

III Disciplinary Committees and Procedures

Section A: National People's Tribunal

1. There shall be established a disciplinary organ of the ANC to be known as "the National People's Tribunal" (hereinafter referred to as "the Tribunal").
2. (a) The Tribunal shall consist of five (5) members appointed by the NEC to act as judges for a period of three (3) years.
 - (b) Three members of the Tribunal shall constitute a quorum.
 - (c) Members shall be eligible for re-appointment.
 - (d) Any member may resign or be withdrawn from the Tribunal for reasons of re-assignment or manifest unfitness.
3. The Chairman of the Tribunal shall be appointed by the President from among the members of the Tribunal on the recommendation of the Working Committee of the NEC.
4. (a) The members of the Tribunal shall be chosen according to the following criteria:
 - i) Dedication to the principles and policies of the organisation;
 - ii) Personal integrity and correct personal behaviour;
 - iii) Political maturity, including a capacity to handle difficult matters with dignity and serenity.
- (b) The Tribunal as a whole should have a core of experienced members, but should as far as possible be representative of the best qualities of the general membership in terms of age, sex, sphere of activity, and experience.
- (c) The Tribunal shall act as a collective body and, where consensus is not reached, decision shall be by majority vote, the Chairman having a casting vote in case of a tie.

(d) The Tribunal shall

- i) conduct its proceedings in terms of the provisions of this Code;
- ii) collaborate as closely as possible with all the relevant structures of the organisation in order to achieve the best result;
- iii) make its determinations on the basis of the collective wisdom of its members, who, in the performance of their judicial function, shall be answerable only to their revolutionary conscience, free of any undue pressures.

4. There shall be a Presenter, who shall be an officer of the Tribunal with responsibility for formulating the indictment and presenting the case against the accused in the proceedings.

Section B: Officer of Justice

1. An Officer of Justice shall be appointed by the NEC.

2. It shall be the responsibility of the Officer of Justice, acting in collaboration with the President's Office and under the overall supervision of the NEC to:

- (a) maintain the principles of legality in the organisation;
- (b) supervise investigations when they reach the stage that charges are being contemplated against members;
- (c) prepare the documents for the proceedings;
- (d) ensure that all the necessary testimony, written or oral, is made available to the Tribunal;
- (e) ensure that exhibits are properly looked after and made available to the Tribunal;

- (f) appoint a Presenter to outline the charges, present the evidence, question the witnesses and assist the Tribunal in any way required;
- (g) where necessary appoint an Advisor to assist the accused in his or her defence;
- (h) prepare and submit an independent report on the proceedings, raising any matter deemed to be relevant for consideration by the Review Body (see Chapter iv);
- (i) ensure that no person in the custody of or under investigation by officers of the organisation is treated in a cruel, inhuman or degrading way;
- (j) make regular inspections of the way persons deprived of their liberty are treated, with a view to ensuring that the purposes of re-education rather than vengeance are fulfilled;
- (k) see to it that no undue delay takes place between completion of investigations and the date of trial;
- (l) ensure that the number of persons awaiting trial is not allowed to become unduly large;
- (m) take all necessary steps to minimise the period of waiting;
- (n) generally, ensure that the principles of justice and revolutionary legality are constantly maintained at all levels in the organisation;
- (o) to order that accused person be served with a copy of indictment personally, not less than fourteen days before the date of trial to enable Accused person to study such indictment and prepare for his/her defence. On receipt of such indictment the Accused may request for further particulars.

Section C: Investigation

1. Investigation of offences shall primarily be the responsibility of security.
2. It is the duty of all members to assist security in every possible way, both by giving relevant information

when enquiries are being made and by respecting all the general rules of security.

3. All normal and reasonable methods of investigation may be used in the course of investigation.
4. Intensive methods of interrogation shall be permissible only in extraordinary circumstances and under proper authorisation and strict supervision by the highest political authority in the area.
5. Torture or any form of cruel, inhuman or degrading treatment of a detainee or a person on trial is forbidden.

Section D: Procedure

1. The Presenter will outline the nature of the allegations and the kind of evidence to be led.
2. The Accused will then be called upon to give his or her general response to the allegations, in particular where he or she
 - i) admits or denies them in whole or in part, or
 - ii) admits the facts but wishes to offer an explanation which justifies the conduct, or
 - iii) admits the facts but wishes to offer an explanation in mitigation.
3. The Presenter will thereafter present all such evidence, written or oral, as may be necessary in support of the allegations and all relevant surrounding circumstances, including the motivation and general conduct of the Accused.
4. (a) The Advisor shall at all stages consult and co-operate with the Accused in representing his or her interests and ensuring a just result;
(b) The Advisor shall be free to make any statements

or ask any questions intended to assist the Tribunal to obtain a balanced picture of the issues and reach a decision consistent with justice;

(c) The Advisor shall also bring to the attention of both the Tribunal and the Officer of Justice any irregularities which may have been committed in the course of investigations or the proceedings;

(d) The defence shall be conducted in a dignified manner within the spirit of the principles enunciated in the Freedom Charter and this Code;

(e) The Advisor while free to conduct the defence as forcefully as may be necessary, shall not invent spurious defences or make assertions before the Tribunal which he or she knows to be false or has no reason to believe are true;

(f) In cases where guilt is established, the Advisor shall have a particular important function in assisting the Tribunal to arrive at a just penalty.

5. The Presenter shall place before the Tribunal all evidence relevant to the issues in the trial proceedings, including such information or facts as may be favourable to the Accused.

6. (a) The Accused shall have the right to put questions to witnesses on the evidence given against him or her;

(b) After the Presenter's evidence has been led, the Accused shall have the right to give evidence and present or call for the production of witnesses or documents;

(c) The Accused shall not be obliged to testify, but failure to do so will normally be considered as admitting the allegations not directly rebutted by him or her;

(d) The Tribunal may at any stage question the Accused as to whether he or she admits or denies,

in whole or in part, evidence which has been led by the Presenter;

(e) In deciding whether or not to accede to a request by the Presenter or the Accused to call any particular form of testimony, the Tribunal will weigh the potential evidential value of the testimony and its importance for arriving at a just result, against the practical possibility or impossibility of calling such evidence, the disruption it might cause to the prosecution of the struggle, security considerations and any other factor similarly relevant. If such evidence is not called, and there are reasonable grounds for believing that it might have been favourable to the Accused, due allowance must be made for such fact in the final deliberations of the Tribunal;

(f) The Tribunal shall take an active role in the proceedings, asking such questions and calling for such evidence as it might deem fit in the interests of a just result;

(g) The Chairman of the Tribunal, or in his absence, the person appointed to preside in any particular case shall ensure that the proceedings are conducted in a fair, orderly, dignified and calm manner, and shall make any order which the Tribunal considers necessary for a just result.

7. Where possible, a Recorder should be appointed to keep a verbatim record of the proceedings. Where this is not possible, the Tribunal shall ensure that an accurate record of all essential aspects of the proceedings is made, and in any event, that all relevant documents and exhibits are properly preserved.

8. (a) Where the Accused admits all the essential facts alleged and offers no justification, the Tribunal may proceed directly to hearing evidence and argument in relation to the appropriate penalty;

(b) The Tribunal shall at all times be attentive to the necessity to ensure that any confession or

admission is genuine and that its content can be relied upon, and should normally not make a finding of guilty without some external and substantial form of corroboration.

9. (a) The Tribunal shall receive every and any kind of evidence relevant to the allegations, but may refuse to hear evidence that is too remote or indirect to have a bearing on the issues;
 - (b) The Tribunal shall take into account all the information placed before it at the proceedings, as well as any information of a non-controversial nature which is well known to the membership generally, and shall give such weight to any piece of information, including confession, as it thinks fit;
 - (c) The Tribunal will record the essential findings of fact on which it bases its decision;
 - (d) The Tribunal will only convict when it is sure of the guilt of the Accused. Any reasonable or substantial doubt which it might have, must go to the advantage of the Accused.
10. (a) If, on hearing all the evidence, the Tribunal is satisfied that the Accused is guilty of any charge, it shall so declare;
 - (b) If it is satisfied of the innocence of the Accused, it shall so declare;
 - (c) If it feels itself unable to make a firm determination either of innocence or of guilt, it may make a finding of "Not Proven" and order that the matter be postponed for further evidence, or make any other order it regards as appropriate.
11. (a) The proceedings shall be conducted in a language which the Accused understands reasonably well, and, wherever possible, in the language of preference of the Accused. The Tribunal will, in this regard, make interpretation available, save that it will refuse to do so if it is satisfied in making the request the Accused is motivated by a desire, not to ensure a better comprehension, but to delay or obstruct the proceedings.
 - (b) The record of the proceedings shall be in English.