

2/4/3/2/3/12

**CONSTITUTIONAL
ASSEMBLY**

THEME COMMITTEE 3

***RELATIONSHIP BETWEEN
LEVELS OF GOVERNMENT***

**SUMMARY OF
SUBMISSIONS
RECEIVED AS AT 23 MARCH 1995**

VOLUME 8

Theme Committee 3

Summary of Submissions - Volume 8

Organisation: Minister of Land Affairs

Individual: Derek Hanekom

Category: Powers and functions of local government - Town Planning Applications

Pages: 800 - 804

Summary: Section 176 (b) - Negative effect on process.

Proposal- removal of section 176 (b) of the Interim Constitution which gives power to local authorities. Instead assign powers to City Planner and his/her officials in order to speed up the RDP process via the approval of town planning applications.

Mr Hanekom's letter was motivated by a letter received from the City Planner (6 October 1994) who regards Section 176(b) as a

" legislative obstruction to efficient and expeditious planning ".

The City Planner has also written to the Transitional Executive Council (31 January 1994) warning that it will create a planning system which is " extraordinarily cumbersome and slow ".

Organisation: South African Council for Town and Regional Planners

Individual: Professor J. Muller

Category: Town Planning Issues

Pages: 805 - 810

Summary: The council submits that they have the power to delegate to officials/committees who specialise on certain issues. So as to minimise time and resource utilisation (to shorten a lengthy process) and for the council to concentrate on more crucial matters.

Organisation: Afrikaans Handelinstituut

Individual: Koos van Wyk - chairman Standing Committee on Finance

Category: Financial and Fiscal - Accounting/Reporting Standards

Pages: 811 - 817

Summary: Reporting by Public Entities Act should be applied to many more entities including all forms of Local, Provincial governments and Public funded entities in accordance with principles of transparency and accountability. Includes Coopers and Lybrand brochure which discusses Reporting Standards.

Organisation: Centurion College

Individual: Mr S. Ismail - Principal

Category: Empowering children to be more politically aware.

Pages: 818 - 819

Summary: In empowering our children (pupils) certain key issues are emphasised; viz. - laws

- rights of children
- waste dumping and sites made available for this
- personal rights
- environmental awareness
- upgrading of townships

Organisation: International Goju Karate Federation

Individual: Professor J.E. Nel

Category: Basic Human Rights

Pages: 820 - 821

Summary: The organisation covers different human rights and highlights issues of concern:

- a. death penalty - be reinstated for more serious offences.
 - penalisation for dealing/selling of drugs.
 - users of drugs medically assisted and not incarcerated.
- b. Pornography - minors be protected by limiting viewing places and retail outlets.
- c. Discrimination - discrimination of any kind be addressed and be included in the constitution.
- d. Education - be provided in mother tongue and not used to direct children in one line of thought or direction.
- e. Provinces - have more autonomy so that it's residents (people) exercise their cultures and rights.
- f. Taxation - that taxes be limited at 35% across the board except for the excise duty on alcohol and tobacco.
 - tax laws be thoroughly discussed between all parties before amendments are made.

Organisation: Rentmeesterbeleggings

Individual: Vermooten J

Category: Competition Principles

Pages: 822

Summary: The writer suggests that imbalances in our economy were caused by legislation which brought about monopolies. This occurred due to state financial assistance. These state enterprises hampered the normal economic growth of the private sector. They therefore call for more stringent competition and deregulation principles to prevent this(monopolies) from happening.

Organisation: South African Bus Operators Association

Individual: Prof. Walters J (C.E.O.)

Category: Road Traffic Act

Pages: 823 - 824

Summary: Previously traffic regulations were handled individually by the different regions.

This led to the regulations being interpreted differently and therefore applied differently.

Our 9 provinces must therefore not have a decentralised traffic regulations act as this would take us a step back and once again cause conflicting enforcement methods.

We must maintain uniform norms and standards throughout South Africa.

The organisation therefore apposes any relaxation of national standards but supports that provincial road legislation cover issues which need not be uniform nationally.

Individual: Anonymous

Category: Local Government - representation

Pages: 825

Summary: Elections should occur on a **proportional basis** and this should be combined with a form of **geographical (constituent) representation**. The **power** of local and provincial governments should be **increased**, so as to bring the government closer to the people.

Individual: M. Bethuel

Category: Local Government - rural representation by traditional leaders

Pages: 827

Summary: People in rural areas are to elect local authorities who must be **accountable** to their constituents.

Traditional leaders should have a **say** in the government, but their views should progress with the times.

Individual: Professor J.J. Cloete - Public Admin. University of Pretoria

Category: Local Government - Powers

Pages: 828

Summary: C.F. Constitution of the RSA, Act 200 of 1993, Sub-section 174 (3)
" A local government should be autonomous and, within the limits prescribed by or under law, shall be entitled to regulate it's affairs."
He was unable to define "autonomous" w.r.t. local government authority.

Proposal: Retain Section 174(3) in revised form viz.

" A local government shall, within limits prescribed by or under law, be entitled to regulate it's own affairs."

The retention of the word "autonomous" could lead to abuse.

Individual: P.J. Culy
Category: Recognition of Coloured persons
Pages: 829 - 836
Summary: The Coloured people should be recognised as a people with a history of being African.
They should enjoy representation accordingly.

Individual: M.J. du Plessis
Category: Centralisation - water rights; Regionalism
Pages: 837
Summary: Water and minerals should be declared national assets and would thus be **state controlled**.
Ethnic identity should be considered when demarcating province so that ethnic majorities and minorities do not exist.
Thus preventing strife and bloodshed.

Individual: J.D. Enraght-Moony
Category: Competencies - separation of power; Federalism; Local Government and mutual accountability.
Pages: 838 - 842
Summary: Principal of **separation of power** to be applied
Propose a **federal** system of government - Eastern Cape to be divided into two regions.
Local Government activities should be **monitored** and machinery should be in place to deal with **corruption**.

Individual: Rev Su Groves
Category: Local Government - Legal Aid; Education
Pages: 843 - 844
Summary: Farmworkers are not able to vote in local government elections since they are **not receiving voter registration forms** from the farmers.
Farmworkers should have access to **legal aid**.
Education should be compulsory, affordable and within physical reach.
Schools should be run by elected governing body which should include parents.

Individual: Mrs S.C. Kruger
Category: Local Government - general
Pages: 845 - 848
Summary: Reference is made to the bad condition of council houses.
Proposal: Either **fix** houses or **sell** to occupants.

Individual: Malgas S.J.
Category: Funds, Duties and Accountability
Pages: 849 - 853
Summary: The writer is concerned about all the commissions being undertaken presently.
He emphasizes that these commissions all cost money and the "taxpayer" bears this burden.
The writer is also concerned that our top structure(parliament) be more involved with working for the people and not for themselves, financially.
The ministers and parliamentarians must be more accountable and dedicated to the people and only be elected into a position after careful consideration.

Individual: Mathias R.G.L.
Category: Foundations of the Constitution
Pages: 849 - 853
Summary: The writer wants to know what the foundations of our constitution would be.
He recommends "Democracy".
If a Bill of Rights is passed, there must also be a Bill of Duties and Obligations which would be applicable to all recipients of the Bill of Rights.

Individual: McIntyre C.L.
Category: Human rights
Pages: 872 - 879
Summary: The submitter is concerned about legalising Pornography as he feels it is harmful to society and would lead to violence eg. rape and sexual abuse etc.
He requests that all films containing scenes of blasphemy be banned and withdrawn from the circuit.
Requests are made for parents to choose the best form of education for their children.
That home-teaching and Christian schools be given more freedom.
All rights and privileges of homosexuals be withdrawn.
He also asks for the rights of the pre-born be considered ie. to ban abortion.

Individual: E. Schultz
Category: Financial and Fiscal - Funding adequate health-care / powers / accountability / decentralisation.
Pages: 890 - 895
Summary: *It is strongly recommended that the original is read.*
Local authorities to act on health in all areas.
One body only - no hierarchical medical service sectors.
Academic medicine and research also the responsibility of the local authorities.

Role of the Central and Provincial Government:

Funds allocated to local authorities via Provincial government from Central government based on local needs and resources.

Central government to set standards and system of control via guidelines - Provincial government to monitor and guide local authorities.

Local Authorities to be accountable to their constituents.

Medical intervention to be prioritised in order to make it accessible to all.

Hidden costs to be considered when calculating cost effective equations.

Save money by reducing direct medical service costs by securing, maintaining, protecting people's health and good housekeeping. Insurance fund should be responsible for purchasing medical services on behalf of it's members.

Strong recommendation to shift from the bio-medical approach to the social approach to health in the context of the RDP.

Individual: Nick Taylor

Category: Competencies - Responsibilities and powers of tiers of government

Pages: 900 - 902

Summary: **NB! The FIRST Tier of Government is local, SECOND Tier is Provincial and THIRD Tier is Central.**

All possible functions of creating laws should be undertaken locally at MUNICIPAL LEVEL.

Where Municipalities have conflicting laws (could lead to conflict), the responsibility should be delegated to PROVINCIAL LEVEL.

Any Provincial business which can be more effectively handled by CENTRAL GOVERNMENT, should be delegated to them.

If regions are to have power, Central Government must trust people at grassroots level to be responsible.

Ideally, Central Government should handle the currency, major roads, defence, citizenship registration, and any other functions delegated by regions/provinces.

The Constitution should reflect the spirit of the Freedom Charter and return power to the people at maximum grassroots capacity.

Individual: S. Thompson

Category: Financial and Fiscal - reduction of taxation and economic intervention.

Pages: 903

Summary: Reduction of lawlessness and the reduction of government taxation and economic intervention, to maintain harmony amongst productive enterprises.

Individual: A.C. van Niekerk
Category: Competencies - water rights
Pages: 904
Summary: No authority has the right to introduce any substances into the public water supply, except to render it safe for domestic use.

Individual: Weight L
Category: Autonomy of different levels of government.
Pages: 905
Summary: It is noted that Provinces should have more (maximum) autonomy to control activities in their respective provinces eg. Education, Health, Housing, Environment etc. The Central government on the other hand should concentrate it's efforts on departments which require national control eg. Defence, Justice, Foreign Affairs etc. Coalition between Central and Provincial governments should take place so as to ensure uniformity among provinces. It is also suggested that Provincial government be elected by proportional representation while Central government be elected from an "Electoral College" drawn up from the members of the Provincial government on the basis of the number of votes won in each province. It is considered that no person who has been convicted of a criminal offence be elected or hold office within six(6) years after completing the stipulated sentence.

Individual: Xaba M.J.
Category: Levels of government
Pages: 906
Summary: The submission covers the different levels of government and also breaks each up into recommended structures of viz. Legislature, The Executive and the Checks and Balances.

Summarized by
Hilton Galant and
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