

Submitted
formally
2/3/92

LABOUR PARTY OF SOUTH AFRICA

CODESA ASSIGNMENT

THE RELATIONSHIP OR BALANCE BETWEEN CENTRAL REGIONAL AND LOCAL GOVERNMENT

1. The process of negotiation in regard to the nature and powers of central regional government should be approached from the point of view of first principles and not from an ideological point of view. As a result the terms unitary and federal, which are ideologically loaded should be avoided. The question should be approached by asking what principles are required to constitute effective and legitimate government at central and regional levels.
2. The constitutional and political relationship between central and regional government is of fundamental importance in regard to the nature and effectiveness of government and the constitution.
3. Both central and regional governments will have to operate within the parameters of the constitution and the Bill of Rights.
4. Effective, legitimate and democratic government must be conducted at three levels central, regional and local/metropolitan levels.
5. The constitution must create a strong and effective central government. It must have the powers to tackle national reconstruction within the parameters set out in the constitution, which must expressly stipulate its functions and powers. It must, however, not operate in an autocratic way or be given the temptation to do so.
6. Strong and effective central and regional governments are not incompatible. The constitution must expressly stipulate which powers and functions are central, regional and concurrent. Regional governments must have a constitutionally defined autonomy, which will depend on original fiscal functions, clearly stipulated by the constitution. Each regional should have a constitutional right to adequate funding to ensure fiscal equality between rich and poor regions as is the position in the West German Constitution of 1949.
7. The relationship between central and regional government must be co-ordinate. The central government will be supreme in its own sphere. Regional government must operate according to the parameters of the constitution, which will confer original powers and functions in regard to appropriate matters.

8. The central government must not have the power to unilaterally neutralize and revoke the powers, functions and operation of regional government.
9. Local/metropolitan government will constitute a subordinate level. Local government will have to operate within the limitations and those of the constitution. Local government although subordinate is not unimportant. It is the level of government closest to the people. It must be democratic and legitimate. The constitution must clearly stipulate the powers and function of local government powers.
10. The Regional Governments will have as one of their important functions the co-ordination of local government through out the regions. Although the relationship between regional and local/metropolitan government will be one of subordination, the constitution must ensure that the regional governments do not act autocratically.
11. The constitution must ensure the regional units are treated both politically and fiscally on the basis of equality taking into account the differences of economic development in the region.
12. Regional diversity should be provided for. The structure and character of the regional government may vary from region to region, but subject to the principle of equal and fair treatment of the regions.
13. The geographical demarcation of the regions should be based on demographic, fiscal and political factors. The existing nine development regions constitute a basis for negotiation between the relevant parties in this regard.
14. Provision will have to be made for the co-ordination of regional government between the regions. A co-ordinating council that meets periodically should be considered.
16. A conflict flowing from the interpretation of the constitution in regard to demarcation of functions between regional and central government must be settled by the constitutional court.
17. The relationship between central, regional and local/metropolitan government must be such that South Africa as a country is a unified entity that harmoniously recognizes the regional, cultural and economic diversity. Mechanisms will have to be created for the resolution of disputes and the co-ordination of government throughout the country.

18. Appropriate constitutions for the regions compatible the national constitution should be devised simultaneously with the latter. Regional variations should be permitted to cater for the peculiar requirements of each region. For example the regional constitutions of the Western Cape and Natal will differ. In the former the traditional or indigenous African leaders will play very little or no part, but in Natal and certain other regions the role of the chiefs could find expression in the regional constitution that accords with their status and functions without making inroads into the fundamental principles of democratic government. Thus the constitution should reflect a process of constitution making that commences simultaneously from the national and regional levels of government ie from the top down and from the bottom up. This will involve the contribution of people at national, regional and local levels. The geographical demarcation of the regions should be based on demographic, economical and political considerations. The existing nine development regions constitute a basis for negotiation between the relevant parties in this regard.
19. Appropriate and adequate powers should be located in the regional the central and governments. Foreign affairs, defence and finance must be located in the central government. Other matters such as local government will appropriately be located in the regional governments. Other matters such as health, education and the environment will be shared between the central and regional administrations.
20. The concentration of all legislative power in the central government with only revocable powers and functions vested on the regional governments will lead to uncertainty, conflict and could facilitate the abuse of power.
21. The concentration of power in the regional administrations to such an extent that central government is emasculated will be de facto equivalent to a confederal system of government and effectively preclude central government from tackling the great problems of economic and social reconstruction.