

2/21/17/24.

CONSTITUTIONAL ASSEMBLY

CONSTITUTIONAL SUB-COMMITTEE

SUBMISSIONS

**RECEIVED AS AT
2ND FEBRUARY 1996**

VOLUME 12

PART 1

***ORGANISATIONS &
POLITICAL PARTIES***

CONSTITUTIONAL ASSEMBLY

SUMMARY OF SUBMISSIONS RECEIVED AS AT 2ND FEBRUARY 1996

VOL 12	ORGANISATIONS/ POLITICAL PARTIES	SUBJECT	SUMMARY
12.1	PAC	Final Submission of the PAC on the right to property	<p>The PAC submits that the final constitution should not contain a property clause. The history of South Africa is a history of wars: wars over land which led to the dispossession, subjugation and consequent colonisation of the indigenous African people. The land which settlers acquired by coercion, purchase or deceit was transformed into private property and distributed within settler communities. Despite the shaky and even fraudulent basis to this title to land, the settler's access to the colonial political structures ensured that these land claims were entrenched and became the foundation of the system of property in South Africa. Presently, this system of colonial property relations has unfortunately been entrenched by the property clause in the Interim Constitution.</p>

			<p>This has negatively affected land reform and land redistribution. The Colonial property relations have meant for instance, that out of a total land area of 122 million hectares, white farmers who constitutes a mere 58 000, own about 83 million hectares which is 81% of the land area of South Africa. The inclusion of a property clause in the constitution, argues the PAC, does not only hamper the redistribution of land, but it also legitimises land robbery.</p> <p>The PAC submits that the Constitution must enshrine the principle that land belongs to the nation and cannot be owned by individuals. Under this cardinal principle, so argues the PAC, the following sub-principles must also be constitutionally entrenched:</p> <ol style="list-style-type: none">1. The constitution must facilitate the process of land redistribution so as to correct the anomaly that 87% of the land is in the hands of 15% of the population. In this regard, the government must have the power to expropriate land in the public interest with compensation for improvements on the land guaranteed and regulated by legislation.
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			<ol style="list-style-type: none">2. The right of access to land.3. The rights of individuals or groups to seek restitution of their land which they lost either through conquest, fraud or discriminatory laws from 1652 to the present day.4. There must be a comprehensive land reform legislation.5. Any protection of legitimately acquired private property can be regulated by legislation or be left to common law and/or private law.
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12.2	Institute of Town Clerks	Comments on Local Government	<p>Status: Local Government must be autonomous, democratically elected. Constitution should lay down statutory parameters within which the local government should be allowed to fulfil their purpose; Local government should be accountable to it's electorate and not to other tiers of government.</p> <p>Powers & Functions: Powers allocated to the local government must be constitutionally entrenched. Local government powers should not be subordinate to other tiers of government.</p> <p>Metropolitan Government: Local councils should be responsible for efficient delivery of services while Metro councils should be responsible for resource co-ordination & planning;</p> <p>These two types of councils should be complementary and not competitive to one another.</p> <p>Electoral System: Councillors should be elected on a constituency basis rather than a party list system.</p> <p>Intergovernmental Relations: Each tier/sphere of government should have both exclusive and consumer powers. An integrated approach is needed where many tiers are involved in the provision of services.</p> <p>Administration & Management: Strategic management and clear policy direction is a key for local government's success.</p> <p>Finance: Local government should have original</p>
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12.3	National Television and Video Association of Southern Africa	Bill of Rights (Intellectual Rights)	Propose inclusion of Intellectual rights, to read as follows: "Every person has the right to protection of the moral & material interests resulting from literary, artistic or scientific productions created by them" (Article 27(2) of United Nations Universal Declaration of Human Rights)
12.4	International Committee of the Red Cross	State of Emergency	Ch 2, Article 36 - States of Emergency - add in the following: "In all cases provision of International Humanitarian Law should be respected"
12.5	Suid Afrikaanse Vrouefederasie	Expression, Life, Equality, Legislation	Propose that no provision is made for the social evils of pornography, abortion on request, sexual practices like homosexuality, lesbianism, sodomy and beastliness.
12.6	The Cape Film Office	Bill of Rights - propose new right	Propose new right to be included in the Bill of Rights: Intellectual Rights - every person has the right to the protection of the moral and material interests resulting from literary, artistic or scientific productions created by them.
12.7	Dundee Mosque & Madressa E Islamia Trust	Property	Concerned that clauses on property could apply to Mosques. Request that Mosques and related property be exempt from property clauses that allow expropriation for public purpose or interest.

CONSTITUTIONAL ASSEMBLY

REGISTER OF SUBMISSIONS RECEIVED AS AT 2ND FEBRUARY 1996

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NATIONAL ASSEMBLY
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Ref No.



30 January 1996

FINAL SUBMISSION OF THE PAC ON THE RIGHT TO PROPERTY

On the 22 May, 1995, we made a preliminary submission on the right to property. We submitted two options - option I proposed that there should be no property clause in our constitution and the second one was a simple property clause which placed emphasis on land restitution and access to land.

The PAC reviewed this submission at its Constitutional Workshop held in Cape Town on 17 - 19 November 1995. It ~~was resolved that the new South African~~
~~property clause should be a simple property clause which~~
~~placed emphasis on land restitution and access to land.~~

Land and the Property Clause.

~~The history of South Africa is a history of wars. Wars were fought between the~~
~~dispossessed African people and the white settlers. The African~~
~~people were dispossessed of their land and the white settlers occupied~~
~~the land. The land was turned into private property of white settlers.~~

This conquered land was turned into private property of white settlers as the National Director of the National Land Committee, Brendan Pearce, has written that, "The ~~land was~~
~~transformed into private property of white settlers.~~
D ~~is the result of the dispossessed African people's~~ ~~land~~ ~~claims~~ ~~to~~ ~~poly~~
to ~~the~~ ~~colonial~~ ~~political~~ ~~structure~~ ~~and~~ ~~that~~ ~~these~~ ~~land~~ ~~claims~~ ~~are~~

[REDACTED] within colonial South Africa. [REDACTED] of colonial property relations has [REDACTED] the interim constitution. This [REDACTED] regulation. These [REDACTED] property relations have meant for instance, [REDACTED] land area of [REDACTED] hectares, while [REDACTED] own about [REDACTED] hectares which is 61% of the total area of South Africa. [REDACTED] source: Land [REDACTED] and Farming Systems, Wemmer [REDACTED] 1989.) The [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] of Land, it also recognises [REDACTED]

Protecting Private Property and Land Redistribution

The PAC is of the view that our constitution must enshrine the principle that land belongs to the nation and cannot be owned by individuals. Under that broad principle, the following sub-principles must be constitutionally enshrined:

1. The Constitution must facilitate the process of land redistribution so as to correct the anomaly that 87% of the land is in the hands of 15% of the population. In this regard, the government must have the power to expropriate land in the public interest with compensation for improvements on the land being guaranteed and regulated by legislation.
2. The right of access to land especially, of those who have been disadvantaged by dispossession and Apartheid.
3. The right of individuals or groups to seek restitution of their land which they lost either, through conquest, fraud or discriminatory laws from 1652 to the present day. Restitution should primarily and in principle be in land with monetary compensation being an exceptional alternative. Detailed mechanisms should be in a Legislation.
4. There must be a comprehensive land reform Legislation which shall, among

others, provide for a leasehold system which will ensure inheritance and some security of possession for a bona fide land user or occupier while ownership remains with the nation.

5. Any protection of legitimately acquired private property can be regulated by legislation or be left to common law and/or private law.

The PAC therefore does not find its way clear to supporting a property clause in the constitution as this will entrench the same property colonial relations it so earnestly seek to destroy.

R K Sizani - MP

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K G NICOL
CHIEF EXECUTIVE
CITY OF CAPE TOWN
UITVOERENDE HOOF
STAD KAAPSTAD

1995-12-27

The Executive Director:
Constitutional Assembly
P O Box 15
CAPE TOWN
8000

Dear Sir

THEME COMMITTEE 3 : CONSTITUTIONAL ASSEMBLY : LOCAL GOVERNMENT

On behalf of the Institute of Town Clerks I forward herewith a draft submission for the above Theme Committee.

Yours faithfully

K G NICOL
CHIEF EXECUTIVE

DRAFT SUBMISSION BY THE INSTITUTE OF TOWN CLERKS TO THEME COMMITTEE 3 (LOCAL GOVERNMENT) AND PORTFOLIO COMMITTEE ON CONSTITUTIONAL AFFAIRS

1. STATUS OF LOCAL GOVERNMENT

Local Government must be an autonomous, democratically elected tier of government within statutory parameters laid down in the Constitution. Such parameters should reflect national policy or principle, and thereafter give local government the responsibility, authority, empowerment, flexibility and accountability to govern and to address public needs and aspirations at local level.

It is considered particularly desirable for the purpose and object of local government (its "core business"), and key principles and parameters to be stated.

While acknowledging that absolute autonomy is not possible or necessarily desirable and that autonomy is always relative to other levels of government, there is the need to entrench the right to local self-government, and to recognise that local decision-making should indeed be made at local level. The democratic component of local government should not be reduced to the local administration of centrally determined policies.

Stated principles or policies should form the basis for legislated parameters, and thereafter local governments should be allowed to fulfil their purpose within the prescribed parameters, subject to being accountable to their citizens.

Examples of principles upon which parameters could be based are:

- effectiveness
- efficiency
- financial viability
- providing for basic needs
- sustainability
- transparency
- promotion of development
- democracy (government close to the people)
- accountability

Within the relevant principles and parameters, local government should be empowered to govern locally, to respond to the needs and aspirations of local citizens and communities, to enhance local development and to determine a local quality of life.

- \ Local governments should not only have the responsibility of local governing and local service rendering but also the authority, power, flexibility, resources, and autonomy to do so.
- \ Local government's prime accountability must be to its electorate and not to other levels of government. Upper levels of government should be limited to legislating, investigating corruption or maladministration, negotiating agency arrangements for the local performance of government functions, or acting where there is a vacuum in local government; otherwise in relation to local government their roles should be empowering, enabling, facilitative and supportive, and strengthen rather than weaken local government. They must not have the right to intervene in individual matters within local government's powers nor sit in appeal on its decisions.

Where local government must answer to a "higher" tier of government, it must answer to only one upper level of government. If there is a need for a central local government role, it must take it all and the Provinces be excluded. Alternatively, full authority must lie with the Provinces. Duality is counter-productive and inefficient.

2. POWERS AND FUNCTIONS OF LOCAL GOVERNMENT

The constitution needs to make provision for the appropriate allocation and entrenchment of powers and duties throughout all tiers of government, in other words, central and provincial and the two components of local government.

At local government level the responsibility for the provision of metropolitan services needs to be allocated to the metropolitan body with the responsibility for local services allocated to the local level. Local councils should be able to be the implementing agents of the metropolitan body where such metropolitan body does not have the operational capability to deliver services and has chosen a planning, coordinative, policy-making and funding role.

The powers and functions of local government should be wide, and should include the traditional ones, but with autonomy and not subordinate to other administrations, or with large duplicative

bureaucracy. Local government should have the flexibility in its powers to exercise its functions either itself, or through a competitive private sector, or in partnership with the private sector, as the interests of local communities may require.

The Constitution must clearly define the responsibilities of the different tiers of government in respect of the basic rights contained within the Constitution and the obligation to provide the necessary services in order to support those rights.

3. METROPOLITAN GOVERNMENT

The structure and powers of local government should balance democracy against efficiency and cost-effectiveness.

The structure and powers of local authorities should discourage ad hoc management and inefficiency. Local councils should be responsible for delivering effective, efficient and where possible, competitive services, with metropolitan councils in appropriate cases being responsible for "larger picture" resource co-ordination and planning.

Metropolitan government should be carefully reconsidered, with more structural flexibility than at present. The preferred model should be one of the following:

1. A metropolitan region and local councils. The metropolitan region takes on the role of the Provincial government (which then governs only non-metropolitan areas) and has all its powers on matters within the Metropole and also performs limited metropolitan service delivery functions, as far as possible via local councils. Local councils have clear-cut functions and responsibilities which are entrenched and the right to raise adequate revenue (transfer payments should be kept to the minimum and be mainly for specific government projects).
2. Special purpose metropolitan service delivery bodies where necessary and local councils (no metropolitan governing body). The other principles in 1 to apply *mutatis mutandis*.
3. A metropolitan governing body with limited, clearly defined powers and functions and local councils with clearly defined entrenched powers, both to be autonomous and have sufficient revenue raising powers. The remaining principles in 1 to apply *mutatis mutandis*.

If local government is to consist of two types of council based on metropolitan communities of interest and local communities of interest, each with different functional responsibilities, then it is essential that the two components be designed to be complementary and not competitive to one another.

Metropolitan authorities must not become a fourth level of government, but should not duplicate or overlap the functions of local government.

4. ELECTORAL SYSTEM

Local Government bodies should consist of Councillors democratically and directly elected to represent a local constituency, not a political party or other more general grouping. In large authorities this should be by wards, in smaller ones it could be by wards or at large.

Criteria for delimiting wards must be entrenched and should not be racially based or otherwise discriminatory, whether this be by way of exclusivity or by way of inclusivity. In other words, the criteria must be objective and objectively applied and not manipulated or forced to achieve any form of discriminatory pattern, racial or other.

The mixed system of proportional representation and wards, introduced for the transitional period, should be reviewed.

If a system of proportional representation is to be retained, the consequences of changing party allegiances and the effect on majorities and quorums required for decisionmaking, need to be covered in appropriate legislation.

A rotational electoral system with a certain number or proportion of Councillors retiring every year or every second year would provide for continuity and for accountability.

5. INTERGOVERNMENTAL RELATIONS

The concept of "tiers" of government should be revised to "spheres" of government, i.e. a non-hierarchical approach to inter-governmental relations, where each sphere of government has both exclusive and overlapping (concurrent) functions, depending on which sphere does what is best.

No sphere should be 'superior' or 'inferior' to another, and there should be equal status between spheres (although they of course have widely differing powers and functions). Inter-governmental relations is, in this approach, about partnerships and co-operation between spheres of government, rather than control and authority.

In terms of the notion of partnership, where many tiers or spheres of government are involved in the provision of a service, e.g. water (which involves central, metropolitan and local government), or transportation (which involves central, provincial, metropolitan and local government), there need to be coordinating bodies provided for which allow for an integrated approach to the financing, technical and programming aspects of the service or project to accommodate all affected tiers or spheres of government.

6. ADMINISTRATION AND MANAGEMENT

6.1 Strategic Management and Accountability

Local governance in addition to providing for democratic local choices, needs to foster sound leadership and management practices oriented to the needs of communities.

Local authorities should be encouraged not only to budget annually but to prepare a draft annual plan for public consultation and public submissions and to set performance objectives, compatible with longer-term strategic planning horizons.

Policy and management decision making in local government should be strategic in nature. Clear policy direction must be given to the organisation as to what the strategic priorities are. All the stakeholders of politically represented local governments should be involved in producing a vision, goals and objectives, setting direction for the present and future, expressing what kind of city or town is desired, where it should be going, what its priorities are for spending its energies and scarce resources, and what strategies it wishes to follow to achieve its objectives.

Despite existing local government legislation stipulating an annual budgeting process, involving setting priorities for financial expenditure, priority setting can still be ad hoc and not necessarily based on strategic objectives.

It is suggested that every local government should be required to produce an annual plan together with its budget. These should be prepared initially in draft form for public submissions and scrutiny before being finalised. However, the legal requirement should not be complex or overly prescriptive - what is suggested is a simple requirement for clear corporate direction to be given on what it is expected to be achieved for the effort and resources to be spent, and to be accounted for when the year is over. The plan should reflect and be responsive to inputs from citizens and customers, and give direction to staff as to what is expected of them.

If a local government is to be primarily accountable to its electorate, an annual report should be compiled specifically linked to what has or has not been achieved in terms of the annual plan for that year.

6.2 Flexibility

Legislation needs to provide sufficient flexibility to empower local governments to serve their purpose.

For example, a particular type of Committee system should not be imposed by legislation across the blanket of all local governments. Local governments should have the flexibility to develop other committee systems if they are more appropriate to getting municipal business done in their area. If it is considered that efficiency or accountability requires legislation to provide for certain basic statutory committees such as a finance committee or executive committee to take accountability for key functions, this is acceptable but should allow for committee systems as such to be flexible to suit local requirements.

Councils should also have flexibility to delegate their powers to committees or officials as considered appropriate, including town planning decisions, with the exception only of the very few important powers normally reserved to council such as the setting of rates and approving the annual budget (and plan).

In Kwazulu-Natal there has been a good example of flexibility in local government legislation in the provision for extended powers ordinances, where larger cities which otherwise would have been restricted to legal constraints uniformly applied to all municipalities large or small, have from time to time been given additional powers of their own to enable them to operate beyond the basic parameters of the legislation.

However, if maximum autonomy is accepted this sort of provision should not be necessary.

Provision for local charters is another flexible means of promoting local democracy and stakeholderism in local government.

6.3 Roles

The roles of Councillors, Council office-bearers and of chief executives and other chief officers needs attention.

At their interface it is important that key policymaking and executive roleplayers fulfil their respective roles and work alongside each other in the best interests of the local government and its citizens. However, where there is ambiguity about roles, strong personalities may result in those roles being confused or usurped or even reversed.

In New Zealand there has been a revolutionary change in local government legislation specifically related to roles and responsibilities, were the roles of Councillors are now clearly focused on policymaking and performance monitoring, and the administrative and day-to-day responsibilities vest in the staff. The Council is required to appoint a Chief Executive who is their sole employee, and he in turn employs all the remaining staff.

Without suggesting that South Africa should go this far, there is a need for clarity on specific roles.

The roles of Councillors should focus on governing and giving policy direction, as the representatives of the people, setting outcomes and outputs, allocating resources and monitoring performance, and not on administrative and day-to-day activities. Chief Executives and departmental heads should have authority to lead and to manage resources within the parameters of council policy and standards and within the constraints of resource allocations, and should account annually for performance within these parameters and constraints. The roles of officials should be focused on management and administration, and giving advice and information necessary for policymaking and execution of policy.

7. FINANCE

Local government which is given responsibility for rendering of services must of necessity be given the entrenched right to financial sources of income to meet accepted service standards. This is particularly pertinent if functions devolved from upper levels of government. As previously indicated, local authorities should have original rather than delegated powers, with direct access to financial sources rather than grants.

Local government expenditure is integrally linked to income, which is collected not for purposes of profit but to render essential public services.

The integration of previously separated local governments including those previously administered or funded from provincial or other government sources, and which require substantial improvement or upgrading, will invariably necessitate external financial sources such as intergovernmental grants or expanded local government sources of revenue.

Until financial stability has been reached generally in new local government structures, all existing sources of revenue should be retained. It is also essential for revenue allocations from central or provincial government to reach local government in a properly planned, definite and certain manner.

Local governments should continue to have free access to money and capital markets to meet the anticipated demand for capital funds in future years.

8. CODE OF CONDUCT

In addition to the need for the roles of key functionaries to be clarified, expected norms of behaviour also need to be spelt out.

In the absence of a code of conduct there is room for practices which may not be unlawful, but which are undesirable. Confusion or uncertainty may be created about what kind of behaviour is proper in certain circumstances, or abuse where one person considers he should abide by certain norms and another person disregards them. A distinction also needs to be drawn between a code which serves as a guide for good conduct, and rules for which breaches may lead to action of a disciplinary nature.

9. TRANSITIONAL LOCAL GOVERNMENT LEGISLATION

As far as possible any transitional local government legislation should pave the way for a final product. Legislation of an "ad hoc" nature should be avoided, and any transitional legislation should move in the direction intended to go finally.

10. GENERAL

The terminology used in legislation should be meaningful. Artificial concepts, such as "sub-structures" must be avoided. Internationally accepted concepts, such as "local authority", "municipality", etc., should be reintroduced.



NTVA
THE NATIONAL TELEVISION AND VIDEO ASSOCIATION OF SOUTHERN AFRICA
CAPE CHAPTER

The Executive Director
Constitutional Assembly
PO Box 1192
Cape Town
8000

Jan 24th 1996

Dear Sir,

The National Television & Video Association is the strongest association of practitioners of television in the country. It is with the wellbeing of our members in mind that we wish to state that we consider intellectual rights a part of fundamental human rights and, therefore, inviolable.

Intellectual rights impact on the arts, on communication, on science and on technology, all of which are essential for the prosperity and credibility of South Africa. They have been trampled on during the apartheid era for a number of reasons. The time has come to afford them constitutional protection.

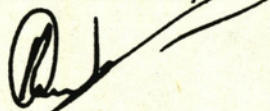
We, therefore submit that the following clause be incorporated in the Bill of Rights, being Chapter 2 of our new Constitution;

INTELLECTUAL RIGHTS

Every person has the right to the protection of the moral and material interests resulting from literary, artistic or scientific productions created by them.

This is derived from Article 27(2) of the UNITED NATIONS' UNIVERSAL DECLARATION OF HUMAN RIGHTS, which was adopted and proclaimed by 48 countries on 10 December 1948.

Yours sincerely,



RENALDO VAN DER WESTHUIZEN
CHAIRMAN



FAX FROM :
International Committee of the Red Cross
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Pretoria - RSA
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Fax : 012-434471

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Date : 29.01.96
PRE 96/13 - AEK/SLN

01 Page

TO : THE CONSTITUTIONAL ASSEMBLY

FAX NR : (021) 461 4339

ATTENTION : THE EXECUTIVE DIRECTOR

RE : INTERNATIONAL HUMANITARIAN LAW

MESSAGE:

Dear Sir/Madam,

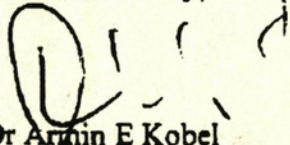
The International Committee of the Red Cross (ICRC) would like to make the following input into the new Constitution as it believes that there has been an omission with regard to International Humanitarian Law.

Under Chapter 2 - Bill of Rights - within Article 36 - States of Emergency - to add "In all cases provision of International Humanitarian Law should be respected".

We thank you in advance for taking this submission into account when drafting the final Constitution.

We remain,

Yours faithfully,


Dr Armin E Kobel
Head of Delegation

15

Sub no. 12073

P O Box 66
POTCHEFSTROOM
2520
1 September 1995

Sir

LEGISLATION WITH REGARD TO ETHICAL, MORAL AND SOCIAL WELLBEING
FOR ALL SOUTH AFRICANS

The Government is, by God the Almighty, and the Trinity, given the wisdom and responsibility to govern all citizens of South Africa in their different cultures and religions.

It is only by statute measures, that provisions be made, whereby the Constitution with these social responsibilities promote working together.

A request is made to the Constitutional Committee, not to make provision for the social evils of pornography, abortion on request, sexual practices like homosexuality, lesbianism, sodomy and beastliness as well as literature that breaks down instead of building up.

There is no sense in the social welfare legislation like the Act on Childcare, Act 74 of 1983, Act on Rehabilitation, Act 20 of 1992, The Punishment Process Act, Act 51 of 1977.

We hope that this request will receive urgent attention.

C E ALBERTS

Suid-Afrikaanse Vrouefederasie

Tel.: (0148) 297-5240/4

Geregistreeerde Welsynorganisasie
Nr.: 02-200032-087-8



Posbus 66
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1 September 1995

Die Sekretariaat
Grondwetgewende Vergadering
Posbus 15
KAAPSTAD
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Meneer

WETGEWING IN VERBAND MET SEDELIKE, MORELE EN MAATSKAPLIKE WELSYN VIR SUID-AFRIKA

Die Regering is deur God Almagtig en Drie-enig met wysheid en verantwoordelikheid toegerus om oor die inwoners van Suid-Afrika in sy ryke verskeidenheid van gelowe en kulture te regeer.

Dit kan alleen as die statutêre maatreëls wat daarvoor voorsiening maak, 'n grondwet ten grondslag het wat hierdie maatskaplike verantwoordelikheid bevorder en maatskaplike wanpraktyke teenwerk.

'n Beroep word op die Grondwetskrywende Komitee gedoen om die maatskaplike euwels van pornografie, aborsie op aanvraag, seksuele wanpraktyke soos homoseksualisme, lesbisiteit, sodomie en beestelikheid asook literatuur wat waarde afbrekend eerder as opbouend is, teen te werk.

de. subd.
Genoemde seksueel bepaalde en gerigte onderwerpe druis reëlreg in teen die waardigheid en eerbaarheid van die vrou van die land en moeder van die volk. Eerder het hierdie onderwerpe ten doel om onbeheersde bevrediging van sintuie en drange van die teenoorgestelde geslag. Die uitvloeisel hiervan is hoogs waarskynlik buite-egtelikheid, gesinsverbrokkeling, kinderverwaarloosing en -molestering, onbeheerbare kinders, prostitusie, verkragting, geslagsiektes en misdaad.

Daar is geen sin daarin om maatskaplike wetgewing soos die Wet op Kindersorg, Wet 74 van 1983, Wet op Rehabilitasie, Wet 20 van 1992, die Strafproseswet, Wet 51 van 1977 en die Wet op Korrektiewedienste en Toesig, Wet 22 van 1991 daar te stel ten einde maatskaplike problematiek te voorkom en te behandel, as genoemde maatskaplike afwykings en hulle waarskynlike gevolge direk of indirek in 'n Grondwet gekondoneer word nie.

Teen so 'n benadering het geen Heropbou- en Ontwikkelingsprogram enige kans om te slaag nie.

Ons vertrou dat hierdie beroep u ernstige oorweging sal geniet.

By voorbaat dank.

Die uwe

Alberts
C E ALBERTS (MEV)
VOORSITTER



THE CAPE FILM OFFICE

A Division of The Cape Film and Video Foundation
(Association Incorporated under Section 21, Reg No: 94/02944/08)

PO Box 16597, Vlaeberg, 8018, Cape Town, South Africa
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25 January 1995

The Executive Director
Constitutional Assembly
PO Box 1192
Cape Town
8000

Dear Sir

The Cape Film and Video Foundation represents the entire film and video industry in the *Western Cape*, including trade union groups and the community affected by these industries. It is with our mandate in mind that we wish to state that our membership considers intellectual rights as being part of human rights.

Intellectual rights include the arts, communication, science and technology, all of which are essential to the prosperity and credibility of *South Africa*. It is essential that the Constitution afford protection to the practitioners of the above practices.

We therefore submit that the following clause be incorporated in the *Bill of Rights*, being Chapter 2 of the *Constitution*:

INTELLECTUAL RIGHTS

Every person has the right to the protection of the moral and material interests resulting from literary, artistic or scientific productions created by them.

This is derived from Article 27(2) of the *United Nations Universal Declaration Of Human Rights*, which was adopted and proclaimed by 48 countries on 10 December 1948.

We are hopeful that the above will be included in our *Constitution*.

Thank you for your attendance to this matter.

Yours sincerely



Rob Brown
Marketing Director



DUNDEE MOSQUE & MADRESSA E. ISLAMIA TRUST

PHONE (0341) 21796/21134

P.O. BOX 453

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Chairman A.Moola

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Treasurer M.S. Adamjee

25th January 1996

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8000

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Sir

RE: WORKING DRAFT- NEW CONSTITUTION

On behalf of the above Trust, attention is hereby drawn to the working draft of the New Constitution, vide chapter 2 thereon in respect of the Bill of Rights, Property Clause, Options 2 and 3, more particularly.

Great concern has been expressed over this issue as, if the Bill relative hereto becomes law, then all Mosques and relevant property maybe ex-propriated or even demolished, for a public purpose or in the public interest.

We wish to draw your attention that the Shariah (Islamic Law) declares sanctity of a Mosque to the extent that it and the land on which it stands, can never be sold, demolished or ex-propriated; in short that any such law passed in reference to same is and would be in direct contravention/breach of the Shariah.

In the circumstances we implore you to exempt Mosques and related religious property from such property clauses or any other affecting same.

We believe that other religious denominations would also lend support to this plea insofar as it relates to their own properties.

Please acknowledge.

We thank you in anticipation and look forward to hearing from you.

With thanks,

