

1. Objectives of a New Constitution

The New Constitution shall have the following objectives:

- a) The granting to the oppressed majority of their just national rights;
- b) The outlawing of racial discrimination in all its forms;
- c) The ensuring of the complete dismantling of apartheid structures and their replacement by democratic ones;
- d) The prevention of the resurgence of racial policies, programmes and practices, whether in old form or new;
- e) The overcoming of the effects of centuries of racial domination and inequality by ensuring substantial redistribution of wealth and the complete opening up of facilities for all;
- f) The encouragement of the active involvement of all sectors of the population in government and economic and cultural life;
- g) The promotion of the habits of non-racial thinking, the practice of anti-racist behaviour and the acquisition of genuinely shared patriotic consciousness;
- h) The creating of the conditions for the speediest achievement of these goals with the least possible disruption to the tranquility of the country and to the production of the goods and services necessary to enable all members of the community to live a decent life;
- i) The guaranteeing of the security necessary for the achievement of these goals.

Principles of a New Constitution.

2. The New Constitution shall be based on the following principles:

- a) South Africa shall be an independent, unitary, democratic and non-racial state;
- b) (i) Sovereignty shall belong to the people as a whole and shall be exercised through one central legislature, administration and executive;
(ii) Provision will be made for the regional and local delegation of the powers of the central authority to smaller administrative units for purposes of more efficient and effective administration;
- c) In the exercise of their sovereignty, the people shall have the right to vote under a system of universal suffrage based on the principles of one person, one vote;
- d) Every voter shall have the right to stand for election and be elected to all legislative bodies;
- e) The system of universal and equal franchise will apply also to the election of all regional and local bodies;

- f) It shall be state policy to promote the growth of a single national identity and loyalty binding on all South Africans; at the same time, the state will recognise the linguistic and cultural diversity of the South African people, and provide facilities for free linguistic and cultural development;
- g) The ^{Hereditary Rulers} constitution of hereditary rulers and Chiefs shall be transformed to serve the interests of the people as a whole in conformity with the democratic principles embodied in the constitution; Bill of Rights & Duties
- h) The Constitution will include a Bill of Rights based on the Freedom Charter guaranteeing the fundamental human rights of all citizens and providing appropriate mechanisms for their enforcement;
- i) The State and all social institutions shall be under a duty to eradicate apartheid in all its forms, as well as to take measures to overcome its consequences;
- j) The advocacy or practice of racism, fascism, nazism, tribalism or regionalism shall be outlawed;
- k) Subject to the clauses (i) and (j) above, freedom of association and expression shall be guaranteed by the adoption of a multi-party system and an open press;
- l) Also subject to clause (i) and (j) above, freedom of religion, worship and conscience shall be given special constitutional guarantee by the State;
- m) Participatory democracy shall be encouraged by means of involving the community, and community and workers organisations, directly in public and economic administration;
- n) The State and ^{Economic Activity} all social institutions shall take active steps to redress as speedily as possible the economic and social inequalities produced by apartheid. In particular the unjust dispossession of the African people of their land shall be corrected through the abolition of all legislation restricting land ownership and use on a racial basis and all other apartheid measures designed to deprive the people of their land and live-stock. The victims of forced removals carried out by the apartheid regime shall be given proper redress by the state. In particular they shall be given the right to return to their land or ancestral homes wherever possible; Economic Activity
- o) The State shall have the right to determine the general context in which economic life takes place and to define and limit the rights and obligations attaching to the ownership and use of private productive capacity.

The economy shall be a mixed one with a public sector, a cooperative sector, a private sector and a family sector.

The public sector shall be subjected to democratic control.

Cooperative forms of economic enterprise and the family sector shall be supported by the State.

Property for personal use and consumption shall be constitutionally protected;

- p) The State shall promote the acquisition of managerial and entrepreneurial skills, and provide facilities to encourage commercial and industrial activities amongst all sections of the population;
- q) Workers and ^{Workers Rights} trade union rights shall receive special constitutional protection;
- r) All ^{Organs of Government} organs of government, justice and security shall be transformed so as to make them representative of the people as a whole, democratic in their structure and functioning, and dedicated to defending the principles of the Constitution.

Foundations of Government in a Democratic South Africa.

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1. Objectives of a New Constitution.

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- a). The granting to the oppressed majority of their just national rights;
- b). The outlawing of racial discrimination in all its forms;
- c). The ensuring of the complete dismantling of apartheid structures and their replacement by democratic ones;
- d). The prevention of the resurgence of racist policies, programmes and practices, whether in old forms or new;
- e). The overcoming of the effects of centuries of racial domination and inequality by ensuring a substantial redistribution of wealth and the complete opening up of access to ~~all~~ facilities for all;

- f). The encouragement of the active involvement of all sectors of the population in government and economic and cultural life;
- g). The promotion of the habits of non-racial thinking, the practice of ^{anti-racist} ~~non-racial~~ behaviour and the acquisition of a genuinely shared patriotic consciousness;
- h). ^{the creating of} ~~Creating~~ the conditions for the speediest achievement of these goals with the least possible disruption to the tranquillity of the country and to the production of the goods and services necessary to enable all members of the community to live a decent life;
- i). ^{The} ~~Guaranteeing~~ the security necessary for the achievement of these goals.

2). The New Constitution shall be Based on the Following Principles:

- a). South Africa shall be an independent, unitary, democratic and non-racial state;
- b). Sovereignty shall belong to the people

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as a whole and shall be exercised through one central legislature, administration and executive ;

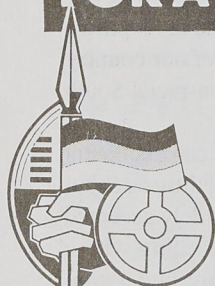
c). In the exercise of their sovereignty, the people shall have the right to vote under ~~the~~^a system of universal suffrage based on the principle of one person, one vote ;

d). Every voter shall have the right to stand for elections and be elected to all legislative bodies .

e). The system of universal and equal franchise will apply also to the election of all regional and local bodies ;

f). ^{It shall be} State policy ~~shall be~~ to promote the growth of a single national identity and loyalty binding on all South Africans ; at the same time, the State will recognise the linguistic and cultural diversity of the South African people, and

CONSTITUTIONAL GUIDELINES FOR A DEMOCRATIC SOUTH AFRICA



ANC
UNITED ACTION
FOR PEOPLE'S POWER

The People
Shall Govern

All National Groups
Shall Have Equal Rights

There Shall be
Work and Security

The People Shall Share
in the Country's Wealth

All Shall be
Equal Before the Law

There Shall be Houses,
Security and Comfort

There Shall be
Peace and Friendship

The Land Shall be Shared
Among Those who Work it

The Doors of Learning and
Culture Shall be Opened

All Shall Enjoy Equal Human Rights

CONSTITUTIONAL GUIDELINES FOR A DEMOCRATIC SOUTH AFRICA

The Freedom Charter, adopted in 1955 by the Congress of the People at Kliptown near Johannesburg, was the first systematic statement in the history of our country of the political and constitutional vision of a free, democratic and non-racial South Africa.

The Freedom Charter remains today unique as the only South African document of its kind that adheres firmly to democratic principles as accepted throughout the world. Amongst South Africans it has become by far the most widely accepted programme for a post-apartheid country. The stage is now approaching where the Freedom Charter must be converted from a vision for the future into a constitutional reality.

We in the African National Congress submit to the people of South Africa, and to all those throughout the world who wish to see an end to apartheid, our basic guidelines for the foundations of government in a post-apartheid South Africa. Extensive and democratic debate on these guidelines will mobilise the widest sections of our population to achieve agreement on how to put an end to the tyranny and oppression under which our people live, thus enabling them to lead normal and decent lives as free citizens in a free country.

The immediate aim is to create a just and democratic society that will sweep away the century's old legacy of colonial conquest and white domination, and abolish all laws imposing racial oppression and discrimination. The removal of discriminatory laws is, however, not enough; the structures and the institutions of apartheid must be dismantled and be replaced by democratic ones. Steps must be taken to ensure that apartheid ideas and practices are not permitted to appear in old forms or new.

In addition, the effects of centuries of racial domination and inequality must be overcome by constitutional provisions for corrective action which guarantees a rapid and irreversible redistribution of wealth and opening up of facilities to all. The constitution must also be such as to promote the habits of non-racial thinking, the practice of anti-racist behaviour and the acquisition of genuinely shared patriotic consciousness.

The constitution must give firm protection to the fundamental human rights of all citizens. There shall be equal rights for all individuals, irrespective of race, colour, sex or creed. In addition, it requires the entrenching of equal cultural, linguistic and religious rights for all.

Under the conditions of contemporary South Africa 87% of the land and 95% of the instruments of production of the country are in the hands of the ruling class, which is solely drawn from the white community. It follows, therefore, that constitutional protection for group rights would perpetuate the status quo and would mean that the mass of the people would continue to be constitutionally trapped in poverty and remain as outsiders in the land of their birth.

Finally, success of the constitution will be, to a large extent, determined by the degree to which it promotes conditions for the active involvement of all sectors of the population and at all levels in government and in the economic and cultural life. Bearing these fundamental objectives in mind, we declare that the elimination of apartheid and the creation of a truly just and democratic South Africa requires a constitution based on the following principles:

The State:

- a) South Africa shall be an independent, unitary, democratic and non-racial state.
- b)
 - i. Sovereignty shall belong to the people as a whole and shall be exercised through one central legislature, executive and administration.
 - ii. Provision shall be made for the delegation of the powers of the central authority to subordinate administrative units for purposes of more efficient administration. *and democratic participation.*
- c) The institution of hereditary rulers and chiefs shall be transformed to serve the interests of the people as a whole in conformity with the democratic principles embodied in the constitution.
- d) All organs of government including justice, security and armed forces shall be representative of the people as a whole, democratic in their structure and functioning, and dedicated to defending the principles of the constitution.

Franchise

- e) In the exercise of their sovereignty, the people shall have the right to vote under a system of universal suffrage based on the principle of one person, one vote.
- f) Every voter shall have the right to stand for election and be elected to all legislative bodies.

National Identity

- g) It shall be state policy to promote the growth of a single national identity and loyalty binding on all South Africans. At the same time, the state shall recognise the linguistic and cultural diversity of the people and provide facilities for free linguistic and cultural development.

A Bill of Rights and Affirmative Action

- h) The constitution shall include a Bill of Rights based on the Freedom Charter. Such a Bill of Rights shall guarantee the fundamental human rights of all citizens irrespective of race, colour, sex or creed, which shall provide appropriate mechanisms for their enforcement.
- i) The state and all social institutions shall be under a duty to eradicate race discrimination in all its forms.
- j) The state and all social institutions shall be under a constitutional duty

work, education, health, soc. sec.

to take active steps to eradicate, speedily, the economic and social inequalities produced by racial discrimination.

- k) The advocacy or practice of racism, fascism, nazism, ^{sexism} or the incitement of ethnic or regional exclusiveness or hatred shall be outlawed.
- l) Subject to clauses (i) and (k) above, the democratic state shall guarantee the basic rights and freedoms, such as freedom of association, expression, thought, worship and the press. *not text*
- m) All parties which conform to the provisions of paragraphs (i) to (k) shall have the legal right to exist and to take part in the political life of the country.

Economy

- n) The state shall ensure that the entire economy serves the interests and well-being of all sections of the population.
- o) The state shall have the right to determine the general context in which economic life takes place and define and limit the rights and obligations attaching to the ownership and use of private productive capacity.
- p) The economy shall ^{have} be a mixed one with a public sector, a private sector, a co-operative sector and a small-scale family sector.
- q) Co-operative forms of economic enterprise, village industries and small-scale family activities shall be supported by the state.
- r) The state shall promote the acquisition of managerial, technical and scientific skills among all sections of the population, especially the blacks.
- s) Property for personal use and consumption shall be constitutionally protected.

Workers

- t) A charter protecting workers' trade union rights, the right to strike and collective bargaining shall be incorporated into the constitution.

Women

- u) Women shall have equal rights in all spheres of public and private life and the state shall take affirmative action to eliminate sexual inequalities *and discrimination.*

The Family

- v) The family, parenthood and children's rights shall be protected.

International

- w) South Africa shall be a non-aligned state committed to the principles of the Charter of the Organisation of African Unity and the Charter of the United Nations and to the achievement of national liberation, world peace and disarmament.

Date.

provide facilities for free linguistic and cultural development

g). Hereditary forms of political power shall be abolished and the chiefs encouraged to participate in normal democratic life.

h). The constitution will include a Bill of Rights based on the Freedom Charter guaranteeing the fundamental human rights of all citizens and providing appropriate mechanisms for their enforcement;

i). The State and all social institutions shall be under a duty to eradicate apartheid ~~and all its consequences in all~~

in all its forms, as well as to take measures to overcome its consequences.

j). The advocacy or practice of racism, fascism, nazism, tribalism, ~~ultra-nationalism~~ or regionalism shall be outlawed;

k). Subject to the above, freedom of association and expression will be guaranteed by the adoption of a multi-party system and an open press;

l). Religious freedom shall receive special constitutional guarantee;

m.). Participatory democracy shall be encouraged by means of involving the community, and community and workers organisations; directly in public and economic administration; (7)

n). The State and all social institutions shall take active steps to redress as speedily as possible the economic and social inequalities produced by apartheid. In particular, the unjust division of land ~~produced by centuries of social inequalities~~ shall be corrected;

o). The economy shall be a mixed one, with a public sector, a cooperative sector, ~~and~~ a private sector and a family sector. The public sector shall be subject to democratic control; and the family sector cooperative forms of economic enterprises shall be supported by the State. Property for personal use and consumption shall be constitutionally protected.

~~Conrad T. G.~~
Further to [unclear]

Constit. doc.

The State shall have the right to determine the general context in which economic life takes place and to define and limit the rights and obligations attaching to the ownership and use of private productive capacity;

1. The state will promote the acquisition of managerial and entrepreneurial skills, and ~~amongst all sections of the population, and~~ provide ~~credit and other~~ facilities to ~~the~~ encourage commercial and industrial activities, amongst all sections of the population;
2. Worker and trade union rights shall receive special ^{constitutional} protection;
3. All organs of government, justice and security shall be transformed so as to make them representative of the people as a whole, democratized in their structure and functioning, and dedicated to defending the principles of the Constitution;

Notes

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Notes: 1). We do not feel it necessary ^{or advisable} at this stage to publish anything on questions such as the electoral system or whether to have a Prime Ministerial or Presidential form of government. We do feel, however, that further research in these areas is vital, and that in particular ~~a~~ ^a full ~~of~~ demographic/political survey be undertaken as soon as possible.

2). We have not included a clause on the right of voters to recall their representatives, since we feel this is a 'paper right' difficult to define ^{in practice} and never, as far as we are aware, ~~used~~ ^{used} in countries where theoretically it exists.

3). In the absence of any guidelines from the Economics Committee, and on the basis of skeleton ideas from the NWC sub-committee, we have ^{on our own} outlined a ^{tentative} series of propositions on the question of economic activity and property rights, which we are sure will be looked at with special attention by the NEC.

4). We feel that consideration should be

given to spelling out more fully the last paragraph, ~~dealing~~ ⁽¹⁰⁾ namely that dealing with transforming the organs of government, justice and security. In particular, attention should be paid to the character and composition of the army, police force and prison service, as well as to the civil service and judiciary.

5). We have not received guidelines on the future ~~status~~ constitutional position of the chief. Our proposal is a tentative one.

6). We recommend that the Education Committee give urgent attention to the future status of private and church schools in case attempts are made to secure for them special constitutional protection.

7). We further recommend that special investigations be made of:
i. The demographic / political situation in South Africa.

- (ii). The constitutional evolution in Eastern Europe after World War II;
- (iii). The land question;
- (iv). The problem of positive discrimination or affirmative action to close the gap between rich and poor, white and black in South Africa.
- ~~(v)~~
- (v). The electoral system and the Presidential / Prime Ministerial debate.