

WITHOUT PREJUDICE

MAY 30TH 1996

RESPECTFULLY, THE FOLLOWING OBJECTION TO CERTIFICATION OF THE NEW CONSTITUTION ON GROUNDS THAT IT DOES NOT COMPLY WITH THE CONSTITUTIONAL PRINCIPLES (SCHEDULE SIX OF THE INTERIM CONSTITUTION 1993):

SECTION/SCHEDULE OF THE ACT:

Omission

CONSTITUTIONAL PRINCIPLE NOT COMPLIED WITH

The Constitution should prescribe penalties and award damages for non-performance particularly in Public Administration (Chapter Ten), Courts and Administration of Justice (Chapter Eight).
Principles: IX, XXIX, XXX, I, II, IV, VI

SECTION/SCHEDULE OF THE ACT:

Omission

CONSTITUTIONAL PRINCIPLE NOT COMPLIED WITH

The Act is void for vagueness - no minimum standards of honesty (inter alia) for the legal profession which is necessarily involved in Court procedure. The Bill of Rights should allow litigants to conduct their cases. Legal Aid should be a right (similar to British National Health) for **all** citizens. Legal fees should be according to a reasonable scale set by The Public Protector (**not** the legal profession). The law should be codified and not developed in the courts at the expense of litigants! (Sections 8(3)(a)(b)). Children should receive legal training in depth at school) in order to assist them avoiding the clutches of disreputable lawyers (Principles V, VII). The public should be free from harrassment by litigious lawyers (Principles II, V, VII). These protections should be embodied in the Bill of Rights.

SECTION/SCHEDULE OF THE ACT:

8(2)

CONSTITUTIONAL PRINCIPLE NOT COMPLIED WITH

"of... it is applicable" should be deleted.

SECTION/SCHEDULE OF THE ACT:

Omission

CONSTITUTIONAL PRINCIPLE NOT COMPLIED WITH

The Bill of Rights and Section 3 require specific women's Advisory Boards (legal in particular) to assist women disadvantaged by male selfishness. Principle III. In addition, affirmative action requires fifty per cent of all public/judicial etc. posts to be filled by women, and therefore an emphasis on education and promotion of women. Section 9(2) is not strong enough.

Monopolies reserved for professions should be terminated e.g. legal monopoly to wind up Deceased Estates. Principles I, III, V, VII etc..

SECTION/SCHEDULE OF THE ACT:

Omission

CONSTITUTIONAL PRINCIPLE NOT COMPLIED WITH

Bill of Rights section 12: To prevent vexatious litigious lawyers running fictitious cases against a victim it is suggested that a retired judge act as Master of the Court whose approval is necessary before a case can be run against a hapless victim of (with respect) "rat-pack" lawyers (with the very deepest of respect). Principles: I, II, V, VI, VII, XXX.

SECTION/SCHEDULE OF THE ACT:

Omission

CONSTITUTIONAL PRINCIPLE NOT COMPLIED WITH

Section 14(d): Senior Counsel who tap their opponent's telephones or plant a spy in their opponent's legal team (e.g. in Jersey) should be demoted. Similarly, lawyers who attempt to bribe and then threaten a character assassination should lose their right to practise.

Principles: VII inter alia, I to VI.

Similarly if a litigious lawyer arranges for his opponent's telephone line to be removed. Principle: The German Government advised the President to get the legal system cleaned up before Germans invest in South Africa!

The Minister of Justice mentioned an "overclass" of lawyers. With respect, the legal apparatus should serve the interests of the public. This Act serves the interests of the "amorphous" legal profession ...

[Editors' note: remainder of sentence unclear]

SECTION/SCHEDULE OF THE ACT:

Section 32/33 and
Schedule Six

Section 23(2):

CONSTITUTIONAL PRINCIPLE NOT COMPLIED WITH

Section 23(3) (page 125) should be deleted.

Section 32 (page 14 and page 125) is unclear.

Access to information held by any organ, and a Constitutional institution, is a right which must be clearly defined in the constitution.

Principles: XXX, XXIX, I to X, inter alia.

SECTION/SCHEDULE OF THE ACT:

Section 33

Omission

CONSTITUTIONAL PRINCIPLE NOT COMPLIED WITH

Lawyers etc. bribing/influencing/blackmailing civil servants should be severely punished and made to pay punitive damages in terms of a Section 33(4).

With respect, South Africa has a long history of endless administrative tormenting of the public. The only way to stop this is to spell out punitive damages, fines etc. in the Constitution at this stage!!

Sections 165 (Judicial Authority) and/or 182 (Public Protector) are alternative sections for mandatory punishments. Also Section 184.

Principles: Trite law, common sense, I to X, XXIX, XXX.

SECTION/SCHEDULE OF THE ACT:

Section 38

CONSTITUTIONAL PRINCIPLE NOT COMPLIED WITH

With respect, what percentage of the legal profession is competent? The public just cannot afford to be bankrupted by incompetents The Constitution has cost Three Hundred Million Rand (?). The Constitution must protect the public and eliminate loopholes for the legal profession to cash-in. The Constitution is for the benefit of the public not for the lawyers' bank accounts. The public should not have to keep going to court!!!! With the very deepest of respect!

SECTION/SCHEDULE OF THE ACT:

Omission

CONSTITUTIONAL PRINCIPLE NOT COMPLIED WITH

All Public Servants should have to declare their assets, perks, fringe benefits on an annual basis to e.g. the Auditor General/ Receiver of Revenue.

Principles: XXX, I, II, V, IX, etc.

SECTION/SCHEDULE OF THE ACT:

Omission

CONSTITUTIONAL PRINCIPLE NOT COMPLIED WITH

Local Government Sections 152/153:

Municipalities should not be allowed to cheat electricity consumers with racketeering charges in order to raise capital for RDP or new suburbs but should go to the capital market by way of bonds. Principle XXIV inter alia.

SECTION/SCHEDULE OF THE ACT:

Omission

CONSTITUTIONAL PRINCIPLE NOT COMPLIED WITH

Commission for Gender Equality Section 187.

Give it teeth! South African males appear not to take notice of anything except their own selfish advancement - even the Truth Commission lacks a lady member (correct?)! We need women advocates to advise us! We need our girls to be trained in the fastlane! We cannot be pushed into the back of the cave!!! Principles: I, II, V, VI, VII etc!!

SECTION/SCHEDULE OF THE ACT:

Omission

CONSTITUTIONAL PRINCIPLE NOT COMPLIED WITH

International (General Provisions) sections 231-233: South Africa should assist it's citizens against fraud in fraudhavens (euphemistically called trusthavens) usually under the British flag, with respect. To eliminate some of the booty from marauding lawyers South Africa should endeavour to secure the establishment of an International Court of Probate (the right term?) to be located here, it's object to eliminate plundering of Deceased Estates by lawyers. The Bill of Rights should very clearly state that South Africa does not deliver it's own citizens to other countries - extradition should be clearly defined!

SECTION/SCHEDULE OF THE ACT:

Omission

CONSTITUTIONAL PRINCIPLE NOT COMPLIED WITH

The Bill of Rights should make special mention of protection of, care of, support for the aged and infirm, handicapped, their housing etc. Can anyone explain why Bramley Old Age Home was closed to make way for an office park? Did that achieve anything? Principles: II, III inter alia.

JOAN MUNNIKHUIS
Director of Companies