**Constitutional Review Committee**

**Overview and Table of Submissions**

11 February 2018

1. **Background**

During the 2016-year cycle, the Committee received 67 Submissions, which were categorized for ease of processing into the following 3 Categories, namely:

* **Category 1** submissions, denoting submissions ready for committee consideration, the Committee received 15 of these submissions;
* **Category 2** submissions, denoting submissions requiring a legal opinion, the Committee received 30 of these submissions and was briefed on same by the Parliamentary Legal Service; and
* **Category 3** submissions, denoting submissions that are not within the Committee’s mandate, i.e. submissions requesting amendment of national legislation or instances where there is a lack of clarity on the section(s) of the constitution identified for the proposed review. The Committee received 22 of these submissions.

Herein below follows a table detailing all the submissions received by the Committee reflecting a table with 5 columns detailing the committee submission reference, the submission categorisation, the section(s) proposed for review, related matters for consideration by the Committee and a final column wherein the Committee will indicate whether it is for or against the proposed review of the Constitution.

1. **Table of Submissions**

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| **Submission**  **Reference:** | **Categorisation:**  **1: ready for consideration**  **2: Legal Opinion**  **3: Not mandate** | **Section submitted for review**  **and subject matter of submission:** | **Related matters:** | **Desirability to amen (yes/no)** |
| CR16/1  Khoisan NationSelf Defence Unit | **CATEGORY 1**  **ready for consideration** | **Defence Laws Act. No 99 of 1996** demobilisation **Act, 1996, Act No.81 of 1998**, defence special tribunal act, 1998, **Act No.128 of 1998** demobilisation amendment act, 1998. **Act No.43 of 2001**, demobilization amendment act, 2001 ad **Act No. 44 of 2001**, termination of integration intake act, 2001.   * Interest in Defence Laws and Amendment bills legislation to bring it in line with the Constitution and to amend the termination of the integration intake bill of 2001. * Aver that the Act does not cater for full participation of the integration of the Khoisan Soldiers/Cape Corps. | * Refer matter to the Portfolio Committee on Defence and Military Veterans * Refer submission to Joint Standing Committee on Defence. Write to SC Committee on Security and Justice. * 7 forces currently benefited during SANDF integration process since 21 April 1994. * Submitters aver that the Khoisan soldiers made up the 8th force which was excluded since 21 April SANDF integration process. |  |
| CR16/2  Shepherd Silayi | **CATEGORY 1**  **ready for consideration** | * Section 29(2) right to receive education in official language   Review this section to provide:” Everyone ***may have***the right to receive education in the official language of their choice, where that education is reasonably practicable.”  **Recommendation**  **The South African Schools Act**  Section 6 of the South African Schools Act (SASA) (RSA, 1996) prescribes several preconditions in relation to the determination of language policy in public schools.  This Act confers powers on school governing bodies to determine the language policy of a school, subject to the Constitution, SASA and any applicable provincial law**.**  Interpretation of this section of SASA has been the object of significant legal contestation, as is evidenced by the number of court cases pertaining to this matter.  Of further significance is the Act’s inclusive approach to the language policy, which resulted in the inclusion of a clause that stipulates, “a recognised Sign Language has the status of an official language for purposes of learning at a public school”.  It is therefore now common knowledge that, in the context of education, one speaks of 12 “official” languages, as opposed to the 11 stipulated in the Constitution. | **Recommendation The Language in Education Policy**   * The National Curriculum Statement (NCS) all learners study their home language and at least one additional language from Grade 1; * The language in education policy provides that all learners shall be offered at least 1 approved language as a subject in Grade 1 and 2. * From Grade 3, all learners will be offered their language of learning and teaching (LOLT) and one additional approved language as a subject. * All language subjects shall receive equitable time and resource allocation. * The Provincial Education Department must keep a register of requests by learners for teaching in a language or medium that cannot be accommodated by schools. * It is reasonably practical to provide education in a particular LOLT if at least 40 learners in Grades 1 to 6 or 35 learners in Grades 7 to 12 request it in a particular school during enrolment.   **Implications of court judgments for language policy**  In 2 cases, namely Nkosi vs Durban High School Governing Body and Hoerskool Ermelo vs Head of Mpumalanga Department of Education:   * court judgements confirmed the importance of ensuring that learners be given the choice of their home language as the LOLT or as an additional language. * The state is duty-bound to ensure effective access to the right to be taught in the language of one’s choice, in recognising the right of a learner to receive education in an official language or in a language of one’s choice.[[1]](#footnote-1) |  |
| CR16/3  Maletsane Phoffa | **CATEGORY 2**  **Require legal opinion reference 107/2017/SSI**  The Committee has taken as decision to recommend in its Constitutional Review report that section 25 on Property be amended to allow for the expropriation of land without compensation and this resolution has been adopted by both Houses of Parliament | * Review section on expropriation of land  1. In order allow for expropriation without compensation as owners have already benefited from the land. 2. Blacks must be taxed less than their white counterparts.   **Criteria of Expropriation Bill**   * land owners would be paid compensation the State would not merely rely on “market value” to determine the rand amount to be paid. * Other criteria include the “history of the acquisition”, “the current use of the property”, and “the purpose of expropriation”.   **The Bill was opposed on the following grounds:**   1. That the term “property” was not defined as referring to land only, meaning interpretation could lead to movable property being expropriated. 2. Compensation for expropriated land would not cover outstanding bank payments, meant property owners could be left without money to find alternative accommodation. 3. Those who were dispossessed of their land prior to the 1913 Land Act would not benefit. | **Recommendation**  On 26 May 2016, Parliament approved the Expropriation Bill enabling the State to make compulsory purchases of land to redress racial disparities in land ownership, in order to speed up the redistribution of land.  The Bill, sets out the legislative requirements for the State to lay claim to land for public purpose or in the public interest. And was passed after a majority of the National Assembly (NA) voted in favour of the Bill, which was then accepted after technical changes made by the National Council of Provinces (NCOP).  Consideration has to be had for impact this process will have on investment and production after South Africa’s emergence from drought. However, the government intends to accelerate the process in order to rectify past wrongs and provide opportunities to the previously excluded, and has repeatedly said it will stick to the law and not follow Zimbabwe’s example.  The Expropriation Bill and related matters are currently being considered by the following Committee in Parliament:   * **PC on Rural Development and Land Reform**   The submitter should be referred to monitor and attend the open meetings of this committee for progress on these matters. This submission does not necessitate a review of the Constitutional sections on Land.  The 5th democratic Parliament cannot act inconsistently with the Constitution. The Bill is consistent with the Constitution, and will make sure that the land is availed without bringing about constitutional challenges. This Bill does not however replace the need and commitment by this Parliament for consultation, which is why this submission is heard by the CRC.  The High Level Panel lead by former President Motlanthe, invited the public to make inputs on its programme in 2016 until July on four focal areas, namely:   1. Review of legislation; 2) assessment on the implementation of legislation; 3) identifying gaps in existing legislation as well as; 4) the proposal of action steps that impact specific areas of legislation. |  |
| CR16/4  Mthombeni MM | **CATEGORY3:**  **Not mandate** | **No sections specified in Submission**   * Remove unlimited rights of criminals who kill, rape, hijack and sell drugs with intent – s 35 * Transform judiciary, in order to be more inclusive in terms of applicable laws (Roman laws) and are too expensive for a majority of the population – s 174; s 176 * Stop hate speech, take action against racism * Bring back the death sentence to reduce crime. * Control boarders better in order to not allow access without permits. * Land claim method is wrong; the government must take back the land from those who stole it in the 1700s to 1800s to date, but do not take away land from people who produce food for the population. | **Recommendation**   * section 35 of the Bill of Rights provides for the rights of the arrested, detained and accused persons, to conditions of detention that are consistent with human dignity. * Regarding transformation of the judiciary, the Constitution protects and recognises South African Customary Law in various ways. Chapter 12 (s 211 and s 212) affords official recognition to ACL as well as to the institution, status and role of traditional leadership. Specifically, s 211(3) mandates the application of Customary Law by the courts, where applicable. * The Department Justice and Constitutional Development has also prioritised finalisation of the Draft Traditional Courts Bill during 2016. * Regarding hate Speech, a draft bill to address racism and hate speech is of April 2016 being promulgated by the Department of Justice and Constitutional Development. The Draft Prevention and Combating of Hate Crimes and Hate Speech Bill will create an offence of hate crimes and hate speech and criminalise any conduct which amounts to an attempt, incitement, instigation and conspiracy to commit a hate crime. Hate speech via social media and online will fall within the scope of the proposed legislation. * Draft National Action Plan (NAP) to Combat Racism, Racial Discrimination, Xenophobia and Related Intolerance released for comment at the beginning of 2016. * The NAP aims to provide South Africa with a policy framework to address racism, racial discrimination, xenophobia and related intolerance at both a private and public level. * Comment on the NAP was invited until 30 June 2016. * Regarding, Capital Punishment in South Africa was abolished on 6 June 1995 by the ruling of the Constitutional Court in the case of S v Makwanyane (CCT 3/94), following a five-year and four-month moratorium since February 1990. The death penalty is said to be a denial of human rights by Amnest Internation (NGO) and is in direct conflict with the South African constitution. According to Amnesty International there are 58 countries which practice the death penalty and 140 countries which have abolished it. * The Border Control Operational Coordinating Committee (BCOCC) is committed to the preventing, detecting, investigating and successfully prosecuting of all cases of corruption. The following Government institutions are involved in the Border Control and Security Framework, the National Departments of: * Home Affairs, Intelligence, Transport, Public Works, Agriculture, Health and Defence as well as the South African Police Service (SAPS) and the South African Revenue Service (SARS). * All services offered by government officials at our Ports of Entry are free of charge. Where payment is required, please ensure that you receive an official receipt for any monies you have paid to staff. Bribery and corruption not be tolerated. There is an anti-corruption hotline for whistle blowers, whom will be protected in the event of reporting corruption.   The land claim issues are currently being considered by Parliament under the Expropriation of land act by the PC on Rural Development and Land Reform.  The High level Panel is considering land reform and rural development as a focal area of this process. The Panel has conducted an extensive consultation process across the country in order to address land issues with necessary interventions and recommendations. The High Level Panel is scheduled to submit its final report in August 2017. |  |
| CR16/5  James Dikwayi | **CATEGORY 2**  **Legal Opinion provided reference 109/2017**  The presidential appointment and term of office in s86 read with s42 is a generally accepted electoral model informed by the concept of democracy.  Election of the president is linked to the concept of proportional representation and the current electoral system is a result of political discussions of the Constitutional Assembly. If amended as proposed it will alter proportional representation nature of RSA’s current electoral system.  The legal office is of the view at the Committee has a choice to make a policy decision whether to support the submission in its constitutional review report. | * Electoral System reform to allow for individual candidate for the presidential position during election. | The Independent Electoral Commission (IEC) is South Africa’s election management body as established under Chapter 9 of the Constitution.  Section 86 provides for the Election of the President and by the National Assembly at its first sitting after its election. This section speaks to the election of an individual woman or man from among its members to be the President.  The configuration of the electoral system is of fundamental importance to the nature of a country’s politics and, very importantly, the match between the preferences of citizens, the preferences of elected officials, and government's policy direction.  South Africa’s ‘proportional representation’ system was selected for its inclusiveness, its simplicity, and its tendency to encourage coalition government.  Therefore the submitter needs to clarify his proposals in order for the Committee to give consideration to the submission. |  |
| CR16/6  No name provided by the submitter | **CATEGORY3:**  **Not mandate**   * Vague and no reference to section * Broad statements which do not assist Committee * Land matter dealt with by the Committee * Other matters can be addressed in national legislation and do not necessitate a review of the Constitution. | * Land Redistribution * Offences of persons in office treason * Limit rights of convicted prisoners * Right to vote limited to tax payers | The Land Expropriation Bill and related matters are currently being considered by the following Committee in Parliament: PC on Rural Development and Land Reform, and the High Level Panel which is scheduled to have a report with interventions and recommendations release by August 2017.  For a crime to be treason, there must be 'hostile intent' against the state, although it may be absent in cases of public violence and sedition. Hostile intent does not mean that a person who attempts treason is necessarily motivated by hatred or ill-will, nor that there is an intent to assist a foreign enemy. Hostile intent has been described as 'intent to treat the state as an enemy' or to be 'intentionally antagonistic towards' the state. No motive needs to be proved in cases of treason. An act showing hostile intent need not involve the use of force.[[2]](#footnote-2)  The South African Police Service lists it on its website as one of the “common law offences still applicable within the South African legal system”. |  |
| CR16/7  Chia-Hsiang Chu | **CATEGORY3:**  **Not mandate** | * Reinstate death penalty * Remove right to vote for inmates | No section referenced |  |
| CR16/8  Konya Venter Pieter | **CATEGORY3:**  **Not mandate** | * Reinstate death penalty | Committee does not have a mandate to call for a national vote or referendum on laws. |  |
| CR16/9  Goodman Luthuli | **CATEGORY3:**  **Not mandate** | * Retirement funds legislation | This submission is not in line with the committee’s mandate. |  |
| CR16/10  Phil Melton | **CATEGORY 1**  **ready for consideration** | * Constitutional law transgression sanction. | Proposes review of the Constitution to amend it with an inclusion of penalty for a conviction of breach of the constitution by the Constitutional Court.  This can be accommodated in national legislation. |  |
| CR16/11  Senhlwa Nelson Lekganyane | **CATEGORY3:**  **Not mandate** | * Review of Electoral law * Review of mining laws for development | Proposes that the Committee revives and reviews the Van Zyl Slabbert Commission on Electoral Reform Report.  Proposes a review of mining laws.  This submission does not necessitate a review of the Constitution and can be catered for in national legislation. |  |
| CR16/12  Phillip Gonsalves | **CATEGORY3:**  **Not mandate** | Review of the powers of the President | No section referenced  Does not assist the Committee with how this section needs to be changed. |  |
| CR16/13  Fabian Makhanda | **CATEGORY 2**  **Legal Opinion reference 114/2017**  The prosecuting authority of South Africa has a history of autonomy from the Executive arm of State, however s179 envisages an independent and impartial NPA.  Legal is of the view that there is no justifiable basis in law to review the Constitution to amend s179 for it to provide for independence and impartiality of the NPA as the latter is sufficiently provided for within the current constitution and legal framework. | * National Prosecuting Authority in   s 179 (4), (5)(d) and (6) | Categorise for referral for legal opinion  **Legal Opinion provided** |  |
| CR16/14  Senhlwa Nelson Lekganyane | **CATEGORY 2**  **Legal Opinion reference 115/2017**  **Protest regulation,** the constitution only guarantees the right to assembly and expression, the manner in which marches and protests are regulated is done through national legislation, namely the Regulation of Gatherings Act and the proposal can be cured herein and does not necessitate amendment of the Constitution. | * Review right to protest in order to prevent destruction to property   **Electoral System**, There is nothing legally prohibiting the introduction of a new electoral system and amendment thereto would amount to a policy decision.  **Mining legislation**: amendment of national legislation is not the mandate of the committee and such matters can be referred to the relevant portfolio committee for consideration. | Categorise for referral for legal opinion  **Legal Opinion provided** |  |
| CR16/15  Kagiso Gabriel | **CATEGORY 2**  **Legal Opinion reference 147/2017/SSI**  Regarding s 1(2) the proposed amendment is already provided for in s2 and is unnecessary.  Regarding s 47 proposal that Ministers be excluded from voting on matters of parliament and only vote on matters concerning their portfolios.  A Minister or Deputy Minister who is a Member of the NA has the same voting rights as other members, s 53 sets out decisions are to be taken in the NA, apart from Members presiding, and every member may on decisions before the House.  Membership of the NA is determined on a proportional basis. In instances where parties have narrow majorities, it may be difficult to pass legislation, such voting restrictions will affect decisions that require special majorities and this requires a policy decision by the Committee. | * Review s 1(2), s 47 (a) (i), 48, 52(4), 55(a), 64(4),83(b),84(e), 89(1) (2), 91 (a), 96 (b),   Regarding s28 at present, an oath is required of members before they begin to perform their function in the assembly, and the Constitution does not provide for loss of membership where a member is found in breach of their oath of office. Currently a member may be referred to the Joint Committee on Ethics and Members Interests to answer to allegations, however the Code on Ethical Conduct and Disclosure of Members Interests does not provide for termination as a sanction.  Only a member’s party may terminate a members membership. Amending the Constitution to allow for termination of membership where a member breaches their oath of office is a policy consideration for the Committee which must stipulate a) what conduct constitutes breach of oath and b) the process to remove the member if the oath is breached.  S89(2) the proposed amendment requires the President be removed in terms of s 89, the Submitter does not clearly articulate how members should be curtailed from exercising this political choice.  Section 91 The decision to limit the number of Ministers and Deputy Ministers is a policy decision for the Committee to consider.  Section 96 Making Ministers and Deputy Ministers subject to a lifestyle audit is a policy decision. | Categorise for referral for legal opinion  **Legal Opinion provided**  Regarding s52 it is advised that amending the Constitution as suggested to allow voting by secret ballot on all resolutions to remove the Speaker and Deputy will remove the Speakers discretion to allow a secret ballot as provided in the NA Rules. This proposed amendment is a policy decision for the Committee to make.  Regarding s55 legal advice found the proposal in this regard to be unclear, this section deals with powers of the NA to legislate and hold the Executive to account.  Regarding s63 The is international precedent for presiding officers resigning from their political parties upon being elected to that role even in retirement in the UK – this is a policy decision for the Committee’s consideration.  Regarding s83 proposal that s 83(b) be amended to provide that the President be accountable for any infrindgment of the Constitution and be excused of all duties of holding an office as a president has far-reaching consequences and the committee must consider its merits. However s89(1)(b) currently provides for the removal of the president but not for any infringement which proposes both major and minor and unintentional violations  Section 84 proposed amendment is broad and encompasses all types of appointments made by the president, which should be individually crutinised for the most appropriate process. This proposal undermines separation of powers as is and is not sound in law and cannot be endorsed |  |
| CR16/16  Rajesh Maharaj | **CATEGORY 2**  **Legal Opinion reference 116/2017**  **Advice is to the effect that the the submitter is actually requesting a review of the Electoral Act rather than s46 as s46(1)(d) requires a proportional system in general and nothing in the Electoral Act or the Slabbert Commission’s recommendations detracts from a proportional representation system in genera.** | Section 46  However if the submitter is requesting the Committee to reflect the Slabber Commission recommendations in s46, this would alter the nature of the section moving it from general proportional representation guideline to a specific proportional formula provision, would require the Committee to take a policy decision on same | * Review of the Electoral System   (Slabbert Commission Report recommendations)  **Legal Opinion provided** |  |
| CR16/17  Olefile Christopher Moiloa | **CATEGORY3:**  **Not mandate** | No section referenced | * Review of public funding of political party legislation * Committee does not consider national legislation |  |
| CR16/18  Phumudzo Nedzivhani | **CATEGORY 2**  **Legal Opinion reference 117/2017**  Advice is to the effect that, the president’s term is already restricted to a maximum of two terms and no further amendment is necessary in this regard.  The proposal that the president must be prohibited from associating from persons with shares in a private company is impractical and is covered in s96 governing the conduct of Ministers dealing sufficiently with issues of conflict of interest.  The submission on treaties is also adequately addressed in s 231 which requires the NA to approve international agreements, and increasing the threshold for approval from simple majority to a two-thirds majority of NA is which the Committee may wish to consider.  Limitation of powers to appoint Ministers and Ambassadors is a presidential prerogative which is also a policy decision which the Committee has a choice to consider.  Impeachment of the president it covered in s89 whether it must be amended to provide more clarity on impeachment process is also a policy decision.  Removal of persons appointed by the president is covered in varous sections of the Constitution and relevant legislation and no further amendments are required in this regard. | * Review of Bill of Rights and s 83 to 102 dealing with the President and National Executive * Each section and issue dealt with separately in the legal opinion   The second part of the submission relates to various socio-economic rights and it is not clear whether the submitter is proposing that these be made absolute and not subject to progressive realisation, based on the availability of resources.  It is in this regard advised that an absolute right can only be granted if practically the State has sufficient resources to guarantee socio-economic rights for all citizens.  The present drafting of the Constitution does not require the State to do more than is achievable within its available resources.  It is therefore advised that granting of absolute rights, in the current economic climate is not attainable and would lead to the State failing to meet its constitutional obligations. | **Legal Opinion provided** |  |
| CR16/19  M G Matovheke | **CATEGORY 2**  **Legal Opinion reference 118/2017**  This is policy decision for the committee to make as advised in legal opinion reference 109/2017 above**.** | * Review of election of President by so that it is done by the ordinary South Africans and not by the majority political party as is the case. | Refer for legal opinion  **Legal Opinion provided** |  |
| CR16/20  Aadilah Meas | **CATEGORY 2**  **Legal Opinion ref 119/2017**  Section 89 of the Constitution already contains an impeachment provision and further provides for the removal of the president through vote of no confidence.  The proposal regarding the introduction of a quota system goes against democratic principles. This would limit the right of citizens to vote for a political party of their choice.  It is therefore advised that this proposal be rejected as it would result in the electorate losing their right to choose their representatives. | * Addition of an Impeachment clause | Refer for legal opinion  **Legal Opinion provided** |  |
| CR16/21 Mengo Willson | **CATEGORY 2**  **Legal Opinion ref 120/2017**  In accordance with the recognised international standard or South African legislative drafting style, the definition section is generally never numbered and is rather required to follow an alphabetic order when listing definitions for any legislative instrument.  Therefore there is no need to amend s239 since it is aligned and in conformity with the internationally accepted drafting standards. | * Review s 239 to insert ss 1 (a) (b) and 2 (a) (b) | Refer for legal opinion  **Legal Opinion provided** |  |
| CR16/22 Ntebo Morudu | **CATEGORY3:**  **Not mandate** | * Request for limited presidential power and for non-partisan president | Public input on removal of president.  Same as American Presidential appointment of candidates |  |
| CR16/23 Tessa Paulsen | **CATEGORY3:**  **Not mandate** | No section referenced | Abolishment of the term coloured  Recognition of Mission stations established to shield indigenous groups from persecution  Rectification that the Griquas are true Khoi  Recognition of foreign marine records  Rectification of history and recognition of Khoe history  Policies must be implemented which allow the independence of cultural organisations from political parties. |  |
| CR16/24 Mac Oswald | **CATEGORY3:**  **Not mandate** | No section referenced | It is recommended that this proposal not be considered due to it not being a proposal for review of the Constitution but is rather a list of comments. |  |
| CR16/25 Elsa Post | **CATEGORY3:**  **Not mandate** | No section referenced | It is recommended that this proposal not be considered due to it not being a proposal for review of the Constitution but is rather a list of comments. |  |
| CR16/26 Adv. H. A Mukhavela | **CATEGORY 2**  **Legal Opinion ref 123/2017**  The prosecuting authority’s association with the Executive arm of State has historic legislative roots.  The Constitution as the supreme law has not changed that as s 179(6) provides that the Cabinet member responsible for the administration of justice must exercise final responsibility over the prosecuting authority however the Constitution through s 179 has added a safeguard that the NPA must be independent and impartial.  It is the view of legal advice that the requirement that the NPA’s functions must be exercised “without fear, favour or prejudice” is a guarantee of independence and an instruction for the NPA to be impartial in carrying out its functions.  Regarding s188 which establishes the Auditor-General as a Chapter 9 institution supporting democracy, s181(2) guarantees these institutions are independent and subject only to the constitution and the law and they must be impartial in carrying out their functions. | s 179 on the appointment of the National Director of Public Prosecutions  light of the advice set out in the legal opinion there are no justifiable basis in law to amend s179 and 188 of the Constitution as the already contain:   * constitutionally endorsed safeguards for the provision of indeptendence and impartiality of the NPA   allow the AGSA reports to be considered by SAPS and NPA for investigations and prosecution as these reports are public records which are also submitted to Parliament for its oversight consideration. | Proposes that the section be amended to provide that the positon be filled through conventional recruitment processes. Submitter states the unfairness of judges being subject to a public interview and not the NDPP and is of the view that this will strengthen the independence of the NPA and avoid political inteference.  This submission can be addressed in national legislation and does not necessitate an amendment of the Constitution. |  |
| CR16/27  Jesse Greaves | **CATEGORY 2**  **Legal Opinion ref 124/2017**  Advice is to the effect that as long as the principles of the Constitution are informed by the democratic spirit and purport of the document as the supreme law, amendment of its text is permitted.  However, the amendment proposed by the submitter in this case will alter the general nature of s 46, changing it from a general proportional representation guideline to a specific formula-prescription provision.  This submission requires the Committee to take a policy decision as to whether to support the proposed amendment or not. | * Review of s 46 (1) (d) to allow for proportional representation and a constituency representation in the National Assembly. | Aimed at enhancing public participation and allow for MP’s to in direct contact with their Constituency. |  |
| CR16/28  Ms L V Sizani | **CATEGORY 2**  **Legal Opinion ref 125/2017**  Legal advice is that after thorough consideration of the provisions proposed for review in line with the 2nd Certification Judgment, it is apparent that the submitter misconstrued the content of s196 of the Constitution.  Advice goes further to state that the section proposed for review is not a matter where the application of the subsidiary principle finds relevance, as it cannot be agrued that the issues raised in the submission could be resolved by amendment to the Public Service Act and the Labour Relations Act.  Proper construction of s 196 clearly shows that the PSC plays only an advisory role as an outside monitor on issues that may affect employment relations within the public sector through investigation and reporting in line with the 2nd Certification Judgment finding.  It is legal view that s196 does not need to be amended. | * Review s 196 (4) (f) (ii) * Review s 196 (4) (d) | Request for a framework for the Public Service Commission for the investigation of labour related grievances by former public service employees. |  |
| CR16/29  Mr B P Green | **CATEGORY3:**  **Not mandate** | * No section only narrative requesting: | Retired judge to assist in appointment of Chapter 9 office bearers not president  Speaker ought to be non-partisan  Secret ballot votes ought to be permitted so MP’s vote with their conscious. |  |
| CR16/30  Ms Thandi Ngcobo | **CATEGORY 1**  **ready for consideration** | * Review of s 25 (7) | * Land Rights, due to little progress made a review of this section and relevant national legislation is necessary. * Refer to the PC on Human Settlement * This matter is being considered by Parliament through the Ad Hoc Committee on which will draft a section 25 Amendment for public input |  |
| CR16/31 Sydney Mitchell | **CATEGORY3:**  **Not mandate** | * No section referenced | * Personal views that the Constitution has failed citizens * Recommendations for Constitutional reform focus areas * Public Office bearers ought to resign immediately upon being finding of contravening the Constitution. * When political organisations are found to have contravened the Constitution, the party ought to be forced to hold general elections. |  |
| CR16/32  Moatlhodi | **CATEGORY3:**  **Not mandate** | * No section referenced | * Recommendations for Constitutional reform focus areas * Reduction in the number of provinces in order to reduce duplication and impact on the resources thereby making service delivery more effective. |  |
| CR16/33 Michael James | **CATEGORY 1**  **ready for consideration**  **This proposal can be cured in national legislation and does not necessitate a review of the Constitution.** | * Review s 20. No citizen may be deprived of citizenship to read * Recommend: s 20. No natural born citizen may lose or be deprived of citizenship. | Review of Citizenship   * Possible infringement of section 9 (3) of the Constitution if national legislation is not amended * Citizenship Act 1994 as amended * Refer to the PC on Home Affairs |  |
| CR16/34  Mr N Winser | **CATEGORY3:**  **Not mandate** | * No section referenced | Recommendations for Constitutional reform focus areas   * Requests legal definition of personhood be given to unborn person. * Request for a legal definition of marriage be regarded as between a naturally born man and naturally born woman. * Recognition of the Khoi and the San as the first people of South Africa.   This submission can be catered for in the relevant national legislation and does not necessitate review of the Constitution |  |
| CR16/35  Jorge Martins | **CATEGORY 2**  **Legal Opinion provided ref 126/2017**  **Advice is to the effect that considering the Constitutional Court’s interpretation of the separation of powers as a Constitutional doctrine that does not require absolute separation, the sections of the Constitution dealing with the appointment of the President and the Executive form the membership of the NA with Ministers retaining their membership.**  **The argument of infringement of this doctrine is found by legal advice not to be an infringe on the separation of powers doctrine.**  **This submission therefore also does not necessitate Constitutional review of the sections proposed.** | * s 42 to s 82 in Chapter 4 on Parliament from and Chapter 5 on the President and National Executive from s 83 to s102 overlap | Encroachment on separation of powers  Election of head of the majority party and president ought to be different individuals. |  |
| CR16/36  Motlhaping Evelyn | **CATEGORY 2**  **Legal Opinion reference 127/2017**   * The decision to limit s 35(k) to only official languages of South Arica is a policy decision for the Committee to consider carefully bearing in mind the its implications on the rights of the accused person. * Submitter is concerned about the cost of sourcing a foreign language interpreter and this is a legitimate concern, however there are cost implications for the State in respecting promoting, protecting and fulfilling a fundamental rights in the Bill of Rights. | * s 35(3) k be amended to read: ‘to be tried in one of the official languages of the Republic of South Africa, if not practicable, to have the proceedings interpreted in one of the official languages’. | High cost State pays for Foreign language interpreters for fair trial.  **Legal Opinion provided** |  |
| CR16/37 Sylvester Finger | **CATEGORY3:**  **Not mandate** | No section referenced | The Constitution ought to permit citizens to elect the president and not have one imposed by the political part.  This submission does not set out which section needs to be reviewed does not assist the committee with an indication of the necessity for this requested review. |  |
| CR16/38 Kgosiemang Esau  Moloko | **CATEGORY3:**  **Not mandate** | No section referenced | Recommends a minimum governance structure  to strengthen weak governance structure:   * Give legal standing to internal auditors for fraud reduction in all organizations/institutions * Reporting to shareholders not to management without fear of reprisal from management |  |
| CR16/39  Adv. Nathaniel Masemola  **Same as**  CR16/52  Tulbagh  Western Cape | CATEGORY 2   * **Legal Opinion reference 128/2017:** Advice is that under s 6(5)(b) recognises all other languages commonly used by communities in South Africa and the Pan South African Language Board is directed to promote and ensure respect for such languages. The status of these other languages is inferior for purposes of government official language usage. * The Sepedi language is included in the English version of the Constitution and enjoys the status associated with official languages. However in the Sepedi version of the Constitution Sesoth Sa Leboa is listed instead of Sepedi. * There inconsistency is in the Sepedi and English versions of the Constitution and it is noted that in the Interim Constitution Sesoth Sa Leboa was designated as an official language but was replaced by Sepedi in the Final Constitution. The reason for this is unclear and the minuets of the Constitutional Assembly are also silent on this matter. * The English version of the Constitution is the official version signed by the President and prevails over other versions in terms of s240. * It is important for the confusion caused by this issue to be clarified to provide legal certainty. | **s 6(1)** and  **s 103**  Submitter states that provinces do not add value to processes of government and exist only to give people jobs and should therefor be abolished to without impacting on democracy. | Official Languages: Sesotho sa Leboa should be replaced by Sepedi in s 6 (1). This the current status  Provinces: boundaries of provinces which coincide with the former (Bantustans ought to be abolished as they are a waste of state resources) |  |
| CR16/40  Phakamani Dlamini | **CATEGORY3:**  **Not mandate** | No section referenced | * Request for the Expropriation of land without compensation * However this matter has be considered by the Committee and adopted by Parliament for promulgation by an Ad Hoc Committee |  |
| CR16/41  K Maibelo | **CATEGORY 2**  **Legal Opinion reference 130/2017**   * The Committee is advised that it is not legally correc to for the submitter to argue that the provisions reflected in section 86 pertaining to the President are unsound for not aligning with the Freedom Charter. * It is however a policy decision for the Committee to take on whether some considerations reflected in the Freedom Charter be reflected in the Constitution through an amendment. | s 86 (1) on the Election of President; and  Schedule 3 on Electoral Procedures Part A (1) (a) | Requests broader Constitutional Reform   * Reform of the Electoral system * Election of the President (allow electorate to elect head of state and his deputy) |  |
| CR16/42  Henry Isaacs  SAHRC | **CATEGORY3:**  **Not mandate** | No section referenced | Request for reform addressing the following:   * Identify Khoisan people as the highest people * Sole government for Khoisan with a constitution for their territories with parliament made out of Khoisan tribes   This submission as submitted is not in line with the Committees mandate, and matters related to it are can be considered in national legislation namely the Traditional Khoisan and Leadership Amendment Bill |  |
| CR16/43  Kwena Matuba supported 10 others listed on the submission | **CATEGORY 1**  **ready for consideration**   * Does not necessitate a review or amendment of the Constitution as concerns raised and proposal made is provided for by Constitutional Court rulings and relevant national legislation * Choice on Termination of Pregnancy Amendment Act No.1 of 2008 * Civil Union Act 17 of 2006, the Constitutional Court | s 11 Right to life  s 29 (1) (a – b) Right to Education | Request for a review of the Equality clause, regarding the State not discriminating on the grounds of pregnancy; and (marital status/sexual orientation).  **Which is covered in the following national legislation:**   * Choice on Termination of Pregnancy Amendment Act No.1 of 2008 * Civil Union Act 17 of 2006, the Constitutional Court in Minister of Home Affairs v Fourie extended the common-law definition of marriage to include same-sex spouse.   This Submission speaks to the disagreement of the Right to Education, and only goes as far as disagreeing with this law and right.  Request for a review of prisoners’ rights due to the rise in police murders.  The Submission does not direct the Committee as to why and how these laws need to be changed; it only provides that the submitters disagree with these laws. |  |
| CR16/44 Raesibe Priscilla PMahapa  supported by 4 others | **CATEGORY 1**  **ready for consideration**   * Pertains to social grant law and can be addressed in national legislation such as the Social Assistance Amendment Act 5 of 2010 and related laws. * This submission does not necessitate an amendment of the Constitution. | s 27 (1) (a) right to reproductive health care | Requests review of social grants pertaining to number of children in order to reduce cost to government.  Request is to give a full social grant for the first child and limited social grant for any children thereafter.  Pertains to social grant law. |  |
| CR16/45  Koeiva Dinyake  Supported by 4 others | **CATEGORY 1**  **ready for consideration**   * This submission does not necessitate an amendment of the Constitution and can be addressed in national legislations and is catered for by the Chapter 9 Institution namely The Commission for the Promotion and Protection of Cultural, Religious and Linguistic Communities. | s 15 (2) (a-c) | Request for review of section on religious observances to include a government institution which is to hire religious leaders who can be assigned to schools in order to improve moral behaviour of students and manage religious practices. |  |
| CR16/46 Khomotso Komepe representing a Youth Organisation, submission supported by 16 people. | **CATEGORY 2**  **Legal Opinion reference 132/2017**   * Although the submitter makes reference to basic values the submission itself does not give the guidance of the specific drafting for the Committee to address and consider through its review process. * As such this request is advised to be outside of the Committee’s mandate. | s 9 (3) Equality clause  s 11 Right to life  s 15 (1) Freedom of religion belief and opinion  s 27 (1) (a-c) Right to health care, food, water and social security  s 29 Right to Education  s 195 (1) (f) accountability of public administration | Request for the review of matters pertaining to a pay point shelter for old people, right to service delivery, lack of health care resources, delayed arrests, gender based violence |  |
| CR16/47  Phuff Herbert Dirhoba  Supported by 15 | **CATEGORY 1**   * Although the submitter makes reference s15 as a basis for review request, the submission does not give the guidance of the specific drafting required to cure the discrepancy of this section in way substantially sufficient for a review of this section to take place. * As such this request is advised to be outside of the Committee’s mandate. | s 15 (1) freedom of religion, belief and opinion sited by the submitter as a basis of their submission | Sex work must not be allowed  Judicial System must be transformed |  |
| CR16/48  Maskwameny Raisibe Welhemina  Supported by 11 people | **CATEGORY 1**   * There is no indication or guidance on what defective and requires curing through a review process. * Most of the referenced sections are catered for address in the relevant enabling national legislation. * The Constitution allows for amendment of some of its provisions. Section 103(3) facilitates the amendments that deal with provincial boundaries sufficiently as is. * This proposal does not necessitate a review of the Constitution. | s 9(1) Equality before the law for all  s 11 Everyone has the right to life  s 28 Children’s rights  s 103 Provinces of RSA | s 9(4) National legislation must be enacted to prevent or prohibit unfair discrimination on one or more grounds in terms of subsection (3) :-  including race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscious, belief, culture, language and birth. |  |
| CR16/49  Abia Nkogeng  Supported by 13 peopole | **CATEGORY 2**  **Legal Opinion ref 135/2017**   * The Constitution makes provision for the amendment of the provisions pertaining to provincial boundaries in sections 103(3) and 74. * This decision to review and amend this section requires political engagement and decision after extensive and meaningful consultation with the public as a prerequisite for such change. * There is not statutory prohibition to the proposal and it remains a matter requiring political engagement | s 103(1) Provinces | Reduce the number of provinces to 5  In order to provide more centralised services and jobs by build more schools, libraries and increasing old age grant. |  |
| CR16/50 Ramara Phuti Nelson | **CATEGORY 2**  **Legal Opinion reference 136/2017**   * The Constitution allows for amendment of some of its provisions. Section 103(3) facilitates the amendments that deal with provincial boundaries sufficiently. * However since the formation of the nine provinces was a political decision no aw or provision of the Constitution prohibit the implementation of the proposal of the submitter, as it is a policy decision for the Committee as this proposal could be implemented in line with the Constitution and relevant legislation. | s 103(3) Provinces | Request for the review of the number of provinces and reducing them in order to provide services to all villages. |  |
| CR16/51  Ikeraam korana | **CATEGORY3:**  **Not mandate** | No section referenced | Rejection of the entire Constitution on the basis of legitimacy  Allegedly in violation of international laws and treaties |  |
| CR16/52 Adv. Nathaniel Masemola  Same as CR16/39  Western Cape | **CATEGORY 2**  **Legal Opinion reference 128/2017**   * Advice is that under s 6(5)(b) recognises all other languages commonly used by communities in South Africa and the Pan South African Language Board is directed to promote and ensure respect for such languages. The status of these other languages is inferior for purposes of government official language usage. * The Sepedi language is included in the English version of the Constitution and enjoys the status associated with official languages. However in the Sepedi version of the Constitution Sesoth Sa Leboa is listed instead of Sepedi. * There inconsistency is in the Sepedi and English versions of the Constitution and it is noted that in the Interim Constitution Sesoth Sa Leboa was designated as an official language but was replaced by Sepedi in the Final Constitution. The reason for this is unclear and the minuets of the Constitutional Assembly are also silent on this matter. * The English version of the Constitution is the official version signed by the President and prevails over other versions in terms of s240. * It is important for the confusion caused by this issue to be clarified to provide legal certainty. | * **s 6(1)** and * **s 103** Submitter states that provinces do not add value to processes of government and exist only to give people jobs and should therefor be abolished to without impacting on democracy. | Official Languages: Sesotho sa Leboa should be replaced by Sepedi in s 6 (1). This the current status  Provinces: boundaries of provinces which coincide with the former (Bantustans ought to be abolished as they are a waste of state resources) |  |
| CR16/53 Tshepiso Magano | **CATEGORY 2**  **Legal Opinion reference 138/2017**   * The Committee was briefed with advice that the Constitution as is and that the Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000 and various applicable judicial decisions sufficiently provide for the submitter is proposed concerns for review. | s 9(3) state may not discriminate on one more grounds…  s 9(5) discrimination which is established as fair. | The omission of **discrimination on the basis of class** within the Equality clause, infringes s 10 on Human Dignity. Due to lack of access applicable to previously disadvantaged groups.  This omission renders the Constitution non-inclusive to the majority of people of this country who have had their class fate decided for them by a system that is still being corrected. |  |
| CR16/54  Foundation National Restoration | **CATEGORY 2**  **Legal Opinion ref 138/2017**   * The Committee was advised that there is no need to amend the Constitution to make provision for the category of people mentioned under the Foundation Nation Restoration network, as the Constitutional court has confirmed on numerous occasions that chapter 12 of the Constitution recognises all traditional authority established in terms of South African customary law. | Chapter 12 Traditional Leaders  s 211  s 212 | The submission is based on Scriptures and references are made citing various Scriptures.  Foundation Nation refers to Indigenous People of South Africa  Recommendation for the introduction of a Ministry of Indigenous Affairs set up for the Foundation Nation within the Constitution, as a Chapter 12A, entity.  The Foundation Nation is not Traditional and cannot be assimilated into Traditional Structures |  |
| CR16/55 Mmusi Maimane, MP  Leader of the Democratic Alliance | **CATEGORY 2**  **Legal Opinion ref 139/2017**   * Removal of the president as proposed does not involve the NA in the initiation process of removing the president where the Constitutional court makes a finding against the President. There lake of involvement of the other spheres of government and allows the Judiciary untrammelled power to remove a democratically elected leader. * The rules of natural justice also require that persons be informed in advance of any charges required to be answered allowing charged person response preparations as a defence to refute allegations. * Parliament has since this submission also extensively considered and adopted revised Rules pertaining to Presidential Impeachment to address allegations of misconduct against the president. | s 89**A**. Cessation of Term of President  The President ceases to be President if he or she has been found by the Constitutional Court to have –   1. Violated his or her oath of office; 2. Committed a serious violation of the Constitution or the Law; or 3. Committed serious misconduct. | Review omission of clause which allows for impeachment of the President where the Constitutional Court rules that there grounds to do so.  The recommended addition to section 89 does not obviate section 89(1) but would ensure that if the Constitutional Court finds a sitting President to have violated the Constitution and oath of office, the President’s term of office would cease – allowing the National Assembly to elect a new President. |  |
| CR16/56  The Green Hearts  Organisation  Western Cape | **CATEGORY 2**  **Legal Opinion ref 140/2017**   * The defects in sighted in this proposal are considered and can be given fuller expression to in the Sexual Offences Act and Films, Publications Bill, and the submission dose not necessitate a Constitutional amendment. * The Films and Publication Act also prohibits and creates an offence for the possession, manufacturing and distribution of films, games and publications related to child pornography. * This submission does not necessitate a constitutional amendment as per the legal advice. | s 28 Every Child has a right –   1. to be protected from maltreatment, neglect, abuse or degradation… | Presently the Constitution does not protect children when it comes to abuse and degradation through child pornography.  It only refers to the Publication Act which is not protect children unless there is a victim who can testify. This leads to very lenient sentences. |  |
| CR16/57  Elizabeth Malebo  University of the Free State  Officer: SASL Dept. | **CATEGORY 1**  **ready for consideration** | Request for the recognition of South African Sign Language as an official language under section 6 (1) | Recognition of SASL as an official language of the deaf community members of RSA.  **Submission on this matter has been adopted by Committee.** |  |
| CR16/58  Bekinhkosi Mtolo  Kokstad | **CATEGORY 2**  **Legal Opinion reference 141/2017**   * Legal found s 217 framework to achieve the same outcomes as is currently and therefore this proposed review does not necessitate. * Regarding the proposal for the valuation of the Valuer General, the advice is that a decision of the Office of the Valuer-General will always be subject to administrate review. | Proposed changes:  s 217 (1) on Procurement  s 25 on Property  Section 2 provides –  Property may be expropriated only in terms of general application –   1. For a public purpose or in public interest; and 2. Subject to compensation, the amount of which and the time and manner of payment of which have either been agreed to by those affected or decided or approved by a court. | Proposes changes to the Preamble of the Constitution in order to justly recognise the injustices of our past.  s 217 (1) on Procurement (proposed additions)  …and taking into account upliftment of historically disadvantaged groups.  (2)(a) ...institutions of state set aside procurement targets that seek to benefit only black people in general and Africans in particular to deracialize the economy.  (b) …that national legislation shall be developed by Parliament which shall allow a procurement system that seeks to directly and radically deracialize the economy by introducing targeted procurement system that will only benefit blacks in general and Africans in particular in pursuit of building a united, non-racial, non-sexist and prosperous RSA.  s 25 on Property  In spite of the attempts by the democratic government to restore land to the historically dispossessed, these attempts continue to be frustrated by over pricing of land. The establishment of the office of the Valuer Gerneral should find expression in the determination of compensation in the Constitution.  s 25 on Property (proposed additions)  2(b) Subject to compensation, the amount of which and the time and manner of payment which have either been agreed to by those affected or if not by those affected decided by the Valuer General, whose decision shall be final and binding. |  |
| CR16/59  SANDA  South African National Deaf Association | **CATEGORY 1**  **ready for consideration** | s 6 (1) on Language   * Submission on this section and subject matter adopted and is being processed**.** | Request for the review of s 6(1) to include SASL as an official language major concern of Deaf community in South Africa.  Is a first language to 5.1% of Deaf people. The percentage is significant for a population of 55 million.  SASL is not a communication option or tool but a primary and native language for Deaf people  Inclusion in s 6(1) will afford SASL guaranteed right in terms of s 6(4) to be regulated and monitored as part of the legislative provision.  Recommendation of a Task Team established to define clear goals to achieve exact deadlines to be met, resources and methods to be used with the mandatory participation of key government departments and SANDA to clarify outstanding issues in this regard. |  |
| CR16/60  Selby Nomnganga  Upington | **CATEGORY 2**  **Legal Opinion ref 142/201**   * The submitter does not call for a specific constitutional amendment although reference is made to concerns contained in the Bill of Rights * Advice is that the submission speaks to is a policy issues informed by Constitutional considerations and is therefore not strictly a constitutional amendment request. | Chapter 2 Bill of Rights | Request for addition of Right to Work in Bill of Rights, Chapter 2 as a fundamental right.  Bill of Rights not realised by over 8 million unemployed South Africans.  It is not possible for many to use s 22 Freedom of trade, occupation and profession. |  |
| CR16/61  Siphile Buthelezi  Progressive Professionals Forum | **CATEGORY 1**  **ready for consideration** | s 25 Property Rights  s 41 Government  s 235  Preamble  Freedom of Speech | Requests review in order to enable compensation paid for property expropriated to be based on actual expenses incurred.   * This matter is currently being considered by the Ad Hoc Committee looking into the amendment of s 25   Proposes that spheres of government be changed into Tiers of Government with no executive powers at Provincial and Local levels as current structure is hindering service delivery.   * This does not necessitate a review and amendment of the Constitution and can be considered in national legislation   It is proposed that section 235 be amended to remove the ability to establish new areas which exclude the rest of society.   * This does not necessitate a review and amendment of the Constitution and can be considered in national legislation, as it is an interpretation of the submitter that society is excluded not necessarily the implication of the section.   Preamble to be made clear that all who live in South Africa means its citizens.   * This is policy decision to be taken by the committee however this not recommended on the basis of restoring the balance of South Africa’s exclusionary past laws.   Freedom of Speech must be amended in order to prevent its abuse by cartoon artwork.   * This is policy decision to be taken by the committee however this not recommended on the basis of a possible infringement on the right to freedom of expression. |  |
| CR 16/62  Griquo Royal House  Western Cape | **CATEGORY 2**  **Legal Opinion ref 143/2017**   * Parliament processing the Traditional and Khoi-San Leadership Bill [B23-2015] * The Khoi and San racial groups are expressly recognised and given scope to part of all formations of traditional houses established in terms of legislation. * South Africa has extensively complied with the application of international law by our courts through UN Declaration on the Rights of Indigenous People in line with the Constitution. * No need to amend the Constitution. | s 211 Traditional Leaders  s 212 | Review to include Khoi-san in Traditional Leaders wording in s 211 and 212 |  |
| CR16/63  Molefi Tsolo | **CATEGORY3:**  **Not mandate** | No section referenced | Request for Constitutional pocket book distribution in learning institutions.   * Department of Justice and Constitutional Development has the budget for the distribution of the Constitutional booklets. * The Committee can write to the department recommending for an increase in amount of booklets distributed by it on an annual basis.   Inclusion of Constitutional education in schools. |  |
| CR16/64  Grant Snell | **CATEGORY 3**  **Not Mandate** | No section referenced | Requests the committee to consider the ‘the constitutional business model’ with reference to the national and provincial concurrent powers and how this affects policy formulation and implantation. |  |
| CR16/65  Independent Communications Authority of South Africa | **CATEGORY 1**  **ready for consideration** | s 181 Establishment and governing principles    s 192 Electronic Communications Commission | Proposes the addition sub-section (g) Electoral Communications Commission, as one of the state institutions which strengthen constitutional democracy.  Proposes the establishment of an independent commission to regulate broadcasting, telecommunications and postal services in the public interest, and to ensure fairness and diversity of views broadly representing South Africans   * Policy decision of the Committee bearing in mind the current budgetary status of the current Chapter 9 Institutions. |  |
| CR16/66  Mr Ngobeni  Sovenga | **CATEGORY 2**  **Legal Opinion ref 144/2017**   * Access to Constitution booklets can be addressed by requesting the Secretary to Parliament through the Parliamentary Public Education Office. * Submitter did not link the section requested for review to any specific right and instead addresses socio-economic policy concerns relating to section 22 right to trade , a profession and an occupation and s 27 right to social security. However the Committee can refer the concerns raised in the submission as a petition to the relevant Parliamentary Committee. | S 45 (1) ( c) | Proposes section be checked with no reasons or proposal  Requests the provision of Constitution booklets |  |
| CR16/67  Equal Education Law Centre | **CATEGORY 2**  **Legal Opinion**  **Required ref 145/2017**   * The Constitution as is in s100 authorises the National Executive an Provincial Executive to intervene in Provincial and local Administration respectively under special circumstances. * However due to the lack of success particularly in the Eastern Cape, guidelines are required over and above the principle in s100 to implement interventions. Which has at times caused confusion regarding the roles and responsibilities of state actors. * Advice is for the promulgation of legislation that is envisaged by s 100(3) * There is a need to make the enactment of the said legislation a constitutional obligation, thereby motivating for passing of this legislation as proposed. * Legal advises in favour of the amendment of s 100(3) of the Constitution so that the enactment of legislation is a constitutional obligation to assist government efficiency. * This decision to amend s100 (3) as advised is a policy decision for the Committee in order to make the enactment of legislation supporting interventions mandatory. | s 100 National Invention in Provincial Administration | Require a change to the Constitution in order to facilitate the enactment of legislation regulating the intervention process mandatory.  Proposes that the time period of reviews under taken by the NCOP be specified as occurring quarterly.  Proposes a subsection that obligates National Executive to report quarterly, in writing and orally to the NCOP on progress and challenges. |  |

1. The Status of the Language of Learning and Teaching (LOLT) In Schools: A Quantitative Overview, Department of Basic Education, Republic of South Africa, 2010, ISBN: 978-1-920458-30-0. [↑](#footnote-ref-1)
2. Access http://www.legalcity.net/Index.cfm?fuseaction=RIGHTS.article&ArticleID=9597555 [↑](#footnote-ref-2)