



18 July 2011

Via e-mail: vramaano@parliament.gov.za

Attention: Mr V Ramaano

Committee Secretary
Portfolio Committee on Justice and Constitutional Development
Cape Town

Dear Sir

CRIMINAL PROCEDURE AMENDMENT BILL (B39 OF 2010)

We refer to your request for submissions on the above Bill and wish to comment as follows:

1. After diligent consideration of the proposed amendments to the Criminal Procedure Act, 1977, the current applicable case law and opinions from various sources, we are of the view that it will be of no profound use to amend the current interpretation, wording and/or compliance of Section 49 of the Act.
2. We submit that the Constitutional Court will not in any way reconsider and/or consent to disregard the current interpretation and compliance of Section 49 in future, as already stipulated in the case of *The Minister of Safety and Security and Others: In Re S v Walters and another 2002 (2) SACR 105 (CC) & 2002 (4) SA 613 (CC)* and *2002 (7) BCLR 663 (CC)*.

In casu, it was confirmed that the old Section 49(2) was in direct conflict with the provisions and meaning of the Constitution of South Africa.

It is therefore evident and clear that the Constitutional Court had studied and considered the legal principles with reference to the Constitution over an extended period of time. It is the submission and opinion of the greater part of our profession that, should the latest proposed amendment be enforced, accepted and implemented, it would lead to chaos and an infringement and violation of human rights.

The Law Society of South Africa brings together the Black Lawyers Association, the Cape Law Society, the KwaZulu-Natal Law Society, the Law Society of the Free State, the Law Society of the Northern Provinces and the National Association of Democratic Lawyers in representing the attorneys' profession in South Africa.

We trust that you find the above in order.

Kind regards

A handwritten signature in cursive script, appearing to read 'Lizette Burger'.

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