

South African Pagan Rights Alliance

Annual General Meeting

28 April 2018



South African Pagan Rights Alliance (SAPRA)

E-mail: info@paganrightsalliance.org

Telephone: 044 850 1297

<http://www.paganrightsalliance.org/>

SAPRA on Facebook: www.facebook.com/southafricanpaganrightsalliance/

Director: Mr Gary Thomas (Damon) Leff · Chief Executive Officer: Ms Morgause Fonteleve
Marriage Officer Registrar: Mrs Retha van Niekerk · General Secretary: Ms Gitta Seyfert
Treasurer: Mr Chris Waugh · Executive Committee Chair: Mr Francisco Fumarola

AGENDA

0. Introduction

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1. Director's Report

2. Matters Arising from AGM 2017

3. Chief Executive Officer's Report

4. CRL Rights Commission proposal on regulation of religion

5. Advocacy against witch-hunts – United Nations Conference

6. Law Review – Witchcraft Suppression Act

7. Pagan religion and White supremacy

8. The Land question - expropriation without compensation, property rights and the law

9. Amendment of Civil Union Act and CU RMO issues

10. Finances

11. Additional Matters

** Members are encouraged to place additional matters on the table for discussion before April 21 by contacting the General Secretary.*

SAPRA Statement of Principle

The South African Pagan Rights Alliance is committed to advocating for human rights and social justice.

SAPRA stands for human dignity, equality and freedom for all South Africans.

SAPRA has and always will support and promote ethnic, gender, sexual orientation and religious equality.

This Alliance distances itself from any and all forms of racism.

Our mandate has always been, and remains, to assist those who have experienced unfair discrimination, to obtain appropriate legal redress.

1. Director's Report

Welcome formal members and interested guests to SAPRA's 2018 Annual General Meeting. Thank you for your participation.

This Alliance was founded in 2004 as a community based advocacy organisation. Over the last 14 years, successive executive members have voluntarily and without compensation, offered their service to this organisation, its members and the general public.

That service has included a) challenging media bias against Pagan and other minority religions, b) lobbying Chapter 9 institutions and other governmental agencies and departments to address instances of bias and prejudice directed at minority faiths and other vulnerable groups, and c) providing basic legal advice and referral, both publicly and privately, on matters concerning discrimination.

As a designated religious organisation in terms of the Civil Union Act, this Alliance has also nominated several of its members as religious marriage officers. SAPRA's marriage officers have solemnised many marriages and civil unions between both heterosexual and same-sex couples.

This Alliance remains committed to building increased capacity and influence in order to better serve our national religious communities and individuals seeking assistance, advice or support. SAPRA's Executive Members remain committed to improving meaningful service delivery to Pagans and Pagan groups or organisations in South Africa. To this end, members of the Executive have consented to receiving additional paralegal training. This capacity building will remain voluntary and free.

SAPRA does not charge any fee for its service to individuals or communities. This Alliance is entirely funded by its formal membership. No member of the Executive derives any financial compensation for their service to this Alliance. Membership fees (R150.00 per annum) are spent exclusively on maintaining SAPRA's capacity to deliver service.

SAPRA welcomes participatory and collaborative cooperation with individuals, groups and organisations who share SAPRA's ethical mandate to promote, support and advocate for human rights and equality for religious minorities in South Africa.

SAPRA is an affiliated member of the South African Pagan Council.

2. Matters Arising from AGM 2017

No other matters arising.

3. Chief Executive Officer's Report

"SAPRA was formed in 2004 as a faith-based (Pagan) human rights activist alliance. In recent years, SAPRA has assumed the mantle of a formal non-governmental organization, and has shifted its focus away from strictly Pagan human rights activism to incorporate human rights issues affecting not only religious minorities in general, but other marginalized groups requiring human rights advocacy and support. SAPRA has demonstrated its capacity and proficiency in human rights activism and justice advocacy for the past 14 years and it has acknowledged and embraced the need to expand beyond its initial CBO advocacy, to that of a paralegal advocacy organisation. This goal will be achieved through training and education of those currently serving the Alliance." (Director's statement AGM 2017)

Herewith a resume of what the Alliance has done since it's last AGM in 2017.

a) Executive Committee appointment and resignation

On behalf of the Alliance, we would like to welcome Mr Chris Waugh, who has recently been appointed as SAPRA's new Treasurer.

We would like to extend our thanks to Ms Nidhi Chaitow, who has served the Alliance as Treasurer for many years. Thank you for your service.

Ms Christina Engela has resigned her membership from SAPRA.

b) Touchstone Advocacy 2017/2018

SAPRA recommitted the Alliance to its ongoing fight against racism, racial discrimination, xenophobia and other acts of intolerance affecting women, men and children falsely accused of witchcraft, during its annual '30 days of advocacy against witch-hunts' campaign between 29 March to 27 April. This Alliance is currently collaborating with international academics in order to produce accurate statistical analysis of witch-hunts in South Africa.

We would like to encourage Pagans to support this annual campaign by sharing advocacy material on social media.

For an update on Touchstone Advocacy, witch-hunts and the United Nations 'Workshop on Witchcraft and Human Rights' see agenda item 5.

c) Religious Observations at Public Institutions

In May 2017 SAPRA stated that whilst prayer services in state institutions are permitted, they must be "equitable and voluntary". If such services do not offer alternative faith services, Christian prayer meetings in which Pagans and other religious minorities feel obligated to participated in, cannot be viewed as equitable or voluntary.

Section 15 (2) of the Constitution of South Africa reads:

"Religious observances may be conducted at state or state-aided institutions, provided that -
(a) those observances follow rules made by the appropriate public authorities;
(b) they are conducted on an equitable basis; and
(c) attendance at them is free and voluntary."

Pagans who objected to non-equitable prayer services were encouraged to address their objections to the person/s conducting the religious observation, by informing same of their objection and reasons for objecting to the religious observance.

d) SAPRA submission to South African Pagan Council 2017 AGM

SAPRA is an affiliated member of the Pagan Council. At the 2017 AGM the SAPC the Director Report stated the following:

“Over the last 14 years, SAPRA has demonstrated its capacity and proficiency in human rights activism and justice advocacy. SAPRA currently chairs the South African Pagan Council Law Reform Committee.

In 2017 SAPRA dealt with several matters including:

- a) labour-related matters including unfair dismissal cases and religious holiday leave,*
- b) issues relating to child custody and religion,*
- c) bullying in public schools,*
- d) discrimination by the Department of Education against religious minorities including participation in the Harmful Religious Practices Charter Task Team,*
- e) equitable religious observances at state institutions,*
- f) a proposal by the CRL Commission to regulate the practice of religions,*
- g) pending Hate Speech legislation,*
- h) submission on the ‘National Action Plan to combat Racial Discrimination, Xenophobia and Related Intolerance’,*
- i) discrimination by the SA Police Services,*
- j) the ongoing review of the Witchcraft Suppression Act by the South African Law Reform Commission,*
- k) and continuing annual advocacy against witchcraft accusations and witch-hunts in South Africa.”*

Furthermore, SAPRA was invited to submit a presentation on witchcraft accusations and witch-hunts in South Africa, at a United Nations ‘Workshop on Witchcraft and Human Rights’ as an Expert Panelist, in Geneva, Switzerland in September 2017.

For an update on the United Nations ‘Workshop on Witchcraft and Human Rights’ see agenda item 5.

e) Witchcraft is a constitutionally protected religion in South Africa

Articles published in 2017 concerning the revision of Canada’s Criminal Code on the prohibition of Witchcraft in that country elicited numerous calls by South African Witches to legalise Witchcraft in South Africa. Many Pagans and Witches remain under the impression that the practice of Witchcraft as a religion or religious belief system is illegal in South Africa. This is not correct!

With the passage of South Africa's first democratic Constitution in 2006, including a Bill of Rights and its constitutional guarantee of the right to equality and freedom of religion and belief for all citizens, any and all existing legislation inconsistent with the Constitution *automatically* became invalid (unconstitutional) subject to Parliamentary review. Effectively, this means that the 1957 Witchcraft Suppression Act, which prohibited, a) professing knowledge of witchcraft, b) the practice of witchcraft and c) the use of divination, effectively became technically invalid and unconstitutional as of 2006.

The South African Law Reform Commission confirmed this as fact, in response to SAPRA's February 2007 appeal for a review and the repeal of the Witchcraft Suppression Act, when it declared in 2016 that said Act was, in respect of its prohibition of having knowledge of or practicing witchcraft, unconstitutional, and that South African Witches have the legal right to practice their religion without interference by the state.

NOTE: As of 2006, Witchcraft has been a legally protected religious belief system in South Africa.

It must however be remembered that whilst the law protects the right of Witches to practice their faith, ordinary citizens do not always obey the law in respect of equality. In practice, many Witches in South Africa do continue to experience discrimination.

SAPRA is committed to assisting those who have and do experience discrimination as a result of their faith.

f) Religion and education: what the OGDJ judgement means

On June 28 2017, the South Gauteng High Court delivered its Judgement on Religion and Education in Public Schools. It clearly affirms the principles of religious diversity and equality in public education.

In paragraph 102 of the judgement, Judge van der Linde stated:

*"(a) It is declared that it offends s.7 of the Schools Act, 84 of 1996 for a public school –
(i) to promote or allow its staff to promote that it, as a public school, adheres to only one or predominantly only one religion to the exclusion of others; and
(ii) to hold out that it promotes the interests of any one religion in favour of others."*

No public school may promote, or allow its staff or its School Governing Body to promote any public school as a Christian or 'Christian ethos' school, nor exclude a diversity of religious faith and diverse religious practices from any public school.

What does this mean for pupils and their parents who adhere to Pagan religions? Practically, it means that no public school may prejudice pupils or discriminate against pupils who are members of non-Christian faiths.

This is not a new law. The requirement for equality in religion and education has been a legal requirement since 2006. School governing bodies have simply ignored the law, bolstered in part by the Department of Education at Provincial level who has essentially encouraged school governing bodies who have sought to entrench a single faith in certain public schools, by arguing that feeder communities for those schools are largely Christian.

In paragraph 96 of his judgement, van der Linde addressed this erroneous justification. *"Third, accepting as one must, that the SGB rules must provide equitably for all faiths (given present and evolving future demographics), would the adoption of a single faith brand that excludes others not misrepresent the legally required position? That learners of all faiths are (should be) welcome? We think it would."*

The High Court's reiteration of the guiding principle of equality does not end ongoing unlawful and prejudicial practices by many public schools. It is now up to every pupil, parents, and concerned NGO's, to address every instance of contravention of the law by public schools and school governing bodies.

SAPRA is committed to assisting parents whose children experience religious bias or prejudice in public schools.

g) Defamation and crimin injuria

In 2017 SAPRA and some members of its Executive Committee became the victims of libel. This matter was partially resolved through legal action. We are pleased to report that this matter was not pursued any further by the offending party.

Defamation is defined as *"any unlawful, intentional false communication, either written or spoken, that harms a person's reputation; decreases the respect, regard, or confidence in which a person is held; or induces disparaging, hostile, or disagreeable opinions or feelings against a person."*

Defamation includes both written statements (libel) and spoken statements (slander). Telling a group of friends on Facebook that someone has acted unethically, dishonestly, or has committed a crime – naming and shaming – also constitutes defamation. A defamatory statement must be made known to at least one person other than the defamed individual.

The law of defamation protects individual reputation. The law assumes that all people are of good character until the opposite is proved in a court of law.

A civil action for defamation may result in a court granting an order requiring that the defamatory statement/s be removed, whether published on a website, blog, or anywhere else on social media. The order would also prohibit all future re-publication of these statements. Anyone in breach of such a court order (ignoring a court order) may be found to be in contempt of the court order and could be prosecuted.

Crimen injuria is a crime under South African common law, defined as the act of *“unlawfully and intentionally impairing the dignity or privacy of another.”*

An example of crimin injuria would include verbally insulting or abusing, stalking, or threatening to harm someone, or making known a person’s privileged or private information without their prior consent. Ridiculing someone’s ethnicity using racially offensive language, or ridiculing someone’s religious affiliation, sexual identity or sexual preference, may constitute crimin injuria, especially where such ridicule causes emotional or psychological harm to others.

An action against crimin injuria begins with lodging a complaint against the injuria with your nearest police station. The police will investigate the allegation and if sufficient evidence can be found to support an allegation of injuria, a prosecutor will initiate trial proceedings against the perpetrator for crimin injuria.

A guilty judgement for crimen injuria may result in a first offender being sentenced to a fine, a suspended sentence for a period on condition that the offender does not re-offend, or a prison sentence. Contempt of a court order, or re-offending, may result in imprisonment. A person found guilty of crimin injuria will, once convicted, have a criminal record.

Note: One need not choose either civil or criminal action. If published libel causes emotional or psychological harm, both civil and criminal action can be initiated against the perpetrator.

Removing defamatory content from a blog

The Internet Services Providers Association (ISPA) offers a free and relatively easy way to remove defamatory content from websites and blogs, hosted in South Africa. This process is known as a ‘take-down notice’, and enables an offended party to report any unlawful content on any website or blog hosted by an ISPA member, and where necessary, to have that content removed.

h) CRL Commission ignores minorities

In a recently published article (Pagans and Christians oppose CRL Commission's state capture of religion), the CRL Commission chairperson Thoko Mkhwanazi-Xaluva is reported to have stated *"The participants in the hearings were part of a random sample. Only religions which were broadly represented at a percentage above 3% were part of the hearings. So in this case, size did matter," she said. "We already worked with Sapra concerning the witchcraft community. Their views were already canvassed," said Mkhwanazi-Xaluva.*"

It must be noted that submissions on the CRL Commission's proposal to regulate religions and religious leaders were submitted to the Commission by both the South African Pagan Rights Alliance and the South African Pagan Council. These submissions were ignored, and Pagans were in fact not canvassed for our opinions on the proposal. At no time has the Commission ever canvassed the opinion of SAPRA on the proposed regulation of religion!

SAPRA is disappointed by Mkhwanazi-Xaluva's decision to ignore minority religions in this important consultation process – minority faiths will, after all, also be affected by the proposal to obligate all religious leaders and religions to submit to state regulation. Pagans have a constitutional right to equality and to equal representation in matters which affect us and our religious communities.

As a consequence of this denial of equal access, and grievous misrepresentation of the facts, this Alliance submitted a formal request to Parliament to remove the current Commissioner from her position.

According to Section 17. of the CRL Rights Commission Act, *"(1) A member of the Commission may be removed from office, but only if a committee of the National Assembly finds the member guilty of misconduct or rules that the member is incompetent or incapable of performing a member's functions, and the National Assembly, in accordance with section 194(2)(b) of the Constitution, adopts a resolution calling for that member's removal from office."*

The CRL Commission must protect, promote and defend the right to equality for all religions, not just those who have a majority. The Commissioner must perform the functions of her office in good faith and without prejudice. The CRL Commissioner has failed in her statutory obligation to uphold sections 4(a) to (c) and 15(1)(a) of the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities Act. The Commissioner has demonstrated clear bias and intention to deny religious minorities the right to be heard on this matter.

For an update on the CRL proposal to regulate religion, see agenda item 4.

4. CRL Rights Commission proposal on regulation of religion

The proposal by the CRL Rights Commission to license and regulate religion, religious organisation and leaders, has not been endorsed by the Parliamentary Portfolio Committee on Cooperative Governance and Traditional Affairs (COGTA).

The COGTA has acknowledged that a majority of religious organisations and religious leaders in South Africa have rejected the proposal for regulation. The Committee has opted instead for self-regulation.

There is therefore no legal requirement for religious practitioners to register with any peer review mechanism as proposed by the CRL Rights Commission.

The law currently makes no demand for licensing on religious leaders, other than existing ordinary PAYE tax requirements on earnings. Religious organisations registered as non-profit organisations are governed by the Non-profit Organisations Act No. 71 of 1997.

SAPRA encourages Pagan religious leaders and organisations to uphold a high standard of ethics in their occupations, and to operate in accordance with the law in order to avoid bringing themselves, their organisations, or Paganism in general into disrepute.

5. Advocacy against witch-hunts – United Nations Conference

OHCHR Experts propose action to end accusations of witchcraft and witch-hunts

The United Nations Human Rights Council hosted the very first two day workshop on witchcraft-related human rights violations in Geneva, Switzerland, on 21 and 22 September 2017.

SAPRA was invited to submit a presentation on witchcraft accusations and witch-hunts in South Africa, at the United Nations 'Workshop on Witchcraft and Human Rights' as an Expert Panellist, in Geneva, Switzerland in September 2017.

The workshop brought together over a hundred U.N. experts, academics and members of civil society from across the world, to discuss violence associated with beliefs and practices associated with witchcraft and sorcery.

A number of key proposals have been made by attendees as a result of this conference. OHCHR Experts proposed action to end harmful practices related to witchcraft and whilst we have some concerns with some of the recommendations made, SAPRA welcomes the human rights approach taken by the delegates, and their recommendations.

The South African Pagan Rights Alliance will study these recommendations closely.

6. Law Review – Witchcraft Suppression Act

The South African Law Reform Commission's State Law Advisor has informed SAPRA that an Advisory Committee meeting is being arranged to address the finalization of the investigation into the review of the Witchcraft Suppression Act (Project 135).

SALRC hopes to finalize Project 135 – the review of the Witchcraft Suppression Act, in the course of this year.

SAPRA will keep members and the general public informed of any further developments.

7. Pagan religion and White supremacism

Several international articles have been published over the last two years detailing the increasing use of Pagan and specifically Norse (Heathen) symbols, by white nationalist groups in the US and in Europe. South Africa is unfortunately not immune to this trend, as local groups often take their cue from international ones. The Executive have identified groups and individuals in South Africa who may potentially be aligned with these international groups, and we will be monitoring them closely.

For SAPRA, this trend poses an ethical problem. In offering service to our interrelated religious communities, should SAPRA take an ethical stand against this trend? Should we speak out against groups that deliberately incorporate Pagan symbols, who promote racism, anti-Semitism (against both Jews and Muslims), homophobia (including transphobia), or hatred against any other class of person? Can our vulnerable religious minority afford to be publicly associated with such groups?

SAPRA's executive members have debated these and related issues. We have collectively resolved to issue the following positive 'Statement of Principle' to guide this Alliance forward.

**South African Pagan Rights Alliance
Statement of Principle**

The South African Pagan Rights Alliance is committed to advocating for human rights and social justice.

SAPRA stands for human dignity, equality and freedom for all South Africans.

SAPRA has and always will support and promote ethnic, gender, sexual orientation and religious equality.

This Alliance distances itself from any and all forms of racism.

Our mandate has always been, and remains, to assist those who have experienced unfair discrimination, to obtain appropriate legal redress.

8. The Land question - expropriation without compensation, property ownership and the law

A recent proposal by members of Parliament to amend section 25 of South Africa's Constitution to enable expropriation of land without compensation has resulted in irrational fear and panic on many sides of the political divide.

The general tenor of discussion and argument on social media amongst Pagans and non-Pagans alike has been counterproductive. Many are responding to the Economic Freedom Fighters proposal to expropriate all land and vest it in the sole possession of the State, and to the African National Congress's tacit support for some form of land expropriation without compensation, as if these proposals are already a fait accompli.

Incendiary racist political rhetoric from the EFF and several opposition civil society organisations calling for international sanction against the South African government for even suggesting a radical correction for past injustices perpetrated against a majority of citizens in our country, has left many South Africans of all ethnicities anticipating disaster.

The truth is, these political proposals are far from a done deal. Nothing has been decided yet. Parliament's Constitutional Review Committee is due to deliver its suggested recommendations on expropriation for discussion in August. Civil society organisations and

individuals will have ample time to submit their comments, suggestions and objections to the draft proposal.

It is important to remember that South Africa's democratic Parliament no longer has singular sovereignty as it did under the former nationalist government. The Legislature no longer governs independently of the rule of law or justice. Before 1996, our courts did not have a right of automatic review of any law passed by the Legislature. Under the former Union and Nationalist apartheid governments, Parliament was supreme, and often acted arbitrarily and unfairly. This can no longer happen. The Judiciary is now an equal branch of government, and it has the right to review and set aside any decision taken by the Legislature (or the Executive) if that decision is inconsistent with law or the Constitution. This provides ordinary citizens with the right to challenge the other two branches of our government if they act capriciously or unjustly.

While section 25 currently does permit expropriation of land under certain conditions, South Africa is a signatory to several international instruments that protect personal property rights – we have the right not to be deprived of property except in terms of a law of general application, and no law may permit arbitrary deprivation of property. The Constitutional Court is unlikely to permit any amendment to section 25 which is grossly inconsistent with the Bill of Rights – which removes the right of all citizens to own personal property.

Parliament's Constitutional Review Committee has called for public comment on the proposal to amend section 25 of South Africa's Constitution.

NOTE: Submissions and your indication to make oral presentation must be sent to: Pat Jayiya. E-mail: pjayiya@parliament.gov.za by no later than Thursday, 31 May 2018.

SAPRA would like to encourage everyone to participate in this process in a reasoned and civil manner. The best thing we can do now is offer the light of reason and peace to everyone around us. Trust in our Democracy. Engage constructively in the democratic process. Engage constructively with each other, and work for a more just and equal society for all South Africans.

9. Amendment of Civil Union Act and CU RMO issues

a) Amendment of Civil Union Act

In January 2018, Cope MP Deidre Carter tabled a Bill in Parliament to repeal the provision in the Civil Union Act that allows Home Affairs marriage officers to refuse to marry lesbian and gay couples.

Section 6 of the Civil Union Act allows marriage officers employed by the state to refuse to solemnise civil unions if they personally object to same-sex relationships on the grounds of their “conscience, religion [or] belief”.

This has resulted in many same-sex couples being turned away from Home Affairs branches that have no officials willing to marry them. This has also affected the timeous registration of same-sex marriages solemnised by SAPRA religious marriage officers.

As the South African Pagan Rights Alliance was designated as a religious organisation in terms of section 5 (1) and (2) of the Civil Union Act (Act 17 of 2006), in February 2008, SAPRA has submitted comment in support of the proposed amendment.

This Alliance affirms its support for the repeal of section 6 of Act 17. We hold that section 6 is inconsistent with sections 9 and 10 of the Constitution of the Republic of South Africa.

NOTE: The closing date for comment is 28 April 2018. Submit your comment in support of the repeal of section 6 of Act 17 to:

Speaker of the National Assembly

New Assembly Building, Parliament Street, Cape Town

P O Box 15, Cape Town 8000

E-mail: speaker@parliament.gov.za and cc: cdudley@parliament.gov.za

b) CU RMO issues

The South African Pagan Rights Alliance was designated as a religious organisation in terms of section 5 (1) and (2) of the Civil Union Act (Act 17 of 2006), in February 2008. In terms of this designation, SAPRA nominates formal members of this Alliance who wish to become ‘religious marriage officers’ to the Department of Home Affairs (DHA). Nominees write an examination set by the Department, and are appointed by Home Affairs as ‘religious marriage officers’.

SAPRA’s appointed marriage officers often encounter similar problems in executing their duties as marriage officers including:

- a) DHA appointments for nominated officers to write examinations are unreasonably delayed.
- b) Examination results from DHA are unreasonably delayed, or lost.
- c) DHA offices often do not have the proper Civil Union (CU) documents required by marriage officers, including marriage registers and declaration documentation.
- d) DHA registration of properly submitted CU marriage documents is sometimes delayed, or not registered at all.
- e) DHA officials refuse to accept CU marriage documents for heterosexual couples,

mistakenly believing that CU marriages only apply to same-sex marriages.

f) recurring problems are continuously reported to the Head DHA Marriage Office in Pretoria and resolved, only to occur again at another or same DHA office.

It has been proposed that Pagan CU Marriage Officers participate in an online conference in order to discuss these and others problems, in order to find solutions. A formal complaint, based on the findings of such a conference, should be forwarded to the Minister of Home Affairs.

10. Finances

This Alliance is entirely funded by its formal membership. SAPRA does not charge any fee for its service to individuals or communities. No member of the Executive derives any financial compensation for their service to this Alliance. Membership fees (R150.00 per annum) are spent exclusively on maintaining SAPRA's capacity to deliver service. Very few formal members contribute annual membership fees.

10.1. Annual Liabilities include:

(a) SAPRA Website: paganrightsalliance.org

(i) .org Domain renewal fee – R219.00 incl. VAT

(ii) Basic Hosting (Hetzner) – R1152.36 incl VAT

Total: R1371.36 (Subject to annual increase)

(b) Banking Fees

10.2. Application for Non-Profit Status

SAPRA's Treasurer, Chris Waugh, has suggested that this Alliance submit an application to SARS for non-profit status.

How would SAPRA benefit from such status?

Do any formal members have any objection to this suggestion?

10.3. Tax compliance

SAPRA's Treasurer will facilitate SAPRA's registration for tax compliancy.

11. Additional Matters

Please add additional matters not already listed on the agenda for discussion, as a comment to this post.

South African Pagan Rights Alliance
<http://www.paganrightsalliance.org/>