

LIBERAL DEMOCRATIC ASSOCIATION

P. O. Box 192
PIETERMARITZBURG
3200

2 March 1992

Working Group 2
Conference on a Democratic South Africa
P O Box 307
Isando
1600

Dear Sirs

LIBERAL DEMOCRATIC ASSOCIATION SUBMISSION ON A BILL OF RIGHTS

Following the public invitation to send submissions to Codesa, the Liberal Democratic Association would like to lay before Working Group 2 the enclosed submission in which we urge the immediate implementation of a Bill of Rights. The submission is accompanied by a document prepared by our Association, in which we have identified the common ground which exists between the three Bills of Rights proposed since 1986.

We would be most grateful if our submission were circulated among members of your committee as soon as is feasible. Any queries you might have can be directed to our committee at the above postal address or at fax no. 0331 - 68175.

Yours sincerely



Bede Harris
CHAIRMAN

encl.

COMMITTEE: B. Harris (Chair), D. Beale, A. Verbeek, F. Antonie, P. M. Brown, J. Morrison,
P. McKenzie, L A Weinberg, D Lawrance (Sec), A M Barrett

SUBMISSION TO THE CONFERENCE ON A DEMOCRATIC SOUTH AFRICA

1.

The Liberal Democratic Association is a non party political Association, devoted to the furtherance of liberal ideals in South Africa. In pursuit of this objective the Association comments on politics from a liberal perspective and monitors the level of respect for liberal values in society.

2.

The Association is committed to the following principles of liberal democracy :

- (i) The autonomy of the individual, which should be limited only for reasons which a free, open and democratic society would find absolutely necessary.
- (ii) Protection of basic individual freedoms by an entrenched and justiciable Bill of Rights which shall be the supreme source of law in South Africa.
- (iii) A democratic Constitution which, subject only to the Bill of Rights, places sovereignty in the hands of the people, expressing their will through regular and free elections.
- (iv) An independent judiciary.
- (v) Open government which is accountable to the people.
- (vi) A just economic system which protects private initiative and uplifts the needy.

3.

Our Association held a conference in July 1991 on the Implementation of a Bill of Rights in South Africa. It was then felt necessary to identify the extent to which agreement exists in South Africa on the contents of a Bill of Rights. To this end we convened a second gathering in February 1992 to which we invited the following leading public figures : Professor Andre du Toit, Mr Archie Gumede, Archbishop Denis Hurley, and Professor David Welsh. They examined the Bills of Rights proposed by the South African Law Commission, the African National Congress and the KwaZulu Natal Indaba. They also discussed a document prepared by the L.D.A. (a copy of which accompanies this submission) in which we identified common ground between the three Bills of Rights. The conclusion reached by our four panelists was that a high level of consensus exists in South African society that a core of fundamental freedoms [specified in paragraph 8 below] should be protected in a Bill of Rights, and that legislation passed by Parliament and actions taken by the executive should be subject to a testing right by the courts.

4.

Our Association is concerned that a long time may yet elapse before a new Constitution is enacted. We believe that it is vital that rights do not remain unprotected during this period, as it is likely to be characterised by fierce political competition and the imposition of pressure on individuals by political organisations and by the state. We therefore believe that the enactment of a Bill of Rights should not be postponed until the enactment of a new Constitution.

5.

We acknowledge that agreement has yet to be reached on important issues, and in particular note that the inclusion of 'second' and 'third' generation rights remains controversial. Although we doubt that such rights should be included in a Bill of Rights, given that they are non-justiciable, we recognise that this question requires further debate. We are nevertheless of the opinion that there is no reason why those rights on which there is already agreement [listed in paragraph 8 below] should not be given immediate protection.

6.

We believe that the enactment of a Bill of Rights would promote the growth of a human rights culture, and thus a climate of political tolerance, in South Africa. It would also provide the judiciary with a set of principles to which they would be bound when deciding the law, and this would in turn increase their legitimacy in the eyes of the public.

7.

We believe that Codesa constitutes the most representative gathering in South African history and that its resolutions will therefore enjoy widespread legitimacy. We note that it has been generally accepted by participants at Codesa that agreements they reach should where necessary be enacted into law by Parliament.

8.

In light of all of the above we urge Codesa to resolve that an entrenched and justiciable Bill of Rights incorporating the rights, protections and freedoms listed below be presented to Parliament for enactment into law, and that members of the judiciary be required to take a new oath in which they vow to uphold the Bill of Rights so enacted :

- (i) The right to life.
- (ii) The right to dignity.
- (iii) The right to equality.
- (iv) The right to privacy.
- (v) The right to liberty, procedural justice and a fair trial.

- (vi) Protection from forced labour.
- (vii) Protection from torture and inhuman or degrading treatment or punishment.
- (viii) Freedom of expression.
- (ix) Freedom of religion.
- (x) Freedom of movement.
- (xi) Freedom of association.
- (xii) Freedom to form and to join political parties.

RIGHT TO LIFE

Right to Life (I)

12. (1) Everyone's right to life shall be protected by law, and no one may be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.

Article 2 : The right to life. (LC)

Everyone has the right to the protection of his or her life.

Article 2. (ANC)

PERSONAL RIGHTS

The Right to Life

1. Every person has the right to life.

RIGHT TO DIGNITY

Human dignity and equality before the law

(I)

1. (1) All human beings are born free and equal in dignity and rights.

Article 6 : The rights of an arrested person.

(LC)

Everyone who is arrested has the right -

- (a) to be detained and to be fed under conditions consonant with human dignity and to receive the necessary medical treatment;

Article 8 : Rights of persons convicted of a crime.

Everyone who has been convicted of a crime and who in accordance with a sentence of a court of law is serving a term of imprisonment has the right -

- (a) to be detained and to be fed under conditions consonant with human dignity and to receive the necessary medical treatment;

Article 9 : Good name and reputation and dignity.

- (b) Everyone has the right to the recognition and protection of his or her dignity.

Article 1.

(ANC)

GENERAL

1. All South Africans are born free and equal in dignity and rights.

Article 2.

PERSONAL RIGHTS

5. The dignity of all persons shall be respected.

1. Everyone shall have the right to appropriate protection by law against violence, harassment or abuse, or the impairment of his or her dignity.

RIGHT TO EQUALITY

Human dignity and equality before the law

(I)

1.

- (2) Everyone is equal before the law, and shall be entitled to equal protection of the law, without any distinction on the basis of race, colour, language, sex, religion, ethnic or social origin, property, birth, political or other opinion, or economic or other status.

Article 3 : Equality before the law.

(LC)

- (a) Everyone has the right to equality before the law, which means, inter alia, that save as permitted in this Article, no legislation or executive or administrative act shall directly or indirectly favour or prejudice any person on the grounds of his or her race, colour, sex, religion, ethnic origin, social class, birth, political and other views or disabilities or other natural characteristics.

Article 1.

(ANC)

GENERAL

2. No individual or group shall receive privileges or be subjected to discrimination, domination or abuse on the grounds of race, colour, language, gender, creed, political or other opinion, birth or other status.
3. All men and women shall have equal protection under the law.

Right of privacy and protection of the family (I)

6. ✓ (1) No one shall be subject to arbitrary interference with his privacy, family, home or communications, nor to attacks upon his honour or reputation.

Article 10 : Privacy. (LC)

Everyone has the right to the protection of his or her privacy, which means, inter alia, that his or her property or place of residence or employment shall not be entered, that he or she shall not be searched, that his or her property or possessions shall not be seized and that there shall be no interference with or interception of his or her correspondence or other forms of communication.

Article 2.
PERSONAL RIGHTS (ANC)

The Right to Home Life

26. The privacy of the home shall be respected, save that reasonable steps shall be permitted to prevent domestic violence or abuse.

The Right to Privacy

29. No search or entry shall be permitted except for reasonable cause, as prescribed by law, and as would be acceptable in an open and democratic society.
30. Interference with private communications, spying on persons, and the compilation and keeping of secret files about them without their consent, shall not be permissible save as authorised by law in circumstances that would be acceptable in an open and democratic society.

Right of liberty

(I)

4.

- /(3) Everyone has the right to liberty and security of person and no one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law which does not deny his basic rights to physical and mental health and integrity-

 - (a) the lawful detention of a person after conviction by a competent court;
 - (b) the lawful arrest or detention of a person for non-compliance with the lawful order of a court;
 - (c) the lawful arrest or detention of a person effected for the purpose of bringing him before a competent legal authority on reasonable grounds of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so;
 - (d) the lawful detention of a person for the prevention of the spreading of infectious diseases, of a person of unsound mind, an alcoholic or a drug addict;
 - (e) the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the Province or of a person against whom action is being taken with a view to deportation or extradition.
- /(4) Everyone who is arrested shall be informed promptly, in a language which he understands, of the reasons for his arrest and of any charge against him.
- /(5) Everyone arrested or detained in accordance with the provisions of subsection (3)(c) shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release pending trial, which may be conditioned by guarantees to appear before trial.
- /(6) In the determination of his civil rights and obligations or of any criminal charge against him, everyone shall be entitled to a fair and public hearing within a reasonable time by an independent and impartial court established by law; judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interest of morals, public order or national security in a democratic society, where the interests of juveniles or

the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where the publicity would prejudice the interests of justice.

- (7) Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.
- (8) Everyone charged with a criminal offence shall have the right-
 - (a) to be informed promptly, in a language of his choice which he understands and in detail, of the nature and cause of the accusation against him;
 - (b) to have adequate time and facilities for the preparation of his defence;
 - (c) to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it at no cost to himself when the interests of justice so require;
 - (d) to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;
 - (e) to have the free assistance of an interpreter if he cannot understand or speak the language used in the court, or if he so requests.
- (9) Everyone who is deprived of his liberty by arrest or detention shall be informed promptly in a language of his choice which he understands and in detail, the reasons for his arrest and detention, and shall be entitled to take proceedings by which the lawfulness of his detention is decided speedily by a court, and to be released if the detention is not lawful: Provided that if he has not sufficient means to pay for legal assistance, he will be given it at no cost to himself.
- (10) Everyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.
- (11) No one who is tried for a criminal offence shall be compelled to give evidence at the trial.
- (12) No one who shows that he has been tried by a competent court for a criminal offence and either convicted or acquitted shall again be tried for that offence or for any other criminal offence of which he could have been convicted at the trial for the offence, save upon the order of a superior court in the course of appeal or review proceedings relating to the conviction or acquittal.
- (13) No one shall be found guilty of any penal offence on account of any act or omission which did not constitute a penal offence at the time when it was committed.

Article 5 : Personal liberty and security.

(LC)

Everyone has the right to his or her personal liberty and security, which means, inter alia, that no one shall be deprived of his or her liberty save in the following cases and in accordance with a prescribed procedure generally in force by which the fundamental right to his or her mental and physical integrity is not denied:

- (a) Lawful arrest or detention for the purpose of bringing a person before a court of law on the ground of a reasonable suspicion, which shall be justifiable by a court, that he or she has committed or is committing or is attempting to commit a crime;
- (b) lawful detention pursuant upon conviction by a court of law or failure to comply with a lawful order of the court;
- (c) lawful detention in order to prevent the spread of infectious disease;
- (d) lawful detention of a person who is mentally ill or a person addicted to narcotic or addictive substances with a view to his or her admission, in accordance with prescribed procedure, to an institution or rehabilitation centre;
- (e) lawful detention for the prevention of any person's unauthorised presence or sojourn in South Africa or with a view to his or her extradition or deportation in accordance with prescribed procedure.

Article 6 : The rights of an arrested person.

Everyone who is arrested has the right -

- (a) to be detained and to be fed under conditions consonant with human dignity and to receive the necessary medical treatment;
- (b) to be informed as soon as possible in a language which he or she understands of the reason for his or her detention and of any charge against him or her;
- (c) to be informed as soon as possible in a language which he or she understands that he or she has the right to remain silent and the right to refrain from making any statement and to be warned of the consequences of making a statement;
- (d) within a reasonable period of time, but not later than 48 hours or the first court day thereafter, to be brought before a court of law and to be charged in writing or informed in writing of the reason for his or her detention, failing which he or she shall be entitled to be released from detention unless on good cause shown a court of law orders further detention;
- (e) to be tried by a court of law within a reasonable time after arrest and pending such trial to be released, which release may be subject to bail or guarantees to appear at the trial, unless on good cause shown a court of law orders further detention;
- (f) to communicate and to consult with a legal practitioner and a medical practitioner of his or her choice;
- (g) to communicate with and to be visited by his or her spouse, family, next of kin, religious counsellor or friends, unless a court of law otherwise orders.

Article 7 : The rights of an accused person.

Every accused person has the right -

- (a) not to be sentenced or punished unless he or she has had a fair and public trial before a court of law in accordance with the rules of procedure and evidence generally in force;
- (b) to be presumed innocent until the contrary is proved by the state or other prosecutor;
- (c) to remain silent and to refuse to testify at the trial;
- (d) not to be convicted or sentenced on the ground of evidence so obtained or presented as to violate any of the rights under this Bill of the accused person or of the witness concerned or of any other person, unless the court, in the light of all the circumstances and in the public interest, otherwise orders;
- (e) to be represented by a legal practitioner;
- (f) to be informed by the presiding officer -
 - (i) of his or her right to be represented by a legal practitioner;
 - (ii) of the institutions which he or she may approach for legal assistance;

and to be given a reasonable opportunity to endeavour to obtain legal assistance: Provided that failure or neglect so to inform an accused person or to give him or her such opportunity shall not result in the setting aside of the proceedings unless on appeal or review a court finds that justice was not done;

- (g) not to be sentenced to an inhuman or degrading punishment;
- (h) not to be convicted of a crime in respect of any act or omission which at the time when it was committed was not a crime and not to be given a sentence more severe than that which was by law applicable at the time when the crime was committed;
- (i) not to be convicted of any crime of which he or she has previously been convicted or acquitted, save in the course of appeal or review proceedings relating to that conviction or acquittal;
- (j) to have recourse, on appeal or review, to a higher court than the court of first instance: Provided that legislation may prescribe that leave to appeal shall be first obtained;
- (k) to be informed in a language which he or she understands of the reasons for his or her conviction and sentence;
- (l) to be tried in a language which he or she understands or, failing this, to have the proceedings interpreted to him or her;
- (m) to be sentenced within a reasonable time after conviction.

Article 8 : Rights of persons convicted of a crime.

Everyone who has been convicted of a crime and who in accordance with a sentence of a court of law is serving a term of imprisonment has the right -

- (a) to be detained and to be fed under conditions consonant with human dignity and to receive the necessary medical treatment;
- (b) to be given the opportunity to develop and to rehabilitate;
- (c) to be released at the expiry of his or her term of imprisonment as imposed by the court of law.

PERSONAL RIGHTS

The Right to a Fair Trial

8. There shall be no detention without trial.
9. No persons shall be arrested or detained for any purpose other than that of bringing them to trial on a criminal charge.
10. Arrest shall take place according to procedures laid down by law, and persons taken into custody shall immediately be informed of the charges against them, shall have access to a legal representative of their choice, and shall be brought before court within 48 hours or, where that would be a Sunday or a public holiday, on the first working day thereafter.
11. Bail shall be granted to awaiting-trial persons unless a court rules that in the interests of justice they should be kept in custody.
12. No-one shall be deprived of liberty or subjected to other punishment except after a fair trial in public by an independent court.
13. Trials shall take place within a reasonable time.
14. Everyone shall be presumed innocent until proven guilty.
15. No conduct shall be punished if it was not a criminal offence at the time of its occurrence, and no penalty shall be increased retrospectively.
16. No-one shall be punished twice for the same offence.
17. Accused persons shall be informed in writing of the nature of the allegations against them, and shall be given adequate time to prepare and conduct their defence.

18. Everything that is reasonable shall be done to ensure that accused persons understand the nature and the import of the charges against them and of the proceedings, that they are not prejudiced through illiteracy or lack of understanding, and that they receive a fair trial.
19. Accused persons shall have the right to challenge all evidence presented against them, to be defended by a legal practitioner of their choice, and if in custody, to have access to a legal practitioner at all reasonable times.
20. If a person is unable to pay for legal representation, and the interests of justice so require,
✓ the State shall provide or pay for a competent defence.
21. No persons shall be required to give evidence against themselves, nor, except in cases of domestic violence or abuse, shall persons be required to give evidence against their spouses, whether married by civil law or custom, their parents or their children.
22. No evidence obtained through torture or cruel, inhuman or degrading treatment shall be admissible in any proceedings.
23. Juveniles shall be separated from adult offenders.

Right of liberty

(I)

✓4.

- ✓(2) No one shall be required to perform forced or compulsory labour: Provided that this does not include-
- (a) any normal work required to be done in the ordinary course of detention under the provisions of subsection (3) or during conditional release from such detention;
 - (b) any service of a military character in terms of a law requiring citizens to undergo military training;
 - (c) any service exacted in case of emergency or calamity threatening the existence or well-being of the Province;

Article 11 : Forced labour.

(LC)

Everyone has the right not to be subjected to forced labour: Provided that legislation may provide for -

- (a) such labour as may reasonably be prescribed to be performed during detention pursuant to a sentence of imprisonment imposed by a court of law; and
- (b) reasonable military or civilian national service so that, save during a state of war or the duration of a proclaimed state of emergency, each individual shall have a choice on grounds of religious or conscientious conviction between military and civilian national service of equal duration.

Article 2.

PERSONAL RIGHTS

(ANC)

The Right to Dignity

4. No-one shall be subjected to slavery, servitude or forced labour, provided that forced labour shall not include work normally required of someone carrying out a sentence of a court, nor military service or national service by a conscientious objector, nor services required in the case of calamity or serious emergency, nor any work which forms part of normal civil obliga-

Punishment

(I)

3. No one shall be subject to torture or to inhuman or degrading treatment or punishment.

Article 4 : The right to mental and physical integrity.

(LC)

- (b) No one shall be subjected to mental or physical torture, assault or inhuman or degrading treatment.
- (c) No exceptional circumstances whatever, whether a state of war or threat of war, internal political instability or any other public emergency or any order given by a superior officer or by any person holding office in government, shall serve as justification for acts mentioned in paragraph (b).

Article 7 : The rights of an accused person.

- (g) not to be sentenced to an inhuman or degrading punishment;

Article 2.

(ANC)

PERSONAL RIGHTS

6. No-one shall be subjected to torture or, cruel, inhuman or degrading treatment or punishment.

Freedom of opinion and expression

(T)

11. (1) Everyone shall be entitled to freedom of opinion and expression, which includes the freedom to hold opinions without interference and to seek, receive and impart information and ideas.

Article 12 : Freedom of speech.

(LC)

Everyone has the right to freedom of speech and other forms of expression and to obtain and disseminate information.

Article 24: Political rights.

Every citizen has the right -

- (b) to give expression to his or her political convictions in a peaceful manner; and

Article 4.

(ANC)

**FREEDOM OF SPEECH, ASSEMBLY
AND INFORMATION**

1. There shall be freedom of thought, speech, expression and opinion, including a free press which shall respect the right to reply.

Article 5.

**RIGHTS OF ASSOCIATION, RELI-
GION, LANGUAGE AND CUL-
TURE**

Creative Freedom

10. There shall be freedom of artistic activity and scientific enquiry, without censorship, subject only to such limitations as may be imposed by law in accordance with principles generally accepted in open and democratic societies.

(I)

Ethnic, religious, linguistic, cultural and educational rights

8. (1) A person belonging to an ethnic, religious or linguistic group shall not be denied the right to enjoy his own culture, to profess and practise his own religion or to use his own language.

Freedom of thought, conscience and religion

10. (1) Everyone shall be entitled to freedom of thought, conscience and religion and to change his religion or belief, to manifest his religion or belief in worship, teaching, practice and observance, whether alone or in community with others, in public or in private.

Article 18 : Religious, linguistic and cultural rights.

(LC)

Everyone has the right, individually or in community with others, freely to practise the religion and culture and freely to use the language of his or her choice, so that there shall be no prejudice to or favouring of anyone on account of his or her religion, culture or language.

Article 5.

(ANC)

RIGHTS OF ASSOCIATION, RELIGION, LANGUAGE AND CULTURE

Freedom of Religion

2. There shall be freedom of worship and tolerance of all religions, and no State or official religion shall be established.

Freedom of movement

(I)

9. Everyone lawfully present in the Province, shall be entitled to freedom of movement and residence within the borders of the Province.

Article 15 : Freedom of movement.

(LC)

Everyone has the right to move freely within South Africa and to reside, to work or to engage in any lawful business, occupation, trade or like activity at any place therein.

Article 16 : Passports, citizenship, exile or expulsion and emigration.

- (c) not to be exiled or expelled from South Africa; and
- (d) not to be prevented from emigrating.

Article 2. (ANC)

PERSONAL RIGHTS

The Right of Movement

31. Everyone shall have the right to move freely and reside in any part of the country, to receive a passport, travel abroad and to emigrate or return if he or she so wishes.

Freedom of association

(I)

- ✓12. (1) Everyone shall be entitled to freedom of peaceful assembly and to freedom of association with others, including the right to form and to join trade unions for the protection of his interests, and no one may be compelled to belong to an association.

Article 17 : Freedom of association.

(LC)

Everyone has the right to freedom of association, which means, inter alia, that no legislation or executive or administrative act shall -

- (a) debar or restrain individuals or groups from associating with other individuals or groups;
- (b) compel individuals or groups to associate with other individuals or groups;
- (c) directly or indirectly make available to an individual who or a group which on the ground of race or colour refuses to associate with any other individual or group, any public or state funds to foster the creation or maintenance of such discrimination or exclusion.

Article 5.

(ANC)

RIGHTS OF ASSOCIATION, RELIGION, LANGUAGE AND CULTURE

Freedom of Association

1. There shall be freedom of association, including the right to form and join trade unions, religious, social and cultural bodies, and to form and participate in non-governmental organisations.

Freedom of association

(1)

✓12.

- (2) Everyone shall be free to form or to join political parties in order to participate in periodic and free elections, which shall be held by secret ballot or by equivalent free voting procedures.

Article 24: Political rights.

(LC)

Every citizen has the right -

- (a) freely to form and to be a member of political parties: Provided that no one shall be compelled to be a member of a political party or to take part in the activities thereof;

Article 3.

(ANC)

POLITICAL RIGHTS

6. All citizens shall have the right to form and join political parties and to campaign for social, economic and political change, either directly or through freely chosen representatives.

I

Enforcement of rights and freedoms

15. (1) The rights and freedoms protected in this Bill of Rights are binding on the legislature, the executive, the judiciary and all government institutions in the Province insofar as they fall within the purview of and flow from the powers and functions devolved on the Province and any person may forthwith apply to the Supreme Court or to other competent authorities provided for in the Constitution by appropriate proceedings or by petition to enforce these rights and freedoms.
- (2) The Supreme Court shall have the power to make all such orders as may be necessary and appropriate to secure to the applicant the enjoyment of any of the rights conferred by the provisions of this Bill of Rights: Provided that if at the commencement of this Constitution there are laws in existence in the Province which fall within the purview of the powers and functions bestowed on the Province and which are inconsistent with this Bill of Rights, such laws may, after the lapse of one year after the commencement of this Constitution and on application to the Supreme Court be declared void to the extent of such inconsistency.

LC

Article 35 : Testing right of the courts.

- (a) Any law, enactment or regulation of whatever nature of any legislative body in South Africa or any executive or administrative act which violates any of the rights set forth in this Bill or which exceeds any of the circumscriptions or suspensions herein permitted shall to the extent of such violation or excess be invalid.
- (b) Any court in which an alleged violation or excess as referred to in paragraph (a) hereof is raised shall be competent to pronounce judgment thereon.
- (c) The Constitutional Chamber of the Appellate Division shall hear all appeals before the Appellate Division in which, in the opinion of the Chief Justice, the only or main issue or issues arise from the provisions of the bill of rights, the other provisions of the Constitution Act, the Constitution in general and executive or administrative acts. The Chief Justice shall therefore place all appeals to the Appellate Division on the roll of either the General Chamber or the Constitutional Chamber.
- (d) Any individual, juristic person or association has the capacity on behalf of himself or herself or itself or any other individual or any group or class of persons to test, by virtue of the provisions of this Bill, the validity of any legislative, executive or administrative act by applying to the appropriate Division of the Supreme Court for a declaratory order notwithstanding the fact that the applicant is able to prove only an indirect interest or indirect prejudice.