

In the light thereof we propose that the Principle be formulated as follows:

2.24.9 SPR governments shall have powers, either exclusively or concurrently with the national government, inter alia:

2.24.9.1 for the purposes of regional planning and development and the delivery of services; and

2.24.9.2 in respect of aspects of government dealing with the specific socio-economic and cultural needs and the general well being of the inhabitants of the SPR.

In view of the previous discussions in the Negotiating Council, we are of the opinion that consideration should be given to the addition of the following sentence to principle 2.8:

Culture shall not be promoted in a manner which would prejudice persons who do not adhere to such culture.

2.27 [Every] Members of the security forces (police, military and intelligence) and the security forces as a whole shall be required to perform [his, her] their duties and functions and exercise [his, her] their powers in the national interest and shall be prohibited from furthering or prejudicing party political interest.

The changes are proposed for obvious grammatical reasons.

3. Principles on self-determination

The following submissions on self-determination of peoples was put forward to the Council:

3.1 *The right of self-determination of peoples, which allows them to determine their own political status through legislative and executive powers in the form of territorial independence and autonomy, is acknowledged.*

This is a principle of international law which is subject to the limitations referred to in our previous reports on confederalism. For the reasons set out in particular in paragraph 3.3 of our Second Special Report on Confederalism, we cannot recommend the introduction of this principle. The inclusion of a single principle of international law concerning self-determination of peoples, in the context of a set of constitutional principles for the constitution of South Africa, will obfuscate matters and contribute nothing to the constitution making process that is envisaged by the MPNP. Stated differently, we fail to see why the international law principle of self-determination of peoples should influence or bind a constitution making body in its tasks of giving content and effect to the constitutional principles for South Africa to be agreed upon by the MPNP.

3.2 *The right of self-determination of peoples is acknowledged. The right is exercised through cultural and linguistic groups\minorities and formations in:*

- * *Practising their own culture;*
- * *Using own languages;*
- * *Forming organs of civil society;*

- * *Participating politically effectively on the national and regional level in order to determine their political aspirations in legislature and executive in a particular region.*

These rights shall, on a basis of non-discrimination and free association, be recognised and protected.

The proposed principle as formulated, corresponds in general terms to our views on the collective right of self-determination set out in paragraph 3.4.2 of our First Report. In the context of municipal law, however, an unqualified reference to the right of self-determination of peoples is open to misinterpretation. Furthermore, we are of the opinion that the right of self-determination within the context of municipal law has been adequately addressed in the following Constitutional Principles discussed and adopted by the Negotiating Council: Principle 2.2 on non-discrimination; Principle 2.5 on Multi-Party Democracy; Principle 2.8 on the acceptance of linguistic and cultural diversity; Principle 2.9 on collective rights of self-determination; Principle 2.10 on the enjoyment of universally accepted fundamental rights; and Principle 2.13 on the participation of minority political parties.

For these reasons, we do not recommend the inclusion of this principle.



JC208391

GOVERNMENT PUBLICATIONS

Collection Number: AD1438

NATIVE ECONOMIC COMMISSION 1930-1932, Evidence and Memoranda

PUBLISHER:

Collection funder:- Atlantic Philanthropies Foundation

Publisher:- Historical Papers Research Archive

Location:- Johannesburg

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