

D. LEGAL DEPARTMENT

0.0. The creation of an A.N.C. Legal Department is long overdue. Below we set out some ideas on the organisation of such a department and its major tasks.

1.0. MAIN OBJECTIVES

The main overall objective of the suitably trained to put their legal Liberation struggle.

We have a rich tradition to draw skills into weapons of struggle. However our context at present is called upon to defend people in trade unions in their daily activities (arrests from strike actions etc) to perform.

ANC Legal Dept

statute - drafted by me - incorporated into organisational report of the Sec Gen of the ANC.

1.1.0. INTERNAL (within the A.N.C.)

Under guidance and control of the A.N.C. the Legal Department would take the following tasks.

- 1.1.1. Drafting statutes for the A.N.C. - a new constitution (?)
- 1.1.2. Enriching the draft Disciplinary code (General conduct; Marriages; Parental responsibilities; A.N.C. responsibilities etc).
- 1.1.3. Assisting in disciplinary, proceedings.
- 1.1.4. Creation of A.N.C. Marriage Council.
- 1.1.5. Creating systems in which the A.N.C. issues its own documents e.g. for identity; for marriage; academic qualifications and professional skills; travelling documents etc.
- 1.1.6. As part of the process of securing recognition, the A.N.C. should start preparing for exercising some of the functions of a state (with the approval of local governments) Point 1.1.5. in fact suggests a measure of sovereignty in embryo.

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1.0. MAIN OBJECTIVES

The main overall objective of the legal department must be for those suitably trained to put their legal training at the Service of the Liberation struggle.

We have a rich tradition to draw on, of lawyers who converted their skills into weapons of struggle.

However our context at present is slightly different. We are not called upon to defend people in the South African courts or advising trade unions in their daily activities (negotiations with employers, arrests from strike actions etc). But we have other important functions to perform.

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1.2.0. INTERNATIONAL

There are a number of critical issues which need immediate attention.

1.2.1. There are specific issues which need to be clarified and appropriate action taken based on legal advice e.g.

(a) Recognition of the A.N.C. as the legitimate representative of the South African people.

(b) The status of capture guerillas.

(c) The status of the Bantustans.

(d) South Africa as an "Independent State".

1.2.2. There are always more initiatives that could be taken in relation to international bodies - the UN; ILO; Red Cross etc. Too often we sit passively and applaud initiatives taken by our supporters without doing much ourselves.

1.2.3. Contact and membership in international lawyer's organisations e.g. International Association of Democratic Lawyers (I.A.D.L.), International Commission of Jurists (I.C.J.); The world Court; as well as lawyer's associations in various countries.

1.2.4. Publishing our own legal materials dealing with the struggle and getting articles into legal and other journals.

1.3.0. INTERNAL/INTERNATIONAL

There are some areas where these tend to overlap

1.3.1. We have to develop for our members and the international community basic constitutional concepts for a free South Africa. The Freedom Charter is an exceptionally good base and needs to be reinforced or translated into legal statutes.

1.3.2. A.N.C. representatives should receive basic training in relevant aspects of international law.

1.3.3. What is the role of a National Convention in South Africa? The relation between negotiations and the armed struggle? *

2.0. MANPOWER RESOURCES

Who are the people to be involved in the legal department?

2.1. We should immediately undertake a census of all lawyers, legally trained persons and law students in the movement. This would include:-

2.1.1. Well-known lawyers who have become full-time political workers.

2.1.2. Persons presently working as lawyers (law-teachers, government law advisers, practising lawyers or those involved in some other legal job).

- 2.1.3. Persons with legal training but who have never practised law.
- 2.1.4. Law Students.
- 2.2.5. It would be useful to have register of people who, though not professionally qualified, have worked in legal offices as clerks etc.

3.0. ORGANISATION

- 3.1. We need to have at least one lawyer or legally trained person at H.Q. to act as Secretary to the department. His task will be to organise a legal committee or secretariat to carry out some of the tasks enumerated above.
- 3.2. . . In his office the Secretary will keep files of South African legal material and international legal information relevant to our struggle.
- 3.3. The Committee must develop an A.N.C. legal style, a way of working that is professionally of high standard, but always keeps law within the political framework.
- 3.4. Some of the comrades have been nurtured on bourgeois legal style:- pedantic, arrogant, cut off from the real world. They have to intergrate themselves into the kind of thinking needed for our struggle-proper priorities, accessible language, a friendly, comradely comportment. Comrades trained in Socialist Countries often have a good foundation, but lack familiarity with the particularities of our struggle, the kinds of issues mentioned under 1.2. and 1.3.
- 3.5. We need to produce a useful A.N.C. Legal Bulletin - say twice a year, containing articles on the legal dimensions of our struggle. For this we propose inclusion of Comrade Alby Sacks and Kader Asmal who have shown interest in this aspect.
- 3.6. A.N.C. law students should be encourage and assisted to do research directly connected with the problems of our struggle. At a later stage some training programme could be worked out in the form of seminars and workshops.
- 4.0. There is of course the overall question of contact with lawyers in South Africa. This could be properly worked out once the committee has been constituted.