

KEY ISSUES TO BE ADDRESSED

THE BALANCE BETWEEN CENTRAL, REGIONAL AND LOCAL GOVERNMENT

We in the ANC believe in strong and effective central government for national tasks, strong and effective regional government for regional tasks, and strong and effective local government for local tasks. The problem is not how to set each level against the others, but how best to harmonise their functioning so as to face the daunting problems of the country and develop a national culture of democracy, non-racialism, equality and respect.

The issue of balancing the tiers of government does not pose itself in a constitutional vacuum, nor is it the only means of preventing over-concentration of power.

At all levels, the principles of non-racial, non-sexist democracy apply. At all levels, the fundamental rights and freedoms guaranteed by the Bill of Rights are secured. At all levels, checks and balances operate. At all levels, the principles of multi-party democracy, with regular elections on the basis of universal suffrage on a common voters roll, are applicable.

At the same time, the massive problems facing the country, the questions of inequality, violence, lack of educational and health facilities, malnutrition, unemployment and homelessness, affect all levels of government, and cannot be solved at one level only. Not one of these issues can be resolved without a national effort and national resources; equally, none of them can be dealt with satisfactorily without regional and local involvement.

THE QUESTION OF DEMARCATING BOUNDARIES

We are in the strange position in South Africa of nearing agreement on where the regions should be without having decided what their powers and functions should be. There appears to be growing acceptance of the basic scheme as set out in the plan for economic development regions adopted by the government in 1981. The important thing about these regions was that they were based on objective criteria of a socio-economic character, and were not related to the racial and ethnic divisions created by the policy of apartheid.

In other words, the regions are to be created to overcome the ends of division, unequal development and apartheid, rather than to serve them. They achieve their true status,

which is to be the promoters of democracy and development. They do not fight the nation, they contribute to and enrich the nation. At the same time, the nation is to be found in every region, and contributes to and enriches the region.

Since it is not the function of this group to go beyond determining the general principles to be enshrined in the new constitution, we merely state at this stage that regions should be demarcated according to non-racial, non-ethnic socio-economic criteria with a view to promoting democratic involvement and development throughout the whole country.

Should it become necessary to establish interim regions for purposes of interim government or for reasons of holding elections for the constitution-making body, we can elaborate interim proposals. Basically, the position which we are discussing and developing is to correlate the nine economic development regions with the 1910 boundaries. This would result in creating a tenth region, namely, Border/Kei, in addition to Natal, Eastern, Western and Northern Cape, the OFS, the PEV, and Western, Northern and Eastern Transvaal. It would also mean that Sasolberg returned to the OFS and Mabatho/Mafikeng to the Northern Cape. Special arrangements could also be made for minor border adjustments if required.

THE POWERS AND FUNCTIONS OF THE CENTRE AND THE REGIONS

The powers and relationship of the centre and the regions should be similar to those that existed between the Central Government and the Provinces before the Tricameral system was introduced ten years ago.

Thus, the national government would have exclusive powers in a number of areas such as defence, fiscal and monetary policy, and international relations. It would exercise concurrent powers with the regions in areas such as education, health, agriculture and development. In these areas, the national legislature would lay down general policy and ensure appropriate funding, while the regional governments would be largely responsible for implementation.

The regions would have power to pass laws within the area of their powers and binding in their regions only, save that just as a Provincial Ordinance could not be repugnant to a national law, so a regional law could not go against a national law.

Since the function of Group Two is merely to elaborate general principles, we do not feel that it would be appropriate at this stage to spell out what the functions

and powers of regions should be. That is a task for the constitution-making body. In principle, however, we support the idea that the regions should have law-making power concurrent with but never in conflict with that of the centre. This would be in areas specified, either generally or in an itemised way, by the constitution, plus such additional areas that might be attributed to them by the central Parliament from time to time. The delineation of powers should be done in such a way as not to preclude subsequent alteration, particularly if by consensus, where experience suggests a change.

In other words, the centre could influence the regions by means of general legislation and through the way it directs its funding, but could not dissolve regional government once duly elected, nor strip it of its powers.

We support the idea that languages widely spoken in any region should be used for governmental and other purposes in those regions.

ECONOMIC FREEDOM, GOVERNMENT INTERVENTION AND ECONOMIC SYSTEMS

We do not see how these items, important though they might be for the future of the country, qualify as general constitutional principles. Every party has its own views on these questions. That is what political life is about. The function of the constitution is not to dictate solutions, but to ensure that the debate is free and open and that in the competition of ideas the basic rules of the game are followed.

We are for a mixed economy. We envisage that the government will have primary responsibility for the things that in most countries of the world belong to government, such as education, health, the furnishing of basic utilities, the building of roads, bridges and railway lines -the list is long. We see the market playing an important role in ensuring that goods and services are produced efficiently and well. We cannot see how the constitution can lay down in advance what the mix should be.

We have our views. We would like to see the economic system opened up so that all may participate at all levels on equal terms. This means de-racialising capital. We feel that the present unequal distribution of land skews all economic

development, and for this as well as other reasons needs to be dealt with before we can speak of economic freedom. We notice that in our country there is unusually large concentration of economic power in the hands of a few conglomerates: we might argue that some of the energy being spent on urging decentralisation of government be directed towards achieving devolution of economic power.

Yet this is not the appropriate forum for such a debate. Squeezing such matters into the constitution is technically difficult, politically divisive and constitutionally unsound. At most we can envisage a directive of state policy along the lines of the statement on growth and advancement in the Declaration of Intent. Possibly some principle could be worked out by the constitution-making body to the effect that the procedures used by government should be according to law, fair and just and subject to judicial review. We do not want arbitrary government in any field.

AFFIRMATIVE ACTION

This has two aspects. The one is to ensure that the equal rights clause does not operate in such a way as to prevent special programmes from being introduced to help victims of past racial and gender discrimination. The second is to see to it that the state itself remedies the inequalities within its own ranks. A separate note needs to be prepared.