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Parliament: Following up on our commitments to the people

Summary of submissions

1. Purpose

The purpose of this document is to highlight key proposals emanating from the submissions received by the Ad-Hoc Committee on Political Party Funding (the Committee) following its invite for public comments on the existing legislation, which governs the funding of political parties.

2. Introduction and background

Following its establishment, the Committee held its first meeting to elect and deliberate on how it can best execute its mandate. The meeting resolved that as a point of departure, it should invite public comments on the Public Fund of Represented Political Parties Act (103 of 1997), referred as a Public Fund Act.

Pursuant to that resolution, the public was invited to submit written comments on or before 21 July 2017. After the cutoff date, the Committee received seventeen (17) submissions from all occupations, including individuals, civil society organizations, non-profit organizations, trade union, research institutions and religious groups. They made unique and crucial comments with regard to the funding of political parties. Their comments and/or proposals are compressed, grouped and summarized in the following headings and they are interalia:

3. Public Funding

All the submissions received are in support of allocation and an increase of public funding to political parties as one the key aspect that promote and strengthen democracy. However, such enhancement should be reciprocal and contingent to the regulation and disclosure of private funding, the use and the need for public funding, in the main. Further, any increase in public funds should be in cognisance of the fiscal constraints; as such, a cost benefit of such choice to public policy has to be clear and motivated.

In respect of the above, the afore-said submissions proposed seven (7) issues or aspects with regard to public funding and they are:

- (i) Increase public funding should consider funding activities that support and enhanced participation. These include, amongst, public policy development and research, ongoing voter education, political education and citizen education, operational costs

- and election campaigns. Thus, there is a need to streamline and extend the scope of the current public funding to explicitly include these activities
- (ii) Review the public funding model- about 10 (59%) of the submissions agitating for the review of the current funding model, whilst four (4) or 23% didn't comment on the review of the current funding model, the rest is in support of the current model. The proponents of model review argued that the current formula used to allocate public funds to political parties is not in line with the spirit of the Constitution which about the enhancement of multi-party democracy. Subsequently, they proposed that a balance should be struck between proportionality and equity- in this regard, they suggest a 50/50 basis.
 - (iii) Consider a comprehensive funding- whereby the public funding should consider the political funding holistically. This includes striking a balance between funding for parliamentary activities and non-parliamentary activities.
 - (iv) To encourage public to donate to the Public Representative Political Fund through incentives such as tax exemption.
 - (v) Strict regulating, monitoring, reporting and oversight on the use of public funding.
 - (vi) Put a mediate stop to transfers made to political parties by provincial legislatures because it violates section 236 of the Constitution.
 - (vii) The public funding should be considerate to enable evolution of the democratic politics in South Africa as a result the public funding model should avoid being biased against smaller and new political parties.

4. Private funding

The anecdotal evidence points to a heavy reliance on private funding by South African political parties. In this regard, the scope and the use of such money is opaque. All the submissions agreed on the use of private funding by political parties, but subject to legislation and strict regulations. They hold a view that the limited nature of public funds to fund the core party activities lead to extensive reliance on the private funding. Such reliance on private funding fuels discernments that anonymous donations from business interests are a means to undermine democracy and the Constitution, dilute the voices of citizens. Subsequently, to avert such undue influence to the political system, private funding has to be regulated. In this regard, they proposed a quite number of aspects for political party private funding. These aspects differ in terms of the source / category of private funding (donor) and disclosure.

4.1. Source of Funding

All submissions are in consensus to regulations imposed on source of private donor funding to political parties. A quite number of submissions (4) are in favour of permitting only South African individuals and companies to donate to political parties and outlaw any foreign funding. On the other hand, the majority of submissions supports both local and foreign donations but with strict regulations. As such, under the source/category of funding, the following proposals emerged prominently:

- (i) Allow only local donation from both individuals and companies, and both local donor and political party must disclose, the amount, conditions if any, donor and political party identity.

- (ii) Prohibit direct donations from foreign governments, multinational corporations to political parties.
- (iii) Ban trade unions, state owned enterprises, companies with significant revenue derived from the state contracts and tenders to donate directly to parties
- (iv) Put limits to all private donations, be it local or foreign.
- (v) Regulate the investment arms/vehicles of the political parties

4.2. Disclosure

All the submissions agreed that all private funding must be disclosed by the recipients. However, they differ on whether or not donors should also disclose in their annual reports. In support of the disclosure by donor, they proposed some tax incentives so that donors should be encouraged to disclose voluntarily. Key proposals with regard to disclosure are as follows:

- (i) Introduce threshold for disclosure in order to lessen the administrative burden to political parties, thus, compulsory disclosure above certain agreed threshold.
- (ii) The Threshold should be determined through research, although, others have suggested amounts, such as the average household income (R8 242.58) and unsubstantiated R100 000 per annum.
- (iii) Threshold amount should be cumulative- to prevent donor trying to avoid disclosure by donating several amounts beneath the threshold, which together add-up to more than set threshold.
- (iv) Timing and frequency of disclosure- More than once disclosure during the 12 months before elections, it could, be bi-annually or quarterly.
- (v) Disclose any donation, including in kind
- (vi) Disclosure should be extended to the leaders of political parties and independent candidates

5. Regulate the use and expenditure of both public and private funding

Importantly, all the seventeen (17) submissions held the same view that the regulations in terms of the use and expenditure must apply to both funding. Consequently, they proposed as follows:

- (i) Significant public funds should be earmarked to finance activities that support and enhance participation.
- (ii) Significant private funds should be ring-fenced to finance capacity building, and research to political parties.
- (iii) Introduce cap/limits/ restriction on election campaign expenditure- be in the form of quantum or types of activities that may be supported
- (iv) Ban any private donor funding to finance operational costs of any political party

6. Institutional arrangement

In terms of the institutional arrangements, there are three (3) main proposals emerged from the submissions. Firstly, there is a proposal for the creation of an independent Central Fund, which will be responsible for both public and private funding. Its mandate will be that of oversight,

allocating, monitoring, receive and investigate complaints (to enforce regulations). Secondly, the majority (10 or 59%) proposed the creation of an Independent Fund, some referred it to Multiparty Democracy Fund, others call it National Democracy Fund and some name it as Democracy Fund, which will be solely responsible for administering, monitoring, reporting and oversight of private funding. Lastly, some relatively small number of three (3) submissions proposed that the current status remains, but there is a need to enhance capacity to the Independent Electoral Commission (IEC), firstly, in order to play a strict role in distribution, use, reporting and accountability of funds, that is, oversight and enforce compliance for both private and public funding. The main key point underlying these proposals stemmed from a unique and crucial principle of promoting transparency and accountability in the political party financing. They all argued that without proper and capable institution to monitor, oversee and enforce these regulations, it would defeat the whole purpose of regulating private funding. Further, it will compromise transparency, which is very key in ensuring that people remain at the center of democratic governance, with political parties operating on a level playing field, so as to influence and guide peoples' political choices fairly.

Flowing from above, despite the overarching key role the proposed fund is envisaged to play, there are other functions proposed and they include amongst other,

- (i) Channeling funds in excess of set limits on private funding
- (ii) Channeling all foreign donor funding, if agreed that no direct foreign funding of political parties, if not, only the excess of the set limits, including anonymous donations.
- (iii) Deposits from any donor who doesn't want to support individual political parties, but to support open and competitive democracy
- (iv) Channeling all monies forfeited from transgressors
- (v) Channeling donations received from trade unions, companies with significant revenue derived from state contracts and tenders
- (vi) Manage and distribute all private funds in an agreed formula, which is in accordance with the best practice models, which allow for equity, transparency and the levelling of the playing field for political parties.
- (vii) Investigate irregularities in party funding

7. Conclusion

For all submissions, they agreed that private funding allowed but subject to regulation in order to promote transparency and accountability in political party financing. As such, key aspects of regulation should include disclosure of private funds received, outlaw direct funding to political parties or put caps from foreign donors. Further, in order to reduce, administrative burden to political parties, the threshold should be introduced.

The current formula used to distribute public funds should be reviewed in accordance of the best practices in order to strike a balance between proportionality and equity principles. Further, enhanced public funding should only channeled to activities that will support and promote participation. Lastly, the current allocation made by provincial legislatures to political parties should cease, immediately.

There is a need for institutional arrangements in order to have an appropriate and a capable institution responsible to distribute, monitor, investigate and oversee the enforcement of regulations in neither public nor private funding or both.