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Honourable Speaker

## **WRITTEN REPRESENTATION: CONSTITUTION TWENTY FOURTH AMENDMENT BILL, 2026**

I trust that this letter finds you well.

### **Introduction**

The purpose of this letter is to provide AfriForum's written representation on the proposed Constitution Twenty Fourth Amendment Bill, 2026, as provided for in General Notice 3852 of 2026 as published in *Government Gazette* No. 54417 of 27 March 2026.

AfriForum opposes the proposed repeal of Section 235 of the Constitution of the Republic of South Africa, 1996, (the Constitution) in the strongest possible terms. The reasons for AfriForum's opposition are as set out below.

### **The African Charter on Human and Peoples' Rights**

A reading of the African Charter on Human and Peoples' Rights (ACHPR) reveals that Articles 2 to 17 focusses on the rights of the individual, Article 18 on the rights of families, and Articles 19 to 24 on the rights of peoples.

Our African elders in their wisdom clearly understood the difference between, and the importance of both individual and peoples' (or group) rights and the crucial necessity to balance these rights. The MK Party's notion that group rights are safeguarded by individual rights is therefore misplaced and a rejection of the ACHPR.

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Article 20 (1) of the ACHPR reads as follows:

*All peoples shall have right to existence. They shall have the unquestionable and inalienable right to self-determination. They shall freely determine their political status and shall pursue their economic and social development according to the policy they have freely chosen.*

There is no ambiguity: the ACHPR, an African document, declares that peoples in Africa have the unquestionable and inalienable right to self-determination. Section 235 of the Constitution are clearly in harmony with the ACHPR, and the MK Party's stance, that Section 235 is un-African, as voiced by Dr K. Litchfield-Tshabalala, MP, is in fact un-African and a rejection of the ACHPR.

## **The United Nations Declaration on the Rights of Indigenous Peoples**

The United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) is described as the most comprehensive international law instrument relating to the rights of indigenous peoples and contains the minimum standards for the recognition, protection, and promotion of the rights of indigenous peoples. The UNDRIP, like the ACHPR, also addresses both individual and collective (group) rights, once again confirming the importance of both sets of rights.

The UNDRIP recognises the right of indigenous peoples to self-determination, as set out in Articles 3 and 4 (quoted for ease of reference below):

### *Article 3*

*Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.*

### *Article 4*

*Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.*

The UNDRIP, in Article 8(1) (quoted below for ease of reference), specifically confirms the right of indigenous peoples and individuals not to be subject to forced assimilation.

### *Article 8*

*1. Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture.*

## **The International Covenant on Civil and Political Rights**

The International Covenant on Civil and Political Rights (ICCPR) once again addresses both individual and group rights. The very first article of the ICCPR confirm the right of all peoples to self-determination.

Article 1 of the ICCPR reads as follows:

*1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.*

*2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.*

Article 5 (1) of the ICCPR states that no state, group, or person has the right to engage in any activity aimed at the destruction of any of the rights recognised in the ICCPR. Article 5 (1) of the ICCPR reads as follows:

*1. Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms recognized herein or at their limitation to a greater extent than is provided for in the present Covenant.*

The ICCPR, in Article 27, further confirms the rights of ethnic, religious, and linguistic minorities within states:

*Article 27*

*In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.*

### **Non-consideration of grassroots priorities, aspirations, and realities**

It appears that the MK Party has not considered the priorities, aspirations and actions of grassroots communities and their leaders.

It is common knowledge that His Majesty King Misuzulu is engaging with political parties to secure changes to the Ingonyama Trust Act – changes that will strengthen the self-determination of the Zulu Nation through increased self-management and autonomy. This action fits squarely within the ambit of Section 235 of the Constitution.

Every time a *Kgosi* meets with *dikgosana* to discuss matters of interest to a community and decisions are taken that determines the community's destiny - it is an exercise of the right to self-determination as currently enshrined in Section 235. Cultural towns like Orania and Kleinfontein are further practical examples of grassroots realities that are in harmony with Section 235.

Other community-based institutions that takes the responsibility for education, community safety, community development, and maintenance on local level to the benefit of these communities are exercising the right to self-determination as protected by Section 235.

The examples mentioned above are not merely ideas, it is part of the South African reality which should also be considered as part of legislative and policy processes – which the MK Party is clearly ignoring or wilfully distorting to fit their authoritarian agenda.

### **Reasoning for the repeal of section 235 of the Constitution**

The MK Party reasoned in Parliament that Section 235 of the Constitution should be repealed because Afrikaner communities, such as the town of Orania, is misappropriating it to justify their existence.

Based on the current and previous proposed constitutional amendments by the MK Party, this reasoning simply serves as a smoke screen for actions taken aimed at the destruction of cultural communities, cultural rights and property rights with the ultimate outcome of establishing a centralised, authoritarian state where politicians have all the authority and communities and individuals have very limited freedom, rights and authority.

This authoritarian intent is clear when this proposed repeal of Section 235 of the Constitution is read together with the MK Party's 22nd Amendment Bill to the Constitution (which aims to abolish private land ownership in the country and make the state the custodian of all the land and natural resources by amending Section 25 of the Constitution).

### **Departure from the negotiated settlement**

This effort to repeal section 235 of the Constitution is not only in contravention of the mentioned international law instruments but is also a departure from the negotiated settlement that enabled the establishment of the current South African dispensation and therefore holds great risks of instability and polarisation.

### **Conclusions**

Based on the information provided above, the following conclusions can be drawn:

1. Section 235 of the Constitution, which recognises “the notion of the right of self-determination of any community sharing a common cultural and language heritage, within a territorial entity in the Republic or in any other way” is in accordance with the ACHPR, UNDRIP and ICCPR.

2. The MK Party, in engaging in activities aimed at the destruction of the right to self-determination as recognised by Section 235, are acting in contravention of the ACHPR, UNDRIP and ICCPR.
3. Actions taken by communities on grassroots level and by Royal Leaders are within the ambit of Section 235, and the MK Party is clearly out of touch with the priorities, aspirations, and realities of the peoples of the country.
4. This current and previous actions by the MK Party are aimed at increased state authoritarianism and centralism to the detriment of the freedom and rights of communities and individuals.
5. This effort to repeal Section 235 of the Constitution is a dangerous departure from the negotiated settlement that enabled the establishment of the current South African dispensation.

## Closure

Article 28 of the ACHPR reads: *Every individual shall have the duty to respect and consider his fellow beings without discrimination, and to maintain relations aimed at promoting, safeguarding and reinforcing mutual respect and tolerance.*

The MK Party is acting without any mutual respect and is showing no tolerance for the Afrikaner cultural community as well as any and all other cultural communities and cultural leaders that are working towards community self-sufficiency, self-reliance, increased cultural autonomy, and self-determination within the ambit of the Constitution and international law and is thereby showing a total disregard for African and other international law instruments.

AfriForum is committed to mobilise all individuals, leaders as well as cultural and other communities that are working to ensure a free, safe and prosperous future for the children of all cultural communities in the country to oppose the proposed Constitution Twenty Fourth Amendment Bill, 2026, that aims to repeal Section 235 of the Constitution.

AfriForum would appreciate the opportunity to do a presentation in this regard at such a time when comments by means of a presentation will be possible.

Your attention in this regard is appreciated.

Yours respectfully

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