

12 May 1995

PRELIMINARY NP SUBMISSION TO THEME COMMITTEE 6.3

COMMISSION ON GENDER EQUALITY

I INTERIM CONSTITUTION

The present position is that in terms of sections 119 & 120 of the Interim Constitution a Commission on Gender Equality ("CGE") must be established "to promote Gender Equality . . ." etc. An Ad Hoc Select Committee of Parliament is at present considering legislation to establish the CGE. The problem is that at best the CGE is unlikely to be operational before the end of the year and in the meantime Theme Committee 6.3 is tasked with considering whether to constitutionalise the CGE in the final constitution which must be ready 6 months thereafter. It will therefore be impossible to assess whether the CGE has managed to make an impact. The National Party has therefore based its submission to Theme Committee 6.3 on its basic approach to gender equality and on its submission to Parliament. However we believe that ultimately such a Commission in the final Constitution should not be too limited in its scope.

GENERAL

The NP supports the establishment of a Commission to promote gender equality, particularly in relation to the development of our disadvantaged communities in terms of the final constitution for the following reasons:

2.1 Although much has been done in recent years to promote equality between men and women in South Africa, nevertheless our history of discrimination has caused backlogs which has resulted in women in particular are being a disadvantaged group, and especially in underdeveloped communities.

The incontrovertible evidence of this past deprivation is set out in our country's report on the Status of Women in South Africa which will become part of the record at the UN's 4th International Conference on Women at Beijing in September 1995. It is important that the equality provisions of the Bill of Rights are not seen as hollow protections and that real and effective equality will be achieved.

2.2 Discrimination against women is not peculiar to South Africa, but is recognised internationally as a problem and a focus of United Nations action.

2.3 A number of international documents and covenants such as the 1985 forward looking strategies adopted by the UN's 3rd International Conference (which will be revisited and updated at the Beijing Conference), and the international convention on the elimination of all forms of discrimination against women, which South Africa signed in 1993 and hopes to ratify this year, call for national machinery to monitor

and improve the status of women to be established where it is lacking. It is particularly important for South Africa at this junction to participate fully in the international community and fulfil its international obligations.

- 2.4 Such national machinery has been successfully established in countries such as Australia, Canada, India, Argentina, Brazil and similar institutions and mechanisms operate in inter alia Germany, Denmark and England. South Africa is in a position to draw on their experience and expertise.
- 2.5 The establishment of such national machinery for gender equality very much accords with the goals of the RDP to transform our country into one in which there is "equality between men and women and people of all races". The development function of such a body should be emphasised. For example sustainable development as indicated at the International Conference on Population and Development in Cairo, Egypt last year by the promotion of economic, social and gender equity based on respect for human rights, especially the right to development. Relevant references to the RDP are inter alia on pp 9, 10, 46, 61, 76, 77, 79, 84, 93, 115-6, 121-2, 136 and 145.
- 2.6 South Africa's interim constitution has been well received internationally and at home for its commitment to equality and gender equality. It would therefore be entirely inappropriate to remove the Commission from the constitution even before it has become operational. However we believe that ultimately there is a strong case for such a Commission to have a broader relevance than just gender issues.
- 2.7 The general consensus among representative women's' groups on the need for machinery such as a gender Commission.

### 3. SPECIFIC PROPOSALS:

- 3.1 An appropriate name for the Commission should be considered in terms of the projected equal opportunities and gender equality activities of the Commission. The focus of the Commission should be in the first place the creation of an environment in which women and all disadvantaged people in our society will be able to realise their full potential.
- 3.2 Not too much detail should be included in the constitution itself so that legislation to establish the Commission and determine its powers and functions may be amended to suit any future developments and requirements.
- 3.3 The constitution must provide that the Commission is an independent and autonomous organ of State. The constitution should indicate that the Commission is chiefly an advisory body but with powers to monitor, educate, lobby and conduct research. The NP would prefer a smaller streamlined body subject to the requirement of representivity. The NP would therefore suggest a commission comprising 6 - 10 commissioners of whom

at least 2 should be full time. The appointment procedure followed should be the same as for the Human Rights Commission and the Public Protector.

#### 3.4 LEGISLATION:

Legislation should include the objects, powers and functions and provide that the commission should be properly funded with its own office and secretariat.

The legislation establishing the Commission should set out its objects in detail. These should include submitting proposals to government; monitoring legislation; conducting research and investigating and referring complaints of discrimination, and particularly Gender discrimination to the Human Rights Commission or the Public Protector; raising public awareness and educating society so as to encourage greater socio-political and economic participation of women and other disadvantaged groups; monitoring and assisting in the implementation of the goals of the RDP, a key focus of which is to ensure a full and equal role for women and other disadvantaged groups; devising and assisting in the implementation of programmes to achieve attitudinal changes and lobbying both the public sector and civil society.

The commission should have powers and functions appropriate for it to achieve its objects.

#### CONCLUSION:

The NP would support a Commission to promote gender equality and the interests and development of all disadvantaged groups and communities with particular emphasis on development, but would favour wording in the Constitution which would permit future flexibility of such a Commission as to its main focus.