

CERTIFICATION OF THE CONSTITUTION

- A. Chapter 8: Section 129(1)(2)(a) and (b) and (3) -- Provinces
- B. Chapter 3: Section 51(1)(2)(a)(b) and (3) -- Parliament
- C. Chapter 2: Section 7 and 8(1) -- Bill of rights
- D. Chapter 1: Section 1 and 2

I, the undersigned Mr. Mtshetsheli Gladwin Nqontja of the above mentioned address whose particulars appear herein wishes to object to the certification of the new Constitution on the grounds that it does not comply with the following Constitution Principles. May I, with all due respect, draw the Constitutional Court's attention to the following:

- A. Section 129(1)(2)(a)(b) and (3) of Chapter 8 ; and
- B. Section 51(1)(2)(a)(b) and (3) of Chapter 3 does not comply with Section 7 and 8(1) of the Bill of Rights. Chapter 2 and Sections 1 and 2 of Chapter 1 of the Founding Provisions of the new Constitutional Principles:

Grounds for the Objection:

1. (Privileges and immunities of members) Section 129(1) (a)(b) and (3) says: Members of a provincial legislature have freedoms of speech and debate in the provincial legislature and in committees subject to its rules and orders. (2) Members of Provincial Legislatures are not liable to civil or criminal proceedings, arrest, imprisonment or damages for -- (a) anything they have said in, produced before, or submitted to their provincial legislature or of its committees or -- (b) anything repeated as a result of anything that they have said, produced or submitted -- (3) other privileges and immunities of members of the provincial legislatures may be prescribed by legislation and;

Section 51(1) of Chapter 3 (Parliament), (2)(a)(b) and (3) say: Members of the National Assembly have freedom of -- speech and debate in the Assembly and in its committees, subject to its rules and orders. (2) Members of the National Assembly are not liable to civil or criminal proceedings, arrest, imprisonment or damages for (a) anything they have said in, produced before, or submitted to the Assembly or any of its committees or -- (b) anything revealed as a result of anything that they have said, produced or submitted. (3) Other privileges and immunities of members of the National Assembly may be prescribed by national legislation.

The Relevant Constitution Principles with which the above provisions does not comply:

Section 1 of the Founding Provisions says: The Republic of South Africa is one sovereign democratic state founded on a commitment to achieve equality, to promote and protect human dignity, and to advance human rights and freedoms. Section 2 (Supremacy of the Constitution) say this Constitution is the supreme law of the Republic binds the Republic, its institutions, its citizens and all persons within its borders, law or conduct inconsistent it is invalid.

Section 7 (State's duty to respect and protect rights) says the State must respect and protect the rights) in the Bill of Rights. Section 8(1) says: Everyone is equal before the law and has the right to equal protection and benefit of the law.

Section 51(2)(a) and (b) gives privileges to members of the national assembly and section 129(2)(a) and (b) gives members of the provincial legislatures privileges which are inconsistent to Sections 1 and 2 of Chapter 1 and Sections 7 and 8(1) of the Bill of Rights. That means Sections 51(2)(a) and (b) are invalid. Sections 51(2)(a) and (b) of Chapter 3 and Section 129(2)(a) and (b) of Chapter 8 are in violation of a Bill of Rights and a rule of law, subordinating individual rights to those of the State.

Therefore, an equally important challenge facing our country is the restoration of the moral order. Equal clauses must have been applied to members of the National Assembly and Provincial Legislatures because members of Parliaments must be held responsible for their actions as much as the law applies to every member of society. It must be noted that lawlessness prevailing in this country today has its roots in a society fashioned by a system which paid lip service to the rule of law, and where human rights were violated with impunity.

In conclusion: It was with absolute disbelief that ...[page cut off] back the Acting Attorney General of Gauteng ..[page cut off] effect excusing and justifying the 'Shell House' shoot-out] and subsequently unfortunate admission of liability by President N.R. Mandela -- putting this down as self defence. The Attorney General should know; as ...[page cut off] first year law student will tell you that; the law of self-defence has strict limitation. It allows a person being attacked to use only such force as is reasonably necessary to defend oneself. The amount of force used to defend oneself must be commiserate with that applied by the attacker. The Acting Attorney General must still explain to society ..[cut off] heavily armed ANC security guards on the upper ... [page cut off].

Zulu marchers on the street -- so as to invoke the right to self defence as allowed by law. In a civilized State, President Mandela would have immediately been charged by his own attorney general with serious criminal offences.

Section 51(1)(2)(a) and (b) and (3); Section 129(1)(2)(a) and (b) and (3) of the respective Chapters which affords members of parliaments protection infringe on fundamental human rights of victims granted in terms of Section 1 and 2 of Chapter 1 and section 7 and 8(1) of Chapter 3. Up to now, President Mandela has not furnished victims of Shell House with [illegible] of his speech in Parliament as required but Section 32(1)(2) of Chapter 2. For South Africans to survive as a stable society there must be laws. These must be known, equal, consistent and must have consequences. No one should be above the law, even the 490 members of the National Assembly. It is patently obvious to society, the victims and the outside observers that members of the legislatures regard themselves above the law - thanks to Section 51(1)(2)(a) and (b) and (3) and Section 129(1)(2)(a) (b) and (3) of Chapters 3 and 8. This sections in the new Constitution is inherited from the past apartheid regime, a system which paid lip service to the rule and where human rights were violated with impunity. This is costing our society dearly. The law in this country is still in disrepute and the evidence is there for all to see.

MTSHETSHELELI G NQONTJA

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