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AFRICAN NATIONAL CONGRESS
SUBMISSION TO SUB-GROUP 2 OF WORKING GROUP 1
ON "STABILITY" WITHIN THE CONTEXT OF
THE CREATION OF A CLIMATE FOR FREE POLITICAL PARTICIPATION.

1. Introduction

- 1.1. The history of this country is replete with examples of activities which destabilize the community for political ends. As a prerequisite for true reconciliation, these activities as well as their perpetrators must be identified in order to ensure their cessation as well as to guarantee a firm basis for the creation of a climate for free political participation.
- 1.2. As a starting point, it is perhaps necessary to make sure that we are agreed as to the meaning of the concept "free political participation". We understand it to flow directly from the right of every individual to freedom of expression, freedom of assembly and freedom of association. We realize that in this country these concepts may sound strange to some people but they must now start to form part of the culture of the future. Thus we say that in a proper climate, every individual and every organisation must be free to put forward ideas and views about the political situation and the direction which must be followed; no person, party or organisation must be hindered in propagating or suing for support for their ideas and views and no impediments must be placed in the path of those wishing to get together to develop and ventilate their ideas.
- 1.3. Thus the repression unleashed by the government on the democratic movement in the last few years and the suppression of organisations and persons of the last few decades are incompatible with the creation of the requisite climate. We must never get back to that, ever. Political intimidation, harassment and the encouragement of violent actions against political opponents is directly opposed to the creation of the required climate. Covert activities by elements of the security forces as well as partisan intervention by law enforcement agencies in conflict situations effectively militate against the creation of that climate. Failure, refusal or sheer neglect by the authorities to arrest and prosecute assassins, warlords and blatant perpetrators of violence make nonsense of any progress we may hope to make on the road to a political accommodation.

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- 1.4. CODESA must therefore put in place structures that will ensure that activities which destabilize are eliminated. We must improve the effectiveness and functioning of those mechanisms that have already been created, such as the National Peace Accord.

2. The National Peace Accord

- 2.1. It must be acknowledged that the National Peace Accord was conceived in a different setting and designed to address specific objectives. Although there is a large measure of overlap, those objectives do not totally coincide with those of CODESA. For CODESA's purposes therefore, it will be necessary to subject the National Peace Accord to critical scrutiny, while using its provisions as a useful basis in the process of establishing stability.
- 2.2. The strength of CODESA lies in the fact that the delegations can participate on a basis of equality. This equality needs to be reflected in practice. Indeed, the major thrust of effort in the business of this Working Group must be to ensure that the structures which are set up to promote and implement CODESA's objectives are effective and enjoy maximum credibility and acceptability. As far as possible, therefore, there must be joint control of those institutions which are critical to the restoration of stability in our community. To that end, certain aspects of the Accord need to be revisited with a view to strengthening them and making them more effective. We mention just a few examples of aspects which will need the attention of CODESA, namely: the appointment of Police Reporting Officers, the Police Board, duties and responsibilities of local functionaries and the role of traditional leaders.
- 2.3. The functions of Police Reporting Officers include the investigation of covert police operations (3.5.3). It is therefore of the utmost importance that they not only be persons of unquestioned integrity, independence and impartiality, but they must also be perceived as such. It would enhance their credibility and effectiveness if they were to be appointed by a neutral body and not the Minister of Law and Order.

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- 2.4. The Police Board is appointed from representatives of the police together with names put forward by the National Peace Committee, in equal numbers. In addition, the Minister is empowered to appoint further persons from members of the public. He also appoints the chairperson from the members representing the public. The Board has important functions, including making recommendations with regard to policy relating to the training and efficient functioning of the police. Again it is suggested that the credibility of this body would be enhanced if the Board elected its own chairperson. It is further not clear why the Minister needs to have powers to appoint additional members to the Board.
- 2.5. Paragraph 3.3.3. seems to imply that there is no obligation on the Minister to comply with any of the recommendations made by the Board. This is obviously unsatisfactory.
- 2.6 The provisions or lack of them with regard to the TBVC states and self-governing territories give rise to considerable concern. There seems to be no duty imposed on the functionaries of these areas to accept the jurisdiction of the Police Board or that of the Police Reporting Officers appointed in respect of the South African Police Force. (See Paragraph 3.8.6). We contend that there must be uniformity of structure and operation. The people in the TBVC states as well as in the self-governing territories must never be subjected to different treatment from that enjoyed elsewhere.
- 2.7 It is of course our contention that, in so far as the police are concerned, there should be an integrated command structure with a common definition of powers. There should be no need for secrecy with regard to the identity of any police structure. It follows that there must be full disclosure with regard to any special forces and they must be dissolved. We emphasize that there should be an integration of all the respective police forces including those of the TBVC states and self-governing territories. It is noteworthy, however, that the Accord's mechanisms to investigate police activities are defective. Suspicion will never be removed and confidence restored where the police are virtually required to investigate themselves. There are sufficient disquieting revelations, some in evidence before the Courts, that the capacity to connive and to cover-up is not unknown in the police force, even among senior officials.

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- 2.8 One of the most serious flaws of the National Peace Accord is the fact that no duty is placed on local authorities as well as on traditional leaders. Millions of people live in areas they administer and traditional leaders in particular wield considerable power in the rural areas. Their influence is such that they could easily render the provisions of the Accord nugatory. This flaw of course becomes crucial when individuals, parties and organisations do attempt to exercise their right to participate in political activity.
- 2.9 The National Peace Accord also suffers from an "under-definition" of concepts. A case in point is the treatment of "dangerous weapons" which does very little to clear whatever confusion there has been in the past in dealing with this problem. It is suggested that CODESA should look at this aspect with a view to removing all doubt with regard to what conduct is acceptable in this regard and vice versa. "Private armies" are also not defined in the Accord and this is also an area which can give rise to confusion.
- 2.10 There are no time frames set to guide the implementation of the Accord and to set up structures in terms of its provisions. This of course accentuates the uncertainty and slows down the achievement of the objectives of the Accord.
- 2.11 There is no statutory provision for the enforcement of the Codes of Conduct for Political Parties, the Police and the SADF.
- 2.12 The Commission (Goldstone) can only deal with ex post facto situations. Its role is of critical importance in establishing the causes of the violence with regard to specific incidents but as far as the ending and prevention of violence is concerned, it can only be of limited value as a mechanism. The violence has become endemic and the Commission can never keep pace with the number of incidents that need investigating.

3. Violence-related Crime

- 3.1 We contend that ineffective and partisan policing constitutes one of the most important reasons for the continuing violence. Some police forces, such as the KwaZulu Police, have become so controversial that there is no way they can live down the perceptions that have taken

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root. There is a substantial body of evidence to the effect that they are not operating as an impartial law enforcing agency and that rather than being part of the solution to the problem of violence, they have become a serious obstacle to the achievement of peace and to the creation of a climate for free political activity. The perception that the police are ineffective and partisan must have a direct effect on the incidence of violence-related crime.

- 3.2 It is suggested that a restructured and retrained police force is needed in the interim period, if public confidence is to be generated. The solution is not more policemen but rather the development of a new culture of policing. The objectives must throughout be the creation of space for the greater and freer exercise of democracy. The fear of violence, crime and intimidation must never be supplanted by fear of the police. And in dealing with violence-related crime, the objective must also be to expand rather than to stifle the space for free political activity.

51 Plain Street
Johannesburg
P.O. Box 61884
Marshalltown 2107

Tel: (011) 330-7000
Fax: 333-9090
333-4509
Telex: 42-1252



**AFRICAN
NATIONAL CONGRESS**

ANC PRESS STATEMENT ON IMPENDING EXECUTIONS

The ANC voices the strongest protest possible at the announcement by the Ministry of Justice that 17 prisoners have completed all judicial processes and could be hanged. This state of affairs is ill-considered and unacceptable. South Africa is in a period of transition and intense debate about the future, including discussion on a Bill of Rights.

To announce, so soon after the referendum, where white South Africa voted for the peace process, that executions could take place is to fly in the face of the spirit of reconciliation the ANC is striving to achieve.

We repeat our firm opposition to the death penalty, and insist that there should be no resumption of hangings.

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The People Shall Govern!