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**NATIONAL PARTY SUBMISSION
THEME COMMITTEE 1
REPRESENTATIVE GOVERNMENT**

A. INTRODUCTION

Representative government is one of the most fundamental characteristics of a democratic system and one of the most basic principles with which the final constitution must comply. Representative government means that government authority shall not be exercised arbitrarily, but on behalf of the people. That, in turn, requires that the people shall be involved in the designation of the government so that the government shall be representative of the people. It took centuries to develop, until today representative government is ensured through direct elections by the people of their representatives in government.

Representative government, therefore, assumes the entrenchment of principles such as universal adult franchise, a common voters' roll, freedom of political choice and activity, free, fair and regular elections, a multi-party system and a fair and suitable electoral system. In our view, the Constitutional Principles already contain these principles.

Traditionally, representative government was associated with the legislature only, on the assumption that the executive shall be appointed from the legislature (specifically from the majority party) and, thus, indirectly, still be representative of the people. This led to the attitude that as long as the legislature is representative of the people, the position of the executive and its relationship with the electorate is not that important. The twentieth century has shown that this is an oversimplified view in modern societies. Firstly, there has been a manifest transfer of authority from the legislature to the executive. The executive is nowadays the most powerful and prominent branch of government. With the vast bureaucracy at its disposal, the executive is the only branch of government that has the expertise, information and infrastructure effectively to cope with the

demands made on modern governments. The result is that Parliament has been relegated to being a de facto rubber stamp of executive initiatives. For this reason, the position and role of the executive has become as important as that of the legislature to the concept of representative government. Secondly, the phenomenon in Western European democracies that, more often than not, no party obtains an absolute majority, has led to the emergence of coalition governments in which more than one party serve in the executive. Contrary to tradition, therefore, representative government for these countries came to mean government by more than one party. Thirdly, the establishment of the modern concept of the state in much less homogeneous societies than ever before, especially in the less developed part of the world, has led to the formation of governments on the simple majority basis which too often were not at all representative of those diverse societies.

In view of these facts, the principle of representative government should apply both to the legislature and the executive. The National Party has made another submission to the relevant Theme Committee on the composition of the executive.

B. ELECTORAL SYSTEM

Constitutional Principle VIII expressly prescribes a system of proportional representation. This is not a contentious matter. The National Party has already submitted a detailed paper in this regard to the relevant Theme Committee.

C. DEGREE OF FLEXIBILITY

Although the principles underlying representative government are stated generally and they obviously allow for flexibility in respect of their detailed implementation, it would be impossible to depart from the essence of those principles. For example, it would be possible to determine the term of Parliament, in other words, how often elections must take place, but not to abolish the

principle of regular elections. It would be possible to determine the voting age, but not to abolish the principle of universal adult suffrage. Similarly, the type of proportional electoral system could be determined, but it would be in breach of the Constitutional Principles to adopt a constituency system.

D. PARTICIPATORY DEMOCRACY

1. Involvement in parliamentary process

We agree that representative government does not stop at regular elections for decision-making bodies, but that it extends to the continuous involvement of the electorate in the decision-making process. For this reason, it is necessary to provide sufficient mechanisms and opportunities for the people to participate in the parliamentary process. This applies to the lawmaking function of Parliament, as well as its function to reflect and articulate the views of the public on all matters of interest to it. With reference to Constitutional Principle X, the legislative procedures of Parliament should be formulated to provide for all this. Much has been done already, for example, in the case of prior publication of bills, but more can still be achieved. In this regard, the recently adopted Standing Orders of the Gauteng Legislature, which make express and extensive provision for public participation and for the presentation of petitions, could serve as a convenient point of departure.

2. Right of free access to information

The principle of free access to information (Constitutional Principle IX and section 23 of the transitional constitution) is of particular relevance to the practical implementation of the idea of optimum public participation. In order for the public to enjoy an informed involvement, it needs information. All decision-making processes, at legislative as well as executive levels, should be aimed at efficiency, but also at providing the public with as much information as possible.

3. Referenda

Whereas we are in favour of optimum public participation, we do not believe, however, that regular referenda as a standing constitutional feature of our decision-making system would be feasible. Switzerland is the only country where referenda are used on a regular basis and there it can be justified on account of the small size of the country and population, as well as the sophistication of the electorate and the efficiency of the administration and infrastructure. In contrast, referenda on a regular basis would be too costly and difficult in South African geographical, demographic and other circumstances.

NATIONAL PARTY (NP)