

WORKING GROUP ONE

SUB-GROUP ONE

No progress has been made as yet on the critical issues of the release of political prisoners and the return of all exiles. These matters are still being dealt with at the bilateral level by the ANC and the SAG. The Sub-Group noted that it had taken rather very long for the ANC and the SAG to conclude their deliberations, and agreed that at the next meeting the issues would be tabled for discussion with or without a progress report from the two parties.

These two issues are inextricably bound up with the issues referred to in Paragraph 3 of the Pretoria Minute and the DF Malan Airport Accord, according to the SAG. As a result, bilateral discussions on the latter matters too have continued, and it has been mutually agreed that the resolution thereof is crucial and extremely urgent. The latest SAG position in this regard is still being discussed by the ANC leadership in preparation for the next Paragraph 3 Bilateral meeting which is scheduled for the 20th April. Assuming that agreement is reached in this regard, it will be possible for us to get a general amnesty to be announced as part of the CODESA 2 package.

Though there has been a series of discussions with regard to the laws that inhibit free political activity, there has not as yet been any agreement as to how they are to be dealt with. The Sub-Group has in the meantime, however, reached preliminary consensus on the following principles regarding the need to amend the Public Safety Act, Number 3 of 1953:

- A
1. That the State President or the Minister of Justice, as the case may be, may declare a State of Emergency or an unrest area respectively only on the advice of the Interim Executive Authority / Cabinet / Government Council.
 2. That the proclamation of a State of Emergency or unrest area respectively, in terms of the procedure laid down, will be objectively justiciable in a court of law.
 3. Regulations issued in terms of the declaration of the State of Emergency or unrest area shall not be made retrospective but shall take effect from the time of such declaration.

- B. 1. Delegations were requested to consult with their principals on their approaches to the powers conferred upon administrative authorities in terms of the Internal Security Act in respect of:
- 1.1 the banning of organisations;
 - 1.2 detention without trial; and
 - 1.3 the detention of witnesses.

We have to discuss how these laws are to be dealt with so that we can make appropriate recommendations to the Sub-Group. Our initial submission was that most of them have to be repealed or, as the case may be, amended. However, going through them one after the other will obviously be a cumbersome and time-consuming exercise. For this reason, the SAG submitted that this objective could be achieved through an interim Bill of Rights. The ANC submitted that instead of an interim Bill of Rights, we should consider a two-pronged approach: a general laws amendment statute that repeals/amends all of them at one fell swoop, as well as a general statute that protects and guarantees civil and political rights and freedoms in the interim. The latter could be part of a statute that will establish the envisaged Electoral Commission if we so decide. It could also stand on its own, especially because the Electoral Commission will lapse once the elections have been accepted as having been free and fair, whilst we will still need a statutory guarantee of our civil and political rights even beyond that, till there is a new Constitution with an entrenched and justiciable Bill of Rights.

SUB-GROUP 2

An agreement was reached on the 2nd March on a binding definition of intimidation. Among other things, it would seek to guarantee some of the civil and political rights that will form part of a general statute guaranteeing such rights. Refer to Annexure "A".

The Sub-Group has since concluded the long discussion on the National Peace Accord and agreed on how it is to be implemented. An agreed document prepared by our rapporteurs in this regard will be available at the next session of the Sub-Group. The document will spell out what has to be done to strengthen and implement the National Peace Accord.

The Sub-Group has commenced discussions on the composition and role of Security Forces, as well the termination of the use or threat of violence as political tactic. The debate continues, and will surely be influenced by what transpires in the continuing bilateral discussions between the ANC and the S.A Government with regard to the Paragraph 3 and DF Malan Airport Accord issues.

SUB-GROUP 3

Discussions continued on the need for a neutral and impartial telecommunications and electronic media system. The Sub-Group reached consensus on the need for an independent neutral body that will have to be established to regulate the entire telecommunications sector.

A discussion on the powers, duties and functions of such a body began but will be concluded in the coming meetings. The name "South African Independent Telecommunications Authority (SAITA)" was suggested. This received broad support but no agreement was reached in this regard. The issue is to be pursued in future meetings.

It was agreed that there should be no special qualifications for appointment to this body, except that appointees should be South African citizens of distinguished ability who are not office bearers of any political party or organisation.

The meeting agreed further that details regarding the name of the body, appointment procedures, accountability, finance, staffing, licensing procedures and the SABC and the other public media boards would be discussed at subsequent meetings.

Discussion on the role of the international community still has to start. The ANC has to prepare its submission; it is suggested that the ANC's Department of International Affairs has to assist in this regard.

4.2 The meeting agreed on the definition of Political Intimidation as :

Any action or set of actions committed by any individual, organisation, political party, government represented at CODESA, as well as the self governing territories or any agency of such government or self governing territory, that is designed by the use or the threat of use of force or violence to disrupt or interfere with, for instance the following legal rights of an individual :

- 4.2.1 Right to freedom of expression or opinion
- 4.2.2 Right of freedom of association
- 4.2.3 Right of freedom of movement

In particular, the following shall be considered forms of political intimidation, to :

- 4.2.3.1 kill, injure, apply violence to, intimidate or threaten any other person's political beliefs, words, writings or actions;
- 4.2.3.2 remove, disfigure, destroy, plagiarise or otherwise misrepresent any symbol or other material of any other political party or organisation;
- 4.2.3.3 interfere with, obstruct or threaten any other person or group travelling to or from or intending to attend, any gathering for political purposes;
- 4.2.3.4 seek to compel, by force or threat of force, any person to join any party or organisation, attend any meeting, make any contribution, resign from any post or office, boycott any occasion or commercial activity or withhold his or her labour or fail to perform a lawful obligation; or
- 4.2.3.5 obstruct or interfere with an official representative of any other political party or organisation's message to contact or address any group of people;
- 4.2.3.6 to possess, carry or display dangerous weapons or firearms by members of the general public when attending any political gathering, procession or meeting.