



**COUNCIL**  
FOR THE ADVANCEMENT OF THE  
**SOUTH AFRICAN**  
**CONSTITUTION**

## MEDIA STATEMENT

20 January 2016

### CASAC questions the status of the Advisory Panel appointed by the Speaker

The Speaker of the National Assembly, Ms Baleka Mbete, yesterday announced that an “Independent Advisory Panel on the ‘Acceleration of Change and Transformation” has been established. It is intended to review some legislation passed by Parliament since 1994 in four identified areas.

Whilst this intervention recognises the need to realise the vision of the Constitution and the Panel comprises of individuals of high calibre and stature, its procedural shortcomings must not be overlooked, as they may undermine the intent of the exercise.

It appears that this Panel has been established to execute a mandate that the Constitution has specifically allocated to Parliament. Section 55(2) of the Constitution provides for executive organs of state to be accountable to the National Assembly and the National Assembly to “maintain oversight of the exercise of national executive authority, including the implementation of legislation”.

The mandate of the Panel would appear to usurp the powers granted to Portfolio and Select Committees in exercising scrutiny of the executive, which oversight includes the implementation of legislation passed by Parliament.

The Speaker purported to be acting on a mandate from the Speakers’ Forum which is an informal body established to foster co-operation between Parliament and the Provincial Legislatures; it has no Constitutional or legislative standing.

The questions that arise are:

1. When was the decision taken to establish this Panel and why was it only announced on the same day that the Panel convened for the first time?
2. What processes were involved in appointing the panellists, and what selection criteria were used?

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3. Was the National Assembly or the National Council of Provinces involved in the process?
4. When were the panellists appointed?
5. What is the budget for the Panel and how will it be funded?
6. Will it appoint its own staff or will Parliamentary staff be seconded to provide support?
7. What authority will the Panel have to obtain information from the executive or other organs of state to “assess implementation” of legislation passed since 1994?
8. Will legislation passed by Provincial Legislatures also be scrutinised by the Panel?
9. What will the Speakers’ Forum do with the Final Report of the Panel when it concludes its work?

Whilst all efforts to ensure a more efficient functioning of organs of state, including Parliament and the executive, must be welcomed, it must be carried out in a manner that respects the roles of established structures and governance processes.

We therefore appeal to the Speaker and the Panel to ensure that they consider the issue of the failure of the executive to implement legislation that has been passed by Parliament. In this regard we trust that will they draw on the various academic studies and other evidence that points to the issue of non-implementation as being a significant impediment to the transformation of our society as envisaged in the Constitution.

We call on the Speaker to clarify the issues raised above and to publish the full terms of reference of the Panel.

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