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**FOR THE RIGHTS OF CULTURAL,
RELIGIOUS & LINGUISTIC
COMMUNITIES**

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MOTIVATION to the NATIONAL MINISTRY of COOPERATIVE GOVERNANCE and TRADITIONAL AFFAIRS for ADDITIONAL BUDGETARY SUPPORT for the PROGRAMMES of the COMMISSION for the RIGHTS of CULTURAL, RELIGIOUS and LINGUISTIC COMMUNITIES

Background Information

The CRL Rights Commission comes into being only in the tenth year of our nation's democracy

The Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities in South Africa was instituted only in 2004, ten years after the establishment of democracy in South Africa and some eight years after the establishment of the other Chapter 9 Institutions tasked with consolidating democracy in South Africa.

The late entry into the constellation of democratic institutions in South Africa is deliberate and strategic

The delay in the establishment of the CRL Rights Commission was deliberate so as to afford South Africans the opportunity of coming together first as peoples of one nation, protected by the Constitution as individuals of equal worth and value, rather than emphasising the differences between peoples based on culture, language, religion and other differences. This was strategic given the country's history of racial and other forms of discrimination that characterised the country's past.

The CRL Rights Commission has a unique task amongst institutions tasked with consolidating democracy in South Africa

The mandate of the CRL Rights Commission is unique in that it requires that the Commission infuse respect amongst the people of South Africa for community rights in the context of a constitution that focuses primarily on individual human rights. The Commission is tasked with promoting respect for the value of *ubuntu* in its approach to the work of building peace, humanity, tolerance and national unity in South Africa. The CRL Rights Commission is also required to foreground practices of dialogue and consensus-seeking within communities in contrast to more adversarial legal approaches to conflicts affecting individuals.

The CRL Rights Commission's budget is modest to begin with in view of the processes that need to be embarked on in setting up a new and unique institution

The CRL Commission was awarded a modest budget in its first few years of existence as its office-bearers worked to establish its operational structures and their plans to engage with its strategic stakeholders. The CRL Rights Commission used its first few years of existence to visit and to meet with communities across the country to build relationships with stakeholders and to consult with them about issues of culture, religion and language, that contribute to their unique identities, but that had been undermined and marginalised over many decades, and in some instances even almost completely erased. Simultaneously, the Commission worked to put in place a support structure of permanent employees to assist the Commission in meeting its constitutional mandates.

The capacity of the Commission gradually expands over its first five years of existence

The budgetary allocations to the Commission were very modest initially. As the operational requirements became clearer, budgetary requests from government increased slowly. The budget transferred from government has however lagged behind those of the other Chapter 9 institutions due largely to the developmental process in which the Commission was engaged. The Commission has now evolved a clear plan on its staff requirements to fulfil its constitutional mandates. To date, the Commission has not received adequate funding for its proposed complement of staff posts and programme funding has been severely limited. The Auditor-General has commented in each year's audit that the Commission's inadequate funding contributes to the inability of the Commission to be optimally effective.

The following is an outline of the progress made, current projects and the vision for the future with specific reference to programmes – for which additional funding is a prerequisite:

1.1.1 Research and Policy Development (RPD)

Research and Policy Development Unit (RPD) is enabled by Section 5, subsection (1) (e) of CRL Rights Commission, Act No 19, 2002 to monitor, investigate and research any issue concerning the rights of cultural, religious and linguistic communities.

Highlights:

The CRL Rights Commission's RPD Unit has produced public information packages and research reports that are meant to influence policy and possibly contribute to policy formulation and review:

- ✓ Promoting and Protecting the Linguistic Rights of Communities in South Africa: Some approaches and challenges, 2008
- ✓ Indigenous African Rites of Passage as Diminished Heritage, 2008
- ✓ Protection and promotion of the rights of access, ownership and use (Vol. 1 and 2), 2008
- ✓ Calendars and Book Markers (2008)

Current / Ongoing projects

- Guidelines for ritual slaughtering of animals
- Rights to language and rights of a language : the status of linguistic rights among the Basotho speaking community in Nqutu – KwaZulu Natal Province
- Public hearings on initiation schools in South Africa.

Projects for which additional funding is required:

- Consolidation of the Initiation Report (Culture)
- Development of a framework for access and practice in sacred site (Culture)
- Image restoration of Rastafarian Religion (Religion)
- Nama and the Khoi-San religion (Religion)
- Preservation of Socio-linguistic heritage (Language)
- Promotion of language equality in society (Language)

Public Education

Public Education and Advocacy

This programme is tasked with informing, educating and building capacity of the broader South African Community in order that they be aware and informed about one another's cultural, religious and linguistic community rights. Our cultural, religious and linguistic differences should unite rather than divide our Nation.

Highlights:

The following are some of the projects which the PEA programme has focussed on:

- ✓ Violence against Women and Children with a view to interrogating what promotes or reduces violence against women and children in relation to culture.
- ✓ Community Rights vs Individual Rights with a view to looking at how we can ensure that Community rights are protected while also protecting individual rights. We had debates on Virginity Testing as well as corporal punishment within families.
- ✓ Youth Dialogues with young people and children with the aim to promote cultural, religious and linguistic rights. Some of these dialogues have been inter-generational with the inclusion of older persons.
- ✓ Xenophobia with a view to looking at issues of integration of foreign nationals into South African Communities. These dialogues aimed at promoting cultural, religious and linguistic tolerance among the two groups.

Current/Ongoing Projects:

- Xenophobia
- Youth Dialogue
- Community Rights and Individual Rights
- Dialogue and involvement of older persons

Other projects for which additional funding is required:

- **Xenophobia:** As the xenophobic attacks keeps rising in many areas of the country the PEA Program needs to intensify its project of integration with respect to issues of C, R, L .
- **Youth Dialogue:** Young people are losing touch with their C, R, L rights, therefore there needs to be more work done to ensure that South Africa retains its rainbow nation status beyond this current generation.
- **Community Rights and Individual Rights:** A lot of work still needs to be done to ensure that we advocate for community group rights to culture, religion and language. This is to make sure that as government and parliament legislate and design programmes, that these are not violating cultural and religious rights of communities.
- **Dialogue and involvement of older persons:** More intense work needs to be done to involve older persons in moral regeneration processes where we use culture and religion to bring back values. This is urgent when we look at where the country is at the moment.

Section 36(1) of the 1996 Constitution: Community Engagement

Section 36(1) of Act 19 of 2002, provides that the Commission should recognize Community Councils, and Section (36)(1) provides that persons belonging to a cultural, religious or linguistic community may form, join and maintain cultural, religious and linguistic association with other organs of civil society as provided in section 38 of the Act.

Section (38) stipulates the aims which contain the preservation, promotion and development of cultures, religions and languages of communities. These aims are also meant to be cornerstones of advising the Commission on, and assist in matters concerning the achievement of its goals.

Highlights:

The CRL Rights Commission's Community Engagement Unit has

- ✓ Listed 278 organizations on its database
- ✓ Developed a document on Recognition of Community Councils and Related Matters: Regulations-which were signed by the Minister of the then Department of Provincial and Local Government, (currently known as the Department of Cooperative Governance and Traditional Affairs), on the 12th of December 2008. This has then created a space for the Unit to begin to recognize Community Councils in all provinces of the Country.
- ✓ Organized and facilitated the National Consultative Conference in 2008 which was a success and a milestone in terms of fulfilling the CRL Rights Commission's Mandate and the Act.
- ✓ Managed to produce the National Consultative Conference Report which includes the Resolutions from various cultural, religious and linguistic communities that sets the agenda for the CRL in executing its mandate.

Current/Ongoing Projects:

- Recognition of Community Councils as per the CRL Rights Commission's Act 19 of 2002.
- Establishment of Elders' Councils in all provinces

Projects for which additional funding is required:

- Co-ordinating and implementing the National Consultative Conference Resolutions (joint effort including all CRL Units, Government departments and states institutions as well as Civil Society organizations)
- Preparing the next National Consultative Conference and provincial mini conferences.
- Capacity building workshops for Community Councils
- Provincial launch of Community Councils
- Intensifying Community Councils dialogue among communities
- Lobbying government departments and legislative authorities on issues concerning the Rights of Cultural, Religious and Linguistic Communities.

Investigation and Conflict Resolution (ICR)

The Investigation and Conflict Resolution is empowered by section 5, sub section (1) (g) (h) and (i) of the CRL Rights Act no 19 of 2002 to facilitate the resolution of friction between and within cultural, religious and linguistic communities or between any such community and an organ of the state where the cultural, religious, and linguistic rights of a community are affected.

Highlights:

The ICR Unit since its inception and operation has managed to resolve complaints lodged within the Commission since 2004 until to date. The unit has produced a brochure in all official languages outlining the procedure to lodge a complaint and formulated recommendations to Organs of the state so as to influence policy and legislation on issues related to culture, religion and language.

- ✓ Progress made on complaints since the Commissions inception and the resolution thereof: 150 complaints received and 110 investigated and closed.
- ✓ Provided legal opinion and legal advice on contractual matters.
- ✓ Assisted in the drafting of the Community Council regulations.
- ✓ Produced and disseminated the ICR Unit brochure (outlining the complaint procedure) to other chapter 9 institutions and members of the public.
- ✓ Formulated and submitted recommendations relating to the cultural, religious and linguistic community rights to the relevant organs of the state.
- ✓ The unit has jointly investigated some of the complaints with other organs of the state,
and
- ✓ The ICR unit has also received referrals from other chapter 9 institutions. If the referrals fall within the CRL mandate or jurisdiction, the Commission has an obligation to deal with those matters. This has been evidenced by several complaints that have been brought before the Commission.

Current/Ongoing Projects:

- Complaints handling of all CRL Related matters.
- Providing Legal services within the Commission.
- Engagement with other organs of state in resolving pending complaints.
- Receiving and dealing with requests from other organs of the state and Chapter 9 institutions.

are projects for which additional funding is required:

- Planning to convene seminars and dialogues on cooperation with other organs of the state and chapter 9 institutions on the basis of enhancing effective response and speedy resolution of several complaints lodged with the Commission.

While very effective work is handled by the staff of the Commission's different Units, the engagement and interaction with Commission stakeholder communities has been severely limited by the lack of adequate programme funding, especially in the context of the legislative requirement on the Commission in its founding Act that it organise and hold two National Consultative Conferences during each five year term of office of the Commission. The Act stipulates the requirements for these conferences including the attendance of up to 600 individuals as community and other representatives.

The Commission has to date not received a specific budget for the National Consultative Conferences held to date despite these being required by legislation. This has meant that budgets for engaging and involving communities in the ongoing programmatic work of the Commission, have had to be used for the purpose of holding National Consultative Conferences. The average expenditure on an event of this size has been in the region of R8 million.

Conclusion

Given the huge advances made by the CRL Rights Commission in putting in place the necessary structures and systems to support the effectiveness of the Commission in realising its mandate, we are humbly submitting the attached request for additional financial support to be made available to the Commission as it moves forward into a new era with greater commitment and a renewed vision, accompanied by an array of policies and procedures that are aligned with best practices in the Public Service.

We believe that the CRL Rights Commission is poised to make major contributions to the content of the national life of this country and its diverse peoples and communities. The realisation of this potential is dependent on being able to secure additional funds for its dedicated programmes.