

President Ramaphosa
Union Buildings
Government Avenue
Pretoria
0002

By email: president@presidency.gov.za

22nd September 2026

**RE: OBLIGATION OF THE SOUTH AFRICAN STATE TO PROMOTE AND FACILITATE THE
REALISATION OF THE RIGHT TO SELF-DETERMINATION OWED TO THE CONSTITUENT
PEOPLES OF SOUTH AFRICA**

Dear President Ramaphosa,

I am writing to you on behalf of the Cape Independence Advocacy Group (CIAG) and wish to bring to your attention, as well as to the attention of the affected Ministers, political leaders, Speakers of the National Assembly and the Western Cape Provincial Parliament, and the Chairperson of the National Council of Provinces, a legal monograph we have recently published which sets out in considerable detail the right of all peoples to self-determination in the context of the South African constitutional order.

In its written pleadings to the International Court of Justice (ICJ), South Africa has repeatedly affirmed the jus cogens nature of the right of all peoples to self-determination. By its very definition, a jus cogens right is non-derogable, and therefore cannot lawfully be limited or denied by any act of parliament, court, or the Constitution itself.

This has far-reaching consequences for South Africa, theoretically, but also very much in practice. It is for this reason that we have taken the unusual step of copying in the Speakers and Chairperson, the affected Ministers, and the Leaders of the DA and the FF Plus.

The right to self-determination does not just attach itself to the South African people as a whole, but to all peoples, a point which is tacitly acknowledged in section 235 of the Constitution. The right to self-determination originates in customary international law and is then domesticated into South African law via section 232. As such, section 235 represents a partial accommodation of a right which already exists and which is legally binding upon South Africa with or without section 235. In other words, section 235 is not the source of the right to self-determination in South Africa, nor can it limit or extinguish this right.

On this point, it should be noted that section 232's caveat on the supremacy of the Constitution over international law is not legally sustainable in the narrow context of jus cogens rights such as self-determination. This is because that caveat seeks to derogate from a non-derogable right.

The purpose of this letter is to bring to your attention that there are sub-national communities in South Africa, who comprise a 'people' as envisaged by international law, who are attempting to exercise self-determination in one form or another, and who are being denied the exercise of this right by the actions of the South African State.

Western Cape Policing

One such example is the Western Cape's pursuit of devolved policing.

Accordingly, we wish to formally place on record that the people of the Western Cape are attempting to exercise self-determination — noting that thus far they have opted not to use this specific phrase — in the form of control of policing in the province, but that they are being denied this right.

We would respectfully refer you to the words of the African Charter on Human and Peoples' Rights which South Africa has signed and ratified:

All peoples shall have the 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.

The people of the Western Cape's desire to police themselves is a clear example of a people wishing to pursue their social development according to a policy which they have freely chosen. Importantly, this is not a novel notion. Internationally, in large heterogeneous states, regional control of policing is normative and a single centralised police service is the exception.

As our monograph explains, unless the State contends that the people of the Western Cape have not made their desire for control of policing sufficiently clear, this places an obligation upon the State to negotiate in good faith how the people of the Western Cape can take control of policing in the province without infringing upon the rights of others. Thereafter,

Parliament has a duty to give effect to the outcome of those negotiations by passing the necessary legislation.

If the State requires the Western Cape Provincial Parliament to pass a specific motion explicitly asserting that its desire to police itself is an assertion of self-determination — something which by its nature is already tacit — then we request that this be stated publicly and on the official record.

In matters of self-determination, it is not sufficient for the State or its representatives to refer to the current constitutional assignment of powers, nor to require the people wishing to exercise self-determination to muster a national parliamentary majority to support their claim. To the contrary, the essence of the right to self-determination is that a national majority cannot deprive a qualifying people of their wish to pursue a legitimate expression of that people's democratic will, providing that in doing so, they do not infringe upon the rights of others.

Control of single-medium Afrikaans schools

A second and related issue is the control of language policy in single-medium Afrikaans schools, which has been a source of great contention following your signing of the BELA Act into law, and, more fundamentally, the potential control of single-medium schools in their entirety.

Schools are an essential and indispensable element of a cultural community's life and development. Accordingly, control of schooling is a normative application of the right to self-determination, a right which the Afrikaner people unquestionably enjoy.

The Afrikaner people have made their desire to control language policy in their own schools abundantly clear. We wish to bring to your attention and formally place on record the CIAG's contention that this desire for control of language policy constitutes a recognised, accepted, and widely practised form of cultural self-determination. As such, it is the assertion of the CIAG that the State is legally obliged to acknowledge that desire, to negotiate in good faith how it can be implemented without infringing upon the rights of others, and that Parliament must then give effect to the outcome of those negotiations by enacting the necessary legislation.

Unlike the Western Cape policing example which arises under South Africa's obligations under international law which have then been domesticated into the Constitution, cultural self-determination is, in addition, clearly envisaged by the Constitution itself in section 235.

Because enabling legislation for section 235 has never been enacted, a shortcoming which arguably places South Africa in default of its international law obligation to promote the realisation of the right to self-determination within the State, Afrikaners have no clearly defined constitutional means through which to assert a right to self-determination. The Volkstaatraad was unilaterally defunded, and the Constitutional Court's own certification judgment clarified that the phrase "determined by national legislation" refers to the mechanism by which an already reached agreement is given effect to, and therefore by inference, is not the means of assertion.

We therefore formally request a clarification of how the State wishes Afrikaners to assert their right to self-determination in the form of control of language policy in schools, and very plausibly, control over single-medium schools in their entirety.

Self-determination within the state (Internal self-determination)

It is no secret that Cape Independence, or in legal terms, the secession of the Western Cape, is the foremost objective of our organisation, an objective which you have publicly disavowed, declaring that it must never be allowed to happen.

The purpose of this letter and the legal monograph to which it refers is not secession (external self-determination), but internal self-determination — the exercise of self-determination by a qualifying people within the South African State.

It is almost universally accepted by legal scholars that the default application of the right to self-determination is internal and not external. External self-determination — secession — only becomes enforceable where a state is unwilling to fulfil its legal obligations to respect and promote the right of self-determination within the state.

The legal basis of this distinction arises out of UN Declaration 2625 (XXV), the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States — the so-called safeguard clause — which establishes that a state's sovereignty and territorial integrity is conditional upon its compliance with the principle that all peoples within that state are able to exercise their right to self-determination.

The question this letter therefore poses to you today is whether the South African State is willing to accommodate the right of its various constituent peoples to self-determination within the State.

Invitation to challenge our legal interpretation

We believe that the South African State has a legal obligation which extends beyond simply accommodating the right to self-determination when it is asserted, and to actively promoting and facilitating the realisation of the right for qualifying communities within South Africa.

It is for this reason that we have taken the time to prepare the detailed monograph which we are now providing you with a copy of. Its implications are legally and politically profound. If you do not accept the thrust of its legal argument, we invite you to advance the South African State's alternative view.

We share a desire to create a better life for the people of the Western Cape, for the other constituent peoples of South Africa, and for the South African people as a whole. It is our sincere view that the realisation of the right to self-determination is critical to the achievement of that goal.

Yours Sincerely



Phil Craig

For and on behalf of the CIAG

Enclosure: *"Why the Unitary Nature of the South African State Cannot Survive the Assertion of Self-Determination by a Sub-National Community"* (ISBN: 978-1-0483-7192-5, DOI: 10.2139/ssrn.7459503)

CC: Speaker of the National Assembly
Chairperson of the National Council of Provinces
Minister of Basic Education
Minister of Police
Minister of Justice and Constitutional Development
Premier of the Western Cape
Speaker of the Western Cape Provincial Parliament
Leader of the Democratic Alliance
Leader of the Freedom Front Plus