



Review of the Constitutional Review Committee

Introduction

The Joint Constitutional Review Committee was established in terms of Section 45(1)(c) of the Constitution of the Republic of South Africa, which provides for the establishment of a Joint Rules Committee tasked with the review the Constitution annually. To give effect to this section, the Committee initiates a process by placing adverts in the media, inviting members of the public to make submissions on proposed amendments to the Constitution.ⁱ This can either be in the form of general submissions or specific submissions on a particular aspect of the Constitution as determined by the Committee. Once the submissions are received, they are forwarded to the Parliamentary Legal Services Office for consideration, in the light of current constitutional jurisprudence. The Committee consists of members from the National Assembly, the National Council of Provinces as well as Organised Local Governmentⁱⁱ.

Submissions

The submissions as received in the last five years relate to the emotive, topical and controversial issues that were grabbing the nation's imagination at that particular point in time. They include consistent themes like the competencies of the provincial and local spheres of government, suggested changes to the content of constitutionally protected rights like equality, property/land rights, language rights and the right to life, which always translated into calls for the re-instatement of the death penalty. Despite there being no provisions for animal rights in our Constitution, submissions on animal rights have, strangely, featured on a consistent basis. To a certain extent, there are those that lurk in the background like the total overhaul of the electoral system, and those that have died a natural death, so to speak, like floor-crossing.

Key issues for consideration

Below are key issues for consideration, which address challenges in the performance on the Committee's mandate and possible areas of improvement:

- On average, the Committee has received 15 submissions per annum. This is a worrying trend as this cannot possibly be indicative of a lack of interest by members of the public and/or interest groups in the Committee's work. This may be attributed to lack of publicity or failure by the Committee to cast the net as wide as it should, with the result that the opportunity for members of the public and/or interest groups to reflect on the Constitution is missed.
- The fact that the Committee's meetings have been few and far in between, over and above sometimes failing to form a quorum when they did, speaks of a lackadaisical approach to the Committee's mandate. The opportunity to provide a forum for in-depth discussion and debate is lost. Committees are meant to be the engine-rooms that drive the Parliamentary process.



- The Committee has reduced itself into a "clearing-house" of sorts, choosing to shelve some submissions for further consideration (which ultimately fall through the cracks) or refer complaints to other Portfolio Committees without any follow-up mechanisms in place.

ⁱ Rule 102(2)(a) of the Joint Rules of Parliament

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