

1/3/3/2/16

DRAFT CODE OF RIGHTS TO BE APPLICABLE DURING THE ELECTION

Application

- (1) The provisions of this Act shall -
 - (a) bind the legislative, executive and judicial branches of government at all levels as well as all statutory bodies and functionaries;
 - (b) bind all other bodies and persons; and
 - (c) be enforced by the [designated authority].
- (2) The provisions of this Act shall apply to all laws in force and all executive and administrative acts performed during the period of operation of this Act.
- (3) Subject to Section 10 -
 - (a) When an infringement of or threat to any right entrenched in this Chapter is alleged, any person or association described in paragraph (b) shall be entitled to apply to a competent [designated authority] for appropriate relief, which may include a declaration of rights.
 - (b) Applications referred to in paragraph (a) may be brought by -
 - (i) a person acting in his or her own name; or
 - (ii) a person acting on behalf of any other person who is unable to bring such application in his or her own name; or
 - (iii) a person acting on behalf of a group or class or class of persons; or
 - (iv) an association acting in its own name or on behalf of its members.

- (4) A person who alleges that any of the rights mentioned in section 3, 4, 5, 6, 7, 8 and 9 of this Act have been infringed or threatened, shall be entitled to relief only insofar as it is proved that such infringement or threat has also resulted in the infringement of or threat to a right mentioned in section 2.

Political Rights

2. (1) Every person shall have the right -

- (a) to form, to participate in the activities of and to recruit members for a political party;
- (b) to campaign for a political party or cause; and
- (c) freely to make political choices.

(2) Every citizen of voting age shall have the right to vote in secret and to stand for election to public office.

Freedom of Expression

3. Every person shall have the right to freedom of speech and expression which shall include freedom of the press and other media.

Assembly, Demonstration and Petition

4. Every person shall have the right to assemble and demonstrate with others peacefully and unarmed, and to present petitions.

Freedom of Association

5. Every person shall have the right to freedom of association, provided that nothing in this section shall permit discrimination on the ground of race.

Freedom of Movement

6. Every person shall have the right to freedom of movement anywhere within South Africa.

Access to Court

7. Every person shall have the right to have justiciable disputes settled by a court of law or, where appropriate, another independent and impartial forum.

Access to Information

8. Every person shall have the right of access to all information required for the protection or exercise of any of his or her rights.

Administrative Decisions

9. Every person shall have the right to administrative acts which are -
 - (a) performed in accordance with the law;
 - (b) procedurally fair; and
 - (c) justifiable in the circumstances, insofar as any of his or her rights or interests are affected or threatened by such an act.

Limitation

10. **The** rights protected by this Act may be limited by law of general application provided that such limitation -
 - (a) shall be permissible only to the extent that it is -
 - (i) reasonable; or
 - (ii) justifiable in an open and democratic society based on freedom and equality;

- (b) shall not negate the essential content of the right in question.

Interpretation

- (11) (1) In interpreting the provisions of this act, the [designated authority] shall promote the values which underlie an open and democratic society based on freedom and equality.
- (2) Save as provided for in this Act, no rule of the common law, custom or legislation shall limit any right entrenched in this Act.
- (3) It shall be competent for the Independent Electoral Committee to suspend for the duration of this Act, any law which is subject to section 1(4), inconsistent with any provision for this Act.