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12th Feb., 1986.

To: Members of the Constitution Committee  
From: Jack Simons  
Subject: Response of the National Working Committee dated 7/2/86  
to the Report of the Constitution Committee of 14/1/86  
on the Freedom Charter and the Constitution

Preliminary Note

The President has told us that the need of constitutional proposals is urgent. We should therefore push ahead in spite of the absence of some colleagues but refrain from making decisions until the full committee is in session.

To keep the action moving I have prepared a short aide-memoire to stimulate discussion in advance of the full committee meeting. My memorandum takes the form of replies to questions raised by the NWC and acknowledgement of requests for more information.

The Questions

The NWC wants to know:

1. Do we contemplate a transitional constitution?
2. Are our proposals meant to be a "mobilising instrument" or "tactical tool" for use if we are "forced" to negotiate?
3. How can the constitution ensure that "the government will always be subject to the People"?

The Committee's Replies

Question 1

Our Report explains that any constitution proposed at this stage is bound to be "preliminary", being suited to the needs of an "interim" government acting during an "interim" period.

It follows that we cannot bind ourselves in advance to a set of proposals either in form or content. They will vary according to conditions prevailing when we launch the constitution for public debate.



The contingencies contemplated in the Report include:

- a) A prior seizure of power by revolutionary forces and the establishment of a people's government.
- b) A less favourable situation.
- c) A rapid advance from position (b) to position (a).

Though provisional, our proposals embody propositions, principles and concepts that express our revolutionary demands and the aspirations of the oppressed majority. These principles are permanent and will appear in every constitution proposed by the Revolution.

### Question 2

As explained in our Report, the "centre-piece" is the Freedom Charter. It is indeed "strategic", setting out the aims of the Revolution. It is also "tactical", indicating procedures to be followed to attain these aims.

The rationale for the prominence given to the Charter is many sided. It is widely known, familiar to large sections of the population, closely linked to the armed struggle, regarded by friends and enemies as a statement of basic aspirations of the oppressed, and sufficiently flexible to allow for modifications and innovations to fit changing conditions.

### Question 3

Translated into constitutional terms, "people's power" means a government able and willing to give effect to the wishes of a majority of the population. Their wishes, needs and wants are communicated by and through representatives of voters, organised in one or more parties. Our proposals contemplate an electorate of all adults, more than one party, and a government representing the majority of the voters.

These measures are not sufficient to guarantee that all governments in a liberated South Africa will at all times abide by and give effect to the will of the majority of voters. A democracy exists only to the extent that the voters, who are made up of the adult population, actually participate in decision-making and the process of government at all levels of social organisation and in all parts of the social-economic structure.



To provide the guarantee, the Revolution must be made permanent, ceaselessly agitating the people, raising their level of political understanding, organising local communities, trade unions, churches and other mass organisations for development and the fulfilment of the tasks of the Revolution.

The task of "revolutionising" the people is a process. It will continue for many generations of struggle, education, agitation and collective work under the guidance of a revolutionary leadership. The activities of the leadership ought to penetrate every part of the social structure, especially those concerned with the production and distribution of wealth, that is to say the national economy.

This aspect is a "grey area" in our Report. As we explain, the Committee hesitated to include in our draft proposals provisions relating to the economy. We decided to wait for the findings of the Economic Committee appointed by the NEC. In the absence of specific proposals relating to ownership of the means of production and distribution, the transfer of land to the cultivators, workers' participation in management and "affirmative action" to raise living standards of the oppressed to those of the white minority, the constitution is incomplete.

#### Framework and Structure

The NWC charges us with have presented a "conventional liberal-democratic constitution; and urges us to transcend this "limited horizon".

Our Committee refrained from sticking labels on the draft scheme. If pressed, we should probably opt for some such description as a "Constitution for South Africa's National Democratic Revolution". It is a ~~little~~ <sup>title</sup> that fits the sentiments of our President in his opening address at the Second National Consultative Conference when he declared: "We are Revolutionaries, Internationalists and Africans".

The Committee agrees that a constitution providing for adult suffrage and majority rule is revolutionary in form and content both in itself and as seen against the background of the long struggle of the oppressed majority for emancipation from the white aristocracy. This proposed system of government, which is set out in the Freedom Charter and demanded by the forces now in combat against the racist regime, forms the crux of the political



and constitutional conflict now taking place. Our movement will have to muster and expand all forces available to defeat the onslaught of the enemy and his allies who are determined to deny the people's demand for "one man one vote", a united country, and a government of, for and by the people.

We shall, however, explore the possibility of going outside the limits of our constitution proposals, as suggested by the NWC, and report on this and other matters raised in its letter of 7th February, namely:

1. Proportional representation.
2. Presidential system as compared with the British prime minister model.
3. The role of mass organisation.
4. The power of the state to limit the rights of private ownership.

The Committee is appreciative of the steps taken by the President to secure the release of Albie Sachs from his departmental duties for the work of the Committee.

Amanda!

Jack Simons  
Chairman