

J D MANN
Pretoria
21 May 1996

OBJECTIONS TO THE CONSTITUTION

- (i) Particular provision of, or omission from, the Constitution to which objection is taken:

Constitution of the Republic of South Africa Bill, 6 May 1996, (B34A-96).

Life -- Provision 11. Everyone has the right to life; and

Freedom and security of the person -- Provision 12(1)(c). Everyone has the right to freedom and security of the person which includes the right - to be free from all forms of violence from both public and private sources.

- (ii) The grounds for objection:

- 1) The right to life should not be applicable to persons who have forfeited such a right by unlawfully taking, or by posing a threat to, the life of another person. In this respect, any right of personal self-defence shall not be infringed. Provision 11 should be restored to the originally stated Option 3 of the Refined Working Draft dated 18 March 1996 to allow for any prescribed death penalties.
- 2) The right to be free of all forms of violence also demands that a person must have:
 - a) an entrenched right of personal self-defence; and
 - b) some means of ensuring the right of self-defence by entrenching the right of all law-abiding, eligible, persons to possess and use licenced firearms for such purposes. These rights must form part of Provision 12(1)(c).
- 3) It is an undeniable fact that the Republic of South Africa is the most unlawful country in the world (war-zones excluded) and neither the Government nor any of the Law Enforcement Services appear capable of providing the necessary constraints to suppress the increasingly ongoing violence that is occurring. The need for some violence deterrent such as the death penalty or other means of violence constraint by civilian participation is obvious.
- 4) The Constitutional Assembly has already conceded in a full page public advert (The Citizen, dated 10 May 1995) that persons have the right to defend themselves. This public admission should therefore be entrenched into the Constitution.

- (iii) The relevant Constitutional principles contained in Schedule 4 with which the provision, or omission, does not comply

Constitutional Principle 2 - Everyone shall enjoy all universally accepted fundamental rights, freedoms and civil liberties, which shall be provided for and protected by entrenched and justiciable provisions in the Constitution which shall be drafted after giving due consideration to, inter alia, the fundamental rights contained in Chapter 3 of this Constitution.

30 May 1996

CERTIFICATION OF NEW CONSTITUTIONAL TEXT

Thank you for your submission of 21 May 1996.

I have been asked by the President of the Constitutional Court to inform you that your submission will in due course be taken into account by the Constitutional Court.

M NIENABER