

Albie ~

In case I don't see you, let me write down my thoughts on the draft Bill of Rights, as you invited. I hope not to sound too technical, but on the whole I find it a remarkable document + so will comment only on some of the finer points of design + drafting.

Article 11

¶¶ 1-4: It isn't clear to me whether these govern ¶¶ 5-9 or not. If not, I see a potential conflict between ¶ 3 ("legislation shall take into account... capacity of the beneficiaries to contribute towards the costs") and ¶ 6 ("Education shall be free").

As an interpretive matter, I suspect a court (at least under US-style construction) will read the more specific language in ¶ 6 to take precedence over the more general language in ¶ 3. If that isn't the intention, perhaps more clarity is needed.

If that is the intention, then I would put on my educationist hat for a moment + ask whether it might be better to "target" this right more clearly to the poor. Government will have

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it hands full (+ treasury emptied) merely providing for those who have been deprived of education. As drafted, I fear #6 would allow the better-off to refuse to pay school fees. Perhaps saying education is compulsory to age 16 "and shall not be denied on the basis of ability to pay" or something would continue protecting most people while still allowing the state to force the middle class + wealthy to contribute.

#2: Does "expanding floor" mean a steadily rising floor of a steadily broadening gpe?

#5: While I fully agree with the content, I wonder whether "special attention" might imply that other provisions deserve less attention. It may also be too vague; perhaps "Programs shall be implemented" would have more bite. (Even the US Constitution has some specific directives.)

#8: I would echo the conference theme that "health" has to be broader than "health care." At a minimum, I would add general language about environmental health conditions (mainly water + sanitation), which could fall through the cracks in Art. 12.

Art. 16

"Narrowly tailored" might be worth considering

Art. 17

How do §§ 2 + 5 differ?

How does § 4 relate to art 2, § 26? Does § 4 enable ~~create~~ a cause of action against private actors?

§ 6 = I think this would be stronger if placed in Constitution with section on judiciary