



# INKATHA

Inkatha Freedom Party

Iqembu leNkatha yeNkululeko

## CODESA WORKING GROUP I

### FIRST ASSIGNMENT:

#### CREATION OF A CLIMATE FOR FREE POLITICAL PARTICIPATION

FOR SUBMISSION TO A CODESA MEETING ON 6TH FEBRUARY 1992

#### INTRODUCTION

Democracy requires all citizens to be completely free to participate in the political process and in elections and it requires all political parties to be free to advocate their policies and their intentions in politics to all individuals and constituencies who will vote or nominate candidates for election.

This means total equality before the law and the constitution and indeed it also means democratic political behaviour both on the part of government and on the part of voters, and a common commitment to play according to democratic rules of the game. Thus not only must there be legal and constitutional preconditions for free political participation, but there must also be a cult of tolerance and the acceptance of democratic political norms in society at large.

In South Africa there is no equality before the law and the constitution, there is no nationwide spirit of tolerance and there are not long-standing nationwide venerated democratic norms and practices to ensure conformity to democratic requirements.

Both free negotiations and free participation in the political process of constitution-making, and then testing proposed constitutions for acceptability amongst the public, depend upon a number of conditions. There must be:

#### Supremacy of the Constitution

Unless there is the supremacy of the constitution, there can be no democracy. In South Africa, the existing constitution is so race-based and it so precludes the majority of citizens from participation in the government of the country and from determining who shall govern and for how long they shall govern, that this first necessary condition for free participation in the political process is deeply prejudiced.

#### Sovereignty of the people

It is not governments or states which are sovereign in a democracy. Democracies rest on the sovereign will of the people being given effect in government and in the administration of a country's affairs.

In South Africa, the sovereignty of the people has not thus been expressed.

#### Separation of powers and checks and balances

In all working democracies, there is separation of power of one kind or another with the Head of State being held accountable and responsible to Parliament. In South Africa the Head of State, and indeed the whole Government, pursue their political work very little trammelled by accountability for what they are doing.

The growth of Draconian laws, and the growth of mechanisms of oppressing the majority of the people, and the associated growth of the powers of the State President, have precluded the operation of checks and balances against abuses of power.



### State obligations

The obligations of States in a democracy must include: national security, economic development, environmental protection, promotion of safety, health, education and welfare, the preservation of religious, culture, linguistic and ethnic institutions, affirmative action for the protection of the family, including special protection for women and children. And, in addition, affirmation action on behalf of the disadvantaged and the less privileged.

In all the above, successive National Party governments have so directed the affairs of the State that good governance to give effect to the above, has not been the order of the day.

### IFP RECOMMENDATIONS

1. THE LEVELLING OF THE GROUND AND THE CREATION OF A CLIMATE FOR FREE POLITICAL PARTICIPATION WILL NOT BE POSSIBLE UNLESS STEPS ARE TAKEN TO SUBSTANTIALLY MINIMISE THE ADVERSE EFFECTS OF PAST BAD GOVERNANCE. AFFIRMATIVE ACTION IN THE NEGOTIATION PROCESS WHICH EMPOWERS PEOPLE TO BE FREE TO EXERCISE THEIR POLITICAL CHOICES AND THEIR POLITICAL ACTION, MUST BE UNDERTAKEN.

2. A FAILED NATIONAL PEACE ACCORD WOULD INDICATE SUCH CONTINUATION OF THE CONSEQUENCES OF BAD GOVERNMENT THAT THE NECESSARY CONDITIONS FOR FREE PARTICIPATION IN THE POLITICAL PROCESS, WILL NOT EXIST.

THE SUCCESS WITH WHICH THE NATIONAL PEACE ACCORD IS IMPLEMENTED SHOULD THEREFORE BE REGARDED AS A BAROMETER OF PROGRESS TOWARDS ESTABLISHING FREE POLITICAL PARTICIPATION.

3. IN ADDITION, THERE SHOULD BE NEGOTIATED SELF-IMPOSED LIMITATIONS ON THE STATE PRESIDENT'S POWERS. THE CABINET AND THE NATIONAL PARTY CAUCUS MUST COMMIT THEMSELVES TO ELIMINATE AUTOCRATIC TENDENCIES IN GOVERNMENTAL AND ADMINISTRATIVE PRACTICE. A STATE PRESIDENT'S DECLARATION OF INTENT WOULD IN THIS RESPECT BE USEFUL.



4. THE ABOLITION OF OWN AFFAIRS PROVISIONS AND AMENDMENTS TO THE CONSTITUTION WHICH WOULD REQUIRE ALL THREE HOUSES TO SIT TOGETHER AT ALL TIMES, WOULD CREATE A SITUATION IN WHICH THE GOVERNMENT COULD BE COMMITTED TO ACT ON MAJORITY DECISIONS OF ALL THREE HOUSES OF PARLIAMENT SITTING TOGETHER.

FURTHER AMENDMENTS TO THE CONSTITUTION SHOULD BE MADE GIVING OPPOSITION PARTIES A DELAYING ROLE IN THE PROMULGATION OF LAWS AND IN THE PUBLISHING OF PROCLAMATIONS WHICH HAVE BEEN OPPOSED BY A MAJORITY OF OPPOSITION MEMBERS OF PARLIAMENT.

### Fundamental rights

There can be no free participation in the political process if the fundamental rights of citizens are violated. Apartheid has done this. Apartheid has created a state of inequality of opportunity in which the disenfranchised majority have been excluded from the democratic process. Their involvement will remain prejudiced for as long as there are great disparities between race groups on matters such as literacy rates and economic standing which give Whites privileged advantages.

### IFP RECOMMENDATIONS

5. THE PROCESS OF REDRESSING THESE WRONGS DURING THE NEGOTIATION PROCESS AND DURING THE TRANSITION FROM APARTHEID TO DEMOCRACY, MUST BE PROCEEDED WITH TO THE MAXIMUM EXTENT AND AT THE MAXIMUM RATE POSSIBLE. DURING THE TRANSITIONARY PHASE THE EXTENT TO WHICH CITIZENS ARE BENEFITING FROM WHAT IS BEING DONE AND BEING FREED BY WHAT IS BEING DONE, SHOULD BE MONITORED AND A CONSTANT WATCH SHOULD BE KEPT ON PROGRESS MADE.
6. THERE SHOULD BE THE ESTABLISHMENT OF A NATIONAL PANEL FOR THE PROTECTION OF FUNDAMENTAL RIGHTS MANNED BY JUDGES OF THE SUPREME COURT ACTING IN CONSULTATION WITH THE LAW SOCIETY. INDIVIDUALS AND POLITICAL ORGANISATIONS AND PARTIES SHOULD HAVE THE RIGHT TO APPEAL TO THIS PANEL WHERE CONTINUED BAD GOVERNMENT AND MAL-ADMINISTRATION CONTINUES TO IMPAIR FUNDAMENTAL RIGHTS.



Obligations and duties of citizens must of course counter-balance and match action taken by Government to decrease factors in public life which impair the freedom of individuals and groups to participate in the political and negotiation process.

#### IFP RECOMMENDATIONS

7. IN THE ABOVE REGARD SOCIAL CONTRACTS BETWEEN DEPRIVED SECTORS OF THE POPULATION AND PARTICULARLY DISADVANTAGED GROUPS OF PEOPLE, SUCH AS WOMEN, SHOULD BE NEGOTIATED AT CODESA AT THE REQUEST OF ANY ONE OF THE PARTICIPATING POLITICAL PARTIES OR ORGANISATIONS.
  
8. SUCH SOCIAL CONTRACTS SHALL SPECIFICALLY TAKE COGNISANCE OF DISPARITIES BETWEEN BLACK AND WHITE LOCAL GOVERNMENTS AND PARTICULARLY TAKE COGNISANCE OF THE LACK OF ANY KIND OF FORMAL LOCAL GOVERNMENT IN VAST INFORMAL SETTLEMENTS AND SQUATTER AREAS.
  
9. SPECIFIC ATTENTION SHOULD BE PAID TO THE NATURE OF FUNDAMENTAL RIGHTS WHICH SHOULD INCLUDE:
  - \* PHYSICAL INTEGRITY OF THE PERSON: LIFE, LIBERTY, DIGNITY, PRIVACY, SECURITY
  - \* EQUALITY BEFORE THE LAW, EQUAL PROTECTION OF THE LAWS, DUE PROCESS, ECONOMIC ACTIVITY
  - \* CRIMINAL LAW PRINCIPLES
  - \* FREEDOM OF SPEECH, PRESS, ASSEMBLY, ASSOCIATION, POLITICAL AND ECONOMIC ACTIVITY
  - \* FREEDOM OF RELIGION, BELIEF AND CONSCIENCE
  - \* FREEDOM OF TRAVEL, MOVEMENT AND RESIDENCE
  - \* PROPERTY RIGHTS
  - \* FAMILY RIGHTS
  - \* RIGHT TO EDUCATION
  - \* RIGHT TO SOCIAL SECURITY
  - \* RIGHT TO FORM AND JOIN TRADE UNIONS

#### PERTINENT OBSERVATIONS

- A. A climate for free political participation can only exist where it is made clear that all participants are given free reign to express their views, aspirations, misgivings and fears without being coerced or coached with preconceived positions.

- B. All political entities with a visible or substantial interest or stake in the constitutional political future of this country are allowed participation without let or hindrance.
- C. The manner and form of the negotiating process itself must inspire confidence in all citizens of this country that whatever decisions are reached will be so reached in good faith and with the interest of all taken into account, irrespective of whether they may be powerless minorities.
- D. CODESA must evince a will and a determination to be a forum for reconciliation and not a battleground for power play.
- E. It would be suicidal to the whole negotiating process if certain groups start displaying behaviour indicative of a desire to dominate or dictate. CODESA could falter, and some political entities who should be encouraged to join CODESA, may refuse to participate and, even worse, some who are already participating, may withdraw.
- F. CODESA has had an admirable predecessor in the National Peace Accord. It must therefore be a faithful follow-up to that initiative. It would be tragic if some people concluded that the National Peace Accord is simply regarded as a softening-up "anaesthetic" by some delegations.

#### OUTSIDE CODESA

- G. CODESA delegates must convincingly show that they are in, and are part of, the negotiating process.
- H. Combative, threatening and aggressive talk only serves to put question marks in the minds of people. They ask "Can we really negotiate peace with people who still continue to talk war?"
- I. It is time CODESA and delegates told South Africa that we are looking forward to a country that will have peace and where the laws of the land, democratically enacted, will be obeyed.



A CHECK LIST OF ACTION TO ASSIST LEVELLING THE PLAYING FIELD

The following should serve as a guide check list of appropriate government and party political and party organisational action:

All participants at CODESA should be given an equal opportunity to express their political views.

- 1.1 Equal media exposure, particularly to SABC-TV, should be given to all delegations.
- 1.2 CODESA should act, and should be seen to act, in a fair and impartial manner towards all delegations.
- 1.3 CODESA should be as inclusive as possible. All South Africans should have representation at CODESA.
- 1.4 The funding of political entities must be addressed. Is overseas funding permissible?
- 1.5 There should be free and fair access to public facilities and meeting venues.
- 1.6 Political parties should foster a spirit of tolerance amongst themselves.
- 1.7 There should be an intensive and continuous educative and information campaign.
- 1.8 There should be fair and reasonable access for all political parties, to all potential voters, wherever they may reside.
- 1.9 A library and information centre should be established at CODESA for the purpose of assisting delegates with their decisions.
- 1.10 Provision should be made for delegates to hear expert witnesses express their suggestions on matters relevant to CODESA.
- 1.11 There should be free access to transport for all parties and voters.
- 1.12 There should be equal voting facilities for all parties.

- 1.13 The election period should be of sufficient time that voters in rural areas are able to vote.
- 1.14 There should be a common method of identification of voters.
- 1.15 A free and fair voting system must be employed.
- 1.16 There should be an adequate distribution of ballot boxes particularly in rural areas.
- 1.17 There should be a suitable legal structure for the results of elections to be properly implemented.

History has shown that political despots rise to power in times of economic crises (e.g. Hitler) or in times of political instability, (e.g. Lenin). Therefore CODESA should ensure that a climate of economic stability and political stability exists to ensure free participation by all South Africans in the process of peaceful change to a new South Africa.

## 2. Economic Stability

- 2.1 Delegations should conduct themselves in a manner to ensure that economic stability is achieved.
- 2.2 All delegations should renounce sanctions against South Africa, as this creates unemployment, which has as its consequence crime, violence and hardship.
- 2.3 All delegations should promote foreign investment in South Africa. This creates employment which South Africa desperately needs as a developing nation.
- 2.4 Responsible trade unionism should be promoted. Trade unionism should be used for the purpose for which it was intended, i.e. that of protecting the worker. Trade unionism should not be used as a political weapon.
- 2.5 Strikes and mass action should be discouraged.
- 2.6 The socio-economic conditions of South Africans must be improved.

## 3. Political Stability/Peace

- 3.1 There should be no intimidation of voters, delegates or political parties.



- 3.2 Political prisoners must be released.
- 3.3 Exiles and their families should be allowed to return to South Africa.
- 3.4 Any remaining laws militating against free political activities must be repealed. All discriminatory legislation should be repealed.
- 3.5 There shall be a termination of the use of military and/or violent means, or the threat thereof, of promoting the objectives/views of a political party or organisation.
- 3.6 No delegations shall have private or liberation armies, or hold arms caches and such existing armies must now be disbanded and arms caches surrendered as a condition for good faith negotiations, and legislation must be enacted to outlaw all such armies, whether represented by participants at CODESA or not; and no training of any such armies or their personnel shall take place either inside or outside the Republic of South Africa or within the territory of any government represented at CODESA or not.
- 3.7 The National Peace Accord shall be implemented.
- 3.8 Respect must be given to the rule of law. Violence-related crimes must cease.
- 3.9 The composition and the role of the security forces in South Africa and the TBVC States must be considered.

SECOND ASSIGNMENT:

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THE ROLE OF THE INTERNATIONAL COMMUNITY

IFP RECOMMENDATIONS

10. THE VIEW OF THE IFP IS THAT THERE IS NO ROLE FOR THE INTERNATIONAL COMMUNITY IN THE INTERNAL NEGOTIATION PROCESS IN SOUTH AFRICA OTHER THAN THE ROLE OF OBSERVER TO ENSURE AN ADEQUATE KNOWLEDGE AND FULL APPRECIATION OF WHAT IS BEING DONE ON THE NEGOTIATION FRONT. THE IFP ARGUES FOR THIS POSITION UNDER THE FOLLOWING HEADINGS:

South Africa has an internationally recognised government

However undemocratic the South African Government is, it has a de facto and de jure status nationally and internationally which is being legitimised by the Government's commitment to abolish apartheid and to establish a fair, just, race-free, multi-party democracy. Its continued participation in CODESA and in whatever negotiation forums which supplement or supercede CODESA, will give effect to its legitimacy.

The existence of political parties

Political parties do exist, both within the parliamentary framework and as extra-parliamentary parties and organisations, to give effect to a legitimate on-going political process through which reform can be negotiated.

The liberty with which South African political parties and organisations can exist and act distinguishes South Africa from many other countries in which, by international consensus, independent international supervision was necessary during transitional phases.



The bona fide action of the Government and political parties

The bona fide action of the Government and political parties in bringing about change is constantly monitored by a remarkably free press and freedom of expression.

A respected judiciary

South Africa's respected judiciary ensures an honourable role of the courts of the land and recourse to law and the courts by any aggrieved parties in the negotiation process, is possible for all.

Institutionalised life

There are sound and coherent religious, legal, educational, business, sports and professional institutionalised forces capable of exerting pressures and creating opinion for the world to be aware of whether or not the negotiation process is remaining on track and continuing to make progress towards the finding of solutions.

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4TH FEBRUARY 1992

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