

# NABCAT LIMPOPO

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**FROM: NABCAT LIMPOPO SECRETARY MOSES  
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**TO: ATT: MS PAT PAYIYA  
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- ◆ MORE THAN NINE YEARS, CONTRACTOR WHERE COMPLAINING ABOUT CIDB. DESPITE ALL THE TALK, SA'S CONTRSTRUCTION INDUSTRY IS YET TO UNDERGO LARGE- SCALE OF TRANSFORMATION.
- ◆ CIDB WAS FORM TO GROOM OUR EMRERGING CONTRACTORS AND CAPALITATE THEM TO PARTICIPATE IN ALL GOVERNMENT PROJECT, BUT TO OUR SURPRISE THISE IS THE OPPOSITE
- ◆ WE FIND OURSLEVES INA SITUATION WHERE ONLY WHITE CONTRACTOR, WHO WHERE BENEFITING FROM APARTHIED GOVERNMENT ARE NOW BENEFITING FROM OPPORTUNITIES OFFERED BY CIDB.
- ◆ OUR GOVERNMENT HAS AWARDED THE ENTIRE GOVERNMENT PROJECT TO MAINLY WHITE OWNED CONTRACTOR WHICH WERE ADVATAGED IN APARTHEID SOUTH AFRICA, BECAUSE OF CIDB, EXCLUDING BLACK CONTRACTORS.
- ◆ BLACK AND WOMEN-OWNED CONSTRUCTION COMPANIES HAVE BEEN SIDELINED IN THE GOVERNMENT PROJECT AND LEFT OT SCRAMBLE FOR SMALLER SUB-CONTRACTS UNDER APARTHEID WHITE CONTRACTORS.
- ◆ THERE ARE 96, 6% CONTRACTORS ON THE REGISTER OF CIDB TODAY, ALL OF THEM ARE OWNED BY BLACKS. ALL THIS COMPANY ARE ON LEVEL ONE, WHICH THEY ARE NOT ALLOWED TO BUILD TO A TOILET, INRESPECTIVE OF THEIR EXPIRENCE.
- ◆ THIS INDUSTRY WAS RESERVED FOR WHITE COMPANIES TO PROSPER AND THE CIDB'S BEING USED TO FRASTRATE AND BLOCK DEVELOPMENT OF BLACK-OWED COMPANIES.
- ◆ CIDB REQUIREMENTS ARE VERY DIFFICULT TO ACHIEVE AND EASIER FOR WHITE CONTRACTOR BECAUSE OF THEIR PREVIOUSLY ADVANTAGED IN THE APARTHEIT SOUTH AFRICA AND BECAUSE THEY HAVE THE RESOURCES.
- ◆ BLACK COMPANIES HAVE NO CHANCE TO GET TO THE TOP OF THE RATINGS. CIDB IS VERY DIFFICULT AND GOVERNMENT IS NOT HELPING.
- ◆ THERE ARE 118 COMPANIES AT CIDB LEVEL 9 RATING IN DIFFERENT RATING SECTOR OF CONTRUCTION, ONLY TWO (2) OF THOSE COMPANIES ARE RICH BLACK, THE REST ARE WHITE-OWED. THE REST OF BLACK-OWED COMPANIES ARE ON LEVEL (1 & 2) OF WHICH ARE MORE THAN (66,000) RAITTING ON THAT LEVEL.
- ◆ OUR GOVERNMENT (SOUTH AFRICA) HAS VERY CAPABLE AND ABLE BLACK MAN AND WOMEN WHO, WHEN GIVEN THE RIGHT OPPORTUNITY, CAN ADD TREMENDOUS VALUE TO THE CONSTRUCTION SECTOR. THINGS HAVE BEEN LEFT TO HAPPEN IN CIDB ON THEIR OWN WITHOUT GOVERNMENT MONITORING WHETHER TRANSFORMATION WAS TAKING PLACE.

- ◆ THE CIDB RATING IS VERY CRUCIAL, IT NEED TO BE REVIEWED AS SOON AS POSSIBLE.
- ◆ SURVEY DONE BY CITY PRESS ON OR BEFORE 30 NOV 2008 SHOWS THAT THE GOVERNMENT HAS AWARDED ALL THE CONTRACTS TO MAINLY WHITE-OWNED CONTRACTORS WHICH WERE ADVANTAGED IN APARTHEID SOUTH AFRICA. ALL THESE WAS BECAUSE OF CIDB POLICY.
- ◆ WE, AS BLACK CONTRACTORS, WE FILL THAT EVEN APARTHEID GOVERNMENT NEVER SAID IF YOU ARE POOR YOU DON'T DESERVE TO WORK. AS CIDB SAID.
- ◆ WE THEREFORE REQUEST THE CONSTITUTIONAL REVIEW COMMITTEE TO REVIEW THE ACT TO CIDB
- ◆ IF POSSIBLE CALL US AND CIDB TO DEFFEND OURSELF.
- ◆ IT IS ALL VERY WELL FOR OUR GOVERNMENT TO APPEAR RESOLUTE AND IN CONTROL WHEN THEY PROMOTE THAT TOGETHER WE CAN DO MORE, BUT IT WOULD BE MUCH BETTER IF THEY ROSE TO THE OCCASION AND ANSWERED THE DESPERATE CRIES OF THE POOR.

  
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**MOSES MOSOMANE SELAMOLELA**  
**(GENERAL SEC LIMPOPO NABCAT)**

- 6.7 There is no logical or rational reason to distinguish in section 16(2)(c) between contemplation that is categorised as being religious in nature and contemplation that does not include supernatural/deity beliefs.
- 6.8 Indeed, due to the status of the Constitution as the supreme law of South Africa, the exalted status given to religion in section 16(2)(c) could be construed as permitting the advocacy of hatred that is based on "conscience, thought, belief and opinion" that is not categorised as being of a religious nature.
- 6.9 Section 16(2) ought to be amended to read:
- 16(2) The right in subsection (1) does not extend to
- a) ...;
  - b) ...; or
  - c) advocacy of hatred that is based on race, ethnicity, gender or conscience, religion, thought, belief or opinion and that constitutes incitement to cause harm.

## 7 SECTION 35(2)(f)

- 7.1 Section 35(2)(f) currently reads as follows:
- 35(2) Everyone who is detained, including every sentenced prisoner, has the right:
- a) ...
  - e) ...
  - f) to communicate with, and be visited by, that person's:
    - i) spouse or partner;
    - ii) next of kin;
    - iii) chosen religious counsellor; and
    - iv) chosen medical practitioner.
- 7.2 There is no justification for the exalted status given to a religious counsellor, as opposed to a counsellor who does not propagate supernatural/deity beliefs.
- 7.3 If each detained person is to be entitled to a counsellor, there is no logical or rational reason to restrict the nature of the counselling to religious counselling.
- 7.4 Section 35(2)(f)(iii) ought to be amended to read:

iii) chosen [religious] contemplation counsellor; and

## 8 SECTION 37

8.1 Section 37 deals with states of emergency.

8.2 Section 37 contains, between subsections (5) and (6), a Table of Non-Derogable Rights.

8.3 The first item of the Table of Non-Derogable Rights prohibits unfair discrimination solely on the grounds of race, colour, ethnic or social origin, sex, religion or language under a state of emergency.

8.4

1) Section Number	2) Section Title	3) Extent to which the right is protected
9	Equality	With respect to unfair discrimination solely on the grounds of race, colour, ethnic or social origin, sex, religion or language

8.5 Such item ought to be read in conjunction with section 9(3). Section 9(3) reads as follows:

The state may not unfairly discriminate directly or indirectly against anyone on one or more grounds, including race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth.

8.6 The grounds stated in section 9(3) but omitted from the item under discussion are gender, pregnancy, marital status, sexual orientation, age, disability, conscience, belief, culture, and birth.

8.7 One wonders what the logical or rational reasons are for the State to need the right to discriminate unfairly during a state of emergency on the grounds of gender, pregnancy, age, disability, and/or birth; and the reasons for the need to discriminate unfairly on the grounds of marital status and sexual orientation could well be particularly attention-grabbing.

- 8.8 However, in this submission the focus is on the lack of any logical or rational reason to distinguish between contemplation that is categorised as being religious in nature and contemplation that does not include supernatural/deity beliefs.
- 8.9 As the item under discussion currently reads, under a state of emergency, the State is conceivably empowered, for example, to inter the members of a philosophical society dedicated to non violence, but the State is, for example, not entitled to restrict the gatherings of an aggressive group of followers of one of the Abrahamic religions.
- 8.10 Without prejudice to additional review of the item under discussion, in column three thereof, the "terminology "conscience, religion, thought, belief and opinion" ought to replace the word "religion".

## **9 SCHEDULE 2**

- 9.1 The multiple deferential references to a deity in the Preamble are not necessary or contributory, and alienate a sizable portion of the South African population.
- 9.2 The removal of such references is likely to trigger a violent furore from the persons with supernatural/deity beliefs, and it may not be advisable.
- 9.3 However, such error in the Preamble does provide impetus for the sanitisation of Schedule 2.
- 9.4 Schedule 2 deals with oaths or solemn affirmations required from certain functionaries.
- 9.5 Each paragraph in Schedule 2 includes the expression "(In the case of an oath: So help me God.)". Such inclusion is not necessary or contributory.

9.6 All in all, in one form or another, the term "God" appears thirteen times in the Constitution. This does factually contradict the Constitutional Court's view that the Constitution is secular.

9.7 Schedule 2 would gain in elegance, and the Constitution will appear less like a religious document, if the expression "(In the case of an oath: So help me God.)" were to be deleted from Schedule 2.

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