

FREEDOM FRONT

THEME COMMITTEE 1 (CHARACTER OF DEMOCRATIC STATE)

SUBMISSIONS ON THE ECONOMY (BLOCK 5)

The Freedom Front makes the following submissions in regard to the economy under the new Constitution, within the mandatory provisions laid down by the Constitutional Principles.

There are, within the present context, twin themes running throughout the Constitutional Principles: (a) democracy; and (b) regulation of certain matters relating to the economy. The exposition below will put into perspective the relationship between these two themes.

Democracy

The concept of democracy is reiterated in various Constitutional Principles, but nowhere comprehensively defined. Constitutional Principle I merely refers to 'a democratic system of government'. Constitutional Principle VIII refers to a 'multi-party democracy'. Constitutional Principle XIV refers to the requirement of participation 'of minority political parties in the legislative process in a manner consistent with democracy' (stress supplied). Principle XVII refers to 'democratic representation' at each level of government.

The nett result of the above-mentioned provisions taken collectively is the mandatory regulation of the future state on the basis of a true democracy, including guarantees relating to the interests of minority parties.

The inevitable conclusion is that the Constitutional Principles require that the future state will not be a one-party state. A further implication is that the economy should be controlled by the government only to the limited extent allowed by the Constitutional Principles. This aspect is more fully dealt with below.

Economic and fiscal aspects of the Constitutional Principles

Principle XXI contains some indication in the direction of the centralisation of economic policies. The Principle, setting out the criteria to be applied in the allocation of powers to the national government and the provincial governments, mentions in paragraph 2 'the maintenance of economic unity', and provides in paragraph 5 as follows: 'The determination of national economic policies, and the power to promote interprovincial commerce and to protect the common market in respect of the mobility of groups, services, capital and labour, should be allocated to the national government' (stress supplied).

Constitutional Principle XXI has the precursor in section 126 of the transitional Constitution. This Principle, has a precursor in section 126 of the transitional Constitution. In this section provision is made for concurrent powers by provincial legislatures and Parliament. Section 126 provides for the predominance of parliamentary legislation in respect of, inter-alia, certain aspects of the economy. Nevertheless, the general tenor of this section (reflected in Constitutional Principle XXI as far as the new Constitution is concerned - see above) must not be interpreted as a pointer in the direction of a centralised economic system. Other Constitutional Principles prohibit this. For instance, Constitutional Principle XXII prohibits that national government from exercising its powers (exclusive or concurrent) so as to encroach upon the geographical, functional or institutional integrity of the provinces.

Various Constitutional Principles indicate that the economy should not be centrally controlled, but that there should be free enterprise at all levels. For instance, Principle XX provides, inter-alia, that the 'allocation of powers between different levels of government shall be made on a basis which is conducive to financial viability at each level of government and which recognises the need for and promotes legitimate provincial autonomy.....' Principle XXV provides, inter-alia, that the national government and provincial governments shall have fiscal powers and functions which will be defined in the Constitution. Principle XXVI carries the matter further and provides that each level of government shall have a 'constitutional right to an equitable share of revenue collected nationally' so as to ensure certain goals.

Principle XXVI is further bolstered by Constitutional Principles XXVII and XXIX. Principle XXVII provides, inter-alia, that a contemplated Financial and Fiscal Commission shall recommend equitable fiscal and financial allocations to the provincial and local governments from revenue collected nationally, after taking into account, amongst other things, economic disparities between the provinces. Principle XXIX contemplates, inter-alia, the independence and impartiality of the Reserve Bank and of the Auditor-General.

Despite the indications to the contrary in Constitutional Principle XXI, it is clear from all the above-mentioned Constitutional Principles, read together, that the intention of the authors of these Constitutional Principles was not to make the economic system subservient to the will of one party or to the mechanism of a one-party state. On the contrary, the indications are overwhelming that the regulation of the economy would be subjected to the democratic process, including the legitimate role of minority parties in the governance of the state. The mere fact that different levels of government shall have a constitutional right to an equitable share of revenue collected nationally (Constitutional Principle XXVI) indicates that of centralised and authoritarian control of the economy was never contemplated.

Conclusion

The inevitable conclusion is that a democracy, including a free market system, is implied by the Constitutional Principles, taken collectively.