

## **VICTIMS OF CHOICE**

Johannesburg

30 May 1996

### **OBJECTION TO THE CERTIFICATION OF THE NEW CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA BY THE CONSTITUTIONAL COURT**

1, Glenys Brunette Newbury, in my capacity as President of Victims of Choice (South Africa) do hereby object to the certification of the New Constitution of the Republic of South Africa, by the Constitutional Court on the following counts:

1. I object to the inclusion of parts of paragraph 12 of the New Constitution, as this paragraph conflicts with certain of the 34 constitutional principles contained in Schedule 4 of the Interim Constitution. The said paragraph 12 states, inter alia, that: 'Everyone has the right ... to make decisions regarding reproduction and control over their body'. This paragraph thus effectively gives all women an unlimited discretion to terminate their pregnancies and thereby end the lives of their unborn children. In so doing, this paragraph conflicts with the following of the above-mentioned Constitutional principles:

- 1.1 Principle I states, inter alia, that: 'The Constitution of South Africa shall provide ... a Democratic System of Government! The above-mentioned unlimited discretion will permit the arbitrary termination of the lives of unborn children, something totally undemocratic, as this cannot happen to other citizens. The event of birth is merely a change in environment of the child, from one of containment within the womb to one outside of the womb. The humanity and worth of the child is unchanged by the event of birth. Furthermore, all tests of the public opinion in South Africa, on the issue of abortion have shown a very significant and persisting rejection of abortion.
- 1.2 Principle II states, inter alia, that: 'Everyone shall enjoy all universally accepted fundamental rights'. Of these, the most important is the right to life. The above-mentioned unlimited discretion will result in the denial of this right to unborn children.
- 1.3 Principle III states, inter alia, that: 'The Constitution shall prohibit racial, gender and all other forms of discrimination'. The above-mentioned unlimited discretion will result in discrimination against unborn children for the reasons stated in paragraph 1.1 above.
- 1.4 Principle V states, inter alia, that: 'The legal system shall ensure the equality of all before the law'. The above-mentioned unlimited discretion will result in the inequality of unborn children before the law for the reasons stated in paragraph 1.1 above.

2. I object to the following omissions from the New Constitution because the said omissions cause Paragraph 12 of the said Constitution to conflict with Constitutional Principles I, II, III and V as stated above i.e.
  - 2.1 The words ‘from conception’ have been omitted at the end of paragraph II of the New Constitution, which states that ‘Everyone has the right to life’.
  - 2.2 The following sub-paragraph has been omitted at the end of the said Paragraph 12:  
‘(3) Nothing contained in this paragraph or elsewhere in this Constitution shall permit the relaxation of the abortion laws of the Republic of South Africa’.
3. I submit in support of my objections that the unborn child is a complete human being from conception, which event scientifically marks the beginning of the life of every human being, and is entitled to full legal personality and full legal protection from this time.
4. In terms of Constitutional Principle II of the interim Constitution everyone shall enjoy all the universally accepted human rights which shall be provided for and protected by the Constitution.
5. The New Constitution adopted on 8 May 1996 by the Constitutional Assembly does not directly provide for a right of protection of family and marriage. This right is indeed universally protected as evidenced by inter alia the following:
  - a) Section 12 of the Universal Declaration of Rights of the UN (1948).
  - b) Article 10 of the International Covenant on Economic, Social and Cultural Rights (1966)
  - c) Article 23(1) of the International Covenant on Civil and Political Rights (1966)
  - d) Articles 8(1) and 12 of the European Convention on Human Rights (1950)
  - e) Article 5(d)(iv) of the International Covenant on the Elimination of All Forms of Racial Discrimination (1965)
  - f) Part I(16) of the European Social Charter (1961)
  - g) Article 18 of the Banjul Charter on Human and People’s Rights (1981) (The African Charter of Human Rights)
  - h) Article 6 of the German Basic Law (1949)
  - I) Article 41 of the Irish Constitution (1937)

**Glenys. B. Newbury**

President of Victims of Choice