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## INYANDZA NATIONAL MOVEMENT (INM)

SUBMISSION TO THE TECHNICAL COMMITTEE ON FUNDAMENTAL RIGHTS  
DURING THE TRANSITION1. INTRODUCTION

- 1.1 The INM believes that the function of the MPNP is to bring about all necessary measures which will facilitate the process of levelling of the playing field and the achieving of a climate of free and fair elections for a Constituent Assembly (C.A.). The CA, on the other hand, shall be the body that ultimately brings about a democratic order in South Africa.
- 1.2 While the argument that Fundamental Rights are fundamental be it during transition or later when there is a new democratic order, the INM submits that it is important to categorise fundamental rights into those that have to do with the levelling of the playing field and the creation of a climate for free and fair elections (which are crucial at this point in time) and those that normally apply post-transition. The INM therefore agrees to the categorisation of rights as proposed on pages 2 and 3 of the Technical Committee's second progress report.

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- 1.3 The INM accepts the recommendation of the Technical Sub-Committee (5.1 and 5.2) as contained in the Second Report.
- 1.4 The criteria proposed in paragraph 4 of the Committee's Third Report are acceptable to the INM in as far as they assist in deciding whether a fundamental right qualifies or does not qualify to be accepted for purposes of the transition. We cannot think of a better yardstick for this purpose.
- 1.5 As far as the means and mechanisms for the adjudication of fundamental rights and freedoms are concerned, the INM wants to caution against the formation of a multiplicity of transitional structures or bodies. INM regards the Independent Electoral Commission (IEC) as the principal transitional independent body to ensure that the process leading to elections is not hindered by any act of malpractice in terms of violation of fundamental rights. Obviously, an important consideration shall be the formation of an appropriate wing (directorate) under the IEC to play the watchdog role in this regard.

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2. INPUTS AND COMMENTS ON THE FOURTH PROGRESS REPORT OF THE  
TECHNICAL COMMITTEE

2.1 Rights and Freedoms agreed on :

2.1.1 Our understanding is that 2.4 is sufficiently embraced in 2.3 in that one's right to form and to join a political party and the freedom to make political choices is, in fact, the right to associate with any person(s) politically. While we do not reject any one of the two phrases, we feel we could very well do with an all-inclusive right.

2.1.2 We are in agreement with the simple formulation of these rights and freedoms.

2.2 Rights and Freedoms still to be agreed on :

2.2.1 Servitude and Forced Labour (clause 3.1). Our acceptance of this right for inclusion in the list of rights for the transition, is the condition that the general limitations clause will apply to it regarding prisoners.

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2.2.2 Residence (clause 3.4). We regard this right as problematic as it will pre-empt debates in the MPNP and the C.A. on whether certain individuals who have grouped themselves to demand their own state will not justify their position on the basis of this right. After all segregatory legislation has been repealed, we do not foresee any hindrance to people acquiring residential accommodation wherever they wish in South Africa during the transition.

2.3 The INM accepts the formulation of the rest of the clauses. Furthermore, it is comfortable that they be added to the list of agreed rights for the transition.

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