



**PARLIAMENT**  
OF THE REPUBLIC OF SOUTH AFRICA



**REPORT ON THE MEETING BETWEEN  
PRESIDING OFFICERS,  
CHAIRPERSONS OF PORTFOLIO COMMITTEES AND  
HEADS OF INSTITUTIONS SUPPORTING DEMOCRACY**

**REPORT**  
28 SEPTEMBER 2017  
CONSTITUTION HILL





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OF THE REPUBLIC OF SOUTH AFRICA

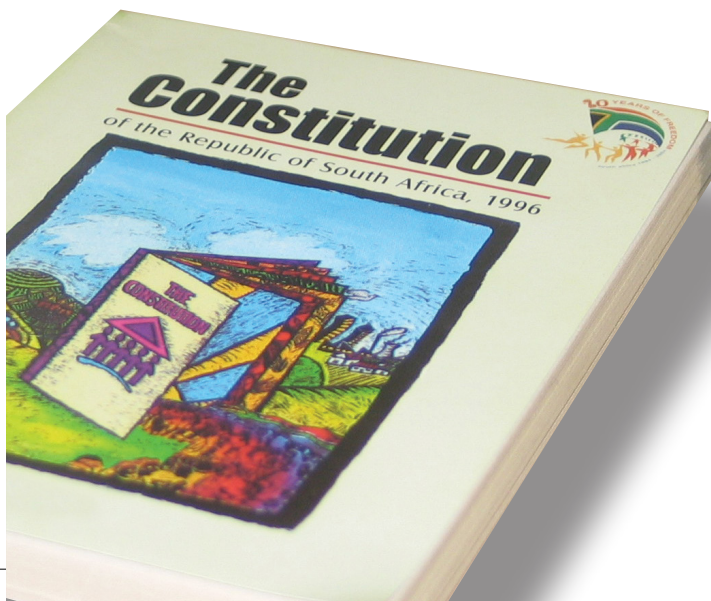
OFFICE ON INSTITUTIONS SUPPORTING  
**DEMOCRACY**



**Report on the Meeting between Presiding Officers,  
Chairpersons of Portfolio Committees and  
Heads of Institutions Supporting Democracy (ISDs)**

**28 September 2017, Constitution Hill**

**Chairperson: Hon Baleka Mbete, MP**  
(Speaker of the National Assembly, RSA Parliament)



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# EXECUTIVE SUMMARY

## **1. EXECUTIVE SUMMARY**

On 28 September 2017, National Assembly Speaker Ms. Baleka Mbete convened the fourth consultative meeting with stakeholders at the Constitutional Court of South Africa as part of a process to re-examine the recommendations of the 2007 Report of the Ad hoc Committee on the Review of Chapter 9 and Associated Institutions.

Co-chaired by the Deputy Speaker of the National Assembly, Mr. Lechesa Tsenoli, the meeting was attended by: the Chairperson of the National Council of Provinces, Ms. Thandi Modise; House Chairperson of Committees, Mr. Cedrick Frolick; Chairpersons of Portfolio Committees associated with Institutions Supporting Democracy (ISDs), Chairpersons and representatives of the ISDs; the directors of the Parliamentary Budget Office (PBO) and Office on Institutions Supporting Democracy, as well as relevant support staff.

Apologies were received from the Members of the Executive associated with the ISDs due to a special cabinet meeting scheduled for the same day; as well as from the Deputy Chairperson of the NCOP, Mr. S Tau; Portfolio Committee Chairpersons, Mr. Y Carrim and Mr. M Mdakane; the Auditor General, Mr. TM Makwetu, the Public Protector, Advocate B Mkhwebane, the IEC Chairperson, Mr. G Mashinini, and IEC CEO, Mr. M Moepya.





MAIN AREAS OF DISCUSSION



## **2. MAIN AREAS OF DISCUSSION**

Guided by a presentation by the Deputy Speaker, the meeting discussed and unpacked the discussion papers developed by Parliament on the recommendation to amalgamate some ISDs into a Single Human Rights Body; and the recommendation to delink the ISDs' budgets from the budget votes of the Executive.

The discussion paper on the recommended establishment of a Single Human Rights Body presents preliminary research conducted in preparation for the assessment of the feasibility of establishing a Single Human Rights Body. It includes a comparative analysis of international models which link equality bodies and National Human Rights Institutions, as well as a compilation and analysis of submissions received from stakeholders (ISDs, Civil Society, Members of the Public) on the matter.

The discussion paper on the delinking of ISD budgets examines how Parliament can ensure the attainment of financial independence of ISDs. It examines the current funding mechanisms, highlights the implications of shifting the budgets of ISDs from Government Departments to Parliament's budget vote, and proposes an approach on the budget process for ISDs.

Having been disseminated to the invited stakeholders ahead of the meeting, the discussion papers formed the basis of the discussions outlined herein.



# SUMMARY OF RESOLUTIONS

### 3. SUMMARY OF RESOLUTIONS

The resolutions of the meeting can be summarised as follows:

#### *Assessment of the feasibility of establishing a Single Human Rights Body*

- An adequately resourced Task Team with properly defined Terms of Reference must be established by end October; Careful consideration should be given to the establishment of the task team, and this team should be subject to scrutiny.
- The work done to date in preparation for the assessment of the feasibility of establishing a Single Human Rights Body should be taken as a basis for developing the Terms of Reference for the said Task team.
- The FISD must recommend a delegation to be part of the Task Team
- Proper consultation [during the feasibility assessment] is required with all stakeholders, including the public.
- All ISDs should be subjected to scrutiny to assess the best way forward for each ISD.

#### *Delinking (shifting) of ISD budgets from the budget votes of the Executive*

- Consultation with the Executive must be prioritized so as to achieve consolidation of all stakeholders' views.
- The matter must be resolved timeously as some ISDs are assessed internationally.
- The discussion document on delinking of ISD budgets is to guide the development of Terms of Reference for the establishment of a Task Team.





# OPENING AND WELCOMING REMARKS

#### **4. OPENING AND WELCOMING REMARKS**

The Deputy Speaker welcomed the meeting, noting it as another step being taken by Parliament to process the recommendations of the 2007 Report of the Ad Hoc Committee on the Review of Chapter Nine and Associated Institutions. He cited the formation of the Forum of Institutions Supporting Democracy (FISD) and the establishment of the Office on Institutions Supporting Democracy (OISD) as implementations of the concrete recommendations that were proposed and implemented as per the Ad Hoc Committee's recommendations.

The Deputy Speaker stated that the purpose of the meeting was to, amongst others, provide a platform for the ISDs and Parliament to engage each other on pertinent matters, as well as for Parliament to share with the ISDs the progress made with respect to the forthcoming feasibility study on the establishment of a Single Human Rights Body and the delinking of the ISD Budgets from the budgets of government departments, so as to explore and agree on a viable way forward.

The Deputy Speaker further indicated that the agenda was also designed to update the Executive on the recent developments with respect to the matters related to amalgamation and delinking of ISD Budgets. However, due to the sitting of a special cabinet meeting on 28 September 2017, the Ministers invited tendered apologies. It was noted that an engagement between the Presiding Officers and Members of the Executive would however be arranged.

The Deputy Speaker stated that flowing from the 4<sup>th</sup> Parliament exit report, it was agreed that complex issues emanating from the Ad hoc Committee Report on the Review of Chapter 9 and Associated Institutions, which could not be agreed upon, are to be deferred to the 5<sup>th</sup> Parliament. Amongst those issues are:

- Delinking of ISD Budgets from the budgets of government departments and;
- A feasibility study on the then recommended establishment of a Single Human Rights Body





PRESENTATION ON PROGRESS

## **5. PRESENTATION ON PROGRESS ON THE PROCESSING OF THE RECOMMENDATIONS ON THE ESTABLISHMENT OF A SINGLE HUMAN RIGHTS BODY, AND THE DELINKING OF ISD BUDGETS**

Highlighting the key elements of the discussion document on the establishment of a Single Human Rights Body, the Deputy Speaker emphasized that the document would serve as background information and as the base document for the development of Terms of Reference for the Task Team. The Task Team would lead the feasibility assessment of the then recommended establishment of a Single Human Rights Body, stressing that it should not be read as the actual account of feasibility.

The discussion document tabled presents a literature review on the evolution of human rights bodies in selected countries and further documents perspectives of the various critical stakeholders such as the ISDs and the public, including civil society and other organizations. The discussion document therefore provides the basis for extensive research on the following, amongst others:

- The current institutional framework on human rights and its implications on the progressive realization of South Africa's constitutional mandate (context, rationale, met and unmet needs, opportunities and threats); and
- The feasibility and desirability of the establishment of a Single Human Rights Body, emanating from the understanding of the current status quo or framework for human rights and the realization of the Bill of Rights.

The discussion document also provides insights on other potential content areas to be covered by the Task Team. The Deputy Speaker noted that discussions were well advanced regarding the shifting of the ISDs budget allocations from the budget votes of the Executive to that of Parliament. The discussion paper, as explained by the Deputy Speaker, advances three governance modalities which need further unpacking and discussion so as to arrive at a decision that would be acceptable to the ISDs and to Parliament.





DISCUSSIONS

## 6. DISCUSSIONS

The discussions by the participants following the Deputy Speaker's presentations are detailed below.

### 6.1 Discussion: Assessing the Feasibility of establishing a Single Human Rights Body

#### Stakeholder Consultations

##### Soliciting the views of the Executive

*"We need to hear the views of the Executive, so that we can reach a conclusion that will be suitable for our system". Baleka Mbete, NA Speaker*

The Speaker emphasized the importance of the Presiding Officers soliciting the views of the Executive on amalgamation and delinking of ISD budgets from the budgets of Departments. The importance of taking the Executive on board was supported by the Chairpersons of the Portfolio Committee on Arts and Culture, and the Portfolio Committee on Communications who echoed the same sentiments on the matter.

The meeting directed that an alternative meeting between the Presiding Officers and the Executive is facilitated by the OISD.

##### Soliciting the views of the Public

*"There is a need to throw it out to the people. The ISDs belong to the public, they are affected, we should get their views". Thandi Modise, NCOP Chairperson.*

The importance of thorough public engagement on the possible operational and structural changes to the ISDs was brought to the fore by Chairperson of the NCOP, Ms. Thandi Modise - whose views were supported by the NA's House Chairperson, Mr. Cedrick Frolick, as well as the Commission for Gender Equality (CGE)'s Acting Chairperson, Dr. Nondumiso Maphazi - who added that the public views presented in Parliament's discussion document on the establishment of a Single Human Rights Body represent a very small sample of the public and are therefore an inaccurate representation of public views.

### *Engagement of Staff at ISDs*

Unlike Commissioners whose terms of office are fixed, it was noted that job security is of concern to the staff members of ISDs, and therefore staff engagement on the envisaged framework is of absolute importance to ease fears of job losses and to clear any uncertainties. This was highlighted by the CRL Rights Commission's Chairperson and other ISDs, and supported by the Portfolio Committee on Home Affairs' Chairperson, Mr. Mashile, and the delegate from the Department of Women, who echoed similar sentiments.

### *The Task Team*

The meeting was in agreement to the establishment of an adequately resourced Task Team equipped with clear Terms of Reference to guide the process of assessing the feasibility of establishing a Single Human Rights body, and the delinking of ISD budgets from the budget votes of the Executive.

Professor Daniel Platjies, Chairperson of the Financial and Fiscal Commission (FFC), asserted that the Terms of Reference had to take into account the establishing phase which should cover all the aspects of legislation and amendments to the constitution; and that a concrete project plan must be developed. The NA House Chairperson of Committees, Hon Cedrick Frolick, added that the Terms of Reference must include clear time frames, transitional arrangements, and that it should cater for the analysis of possible impact on each ISD. It was opined that the core functions of ISDs should not be lost, and that the Terms of Reference should consider how the respective mandates would be maintained - including the skills sets required to ensure the fulfillment of these constitutional mandates.

The CGE submitted its opposition to amalgamation, but indicated that they would participate in the Task Team to further advance their stance on the matter. The CRL Rights Commission, on the other hand, noted that partial amalgamation of the CRL Rights Commission and PanSALB was urgent due to budgetary constraints that are impacting on the ability of the CRL Rights Commission to carry out its mandate to the fullest.

ICASA advanced the view that its own amalgamation model, as well as its successes and challenges would be a useful example to study by the envisaged Task Team. It was agreed that the Task Team would need to periodically consult with experts similar to the High Level Panel.



NCOP Chairperson, Thandi Modise said that the Asmal Report was over ten years old and that, based on their frequent interactions, the Portfolio Committees should be able to report on the performance of ISDs. Noting the Judiciary architecture as an example that should be scrutinized more closely, she underscored the importance of all involved to be educated on the processes involved in amalgamation and delinking of budgets so as to instill confidence in the public that the best model for the country would be adopted.

## **6.2 Discussion: Delinking of ISD Budgets**

In general, the ISDs expressed support of the shifting of their budgets, and underscored the significance of financial independence and governance. They did however indicate that they need to be assured that the baseline budgets of the Commissions would not be changed.

Prof. Jahed of the Parliamentary Budget Office noted that the shifting of ISD Budgets was no longer a matter which was up for discussion, and that the discussion needs to hone in on the three options advanced and come to a conclusion on which was the best model to follow given the injunctions in the National Development Plan and within the country's resource constraints. The SAHRC, noting the National Treasury's in principle agreement for the delinking ISD budgets from departments, added that the matter needs to be resolved timeously as uncertainty creates challenges for the ISDs.

The Chairperson of the FFC and the Deputy Public Protector supported that the proposed Task Team studies the current institutional and funding architecture which was followed when the Office of the Chief Justice was created, which allows for budget, institutional, and financial Independence. The CGE indicated that though they were in support of delinking their budget from departments, they favour a model which would provide ISDs with their own individual budget vote.



RESOLUTIONS AND  
WAY FORWARD

## **7. RESOLUTIONS AND WAY FORWARD**

The Deputy Speaker, Lechesa Tsenoli concluded the meeting by re-iterating the resolutions of the meeting as follows:

- The meeting endorsed the establishment of an adequately resourced Task Team with clear Terms of Reference, including identification of short term and long term matters.
- The existing work undertaken the Parliament/OISD should be used as a basis for further work that will be carried out by the Task team.
- The Task Team should be established by end October 2017, and should be subject to scrutiny.
- The FISD must recommend a delegation to be part of the Task Team.
- The OISD is to facilitate and co-ordinate the work of the Task Team.
- All ISDs should be subjected to scrutiny to assess the best way forward for each ISD
- A follow up meeting between the Presiding Officers and the Executive to be undertaken as a matter of urgency.
- Resourcing of the proposed Task Team would be further considered by Presiding Officers

In conclusion, the Deputy Speaker emphasised that Parliament needs to act in a swift and measured manner to ensure the processing of the recommendations on the amalgamation of ISDs and the delinking of the budgets of ISDs, so as to remove the lingering stakeholder uncertainty.





ANNEXURES



**ANNEXURE 1: COMPENDIUM OF TASKS**

<b>POINT OF DISCUSSION</b>	<b>ACTION REQUIRED</b>	<b>BY WHOM</b>	<b>BY WHEN</b>
<i>Feasibility of a Single Human Rights Body</i>	Establishment of Task Team drawn from all ISDs	Coordinated by the OISD	End October 2017
	Terms of Reference for the Task to be elaborated.	OISD	15 October 2017
	Engagement between Presiding Officers and Members of the Executive to be coordinated before first meeting of Task Team	OISD	17 October 2017
	Call for nominations of ISDs to Task Team	OISD to prepare letters to ISDs	2 October 2017
<i>Delinking of ISD Budgets</i>	Consider the 3 options advanced in discussion paper	Task Team/ Parliament	When the Task Team begins its work



**ANNEXURE 2: ATTENDANCE REGISTER**

<b>PRESIDING OFFICERS, PARLIAMENT OF RSA</b>	
<b>Name</b>	<b>Designation</b>
Ms. B Mbete, MP	Speaker: National Assembly
Ms. T Modise, MP	Chairperson: National Council of Provinces
Mr. L Tsenoli, MP	Deputy Speaker: National Assembly
Mr. C. Frolick, MP	House Chairperson: Committees, National Assembly
<b>CHAIRPERSONS OF PORTFOLIO/ SELECT COMMITTEES, PARLIAMENT OF RSA</b>	
<b>Name</b>	<b>Committee</b>
Mr. V Smith, MP	Chairperson: Standing Committee on the Auditor-General
Mr. B L Mashile, MP	Chairperson: PC on Home Affairs
Ms. T Memela, MP	Chairperson: PC on Women in the Presidency
Ms. X S Tom, MP	Chairperson: PC on Arts and Culture
Mr. H Maxegwana, MP	Chairperson: PC on Communications
Mr. C J de Beer, MP	Chairperson: Select Committee on Finance; Acting Chairperson: Select Committee on Appropriations
Dr. M Motshekga, MP	Chairperson: PC on Justice & Correctional Services

<b>INSTITUTIONS SUPPORTING DEMOCRACY</b>	
<b>Name</b>	<b>Designation</b>
Dr. Nondumiso Maphazi	Acting Chairperson: Commission for Gender Equality (CGE)
Ms. Keketso Maema	CEO: Commission for Gender Equality
Ms. Thoko Mkhwanazi –Xaluva	Chairperson: CRL Rights Commission
Mr. Edward Mafadza	CEO: CRL Rights Commission
Prof Daniel Plaatjie	Chairperson: Finance and Fiscal Commission (FFC)
Mr. Paris Mashile	Acting Chairperson: Independent Communications Authority of South Africa (ICASA)
Councillor	Independent Communications Authority of South Africa (ICASA)
Mr. Marco Granelli	Senior Manager: Independent Electoral Commission (IEC)
Adv. Kevin Malunga	Deputy Public Protector: Public Protector SA
Ms. Benita Young	Manager: Public Protector SA
Dr. R. Monareng	CEO: Pan-South African Language Board (PanSALB)
Adv. Richard K Sizani	Chairperson: Public Service Commission (PSC)
Ms. Phumelele Nzimande	Commissioner: Public Service Commission (PSC)
Prof. Bongani Majola	Chairperson: South African Human Rights Commission (SAHRC)
Mr. Tseliso Thipanyane	CEO: South African Human Rights Commission (SAHRC)
Ms. Juliet Tshoke	Executive Director: Corporate Strategy National Youth Development Agency (NYDA)

<b>GOVERNMENT DEPARTMENTS</b>	
<b>Name</b>	<b>Designation</b>
Dr. MC Nwaila	Director-General: Cooperative Governance and Traditional Affairs (COGTA)
Deputy Director General	Women in the Presidency

<b>PARLIAMENTARY STAFF</b>	
<b>Name</b>	<b>Designation</b>
Ms P. Tyawa	Acting Secretary to Parliament
Mr K. Zweni	Head: OISD
Mr A. Mphunga	Senior Manager: OISD
Mr P. Davids	Head: Office of the Deputy Speaker
Ms L. Sait	Manager: Strategic Liaison - OISD
Ms G. Silwana	Communication Assistant: OISD
Ms P. Masiza	Private Secretary: Deputy Speaker
Prof. M. Jahed	Executive Director: Parliamentary Budget Office







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