

"Democracy means freedom to choose"



INKATHA

Inkatha Freedom Party

IQembu leNkatha Yenkululeko

MULTIPARTY NEGOTIATION PROCESS
TECHNICAL SUBCOMMITTEE #4
ON AN INDEPENDENT ELECTORAL COMMISSION

FIRST POSITION PAPER
OF THE INKATHA FREEDOM PARTY

WORLD TRADE CENTRE : 18 MAY 1993

The IFP believes that the issue of an independent Electoral Commission can only be determined once there is clarity on the process of transformation of our society and on the issue of the form of state. Once a decision has been made to establish a federal system in South Africa, independent electoral commissions could be established as a part of the constitutional structure of each state. The Constitution of the State of KwaZulu/Natal establishes an Electoral Commission which can be used as a possible example of the type of activities and functions which will also need to be exercised at federal level in preparation for the new elections.

However, as it is the IFP position that the federal constitution should precede elections and the empowerment of a new government, the IFP will be ready to discuss the structure, purposes and functions of a Federal Electoral Commission once the issue of the form of state is resolved and the process to establish federalism is agreed upon. In the meantime, reference can be made to Article 91 of the Constitution of the State of KwaZulu/Natal to signify the type of political perspective and institutional vision that the IFP holds on matters related to an Independent Electoral Commission.

In addition the activities of the Independent Electoral Commission should be aimed at ensuring the levelling of the playing field. This may include the power to adopt and impose rules to ensure the fairness of the political debate in the effective opportunity for all citizens to participate in the democratic process and the power to impose disclosure requirements on the sources and amount of financing

It is also the IFP's view that it is only once we have a finalised constitution and the electoral law which flows out of the demands of its provisions and which itself makes provision for the political process envisaged under the new constitution that the content of any independent electoral commission could be discussed sensibly.

The IFP points out that an election under a federal constitution with voting procedures and two level elections combined into one general election would be entirely different to an election under a unitary state constitution.

The IFP warns against progress towards an interim government election by stealth through the development of transitional mechanisms towards specified ends before there has been any agreement on the form of state and the kind of political dispensation we will be introducing with a new constitution.

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disfunctions, and to guarantee equal access by all citizens to the services and job opportunities offered by public offices. The Commission shall investigate and report on complaints concerning the operation of any administrative office in the State, including police, defence force and the prison service.

- d. The Civil Service Commission shall identify requirements and qualifications for holding any given public office and supervise open competition to fill the posts. The Commission shall also develop and submit to the approval of the State and Regional governments any affirmative action programme to be implemented within governmental structures.
- e. The Civil Service Commission shall also develop, monitor and assist the adoption and implementation by State and Regional offices and agencies of procedures accompanying the major administrative actions and all rule-making processes to solicit and ensure the participation and the input of the affected interests and of the public.
- f. The Civil Service Commission shall prepare a yearly report on the status of the public administration expressing any applicable recommendation, and may provide testimony to the General Assembly and Regional Congresses as required.

91. Electoral Commission

- a. The Electoral Commission shall consist of nine members, three appointed by the Governor, three by the General Assembly, and three by the Judiciary Commission. The members of the Commission shall be qualified and independent professionals. The members may not hold any other public office and prior to their appointment shall disclose any possible conflict. After the appointment they may not undertake activities which may cause additional conflicts of interest. The members of the Commission will hold office for three years and may be reappointed. Their salaries are set forth by the law and shall not be inferior to the salary of a Director General of the State administration. The Commission proposes to the General Assembly its own budget.
- b. The Electoral Commission shall organize and supervise the elections provided for in this constitution and in the constitution of the Regions. The Electoral Commission shall ensure the fairness of the political debate and the effective opportunity for all citizens to participate in the democratic process. The Commission shall adopt rules to ensure fair campaigning and to prevent violence and intimidation, and shall have the power to summon and direct the State police and militia to ensure peace and order during the political campaign period, and during and immediately after the elections.

- c. The Commission shall issue rules requiring all political parties and candidates to disclose sources and amounts of financing, rules setting limits to the financing received from any given source, and rules governing the conduct of political parties and candidates during the campaign period. All constitutions of political parties shall be deposited with the Commission.
- d. The Commission may initiate legislation at State and regional level on electoral matters and shall administer and distribute any public financing to political parties and candidates provided for in State and regional legislation.
- e. The Electoral Commission may organize political debates and decide time allocation in State or Region controlled media of mass communication. When necessary to ensure the fairness, impartiality and balance of the electoral process, the Commission may require private media of mass communication to publish statements or to provide coverage of given information.
- f. The Electoral Commission shall determine and update the boundaries of the electoral constituencies of the House of Delegates and the Regional Congresses. In doing so the Commission shall aim to ensure internal balance in each constituency and representation of the variety of social and cultural interests present in the State. Each constituency shall aim to have the same number of electors.
- g. The Electoral Commission administers the elections and announces the results.

- h. The rules adopted by the Electoral Commission and its actions may be challenged for violation of the principles of this constitution, or because arbitrary and capricious and inappropriate before the Constitutional Court with emergency procedure.

92. **Regulatory Relief Commission**

- a. The Regulatory Relief Commission shall consist of thirteen members, two appointed by the Governor, three by the General Assembly, two by the Judiciary Commission, two by the Chamber of Commerce and two by representatives of consumer groups and two by representatives of industry registered with the General Assembly and convened for this purpose by a committee of the General Assembly. The members of the Commission shall be qualified experts on public administration, business management or regulatory processes.
- b. The Regulatory Relief Commission shall be empowered to request the repealing or amendment of burdensome, unnecessary or inadequate regulations and permit requirements adopted by the General Assembly, the Government, the Regional Congresses, the Regional governments, any independent regulatory agency and municipal governments. Any entity receiving such a request of the Commission shall reply within twenty days. If the Commission does not deem the reply to be satisfactory, it may introduce legislation in the appropriate legislature.