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THE BLACK SASH ADVICE OFFICE

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1. Nov. 1993

2 pages

To the Technical Committee on Fundamental Rights.

I hereby re-send The Black Sash's concerns to section 32 and section 35.

Thank you for informing us about the defect on our fax-machine.

Yours sincerely

Ms BASTIENNE KLEIN

OFFICE HOURS: MONDAY - THURSDAY 9 a.m. - 1 p.m. • 2 p.m. - 4 p.m. CLOSED ON FRIDAYS

UNDER THE AUSPICES OF THE BLACK SASH AND THE SOUTH AFRICAN INSTITUTE OF RACE RELATIONS

28. Oct. 1993

**BLACK SASH SUBMISSION TO THE TECHNICAL COMMITTEE
ON FUNDAMENTAL HUMAN RIGHTS****Regarding Section 32, in the 10th draft on Fundamental Human Rights:**

The Black Sash reiterates its stand on customary law in South Africa. There is, in our opinion, no convincing reason for imposing a moratorium on an equality clause in favour of customary law [Sec. 32 (2)]. Those who propose such a limitation of the bill of rights are not the people whose rights are diminished by customary law. If the attempt were to succeed, many women in SA would face a perpetuation of their second-class status as citizens and might continue to be subjected to an authority outside their own person.

At the June 1993 World Conference on Human Rights in Vienna, women's organisations from around the world formulated a women's human rights statement for adoption at the UN. Clause seven of this statement reads:

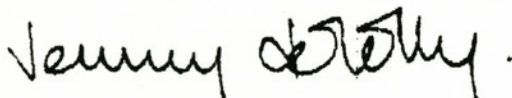
"Regarding the universality of human rights, all international instruments should be applied equally to women, and governments should not use cultural and religious issues as a shield to evade responsibility for defending the fundamental human rights of women."

The Black Sash strongly supports the Vienna statement on Women's Human Rights. We believe that the inclusion of Section 32 would signify to the international community that, in the future SA, full human rights would be reserved for men only.

We believe that it would be best to omit Section 32 altogether. However, if it is believed essential to include a provision on customary law in Chapter 3, we would propose the alternative formulation.

"The rights enshrined in this chapter shall not be denied to any person who belongs to a community which observes a system of customary law or to a person who observes the rules and practices of a system of customary law and associates with other persons observing the same rules and practices."

This formulation would allow those who choose to abide by customary law to do so, but would not prevent those who wish to claim their right to equality to do so.



THE BLACK SASH NATIONAL EXECUTIVE
with the Black Sash Legislation Watch

22 October 1993

Fax: 021-685 7510

TO: The Technical Committee on Fundamental Rights.

FAX: 011-397 2211

The Black Sash wishes to register its grave concern with regard to the suspension of rights in a State of Emergency, according to Section 35 in the tenth draft of the Chapter on Fundamental Rights, in the Interim Constitution.

1. Our concern arises out of the possibility that certain fundamental rights connected with the holding of a fair and free election may be suspended in a State of Emergency. These rights include the Freedom of Expression (section 15), the Right to Privacy (section 13), the Right of Assembly (section 16), the Freedom of Association (section 17) and most importantly of all, Political Rights (section 21). Even if a State of Emergency were declared in a limited geographical area of the country, it would have the effect of rendering the election not free and fair in that area.
2. Section (4) (c), permitting detention of up to 10 days prior to review in a court of law, is too long. There is no guarantee against rights in detention. The permissible period of detention prior to court review, should be severely curtailed, even under a State of Emergency.
3. We acknowledge that certain rights in this chapter may have to be limited or even suspended in a valid State of Emergency. However, we see no justification for the suspension of the protections in the equality clause (section 8). We note that the United Nations covenant on Civil and Political rights (article 4), expressly forbids any discrimination on the basis of race, colour, sex, language, religion, or social origin, even in a valid State of Emergency.

For Black Sash National Executive and Black Sash Legislation Watch.