

C157
TE
ME



THE BLACK SASH

5 LONG STREET · MOWBRAY · 7700 · TEL 685-3513 · 9 a.m. - 1 p.m. MONDAY - FRIDAY
Fax: 021-685 7510

TO: The Technical Committee Human Rights Bills

VIA: Dr Theunis Eloff
Head of Administration
Multi-party Negotiating Process

FAX : 011 397 2211

FROM: The Black Sash National Executive
Cape Town

DATE: 23 September 1993

Dear Dr Eloff

This statement needs to reach the Technical Committee for Human Rights Bills URGENTLY. We would appreciate you ensuring that it reaches the persons concerned.

Yours faithfully

Barbara Molteno
National Executive Secretary.



THE BLACK SASH

5 LONG STREET · MOWBRAY · 7700 · TEL 885-3513 · 9 a.m. - 1 p.m. MONDAY - FRIDAY

STATEMENT ON SUGGESTED MORATORIUM ON THE EQUALITY CLAUSE IN A FUTURE BILL OF RIGHTS

We refer to the recent proposal made at the Multi-Party Talks that:

- customary law should be excluded from the bill of rights,
- customary law will not be subject to the equality guarantee,
- communities who are subject to customary law and traditional authority should remain exclusively subject to such authority, and that
- culture and religion should not be subject to an equality clause.

The Black Sash is strongly and unequivocally opposed to these proposals which constitute a most serious tampering with the bill of rights in general and which, more particularly, diminish women's rights and citizenship.

Only a bill of rights that applies to all citizens without reservations of any kind will protect the rights of all. Particularly in view of the long and bitter struggle to obtain basic human rights in South Africa, no infringement of the bill of rights, for whatever reason, would be acceptable.

There is, in our opinion, no convincing reason for imposing a moratorium on an equality clause in favour of customary law. 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 South Africa would face a perpetuation of their second class status as citizens and might continue to be subjected to an authority outside their own person.

The rationalisation sometimes given for the favouring of customary law is that women are offered specific protection under such law. We do not accept this to be sufficient justification for the above proposals, as we believe that the rights of all citizens are vouchsafed by a bill of rights. Where judges are able to interpret the equality clause according to their own understanding, it is up to lawyers, academics and women's organisations to monitor how the bill of rights is applied, and to make interventions if necessary.

The proposed moratorium is not only a complete negation of the struggle for equal human rights for all in South Africa, it is also a serious regression in terms of women's human rights in a global context. This is a time when South Africans justifiably expect that their new government will sign and ratify international human rights treaties such as the UN Convention on the Elimination of all Forms of Discrimination against Women.

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 proposals such as those made at the Multi-Party Talks would signify to the international community that, in the future South Africa, full human rights would be reserved for men only.

Women voters would do well to heed the possibility that they will not be taken seriously and might be denied full citizenship under a future government. They should be encouraged to cast their votes accordingly.

Jenny de Tolly

Jenny de Tolly