

Theme Committee 6.4  
Draft ANC Submission on:  
Intelligence Services

- A. The principles, functions and accountability of Intelligence can be dealt with in the overarching preamble of the Security apparatus. In addition to the definition of national security, the preamble should cover the following issues.
1. The intelligence services should have the primary duty to equip the Executive and Parliament to safeguard the South African public and South Africa's national interests by advising government on security and public safety concerns.
  2. There shall be a multi-party Parliamentary oversight committee, to be appointed by the Speaker of Parliament in consultation with the President of Senate after consultation between the President and Heads of the political parties represented in Parliament.'
  3. The Constitution should provide for Judicial control over intrusions into individual's rights of privacy when there is a perceived threat to national security.
  4. Members of the intelligence services shall have the rights as defined in the Bill of Rights, subject to a limitation clause, as in Section 33 of the Interim Constitution. Freedom of speech and association should be curtailed for the duration of their employment and for the length of time legally determined for classification of material.
  5. National intelligence should be a function and responsibility of the national government and should not be delegated to provincial governments.
  6. The Constitution should provide that access to information, relating to defence, national security or public safety, that is current and obtained in confidence, should be limited for a specified time as defined in law.
  7. The Intelligence services should operate within the law.
  8. The Constitution should prohibit their having an influence, directly or indirectly, over political events in foreign countries, except in circumstances

(Members of the committee must take an oath of secrecy relevant to their work. The budgetary oversight of the intelligence services will not fall under the ambit of the Joint Standing Committee of Finance, but be part of the brief of the intelligence oversight committee. Much of these detail may be left to national legislation.)

of war in the last-mentioned instance.

9. The members of the Intelligence services will be bound by oath of secrecy and allegiance to the Constitution.

10. The Constitution should state that provision is to be made in national legislation that each intelligence service receive independent civilian oversight by way of an inspectorate. Such an inspectorate will also function as a mechanism for the resolution of disputes.
11. The constitution shall stipulate that there shall be no private intelligence services.
12. The following aspects of the control, accountability and structure of Intelligence services should be provided by legislation rather than the constitution:

The national Intelligence services of South Africa should consist of the following:

- a civilian intelligence organisation that shall be responsible for the conduct of domestic intelligence and national counter-intelligence responsibilities;
- a civilian intelligence organisation that shall be responsible for the conduct of foreign intelligence;
- an appropriate structure of the Police Service that is responsible for the conduct of crime intelligence;
- the department within the National Defence Force which is responsible for military intelligence.

The President should be able to draw on the executive support of a Minister to be known as the Minister of Intelligence. Together they should exert ministerial control over intelligence and have accountability to Parliament for intelligence.

Operational control and management of the intelligence services is to be exercised by the Director General of Intelligence structures under the direction of the relevant Minister.

A coordinating mechanism essential to coordinate the flow of information, priorities, activities, policies, resources and other matters pertaining to the functioning of national intelligence, as defined in an Act, shall be chaired by the Director General of Intelligence who shall be appointed by and accountable to the President.