212/1/1/6/39



SECTION 13: "UNREASONABLY"

MEMORANDUM

CONSTITUTIONAL COMMITTEE SUB-COMMITTEE TO:

EXECUTIVE DIRECTOR FROM:

18 MARCH 1996 DATE:

POSSIBLE AMENDMENT TO SECTION 13 ("UNREASONABLY") RE:

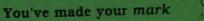
We enclose for your consideration a memorandum from the Panel of Experts entitled "Possible Amendment to Section 13 ("unreasonably")."

HASSEN EBRAHIM EXECUTIVE DIRECTOR

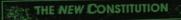
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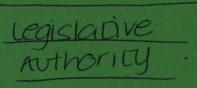
1994



Now have your say



<u>Asmal</u> : Laws possed - basic law detail, national legis expl properly mandated.
chabane: zglin: Refer to rational legislation.
De Lange: - Haven It disc local gove or decided on whether it is contained in the schedule. - piscuss how place local gove in These parameters.
Ackermonn: Mandate from the provinces





S13amend.FNL

PANEL OF CONSTITUTIONAL EXPERTS TECHNICAL COMMITTEE 4

MEMORANDUM

то:	CHAIRPERSONS AND EXECUTIVE DIRECTOR OF THE CA
DATE:	15 MARCH 1996
RE:	POSSIBLE AMENDMENT TO SECTION 13 ("UNREASONABLY")

- 1. The CC, after considering the memorandum in connection with Section 13 submitted by the Panel and Technical Committee on 11 March 1996, requested an opinion concerning the effect of the qualification of the rights encapsulated in Section 13 by the concept of **unreasonableness**.
- 2. We are of the view that the qualification of the right by the concept of unreasonableness has generally the same impact as that described in the previous memo in relation to the concept of **arbitrariness**.
- 3. There is however an additional complication which arises if the concept of **unreasonableness** is used. The **limitation clause** as presently formulated encompasses the concept of **unreasonableness** to a considerable degree. The use of the concept of reasonableness will therefore bring about an unfortunate overlap between the definition of the right on the one hand and the application of the limitation clause on the other.
- 4. The use of the word reasonable in other sections of the draft (secs. 25 & 26 for e.g) does not occasion this difficulty because of the difference in context.

NCOP

- no agreement to 2nd have.

-D no o/ment.

z(z)(a) a/mnt on medialoon.

(e) mediation fails. pp does not support 2/3 NA - still support.

-p op proposal on FFC.

(3) Appointments Need to concretise. (JSC, 4 senators)

(a) Need Forler discussion

(11.2) NP and in TA (manusi) ANC + NP to discuss further

> -D Egin: concerned about it as it stands. governments not sure what it means at present

> > - open mandate ito & Their committees.

pa: Tructure of 10c21 governments. statutory body, would mandate delegates Assoc of 10c21 govis voluntary later statutory.