

2/4/4/3/1

CONSTITUTIONAL ASSEMBLY

**DRAFTING SUB-GROUP
THEME COMMITTEE 4**

FUNDAMENTAL RIGHTS

9 March 1995

Room E - 216

DOCUMENTATION

CONSTITUTIONAL ASSEMBLY

DRAFTING SUB-GROUP THEME COMMITTEE 4 MEETING

FUNDAMENTAL RIGHTS

Please note that a meeting of the above Group will be held as indicated below:

Date : Thursday, 9 March 1995

Time : 08h30

Venue : Room E - 216

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CONSTITUTIONAL ASSEMBLY

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REF NO:

MEMORANDUM

TO : DRAFTING SUB-GROUP THEME COMMITTEE 4

FROM : John Tsalamandris

DATE : 9 March 1995

RE : Supplementary Report on Block 1

- Please note that the attached report does not included the party submissions or opinions of the Technical Committee. These will be attached once the Committee has finalised the Supplementary Report.

SUPPLEMENTARY REPORT OF THEME COMMITTEE 4

ON BLOCK 1 OF WORK PROGRAMME

Having submitted its first report to the Constitutional Committee, Theme Committee 4 has the pleasure of submitting a supplementary report that deals with the outstanding issues as identified in the first report.

The first report of the Theme Committee dealt with Constitutional Principle II -
" *Everyone shall enjoy all universally accepted fundamental rights, freedoms and civil liberties, which shall be provided for and protected by entrenched and justiciable provisions in the Constitution, which shall be drafted after having given due consideration to inter alia the fundamental rights contained in Chapter 3 of this Constitution* " .

1. The report identified the following as outstanding:
 - 1.1 Whether the term "everyone" in "**Everyone shall enjoy**", includes juristic persons, structured and unstructured groups, and organs of civil society, etc.
 - 1.2 The meaning of "**after having given due consideration to inter alia the fundamental rights contained in Chapter 3**"
 - 1.3 The meaning "**universally accepted fundamental rights**".

2. The Committee agreed that the outstanding issues as reflected above would be dealt with in the following way:
 - 2.1 The Technical Committee would produce an opinion for the Theme Committee on the issues 1.1 and 1.2.
 - 2.2 Issue 1.3 would be dealt with in 2 stages as follows:
 - i) The political parties would submit submissions to the Theme Committee by the 17 February 1995.
 - ii) The Technical Committee would submit an opinion to the Theme Committee by the 22 February 1995.

3. It was agreed that once the outstanding issues had been dealt with (as above) the Theme Committee would submit an additional report to the Constitutional Committee .
4. The above process was followed and the Theme Committee dealt with these issues in 2 meetings. In this regard, the opinions of the Technical Committee and party submissions as included in this document.
5. ***Everyone shall enjoy ... "(Whether the term "everyone" includes juristic persons, structured and unstructured groups, and organs of civil society, etc)***

In the context of Constitutional Principle II, whether the term "everyone" includes juristic persons, structured and unstructured groups, and organs or civil society, the reference is to natural persons.

This does not exclude however, that in some of the rights, consideration be given to juristic persons.

6. ***"after having given due consideration to inter alia the fundamental rights contained in Chapter 3"***

All the parties agreed that the rights contained in Chapter 3 should be given fair, just and proper consideration.

It was however noted that rights contained therein are not exhaustive.

It was agreed that in considering rights to be extended, changed or deleted, any alteration of the rights be subject to the requirements of Constitutional Principle II that everyone shall enjoy universally accepted fundamental rights.

7. ***"all universally accepted fundamental rights, freedoms and civil liberties" (which rights etc., qualify as universally accepted fundamental rights)***

There was agreement that primary emphasis be given to the body of International Human Rights Law, particularly the Universal Declaration of Human Rights (1948), the International Covenant on Economic, Social and Cultural Rights (1966) and the International Covenant on Civil and Political Rights (1966).

The National Party stated that they viewed Chapter 3 of the Interim Constitution as a basis for identifying universally accepted fundamental rights.