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CONSTITUTIONAL ASSEMBLY

*SUBTHEME COMMITTEE 6.1
SPECIALISED STRUCTURES OF GOVERNMENT*

ELECTION COMMISSION

MONDAY, 5 JUNE 1995 - GOOD HOPE CHAMBER

11h00

DOCUMENTATION

Embargoed until 11h00
1 June 1995

CONSTITUTIONAL ASSEMBLY

**TWENTY FIRST MEETING OF THEME COMMITTEE 6.1
SPECIALISED STRUCTURES OF GOVERNMENT**

ELECTION COMMISSION

THURSDAY, 1 JUNE 1995

Please note that a meeting of the above Committee will be held as indicated below:

DATE : Monday, 5 June 1995
TIME : 11h00
VENUE : Good Hope Chamber (Good Hope Building, Parliament, Cape Town)

AGENDA

1. Opening and Welcome
2. Public Hearing: Election Commission (Independent Election Commission - Judge Kriegler)
3. Adoption of minutes held on 22 June 1995 (pp. 2-3)
4. Election Commission Report - Technical Advisors (pp. 4 - 53)
5. Parties' Submissions
6. Work Programme
7. Constitutional Public Meetings (p. 55)
7. Any Other Business
7.1 Invitation to Public Hearing: Theme Committee 1 (pp. 56 - 58)
8. Date of Next Meeting
9. Closure

**HASSEN EBRAHIM
EXECUTIVE DIRECTOR**

Enquiries: Nkateko Nyoka or Saaliegah Zardad (Tel: 245031 X 2241 or 403 2267)

**Embargoed until 11h00
5 June 1995**

CONSTITUTIONAL ASSEMBLY

MINUTES OF THE NINETEENTH MEETING OF SUBTHEME COMMITTEE 6.1

**THEME COMMITTEE 6
SPECIALISED STRUCTURES OF GOVERNMENT: ELECTION COMMISSION**

MONDAY, 22 MAY 1995

PRESENT

Vadi, I (Chairperson)

De Beer SJ
Dexter P
Jordaan JA
Mkwayi W
Mokitlane MC
Watson A

Observers:

Ebrahim EI
Pretorius IJ
Sikakane MR

Apologies:

Skweyiya ZST

Harris P, Pillay D, Nyoka N, Rosenthal R and Zardad S were in attendance.

1. OPENING AND WELCOME

Mr Vadi opened the meeting at 16h20 and welcomed members.

2. WORKSHOP: ELECTION COMMISSION REPORT

2.1 The meeting agreed that the Technical Committee would prepare a synthesis report based on the proceedings and deliberations of the two workshops on the Election Commission held on the 15 May and 22 May 1995, respectively. The workshop report would provide a broad framework for discussion by the Subtheme Committee.

**Embargoed until 11h00
5 June 1995**

2.2 The meeting agreed that Tuesday, 30 May 1995, would be the deadline date for the technical committee to submit a workshop report and that the report would be distributed to members prior to the next meeting.

2.3 The secretariat agreed to contact Justice Kriegler (IEC) and the European Parliamentarians for (Southern) Africa (AWEPA) to present evidence at the next meeting.

3. PARTIES' SUBMISSIONS

The meeting agreed that Monday, 29 May 1995, would be the deadline date for parties' submissions on the Election Commission.

4. ANY OTHER BUSINESS

4.1 Constitutional Public Meetings

Attendance at the outstanding Constitutional Public Meetings will be finalised at the next meeting.

5. DATE OF NEXT MEETING

The date of the next meeting is as follows:

DATE: 5 June 1995

TIME: 11h00 - 13h00

VENUE: Good Hope Chamber (Good Hope Building, Parliament, Cape Town)

6. CLOSURE

The meeting rose at 17h00.

**Discussion document arising from workshop on
Constitutionalising the Election Commission held on
22 May 1995, E249 New Wing, Parliament, Cape Town**

1. INTRODUCTION

This document summarises the critical questions relevant to legislating for the Elections Authority (EA). To facilitate the debate, the views of the international experts expressed at the Workshop and comparison with other jurisdictions have, where appropriate, been crystalised.

2. What structure should be responsible for the national elections?

Broadly two options are under consideration :-

OPTION 1 :

A Government department with civil servants in charge.

OPTION 2 :

An Elections Commission.

The experts recommend an Election Commission. Option 1 is more successful in mature administrations which enjoy the confidence of the

electorate. Option 2 is recommended in new democracies, those in transition or those breaking from colonial traditions. Whatever the structure, it must be and be seen to be independent and impartial. Generally the civil service is not perceived to have these qualities primarily because of its allegiance to the government in power.

Other jurisdictions:

Most Commonwealth countries (e.g. Malawi, Namibia, Zambia, Canada, Australia, India) have an Elections Commission as opposed to a Government department. Eastern European countries in transition such as Romania, Poland, Hungary, Slovenia, Czechoslovakia and Bulgaria established commissions during the 1989-1990 round of elections.

Countries such as Gambia, Botswana, England, Denmark and most French speaking African states rely on a Government department to supervise the elections. Most Western European countries have their election authority located in a government ministry, usually the Ministry of Interior.

3. Should provision for the Elections Authority (EA) be made in the Constitution or in general laws?

The experts recommend that the EA be established in the Constitution. However, constant tinkering with the Constitution will not inspire confidence or stability. Consequently, the Constitution should provide a basic framework. Matters of detail should be covered in the general election laws (statutes,

regulations and proclamations).

Other jurisdictions:

The Zambian Constitution establishes its Electoral Commission. However, the Commission's composition, status and functions are set out in the Electoral Commission Act. In Namibia, the Commission is established in its Electoral Act of 1992.

4. QUALITIES OR CHARACTERISTICS OF THE ELECTION AUTHORITY :

The Election Authority should be : -

- 4.1 Free from Government interference?
- 4.2 Politically skilled but free of political influence?
- 4.3 Independent?
- 4.4 Impartial?
- 4.5 Efficient?
- 4.6 Autonomous?
- 4.7 Flexible?
- 4.8 Other ?

5. THE PROCESS OF CONSTITUTING THE EA

The process of establishing the Elections Authority must be acceptable to the

DRAFT DISCUSSION DOCUMENT THEME COMMITTEE 6.1 : ELECTIONS D PILLAY

electorate, not merely the political parties. In most countries, the President appoints persons to the Elections Authority. Such appointments are made after a process of engagement with the political parties. In the USA, it is only the major political parties who participate in the selection process. The aim is to prevent the proliferation of small parties and their potential to manipulate the establishment of the Elections Authority.

- 5.1 **Should the State President appoint persons to an Elections Authority after engaging in a participatory process with political parties?**
- 5.2 **If so, what form then should that participation take?**
- 5.3 **If not, how should the EA be constituted?**
- 5.4 **What role, if any should Parliament have in the appointment process?**

6 THE COMPOSITION OF THE ELECTIONS AUTHORITY :

Should the Elections Authority be made up of : -

- 6.1 **Civil servants?**

- 6.2 Judges?**
- 6.3 Designated representatives of political parties?**
- 6.4 Election experts?**
- 6.5 Other?**

Most commonwealth countries recruit their Electoral Commissioners from the judiciary, the clergy and other institutions in civil society. Judges head the Election Commission in Australia, Pakistan, Tanzania, Zimbabwe, Zambia, Namibia, Kenya and in the United Kingdom, the Deputy Chairpersons of the various boundary commissions are judges.

7. How many persons should make up the Elections Authority?

The experts recommend 3 to 11 persons. India's Election Commission is a constitutional authority made up of a single member; its constitution allows for an unspecified number of election commissioners to be appointed.

8. Should the Elections Authority be representative of the South African population in terms of race and gender?

9. Should the Elections Authority be serviced by an Elections Management/Directorate?

An Elections Management/Directorate is responsible for operations in countries such as Zambia, Australia, Canada and India. This is a body of civil servants responsible for carrying out the decisions of the Electoral Elections Authority and for implementing its regulations.

10. POWERS AND FUNCTIONS OF THE ELECTIONS AUTHORITY :

Should the powers and functions of the Elections Authority be : -

10.1 Operational?

10.2 Educational?

10.3 Adjudicative?

10.4 Legislative?

10.5 Monitoring?

10.6 Supervisory?

10.7 Other?

11. Should the functions of the EA be :

11.1 detailed in the Constitution?

11.2 in broad framework in the Constitution?

11.3 not in the Constitution at all?

11.4 detailed in general laws (eg the Electoral Act)?

The experts' comments in general about legislating for an EA above apply.

12. Should the Elections Authority be allocated its own budget for which it will be accountable?

Having budgetary control over the entire electoral process would increase the Election Authority's ability to be and to be seen to be independent (Justice B M Bwalya).

The financing of the Election Authority is usually by the Government.

13. APPOINTMENT AND TERMS OF OFFICE OF PERSONS APPOINTED TO THE ELECTIONS AUTHORITY :

13.1 Should the Elections Authority be permanent or ad-hoc?

13.2 Should the persons appointed to the Elections Authority be engaged :

13.2.1 on a full-time basis?

13.2.2 on a part-time basis? or

13.2.3 some on a full-time and others on a part-time basis?

The experts advise that term of office should be for such a duration that it is possible to develop a core of persons with election skills and provide them security of tenure. A permanent EA is recommended. It should be made up of full time and ad hoc members. Full time members must be of such a number as may be productively employed from one election to the next and be affordable.

The Elections Commission in Zambia has a skeletal staff. During elections the Commission relies on temporary staff from the Public Service and the banks.

13.3 Should persons appointed to the Elections Authority hold political office before, during or after their appointments?

13.4 What restrictions, if any, should be placed on appointees to the EA on holding political office?

14. REMOVAL FROM OFFICE :

The Indian Election Commissioners may be removed from office in a like manner and on the same grounds as the judge of the Supreme Court. (Chesoni). In Namibia although there is no specific provision as to security of tenure, a member of the Electoral Commission vacates office only if :-

- 14.1 he/she resigns in writing from his/her office;
- 14.2 such member is convicted of an offence and sentenced to imprisonment without the option of a fine;
- 14.3 such a member is by reason of his/her physical or mental illness or for any other reason incapable of acting as a member of the Commission;
- 14.4 such a member is removed from office by reason of his/her misconduct by the President, with the approval, by resolution, of the National Assembly.

15. CONCLUSION

DRAFT DISCUSSION DOCUMENT THEME COMMITTEE 6.1 : ELECTIONS D PILLAY

In legislating for elections there must be compliance with international standards and public international law. The foremost treaties which bear on the elections include

- 15.1 Article 21 of the 1948 Universal Declaration of Human Rights,
- 15.2 Article 25 of the 1966 Covenant on Civil and Political Rights,
- 15.3 the European Convention on Human Rights, Protocol 1, Article 3,
- 15.4 the UN General Assembly Resolution 46/130 on "Respect for the Principles of National Sovereignty and Interference in the Internal Affairs of States in their Electoral Processes", and
- 15.5 Section 7 of the "Copenhagen Document".

CHEADLE THOMPSON & HAYSOM

TELEFAX TRANSMISSION SHEET

DATE: 30 MAY 1995

FAX NO: (021)24-1160/1/2/3/4

FILE REF:

NO OF PAGES: 40

TO: MR ISMAIL VADI
CHAIRPERSON THEME COMMITTEE 6.1
CONSTITUTIONAL ASSEMBLY
CAPE TOWN

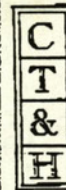
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**CHEADLE
THOMPSON
& HAYSOM**
ATTORNEYS, NOTARIES & CONVEYANCERS

30 May 1995

Mr Ismail Vadi
Chairperson
Theme Committee 6.1
Constitutional Assembly
CAPE TOWN

FAX: (021)24-1160/1/2/3/4

Dear Mr Vadi

re: **TECHNICAL INPUT**

I would like to take this opportunity to thank the Committee in relation to my appointment as a technical expert to Theme Committee 6.1. It will be an honour and a privilege to assist the Committee in so far as I am able.

During the course of last week I was requested by the managing secretary of Theme Committee 6.1 to prepare a document which would summarise the various presentations of the local and international experts to Theme Committee 6.1. In addition, I was requested to crystallise the issues raised by them for analysis by the Committee.

I have spent some considerable time doing this and hope that the document is appropriate for your needs. The document, as you will see, it is a lengthy one, however the issues that your Committee are addressing are complex and cannot be glossed over.

I would also like to extend my apologies for the fact that I will not be able to attend the presentation of Judge Kriegler on the 5th of June 1995. I have been requested by the Electoral Assistance Division of the United Nations to coordinate their operations team in the Haitian election which is due to be held on the 25th of June. I will return to South Africa on the 26th of June 1995.

PARTNERS: MH Cheadle BA(Hons) BProc LLB, NM Maseko BA LLB, FM Soudy BA LLB LLM, PJ Harris BA LLB LLM, PS Benjamin BA LLB LLM,

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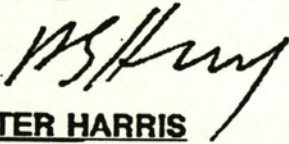
Page 2.

I will, however, be available at any time and am contactable by telephone or fax, through my assistant, Suzanne O'Donnell, whose numbers are listed above. If there are any requests of the Committee in terms of documentation, advice or assistance, please do not hesitate to contact Ms O'Donnell who will immediately make contact with me and I shall comply with your request as soon as possible.

I have confirmed my attendance at the meeting of the 29th of June 1995 with the managing secretary.

If you require any assistance or information please do not hesitate to contact me.

Kind regards



PETER HARRIS

MEMORANDUM

**TO: THEME COMMITTEE 6.1 OF THE CONSTITUTIONAL ASSEMBLY
REPUBLIC OF SOUTH AFRICA**

FROM: PETER HARRIS (TECHNICAL EXPERT)

DATE: 29 MAY 1995

re: AN ELECTORAL ADMINISTRATION - A SYNOPSIS

1. INTRODUCTION

1.1 I have been requested to summarise the presentations made to Theme Committee 6.1 of the Constitutional Assembly and thereafter crystallise the issues arising from those presentations and debates. I shall also detail the concerns and/or fears raised by representatives of the political parties in discussions during the course of the two sessions held on Monday, 15 May 1995 and Monday, 22 May 1995 in Cape Town.

1.2 The issues facing Theme Committee 6.1 in terms of a decision and resolution regarding the most appropriate form and location of an electoral administration are of great importance and hold significant consequences for the democratic process in South Africa. Larry Garber states:

"The establishment of a legitimate electoral process begins with the adoption of an election law and the designation of a body responsible for administering the election"

(L Garber, Senior Associate for Electoral Processes, National Democratic Institute)

Carl Dundas states:

"The primary objective of an interim administration must be delivery of free and fair election services to the electorate. It therefore has to undertake its function in an impartial and efficient manner, therefore it must ensure that the integrity of each electoral process is adequately safeguarded from incompetent electoral officials and fraudulent manipulators. It is the business of those in charge of the administration to get the organisation and conduct of an election right the first time; for not to do so, even with respect to the simplest election task or activities, may not only adversely effect the quality of the services delivered to the electorate, but may put at risk the public perception of the competence, and even the impartiality of those who administered the election machinery". (Carl W Dundas "Organising Free and Fair Elections at Cost Effective Levels" Commonwealth Secretariat, June 1994, page 40).

- 1.3 In presenting a synopsis of the presentations to Theme Committee 6.1, it must be stressed that many of the inputs were lengthy and very technical in nature. It is not intended to go into detail in the areas which do not specifically, at this stage, have to be addressed by Theme Committee 6.1. Consequently, I will not deal with such technical areas as types of electoral registers, logistics, operational planning and other detailed functions. These aspects should be covered in subsequent legislation which would ensure the structure and mechanics of conducting and implementing an electoral process which is free and fair.
- 1.4 The essential questions which this Committee asked its local and international experts were:

1.4.1 What body should be charged with the responsibility of supervising and organising an election?

1.4.2 What form should that body take?

1.4.3 Where should this body be located?

1.5 Once the above have been decided, if only in principle, the obvious question is "Should the results of these decisions be contained in the Constitution?". If the answer is yes, then the amount of detail to be included in the Constitutional Provisions should be discussed and decided upon.

2. CAVEAT

It must be understood that the writer is merely summarising the extensive presentations given by the experts and clarifying the issues raised by the Committee. The purpose of this memorandum is NOT to propose one system of electoral administration above another, but rather to summarise the voluminous documents by identifying key elements in the electoral process and detail trends in the international arena which may influence the current debate. Ultimately, it is appreciated that this Committee must make the necessary recommendations which will go before the Constitutional Assembly for further discussion and debate.

3. **CURRENT LEGAL FRAMEWORK**

- 3.1 The papers presented by the Department of Home Affairs, the Department of Justice and Peter Harris all confirmed that:

"The present Interim Constitution of the Republic of South Africa (1993) does not specifically provide for an electoral administration or delegate responsibility to any particular agency in relation to that election. Reference is made in Schedule 2 of the Interim Constitution to the Independent Electoral Commission, which Commission was established in terms of the Independent Electoral Commission Act, 1993 and the Electoral Act, 1993. In so doing, the legislation only provides for the elections which took place on the 27th of April 1994 and possible subsequent referenda on provincial boundaries.

Consequently there is, at present, no legal framework for the managing and conduct of an electoral process at a national and provincial level in the country.

It is necessary that before any provision is made in the Constitution or in any subsequent legislation that there should be absolute clarity and understanding in relation to the nature and principles which comprise a free and fair electoral process and the most competent or appropriate institution to manage that process. A decision therefore needs to be made as to the nature of the electoral administration that should manage and conduct national and provincial elections in South Africa and, more particularly, the level of autonomy of that body. Depending upon the decision taken in this regard, specific provisions in relation to the autonomy or otherwise of an electoral administration should be enshrined in the new constitution".

(Harris: An Electoral Administration, 15 May 1995)

4. **KEY ELEMENTS**

- 4.1 All of the presentations by the local and international election experts detailed certain critical factors which are viewed as essential to a free and fair electoral process. These factors and characteristics were discussed in differing degrees

of detail by the experts and the Committee and should receive consideration when answering the questions posed in paragraph 1.4 above. These critical features are:

- 4.1.1 Independence;
- 4.1.2 Impartiality;
- 4.1.3 Efficiency;
- 4.1.4 Professionalism;
- 4.1.5 Impartial and speed adjudication;
- 4.1.6 Stability;
- 4.1.7 Transparency;
- 4.1.8 Accountability.

4.2 These features will not be discussed in detail as they are fully dealt with in the paper of Harris presented on the 15th of May 1995, copies of which were supplied to the Committee.

4.3 In addition to the above, Keith Klein of the International Foundation for Electoral Systems, in his address of the 22nd of May 1995, details certain other important features of a democratic electoral process, namely, an electoral process should be:

- 4.3.1 Predictable, ruled by law commonly understood and universally applied;

4.3.2 Protected by checks and balances of law and political culture from manipulation that would subvert the free expression of the popular will;

4.3.3 Exhibit an overriding concern for the greater public good, as opposed to the good of special interests;

4.3.4 Able to balance the demands of the public at large with the imperative of respecting the demands and rights of individuals, of the marginalised and of the disadvantaged;

4.3.5 Ultimately, a nation building exercise, rather than a divisive one.

4.4 Patricia Keefer of the National Democratic Institute went into some detail in her presentation in relation to the various checks and balances which can be developed to protect particular aspects of an electoral administration and process. In this regard, she referred to the Federal Election Commission (FEC) of the United States, which "has a very narrow mandate - the enforcement of laws in relation to the funding of election campaigns of political parties. Created in the wake of the so-called 'Watergate scandal' of 1972, it was hoped to be an independent body that would regulate the influence of money in the political process". This is an example of the kind of mechanisms which can be created to satisfy particular concerns of political parties and/or the electorate.

4.5 The presentation of the International Federation for Electoral Systems (IFES)

also referred to certain other important features of electoral processes which must be borne in mind when coming to any decision pertaining to the type and location of any electoral body. In doing so, IFES posed the question:

"WHAT ARE THE DEMANDS THAT ELECTIONS, BY THEIR NATURE, PUT ON ELECTION ADMINISTRATORS?"

- 4.5.1 Elections are both **national** and **local** events. They require a centralised effort that is able to reach into every nook and cranny of a country.
- 4.5.2 Elections are **high pressure** events. Once an election date is set, election administration is nothing but meeting a series of deadlines. The political penalties of not meeting those deadlines is high, both for election administrators and for government.
- 4.5.3 Elections are **high stakes** events. The credibility of elections is tied to national stability. The winning and losing of elections is tied to personal and political party power. The competitors in an election have a strong interest in applying pressure on election administrators to bend the rules in their direction.
- 4.5.4 Elections are **high budget** events. The administration of elections requires that a lot of money be spent quickly and in a very decentralised manner. Good election administration requires the capacity to spend money economically, efficiently and without fraud.
- 4.5.5 Elections are **periodic** events. National elections usually take place over widely spaced intervals. Election administration at the time of elections requires an enormous short-term staff. It requires the ability to down-scale sufficiently between elections to the point where the election authority is appropriately staffed for its between election tasks.
- 4.5.6 Election administration is much more **publicly orientated** than many other government functions.
- 4.5.7 Election administration is **specialised**. There is no other government function that is quite like preparing for elections, except maybe preparing for war. It requires the mobilisation of tens of thousands of people on a precise and unforgiving time table. It also requires moving a myriad of forms and other supplies and equipment to thousands of different locations. Boundary demarcation, voter registration and many other

technical duties of the election authorities, are also specialised tasks."

The above then are the key elements and characteristics of an impartial and efficient electoral process.

5. FUNCTIONS OF AN ELECTORAL ADMINISTRATION

5.1 The next aspect which must influence any decision in relation to the structure, responsibilities and location of an electoral administration are the general functions of the body conducting and managing the electoral process.

5.2 Larry Garber in his paper "Election Commission: Responsibilities and composition" 1993, page 198, lists eight functional divisions which an electoral commission must establish:

5.2.1 a personnel division to recruit and train officials throughout the country;

5.2.2 a financial division to manage the budget;

5.2.3 a legal division for drafting regulations, developing procedures and evaluating complaints;

5.2.4 an investigative division to review complaints;

5.2.5 a logistical division responsible for communications and distribution of election paraphernalia;

5.2.6 a data processing division for estimating quantities of materials and tabulating results and statistics;

5.2.7 an information and publicity division to develop education programmes

and to disseminate decisions taken by the Commission; and

5.2.8 a liaison division with the task of interacting with government and independent agencies.

5.3 To facilitate a greater understanding of electoral structure and functions, I have annexed an organogram compiled by the Commonwealth Secretariat, marked Annexure "A". The organogram details a basic structure of an efficient electoral administration.

6. EXTENT OF FUNCTIONS

6.1 It must however be understood that the extent to which electoral bodies around the world perform all or only some of the functions detailed above varies from country to country. By way of illustration, in many countries, the adjudication of electoral disputes and complaints is handled by a completely separate structure. In other countries it is included in the general responsibilities of the electoral body. Many countries have separate "demarcation committees" which, *inter alia*, determines the boundaries of constituencies. Furthermore, the division of responsibilities and functions can take the form of having a supervisory or monitoring body while all of the administrative functions are undertaken by a government ministry or department. Thus, an electoral commission or body may supervise the electoral process which is then conducted by government.

6.2. Similarly, the amount of executive power given to an electoral body ranges from merely supervising and reporting on the electoral process to executive and directory power over the entire process. In certain countries, the entire process is handled by an electoral commission while in others it is entirely the responsibility of government. It is critical to remember, that there are numerous variations on the above, depending upon the circumstances and democratic culture of the country concerned.

7. THE LOCATION OF THE ELECTORAL BODY

7.1 Once the possible functions of an electoral body have been considered, it then becomes necessary to determine where that body should be situated. This question is inextricably linked to the section which has just been dealt with. At the crudest level of the debate there are the two opposite options, namely, locating the responsibility for running the electoral process in government or completely outside government in an electoral commission. As stated above, the variations on the above are substantial and depend upon a variety of facts and circumstances.

7.2 In reviewing the nature and relative autonomy of electoral administration in other countries, it is possible to arrive at four basic categories of electoral administration. These models are detailed by the National Democratic Institute and elaborated upon by Harris.

7.2.1 Government approach

The first model is that the electoral body be located within a government ministry and be charged with the responsibility to conduct and manage elections and utilise the full resources of that ministry and the civil service to achieve the task. This system works well where the civil service is respected as professional and politically neutral.

7.2.2 Judicial Approach

A variation on the above is to assign the judiciary or selected judges responsibility for administering the elections. In essence, a government ministry should be tasked with the conduct of the electoral process but be supervised by an independent electoral commission consisting of selected judges, such as is the case in Pakistan and Rumania. The task of the commission would be to oversee and monitor the conduct of the electoral process by the relevant government ministry. This could also be described as a "supervisory" approach.

7.2.3 Expert Approach

The third model is that an independent electoral commission be established which is directly accountable to a parliamentary committee and to Parliament, which commission would utilise government resources in the provincial administrations and local authorities. Such a body would be financially independent but subject to stringent financial controls determined by Parliament. The commissioners selected should

be based on a consensus of the political parties contesting the elections and be individuals with the relevant experience and expertise and who also have a reputation for independence and integrity. Generally, such independent commissions range in size from three to eleven members.

7.2.4 Multi Partisan approach

A fourth model is to have all registered political parties designate representatives to the national election commission. This assures that various interests are represented on the commission and that each party can exercise some form of oversight concerning the operation of the Commission. The problem associated with this approach is that in transitional situations, the number of parties often proliferates, thereby resulting in an unwieldy and ineffective commission. Secondly, the commission may be comprised of individuals who lack the requisite skills and/or experience to ensure effective operation of the commission.

7.3 It will be noted that the one common factor in all of these approaches is that the resources of the state, in terms of government capacity at a national, provincial and local level, are utilised. It is only the location of the element of control and executive authority that would appear to be at issue. On the other hand, it must be stated that in certain countries, such as Costa Rica and in South Africa's first democratic election of 27 April 1994, the commission had the responsibility for organising everything in the election which included providing the resources for the elections.

- 7.4 Clearly, the fact that any given country may adopt a variation on any of the above systems, as is stressed above, will depend upon a number of factors peculiar to the country itself. Certain of these factors will be dealt with in the conclusion.

8. **INTERNATIONAL TRENDS**

- 8.1 To further assist the Committee, a brief summary of international trends in relation to election administration is detailed, taking certain key points from the presentations of the various speakers to the Committee. Frequently, and in particular, in established democracies, electoral administration is handled by national and local government officials and disputes are settled by ordinary courts, having a tradition of fairness and neutrality, all of whom enjoy the confidence of the electorate on that count alone.

- 8.2 However, things are changing, and particularly with emerging democracies, it is now accepted that "at a practical administrative and oversight level, the institution of an independent electoral commission is now widely adopted as an important step in building traditions of independence and impartiality, and the confidence of the electorate and parties alike" (Free and Fair Elections in International Law" by Guy S Goodwin - Gill MA, DPhil Oxon, Professor of Law, Geneva 1994).

8.3 Africa

In Africa the trend is towards establishing electoral commissions which have varying degrees of autonomy in terms of their relationship with the government of the day. The following African countries have electoral commissions. In this respect, it should be noted that it is not clear as to the precise relationship of many of the electoral commissions detailed below to their governments and their functions and powers are not specified.

8.3.1 COUNTRY	BODY
i) ANGOLA	NATIONAL ELECTORAL COMMISSION
ii) BENIN	MINISTRY OF THE INTERIOR - ESTABLISHING INDEPENDENT COMMISSION
iii) BOTSWANA	ELECTORAL COMMISSION
iv) BURKINA FASO	MINISTER OF TERRITORIAL
v) CAMEROON	MINISTRY OF THE INTERIOR
vi) COMOROS	ELECTORAL COMMISSION
vii) CONGO	NATIONAL ELECTORAL COMMISSION
viii) ERITREA	ELECTORAL COMMISSION
ix) ETHIOPIA	NATIONAL ELECTORAL BOARD, PRESIDENT CENTRAL SUPREME COURT
x) GABON	INTERNAL MINISTRY
xi) GHANA	NATIONAL ELECTORAL COMMISSION
xii) GUINEA	NATIONAL ELECTORAL COMMISSION / DUAL WITH INTERNAL MINISTRY
xiii) GUINEA-BISSAU	NATIONAL ELECTORAL COMMISSION

xiv)	KENYA	KENYA ELECTORAL COMMISSION
xv)	LESOTHO	ELECTORAL COMMISSION
xvi)	LIBERIA	AD HOC ELECTIONS COMMISSION OF LIBERIA
xvii)	MADAGASCAR	NATIONAL ELECTORAL COMMISSION
xviii)	MALAWI	MALAWI ELECTION COMMISSION
xix)	MALI	MINISTERE DE L'ADMINISTRATION TERRITORIALE
xx)	MAURITIUS	ELECTION COMMISSION
xxi)	MOZAMBIQUE	NATIONAL ELECTORAL COMMISSION
xxii)	NAMIBIA	ELECTORAL COMMISSION
xxiii)	SAO TOME	NATIONAL ELECTORAL COMMISSION
xxiv)	SENEGAL	NATIONAL VOTE COUNTING COMMISSION
xxv)	SEYCHELLES	OMBUDSMAN ELECTORAL & ELECTORAL COMMISSION
xxvi)	SIERRA LEONE	INTERIM NATIONAL ELECTORAL COMMISSION
xxvii)	SWAZILAND	ELECTORAL COMMISSION
xxviii)	TANZANIA	TANZANIAN ELECTORAL COMMISSION
xxix)	TOGO	NATIONAL ELECTION COMMISSION / DUAL WITH INTERNAL MINISTRY
xxx)	UGANDA	INDEPENDENT ELECTORAL COMMISSION
xxxi)	ZAMBIA	NATIONAL ELECTION COMMISSION
xxxii)	ZIMBABWE	MINISTRY OF HOME AFFAIRS

8.3.2 The President of the Zambian Election Commission, Mr Justice B Bwalya, stated, in his presentation to the Committee, that he was in

favour of an electoral commission, as opposed to a government department, to organise, conduct and supervise elections. Mr Justice Bwalya stated in page 3 of his paper:

"for an election to be free and fair, it is certainly crucial to separate the role of government from that of an electoral commission. This is because the very appearance of free and fair elections would be severely compromised if the government of the day was allowed to retain control over the electoral process".

"In Zambia today there is a lot of lobbying for an independent electoral management institution, which must be detached from the mainstream of government. This is intended to achieve complete impartiality and efficiency in electoral management. This is also designed to build up confidence in the electoral system which is fundamental to the democratic process. It, therefore makes a lot of good sense to remove from the Government's reach the easy access, or even the temptation of easy access to the election management and administration so that no unfair advantage can be gained quietly by the ruling political party."

8.3.3 Mr Justice Bwalya goes further and states that the independence of the electoral body is so critical that:

"It must have an independent existence backed by law as is the case in most Commonwealth countries."

8.3.4 A valuable contribution was made by Mr Justice Z R Chesoni, the chairperson of the Electoral Commission of Kenya in his presentation to the Committee, who stated:

"The management or administrations of elections is slowly but surely occupying the centre stage in third world

democracies. It is noteworthy that in some of the Third World states, the election management agencies in the form of election commissions and the like have been in existence, although ineffective, since independence."

8.3.5 **Mr Justice Chesoni** then proceeds to assess the efficacy of a number of electoral administration systems in Africa and elsewhere. The thrust of his paper is however more on the impartiality, integrity and efficiency of the individuals involved in the process than on the precise location of the process. He does however state:

"An electoral commission, meaning an independent electoral authority consisting of a number of members who satisfy the criteria set out for appointment seems to be free from the concerns of a government department."

He then qualifies this by stating that:

"Each country is entitled to select what accords with its pathos, philosophies, culture, national diversity, population, territorial size, political and constitutional set up."

8.3.6 **Dr. Amare Tekle**, the chairperson of the Eritrean Electoral Commission quoted extensively from the Ethiopian experience and stated that, in his view, it was preferable to follow the independent electoral commission route.

8.3.7 **Professor Walter Khamba**, the chairperson of the Zimbabwean Electoral Commission stated:

"The creation of an independent electoral commission must be seen as an extension of the doctrine of separation of

powers."

8.3.8 The aspect of the efficacy and credibility of the electoral body was viewed as critical by **Professor Khamba** who confirmed that there is little point in having an electoral commission or a so-called independent body which is not given the necessary and appropriate powers to fulfil its functions. He stated that

"A commission must have and exercise its power and be seen to do so".

8.3.9 The issue of credibility was critical in Zimbabwe and **Professor Khamba** admitted that the Zimbabwean experience of an independent electoral commission had certain major flaws as it was really a reporting body rather than a body with direct power of supervision and executive authority.

8.4 Eastern Europe

In Eastern Europe countries such as Romania, Poland, Hungary, Slovenia, Czechoslovakia and Bulgaria, all established central commissions for their crucial rounds of elections in 1989 and 1990 (Nadais, "A Choice of Electoral Systems" in Garber and Djornlund, New Democratic Frontier, page 190). Russia, Latvia, Lithuania and the Ukraine also have electoral commissions.

8.5 Western Europe

8.5.1 The experience of Western Europe is that the majority of countries locate electoral administration within a government ministry. This is normally the Ministry of Interior, which has a permanent department within it which is established and charged with the responsibility of managing and controlling elections. In many of these countries this has been the practice for decades and longer. It should however also be borne in mind that in the majority of these countries, the levels of organisation and the resources of the established political parties are such that they are in a position to conduct sophisticated and detailed monitoring exercises to ensure an impartial administration of the electoral process. On the other hand, certain Commonwealth countries, such as Australia, Canada and India, as well as a number of African Commonwealth states tend to favour the adoption of an independent commission as the vehicle for the administration of the electoral processes.

8.5.2 The aspect of the relative maturity of the national political system is of importance and is dealt with in the presentation of **Kehla Shubane** to the Theme Committee on the 15th of May 1995:

"There is nothing intrinsically undemocratic about a state department running elections. Several democracies hold election which are managed in this way and there is no question about the fairness of the electoral process. In virtually all of the countries of the European Union, for example, elections are run by state departments and no credible challenge has been mounted against the fairness and legitimacy of the outcome of the election of European

Union member countries."

8.6 Latin America

8.6.1 The director of the United Nations Electoral Assistance Division, Mr Horaceo Boneo, was invited by Theme Committee 6.1 to be part of the international presentation on the 22nd of May 1995. Mr Boneo was not able to be present in person, however he did submit a paper and additional documentation to assist the Theme Committee in its process. The details listed below pertaining to Latin America are taken from the paper of Mr Boneo and are of substantial value.

8.6.2 Latin American countries have a long history of electoral administration which pre-dates similar reforms in Spain. As a consequence, the influence of the colonising states on election administration practice has generally been very limited and has led to the development of a wide variety of approaches in Latin America. Furthermore, the liberalisation of political systems in the last decade has led to substantial changes in the electoral system and major electoral reforms in Latin America. Specific illustrations are Nicaragua and Costa Rica where the national electoral authorities have status as a "fourth power". In Argentina, Brazil, Chile and Uruguay, the legislation defines the electoral authority as an independent institution, but operating within the area of the judiciary. In Panama, the electoral tribunal has complete autonomy to manage its

own budget once funds have been allocated for this purpose by the Executive and approved by the Legislative Assembly.

8.6.3 The budgets of most of the electoral authorities in Latin America are prepared to cover ongoing operating costs, often related to the permanent register and for the conduct of periodic elections. The budgetary authority generally requires the approval of the Executive.

8.6.4 In Mexico, a permanent Electoral Council was established for the purpose of organising the Federal Electoral Process. There is a second body in Mexico, namely the Tribunal Federal Electoral, which has the purpose of adjudicating electoral complaints. A further important modification that took place in Mexico was the creation of an independent special prosecutor for electoral crimes.

8.6.5 The United Nations Electoral Assistance Division has very kindly compiled a list of national electoral authorities in Latin America, which list is attached hereto marked Annexure "B".

8.7 International Treaties

8.7.1 A further aspect which may be of interest to the Theme Committee, are the International Treaties on elections and human rights. Article 21 of the 1948 Universal Declaration of Human Rights sets out the basic

premises for "election rights", which were later developed in Article 25 of the 1966 Covenant on Civil and Political Rights as:

"Every citizen shall have the right and opportunity, without any of the distinctions mentioned in Article 2, and without unreasonable restrictions: (a) to take part in the conduct of public affairs, directly or through freely chosen representatives; (b) to vote and to be elected at genuine periodic elections which will be by universal and equal suffrage which shall be held by secret ballot guaranteeing the free expression of the will of the electors".

8.7.2 The European Convention on Human Rights, Protocol 1, Article 3, declares an apparently limited inter-state obligation:

"The high contracting parties undertake to hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature."

In addition, the United Nations General Assembly in Resolution 46/130 on "Respect for the Principles of National Sovereignty and Interference in the Internal Affairs of States in their Electoral Processes" seeks to reaffirm that:

"It is the concern solely of peoples to determine methods and to establish institutions regarding the electoral process, as well as to determine the ways for its implementation according to their Constitution and national legislation."

8.7.3 Fifty-six states participated in the conference on Security and Cooperation in Europe meeting on the human dimension in Copenhagen in 1990. Section 7 of the Copenhagen Document is especially

comprehensive, declaring that in order to ensure the will of the people serves as the basis of the authority of government, the participating states will:

- "1. hold elections at reasonable intervals as established by law;
2. permit all seats in at least one Chamber of the National Legislature to be fully contested on a popular vote;
3. guarantee universal and equal suffrage to adult citizens;
4. ensure that votes are cast by secret ballot or by equivalent free voting procedure and that they are counted and recorded honestly with the official results made public;
5. ensure that law and public policy work to permit political campaigns to be conducted in a fair and free atmosphere in which neither administrative action, violence nor intimidation bars the parties and their candidates from freely presenting their views and qualifications, or prevents the voters from learning and discussing or from casting their vote free of fear from retribution."

8.7.4 Professor Goodwin-Gill deals with the aspect of independence of electoral administrations:

"Even if there is no formal requirement for states to establish an electoral commission, such a measure will be required or at least preferred in particular circumstances, by reason of the operation of the principle of effectiveness of obligations. That is to say, at the moment of transition from a one-party to a multi-party system, or from authoritarian to representative rule, a representative or independent electoral commission may be the best method of inspiring voter confidence

in the integrity of the system, ensuring its efficacy as a free and fair electoral process and thereby satisfying international standards."

- 8.7.5 This would appear to be supported, to an extent, by paragraph 5.2 of the paper presented by the Department of Home Affairs, by Mr Piet Collyn:

"There are very few established democracies where elections are not administered by the State. The member states of the European Union are examples in this regard. It is, however, increasingly the trend to have independent electoral agencies in those countries in transition to democracy or where democracy has not yet stood the test of time to become a culture in itself. Such a trend perhaps best manifests itself in the Commonwealth, where even established democracies such as Canada, Australia and India have established electoral commissions. It should however, once again, not be imperative merely to follow trends but equally to consider practical requirements."

- 8.7.6 Keith Klein of IFES in his presentation on the 22nd of May stated:

"These requirements of good election administration, impartiality, independence and competence, both in fact and in appearance, strongly point, I believe, a country such as South Africa toward entrusting its election organising responsibilities to an independent commission rather than to a government department within a ministry."

9. FEARS AND CONCERNS

- 9.1 It is appreciated that the political parties will be giving their formal presentations on the 5th of June, 1995 and this section should therefore be viewed in conjunction with those presentations. Notwithstanding the above, this synopsis

will also deal with some of the fears and concerns already expressed by representatives of the political parties in past sessions.

9.2 During the course of the presentations on the 15th and 22nd of May 1995, there were numerous questions and discussions which took place. Many of the questions and discussions were of a technical nature relating to such issues as voting registers, registration and abuse of process. In addition, there were many other discussions which centred on the concerns and fears of certain of the political parties. These included, *inter alia*:

9.2.1 Concern that electoral officials be linked to and from a community rather than imposed from outside.

9.2.2 That electoral officials and structures be permanent in nature and not transient entities which come and go according to the circumstances.

9.2.3 The lack of training and indiscipline of electoral officials in recent electoral processes in South Africa.

9.2.4 The necessity for a speedy, efficient and impartial adjudication system in relation to electoral complaints.

9.2.5 The necessity to keep costs to a minimum and avoid waste and fraud.

9.2.6 The concern that one party may dominate the process.

9.2.7 The concern that there had to be complete independence and impartiality.

9.2.8 The need for coordination between the provincial and national elections was stressed as well as their relations with the local government elections.

9.2.9 The concern was expressed that legislation is urgently needed to address the fact that there is no legislative provision to enable a national or provincial election to be held at present.

9.3 It is important that each of the above fears and concerns receive attention. The value of constant consultation, communication and cooperation between the political parties and the institutions of society cannot be over emphasised in the discussion and formulation of the legislative framework of an electoral administration in South Africa. It is only after having given each of the concerns detailed above due consideration and having regard to the various options detailed in this paper that a decision in terms of the appropriate type and location of electoral body can be arrived at.

9.4 In this respect, it is imperative that if a particular fear or concern cannot be met or allayed in relation to form, structure and location of electoral administration

that a suitable safeguard or checking mechanism should be installed as part of the process to ensure that parties do not become disaffected and alienated from the process. Safeguards can include:

- 9.4.1 appointing an independent adjudicatory mechanism for complaints;
 - 9.4.2 appointing a special "demarcations committee" accountable to parliament;
 - 9.4.3 having an independent broadcasting authority for regulating the equal time and access provisions for broadcast media (in the United States this function is fulfilled by the Federal Communication Commission);
 - 9.4.4 having the Department of Census or a "Census Committee" for population counts as the basis for demarcating constituencies;
 - 9.4.5 particular aspects such as finances and budget control can be made accountable to a Parliamentary committee or body;
 - 9.4.6 the entire electoral administration can be made accountable to Parliament if necessary.
- 9.5 The Department of Justice presentation, referring to adjudicatory mechanisms stated:

"As to the question of whether an Independent Electoral Commission should be responsible for future elections, or not, I am of the opinion that an independent structure (from a public point of view) will have more credibility and that an electoral commission can act as a "watch dog" to ensure free and fair elections."

10. URGENCY

10.1 It has been stated in paragraph 3.1 above that there is at present a legislative vacuum in relation to electoral administration. It is of importance to note that there is also, at present, no capability or resources existing in any body or organisation in South Africa which will be able to conduct and manage a national election for approximately 23 million people. This is confirmed in the presentation of the Ministry of Home Affairs which states on page 4 of its presentation:

"The present structures of the Department of Home Affairs, for example, could in the past deal with the then plus minus, 5 million white, coloured and Asian voters, but could not conceivably deal with the now enlarged electorate of 23 million, given their complexity and often very difficult geographic location."

10.2 This issue, in terms of current lack of capacity, is linked to the point which is also made in the Ministry of Home Affairs' presentation, which, on page 10, states:

"... it is important that an agency be in place by the time of the local government elections in order to combine and maintain the rolls (voters) after the elections (Local Government). It is therefore regarded as very important that the principle involved be decided upon as soon as possible. If this is done the Government could be approached to consider enabling legislation which could then later be confirmed by constitutional provisions.

Several hundred million Rands could be wasted if the present efforts are allowed to lapse and if a new registration of voters has to be carried out later."

10.3 The Department of Home Affairs' presentation also deals with financial implications and recommends the utilisation of existing structures to the greatest possible extent, the creation of permanent structures to avoid re-training and re-equipping for every election, standardisation as much as possible and advocates permanent appointments as far as possible in order to ensure accountability.

10.4 Shubane, in his presentation states:

"The funding of the commission must be of such a nature that it does not compromise its independence. The commission must not, for example, be made to account to particular political incumbents. ... There is no point in demanding patent and rigorous independence from a commission when the remuneration of incumbents is such that they must find ways of supplementing whatever they receive".

11. CONCLUSION

11.1 It has not been an easy task to synthesise the key elements of the many detailed and valuable contributions that have been made to the Theme Committee. In answering the questions as detailed in paragraph 1.4 above, there are certain practical and political factors to be taken into account in the evaluation of appropriate systems. These, as detailed by Harris in his presentation are:

- 11.1.1 The relative maturity of the national political system which will include an assessment of the resilience of the national political system and democratic culture in the country;
- 11.1.2 The resources of the country (financial and material);
- 11.1.3 The potential credibility of the intended electoral body;
- 11.1.4 The potential competence of the intended electoral body;
- 11.1.5 The exigencies of electoral process, such as speed and flexibility;
- 11.1.6 The danger of interference by individuals, organisations or government with the electoral process;
- 11.1.7 The necessity to ensure an equitable distribution of capability and resources in terms of election administration throughout the country, thereby eliminating the risk and perception of elections being competently run in certain areas and not in others;
- 11.1.8 The necessity for the adoption of a long-term view in choosing an electoral system, bearing in mind the dynamic nature of society and politics. Shubane reinforces this by stating:

"It is not a decision which should be motivated by the imperatives of the

moment."

11.2 Finally, the aspects on which there appears to be consensus in terms of the international representations to the Committee are that any electoral body should:

11.2.1 Be **impartial** in that it does not care who wins or loses the elections it is administering. Its interests should primarily be in levelling the playing field in which candidates and parties will compete, in giving all voters sufficient information so that they can cast their vote in a reasonably informed manner, and in adding up votes and declaring winners without prejudice.

11.2.2 It should be an **independent** electoral authority so structured that it is not under the influence or appears to be under the influence of individuals, groups or institutions that have an interest in the outcome of the election. In addition, it should be so structured that it is protected from the influence if it is applied.

11.2.3 A **competent** election administration should have the ability to mobilise thousands of temporary staff who are competent, impartial and independent. It is flexible, efficient and effective. It is politically skilled (but not politically influenced). It gets the job done, on budget and on time.

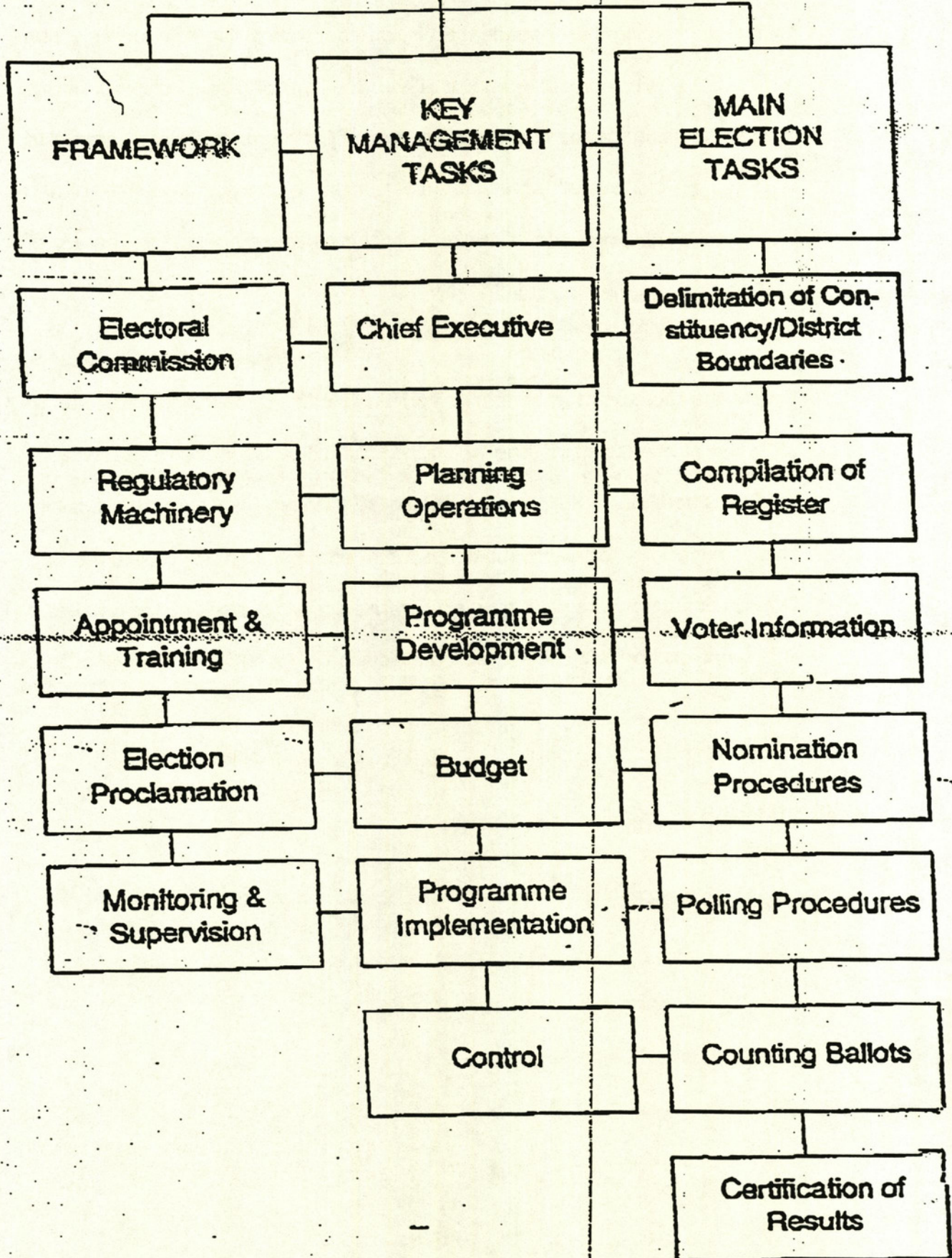
11.24 A further aspect that is of importance is that any election administration should have the **appearance** of impartiality, independence and competence. Furthermore, there appeared to be overall agreement in relation to the permanence of the electoral administration over the disadvantages of temporary or transient bodies.

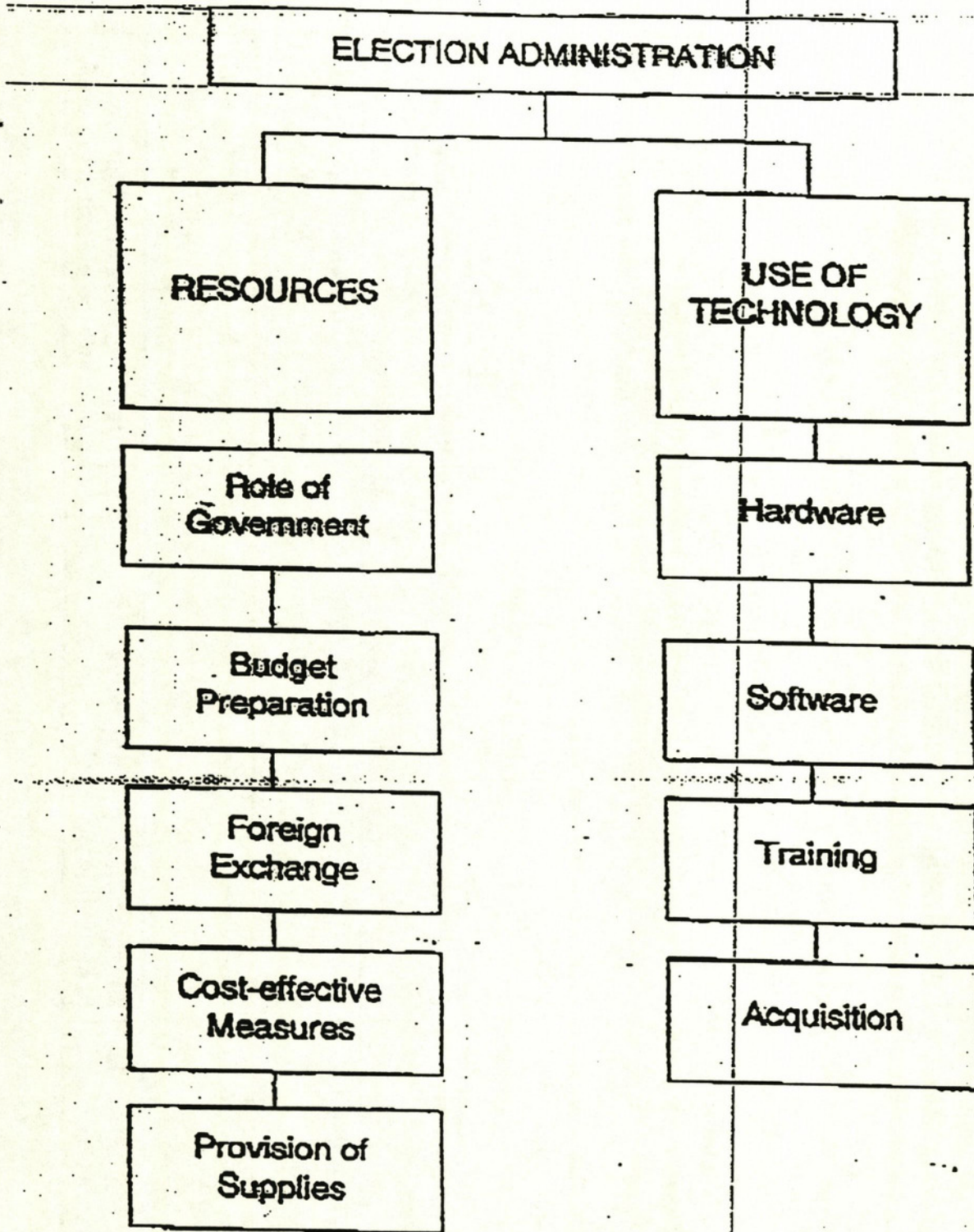
11.3 Finally, the issue as to what detail is contained in the Constitution in relation to all of the above issues, is one which the Committee will have to decide after due consideration of the facts. It should be stressed, however, that it is not always necessary to go into substantial detail and that, in many cases, a broad Constitutional provision relating to electoral issues can suffice and the detail and substance can be left to the enabling legislation.

PETER HARRIS

ANNEXURE "A"

ELECTION ADMINISTRATION





ANNEXURE "B"
NATIONAL ELECTORAL AUTHORITIES (LATIN-AMERICA)

COUNTRY	SUPREME ELECTORAL ORGAN	STRUCTURE (Number of members)	RESTRICTIONS to members belonging to a political party	RESPONSIBILITY
ARGENTINA	Camara Nacional Electoral		requested (although not explicitly)	Independent but part of the judicial power. Control to the whole process for the elections and the formation of political parties
BOLIVIA	Corte Nacional Electoral	5 vocals	only requested not to be a candidate	Monitor and guarantee the electoral process, its verdicts cannot be appealed
BRAZIL	Tribunal Superior Electoral	7 members	requested	It is the highest authority. Its verdicts are not changeable by the Justice.
CHILE	Tribunal Calificador de Elecciones	5 members	requested (although not explicitly)	To qualify the electoral process. To declare the winners, its verdicts cannot be appealed.
COLOMBIA	Consejo Nacional Electoral	7 members	not requested	Responsible for monitoring and inspecting the organisation of the electoral process
COSTA RICA	Tribunal Supremo de Elecciones	3 magistrates (6 substitutes)	not requested	Organise, direct, monitor and guarantee the electoral process.

COUNTRY	SUPREME ELECTORAL ORGAN	STRUCTURE (Number of members)	RESTRICTIONS to members belonging to a political party	RESPONSIBILITY
ECUADOR	Tribunal Supremo Electoral	7 members (7 substitutes)	not requested	Autonomous and Independent body responsible for direct, organise, monitor and guarantee the electoral process.
EL SALVADOR	Tribunal Supremo Electoral	5 members (5 substitutes)	3 magistrates representing the major political parties	Organise, direct and guarantee electoral process
GUATEMALA	Tribunal Supremo Electoral	5 magistrates (5 substitutes)	Yes	Organise, direct and guarantee the electoral process.
HONDURAS	Tribunal Nacional de Elecciones	1 President; Vice-President and two vocals (rotating each year)	not requested	Organise, direct and guarantee the electoral process.
MEXICO	Instituto Federal Electoral		not requested	
NICARAGUA	Consejo Supremo Electoral	1 President elected by the Nat. Assembly out of the 5 Magistrates of the Council	not requested	Organise, direct and guarantee the electoral process

COUNTRY	SUPREME ELECTORAL ORGAN	STRUCTURE (Number of members)	RESTRICTIONS to members belonging to a political party	RESPONSIBILITY
PANAMA	Tribunal Electoral	3 Magistrates (3 substitutes)		In charge of the Civilian Registrar and organise, direct and guarantee the electoral process.
PARAGUAY	Junta Electoral Central	12 members (12 substitutes)	not requested	In charge of the general direction of Electoral acts; civilian and electoral registers. Its verdicts are appealable to the Supreme Court of Justice.
PERU	Jurado Nacional de Elecciones	7 members	At least six years without any assignment at director level in a party	Supreme Authority on electoral matters. Its verdicts cannot be appealed.
URUGUAY	Corte Nacional Electoral	9 members (18 substitutes)	not requested	Direct responsibility in elections, popular initiative and referendum
VENEZUELA	Consejo Supremo Electoral	9 members (18 substitutes)	not requested	Its verdict is appealable to the Supreme Court of Justice. Direct and organise the electoral process and the electoral registrar



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Office of the Chairperson

30 May 1995

Mr Ismael Vadi
Chairperson
Sub-Theme Committee 6.1
Constitutional Assembly
Fax 021 24 1160/1/2/3

Dear Mr Vadi

IEC REPORTS

You should by now have received the 30 copies of the IEC Report we sent down for your Committee by DHL last night (tracking number 3527866985). We should be grateful if you would distribute them and refer Committee members to chapter 12 point 16 (on page 87) in particular.

Judge Kriegler is looking forward to meeting with the Committee next Monday.

Yours sincerely

Betty Welz



CONSTITUTIONAL ASSEMBLY

DATES AND VENUES FOR CONSTITUTIONAL PUBLIC MEETINGS

PROVINCE	VENUE	DATE
Eastern Cape	Peddie	6 May
Kwazulu-Natal	Ingwavuma	13 May
Eastern Transvaal	Standerton	13 May
Northern Cape	Upington	20 May
Free State	Harrismith	20 May
North West	Taung	20 May
Western Cape	Beaufort West	27 May
Kwazulu-Natal	Newcastle	27 May
Northern Cape	Kimberley	3 June
Northern Transvaal	Tohoyandou	3 June
Eastern Cape	Lusikisiki	10 June
North West	Mafikeng	10 June
Northern Cape	Carnarvon	17 June
Northern Transvaal	Ellisras	17 June
Eastern Transvaal	Mhluzi	17 June
Western Cape	George	24 June
Free State	Maokeng	24 June
Kwazulu-Natal	Hammersdale	24 June

The Gauteng province has already hosted five public participation events. Thus given the limited period of 27th April to 30th June, the PPP has concentrated on those provinces which have not hosted as many events.

5 5

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THEME COMMITTEE ONE

**INVITATION TO PUBLIC
HEARING**

**SEATS OF GOVERNMENT, LANGUAGE AND
NAME AND SYMBOLS**

DATE: SATURDAY, 10 JUNE 1995

TIME: 09H30

VENUE: OLD ASSEMBLY CHAMBER

THEME COMMITTEE ONE
PUBLIC HEARING

***SEATS OF GOVERNMENT, LANGUAGE AND
NAME AND SYMBOLS***

OLD ASSEMBLY CHAMBER, PARLIAMENT

SATURDAY, 10 JUNE 1995

09h30 - 09h40 Opening and Welcome TC 1 Chairperson

Session One : Seats of Government

09h40 - 10h15 Citizens Alliance for Parliament
Pretoria Capital Initiative
Midrand Metropolitan Sub-structure

10h15 - 11h00 Open discussion

11h00 - 11h15 Tea / Coffee

Session Two : Language

11h15 - 11h30 ATKV (Dr. Kok)
11h30 - 11h45 Dept of Indian Languages (Dr. R Sitaram)
11h45 - 12h00 Afrophone (Khetiwe Marais)
12h00 - 12h15 State Language Services

12h15 - 13h00 Open Discussion

13h00 - 14h00 Lunch

Session Three : Name and Symbols

14h00 - 14h15 Prof. J S M Khumalo

14h15 - 14h30 Mike Boon, Group Africa

14h30 - 14h45

Fred Brownell (Bureau of Heraldry)
Department of National Education

14h45 - 15h00

Summary of proceedings and closure