

**CONCERNS ARISING OUT OF THE FIFTH REPORT  
OF THE TECHNICAL COMMITTEE ON FUNDAMENTAL RIGHTS**

The following concerns have been informally and confidentially raised by the State representative:

1. It is suggested that the qualification contained in Clause 12.2 may extend to the private lives of people. It is therefore suggested that 12.2 should be deleted and that there should appear in the Chapter on Fundamental Rights after the existing Section 29, a clause reading as follows:

"Nothing in this Chapter shall be interpreted so as to commit racial or gender discrimination unless the interests of society so demands."

2. It is suggested that Clause 8 is far too limited as a result of the reference to "home" and that the word "home" should be substituted by the word "property".

3. The following clause is suggested as a possible compromise in respect of Clause 23 relating to economic activity. It is suggested that the existing clause remains but that a sub-clause 2 be added reading as follows:

"Nothing in this clause shall preclude legislation aimed at the promotion of the improvement and the quality of life , economic growth, human development, social justice and equal opportunity for all, provided such legislation is justifiable in a free, open and democratic society and does not negate the essential content of Sub-section 1."

4. The Property Clause (25) is unacceptable and thought to operate unfairly in respect of existing property owners. It is suggested, as a compromise, that the words "available to the State of resources" be deleted and that the words "the extent of the owner's investment in the property" be substituted as a factor to be taken into account by any court.

It is also suggested that a specific clause or sub-clause, which entitles people who have suffered financial loss as a result of discrimination to compensation, be added.

5. Inclusion of the moratorium sub-clause in the clause concerning "the right to life" is not acceptable. There may be two possible compromises here. Firstly, that Sub-clause 3 of 3 be deleted on the basis of a Government undertaking to the effect that the moratorium will not be lifted unless there is sufficient consensus in the Negotiating Council. The second suggestion is that Sub-clauses 2 and 3 of Clause 3 be deleted altogether.

6. There is insistence that pension rights be included as Fundamental in the Chapter being dealt with by this Committee. The following formulation is suggested:

"Every person shall have the right not to be deprived of his or her rights and interests in any State or private pension fund or scheme."