

2/4/12/25

**A21**

**CONSTITUTIONAL  
ASSEMBLY**

**THEME COMMITTEE 1**

**CHARACTER OF  
DEMOCRATIC STATE**

**20 APRIL 1995**

**ROOM M515  
14H00**

***DOCUMENTATION***

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# CONSTITUTIONAL ASSEMBLY

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## MEETING OF THEME COMMITTEE 1

### CHARACTER OF THE DEMOCRATIC STATE

Please note that a meeting of the above committee will be held as indicated below:

**Date:** Thursday, 20 April 1995

**Time:** 14h00 - 18h00

**Venue:** Room M515

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#### AGENDA

1. Opening
2. Apologies
3. Adoption of Previous Minutes
4. Matters arising
5. Presentation by Media Department for advertisements for Blocks 7 & 9
6. Finalizing draft report for Block 2
7. Tabling and discussion of Party submissions

ACDP  
DP  
FF  
NP  
PAC

8. Public Participation Programme

9. General

10. Closure

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H EBRAHIM  
EXECUTIVE DIRECTOR:  
CONSTITUTIONAL ASSEMBLY

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Enquiries: L. Rammble and S. Rabinowitz (Tel: 24 - 5031 Ext 266)

**CONSTITUTIONAL ASSEMBLY**

**THEME COMMITTEE 1  
CHARACTER OF THE DEMOCRATIC STATE**

**MINUTES OF THE MEETING OF THEME COMMITTEE 1  
WEDNESDAY 19 APRIL 1995 14H00 ROOM M515**

**Present**

**Marais P G (Chairperson)**

**Booi MS  
Chiba L  
Chikane MM  
Cwele CS  
Fani LM  
Ginwala F  
Goosen AD  
Gumede DM  
Janse Van Rensburg AP  
Lekgoro MK  
Mabuza MC  
Macozoma SJ  
Mahlangu NJ  
Majola-Pikoli NT  
Marais A  
Meshoe KR**

**Mokaba P  
Momberg JH  
Moorcroft EK  
Mukhuba TT  
Mulder PWA  
Ncube BS  
Nobunga BJ  
Ripinga SS  
Routledge NC  
Shope G  
Van Deventer FJ  
Van Zyl ID  
Williams AJ**

**APOLOGIES:**

**Niehaus CG  
Nzimande BE  
Schoeman EA  
Sisulu AN  
Streicher DM**

**Technical experts present:**

**Heunis JC  
Husain Z**

**Leola Rammble, Susan Rabinowitz, Heunis, JC and Husain Z were in attendance.**

**1. OPENING**

**1.1 The meeting was opened by the Chairperson at 14h10.**

## **2. ADOPTION OF PREVIOUS MINUTES OF MEETINGS HELD ON 27 MARCH AND 3 APRIL**

### **2.1 Minutes of Theme Committee Meeting on 27 March 1995**

Having noted the objection of the IFP to point 5, paragraph 5 on Page 4 of the Minutes of the Meeting of 27 March 1995 contained in Document A19, and following the instruction of the Theme Committee Meeting of 3 April that the tapes be referred to and that the Technical Experts assist the Secretary in reformulating this item, it was agreed that the Minutes be adopted with the following amendment:

"The Technical Advisors offered to give a brief input to clarify certain concepts relative to the meaning of One Sovereign State. This was in no way meant to inhibit the discussion of parties but to facilitate discussion. It was explained that there are various branches of the law such as public international law which has states as its primary subjects. A state must have a territory, a population and a government which exercises control over the territory and population. In international law, states are customarily referred to as sovereign to signify their independence and equality.

It was also explained that the use of the word "Sovereign" does not preclude the notion of a federation nor would its absence preclude the notion of a unitary state."

### **2.2 Minutes of the Theme Committee Meeting of 3 April 1995**

The Minutes of the Theme Committee meeting of the 3 April 1995 contained in Document A20 were adopted.

## **3. MATTERS ARISING**

3.1 None

3.2 The Chairperson referred to the last paragraph under Point 6 of the Minutes and reported that the Core Group had not met on Tuesday 18 April as there were no matters to be discussed but that the Core Group would meet immediately after this Theme Committee meeting to discuss the advertisements to be placed for Blocks 7 and 9.

## **4. FINALISATION OF DRAFT REPORT FOR BLOCK 2**

The Draft Report for Block 2 contained in Document A20 Extra Documentation was tabled. Mr Husain spoke through the document focussing on amendments and additions that had been made.

Concern was raised with regard to the "note" which had been added on Page 13 under Part Two and the Technical Advisors were asked to reformulate this note.

Further concern was raised with regard to the item "Discussion" placed under Public Submissions on Pages 50 and 51 of the document. After further discussion the meeting agreed to delete this section from the report.

The FF pointed out that the item in the second paragraph of Point B)1 on Page 14 under Non-Contentious Issues was worded differently to that in the Analytical Survey (Page 21 Non-Contentious Aspect Point 3) and noted that it preferred the use of the words "equal access to opportunities". Discussion took place on the matter and it was agreed that the Technical Advisors would reformulate the paragraph and this would be presented at the next Theme Committee meeting on Thursday 20 April.

#### **5. ORIENTATION WORKSHOP FOR BLOCK 4**

The Briefing Document on Block 4, Agenda Item 5: Accountable Government contained in Document A20 (Extra Documentation) was tabled. Mr Husain spoke to the document highlighting the important aspects and noted that all the sub-sections of Section 187 of the Transitional Constitution should be considered, as these impacted on the issue of accountability.

It was agreed that the purpose of this workshop was to assist parties in preparation of their submissions for Block 4.

#### **6. PUBLIC PARTICIPATION PROGRAMME**

- 6.1 The Secretary reported that the conference with the Business Sector would take place on Monday 8 May 1995 between 11h00 and 13h00 and that further information would be provided to the Theme Committee when the arrangements had been finalised.

#### **7. GENERAL**

- 7.1 None

#### **8. CLOSURE**

- 8.1 The meeting rose at 15h20.

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**CHAIRPERSON**

**CONSTITUTIONAL ASSEMBLY  
THEME COMMITTEE 1  
CHARACTER OF THE DEMOCRATIC STATE**

**MINUTES OF THE CORE GROUP MEETING  
WEDNESDAY 19 APRIL 1995 16h00 ROOM M515**

**Present  
Marais P G (Chairperson)**

**Dyani MM  
Mahlangu NJ  
Majola-Pikoli N  
Meshoe KR  
Moorcroft EK  
Mulder PWA**

**CA Staff:**

**Lamani T (Media)**

**Hunt Lascaris Advertising:**

**Buchanan A  
Van der Heever L**

**Leola Rammble, Susan Rabinowitz and were in attendance.**

**1. OPENING**

The meeting was opened by the Chairperson at 16h10.

**2. PRESENTATION BY ADVERTISING AGENCY FOR ADVERTS ON  
BLOCKS 7 & 9**

Hunt Lascaris reported that they had been asked to prepare advertisements on the emotional issues of language, seats of government, national territory and names and symbols.

They presented two proposed newspaper advertisements calling for public submissions on the issue of the flag.

All parties present, with the exception of the ANC, agreed that the first advertisement presented was the most suitable but that the second advertisement was too sophisticated. The ANC expressed reservations about the first advertisement starting with the present flag and suggested that as this issue had not been discussed by them, the presentation should therefore be made to the Theme Committee



for comment.

A radio advertisement was presented dealing with the issue of official languages.

Concern was expressed that the advertisement appeared biased in favour of one official language and that it would be useful to name all 11 official languages.

It was agreed that the advertising agency would revise this taking into account the suggestions made by members of the Core Group.

A second radio advertisement dealing with the issue of the national anthem was presented to the Core Group.

Most parties expressed concern over the use of the word "struggle" in the last paragraph and it was agreed that the advertising agency would rephrase that particular paragraph.

It was agreed that this presentation would be made to the Theme Committee at the next Theme Committee meeting for further comments and discussion.

It was further agreed that once amendments have been made, the advertising agency would present this to the Core Group.

### **3. CLOSURE**

The meeting rose at 17h15.

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CHAIRPERSON

# **AFRICAN CHRISTIAN DEMOCRATIC PARTY SUBMISSION TO THE CONSTITUTIONAL ASSEMBLY THEME COMMITTEE ONE**

## **SUPREMACY OF THE CONSTITUTION**

### The Origin of Constitutionalism

In his excellently reasoned treatise on the condition and direction of Western Civilisation, philosopher Francis Schaeffer traces back the history of constitutionalism to the Reformation principle of a people's political control of it's sovereign in the Samuel Rutherford work *Lex Rex : Law is King*, published in 1644. (How Should We Then Live? Revell, 1976.)

Previously, early medieval parliaments adhered to changing winds of political events and inconsistent counciliar pronouncements, causing chaos in the certainty of law. Here, at last, was established a government of law, rather than of the arbitrary decisions of men - because the Bible as the final authority served as it's foundation.

### Biblical Perspectives

Romans 13:1 presents the basic premise of Christian politics : There is no power but from God. The powers that be are ordained by God. "Powers" in this sense mean the civil authorities with their God-given right and power to rule in the jurisdiction of civil issues assigned to it by God Himself in the Bible.

The accent is clearly on the Supremacy of God, and only thereafter on the supremacy of the State and Constitution. It is not a question of the Constitution being supreme and beyond criticism because civil institutions are established by God, but rather that because the civil authorities have been ordained by God, God is supreme over even the Constitution and He is beyond criticism - He is the ultimate authority.

Current political thinking on Constitutionalism, inalienable rights, government by consent and separation of powers among others, was shaped to a large extent by the ideas of John Locke. Ironically enough, there is an inherent contradiction in the work of Locke, because the empiricism that permeates his thinking - the idea that everything rests on experience - does not allow any notion of "natural rights". It is only when Locke's theories are seen as having been drawn from the work of Rutherford and secularised, that the ideas begin to have a foundation - namely a biblical base.

Through secularising the foundations of his political thinking, however, Locke found himself in the same warped thinking that amongst others, Americans are now experiencing the results of, in that their Supreme Court had taken a Constitution with clearly defined biblical roots and through a process of positive law application, tried to emulate the *fruits* that only a truly non-secular Republic - the very model the framers of the American Constitution envisioned for their country - could bear while denying its *roots* - an impossible exercise.

The ACDP has learned from these mistakes and as such, we stand for the new South Africa, to be a non-secular Republic - recognising that only a republic, run on biblical principles, under the authority of God, rather than under a democracy will lead to true freedom for all citizens.

The two concepts - 'democracy', a nation governed by the majority - and a 'republic', a nation governed by law - are definitely not synonymous. A non-secular Republic, the model that we in the ACDP proposes, will prove to be the only workable solution in this country, with its deeply ingrained history of oppression and hurt. This means that the new South Africa will be a nation governed by a constitution rooted in Biblical law, administered by representatives of the constitution democratically elected by the citizens.

In a democracy, the whims and fancies of the majority, manipulated by the media or elitist power-brokers, become the law of the land. In such a situation, neither our lives, nor our private possessions are safe.

In a democracy, if the majority of people believe abortion-on-demand is permissible, the lives of all unborn citizens are jeopardised.

If the majority believe that everyone over seventy-five years of age should be required to commit suicide so as to not be a drain on society's resources, no elderly person is safe.

But in a Republic, governed by constitutional law, rooted in biblical law, all life and property is safe. A constitution based on the Bible, would protect the sanctity of human life and the legitimacy of the private ownership of property. If the majority wants lax divorce laws and the legalisation of pornography, such immorality is not allowed because of the Constitutional protection of the family. If the majority want the education of children to be controlled by the State, rather than the family, such an assault on parental authority will not occur, because of the protection of the sphere of authority of the core of society, the family.

A more immediate cause for concern, is the requirement in Section 71(2) of Act 200 of 1993, that any new constitutional text passed by the Constitutional Assembly shall be of no force or effect unless the Constitutional Court has certified that all the provisions of this text comply with the Constitutional Principles.

These principles were drawn up by a non-elected, non-representative body and, as such, offends any notion of democracy that the rest of the constitutional process might aspire to. Where these principles are in contravention of Biblical legal principles, they will have to be carefully revisited - this equally goes for the interpretation of these by the Constitutional Court.

The ACDP holds the view that the biblical principles of the Triune Creator God are the standard against which all else will be measured - including the Constitution.

As such, we cannot willy-nilly accept that an elite group of people - the judges of the Constitutional Court - be elevated to the position where they can override elected representatives on the basis that what the elected representatives decided does not correspond with "Principles" that were drawn up by a non-elected body and forced upon them and the citizens of this land.

Only when an absolute standard, originating outside of, and above mankind, is adhered to, even by the members of the Constitutional Court, namely, the fixed and certain principles expounded in the Bible, will South Africans be able to rest assured that their rights and interests will be safeguarded from arbitrary infringement. With the system operating as it is now, the Constitutional Court will be guided by legal positivism in the constitutional legal systems of Canada, Germany, India and the United States of America, where it has been clearly shown that their constitutional judiciary has overridden so-called universal human rights of one individual or group in favour of another on the basis that "society so dictates".

The ACDP calls for the people to decide, by way of referendum, on issues such as abortion, euthanasia and capital punishment, where it is shown that the Constitutional Court overrides the voice of the people on issues with moral content. This would be so, because God has revealed his law to all of His human creation - it is that ingrained notion of right and wrong that is guiding scores of Americans to protest abortion practices and that is causing Britons to call for the re-institution of the death penalty.

18th April 1995

[SUPREME.WPS]

THEME COMMITTEE ONE

BLOCK THREE "SUPREMACY OF THE CONSTITUTION"

"Constitutionalism" is the concept that government shall exist and function under law, as laid down by the Constitution and embodied in valid statutes. It means essentially that power derives from law and that power is to be held accountable and that power is to be limited and circumscribed by checks and balances. Further, constitutionalism is authoritatively held to be a doctrine of limited government, meaning that its structure provides for the rights and liberties of individuals and corporate bodies that are invulnerable to abrogation or infringement by any legislative or administrative organ.

Substantially, the interim Constitution complies with these criteria, and in particular Sec 4 (1) and (2), providing for the supremacy of the constitution marks a clean break from the former principle of the supremacy of parliament. Our recommendation is that this clause should be retained as it stands.

The usage of the concept of 'separation of powers' is fashionable. While it is certainly the case that 'executives', 'legislatures' 'judiciaries' can be analytically separated, in democratic practise they relate to one another in different ways - US system c/v British system. According to Blackwell's Encyclopedia of Political Theory (entry on Separation of Powers by Geoffrey Marshall) the criterion derived from the purest form (ie in US) is:

The branches of government are regarded as co-ordinate and autonomous, none of them being subordinate or accountable

to any of the others. (For example, the legislature cannot remove the executive, nor can the executive dissolve the legislature).

To describe the interim Constitution as based on 'separation of powers' seem to be incorrect. Where executives are responsible to legislatures and ministerial heads and Prime Ministers/Presidents and Deputy Presidents are members of the legislature, it is more correct to speak of 'fusion powers'. Perhaps political scientists' usage differs from that of constitutional lawyers.



# VRYHEIDSFRONT

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## FREEDOM FRONT

### THEME COMMITTEE 1

#### (b) SUPREMACY OF THE CONSTITUTION

The concept of a constitutional state means that no organ of state (not even Parliament itself) is above the constitution: sovereign power in such a state vests in the constitution. However, as Parliament has the power to alter the Constitution (in accordance with its provisions) it is imperative that appropriate checks and balances be introduced in the Constitution. In this regard Constitutional Principle XV reads: 'Amendments to the Constitution shall require special procedures involving special majorities'. The very purpose of this requirement is to preclude the possibility of the 'tyranny of the majority' in Parliament. In some states this possibility is reduced by the requirement that constitutional change requires approval of certain majorities of voters in referenda.

Supremacy of the constitution in the present context refers not only to the constitutional state mentioned above, but also to the following : that the Constitution is the highest law in the land, and all other law (statutory and common law) is subject to it, i.e. the latter would be void or invalid to the extent of any conflict between the two; and that international law, in so far as it may be part of South African law, is likewise subject to the same limitation.

The Freedom Front wishes to point out that this submission is a general statement of principle, and that the appropriate checks and balances referred to above should be spelled out in subsequent reports of relevant Theme Committees (e.g. Theme Committee 1 and/or 2 and/or 3).



# NATIONAL PARTY SUBMISSION

## THEME COMMITTEE 1

### BLOCK 3: SUPREMACY OF THE CONSTITUTION

As pointed out in the briefing document made available by our Technical Committee, the principle that the constitution shall be the supreme law of the land is a non-contentious issue. We strongly support the principle that the state and all its organs shall be subject to a constitution in which their structures and powers, as well as the relationship between the state and its citizens, are defined.

We agree that the supremacy of the constitution will be the most important feature of the final constitution. The consequences of this for the position of parliament as the highest legislature, the executive as the authority that execute those laws, and the judiciary as the authority responsible for the application of the constitution to the actions of those other branches are indeed as far-reaching as expounded in the briefing document.

In particular, we wish to react as follows to the issues raised in paragraph 2.2 of the briefing document:

#### **2.2.1 Inter-relationship between bill of rights and constitutional supremacy**

We believe that the notion of an entrenched, justiciable constitution is actually very closely related to a justiciable bill of rights. A bill of rights enforced by the courts, but not part of the supreme law of a land, cannot be an effective instrument of law, as it can be amended or abolished too easily. In order to be such an instrument, it needs to be a part of an entrenched supreme constitution. As a matter of fact, a bill of rights will and should form an integral and prominent part of the constitution.

### **2.2.2 Equality**

This matter has been addressed in a previous submission of the National Party.

### **2.2.3 Relationship between constitutional supremacy and separation of powers**

In a very direct sense, supremacy of the constitution will not be effective if the courts are not afforded the authority to review the actions of other branches of government. This presupposes at least a measure of separation between the different branches of government which will enable the judiciary effectively to exercise its review function. In a broader, more indirect sense, the idea of the separation of powers, its underlying premise of preventing an over-concentration of power and effecting meaningful checks and balances is, of course, an essential feature of a constitutional state. Again, the separation of powers can be provided for effectively only in a written, entrenched constitution that has higher status than the government bodies, the powers of which it seeks to control.

### **2.2.4 Impartial and independent judiciary**

We can only reiterate that a supreme constitution, which includes a bill of rights, cannot be an effective instrument of law if there is no effective way of enforcing it. We believe that an impartial and independent judiciary is the most suitable instrument for this purpose. As a matter of fact, in our view, an independent judiciary goes hand in hand with the idea of a supreme constitution.

### **2.2.5 Horizontal application of the constitution**

In our understanding this matter will be dealt with extensively and exhaustively by Theme Committee 4. Suffice to say that the transitional constitution provides for

limited horizontal application of the bill of rights in particular, and that it should be retained in the final constitution.

### 2.2.6 Entrenchment of the constitution

We believe that the principle of the entrenchment of the constitution should also be considered by this Theme Committee. A supreme constitution that is not entrenched, and that can be amended easily, cannot be an effective instrument to control state action. In actual fact, entrenchment is one of the ways in which a constitution is afforded higher status or, put another way, in which the supremacy of a constitution is given real and practical meaning. To explain: if the constitution provides that it is supreme, but that particular section can be amended by an ordinary majority, that is a majority of a quorum, that supremacy can be abolished almost by the stroke of a pen and cannot mean very much.

### Conclusion

By way of summary, one can conclude that the following concepts are inextricably bound to one another and should all be provided for in the final constitution:

- (i) constitutional supremacy;
- (ii) justiciability of the constitution;
- (iii) entrenchment of the constitution;
- (iv) the separation of powers; and
- (v) effective protection of fundamental rights and freedoms.



22 February 1994

**PAC SUBMISSION TO THEME COMMITTEE 1 ON BLOCK 2 AND 3**

- 2.1 The South African constitution like that of the United States of America should in its preamble enshrine the reality and truism of the equality of all human beings in general but should entrench that equality in the body of the constitution in respect of the nationals of the South African State.
  - 2.2 The constitution should not couch the equality of South African Nationals in impalpable terms that allow the possibility of various jurisprudential interpretations. Neither should the constitution give way to intellectual contests on the nation of the equality of all South African nationals. The constitution must succinctly define and spell out what is meant by the equality of all South African nationals.
  - 2.3 PAC believes and prays that the constitution should be designed to facilitate the fast but not forced transition from political emancipation to economic emancipation where social justice shall be founded in the ruins of a social stratification based on institutionalised economic advantage and disadvantage. PAC firmly believes that it is only when individual members of the nation enjoy equal access to all national resources that South Africa will be truly free and foundation for peace and security is attained.
- 
- 3.1 South Africa should be a single sovereign state with provincial and local governments that derive their power from a central government.
  - 3.2 PAC feels a dire need for galvanising all the presently, culturally heterogeneous people of South Africa into a single whole, not by means of force of whatever nature but through allowing the now freed people to freely and equally interact in the united economy that South Africa happens to have. Taking ethnicity,

race or territorial ethnicity into account in the practice of politics and economics in South Africa, is anathema to PAC and cannot be contended because that is bending backwards in favour of divisive and retrogressive tendencies of those who still represent in our society the vestiges of racialism and racism. PAC strongly believes that the logic of South African history which is even attested to by the national aspirations and ideals of the south African liberation movement, is leading towards the realisation of a homogeneous nation via the evolutionary path. PAC is, thus, loath to any constitutional attempts aimed at obstructing the existing evolutionary movement towards a de-ethnicised and de-racialised nation.

- 3.3 The mainly ethnically demarcated provincial governments such as we have today in South Africa are worrying to PAC as they perpetuate ethnic identity and affinity. The emergence of scourges such as the policies of ethnic cleansing find fertile ground for germination in such political arrangements.
- 3.4 From its inception, PAC is politically committed to the propagation and promotion of a politically joined commonwealth through the establishment of a federation of Southern Africa. South Africa needs to join that federation as a unitary state inhabiting a united people.
- 4.1 PAC believes that a constitution written by democratically elected persons with the interested members of the nation freely contributing in the formulation of the same, has to be the supreme law and all political decisions and actions must therein find their legitimacy and justification.
- 4.2 All law, statutory or otherwise and all ordinances, political policies and commands must of necessity conform to the provisions of the constitution to be of legal force
- 4.3 In the constitution must vest the sovereignty of the nation.

M Dyani - MP



CONSTITUTIONAL ASSEMBLY

**MEMORANDUM**

**TO:           THEME COMMITTEE MEMBERS**  
**FROM:        THE SECRETARIAT**  
**DATE:        19 APRIL 1994**  
**SUBJECT:     ACDP SUBMISSION FOR BLOCK 2**

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Attached herewith, please find a copy of the ACDP submission for Block 2 which was tabled before the Theme Committee and discussed.

The following document had not been formally placed in any of our documentation and the ACDP requested that the secretariat include this document in the documentation pack of the next Theme Committee meeting.

**20**

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**THE NEW CONSTITUTION**

# **AFRICAN CHRISTIAN DEMOCRATIC PARTY**

## **SUBMISSION TO THEME COMMITTEE ONE**

### **BLOCK TWO**

#### **2. EQUALITY**

The ACDP agrees that equality is central to a Bill of Rights. We further believe that all shall have equal access and protection of the law.

Equality before the law is beneficial to all and is principally aimed at enhancing the esteem of the value of all human beings, essentially in the understanding that we are created in the image of God. (Genesis 1:26 - 27).

Equality before the law means that as Christ is no respecter of persons, so the law should be no respecter of persons (James 2:8-9). The ACDP maintains that because all are born sinners, no one is to be considered to be superior to any other by birth or by nature.

Although we are all equal in value before God, we are at the same time different. We are different in our colour, belief, size, talent, attitude, gender, strengths, interests and so on. We have separate bathrooms for men and women to endorse this fact. This differentiation is not discrimination. The ACDP would like the Bill of Rights to recognise this differentiation in some cases and that, in such cases, it be justified.

The ACDP endorses Chapter 3:8.2 of our interim constitution that says "no person shall be unfairly discriminated against, directly or indirectly, and, without derogating from the generality of this provision on one or more of the following grounds in particular: race, gender, sex, ethnic or social origin, colour, age, disability, religion, conscience, belief, culture or language. The clause "sexual orientation" is dropped because it is misplaced.

As God-loving Christians, we in the ACDP cannot endorse or condone what God calls abomination. Attempts to legalise what we view to be perversion is an attempt to impose on Christians, religious people and those who still maintain their cultural beliefs and traditional values, that which is unacceptable, unhealthy, immoral, sinful and unnatural.

The ACDP opposes giving unacceptable and sinful lifestyles like homosexuality, lesbianism, sodomy, bestiality and paedophiles any constitutional protection. It is wrong to legalise immorality. People involved in these lifestyles have chosen to do so and they are protected already by Chapter 3:13, that guarantees the right to privacy. We do not want our country to be another Sodom and Gomorrah. (Gen.19:1-25, Rom.1:25-32). Our right to freedom of conscience, religion, thought, belief and opinion must be respected.

#### Affirmative Action

The ACDP believes that affirmative action should be defined as a temporal measure to make right the wrongs of the past in order to ensure individual, family and nation building and human resource development. It should aim at making people self-sufficient and to contribute to the running of the country in all it's sectors. We do not wish to see this concept written into the constitution as a permanent right because in a few years time, it may turn into another form of apartheid.

The ACDP applauds the approach taken by Dr M. Ramphele of Idasa. We wish to express our appreciation for the pragmatic and thorough presentation she made to Theme Committee One. She cautioned us against applying the imported concept of affirmative action from the USA because their social conditions are different to ours. Dr Ramphele continued to say that affirmative action must be "situated within an equity framework to ensure that it is an appropriate strategy in a given case, and that it achieves the goals of making equal opportunities accessible.



A free standing affirmative action programme runs the risk of bedevilling social relations." "An equal opportunity environment must be created to bring out the best in all citizens."

3. **SINGLE "SOVEREIGN" STATE**

We as the ACDP agrees with the concept of a "sovereign" state, only in the context of an independent country within a prescribed jurisdiction. We do not believe a state should be absolute, all powerful, unlimited or supreme, but rather, it should be the constitution that is supreme.

The ACDP recognises the state as a God-ordained institution. Along with the institutions of the family (marriage and home), the church, religious organisations, the state occupies an important place in God's order of things. The ACDP believes that government is established with limited powers to do only certain things in society. We call for limited government, falling somewhere between no government (anarchy) and total government (totalitarianism). Caesar has his role, but other institutions like the family and the church have their roles too.

A good government is one that administers justice, protecting the weak from the bully, the poor from the rich and powerful, the innocent from the criminals. It will promote equality before the law, working diligently to restrain evil: raising revenues; avoiding deficit spending and so on.

Within the single "sovereign" state, the ACDP would like to see a small, but effective, central government and strong provincial and local governments. We believe strong provincial and local governments bring the government closer to the people and help create effective governing and improved administration and communication. In this case, decision making is allocated to the lowest level where it could best be exercised and it allows for improved identification of needs and for the development of local and provincial leadership.

### Secular State

The ACDP vehemently rejects any plan to turn South Africa into a secular state. It is totally unacceptable and undemocratic. According to statistics, about 80% of South Africans believe in the teachings of the Christian faith. Their voice must be heard. We do not want to have a constitution that does not acknowledge God the Almighty in its preamble because of a few politicians who do not believe in a sovereign God. Most South Africans believe in God and that must be reflected in the constitution.

It is inconceivable that an attempt can be made by members of this parliament to deny Christians, who are the majority of tax payers, from using State institutions that are built and maintained with their tax money for religious observances. Millions of Christians who voted for the ANC are using school classrooms and community halls for their church services. Is the ANC now turning their back on them, attempting to deny them that right by calling for a secular state?

A secular state would bar Christian leaders and religious office bearers from holding offices of State. This would be highly unconstitutional, undemocratic and the worst form of discrimination. The ACDP totally rejects such plans. Those who claim to support the concept of participatory and representative democracy must live up to their claims. South Africans must be allowed to exercise their democratic right of choosing who should represent them in any office of State, without any State interference.

The ACDP is calling for a Constitutional State, based on Christian principles like honesty, truth, love, respect for life, law and property, justice, reconciliation and many more that are universally accepted as indispensable for building a healthy, prosperous and normal society.

Golden rules like "love your neighbour as yourself" (Matt. 22:39) and "do to others what you would have them do to you" (Matt. 7:12) would save the world from poverty, misery, rape, murder and all other evils that are destroying precious lives, if they can be taught and applied. All nations of the world would agree that these rules can make our world a peaceful and better place to live.

These are some of the biblical principles that we, the ACDP would like to see undergirding our constitution.

Rev. K. R. Meshoe  
15th March 1995

