

**SOUTH AFRICAN GOVERNMENT OFFICE
- WORLD TRADE CENTRE -**

27 July 1993

Head of the Administration
Multi-Party Negotiating Process
World Trade Centre

Dear Dr Eloff

**SUBMISSION BY THE SOUTH AFRICAN GOVERNMENT FOR THE ATTENTION OF
THE TECHNICAL COMMITTEE: FUNDAMENTAL HUMAN RIGHTS**

1. Attached is a submission by the South African Government entitled ***COMMENTS BY THE GOVERNMENT REGARDING THE POSSIBLE INCLUSION OF FAMILY RIGHTS IN A BILL OF RIGHTS.***
2. Kindly transmit the document for immediate attention to the Technical Committee.

Yours sincerely

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^ GOVERNMENT OFFICE: WORLD TRADE CENTRE



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DEPARTEMENT VAN JUSTISIE
DEPARTMENT OF JUSTICE

Direkteur-generaal/Director-General • Minister

Lêer/File No.....

COMMENTS BY THE GOVERNMENT REGARDING THE POSSIBLE
INCLUSION OF FAMILY RIGHTS IN A BILL OF RIGHTS

1. The Government has, in its draft Charter on Fundamental Rights, proposed the inclusion of family rights in a Bill of Rights. Section 12 of this Charter reads as follows:

"Every person shall have the right to the protection of the integrity of his or her family."

2. The Government is of the opinion that the family forms the natural and fundamental unit of society and deserves protection by the State.
3. The family has always been regarded as an essential institution of national life, and the law contains various provisions specifically designed to strengthen family ties and to maintain the integrity of the family as a social unit.

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4. Should family rights be part of the constitution this would enable a person to approach the constitutional court for protection of such a right against acts of the Government, such as the removal of children from parents without their consent and the breach of the rule that communications between husband and wife are regarded to be privileged against disclosure.

5. The concept "rule of law" serves as a collective term for all those legal principles which are regarded as essential for the implementation of the doctrine of human rights. In this regard it was stated in the past that the "rule of law has come to be regarded as the mark of a free society ... everywhere it is identified with the liberty of the individual". One of the particular human rights which has come to be associated with the rule of law is family rights. It is thus natural that family rights be included in a Bill of Rights.