

BLOCK 2

NATIONAL PARTY SUBMISSION

THEME COMMITTEE 4

THE RIGHT TO HUMAN DIGNITY

A Content of the Right

It is difficult to view this fundamental right in isolation because it bears a direct relationship to the right to equality dealt with in our previous submission. It must also be borne in mind that the right to dignity stands in close relationship to the concept of "freedom" or "liberty".

It is self evident that the right to human dignity entails a fundamental right which is enshrined in Section 10 of the Constitution, 1993. The NP believes that the concept of human dignity is so fundamental that it should be broadened by elevating the reference to "the dignity and value of mankind" to a position of an inviolable and prepositive value. This would provide the right with a greater impact in the whole Constitution. This could be achieved by way of a preamble to the bill of rights or by formulating the opening sections of the bill in such a way that such an effect is attained.

In addition to such a broadening, the bill of rights itself must retain the "ordinary" fundamental right itself.

The interrelatedness between human dignity, equality and freedom is perhaps best illustrated by saying that the dignity of mankind is the point of reference for the ideas of equality and freedom. In its basic substance the right to human dignity allows the ideas of equality and freedom to be attributed to the guarantee of human dignity.

There can be no greater violation of human rights (except the violation of life itself) than the violation of a person's human dignity. It is for this reason that our present bill of rights specifically prohibits slavery or forced labour in Section 12 and provides for the protection of the human dignity of detained persons in Section 25(1)(b) of the Constitution, 1993.

The NP's view is that this fundamental right is self-evident and universally accepted and should be noncontentious.

B Application of the Right

This fundamental right imposes the vertical application of a duty on all organs of State as contemplated in Section 7 and must apply at Central, Provincial and Local Government level.

A culture of respect and protection of the right to human dignity must be encouraged, developed and nurtured throughout South African Society.

All law, legislation, common law and customary law must be scrutinised and applied by the courts in a spirit which, ensures the maintenance of human dignity. Accordingly, this fundamental human

right should have complete vertical and horizontal application and should apply to individual persons or groups or classes of persons Section 7(4) of the Constitution, 1993.

The right to human dignity should not be limited in any manner whatsoever, but should be absolute. This principle should apply even during a State of Emergency.