

INYANDZA NATIONAL MOVEMENT'S
SUBMISSION TO THE TECHNICAL
COMMITTEE ON THE REPEAL OR
AMENDMENT OF LEGISLATION
IMPEDING FREE POLITICAL
ACTIVITY AND DISCRIMINATORY
LEGISLATION

Two routes are proposed to approach this issue, being

1. To identify relevant laws applicable in the Republic of South, IBVC states and self-governing territories.
2. The "higher code" approach.

Both routes possess shortcomings. The very distinct character of the first route is that it will be time consuming whilst adopting the second route will take more time than the first one as it will involve the establishment of a Constitutional Court.

As Inyandza National Movement, we believe that a product after comparing submissions by participants combined with the Technical Committee's input, will give birth to perfectly accurate and complete list.

Ultimately an omnibus Bill will have to be drafted to repeal and amend relevant laws.

**THIRD REPORT
FROM THE TECHNICAL COMMITTEE
ON THE REPEAL OR AMENDMENT OF
LEGISLATION IMPEDING
FREE POLITICAL ACTIVITY AND
DISCRIMINATORY LEGISLATION TO
THE NEGOTIATING COUNCIL
15 JULY 1993**

On 14 July 1993, the Technical Committee for the Repeal of Discriminatory Legislation and Free and Fair Elections met with, respectively, the Committees for the Transitional Executive Council, the Independent Electoral Commission, and the Committee for Fundamental Rights during Transition. The overlap and potential overlap of areas dealt with by the committees was discussed.

1. TRANSITIONAL EXECUTIVE COUNCIL TECHNICAL COMMITTEE

- 1.1. The discussions with the TEC committee confirmed the need for guiding principles to ensure that the elections are free and fair, and for machinery to enforce these principles. It was also agreed that judicial supervision of the electoral process would be necessary.
- 1.2. Both committees assume that the interim/transitional constitution and the interim bill of rights will only start to apply after elections for the constituent assembly have been held. There will therefore not be any special code to govern the elections beforehand unless created through the MPNP.
- 1.3. We accept that if this assumption is wrong - that is, if a fully equipped transitional constitution and bill of rights, to be enforced by a new constitutional court, were to come into existence in the immediate future - then the need for a special election code and machinery of enforcement should fall away.

2. INDEPENDENT ELECTORAL COMMITTEE TECHNICAL COMMITTEE

- 2.1. The IEC informed us that they are drafting a "Code of Conduct for Political Parties". They are also proposing a new Electoral Act. The enforcement of these 2 instruments is foreseen to take place through the IEC and directorates with a special focus.
- 2.2. After hearing our proposals they supported the need for a special "Electoral Code" and Electoral Tribunal. Our proposal for an electoral ombudsman can now fall away because the area of "administrative control" will be covered by the machinery proposed by the IEC.

(NOTE: 2 different types of code are therefore proposed which will probably have to be given appropriate names. One deals with political parties and officials. The other purports to be a supreme code/ "higher code" aiming to ensure free fair and democratic electioneering - binding on government and private bodies and people)

- 2.3. We were then requested by the IEC to finalise our proposal on the "higher code". The two committees will meet again to decide on how to integrate the "higher code" and Electoral Tribunal into the broader IEC structure.

3. TECHNICAL COMMITTEE ON FUNDAMENTAL RIGHTS DURING TRANSITION

- 3.1. This committee assured us that all the rights envisaged in the "higher code" being dealt with by our committee would be catered for in an Interim Bill of Rights.
- 3.2. It conceded that it had not paid sufficient attention to the machinery for the enforcement of the Interim Bill of Rights. It also acknowledged that it made no provision for the horizontal enforcement of the Bill of Rights.
- 3.3. It was agreed that our committee need not continue with the drafting of a "higher code", provided that:
 - 3.3.1. The Interim Bill of Rights would apply in the period running up to the elections.
 - 3.3.2. Effective judicial enforcement be provided for.
 - 3.3.3. Provision was made for the horizontal and vertical enforcement of the Interim Bill of Rights.

- 3.4. The Committee on Fundamental Rights agreed that there was a need for the enforcement of the rights contained in the Interim Bill of Rights or the "higher code" of the Committee on Repeal of Discriminatory Legislation by a proper judicial tribunal.
- 3.5. The committee for the Repeal wishes to raise two possible election irregularities for the purpose of illustrating the need for a "higher code" backed by a judicial tribunal:

Example 1: The Town Council of Blikkiesdorp prohibits the National Freedom Party from holding a meeting in the market square in terms of a municipal by-law. The previous week it had given permission to another party to do so.

Example 2: The Society for the Preservation of Male Rights, a private association, decides that none of the women in the families of members of the society should attend political meetings or vote. Members of the society agree to enforce this situation domestically.

If the existing structures alone are retained, the decision of the Blikkiesdorp Town Council will have to be challenged through the ordinary courts. This will be both expensive and extremely time consuming (the outcome of the proceedings is unlikely before 27 April 1994). The same consideration will apply in the second example. In addition, courts are unlikely to interfere in such a "private matter". Moreover, even if the traditional Bill of Rights is adopted for the interim period and does not provide for horizontal enforcement, the women denied their political rights in this way would have no redress.

4. CONCLUSION

It seems clear to us that there must be machinery which can deal urgently and effectively with such irregularities to ensure that at the end of the elections on 27 April 1994, no party can claim that irregularities of this kind occurred and were not addressed immediately. We repeat, the Angolan spectre must be avoided at all costs. No party must be able to claim after the election of 27 April 1994 that it was not free, fair and democratic.

The committee's proposed "higher code" setting out the guiding principles to ensure free and fair elections, backed by an Electoral Tribunal to redress irregularities immediately and effectively, therefore remains valuable.

**REPORT ON THE REPEAL OF LEGISLATION
IMPEDING FREE POLITICAL ACTIVITY AND
DISCRIMINATORY LEGISLATION**

LEGISLATION TO BE REPEALED OR AMENDED

Two Substantial Reports were tabled by the **Task Group on the Identification and Repeal of Legislation Impeding Free Political Activity and Discriminatory Legislation**.

A summary of decisions is herewith provided. For full details, the Reports and Minutes should be consulted.

On **1 November** the Negotiating Council (with some delegations reserving their positions) agreed that the following should be repealed or amended:

A. SOUTH AFRICA

- (1) Prohibition of Foreign Financing of Political Parties Act 51 of 1958 - to be repealed in toto
- (2) Affected Organizations Act 31 of 1974 - to be repealed in toto
- (3) Publications Act 42 of 1974 - Sections 47(2)(c), (d) and (e) to be repealed (also see 11 November and Outstanding Matters below)
- (4) Parliamentary Internal Security Commission Act 7 of 1976 - to be repealed in toto
- (5) Internal Security Act 74 of 1982 -
amend to narrow the scope of Section 4, in terms of which the Minister can declare certain organizations unlawful, by removing "disturbance" and "disorder" from the wording, but leaving "violence"
Section 50, giving power to the police to arrest without a warrant, to be amended to subject the decision of the police to an objective instead of a subjective test
Sections 58, 59 and 60 to be repealed
Section 62 to be repealed (see 11 November and Outstanding Matters below)
- (6) Disclosure of Foreign Funding Act 26 of 1989 - to be repealed in toto
- (7) The Gatherings and Demonstrations in the Vicinity of Parliament Act 67 of 1976, the Demonstrations in or near Court Buildings Prohibition Act 71 of 1982 and the Gathering or Demonstrations in or near the Union Buildings Act 103 of 1992 were to be repealed by the "Goldstone Bill" - delegates requested to see the "Goldstone Bill".

B. TRANSKEI

- (1) Public Security Act 30 of 1977 - Sections 7, 12, 13, 14, 22, 24, 33-37, 40-42, 46 to be repealed, as recommended
- (2) Transkei Authorities Act 4 of 1965 - Section 42 to be repealed as recommended

- (3) Transkei Prisons Act 6 1974 - amend as recommended, but look at South Africa too, including the position of teachers, soldiers, etc.
- (4) Publications Act 18 of 1977 - some Sections to be repealed, as recommended and agreed with regard to South Africa
- (5) Newspaper and Imprint Registration Act 19 of 1977 - Sections 2, 8, 9 and 10 to be repealed as recommended
- (6) Undesirable Organisations Act 9 of 1978 - to be repealed in toto
- (7) Penal Code Act 9 of 1983 - agreed to amend as recommended by Task Group, in accordance with "Goldstone Bill"
- (8) Electoral Laws Provisions Act 8 of 1987 - to be repealed and replaced by South African Act, as recommended
- (9) Aliens and Travellers Control Act 29 of 1977 - agreed to amend as recommended, but issues of freedom of movement and "aliens" to be investigated as stated above

C. BOPHUTHATSWANA

- (1) Internal Security Act 32 of 1979 -
 Sections 2, 3, 4, 7, 8 to be repealed
 Sections 5,7,8, 10, 12, 13, 14 to be repealed
 Sections 6 and 9 to be repealed
 Section 15 to be repealed
 Section 19 to be repealed
 Section 22 agreed to repeal instead of amend, as recommended
 Section 25 to be repealed
 Sections 26, 27, 30-36, 43A to be repealed - see TEC Act and "Goldstone Bill" in South Africa
 Views were also expressed that the entire "piece of legislation" be repealed, regarding the Internal Security Act.
- (2) Bophuthatswana Traditional Authorities Act 23 of 1978 - Section 38 to be repealed, as recommended
- (3) Bophuthatswana Electoral Act 13 of 1979 - Sections 16, 16A, 16C, 16D to be amended, as recommended
- (4) Newspaper and Imprint Registration Act 18 of 1979 - Section 2, 9, 10 to be repealed, as recommended
- (5) Publications Act 36 of 1979 - some Sections to be repealed, as recommended with regard to South Africa
- (6) Bophuthatswana Broadcasting Control Act 28 of 1989 and Bophuthatswana Broadcasting Corporation Act 30 of 1989 - Task Group recommended to amend in order to place control in hands of a non-partisan body, in stead of the Government; Council decided that the Acts should be repealed, in view of South African developments and its future irrelevance
- (7) Prevention and Control of Mass Action Act 59 of 1992 - repeal Sections 2 and 4(g), as recommended
- (8) Security Clearance Act 40 of 1985 - to be repealed in toto

- (9) Aliens and Travellers Control Act 22 of 1979 - agreed to repeal, as recommended - see however the other areas and 6 below

D. VENDA

- (1) Republic of Venda Constitution Act 9 of 1979 - Section 6A to be repealed
- (2) Maintenance of Law and Order Act 13 of 1985 -
Section 4 - to be amended in accordance with South African recommendations
Sections 5-9 to be repealed as recommended
Sections 10 and 12 (2) - to be amended, as recommended, in accordance with South African situation
Sections 14(10), 15-17, 18-28 to be repealed as recommended
Section 46 to be treated in same way as similar provisions in accordance with "Goldstone Bill"
Section 50 to be amended in accordance with South African situation, as recommended by the Task Group, namely to require objective instead of subjective test
Section 54 to be repealed (agreed by Venda delegation - see also 4 below)
Section 55 to be repealed
Section 56 to be repealed
Sections 58-60 to be repealed
- (3) Population Registration Act 6 of 1980 - to be repealed in toto
- (4) Newspaper and Imprint Registration Act 22 of 1982 - to be amended as recommended
- (5) Publications Act 15 of 1983 - repeal some sections as recommended with regard to South Africa
- (6) Radio Act 15 of 1984 - too be amended as recommended
- (7) Internal Security Act 44 of 1953 - Section 17(bis) to be repealed
- (8) Public Safety Act 3 of 1953 - deal with in terms of TEC Act of South Africa as recommended
- (9) Proclamation R293 of 1962 - chapters 5 and 6 to be repealed, but see new recommendations in 8 on Self-Governing Territories
- (10) Prohibition of Foreign Financing of Political Parties Act 51 of 1968 -to be repealed in toto, as recommended
- (11) Affected Organisations Act 31 of 1974 - to be repealed in toto, as recommended

E. CISKEI

- (1) National Security Decree 19 of 1993 - The Council decided that the items recommended by the Task Group should be repealed. Chapter 5 should be dealt with in terms of "Goldstone Bill" as recommended

- (2) Proclamation R293 of 1962 - chapters 5 and 6 to be repealed - but see new recommendations in 8 on Self-Governing Territories
- (3) Defence Act 1 of 1981 - Section 75 to be amended as recommended
- (4) Administrative Authorities Act 37 of 1934 - Sections 26(ix), 26(n), 26(o), and 65, as well as sections 52 and 53 to be repealed
- (5) Broadcasting Act 8 of 1985 - amend in accordance with South African developments
- (6) Immigration and Aliens Act 9 of 1988 - Sections 7, 8, 56, 58, 60, 63, 64, 68, 69 to be repealed

up was requested to investigate the following matters in South Africa and the
ies and to make the recommendations uniformly applicable to all relevant

terrorism and related crimes against the state;
detention;
the control of "aliens" and related matters;
restrictions on the political activities of civil servants.

ing Council furthermore accepted recommendations by the Planning Committee,
that the decisions taken in the Negotiating Council should be binding on the
territories and states represented in the Council and that the Relevant
should undertake whatever steps are required to legislate those changes and (2)
Group be asked to continue with its investigation regarding the identification
legislation impeding free political activity and discriminatory legislation in a

ber the Negotiating Council agreed to repeal or amend the following:

AFRICA AND THE TBVC TERRITORIES

Section 54(2) of the South African Internal Security Act 74 of 1982 (the crime
of subversion) to be repealed; legislation dealing with terrorism and related
crimes against the state to be amended as a matter of urgency in accordance
with the situation in South Africa, as amended, where it differs substantially;
the entire area of statutory and common law crimes against the state to be
investigated in the longer term, and that substantial reforms be considered in
view of a Bill of Fundamental Rights and common law principles. (See for
details as to the relevant legislation the Second Substantial Report of the Task
Group pages 6 to 8.)

Section 29 of the South African Internal Security Act 74 of 1982 to be
repealed; legislation regarding detention in the TBVC territories to be
amended to bring it line with the South African situation, as amended, were
substantial differences occur; all statutory provisions dealing with detention
without trial to be investigated and repealed, or reformed in accordance with

the Bill of Fundamental Rights and common law principles. (See for details as to the relevant legislation the Second Substantial Report of the Task Group pages 9 to 11.)

- (3) The South African Aliens Control Act 96 of 1991, the Transkei Aliens and Travellers Control Act 29 of 1977, the Bophuthatswana Aliens and Travellers Control Act 22 of 1979 and the Ciskei Immigration, Emigration and Aliens Act 9 of 1988 to be amended, by amending the definition of "alien" not to include persons who are citizens of South Africa, Transkei, Bophuthatswana, Venda and Ciskei, as the case may be, to provide for freedom of movement; to amend to exclude persons who went into exile and as a result lost South African citizenship from the definition of "alien".
- (4) All legislation dealing with restrictions on the political activities of civil servants (see pages 15 to 17 of the Second Substantial Report for a detailed list) to be amended to accord with the following guide-lines or principles agreed to by the Council:

"Apart from exercising the right to vote, persons employed by the Government, **excluding** members of the Police Force, the Defence Force, the National Intelligence Service, the Correctional Services, as well as judicial officers such as magistrates and prosecutors, should be allowed to -

- (a) be a member of a lawful political party or organisation;
- (b) serve on the management of or hold an executive position of such political party or organisation and otherwise taking part of the activities of such party or organisation;
- (c) attend political meetings, preside at such meetings and speak and take part in the debates at such meetings;
- (d) draw up and publish any writing or deliver a public speech to promote or prejudice the interests of any political party or political organisation;
- (e) accept, with prior notification to the head of the department, nomination or election as a member of a public body such as a local authority or school board, but not in respect of provincial government and Parliament, in which case the member shall take leave from the date of nomination and resign from the date of election.

However such a member shall not make use of his or her position in the service of the Government to further or prejudice the interests of any political party or organisation.

Members of the Police Force, the Defence Force, Correctional Services and the National Intelligence Service, as well as judicial officers such as magistrates and prosecutors, are required to be neutral and impartial and should, therefore, not be seen to be associated with any political party, political organisation or movement. It is consequently suggested that apart from exercising the right to vote and to attend public meetings of political parties, organisations or movements while dressed in civilian clothes, such members should not be allowed other political freedoms such as membership of a political party, organisation or movement, actively taking part in the activities thereof, presiding or speaking at meetings, etc. (They should be allowed to be members of trade unions or similar organisations.)"

The question whether these amendments were to be made immediately, or referred to a later structure, was to be considered by members of the Planning Committee - see Outstanding Matters below.

- (5) The issue of freedom of expression and racial "hate speech" (Section 47(2)(c) and (d) of the Publications Act and Section 62 of the Internal Security Act, to be repealed in terms of the decision of 1 November) had to be revisited. The Task Group recommended on 15 November that Section 47 (2) (c) and (d) be repealed, that Section 62 be retained for the time being and that Section 29 of the Black Administration Act 38 of 1927 be repealed. The Task Group furthermore recommended that the relevant provisions on the TBVC states be repealed or amended in accordance with the abovementioned South African situation, and that the legal position regarding freedom of expression and possible limitations thereof be thoroughly investigated and revised and reformed, in accordance with a future Bill of Fundamental Rights, common law principles and of democracy and human rights. After discussion and bi-lateral talks, the Negotiating Council accepted the recommendations, with the qualifications that Section 62 be retained only until the last-mentioned investigations, whereafter it should be amended or scrapped and, in the last mentioned event, be replaced with an appropriate provision. (See the Task Group's Report of 15 November for details).

B. SELF-GOVERNING TERRITORIES

The Negotiating Council agreed to the recommendations in Annexure "B" of the Second Substantial Report of the Task Group, as summarized below (details being available in the Report);

LEGISLATION APPLYING IN ALL SELF-GOVERNING TERRITORIES

<u>Law</u>	<u>Recommendation as agreed to</u>
1. Self-governing Territories Act 21 of 1971, Chapter 3	Amend
The Act must be amended in order to effect amendments and repeals in the territories.	
2. Item 21A of Schedule 1 of Act 21 of 1971	Repeal
The item authorises the territories to make laws in respect of the prohibition of organisations, the restriction of persons and censorship.	
3. Proc R.293, Reg 4, Ch 5, Control of Townships, Communal Halls	Amend
Amend to remove sole and absolute discretion from township superintendents in respect of the hiring of facilities for meetings, and to provide a speedy mechanism where a dispute arises.	
4. R. 293, Reg 1, Ch 6, Control, supervision, restriction or prohibition of Public Meetings	Amend
Amend to provide that Magistrates shall invite representations from interested parties before prohibiting meetings on the grounds that it will breach the peace, and so as not to conflict with the Goldstone Bill once it is enacted.	
5. Reg 2	Repeal
Repeal provision providing for application to Township Manager for holding of any meetings.	
6. Reg 3	Repeal
Repeal control of meeting by Township Manager.	
7. Reg 4	Repeal
Repeal control of subject matter by Township Manager at meetings.	

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| 8. | Reg 5 | Repeal |
| | Repeal control of duration of meeting by Township Manager. | |
| 9. | Reg 8(a) | Amend |
| | Amend offences accordingly. | |
| 10. | Regs 8(c) - (f) | Repeal |
| | Repeal offences accordingly. | |
| 11. | Proc R.188, Land Regulations,
Regs 63 & 64, Presence
in Black Areas of Persons
other than Blacks and
Unauthorised Blacks | Repeal |
| 12. | Proc R.268, Control of
Meetings in Black Areas | Repeal |
| | Repeal proclamation which prohibits gatherings of more than 10 Blacks without permission. | |
| 13. | Proc R.200/1967, Community
Service | Repeal |
| | Repeal Proclamation which in effect provides for forced labour of Blacks. | |
| 14. | Proc R.201/1968, Collective
Responsibility | Repeal |
| | Repeal Proclamation which provides for collective responsibility for Blacks in cases of damage, theft or personal injury. | |

GAZANKULU

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| 1. | Civil Protection Act 5 of 1987
Sections 2, 7 and 8 | Amend |
| | Amend so as to restrict use of Act to natural and man-made disasters and upheavals; and to prevent extra-ordinary powers of search and seizure to designated persons being used in security emergencies. | |

2. Education Act 7 of 1973
Sections 15(1)(d) & (2)(b),

Repeal

Repeal discriminatory provision against single female teachers.

3. Sections 21(e) & (k), (u), 25 (1),
(3) & (4)

Repeal

Repeal misconduct provisions which prohibit public criticism and debate by teachers; membership or active participation in any political organisation; and the restriction on holding public office.

4. s25(2)

Amend

Amend accordingly to set out that the only restriction on teachers holding office should be that there should be no interference with the performance of their duties.

5. Gazankulu Public Service Act
5 of 1972, s18(g), Staff
Regulations A 13, A 14

Repeal

Repeal misconduct provisions which prohibit membership or active participation in any political organisation by civil servants; and the standing for election; and the requirement that female employees give written notice of their intention to marry.

KANGWANE

1. Kangwane Civil Protection Act
18 of 1989

Amend

Amend so as to restrict use of Act to natural and man-made disasters and upheavals; and to prevent extra-ordinary powers of search and seizure to designated persons being used in security emergencies.

2. Kangwane Public Service Act
5 of 1989, s15(2) & (4)
Retirement and Retention of
Services

Amend

Discriminatory. Amend to have same retirement age for men and women.

3. S19, Misconduct Repeal

Repeal misconduct provisions which prohibit public criticism and debate by teachers.

KWANDEBELE

1. Kwandebele Civil Defence Act
7 of 1987 Amend

Amend so as to restrict use of Act to natural and man-made disasters and upheavals; and to prevent extra-ordinary powers of search and seizure to designated persons being used in security emergencies.

2. Kwandebele Traditional
Authorities Act 8 of 1984
s16(2) & 18(1)(A) Repeal

Repeal provision which requires that residents give traditional leaders "loyalty, respect and obedience" which may be construed as political support.

3. Kwandebele Police Act
11 of 1986, s36 A (1) Amend

Amend by deleting provision which permits the Kwandebele Police Force to enter into agreements whereby it can conduct cross-border operations into South Africa.

4. Kwandebele Public Service Act
3 of 1981, s4(5) & 18(g) Repeal

Repeal provisions which prohibit membership or active participation in any political organisation.

5. S15(8) Repeal

Repeal power of Cabinet to discharge, transfer or demote without hearing employee or furnishing reasons.

6. S18(p) Repeal

Repeal misconduct provisions which prohibit public criticism and debate by teachers.

KWAZULU

1. KwaZulu Act on the Code of
Zulu Law 16 of 1985
S 7(1) and 7(1)(a). Amend

Amend to delete power of chiefs and headmen to prohibit gatherings and to use force to disperse gatherings.
2. S115(1)(a) Repeal

Repeal offence of spreading false report affecting KwaZulu Government.
3. KwaZulu Black Administration
Amendment Act 26 of 1988 Repeal

Repeal Act which provides for forced removals and banishment orders.
4. KwaZulu Act on the Powers and
Privileges of the Legislative
Assembly 25 of 1988 Amend

Amend to prevent inquiry into political affiliation or actions of any person or groups.
5. KwaZulu Amakhosi and
Iziphakanyiswa Act 9 of 1990
(Chiefs and Headmen)
s4(b) Repeal

Repeal prohibition on committing any act unless permitted by custom.
6. s18(1)(b) Repeal

Repeal provision which requires that residents give traditional leaders "loyalty, respect and obedience" which may be construed as political support.
7. s18(1)(d) Amend

Amend to prevent the use of force by Chiefs and to prevent the reporting of political activity to the Government.
8. s18(1) Amend

Amend to accord protection to all travellers.

9. s18(1)(f)(vi) Repeal
Repeal requirement of reporting unauthorised meetings or distribution of undesirable literature.
10. s18(1)(g) Amend
Amend to delete power of chiefs and headmen to use force to disperse gatherings.
11. s18(1)(i) Amend
Amend to prevent instructions and orders relating to attendance and participation at political events.
12. s18(1)(l) Amend
Amend to permit Chiefs to engage in lawful resistance to any law.
13. s23(l)(g) Repeal
Amend misconduct provision in respect of joining certain organisations whose objects are prejudicial to the government.
14. KwaZulu Civil Defence Act
11 of 1984 Amend
Amend so as to restrict use of Act to natural and man-made disasters and upheavals; and to prevent extra-ordinary powers of search and seizure to designated persons being used in security emergencies.
15. KwaZulu Police Act 14
of 1980, s42A(1) Amend
Amend by deleting provision which permits the KwaZulu Police Force to enter into agreements whereby it can conduct cross-border operations into South Africa.

16. KwaZulu Education Act 7
of 1978, s21A

Repeal

Repeal authority to discharge teacher at short notice if employment not in the interest of KwaZulu.

17. Sections 22(f), (t), (u)
(v) and Regs R1755, 13(l)(i),
(l) and (m).

Repeal

Repeal misconduct provisions which prohibit public criticism and debate by teachers; and which prohibit membership or active participation in any political organisation.

18. Public Service Act 5 of 1980
s19(t)

Repeal

Repeal prohibition on joining trade unions or attending union meetings.

19. s9(2)

Repeal

Repeal requirement on declaring written loyalty to the KwaZulu Government.

20. s21(5), KwaZulu Education Act
7 of 1978

Amend

Delete authority for dismissal of women teachers who fall pregnant out of wedlock; and amend to provide for paid maternity leave.

LEBOWA

1. Lebowa Public Service Act
2 of 1972

Repeal

Repeal provision which forces women who marry to retire.

2. Regulations governing schools
under Lebowa Govt Service, 1978
Reg. 17(1) Holding of Office by
Teachers

Repeal

Repeal regulation which requires teacher to obtain the Minister's consent to hold office.

3. Reg 18(c), (s), (v) Repeal

Repeal misconduct provisions which prohibit public criticism and debate by teachers

4. Reg 18(v) and 33 Amend

Amend restrictions on political activity only to apply during school hours.

5. Staff Reg. 1976, A14 Repeal

Repeal requirement that females give notice to department head when they intend to marry.

6. Lebowa Civil Protection Act, 1988 Amend

Amend so as to restrict use of Act to natural and man-made disasters and upheavals; and to prevent extra-ordinary powers of search and seizure to designated persons being used in security emergencies.

QWA QWA

1. Regulations, Chiefs and Headmen, GN 11, 25/2/85 s2(b) Repeal

Repeal provision which requires that residents give traditional leaders "loyalty, respect and obedience" which may be construed as political support.

2. s5(b) Amend

Amend to prevent the reporting of political activity.

3. s5(h) Amend

Amend to accord protection to all travellers.

9. s5(i) Repeal
Amend to delete power of chiefs and headmen to use force to disperse gatherings.
10. s5(j) Amend
Amend to delete power of chiefs and headmen to prohibit gatherings and to use force to disperse gatherings.
11. s5(l) Amend
Amend to prevent instructions and orders relating to attendance and participation at political events.
12. Qwa Qwa Civil Defence Act
12 of 1983 Amend
Amend so as to restrict use of Act to natural and man-made disasters and upheavals; and to prevent extra-ordinary powers of search and seizure to designated persons being used in security emergencies.
13. Qwa Qwa Education Act
4 of 1976, s21(e), (s), (t)
(u) Repeal
Repeal misconduct provisions which prohibit public criticism and debate by teachers; and which prohibit membership or active participation in any political organisation.
14. Regulations to Act
7 of 1987, 1/9/88
Reg 15 Amend
Amend provision to contain extent of prohibition on political activity to school hours.
15. Qwa Qwa Public Service Act
5 of 1973, s 18(f), (g), (h) Repeal
Repeal misconduct provisions which prohibit public criticism and debate by teachers; and which prohibit membership or active participation in any political organisation.
16. Proclamation No. R. 195, 1981,
Regulations for the Administration
of Qwa Qwa Repeal

These regulations provide for, inter alia, 90 days detention without trial; the prohibition and restrictions on meetings; ouster clauses on legal intervention; various offences repugnant to freedoms of expression and association.

17. Qwa Qwa Education Act
7 of 1987, s20

Repeal

Repeal misconduct provision in respect of unmarried teachers falling pregnant.

OUTSTANDING MATTERS

- (1) The Task Group has to proceed with the drafting of the necessary legislation to repeal or amend the above, with assistance from the state law advisors and guidance from the Negotiating Council or its successor, or oversee the drafting of all required legislation by the South African government, the TBVC states and self-governing territories.
- (2) As to the above-mentioned guidelines or principles relating to restrictions on the political activities of civil servants, the Negotiating Council should determine what is to be done to give effect to these principles, after approval of the constitutional principles dealing with the public service by the Negotiating Council.
- (3) A law or laws for the amendment or repeal of all statutes dealing with gatherings and demonstrations should be drafted, since the Negotiating Council has not had the opportunity to see the "Goldstone Bill", referred to in the Task Group's reports.
- (4) The Task Group should deal with medium and long term issues and report back to the Negotiating Council or its successor on (a) legislation in South Africa and the TBVC territories, which may resemble the aspects dealt with under the self-governing territories (mentioned above), which have not been dealt with, (b) discriminatory legislation which should be identified and legislation drafted, with the input of members of the Negotiating Council, and (c) research and proposals regarding the entire area of security legislation.
- (5) In terms of a decision of the Negotiating Council the South African Government should be directed to present to Parliament during the November 1993 session legislation empowering the State President to repeal, amend, supplement or alter discriminatory legislation or legislations inhibiting free political activity by proclamation. The wording of the empowering clause should be the same as that previously approved by the Negotiating Council in respect of self-governing territories.

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