

E18

28 May 1993

File

COMMENT BY DEMOCRATIC PARTY ON FIRST DRAFT
OF THE INDEPENDENT ELECTORAL COMMISSION ACT

1.

1.8 Eligible voters

The DP takes the tentative position that convicted (but not awaiting trial) prisoners should not be eligible to vote and that section 4(2) of the Electoral Act as well as section 4(4) may be considered for incorporation into a new Electoral Act.

3. Binding on the State

The DP supports the draft Bill's formulation and opposes the ANC proposal that the Commission shall have power to promulgate regulations repealing and amending any existing law, and power to direct the police and Defence Force to perform and execute tasks.

The IEC must act within the ambit of the new Electoral Act. The DP proposes that the IEC drafts the Electoral Act, but the political/administrative authority in accepting or amending the draft Electoral Act must lie with the Forum, Council or Parliament as defined.

The IEC will certainly require the power to make regulations, but only within the ambit of the new Electoral Act, in which the "rules of the game" are already drawn up.

In the words of this draft Bill (8.1) "the Commission shall function as an institution independent of and separate from the State, the Government, the Council or any subordinate Ministry, etc" - but that does not imply that it functions in a power or legal vacuum.

7. Composition of the Commission "may also include not more than 4 other persons seconded for this purpose ... and serving in a non-voting capacity."

7.2 The DP supports this provision.

7.3.2 Footnote 17

The DP disagrees with the ANC view that former political office-bearers should not be disqualified. Impartiality would be compromised.

- 11.2 The Democratic Party proposes that an 80% majority be required and that the Chief Justice and other Appeal Court judges should take representations from registered political parties when considering the reconstitution of the Commission.
- 12.2 The quorum shall be 7 voting members. The necessary quorum for adjudication of the final result cannot be all members since (a) this is a contradiction in terms and (b) members may be ill.
- 13.2 A mechanism is required to ensure that any excess not spent reverts to State Revenue.
- 13.3 It is not clear what is meant.
14. A mechanism is required: the IEC cannot simply spend any more than a government department can do.
- 15.5 The Reserve Bank is not appropriate in our view. Rather: any registered financial institution as approved for the purpose.
- 16.1 ... and shall be vested with all such powers as described in this Act.

Chapter Five

17. Responsibilities of the Election Administration Directorate

Subject to the provisions of the Electoral Act the Election Admin Directorate ... shall have the following functional responsibilities.

- 17.2 - 17.17 The Democratic Party believes only the relevant function should be stipulated. Every clause deals with matters of principle on policy which should be dealt with in the Electoral Act. We propose that the IEC should take written submissions from all interested parties and organisations when framing the draft Electoral Act and settling questions like the number of voting days; the need or otherwise for regionalised voter lists; the desirability or otherwise of postal votes; alphabetical order of parties on ballot papers, etc.

The Democratic Party holds specific views on these and related matters but believes they should be submitted separately and negotiated once a draft Electoral Act is on the table.

Footnote 28: This is not an accurate reflection of the Democratic Party's position.

24, 25, 26, 27, 28, 29, 30:

These matters should be dealt with in an Electoral Act rather than the Act establishing the Commission.

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