

PROVISIONAL THOUGHTS ON LIMITATIONS TO THE RIGHT TO PROCREATE

JA Robinson*

SUMMARY

The constantly increasing human population results in severe ecological, psychological, political, economic and sociological ramifications. These negative implications raise the question whether the constitutionally entrenched right to make decisions concerning reproduction may be limited, as the continued existence of the State may ultimately be jeopardised if the population is not kept "[d]own to the means of subsistence". An analysis of relevant constitutional provisions shows that in essence it is the "inner sanctum" of the individual which is shielded from erosion by conflicting rights of the community, and that the outward manifestation of the right (procreation) may indeed be limited. However, the so-called Chinese experience shows that negative measures have the desired results but also had a severe non-intended impact on the social and economic situation in China. It is suggested, therefore, that positive measures (eg proper education and social provision) be considered to limit population growth.

KEYWORDS: Limitation of rights; right to procreate; overpopulation; limitation of the right to procreate; procreation.

* JA (Robbie) Robinson. B Iur LLB (PU for CHE) LLM (NWU) LLD (PU for CHE). Professor in the Faculty of Law, North-West University (Potchefstroom). Email: robbie.robinson@nwu.ac.za. My thanks to the South African National Research Foundation for its generous financial support that partly enabled this research. It goes without saying that all errors are my own.