

Paper 1

A42

Duplicate
See A40
37007

THE PAN AFRICANIST CONGRESS OF AZANIA: INPUT REGARDING:
TECHNICAL COMMITTEES DEALING WITH:
CONSTITUTIONAL PRINCIPLES; AND
FUNDAMENTAL HUMAN RIGHTS.

PAPER 1

The Declaration of the OAU Ad Hoc Committee on Southern Africa on the Question of South Africa: Harare, Zimbabwe: August 21, 1988 contains the following Statement of Principles:

South Africa shall become a united, democratic and non-racial state;

All its people shall enjoy common and equal citizenship and nationality, regardless of race, colour, sex or creed;

All its people shall have the right to participate in the government and administration of the country on the basis of universal suffrage, exercised through one person one vote under a common voter's roll;

All shall have the right to form and join any political party of their choice, provided that this is not a furtherance of racism;

All shall enjoy universally recognised human rights freedoms and civil liberties, protected under an entrenched Bill of Rights;

South Africa shall have a new legal system which shall guarantee equality of all before the law;

South Africa shall have an independent and non-racial judiciary;

There shall be created an economic order which shall promote and advance the well-being of all South Africans;

A democratic South Africa shall respect the rights, sovereignty and territorial integrity of all countries and pursue a policy of peace, friendship and mutually beneficial cooperation with all peoples."

The Resolution Adopted on the Report of the ad_hoc Committee of the Whole of the Sixteenth Special Session of the General Assembly of the United Nations 14 December 1988 identifies the following Fundamental Principles:

"South Africa shall become a united, non-racial and democratic State;

All its people shall enjoy common and equal citizenship and nationality, regardless of race, colour, sex or creed;

All its people shall have the right to participate in the government and administration of the country on the basis of universal, equal suffrage, under a non-racial voters' roll, and by secret ballot, in a united and non-fragmented South Africa;

All shall have the right to form and join any political party of their choice, provided that this is not in the furtherance of racism;

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All shall enjoy universally recognized human rights, freedoms and civil liberties, protected under an entrenched bill of rights;

South Africa shall have a legal system that will guarantee equality of all before the law;

South Africa shall have an independent and non-racial judiciary;

There shall be created an economic order that will promote and advance the well-being of all South Africans;

A democratic South Africa shall respect the rights, sovereignty and territorial integrity of all countries and pursue a policy of peace, friendship and mutually beneficial co-operation with all peoples."

The above principles not only supports the idea of a constitutionally entrenched and judicially enforceable Bill of Rights in the future Constitution for a democratic order in South Africa, it also enshires all three tiers of categorization of human rights, that is, First, Second and Third Generation Human Rights.

For a full discussion of the PAN AFRICANIST CONGRESS OF AZANIA's proposals on CONSTITUTIONAL PRINCIPLES AND FUNDAMENTAL HUMAN RIGHTS: SEE PAPER 2 WITH THE SAME HEADING.

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PAPER 2

A: DEMOCRACY

There shall be a democratic state:

1. Universal Adult Suffrage

Every citizen of the required age (18 is recommended) shall have the right to vote. The right to vote shall be guaranteed in a justiciable Bill of Rights. There shall be a common voters' roll and there shall be no discrimination on the basis of race, colour, sex or creed.

2. Free and Fair Elections (Representative Government)

Periodic elections to elect representatives shall be held (a maximum period of five years between elections is recommended). Every citizen that has the right to vote shall have the right to be a candidate in the elections. Elections shall take place on a proportional basis and there shall be no undue influence in order to ensure that the result of the

elections shall be free and fair. The secrecy of the ballot shall be guaranteed.

3. Free Political Activity

The freedom of association in political parties and the right to organise shall be protected, provided that this is not done in the furtherance of racism or in the pursuance of anti-democratic strategies. The freedom movement and the freedom of assembly as well as the freedom of speech and of the press shall likewise be protected. The mass media shall not be controlled by any political grouping but shall be monitored and controlled by an independent body.

B: UNITED STATE

There shall be a united, unitary state:

Certain well-defined autonomous powers of government shall be devolved upon ^{provinces} ~~provinces~~ (a maximum of seven ^{provinces} ~~provinces~~ is recommended) as well as upon local government structures without detracting from the residual powers of central government which shall be unfettered in order to undertake programs of restructuring and redistribution. All government structures shall be democratic in the sense set out above.

C: NON-RACIALISM

There shall be a non-racial state:

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1. All the people shall enjoy common and equal citizenship and nationality.
2. There shall be no discrimination based upon race, colour, sex or creed.

D: A JUSTICIABLE AND ENTRENCHED BILL OF RIGHTS

All shall enjoy universally recognised human rights, freedoms and civil liberties :

All government powers at national, regional and local government levels as well as the actions of private companies and individuals shall be restricted by a justiciable Bill of Rights. The Bill of Rights shall protect the first generation of human rights and freedoms (including the political rights as set out above as well as the procedural human rights) against infringements by the state and by private companies and individuals. The court(s) that enforce these rights shall be independent and representative of the people of the country. Second and third generations of human rights that secure social justice for all and is aimed at restructuring and redistribution shall be protected in the Bill of Rights. Additional enforcement machinery such as an economic committee of parliament shall operate to ensure that these rights do not remain mere goals but are practically implemented as priorities of the legislative and executive branches of government.

E: NEW LEGAL SYSTEM

There shall be a new legal system:

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1. Equality before the law shall be guaranteed.
2. The judiciary shall be independent, non-racial and representative of the people.

F: RESTRUCTURING AND REDISTRIBUTION

There shall be a economic order that is aimed at restructuring and redistribution of wealth and at the promotion of the well-being of all.

The right to own private property as well as the so-called equal treatment clause in a Bill of Rights shall not be protected in a manner so as to frustrate the goals of the restructuring of the economy and the redistribution of wealth.

G: LEGITIMACY

The Constitution shall be legitimate. In order to ensure the legitimacy of the Constitution it shall be negotiated by the elected representatives of the people and be the product of a truly representative constituent assembly.

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