

(ESTABLISHED 1974)

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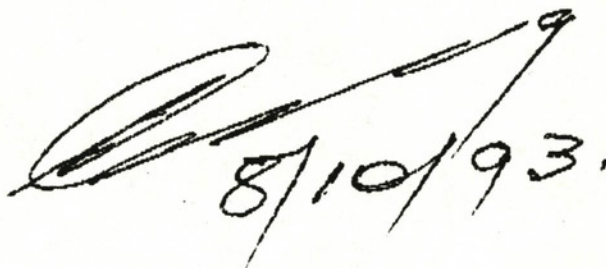
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Message; comments on
the Draft Electoral
Bill for submission
to the Technical
Committee.

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8/10/93.

FIRST VERSION OF THE DRAFT ELECTORAL BILL

DIKWANKWETLA PARTY OF SOUTH AFRICA

The Dikwankwetla Party of South Africa wishes to register its opposition to certain clauses in the above bill of 29 September 1993. The relevant clauses are the following:

1 CLAUSES 16 AND 21

A golden thread running throughout the negotiations at the World Trade Centre is that there should be a 'levelling of the playing fields'. In the four bills (accepted by the *Multi-Party Negotiating Council*) that served before Parliament in September 1993 this was probably the most notable and outstanding characteristic. The basic underlying philosophy is that everyone should have an equal opportunity in this first phase of bringing about a democratic and just South Africa.

Our objections are the following:

1.1 UNFAIRNESS AND INEQUALITY

If Clauses 16 and 21 of the said bill are read together, it effectively means that each party has to pay a minimum of R80 000 for participating in the elections: R10 000 for the application to register as a party [Clause 16(2)], R50 000 for representation in the National Assembly, and R20 000 each for representation in any other legislature [Clause 21(1)]. This clearly places the elections beyond the reach of most parties, and is contrary to the philosophy of 'levelling the playing fields'.

It is very possible that a party may have support in more than one region. Should such a party then wish to contest elections in all the regions (nine as it stands at present), then the party would be required to deposit R240 000 to register (R10 000 + R50 000 + 9 x R20 000). It is very likely that the bigger parties would contest elections in all regions. However, while such parties may well be able to afford the sums of money involved, other smaller parties (such as Dikwankwetla) would be prejudiced simply on the basis of affordability, and would not be able to field candidates in all regions should they wish to do so. This once again goes against the grain of the philosophy of 'levelling the playing fields'.

Unfair requirements may erode the legitimacy of the election process. Members of the community should be able to endorse the voting system with its requirements and procedures as fair and reasonable. The perception of legitimacy may be eroded if apparently unfair requirements and procedures are introduced.

1.2 HIGH DEPOSITS SERVE NO LEGITIMATE PURPOSE IN A SYSTEM OF REGISTERED POLITICAL PARTIES

If the playing fields are to be levelled, it should be done by all means possible. It is understood that there might be concern about frivolous parties (the so-called 'lunatic fringe') that may want to enter the elections. However, we submit that in a system of registration of political parties, the idea of having deposits as a means of discouraging frivolous parties to take part in the process, becomes irrelevant.

If - despite a party registration system - electoral deposits are regarded as an additional factor necessary to inhibit parties without a reasonable degree of voter support from participating, it is submitted that the amounts provided for in the bill are excessive and should be reduced drastically. We would suggest by at least a factor of ten, so that the deposits should be R5 000 and R2 000 respectively, which would be quite adequate for this purpose.

1.3 FINANCIAL RESOURCES ARE NO LEGITIMATE BASIS FOR ELECTORAL PARTICIPATION

It cannot be correct to link a party's ability to participate in the elections to the size of its financial resources. Parties ought in principle to be allowed to participate and put their ideas forward to the electorate regardless of any financial test.

With regard to campaign financing it is universally accepted that money should not be allowed to distort the electoral process or to interfere with the free expression of the people's opinion in a democratic society. The same principle should apply here.

1.4 THE DEMOCRATIC PROCESS WOULD BECOME DISTORTED BECAUSE FREE CHOICE AND PARTICIPATION IS INHIBITED

Interfering with the free expression of the opinion of the people in the choice of the legislature would amount to subverting the democratic process based on free and fair elections.

The electoral system should ensure that the opinions of diverse groups and interests are represented and therefore these groups should be accorded a fair opportunity to participate in the election process. The electoral system should be designed to enhance public participation in the political system and not inhibit it. Parties with a reasonable degree of voter support should therefore be afforded the opportunity to obtain representation.

Groups and parties denied a fair opportunity to be elected and to be heard become alienated from the political system and may eventually resort to undemocratic methods.

In the final analysis, it is up to the voters to decide whether they wish to vote for a party or not. Any party worth its salt will attract its fair share of votes. To already right at the start create obstacles to any party wishing to contest the elections is simply not levelling the playing fields.

1.5 RESTRICTING ENTITLEMENT TO PARTICIPATE IN ELECTIONS IS AN INCORRECT WAY OF GUARDING AGAINST WEAK GOVERNMENT (WHICH COULD BE THE RESULT OF A PROLIFERATION OF MINORITY PARTIES)

The principles of fairness and the equality of parties dictate that no unreasonable impediments be imposed before a party can participate in the electoral process. The electibility of candidates and parties should be left to the electorate, which should not be deprived of the opportunity to make their choice as a result of unreasonable restrictions to the entitlement of a party to stand and to present its policies and candidates to the voters.

CONCLUSION

If it is considered appropriate for the system to guard against instability in the political process and the potential of weak government as a result of the proliferation of smaller parties participating in the electoral process, the remedy could lie in imposing a reasonable threshold requirement excluding smaller parties from representation if such threshold is not attained. In such a case parties cannot complain of having been unfairly excluded from the chance of competing for voter support. Minority parties should therefore be afforded a fair opportunity to be represented according to their support. They may only be eliminated from representation in the legislature once they have been given this opportunity, but have failed to attain the reasonable threshold of voter support required by the system.

It would be grossly unfair to eliminate parties by way of a deposit requirement even before they have been given the opportunity to demonstrate their voter support.

2 CLAUSE 21(7)

Clause 21(7) provides for the deletion of a candidate's name if it appears on more than one list. Dikwankwetla is opposed to this clause because of the following reasons:

2.1 UNFAIRNESS

This provision is once again against the principle of levelling the playing fields. A relatively small party like Dikwankwetla, for example, may wish to field a candidate that is popular all over the country for the National Assembly. However, should that candidate not be able to win a seat in the National Assembly, there should be no reason why that candidate should not be a representative on a regional level.

2.2 DISCRIMINATION

In effect, the provision discriminates against popular candidates on regional levels. The most popular candidate on a regional level will then be hesitant to enter elections for the National Assembly because he or she might feel that they stand a better chance of winning a seat in the regional elections. That is once again clearly not levelling the playing fields.

2.3 VOTERS HAVE THE FINAL SAY

It should be emphasised that the voters have the final say. If artificial constraints are placed on parties or candidates right at the start, the voter's free choice is already limited even before the voting begins.

3 SUBSIDISATION OF POLITICAL PARTIES

The Dikwankwetla Party furthermore submits that political parties should be subsidised by the state. The reasons are the following:

- 3.1 The 'traditional' parties have been represented in various forums for many years, to the detriment of other parties or organisations. The official opposition in the present Parliament is in fact paid to do just that: to be the official opposition. It can thus be argued that the same should be the case for all other parties contesting elections.

- 3.2 The mere fact that all 26 participants at the negotiations are in fact paid to negotiate (by way of meals, allowances, and so on) indicate that there is a willingness to accept the fact that the state should play a role in the democratisation process in the country. The argument is thus that the state can (and should) subsidise parties because of the fact that the playing fields had not been level before, and that certain parties or organisations had effectively been discriminated against.

UVZ
1993-10-04