labour Relations in South African Government Offices



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## ABSTRACT

This paper interrogated the legal, cultural and ethical tensions that arise when cultural and religious rituals are performed within South Africa's public sector workspaces. It critically examined how the constitutional rights to culture, religion and belief, enshrined in sections 15, 30 and 31 of the Bill of Rights, intersect with the demands of professional conduct, public accountability, and labour relations in state institutions. In multicultural democratic workplaces, state officials increasingly encounter the delicate task of balancing constitutional entitlements with the operational imperatives of public service delivery. Drawing on the Human Rights-Based Approach, this paper examined whether workplace rituals, particularly those involving implicit or explicit pressure on colleagues to participate, constitute a violation of freedom of belief or an unjustified limitation on other fundamental rights such as dignity, equality, and freedom from discrimination. Using the controversial case of the eMkhondo South African Social Security Agency office as a focal point, the paper provided a doctrinal analysis of legislation, judicial precedent, and scholarly commentary, while exploring the extent to which South African labour law provides sufficient guidance for managing cultural plurality in professional spaces. This study highlights a critical knowledge gap in state policy: the absence of institutionalised cultural accommodation frameworks in public employment settings. This policy vacuum often leads to inconsistent practices and potential legal conflicts that compromise both workers' rights and service delivery imperatives. This article argues for the development of constitutionally compliant, context-sensitive workplace cultural policies that allow for reasonable accommodation without undermining administrative functionality.

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## INTRODUCTION

The right to freedom of religion is firmly entrenched as a fundamental human right both in international law and within South Africa's constitutional framework. However, its practical enforcement within the workplace remains an area of contention, particularly concerning the extent to which employers must cater to and accommodate the religious beliefs and practices of their employees. The crux of the matter arises in secular workplaces where religious employees may seek exemptions or accommodations for their religious or traditional practices (observance of sabbath days, religious attire and performing

certain rituals). This raises a pivotal question: To what degree should workplace policies be limited to cater for the right to religion and culture without compromising operational efficiency? A particularly thorny issue of this discussion is the interplay of operational efficiency and religious freedom vis-à-vis other constitutionally protected rights. The authors argue that in cases where religious freedom seemingly conflicts with constitutional rights, employers must prudently navigate these tensions in a just, fair and equitable manner.

The South African legal system provides protections for religious expression in employment, yet disputes in this area are on the rise.<sup>1</sup> Several leading cases have fuelled national debates and judicial scrutiny. In *Prince v President of the Law Society of the Cape of Good Hope*,<sup>2</sup> a Rastafarian law graduate argued that the prohibition on cannabis use infringed upon his religious rights. The Constitutional Court initially ruled that the state's refusal to exempt Rastafarians from the general prohibition was reasonable and justifiable. However, in 2018, this decision was overturned, and the prohibition was declared unconstitutional. Likewise, in *Department of Correctional Services v Police and Prisons Civil Rights Union (POPCRU)*,<sup>3</sup> the Labour Court recognised employees' right to religious expression but emphasised that such rights must be weighed against the legitimate operational and commercial interests of the employer. The authors argue that in view of the above cases, a broader legal and societal dilemma is introduced: How can workplaces accommodate religious diversity while upholding neutrality, inclusivity, and efficiency?

The recent incident at the South African Social Security Agency (SASSA) office in eMkhondo, Mpumalanga, highlights complex interactions between workplace behaviour, cultural beliefs, and institutional responses to perceived threats. On April 17, 2024, employees discovered needles placed on their office chairs and scattered on the floor.<sup>4</sup> Initial suspicions intensified after CCTV footage from April 12 showed two SASSA employees, along with a man resembling a traditional healer (or *sangoma*), engaging in what appeared to be ritualistic activities involving a snake, needles, and a liquid substance sprinkled across the office.<sup>5</sup> This event instilled significant fear among staff, leading to a temporary office shutdown and the relocation of employees to a community hall while investigations were conducted. In response, SASSA suspended the involved supervisor and manager, describing their conduct as 'unfamiliar actions' and coordinating with local authorities to clean and fumigate the workspace.

This thorny issue introduced above underscores the interplay of workplace practices and cultural traditions in South Africa, where, as Kugara notes, traditional beliefs, witchcraft and rituals remain entrenched across both social and professional spheres in Africa, especially South Africa.<sup>6</sup> Studies have proved that almost 80% of the population in South Africa relies on traditional medicine for their health care services.<sup>7</sup> Against this backdrop, traditional healers are highly esteemed by some communities and believed to be solutions to their misfortunes and bad omens, including seeking promotion at workplaces.<sup>8</sup>

Mangaleni and van der Walt's study findings indicate that workplace spirituality and spiritual leadership exert a positive and statistically significant effect on ethical behaviour within small, medium,

<sup>1</sup> Radley Henrico, "Religious Discrimination in the South African Workplace" (Potchefstroom Campus, North-West University, South Africa, 2016).

<sup>2</sup> *Prince v President of the Law Society of the Cape of Good Hope* (CCT36/00) [2002] ZACC 1; 2002 (2) SA 794; 2002 (3) BCLR 231 (CC); 2002 (1) SACR 431 (CC) (25 January 2002).

<sup>3</sup> *Department of Correctional Services & another and Another v Police and Prisons Civil Rights Union (POPCRU) and Others* (107/12) [2013] ZASCA 40; (2013) 34 ILJ 1375 (SCA); 2013 (4) SA 176 (SCA); [2013] 7 BLLR 639 (SCA); 2013 (7) BCLR 809 (SCA); [2013] 3 All SA 1 (SCA) (28 March 2013).

<sup>4</sup> Lindile Sifile and Mandla Khoza, "SASSA Suspends Two Employees for Performing Ritual in Office," SowetanLIVE, April 29, 2024, <https://www.sowetanlive.co.za/news/south-africa/2024-04-29-sassa-suspends-two-employees-for-performing-ritual-in-office/>.

<sup>5</sup> Sifile and Khoza, "SASSA Suspends Two Employees for Performing Ritual in Office."

<sup>6</sup> Stewart Lee Kugara et al., "Exploring the 21st Century Factors Precipitating Witchcraft Beliefs and Imputations in South Africa and Zimbabwe," *African Journal of Development Studies* 13, no. 1 (2023): 65.

<sup>7</sup> T D Mdhuli et al., "Perceptions on the Inclusion of Traditional Medicine in Primary Health Care in Allandale Village in Mpumalanga Province in South Africa," *African Journal of Development Studies* 12, no. 4 (2022).

<sup>8</sup> Zeenat Paruk, "Exploring Indigenous Beliefs of Black Africans in the South African Workplace" (University of Pretoria, 2022).

and micro enterprises (SMMEs).<sup>9</sup> Furthermore, their work unveiled that workplace spirituality serves as a mediating factor in the relationship between spiritual leadership and ethical conduct. Extrapolating the study findings, the results suggest that fostering a culture of spirituality in the workplace strengthens the influence of spiritual leadership in encouraging ethical behaviour within the small business sector.<sup>10</sup> Though Mangaleni and van der Walt had a well-crafted definition of workplace spirituality for their study, the current authors opine that the study presumes a universal interpretation of workplace spirituality as inherently positive and conducive to ethical behaviour. However, in certain contexts, workplace spirituality may encompass practices such as ancestral veneration, traditional rituals, or even witchcraft, which may not always conform to conventional ethical standards. This raises a critical question: Does workplace spirituality inherently foster ethical behaviour, or is its impact dependent on the specific spiritual framework being upheld?

While not dismissing the submissions by Mangaleni and van der Walt's study in offering important insights into the positive connection between workplace spirituality, spiritual leadership, and ethical behaviour, it does not critically examine alternative spiritual practices, such as witchcraft and rituals, which may create ethical complexities.<sup>11</sup> In diverse workplace settings, spirituality is not a universally beneficial influence; instead, it can be multifaceted, contested, and, at times, controversial in shaping ethical standards.<sup>12</sup> Building on this foundation, this study accounts for these complexities and investigates how various spiritual traditions, including those grounded in indigenous and mystical beliefs, interact with business ethics across different socio-cultural contexts.

In today's diverse and multicultural workplaces, employees frequently face the complex challenge of balancing their right to exercise cultural and religious beliefs with the operational and professional demands of their jobs. This tension is particularly pronounced in environments where personal beliefs and organisational policies may conflict, raising critical legal and ethical considerations. This conceptual paper appraises how South African institutions can intelligently navigate the challenges posed by cultural practices which are done in public professional spaces in light of labour relations statutes vis-à-vis the rights enshrined in the Bill of Rights of the South African Constitution of 1996. Through a selected case study, the authors examine the cultural motivations that may drive rituals to be conducted in the workplace, the impact of these rituals on employee morale and perceptions, and the response strategies that can be employed by South African government bodies. By adopting doctrinal research, this study highlights the complexities of balancing cultural recognition with regulatory adherence in diverse professional environments through assessing employee reactions, managerial responsibility and public service regulations.

## THEORETICAL FRAMEWORK

The Human Rights-Based Approach (from hereunder referred to as the "HRBA") and Sankofa theory offer valuable frameworks for addressing the challenges presented by the recent events at the eMkhondo SASSA offices. The HRBA emphasises that every individual is entitled to a safe, respectful, and inclusive work environment.<sup>13</sup> In this case, SASSA employees were reportedly alarmed and fearful after viewing CCTV footage showing what appeared to be culturally significant rituals involving needles, liquids, and other objects, which they interpreted as bad spells. These actions led to the temporary closure of the office and a relocation of services, disrupting the employees' sense of security. In that vein, the authors posit that the HRBA mandates that employers create an environment free from practices that could be perceived as threatening, particularly in diverse workplaces where cultural and

<sup>9</sup> Mangaleni Hlatywyao and Freda Van der Walt, "The Role of Workplace Spirituality and Spiritual Leadership in Promoting Ethical Behaviour in the South African Small Business Environment," *African Journal of Business Ethics* 18, no. 2 (2024), <https://doi.org/10.15249/18-1-351>.

<sup>10</sup> Hlatywyao and Van der Walt, "The Role of Workplace Spirituality and Spiritual Leadership in Promoting Ethical Behaviour in the South African Small Business Environment."

<sup>11</sup> Susan Greenwood, *Magic, Witchcraft and the Otherworld: An Anthropology* (London: Routledge, 2020).

<sup>12</sup> Peter Geschiere, "Globalization and the Power of Indeterminate Meaning: Witchcraft and Spirit Cults in Africa and East Asia," *Development and Change* 29, no. 4 (1998): 811–37.

<sup>13</sup> Vesna Stefanovska, "The Implementation of Human Rights-Based Approach by States In Contemporary Societies," *Towards a Better Future: State and Society*, 2021.

religious perspectives vary.<sup>14</sup> By adhering to the HRBA principles, SASSA can ensure a response that upholds the safety and well-being of its employees, both physically and psychologically, while addressing any conflicts stemming from cultural misunderstandings.

Additionally, the Sankofa theory (an African theory originating from Ghana) offers insight into how to handle these situations by fostering respect for cultural dynamics. The Sankofa principle, which advocates learning from the past to make more informed decisions for the future, encourages organisations to consider traditional African practices while cultivating an inclusive work environment that embraces modern values of mutual respect.<sup>15</sup> Applying Sankofa in this context would guide SASSA in developing culturally sensitive responses, such as providing education on different cultural practices to reduce fears and misconceptions. This approach also supports the creation of policies that recognise the diversity of cultural expressions while ensuring they do not compromise workplace safety and harmony.

From the foregoing analysis, the authors assert that both the HRBA and Sankofa theory provide a holistic framework for organisations like SASSA, (facing predicaments) to prudently navigate these thorny issues. As argued above, the HRBA ensures the protection of employees' rights to safety and dignity, while Sankofa promotes an informed and culturally sensitive approach to resolving conflicts and shaping policies. The authors argue that by integrating these frameworks, SASSA can address employees' concerns effectively, fostering a balance that respects both human rights and cultural diversity, thereby not compromising operational efficiency.

## METHODOLOGY

This study employed a doctrinal research methodology. Using this methodology, the researchers critically examined the intersection of cultural rituals, professional conduct and fundamental human rights such as safety within the governmental office workspace. The research focused on a systematic analysis of the relevant legal principles, scholarly commentary and precedent with regard to previous reported cases. The approach employed is particularly suited for this study as it enabled a structured evaluation of how existing labour practices regulate cultural expressions and practices in the public sector workspace. The study further examined provisions ensuring the right to cultural practices and their limitations when it comes to work.

## DISCUSSION

This section discusses the interplay between traditional practices and formal workspaces. The discussion is key in a multicultural society like South Africa, where cultural underpinnings greatly influence workplace affairs, thereby upsetting human rights. The discussion is guided by the SASSA office case in eMkhondo, Mpumalanga, which saw a controversial matter arising from perceived traditional rituals done in the office spaces. Underpinning the discussion is the aim to restore mutual respect for cultural diversity while upholding regulatory compliance at the workplace as depicted by the Human Rights-Based Approach and the Sankofa theory. In the pure sense of traditional beliefs, traditional healers in South Africa are believed to possess powers that help people against their enemies and misfortunes.<sup>16</sup> While this SASSA incident shows how some people still religiously maintain these beliefs in this modern dynamic world, it is unfortunate that they were not done in the expected way and were against organisational policies. Though these beliefs may be right to the ones who carried out the practice, they are contextually construed as intimidating and disruptive. Combining the above two theories helps answer and create a balance between practising one's culture at a workplace through formulating policies that do not undermine cultural rights and/or compromise professional standards expected at a workplace.

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<sup>14</sup> Lilian Chenwi, "Human Rights-Based Approaches to Development Assistance and Policies," in *The Routledge Handbook on Extraterritorial Human Rights Obligations* (London: Routledge, 2021), 213–25.

<sup>15</sup> Jennifer Tehan Stanley and JohnBosco Chika Chukwuorji, "Sankofa: Learning From the Past to Build the Future—Introduction to the Special Issue on Aging in Sub-Saharan Africa," *Innovation in Aging* (Oxford University Press US, 2024).

<sup>16</sup> Tsetselelane Decide Mdhlu, "An Examination of the Role of Traditional Medicine in Primary Health Care in Bushbuckridge Region, Mpumalanga Province, South Africa" (2022).

## Employee Perspectives on Traditional Rituals in the Workplace

In cases of this nature, both the employer's and employees' perceptions must be examined, given the traditional rituals being done in a place. Against this backdrop, sight should not be lost on the fact that such perceptions are influenced by diverse beliefs and experiences that can be individual in nature. It is a common cause that African societies believe in witchcraft havens where magical powers are used to cause miscarriage, and sickness and to topple an opponent in business.<sup>17</sup> The way in which these metaphysical powers are used on others varies, but is mainly transferred through objects like needles, mirrors and animals.<sup>18</sup> Regarding the SASSA case, which is in question, it was explicitly reported that some employees felt their lives were in direct danger because of the 'suspected' witchcraft tools seen (snake, sprinkling of substances and needles). It is because of this that the authors draw their causal link to the fear of witchcraft. Buttressing this view is their petition to have the offices cleansed first before accessing them, an indication that showed strong cultural interpretations that witchcraft was suspected.

One leading case relating to witchcraft and the workplace that was taken for arbitration is the case of *NASARIEU obo Mngomezulu v Tongaat Hulett Sugar Limited (Darnall)* (case no. NBCS5-15, 15 June 2016).<sup>19</sup> Mr Mngomezulu, in the case, is said to have been dismissed by Tongaat Hulett Sugar Limited for a witchcraft-related case at work. Ms Nxele, the HR manager for operations, discovered a "black gummy" on the handle of her car in the parking lot. The footage produced as evidence merely showed Mr Mngomezulu, who had a final warning letter, being the person who had been close to the area. A traditional healer led evidence that the "black gummy" was a harmful witchcraft tool. This led to his dismissal, which he appealed. Unsatisfied with the ruling, he appealed. The Commissioner endorsed the dismissal. It was noted that even though the traditional healer's evidence showed that it was indeed a harmful tool, it was not fully considered in the ruling. The dismissal was endorsed as the conduct in question was meant to inflict psychological torture and fear. As such, it was interpreted as a high level of intimidation.

The above reactions by the SASSA employees and Ms Nxele highlight serious concerns over traditional practices that find their way into workplaces and professional environments. Without any speck of doubt, all the employees viewed what was captured on camera as malevolent. The mere fact that the cultural practices explored above were surreptitiously done in the night and in their absence explains why they are viewed as malevolent. Moreover, seeing needles, a snake and the sprinkling of some substances believed to be *muthi* (traditional medicine) is expected to ignite anger and fear of harm by others. Such an incident is questionable and authorises the authors to advocate for employers and institutions to work with their employees to create a peaceful working environment that gives limits to cultural practices, in a respectful way.

## The Intersection of Law, Workplace Policies and Human Rights

Bearing in mind that South Africa is a multi-diversified community, engaging in one's traditional beliefs in a workplace is highly likely to create tension with other employees who do not subscribe to such beliefs, thereby creating a precarious environment which infringes on the sense of safety and rights of others. Faced with such a scenario, one would question whether employees should have absolute freedom to carry out their personal beliefs in a professional sphere, despite the fact that these practices do not resonate with the beliefs of other employees and are not aligned with institutional norms and standards.

When posed with such a question, the authors argue that allowing such practices to go unchecked will open floodgates of rituals in the workplace that can significantly impact (negatively) employee morale and productivity. This is also illustrated by the collective reluctance of eMkhondo staff to return to their office out of fear. Cultural diversity in the workplace is argued by Pradhan and Priyanshi as an indispensable ingredient that allows a balance between following an established workplace code of

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<sup>17</sup> Mufuzi, Friday. "The Practice of Witchcraft and the Changing Patterns of its Paraphernalia in the Light of Technologically Produced Goods as Presented by Livingstone Museum, 1930s-1973." *Zambia Social Science Journal* 5, no. 1 (2014): 5.

<sup>18</sup> Vernon W. Brelsford, *Handbook of the David Livingstone National Museum* (Livingstone: Rhodes-Livingstone Institute, 1937).

<sup>19</sup> Lexology, "Minority Cultural Values in the Workplace," accessed February 13, 2025, <https://www.lexology.com/library/detail.aspx?g=0b97c414-ef0e-4794-a51a-7a44ac543eee>.

conduct and respecting individual beliefs.<sup>20</sup> The authors' humble submission is that a regulatory and accountability-focused response by the authorities was to suspend the SASSA employees who were seen to have contravened the code of conduct, rather than efforts to address the belief systems that caused the disturbance. Such a move depicts a unique problem faced by government institutions in striking a balance between the diverse beliefs of employees while maintaining institutional operations and employees' safety.

To answer the above question, it is essential to point out that the Constitution of the Republic of South Africa, 1996 (hereinafter "Constitution") provides a robust legal framework to protect religious and cultural expression (sections 15, 30 and 31 of the Constitution). Furthermore, sections 9(3) and (4) of the Constitution explicitly prohibit unfair discrimination on various grounds, including religion and culture. However, it must be made clear that these rights are not absolute.<sup>21</sup> Section 36 of the Constitution (limitation clause) allows for reasonable limitations where necessary to uphold broader societal interests, including workplace efficiency, public safety and business needs. In employment settings, legislative protections further reinforce these constitutional rights. The Labour Relations Act 66 of 1995 (hereinafter "LRA") strengthens employee protections by classifying dismissals based on religion or culture as automatically unfair under section 187(1)(f).<sup>22</sup> Additionally, the Employment Equity Act 55 of 1998 (hereinafter "EEA") prohibits any form of workplace discrimination on these grounds, as stipulated in section 6(1).<sup>23</sup> These provisions ensure that employees cannot be unfairly treated, marginalised, or dismissed solely for adhering to their religious or cultural practices.

Despite these protections, practical challenges remain in determining how far an employee's religious or cultural practices can extend within the workplace without infringing on business operations, professional codes of conduct, or the rights of others. Employers are thus required to strike a delicate balance - accommodating religious and cultural diversity, while maintaining workplace discipline, efficiency, and fairness. Courts and tribunals continue to refine the scope of these rights through case law, offering guidance on how to resolve conflicts between personal beliefs and workplace expectations as South Africa continues to embrace its rich cultural and religious diversity. Nevertheless, employers and employees must jealously guard this right through the navigation of the associated complexities with sensitivity. In this way, they would ensure that constitutional and legislative protections are upheld thus fostering inclusive and productive work environments.

### Addressing Cultural Threat Perceptions

The advent of colonialism and apartheid in South Africa introduced a social gap based on race, gender, religious and cultural segregation in the workplace.<sup>24</sup> It is because of this that the current authors argue that there has been a slow transformation in the labour sector to embrace African traditions. On watershed judgment that addressed this matter, was the case of *Department of Correctional Services & another v POPCRU & others* (107/12) [2013] ZASCA 40 (28 March 2013). In this matter, employees were dismissed for wearing dreadlocks in adherence to their Rastafarian and Xhosa cultural subscription even though this did not hinder the inherent requirement for them to perform their duties. In the judgment, the inherent requirement was defined as,

<sup>20</sup> Sumedha Pradhan and Priyanshi Mukati, "Minority Cultural Values and Workplace Management: Legal Implications and Strategic Insights," *Jus Corpus LJ* 5 (2024): 163.

<sup>21</sup> Tshimangadzo Donald Mukwevho, "The Implications of Judicial Non-Intervention in Religious Matters: A South African Human Rights Law Perspective" (2022).

<sup>22</sup> section 187(1)(f) of the Labour Relations Act 66 of 1995; "that the employer unfairly discriminated against an employee, directly or indirectly, on any arbitrary ground, including, but not limited to race, gender, sex, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, political opinion, culture, language, marital status or family responsibility;"

<sup>23</sup> Section 6(1), "No person may unfairly discriminate, directly or indirectly, against an employee, in any employment policy or practice, on one or more grounds. Including race, gender, sex, pregnancy, marital status, family responsibility, ethnic or social origin, colour, sexual orientation, age, disability, religion, HIV status, conscience, belief, political opinion, culture, language and birth."

<sup>24</sup> Pascal S Zulu and Sanjana B Parumasur, "Employee Perceptions of the Management of Cultural Diversity and Workplace Transformation," *SA Journal of Industrial Psychology* 35, no. 1 (2009): 1-9.

An inherent requirement of a job has been interpreted to mean a permanent attribute or quality forming an ... essential element ... and an indispensable attribute which must relate in an inescapable way to the performing of a job.<sup>25</sup>

From the foregoing analysis of formal dressing vis-à-vis, the allegation that wearing dreadlocks meant that it could be assumed that the employees were associated with dealing with dagga (as argued by counsel) demeaned the cultural and religious practices of the people in question. This is one among the many cases where some African culture seems to be demonised in the workplace. It can be argued that workplaces seem to want to strip the employees of their African identity, which is a legacy of apartheid. Courts are always applauded for upholding cultural and religious rights, wherein they do not compromise the inherent requirement of work performance.

In the SASSA case, the employees were suspended for having engaged in ritual at work – something one can argue to be exercising their cultural and religious rights. It is unfortunate that such an event happened in the 21<sup>st</sup> century, where there are legal frameworks that govern workplace engagements. What is critical here is how the employer (institution) responded to this. Faced with such a thorny issue, the SASSA management response underpins the value of having solid policies in stewarding cultural threats. After the unfortunate event, SASSA relocated the employees to discharge their services in an alternate venue, suspended the role actors of the ritual and launched an investigation. Such must be applauded, adhering to procedural standards and ensuring that tranquillity prevails. Klare had shed light on how most organisations in the country struggle to contain such cultural debacles within the confines of the law.<sup>26</sup> The authors opine that the positive position of suspending the role actors is commendable, but does not provide lasting palliatives to the cultural misinterpretations underlying the whole matter. One can argue that the suspension constitutes a punitive measure that is far-fetched from the real problem. A follow-up forum where cultural beliefs should be openly discussed has the potency to prevent similar cases from happening again.

Of late, South Africa has been labelled a violent nation because of the way people resort to violence to have matters resolved. In addition, witchcraft accusations have a standing history of being associated with violence, especially against the alleged witch or wizard.<sup>27</sup> Under established norms, Ally argues that the community ought to have been mobilised by affected members to physically address the matter, as it is regarded as the best way.<sup>28</sup> In the same way, the SASSA incident had the potential to get out of hand, resulting in the assault and/or killing of the alleged perpetrators. In some way, some level of cultural sensitivity was displayed, exhibiting professionalism amongst the employees. In this way, work policies covering cultural expression proved to be indispensable in protecting institutional harmony. Proactive rather than reactionary cultural sensitivity policies ought to be encouraged to protect the institutional reputation when such news spreads. In one way or another, one would be inclined to argue that if policies existed in the SASSA case and training had been conducted, the fear that arose might have been diminished. Better yet, the ritual performance may have been prevented in the manner in which it occurred.

## RECOMMENDATIONS

Recommendations offered in light of the paradoxical findings of this research include the creation of clear cultural policies in workplaces. This recommendation is offered to both public and private sector workplaces. Rules that are as clear as possible on cultural and religious practices should be made available. Ideally, these need to reflect the values of the Constitution and what it stands for. Also, importantly, they must be developed with input from staff. Furthermore, in a progressive bid to maintain policies that speak to lived realities that have context, workplaces should review their policies on practices regularly. They should ensure that their policies continue to always support inclusion, well-

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<sup>25</sup> Paragraph 23; *Department of Correctional Services and Another v Police and Prisons Civil Rights Union (POPCRU) and Others* (107/2012) [2013] ZASCA 40 (28 March 2013).

<sup>26</sup> Karl E Klare, "Legal Culture and Transformative Constitutionalism," *South African Journal on Human Rights* 14, no.1(1998): 146–88.

<sup>27</sup> Kugara et al., "Exploring the 21st Century Factors Precipitating Witchcraft Beliefs and Imputations in South Africa and Zimbabwe."

<sup>28</sup> Yaseen Ally, "'Burn the Witch': The Impact of the Fear of Witchcraft on Social Cohesion in South Africa," *Psychology in Society* 49 (2015): 25–45, <https://doi.org/10.17159/2309-8708/2015/n49a3>.

being and productivity. Where necessary to adjust, they should adjust as needed. While these recommendations sound like something that one would assume already exists, a look into policies that regulate workplaces and cultural and religious rights will amplify that the specific issues related to do with those rights, especially the ones affecting indigenous people, continue to be ignored or not given priority. Policies, therefore, need to evolve; they need to promote and cater to “Africanness” and make it alright to be as “African” as one can be in their place of work. After all, it is their right.

## CONCLUSION

This paper has explored how cultural and religious rituals impact professional conduct in South Africa’s public sector. The research honed in on the tensions between constitutional rights and labour laws. The eMkhodo SASSA case highlighted the real challenges when rituals are introduced into workplace settings. While rituals can be asserted as important to many, they create discomfort or conflict if actively performed in diverse work environments and shared spaces. Employees inevitably feel threatened, as was displayed in the discussed case study. They also have valid cultural and religious beliefs that could inform their fears and/or discomfort. Public institutions, as constitutional bodies, must lead in respecting rights, while maintaining a functional workspace – a very difficult balancing act. There is a clear need for balance. Cultural expression should be allowed, but not at the cost of the perceived safety of others and operational efficiency.

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