



## **SOUTH AFRICAN NATIONAL DEAF ASSOCIATION**

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Honourable Mr VG Smith (MP) and Mr LP Nzimande (MP)

Co-chairpersons:

Constitutional Review Committee

Parliament of the Republic of South Africa

Parliament Street

Cape Town

8000

Attention: Ms Pat Jayiya

Per email: [pjayiya@parliament.gov.za](mailto:pjayiya@parliament.gov.za)

27 May 2016

Dear Messieurs VG Smith and LP Nzimande

### **SUBMISSION TO THE CONSTITUTIONAL REVIEW COMMITTEE IN TERMS OF SECTION 45(1)(c) OF THE CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA, (ACT 108, 1996) – RECOMMENDED REVIEW OF SECTION 6(1)**

#### **INTRODUCTION**

1. South African National Deaf Association (SANDA) welcomes the opportunity to make a written submission to the Constitutional Review Committee of Parliament as per published invitation on [www.parliament.gov.za](http://www.parliament.gov.za).
2. SANDA is the premier, human rights and advocacy organisation of, by and for Deaf people established in 2004. SANDA is dedicated to building capacity, influencing policies and setting the agenda for meaningful inclusive development of Deaf community. To this end, SANDA serves as an innovative, responsive and dynamic

developmental Deaf organisation that consistently ensures the protection and promotion of the rights, needs and concerns of Deaf people in South Africa. As an advocacy organisation, SANDA is at the forefront in promoting and advancing the rights of Deaf people at all levels of society.

3. Accordingly, SANDA would like consideration to be given to the review of section 6(1) of the Constitution for the reasons as discussed hereunder.
4. Our submission is not intended to provide a comprehensive analysis of the language situation of the aforementioned section, but rather to draw attention that the recognition of South African Sign Language (SASL) as official language is one of the major concerns of Deaf community in South Africa.
5. The Preamble of the Constitution of the Republic “recognizes the injustices of our past” and determines that “government must be based on the will of the people”.

## **SIGN LANGUAGE AS A LANGUAGE ON ITS OWN**

6. Studies across the globe and nationally have universally established that Sign languages should not be confused with gesturing or pantomime. Sign Languages are natural languages in their own right, systematic and rule-based, with distinct vocabularies and grammatical structures and just as complex as spoken languages and independent.
7. As a language, Sign Languages perform similar range of functions to spoken languages: to communicate, to convey social relationships, to express cultural identity, and to provide a source of delight through artistic forms of expression.
8. However, Sign Language is not a universal language. Each country has its own national Sign Language. In South Africa, we have South African Sign Language (SASL), which is the first language to almost 5,1% of Deaf people and some hearing people who grow up with Deaf family members. People who became deaf later or hard of hearing usually have a spoken language as their first or preferred language. Most however, usually choose to learn sign language to ease communication. The percentage figure cited above is significant for a country with 55 million population.

9. We must emphasise that South African Sign Language is not a communication option or a tool of inclusion for Deaf people but a primary and native language on its own of a part of the South African population.

## **THE CURRENT CONSTITUTIONAL SITUATION**

10. The mentioning of South African Sign Language in section 6(5)(a)(iii) of the Constitution was a big step towards potentially achieving linguistic equality, and a substantial step in securing human rights and dignity and active participation in the life of the Deaf community.
11. However, section 6(5)(a)(iii) of the Constitution merely mentions South African Sign Language through a Pan South African Language Board (PanSALB) as a language that needs to be promoted and for which conditions for its development and use should be created. The Constitution does not recognize South African Sign Language nor does it specifically accord it the status of being one of official languages to receive a constitutionally guaranteed right in terms of section 6(4) of the Constitution to be regulated and monitored as part of the legislative provision.
12. The mention of South African Sign Language in the Constitution is at best, ambiguous, incomplete, and tenuous and, at worst, a mirage and symbolic since it does not equitably guarantee for the enforceability of the rights of South African Sign Language as a language.
13. Section 6(5)(a)(iii) of the Constitution, as it is, entrusts the promotion and development of SASL mostly to the sensitivity of government departments and agencies' officials. And these are inconsistent and fluid. We contend that for far too long this has been left at the periphery of government and institutional programmes. These rob the effective development of the Deaf community and the strength and health of the language.
14. For 20 years of the Constitution and 22 years of our constitutional democracy, there has been no significant progress towards addressing the issue of official recognition of South African Sign Language as the 12<sup>th</sup> official language of South Africa. There, however, have been key developments that have marked a major reversal in South African Sign Language deprivation and a gradual shift towards achieving full and equal

rights for South African Sign Language users and which provide impetus for the review of section 6(1) and, with it, the need to promote and maintain the use of South African Sign Language by declaring it as an official language of South Africa.

15. The following key developments provide such impetus:

- a. The President's proclamation in December 2012 that South African Sign Language must be developed and standardised for it to be one of the 11 official languages.
- b. The South African Schools Act, 1996 recognises South African Sign Language as the medium of instruction for the education of Deaf children.
- c. The Use of Official Languages Act, 2012 (Act 12 of 2012), requires national departments, national public entities and national public enterprises to make provision for communicating with people whose language of choice is South African Sign Language.
- d. The decision by Department of Basic Education to have South African Sign Language taught as a first language in schools for the first time in 2015 with grade 12 learners matriculating with it as a first language in 2018.
- e. The ratification by the South African Government of the UN Convention on the Rights of Person with Disabilities (CRPD) in 2007 provides for specific provisions for the rights of Deaf people and advances the progressive realisation of the rights of persons with disabilities as equal citizens as a whole.
- f. The adoption of National Development Plan (NDP) Vision 2030 in 2012 by Cabinet articulates the interrelatedness of disability and poverty and directs that any program to attain social cohesion in society should narrow the inequality divide and ensure people with disabilities and any other group at risk of discrimination are able to enjoy their rights enshrined in the Constitution.
- g. The approval by Cabinet of the White Paper on the Rights of Persons with Disabilities (WPRPD) and its Implementation Matrix in 2015 which guides the review of all existing, and the development of new, sectoral policies, programmes,

budgets and reporting systems to bring these in line with both Constitutional and international treaty obligations.

16. The progressive developments above further support our call that the time is now right for South African Sign Language to be fully recognised as an official language. For, without its ultimate public and official recognition, the Deaf community does not have full access to vital information and services, including education, health and employment.

## **RECOMMENDATION**

17. It is recommended that Parliament should effect constitutional amendments and grant official recognition to South African Sign Language as the 12<sup>th</sup> official language of the Republic.

18. It is further recommended that a Task Team should be established to define clear goals to be achieved, exact deadlines to be met, and resources and methods to be used, with the mandatory participation of key government departments and SANDA to clarify outstanding issues in regard to the official recognition of South African Sign Language as the 12<sup>th</sup> language of the Republic.

## **CONCLUSION**

19. The Freedom Charter, which recently celebrated 60<sup>th</sup> anniversary, continues to guide and inform the transformation path of our country: building a South Africa that belongs to all who live in it. Accordingly, when we proudly proclaim that all people shall have equal right to use their own languages, and to develop their own folk culture and customs, we include Deaf persons, South African Sign Language and Deaf culture.

20. The right to have access to, learn, and use South African Sign Language is not a privilege or luxury, but a basic human right for all Deaf people.. As South African citizens, we insist on fair and equal treatment and that South African Sign Language should be constitutionally guaranteed and respected.

21. The Deaf community of South Africa: the Deaf elderly, young Deaf people, Deaf children, Deaf professionals and academics, Deaf women, Deaf business people, Deaf faith-based sector and many others have placed their faith in the Constitutional Review Committee to stop the continued exclusion of South African Sign Language that continues to deny Deaf people access to their language and culture and which further excludes and diminishes the importance of Deaf culture as a community.
22. South African Sign Language should be recognised as an expression of cultural wealth. It constitutes an important element of South African linguistic and cultural heritage.
23. We trust that our submission will be of assistance in guiding the Committee's deliberations on reviewing the Constitution aimed at strengthening our rights-based society. Should the Committee wish to hear oral submissions, we are willing to oblige at a mutually convenient time and place.

Yours sincerely

A handwritten signature in black ink, appearing to read 'J. Blose', written in a cursive style.

**Jabulane Blose**  
**Chief Executive Officer**