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**CONSTITUTIONAL ASSEMBLY
ELEVENTH MEETING
SUBTHEME COMMITTEE 4
THEME COMMITTEE 6
SECURITY APPARATUS
THURSDAY, 16 FEBRUARY 1995**

Please note that the following meeting of the above Committee will be continued indicated below. Please note that the venue has changed.

Date : 16 February 1995
Time : 14:30
Venue : Room V226

AGENDA

- 1 Accountability and control of the security forces:
 - 1.1 Freedom Front submission (attached)
 - 1.2 PAC submission on state security structures
- 2 Preparation of report
- 3. Any other business
 - 3.1 Work programme
- 4. Closure

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PROPOSALS OF THE FREEDOM FRONT: SUBTHEME COMMITTEE 4 OF THEME COMMITTEE 6

Accountability and Control of the Security Forces

The Constitutions must be a Policy document defining such aspects on which an Act regarding the strategy and structure of the components of the Security Forces can be formulated to ensure the future security of the state by law.

1 Regarding the security apparatus of the state the constitution should cover

- a The powers of the State President, the powers and restrictions as to appointment of Ministers and Officials regarding each component.
- b The person accountable to the State for each of the components.
- c The liability of a citizen to each component.
- d The main functions to be carried out by each of the component.
- e The composition and organization of each of the components.
- f Restrictions and provisions applicable during periods of conflict threatening the security of the State.

2 Matters regarding the components of the security apparatus should be located in a separate chapter of the Constitution with the following duplication,

- a The powers of the State President, the powers and restrictions as to the appointment of Ministers and Officials regarding each component should also be written where such matters are dealt under the respective parts pertaining to the executive and legislative aspects of the constitution.
- b The empowerment of Parliament to formulate the Acts of the components should be part of the general rule of the Legislature in the appropriate chapter.

3 Regarding the command, control and accountability of the Defence component,

- a The State President should be the Commander-in-Chief with command and control restricted to the final approval of the overall policy of the defence of the state.
- b The parliament must be accountable as to committing or not committing the Defence component to war in and outside the borders of the Republic.
- c. The Minister of Defence must be accountable for formulating, approval and the execution of the defence policy of the state.
- d. The Secretary for Defence must be accountable to the Minister for all functions laid down in the Act for the Secretariate.

- e. The Commander of the Defence component must be accountable to the State President for all functions laid down in the Act for the Defence component.
- f. The Defence component is commanded by the State President through the Commander of the Defence component and controlled by the State President through the Minister of Defence to the Commander and/or the Chiefs of Staff of the Defence component.

4

General

- a Regarding the functions of the components the Defence component must not be given any function pertaining to police duties and the Police component not given any function pertaining to military duties.

Regarding the former such a function has led the SADF being 'in support' of the SAP during various riotous situations. Being aware of this 'support' the SAP never fully developed its structure to maintain law and order because it could rely or make use of the manpower/infrastructure of the SADF. This has been detrimental to the SADF as to its budget, image as the peoples SADF and manpower morale.

Regarding the latter the SAP developed into a paramilitary organisation. During the Second World War it committed itself to the defence of the Union of South Africa by forming a SAP Police Brigade (this was the conception of the SAP as a paramilitary organization). Furthermore its own image as a paramilitary force developed by serving outside the borders of the RSA as a 'military force'.

It is imperative that in the future the SANDF not be used in support of the SAPS but that each should develop its own strategy and structure to be able to efficiently execute their respective functions. Where the SAPS cannot maintain law and order and the situation demands stabilization the SAPS suborganization commander must hand over command/responsibility to the SANDF suborganization irrespective the implication of SAPS prestige. When the situation has been stabilized the responsibility of maintaining law and order should be handed back to the SAPS suborganization commander. (As a matter of fact the security of the RSA is a higher priority than the prestige of either the SAPS or the SANDF).

- b The present function of the SANDF of

"service in the preservation of life, health or property or the maintenance of essential services" should be better defined in that it should only be applicable in times of a 'national disaster' or be cancelled.

This function affects the SANDF budget in that,

i in preparation for the function the SANDF must develop its structure resulting in a budget increase.

ii SANDF service to departments is seldom repaid into the SANDF budget.

Budgets of the other departments are not a true reflection of their requirements in that, they rely on the assistance of the SANDF 'to solve their problems in an emergency' and therefore do not develop their real strategy and the appropriate structure.

5 Third Component of Security Forces

To alleviate the task of the SAPS and SANDF regarding the security of other state property and other aspects and such ceremonial duties also not directly related to their functions, it is suggested that a third component be established in the future. The National Republican Guard of Portugal is an example. For this reason the policy related to such a component must now be written into the constitution.

6. Part time forces and Provincial Legislature

a. Certain control, specified by an Act of the part-time forces, such as the Commando's and Citizen Force, should be allocated to the provinces.

b. Commando members, at this stage, operate locally in areas where they live, and that trend should continue.