

OBJECTION: CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA 1996 (PART) CHAPTER TWO -- BILL OF RIGHTS NUMBERS 22 & 23 PAGE 10

RESTRAINTS MUST BE ABOLISHED

Firstly, as a citizen of the new democratic South Africa I would like to express my sincere gratitude and thanks to each and every member of the constitutional team, at every level, for all the effort and dedication that was put into the finalisation of our new constitution -- the bloodline of each and every South Africa. At last, one law for one nation.

However, I hereby take the liberty of objecting to certain aspects of the clauses mentioned above. I feel strongly that major aspect of the democratic right of a worker has been overlooked. That is protection for the worker and selfish practice of restraint.

Restraint: to practise one's trade/profession/experience or expertise, which is tantamount to:

Restraint: TO EARN A LIVING

Perhaps, a restraint on a Scientist or Innovator of Products, Systems Etc. could be justified to a certain degree, but restraint against a worker purely to curb competition in a free enterprise system is totally oppressive and undemocratic. I am sure that the Competition Board would agree in principal, with me, since such practises are nothing less than the promotion of 'monopolies'. Restricting persons to practise what they know best, by way of trade, expertise, experience, etc. thereby restricting their right to earn a living, is nothing short of infringing one's human right. This selfish practise of restraint is a sure means of making the rich ..richer, and the poor ...poorer. A phenomenon very prevalent in our country. A phenomenon not to be tolerated or encouraged in our new democracy; a phenomenon to be eradicated. This can only happen if such oppressive, restrictive and selfish practises are stopped in their tracks.

As a layman, I have to cite a true example of such ruthless selfishness to drive my point home. I know of a dedicated and hard-working person, who after 10 years with a company (that has had phenomenal growth with tremendous profits in that period) resigned as the Manager in, the quest for self improvement. In the meantime, his wife's family started up a similar type of business, as he was in, for her. This was in another town situated 20 kilometers away. The family hoped that he would join her and together make a living and a future for their three minor children and also fend for his aged parents. The former employers head of this venture and immediately reminded him of a two year restraint he had signed with them, banning him from practising the same type of business for two years within a radius of 60 kilometres. Not only from his previous workplace, but also from a 60 kilometre radius of any branch or subsidiary of the company -- what selfishness!

The person is now stranded. He now has to live on the handout of the unemployment fund -- something that he prided in never having resorted to in 19 years of continuous employment. He was always ambitiously progressing until now when he has to sit kicking his heels in frustration as an unproductive burden to the state, yet had it now been for the strangling restraint on him, he has the opportunity of reversing the scenario and becoming productive by

joining this said business that is awaiting his expertise. The said business might soon face closure due to lack of this (thereby again helping to swell the unemployment figures in our country).

The restraint, as you see, is purely to curb competition from him to his employer. This is no question of invention or innovations of any kind whatsoever. This is purely a selfish way of monopolising and 'bumping' the small guy off. This nullifies the adage 'Live and let live'. Such action is detrimental not only to the person, his family and to the future of his children, but mocks democracy for which we fought and suffered so much. This is a sure way of further widening the gap between the 'haves and have-nots' in our country.

In a nutshell, the said person is being restrained from earning a living where and how he wants, purely to satisfy his wealthy ex-employers by not being allowed to compete against them. How [Editor's Note: paragraph illegible]

Last, but not least, I say for over forty years we have been subjected to restraints after restraint. We (as the underprivileged) have been continually subjected to humiliation and suffering to the extent that we could not even sit on any park bench; therefore, I beg you to accept this objection for what it is worth, so that in our newly-founded democracy and freedom, simple and hard-working people like the majority of us South Africans, are never again subjugated and oppressed and deprived of a very basic human right - The Right to Earn A Living - purely to appease the rich and make them richer.

Let us practice: one law for one nation (black, white, rich, poor, employee, employer)