

2/4/6/1/4/1

THEME COMMITTEE 6

1. INTRODUCTION

Following is a synopsis of the activities of the four Subtheme Committees falling under the aegis of Theme Committee 6.

2. SUBTHEME COMMITTEE 6.1

Subtheme Committee 6.1 ("the Committee") has in the last two months deliberated on the subject of the Public Service. The Committee has received submissions from the public and has taken evidence from a wide range of stakeholders.

From the deliberations in the Committee, it should be said that it is becoming apparent that there is broad support for the following:

- 1.1 The inclusion of a constitutional provision in the final text of the constitution setting out fundamental principles, without going into too much detail, on the Public Service;
- 1.2 The need for a constitutional provision laying the basis for limited political appointments in the Public Service;
- 1.3 The need for the constitution to create a framework for a developmental public service; and
- 1.4 The inclusion of a provision, with details limited to the barest minimum, on the Public Service Commission.

2. SUBTHEME COMMITTEE 6.2

Subtheme Committee 6.2 ("the committee") has been established to concentrate to determine constitutional principles on Financial Institutions and Public Enterprises. Up to now it's specific focus has been on the Auditor General, Reserve Bank and Budget and Procurement. The committee has received submissions from the public and both parliamentary and extra-parliamentary organisations and has taken evidence from various stakeholders.

Critical to the debate on the aforementioned financial institutions has been the question whether these institutions need to be centrally controlled or independent. The dominant view appears to be in favour of the independence of these institutions.

The Committee is presently in the phase of preparation for the Financial and Fiscal Commission and Public Enterprises and the public is called upon to present submissions to the committee.

3. SUBTHEME COMMITTEE 6.3

Subtheme Committee 6.3 has in the last month deliberated on the institution of the Public Protector. It has received submissions from the general public and has taken evidence from veritable stakeholders.

The following diverse viewpoints have characterised the debate on the Public Protector:

- 3.1 There is debate on whether the institution should be called Public Protector or Ombudsman;
- 3.2 Divergent views have been expressed on the desirability of solely appointing Public Protectors/Ombudsman from the ranks of Lawyers;
- 3.3 On the tenure of office support for both a fixed term to permanent appointment for the incumbent of the institution have been expressed;
- 3.4 There is broad support for the proposition that the Public Protector/Ombudsman must carry out investigations on its own initiative and upon receiving complaints; and
- 3.5 Different opinions have been expressed on the need for the existence of both the National Public Protector/Ombudsman and Provincial Public Protectors/Ombudsman as well as the need for specialised Public Protectors/Ombudsmen.

4. SUBTHEME COMMITTEE 6.4

Subtheme Committee 6.4 has in the last two months deliberated on accountability and control of the security forces and has submitted a final report on this to the CC. This report has been accepted by the CC and areas of agreement and contention are in the process of being drafted into Constitutional text.

The report reflects the Committee's views on the Supremacy of the Constitution, declaration of a state of emergency or a state of national defence/war, definition of action in the national interest, parliamentary oversight, executive control, civilian control of ministries, judicial and legal control, ombud structures, the rights of members of the security apparatus in relation to the state and the political neutrality of security apparatus.

The Committee is in the process of hearing submissions on Constitutional provisions relating to Police and is holding a workshop on 20 March 1995.