

# Campaign for Open Media

Office 8, 17th floor, Conlyn House, 156 President Street Johannesburg. P O Box 261096, Excom, 2023, South Africa  
Telephone: (011) 29-6287/29-4355 Fax: (011) 29-4354

*Albie*

### TELEFAX COVER SHEET

DATE: *9/11/93*  
FROM: *Raymond Law*

TO: *Joel Netshitenzhe c/o Ronnie*  
*Att: OIP* *Manoope*

NUMBER OF PAGES INCLUDING COVER: *5*

MESSAGE: *Very urgent!*

*333 - 5870 / 29 - 0302*

**COM****Campaign for Open Media**

Phone: (011) 29-4355, 29-6287

Fax: (011) 29-4354

PO Box 261096, Excom 2023  
South AfricaOffice 8, 17th Floor, Contyn House,  
156 President St, JohannesburgChairperson: Raymond Louw  
Organiser: Jeanette Minnie

NOVEMBER 9, 1993

TO: DR PALLO JORDAN : HEAD DIP  
MS GILL MARCUS : DIP  
MR JOEL NETSHITENZHE : DIP*Very Urgent!*

DEAR COLLEAGUES

WE ARE WRITING TO YOU TO REQUEST YOUR URGENT ASSISTANCE TODAY IN  
THE FOLLOWING MATTER:AN EMERGENCY MEETING WAS HELD LAST NIGHT BY A WIDE RANGE OF MEDIA  
ORGANISATIONS CONCERNING THE FREEDOM OF EXPRESSION CLAUSE AND THE  
FREEDOM OF INFORMATION CLAUSE IN THE 11TH DRAFT OF THE INTERIM  
BILL OF RIGHTS.THE MEETING WAS HELD SINCE A RANGE OF ORGANSATIONS WERE  
CONCURRENTELY DEVELOPING CONCERNS ABOUT THESE CLAUSES. MOST OF  
US ONLY LEARNED QUITE RECENTLY (END OF LAST WEEK) THAT THE BILL  
OF RIGHTS WAS TO BE FINALISED TOMORROW AT THE MULTI PARTY  
NEGOTIATING FORUM. WE WERE NEVER WARNED AT ANY STAGE WHAT THE  
DEADLINES WERE.THE ATTACHED LETTER WAS ISSUED AS A MEDIA STATEMENT BY THE  
ORGANISATIONS PRESENT LAST NIGHT AND CONTAINS OUR VIEWS ON THE  
ABOVEMENTIONED CLAUSES.THE AMENDMENT TO CLAUSE 23 (FREEDOM OF INFORMATION) PROPOSES THAT  
THE CLAUSE BE SHORTENED BY CUTTING IT OFF AFTER THE WORD  
"GOVERNMENT".THIS WILL HAVE THE EFFECT OF GRANTING ACCESS OF INFORMATION AS A  
GENERAL RIGHT TO INFORMATION AS A MATTER OF PRINCIPLE. AT PRESENT  
THIS CLAUSE RECOGNISES ONLY A NEED TO KNOW, AND NOT A RIGHT TO  
KNOW.*Affiliated organisations: Anti-Censorship Action Group, Congress of South African Writers, Conference of Independent  
Newspaper Editors, Film and Allied Workers' Organisation, Media Workers' Association of South Africa, South African  
Union of Journalists, Association of Democratic Journalists*

CLAUSE 15 (FREEDOM OF EXPRESSION) NEEDS NO AMENDMENT -- ONLY PROTECTION FROM LIMITATION AS CURRENTLY PROVIDED FOR IN CLAUSE 34.

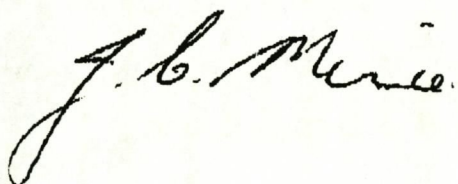
WHAT WE ARE ASKING FOR DOES NOT REQUIRE A LOT OF WORK, ESSENTIALLY ONLY AGREEMENT.

THE ONLY BIT OF WORK IN RESPECT OF CLAUSE 23 IS TO DEFINE WHAT INFORMATION NEEDS TO BE LIMITED UNDER CLAUSE 34. BUT AS WE SUGGEST, THE DETAIL OF THIS NEEDS TO THRASHED OUT AT A LATER STAGE FOR INCLUSION IN A FREEDOM OF INFORMATION ACT. THIS CAN BE DONE, BECAUSE WE ARE CURRENTLY DEALING WITH AN INTERIM OF BILL OF RIGHTS.

WE WOULD APPRECIATE IT IF YOU COULD BRIEF YOUR REPRESENTATIVES AT THE WORLD TRADE CENTRE TO ARGUE IN FAVOUR OF OUR PROPOSALS SO THAT THE BILL OF RIGHTS WILL BE AMENDED ACCORDINGLY.

COPIES OF THE ATTACHED DOCUMENT HAS ALSO BEEN LEFT FOR REPRESENTATIVES OF VARIOUS PARTIES, AS WELL AS MEMBERS OF THE FUNDAMENTAL RIGHTS AD HOC COMMITTEE AND THE CONVENOR OF THE FR TECHNICAL COMMITTEE AT THE WORLD TRADE CENTRE. WE ALSO LEFT A COPY FOR YOUR GENERAL SECRETARY, MR CYRIL RAMAPHOSA.

YOURS SINCERELY



JEANETTE MINNIE  
COM ORGANISER

ON BEHALF OF RAYMOND LOUW AND THE OTHER ORGANISATIONS MENTIONED IN THE ATTACHED DOCUMENT.

The undermentioned organisations, representing a wide range of press and broadcast media, wish to draw to your attention the following statement drafted at an emergency meeting called to discuss the latest version of the draft interim Bill of Rights:

"The Negotiating Council is due to finalise an interim bill of rights this week. There is concern about the clauses in the interim bill which affect access to information and freedom of expression.

\* Clause 23, which guarantees access to information, is drawn far too narrowly. It guarantees access only to information necessary for the protection or exercise of one's rights. It is therefore a derivative right rather than a general right of access to information. We urge the deletion of the qualification in the clause (after the word "government") which restricts the right in this way and propose that the clause should read as follows:

"Access to Information: Every person shall have the right of access to all information held by the state or any of its organs at any level of government".

This would not have the effect of exposing sensitive information, such as information that might jeopardize personal privacy, commercial confidentiality, law enforcement or national security. Such information should be protected by special exemption made under the authority of the limitation clause in the Bill of Rights and codified in a Freedom of Information Act. We urge that work begin now in developing such an Act.

We are also concerned that the powers granted (by the limitation clause) to pass laws that might restrict free speech are too generous. We urge that:

\* Clause 15, the general freedom of expression clause be given the highest protection from limitation possible. In other words that it be listed as one of the rights specially protected against limitation in Clause 34 (1) (b) (ii) (using the numbering in the draft 11th progress report). There is no reason why freedom of expression should not enjoy the same level of protection of freedom of thought, belief and opinion, which are given the highest form of protection.

\* Clause 34 be amended to exclude any limitation on the right of free speech unless, at a minimum, it complies with South Africa's obligations under international law.

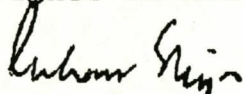
We call on the negotiating council and the technical committee on fundamental rights to consider these submissions as a matter of urgency and to amend the interim Bill of Rights accordingly."

Signatories to the statement are representatives of:

The Conference of Editors  
The Press Council of South Africa  
The Newspaper Press Union  
The National Association of Broadcasters  
The Magazine Publishers Association  
The Campaign for Open Media  
The Anti-Censorship Action Group  
The SA Union of Journalists  
MWASA  
The SA Society of Nieman Fellows  
The Media Defence Trust  
The International Press Institute

For further information please contact Prof Etienne Mureinik (tel 718-5618 or 646-8923) or Mr David Dyon (tel 337-6947/8/9)

Signed on behalf of the above



R.S. Steyn  
Chairman, Conference of Editors