

E15

**ANC'S RESPONSE TO THE INITIAL REPORT OF THE TECHNICAL COMMITTEE
ON THE INDEPENDENT ELECTORAL COMMISSION (IEC) DATED 21 MAY 1993**

AD PARAGRAPH 1.8

(1) **Citizenship:** The ANC reiterates the contents of paragraph 5.2 et seq of its initial Submission in this regard. This will enable numerous South Africans who might have been denied citizenship rights by the apartheid State to vote.

(2) **Criminality:** The ANC notes in passing that the provisions of Section 4(1)(a) of the current Electoral Act, Number 45 of 1979, would exclude most of its own leaders from participating in the proposed elections. The ANC's preference is as stated in paragraph 6 of its Submission in this regard.

AD PARAGRAPH 1.11

The ANC cautions against the use of the phrase "Interim Constitution" as it connotes a fully fledged interim Constitution which may impinge heavily on the territory of the Constituent Assembly which the proposed elections should produce. The ANC's preference in this regard is a simple Transition to Democracy Act intended solely to prevent the emergence of a constitutional *hiatus* during the period of constitution-making. This, we believe, will obviate the obvious delay entailed in the making of an interim Constitution which will be superseded by the new Constitution to be made and adopted by a Constituent Assembly.

AD PARAGRAPH 1.17

While the ANC is not *per se* averse to the notion of an interim Parliament, it wishes to point out that the primary objective of the proposed elections is, and should be, to produce a democratic Constitution-making Body that will make and adopt a new Constitution for South Africa.

AD PARAGRAPH 3

The ANC is of the view that the definition of the State upon which the proposed Electoral Act shall be binding should be broader and that, therefore, the TBVC territories should be mentioned specifically. No-one must be left in any doubt whatsoever that the Act shall be binding upon whole of South Africa as stood in 1910.

AD PARAGRAPH 4

The ANC notes the contents of footnote 8; however, the ANC is opposed to a proliferation of Electoral Commissions particularly because the majority of our citizenry will be participating for the very first time in an election. Besides, the question of the forms of state still has to be settled in the process of constitution-making.

AD PARAGRAPH 5

It is the view of the ANC that the adjudication role of the IEC should not be confined to "the conduct of political parties ..." It is not altogether unimaginable that in numerous instances

the IEC will have to grapple with problems pertaining to the attitudes and conduct of state officials, security personnel, chiefs and indunas who may be tempted to deny some of the participating parties freedom of political activity.

AD PARAGRAPH 6.1

It is the view of the ANC that political parties and organisations, as well as the administrations of the TBVC territories and the Self-governing territories, should also be covered so that the IEC should be seen to be independent of and separate from them as well.

AD PARAGRAPH 6.3

The ANC wonders in what capacity the State President, the leader of one of the parties that will be contesting the Constituent Assembly elections, will be entitled to receive reports of the IEC. An impression may be given that the IEC is primarily accountable to the State President, the legitimacy of whose office under the current constitutional order is impugned by the majority of the disfranchised citizens. As all parties, including the National Party Government, of which the State President is Head, will be represented on the Transitional Executive Committee (TEC), it is not necessary for any of the leaders to be given anything that smirks of preferential treatment particularly with regard to the proposed elections.

AD PARAGRAPH 7.1

The ANC is of the view that the composition of the IEC should, as far as possible, reflect our collective commitment as parties to ensuring direct involvement and representation of women in public affairs.

Furthermore, proposes that the words "seconded for this purpose by Accredited International Organisations and/or foreign Governments, and" be deleted (this applies to paragraph 9.1.2 as well). The IEC should be entitled to select international experts instead of being given seconded persons who may or may not be experts.

AD PARAGRAPH 7.2

This paragraph, read with paragraph 1.12 of the Report, may exclude some of our outstanding personalities from appointment to the IEC because they might have "held Political Office during a period of three years prior to the date of the Transitional Elections." Furthermore, those who may be appointed to the IEC may subsequently be disqualified and prevented from holding Public Office for a period of three year after the elections. For one thing, our outstanding lawyers, whom we may wish to consider for the judiciary in a new South Africa, may be disqualified if this paragraph is retained as currently framed. This would make it well nigh impossible for us to get suitable people to serve on the IEC, given the history of our country, the educational and experiential malaise afflicting the indigenous African majority and women. For this reason, the ANC therefore reiterates the contents of paragraphs 2.4.1 and 2.4.2 of its Submission.

AD PARAGRAPH 10

The ANC is of the view that the involvement of the National Party Government, or a TBVC

or self-governing territory administration, or any political party or organisation in any matter affecting the IEC should be avoided. Therefore, this paragraph is unacceptable to us as it is currently drafted; it may tend to give the Minister of Finance an unfair advantage and an influence on the the IEC, thus undermining its independence.

AD PARAGRAPH 16.1

The ANC proposes that it should be made clear to all and sundry that the IEC has the sole responsibility to organise, conduct and supervise the elections. This paragraph therefore should be framed in such a manner that it does precisely that.

AD PARAGRAPH 17.1

The ANC is anxious that voter education should, as far as is possible, be conducted in all languages predominantly used by our people in various parts of the country. Furthermore, adequate provision should be made for those eligible voters who are disabled or illiterate.

AD PARAGRAPH 17.2

The ANC prefers the use of the Identity Documents issued by the RSA Government or those issued by the administrations of the TBVC territories as well as Voters' Cards issued by the IEC as primary means of voter identification. The IEC should, at the same time, be entitled to designate appropriate and adequate means of voter identification.

AD PARAGRAPH 17.3

Due to the fact that preparing a voters' roll will take a long time to conclude and may cause a lot of anguish and confusion as illiterate and inexperienced people struggle to get registered, the ANC proposes that, for purposes of the Transitional Elections, there be no registration of voters. A simpler process that would be primarily designed to help the IEC in planning and in the counting of votes should be looked for.

AD PARAGRAPH 17.5

In order to prevent any confusion, the ANC recommends that as part of the process of registration of parties, pictures of the leaders of parties be included and be put on the ballot papers.