

2/21/17/23

CONSTITUTIONAL ASSEMBLY

CONSTITUTIONAL SUB-COMMITTEE

SUBMISSIONS

ERRATA

**FOR
VOLUME 11**

**PART 2
INDIVIDUALS**

CONSTITUTIONAL COMMITTEE

SUMMARY OF SUBMISSIONS RECEIVED AS AT

6 FEBRUARY 1996

Dear Members

Due to typographical errors this summary replaces that which is in Volume 11.

NO	INDIVIDUAL	SUBJECT	SUMMARY
11.1	Anonymous	Equality	Concerned about the application of affirmative action policies.
11.2	Barnes E	General legislative demand	We need legislation for animal rights.
11.3	Bholo S	Administrative action	Supports option 2 for the following reasons: - the wording 'unlawful or unreasonably' seems appropriate because it has the effect of forcing all in position of power to act not only within the law but also within reason & hence in a fair manner. It is also proposed that option 2 be worded as follows "32(1) No one may be adversely affected by administrative action that is unlawful or unreasonable. 32(2) Everyone whose rights or interest are adversely affected by administrative action has the right to be given comprehensive reasons, unless the comprehensive reasons have been published."
11.4	Botha C	Religion	Acknowledge God in the Constitution.
11.5	Campbell AG	Life	Supports option 2.

11.6	Clarkson J	Freedom of expression	Keep the levels of pornographic materials low.
11.7	Cock HL	Public Admin, Political appointments	Public Admin - in terms of Clause 171(2) of the working draft, an appointment that is made merely to justify policy can be counterproductive. The best person for the post should be appointed. In terms of clause 171(3) differentiation must also fulfil the principle of fairness, objectivity & competency.
11.8	Connelly J	Life	Death penalty - supports & proposes a system where this can occur.

11.9	De Wet	RSA; Languages; Equality; Life; Slavery; Freedom of expression; Political Rights; Economic Authority; Labour relations; Property; Education; Just Admin. action; Arrested, detained person; Provinces, Senate; Elections; Traditional Authorities; Basic values	<p>RSA - wording should be "RSA is ... founded on a commitment to freedom, equality and the protection of human rights and freedoms."</p> <p>Languages - option 2.</p> <p>Equality - neither option 1 nor 2 is acceptable. S8(1) should be accepted.</p> <p>Life - supports option 2.</p> <p>Slavery - omit this word.</p> <p>Expression - press & electronic media should not be regulated by the State.</p> <p>Political rights - only (identifiable) taxpayers should be allowed to vote.</p> <p>Economic activity - supports option 3.</p> <p>Labour - supports option 1.</p> <p>Property - supports option 1.</p> <p>Education - supports option 2.</p> <p>Just administration - supports option 2.</p> <p>Arrested, detained - supports option 1.</p> <p>Provinces - Council of Provinces.</p> <p>Elections - voters must produce their account records for payment of services.</p> <p>Trad Authorities - abolish traditional institutions.</p> <p>Basic values - withdraw S1(i).</p>
11.10	Dippenaar C	Equality	<p>Disabled persons of all races should not be discriminated against. They should be afforded more financial aid by the government for purposes of special houses that would suit their needs.</p>
11.11	du Toit CM	National symbols	<p>Do not change the old symbols.</p>

11.12	du Toit GM	God & Constitution	Requests that "In humble acknowledgement against the Almighty God ..." be included in the Constitution.
11.13	du Toit J	Languages	All languages must be provided.
11.14	Emanuel A	RSA; Languages; Equality; Life; Freedom of expression	<p>RSA - we should add "maintain' in the clause on RSA.</p> <p>Languages - we need a definition on the term "official" in the clause.</p> <p>Equality - change the words "unfair discrimination" to "unfair or unequitable treatment". Delete S4 & add to S3 "... unless it is established that the discrimination is fair".</p> <p>Life - supports option 2, there are certain crimes which forfeit the right to life. Consider the "right to death" via medically controlled euthanasia.</p> <p>Expression - reference should also be made to nationality. The word "openly" to follow after "regulate".</p>
11.15	Fogell M	Legislation, arms	Opposes the inclusion of the "right to bear arms" in the Constitution.
11.16	Fowler H	Life; Equality; Religious freedom; RSA	<p>Death penalty - must be an option.</p> <p>Abortion - only an option in life threatening cases.</p> <p>Sexual orientation - clause must be deleted.</p> <p>Religion - freedom should be guaranteed to all State officials and should be allowed on any State property.</p> <p>RSA - Almighty God must be referred to in the Constitution.</p>

11.17	Geldenhuys EJ	General legislative demand; National symbols; Life	General - foreigners must not take our work & money. Symbols - as an old person prefer old symbols. Life - kill those who kill.
11.18	Gooste	Children	The Constitution must protect children from abuse.
11.19	Hawkes J	Human dignity; National Assembly; Labour relations * administrative action	Dignity - S9 is inconsistent with the relaxation of censorship laws to the extent that human dignity is violated by legal sanction even if the surrender of this dignity is voluntarily undertaken. Labour - the right to strike and lock out should be constitutionally entrenched, but 'wild' strikes must be condemned as an infringement of the individual's right to conduct own business. National Assembly - not clearly answered in the draft with regards to accountability & proportional representation.
11.20	Hendricks TP & B	Republic & God	Objects to the removal of the clause on Almighty God from founding provisions.
11.21	Hill P	Access to info, Privacy	Expresses concern on the rights to privacy & access to information losing validity in this modern information age.

11.22	Hoffman V	Languages; Life; Economic activity; Labour relations; Limitation of Rights	Languages - prefer option 1. Death penalty - reintroduce, & allow provinces to decide on the issue. Economic activity - legality & non-criminal element must be included in this clause. Labour - this clause can be covered by legislation. Limitation - word "reasonable, necessary & justifiable" should be included.
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11.23	Kettles SJ & P	Preamble; Bill of Rights; Equality; Dignity; Life; Freedom & Security; Religion; Children	<p>Preamble - concerned that the current working draft does not reflect the wording of a preamble. Concerned that such omission may also result in the omission of "... In humble submission to Almighty God ..."</p> <p>BoR's - speaks of many individual rights, but nowhere does it balance those rights with individual responsibilities. The concept of individual rights needs to be understood & interpreted against a backdrop of basic values & governing principles. Chap 2 Para 39 does begin to reference the concept of values but leaves the basis of values extremely broadly defined. Requests that the Constitution makes explicit reference to a set of core common values.</p> <p>Equality - amend clause 8(1) to read "Everyone, irrespective of their degree of awareness, health or development is equal before the law ..."</p> <p>Sexual orientation - clause 8(3) strongly urge that these words be omitted.</p> <p>Equality - clause 8(4) recommend that clause be modified to provide for any person who may believe that they have been unfairly discriminated against, on any grounds list in 8(3), to have free access to legal representation.</p> <p>Human dignity - amend clause 9 "Everyone, irrespective of their degree of awareness, health or development has inherent dignity ..."</p> <p>Life - option 1 should be omitted in favour of option 2. Option 2 be amended "Everyone, irrespective of their degree of awareness, health or development has the right to life..."</p>
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	Kettles SJ & P (cont)		Freedom & security of person - clause 11(3)(c) amended "... subjected to medical, scientific, psychological or other experiments or treatment without that person's informed consent. Freedom of Religion - Clause 14(1) amended "... including the right to freely change one's religion". Clause 14(2)(a) amended "... those observances follow rules made by the particular institution concerned". Children - review Clause 27(1)(f).
11.24	Khoza W	RSA; Children; Council of Provinces; Courts	Name - propose new name for the country 'Hlanganani'. Children - supports clauses as they now stand. Provinces - the Council epitomises what Hlanganani is all about ie all leaders coming together in the legislative process. Courts - Hlanganani also means more of what is stated in Chapter 6.
11.25	Koenig T	Life	No to abortion.
11.26	Latimer D	Life; Legislation	Life - supports option 2. Legislation - privately owned arms should be outlawed.
11.27	Lee HR	General; Provinces; Traditional Authorities	The CA must reach consensus with the IFP before the Constitution is finalised. Competencies - more powers to the provinces. Traditional Authorities - please establish consensus of Traditional Authorities.

11.28	Maharaj J	Protection of Rights; Life	Rights - the State must compensate the victims of crime. Death penalty - supports.
11.29	Maree W	National symbols; Languages; Equality; Life	Anthem - shortened version of both present anthems should be used. Languages - supports option 3. Equality - merit must be only criteria & not affirmative action. Sexual orientation - must not be basis for discrimination. Life - the Bible supports the death penalty.
11.30	Marshall G	Security of person	Right of persons to own firearms should be mentioned in the Constitution.
11.31	Matshinini P	Anthem; Languages: Enforcement	Anthem - present '3 language Anthem' should be revised & shortened. Language - oppose option 1. Enforcement - Bill of Rights seems to apply only on paper not in reality.
11.32	Mbuyisa RS	Human Rights Commission	It is suggested that a HRC be constitutionalised for purpose of monitoring the violation of Human Rights.
11.33	McEwan H	Health & Water; Human dignity; Land	Health - family planning lectures should be held countrywide if we are to have a healthy nation. Dignity - address the causes of crime in order for us to have human dignity. Land - State aided tenants should have under utilised land should be confiscated by the State.
11.34	Megre M	Citizenship	Immigrants who have been in the country for more than 5yrs should be given citizenship rights.

11.35	Memani MM	Parliament; National Executive; Public Protector; Provinces; Local Govt; Council of Provinces, Senate	National Assembly - should have 400 members, half elected on a proportional basis. National Executive - option 1 preferred - no more GNU. Protector - this should include an office of a local ombudsperson to investigate complaints against Traditional Authorities. Provinces - Prov Legislatures should be elected on both proportional representation & constituency system on a 50/50 basis. LG - there must be a Commission for Local Administration similar to the Provincial Public Service Commission. COP/Senate - option 2 is more viable & simple.
11.36	Mitileni MS	Cabinet; Life	Cabinet - supports option 1. Death penalty - abolish.
11.37	Mobovane MG	Security of the person	Afrikaner officials in prisons abuse prisoners rights - please protect us.
11.38	Motshweni MA	General legislative demand	Police must be treated properly.
11.39	Nadler J	Legislation, Small Claims Courts & Languages; Affirmative Action	Courts - the principle of equal application of languages should be enforced, particularly in the Small Claims Courts. Equality - concerned about affirmative actions & the consequences it has on "quality".
11.40	Naudé J	General legislative demand	Animals must have rights.
11.41	Nikoana V	Council of Provinces, Senate; Traditional Authorities	Council of Provinces - prefers option 1, its got more direct participation of provinces in legislation making. Trad Authorities - chiefs should be elected.

11.42	Parsons PA	Equality	Retain the sexual orientation clause.
11.43	Paterson CR	Equality; Life; Legislation	Equality - affirmative action only in schools in order to prepare the disadvantaged for 1st world culture. Death penalty - supports. Abortion - punish both the male & female who act irresponsibly knowing they are able to obtain an abortion. Legislation - gun owners & guns should be licensed & trained.
11.44	Pelser SM	Privacy; Life; Legislation	Privacy - may be certain occasions when one's property may be searched (by police). Life - supports option 2. Fireworks - should be governed by laws. Pensions - & the elderly must be addressed.
11.45	Pfeil G	Republic & God	Object to draft not including reference to Almighty God.
11.46	Plaatjies W	Legislation	Requests that pension laws be reviewed (re arrested person).
11.47	Racetjewa MA	Languages; Equality; Life	English - should be the only official language. Equality - option 2 preferred. Life - option 2 preferred.
11.48	Ross S	RSA; Life	The Founding Provisions need to refer to Almighty God. Death penalty - should be abolished. Unborn baby/foetus - must also have a right to life.
11.49	Rossauw V	Religion	Demands the acknowledgement of God in the Constitution.

11.50	Schmid N	Equality	Retain the sexual orientation clause.
11.51	Schonegeveel SK	Freedom of expression; Children; Health, Food & Water; Housing & Land; Property; Labour relations; Economic activity; Freedom & security of person	Expression - protect our children from pornographic materials. Children - omit the words "parental care". This excludes the role of grandparents in the care of children. Housing & Land - add to ss(1) the words "... taking into account finance available..."; omit ss(3), it raises expectations that are unrealistic. Property - option 3 seems the fairest. Labour relations - right to strike; right to lock-out. Economic activity - option 1 favoured. Freedom/security of person - omit the words " ... bodily & psychological integrity ..."
11.52	Schonegeveel SK	National symbols; Life; Privacy; Citizenship; Freedom of movement; Equality	Anthem & Flag - should be regulated by legislation. Preference expressed for the short version of Die Stem & Nkosi Sikelele for the time being. Equality - Supports option 2 and discrimination must be qualified by the wording "unfairly".
11.53	Shipalana BN	Freedom of belief	Decriminalise dagga. It is not as dangerous as tobacco is.
11.54	Smit DB	Local elections	Only people who pay taxes for services should be allowed to stand in elections.

11.55	Speedy JG	Parliament; President; Association; Legislation	Parliament - fully endorses sections 1,2,3,4,5,6,7. President - should be popularly elected and have power of veto. Association - the Constitution should not allow government to interfere with the principle that those who form bodies for the purpose of negotiation such as trade unions, agricultural unions or even pressure groups all should be funded by the free and voluntary contributions of their members and in no other way.
11.56	Stander M	Life	Death penalty - option 2 preferred. Reinstate the death penalty - only solution in reducing the crime rate.
11.57	Thabethe RM	Education	Must be free. Govt must enforce this position. No age restriction should be allowed in schools. Students who failed matric should be accepted in schools.
11.58	Tladi J	Social security	As we are all equal, men & women should receive a pension at 60 years.
11.59	Tshema HM	Language; Parliament; Provinces; Immigration; General	Languages - should not be called Northern Sotho or Sesotho Sa Leboa. Parliament - Presidential term of office should not be regulated or limited; Number of MP's must not be less than Senators. Powers - no more powers to the provinces. Immigration - controls to ensure that all immigrants possess working permits. Economic activity - unclear. Privatisation - there should be a moratorium so as to give the disadvantaged the chance to advance themselves.

11.60	van Schaikwyk E	Religion	New Constitution must acknowledge the Almighty God.
11.61	Weinert CHW	National Anthem; Language; Life; Property & Land; Self determination; Traditional Authorities	<p>Anthem - a new anthem must be designed.</p> <p>Languages - English must be our official language.</p> <p>Death penalty - opposed.</p> <p>Property - suggests reformulation of the clause and add as follows: "... everyone has the right to acquire, own and dispose of property and have this property protected provided it has been lawfully acquired."</p> <p>Self determination - reject any form of secession from the present RSA.</p> <p>Traditional Authorities - reject constitutional entrenchment, many were instituted under the past regime.</p>
11.62	Wheeler C	Equality	Include sexual orientation clause in the final Constitution,
11.64	Woitek R	Life	Option 2 should be adopted.
11.65	Wright E	Life	Propose amputation of limbs as a form of sentencing for criminals.
11.66	Zaloumis EA	General legislative demand	Animals must have rights.

11.67	Zephe XD	RSA; Equality; Human dignity; Economic activity; Parliament; council of Provinces	RSA - propose the same formulation as S3 of the interim Constitution. Bill of Rights - accept the following options; Equality - option 2; Human dignity - option 2; Economic activity - option 2. Parliament - proposes acceptance of the whole chapter. COP/Senate - proposes acceptance of the whole chapter.
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