



**S.A. FEDERATION**  
**FOR MENTAL HEALTH**

Formerly National Council for Mental Health

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19th June 1993

Rec 23/07/93

African National Congress  
JOHANNESBURG

Dear Sirs,

CHARTER OF RIGHTS

The South African Federation for Mental Health has been in the forefront of a campaign to obtain signatures for the inclusion of a Charter of Rights for Persons with a Mental Handicap within a future Bill of Fundamental Rights or as an annexure to such a Bill.

We have obtained over 50 000 signatures in support of the inclusion of a Charter. Attached to this document is the Charter and a number of explanations as to why we believe the inclusion of this Charter is of paramount importance in a new Constitution incorporating a Bill of Fundamental Rights.

In a formal ceremony, the signatures were handed to Mr Justice P.J.J. Olivier, Chairman of the South African Law Commission, and the attached letter confirms the receipt of these signatures.

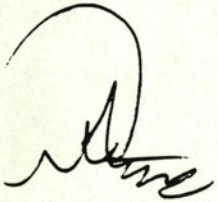
The South African Federation for Mental Health, representing 139 organisations caring for 25 000 persons with a mental handicap in South Africa desires to know where you, as a political party / Member of Parliament / organisation, stand in regard to the rights of disabled people and we would like to know whether you are prepared to lend your support / the support of your party, to the inclusion of a Charter of Rights which will vouchsafe the rights of literally thousands of the voiceless in South Africa.

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The late President John Kennedy stated that you will "judge a nation by how it cares for the least in society." Therefore, on behalf of all persons with a mental handicap in South Africa, we call upon you to indicate to us where you / your political party stand in regard to this extremely important question of human rights.



LAGE VITUS  
NATIONAL EXECUTIVE DIRECTOR

# REEF FORUM

Fund Raising No./Fondsinsameling Nr. 01 100200 002 8

NATIONAL COUNCIL FOR MENTAL HEALTH  
NASIONALE RAAD VIR GEESTESGESONDHEID

Chairman/Voorsitter: J.C. Rees  
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JCR/jvs/4111/1

18th June 1993

African National Congress  
Johannesburg

Dear Sirs,

## CHARTER OF RIGHTS FOR PERSONS WITH A MENTAL HANDICAP:

On behalf of Reef Forum, the representative organisation of the S.A. Federation for Mental Health in the greater Witwatersrand area, we ask you to receive our delegation on the subject of a Charter of Rights for persons with a mental handicap.

As the disabled view the approaching new South Africa, it is with some trepidation that we wonder what attention will be paid to the fundamental rights of persons with a mental handicap. We are, as South Africans, thrilled that a Bill of Rights is being considered and it is our honest opinion that these rights should not only be protected by the State, but should also be vouchsafed for the individual. Because of the special nature of the persons for whom we speak, we are calling upon the powers that be to consider working with us for the inclusion of a Charter of Rights which is an addendum to the main Bill of Rights and which specifically spells out our approach to persons with a mental handicap. You will know that this is a group of persons who in many instances, cannot speak for themselves and like many others in the disability field, need advocates.

We have adopted for our Charter, the document which was presented to the United Nations in 1971 and in the documentation which our delegation will present to you, you will find that Charter. In support thereof, we have obtained over 45 000 signatures throughout South Africa and we believe that this is a significant number and to this end, we attach an acknowledgement of the receipt of these signatures from the S.A. Law Commission.

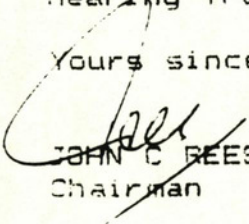
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A co-ordinating Body in the field of Mental Handicap in the greater P.W.V. Area.  
'n Ko-ördinerende liggaam in die veld van verstandelik gestremdeheid werksaam in die P.W.V. gebied en omstreke.  
Doing things together that we cannot do alone / Verrig take saam wat nie alleen gedoen kan word nie

We are calling upon your party/organisation to indicate to us in very clear terms, where you stand in regard to this important matter. It is our firm intention to make the issue of fundamental rights for persons with a mental handicap an election issue as it is our firm belief that this group of persons requires special protection.

Thank you for receiving our delegation and we look forward to hearing from you in due course.

Yours sincerely,

  
JOHN C REES  
Chairman

THE DECLARATION OF GENERAL AND SPECIAL RIGHTS OF THE MENTALLY HANDICAPPED ADOPTED BY THE U.N. GENERAL ASSEMBLY 1971.

1. The mentally retarded person has the same basic rights as other citizens of the same country and the same age.
2. The mentally retarded person has a right to proper medical care and physical restoration and to such education, training, habilitation and guidance as will enable him to develop his ability and potential to the fullest possible extent, no matter how severe his degree of disability. No mentally handicapped person should be deprived of such services by reason of the costs involved.
3. The mentally retarded person has a right to economic security and to a decent standard of living. He has a right to productive work or to other meaningful occupation.
4. The mentally retarded person has a right to live with his own family or with foster parents, to participate in all aspects of community life and to be provided with appropriate leisure time activities. If care in an institution becomes necessary, it should be in surroundings and other circumstances as close to normal living as possible.
5. The mentally retarded person has a right to a qualified guardian when this is required to protect his personal well-being and interest. No person rendering direct services to the mentally retarded should serve as his guardian.
6. The mentally retarded person has a right to protection from exploitation, abuse and degrading treatment. If accused, he has a right to a fair trial with full recognition being given to his degree of responsibility.
7. Some mentally retarded persons may be unable, due to the severity of their handicap, to exercise for themselves all the rights in a meaningful way. For other, modification of some or all of these rights must contain proper legal safeguards against every possible form of abuse, must be based on an evaluation of the social capability of the mentally retarded person by qualified experts and must be subject to periodic reviews and to the right of appeal to higher authorities.

MEMORANDUM IN SUPPORT OF CHARTER OF RIGHTS  
FOR PERSONS WITH MENTAL HANDICAP

Many South Africans, such as parents, relatives and friends of persons with mental handicap, as well as persons with mental handicap themselves, feel very strongly that there is a need to protect the interests of persons with mental handicap by means of a Charter of Rights for Persons with Mental Handicap as an addendum to an official Charter of Fundamental Rights in South Africa. To support this statement we have approximately 45 000 signatures to a petition which was distributed nationwide, as well as written support of major religious groups. The Charter of Rights which we have promoted is the Charter adopted by the United Nations General Assembly in 1971 (copy attached).

WHY DO PERSONS WITH MENTAL HANDICAP NEED SPECIAL RIGHTS?

- \* Mental handicap is not mentioned as a special minority group in the proposed Charter of Rights published by the Government.
- \* Persons with mental handicap are generally not able to speak for themselves and therefore require protection.
- \* The rights of persons with mental handicap are often overlooked, since it is agreed that they are unable to understand these rights or to exercise them.
- \* They are often regarded as not being in need of fundamental human rights, such as the right to education, health care and personal freedom.
- \* Persons with mental handicap are often confused with persons with a physical disability or mental illness.

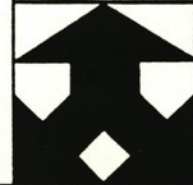
THOSE WITH MENTAL DISABILITY ARE PEOPLE TOO AND HAVE AS MUCH RIGHT AS ANY PERSON TO A FULL, SATISFYING AND HEALTHY LIFE.

In South Africa 1 in 25 persons has a mental handicap. This means that over 1 million of our population are affected. Therefore, 5 to 6 million people's lives are affected in some way by mental handicap.

The following additional comments may be made on individual clauses in the Charter of Rights for Persons with Mental Handicap.

Clause 1:

Although persons with mental handicap technically have the same basic rights as other citizens, in reality they are incapable of exercising these rights and need special protection. Since they are also unaware of these rights they are often taken advantage of and abused.



Your reference/U verwysing

7/2/1/58

Our reference/Ons verwysing

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10 May 1993

The Chairman  
Reef Forum  
P O Box 40155  
CLEVELAND  
2094

Dear Sir

#### CHARTER OF RIGHTS FOR PERSONS WITH A MENTAL HANDICAP

I refer to your letter dated 3 May 1993.

The Commission hereby formally acknowledges receipt of some 45 000 signatures in support of the inclusion of a Charter of Rights for persons with a mental handicap in a Bill of Rights for South Africa. The signatures were handed to the Commission by representatives of the S A Federation for Mental Health on 15 March 1993.

Yours faithfully

W HENEGAN  
SECRETARY: S A LAW COMMISSION

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