**Joint Committee on Constitutional Review**

**Overview of Submission in 2017 & 2018**

 14 February 2019

1. **Background**

Herein below follows two tables setting out the Submissions received by the Committee during the 2017 and 2018 years respectively. The Submissions are classified into three categories, denoting whether they are ready for consideration as received, whether they require a legal opinion or whether they are not within the Committee’s mandate.

The categorisation proposes as a means of processing the submissions and the table reflect five columns setting out each submission’s reference followed by the three categories with the final column being recommendation of the Committee on whether or not it finds it desirable to review the Constitution as per the proposal contained in the submissions.

Table 1.1, reflects that the Committee received six Submissions in the 2017-year cycle, with two Submissions ready for consideration, three requiring legal opinions and one submission that are deemed fall outside of the Committee’s mandate. Table 2.2, reflects that the Committee received five submissions, but reflects four submissions namely, two that are ready for consideration by the Committee and another two categorised as not being within the Committee’s mandate.

The tables are intended to assist the committee in processing submissions received and resolving on whether any warrant a review of the constitution. In light of time remaining in this parliamentary term, it is advisable for the committee to complete its work for purposes of reflecting a record of all submissions before it during this term in its legacy report

**1.1 Table of Submissions in 2017**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Submission****Reference** | **Category 1****Ready for consideration** | **Category 2****Legal opinion** | **Category 3****Not within mandate** | **Recommendation on the desirability to review the Constitution** |
| CR 17/1By Peter Moikangoe |  | Departs from the Preamble with a proposal that line five referencing RSA belonging to all who live in it be reviewed with a view to amend it to read that RSA belongs to South Africans. |  |  |
| CR 17/2By Dr Shumani Leonard Tshikota of Dzanani |  | Requires a legal opinion on the proposal to review Chapter 1, section 6 (2) to insert a provisions on National Lexicography Units to develop the use of indigenous languages |  |  |
| CR 17/3By Sndries Havenga of Du Plessis & Hofmeyr Attorney’sACCOUNTABILITY submission | Calls for effective national legislation pertaining to Accountability matters detailed in the submission, through the passing of an Accountability Act. |  |  |  |
| CR 17/4By Lesego Sechaba MogotsiThe Azanian People’s Organisation (AZAPO) |  | Requires a legal opinion although Submitter agrees that the changes proposed to the Constitution will initially require amendment to various pieces of applicable legislations and regulations. Submission requests review of sections in Chapter 4 on Parliament through to Chapter 9 on State Institutions Supporting Constitutional Democracy  |  |  |
| CR 17/5 By Boitumelo Boshupeng | Review of section 25 cautioning against radical change of this section to ensure justice and restore fairness. S25 currently only protects landowners who benefited from the purchase of land through racially discriminatory laws. |  |  | YES - |
| CR 17/6 By James Dikwayo |  |  | Can be considered under national legislation namely, Traditional Leadership and Governance Framework Amendment Bill B23-20015 considered by the NCOP Cooperative Governance & Traditional Affairs Committee as at 30 October 2018. |  |

1. **Overview of Submissions in 2018**

**2.2 Table of Submissions in 2018**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Submission****Reference** | **Category 1****Ready for consideration** | **Category 2****Legal opinion** | **Category 3****Not within mandate** | **Recommendation on the desirability to review the Constitution** |
| **CR18/1 Mr E Matlala****Sekunde District Limpopo Province** |  |  | Request review amendment and repeal of National Legislation, and thus falls outside of the work of this committee.The submitter proposing review of the act which prevents the issuing of title deeds for communal land; National Student Financial Aid Scheme to ensure that students who cannot pay their student loans are not blacklisted and thereby prevented form job opportunities |  |
| **CR18/2** **Mr Thembikosi Mgubela** | * S 26(2) which provides that the State must reasonable legislative and other means within its available resources to achieve progressive realisation of this right

Proposes review of this section to provide: * that the State must take reasonable legislative and other measures, **by providing service standards to citizens,** toachieve progressive realisation of this right.

The submitter motivates that the service standards and provision of land and will better equip citizen to build their own houses. |  |  |  |
| **CR18/3****Mr Vumile Dunjana****Western Cape**  |  |  | No section referenced and request the Committee to look into the strengthening of socio-economic activation programmes for the youth in the township of Gugulethu to assist with eradication of drug abuse that compounded by unemployment.  |  |
| **CR18/4****Mr Z Hlatshwayo** | * **Preamble**

Review request for the removal of the reference to God in the Constitution. Submitter views this as being extraneous in a Constitution that is in secular State.* **Legal Opinion**

The Committee has received an opinion on this matter during this term to the effect that:-It is acceded that the Constitution is not a religiously neutral instrument. The Constitutional Court held that the invocation of a deity does not amount to discrimination against non-theist and thus does not breach the provisions of the Equality Clause. |  |  |  |
| **CR18/5****Mr A Plaatjies** |  |  |  |  |