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CONSTITUTIONAL ASSEMBLY

THEME COMMITTEE 2

STRUCTURE OF GOVERNMENT

**SELF-DETERMINATION/VOLKSTAAT
(BLOCK 5)**

**POLITICAL PARTIES SUBMISSIONS
(As at 14 July 1995)**

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**NB: THE DEMOCRATIC PARTY IS NOT
SUBMITTING ON THIS BLOCK.**

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OFFICE OF THE SECRETARY GENERAL

Mr H. Ebrahim
Director of the Constitutional Assembly
Constitutional Assembly
P.O. Box 15
Cape Town
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27 June 1995

RE: ANC SUBMISSIONS

Please find attached ANC submissions to Theme Committees.

Please note that these are preliminary submissions and that more substantive submissions will follow.

We hope you find the same in order

M.C. Ramaphosa

M.C. Ramaphosa
Secretary General

PRELIMINARY ANC SUBMISSION
THEME COMMITTEE 2 - THE VOLKSTAAT

12 June 1995

CONSTITUTIONAL PRINCIPLE XXIV

The ANC is bound by the provisions of Constitutional Principle XXIV which states that:

- "(1) This Schedule and the recognition therein of the right of the South African people as a whole to self-determination, shall not be construed as precluding, within the framework of the said right, constitutional provision for the notion of self-determination by any community sharing a common cultural and language heritage, whether in a territorial entity within the Republic or in any other recognised way.
- (2) The Constitution may give expression to any particular form of self-determination provided there is substantial proven support within the community concerned for such a form of self-determination."

VOLKSTAATRAAD PROPOSALS

The ANC is committed to considering the proposals of the Volkstaatraad concerning the issue of self-determination and the establishment of a Volkstaat. Upon receipt of such proposals further ANC submissions will be made on this important issue.



National Party
Nasionale Party

Federal Council
Federale Raad

15 June 1995

Mr Hassen Ebrahim
The Executive Director
Constitutional Assembly
Regis House
Adderley Street
CAPE TOWN

Dear Mr Ebrahim

Enclosed please find the National Party proposals for Theme Committee 2 regarding Cultural Councils.

Kind Regards

PA J A RABIE MP

NATIONAL PARTY SUBMISSION

THEME COMMITTEE 2

CULTURAL COUNCILS

A. INTRODUCTION

1. The National Party believes that the diversity of the South African society should be accommodated in the constitution in various ways, such as -

- (a) a fully democratic order based on the principle of a constitutional state and constitutional checks and balances, such as an entrenched constitution, the separation of powers, and three levels of government;
- (b) proportional representation of political parties in legislatures at all levels;
- (c) proportional representation in executives at all levels;
- (d) the provisions of a justiciable bill of rights;
- (e) the promotion of provincial government; and
- (f) statutory cultural councils.

2. This submission addresses the last-mentioned aspect. The other, equally important, aspects are dealt with in other submissions. The transitional constitution already recognises in various ways the multi-cultural nature of our society. More particularly, the constitution provides for the protection of the rights of every person to speak the language, participate in the cultural life and observe the religious convictions of his or her choice, to instruction in the language of his or her choice, and to establish educational institutions on the basis of a common language, culture

or religion. In addition, Constitutional Principles XII and XXXIV contain particular references to the constitutional recognition and accommodation in the final constitution of the right to self-determination of cultural, linguistic or religious communities.

3. We believe that the concept of statutory cultural councils represents one significant way of giving effect to those Constitutional Principles that it will be a meaningful addition to the various constitutional mechanisms for the effective protection of minority interests.

B. ESTABLISHMENT

1. Analogous to the bodies for traditional leaders provided for in chapter 11 of the transitional constitution, provision should be made for the establishment of cultural councils for those cultural groups that so wish. They should be statutory bodies that function on a national, non-geographic basis and they should be financially supported by the state. Such councils would provide minorities who feel strongly about their cultures with a collective voice on matters affecting them, the space and opportunity for growth and the development of their cultures and, ultimately, the security that they wish.

2. A cultural council should be established on a voluntary, non-racial and non-discriminatory basis and should be open to any *bona fide* member of the minority in question. Any minority that so wishes and receives sufficient support from that community, should be entitled and able to have such a council established. Sufficient support could be determined in various ways, such as referenda, registration by the members of a particular minority, or an indication by them during an election.

C. COMPOSITION

1. Cultural councils should preferably be directly elected bodies, but different methods to compose them can be contemplated. A cultural council could also be composed by representatives of cultural associations from that minority, or could be

nominated by a college of all elected members of that minority represented in national and provincial legislatures.

2. A cultural council need not be a large body, but should have enough members to represent a particular minority adequately and to function effectively.

D. POWERS AND FUNCTIONS

1. A cultural council should have a two-fold function. *Firstly*, it should have an **advisory function** similar to that of the traditional structures in terms of chapter 11 of the transitional constitution. It should, in other words, be empowered to advise and make recommendations to any government body at all levels with regard to any matter pertaining to the language, cultural, religious and other interest of the minority in question. Parliamentary and provincial bills should be referred to a cultural council in the same way as to the traditional bodies provided in chapter 11. A cultural council should also be able, at the request of the President, to advise him on any matter of national interest.

2. *Secondly*, particular **decision-making powers** could be allocated to cultural councils, for example on matter such as -

- (a) all levels of mother tongue education;
- (b) the promotion of culture, art and literature;
- (c) museums and monuments;
- (d) old age homes;
- (e) mother tongue media; and
- (f) particular aspects of social welfare services

3. In order to exercise these functions effectively, a cultural council should be entitled to an equitable share of national revenue and, if necessary, it should be empowered to raise additional income from the members of that community.

4. Should the need arise, cultural councils could form the basis for the representation of minorities in national structures.



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19 JUNE 1995

Submission on the

VOLKSTAAT

The PAC does recognise the diversity(ies) that do exist in our country. In the same breath the PAC is opposed to any form of racism and ethnic classification which is what the proponents of the White Homeland are advocating in that they claim a democratic right to determine their own political well-being or the right to "self-determination".

If one were to look at the evolution of the concept of the right to self-determination what it did not and does not do is to allow people to secede from a stable political community. If South Africa was embroiled in a revolution or war then one would sympathise with the proponents of the White Homeland.

The PAC submits that the Afrikaners, like everybody else, will get their protection in the democratical political process, in the entrenched Bill of Rights, on an electoral process based on proportional representation and in the notion of the Constitution being the Supreme Law of the country.

A.G. Ebrahim (MP) PAC