

Sensible advice

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THE report of the ad hoc parliamentary committee tasked with reviewing the country's so-called chapter nine and associated institutions — those that derive their mandates from the constitution — is one of the most important documents to emerge from the National Assembly since the advent of democracy in SA.

Some may be tempted to dismiss this view as an exaggeration given that many of the committee's findings concur with both anecdotal evidence and widespread public opinion on which institutions are effective and which are a waste of taxpayers' money. Even its main recommendation — that the five existing institutions that are focused on protecting various human rights be merged to form a new body called the South African Commission on Human Rights and Equality — while bold and unexpected, is so obviously sensible that it can hardly be termed earth-shattering.

What makes the document stand out from so many of the other reams of paper produced by Parliament over the years is its clear determination to remain pragmatic and apolitical.

Indeed, while the report uses scrupulously unemotive language, it does not shy away from criticism where this is due. In this one detects the hand of committee chairman and former education minister Kader Asmal, who has emerged as a welcome voice of reason and maturity both on the back benches of Parliament and as a doyen of the ruling party since his tenure in government came to an end.

The report is devastating, in an understated sort of way, in its assessment of bodies such as the Youth Commission, Gender Commission, public protector and the Independent Communications Authority of SA (Icasa), but is also subtle enough to distinguish between structural deficiencies and poor management. It states bluntly that the Youth Commission "does not serve its purpose" and the Gender Commission "displays a poor understanding of its legal and constitutional mandate", for instance, before recommending that they be folded into a broad and more accountable umbrella body.

Yet, while the well-known problems bedeviling the office of the public protector — including "breakdowns in relations" among senior personnel, inadequate parliamentary oversight, unsatisfactory measures to guard against conflicts of interest, and poor co-ordination with other chapter nine institutions — are acknowledged, the committee has avoided the temptation to throw the baby out with the bath water.

The value of the institution itself is recognised, in other words, even if the way it is managed and monitored leaves much to be desired.

And in the case of bodies such as the office of the auditor-general, the **Financial and Fiscal Commission** and the Electoral Commission, the approach appears to have been: “If it ain’t broke, don’t fix it.”

Nevertheless, minor impediments to the functioning of these essential institutions — such as political pressure for them to assist their counterparts in neighbouring countries — are noted and recommendations made to ensure they are able to continue serving their purpose.

There are also implied criticisms of the executive that are as welcome as they are rare in the current South African political environment. Considering that the Icasa Amendment Act, which gave the communications minister the right to appoint the regulator’s councillors, was pushed through by the ruling party only last year, the committee’s conclusion that this was “inappropriate” and “could be seen as infringing on independence” is a slap in the face for Communications Minister Ivy Matsepe-Casaburri .

Similarly, its reference to the similarity between the Youth Commission’s mandate and the tasks being performed by the youth desk in the Office of the Presidency raises the question of why the Presidency saw fit to duplicate the functions of a constitutionally mandated institution.

If it was because the Youth Commission was dysfunctional, a conclusion with which few would disagree, then it can be safely assumed that the desk will be closed once the new, overarching human rights body is up and running.

Of course, that assumes Parliament, and the executive, will take the Asmal committee’s report seriously. Their snubbing of another eminently sensible report, that of the electoral reform task team chaired by Frederik Van Zyl Slabbert, does not augur well.