

~~REPLACEMENT OF CODESA~~

~~I. BASIC CONCEPTION~~

CODESA as such has a considerable prestige internationally but has been discredited internally. We feel it better to replace it with a new format for negotiation and a new name. The basic idea would be to have a body functioning similar to the Security Council of the UN, with two main interlocutors each of which would be supported by a number of other parties and the possibility of independent parties would not be excluded. The body would meet continuously until agreement had been reached, having only such breaks as would be necessary for urgent consultations, coupled with normal rest days.

The formal sessions would be held in public. The body could establish technical committees to resolve technical problems. All basic political questions, however, would be decided by the full body deliberating in public. This would not exclude lobbying in the corridors.

We propose that the proceedings be based on draft proposals or resolutions which could be submitted by any of the attending parties. Other parties would then subscribe to the resolutions and attempts would be made to achieve a consensus or near consensus.

It would not be necessary to get full agreement on each proposal at each stage. The materials would be collected and once the agenda had been worked through, an attempt would be made to consolidate them and to get consensus at the end. If full consensus could not be reached, a procedure could be worked out whereby agreement between the main interlocutors, coupled with substantial support from others, would be sufficient for the matter to be legislated upon and hence for the agreement to be implemented.

We leave open the possibility of someone from the international community chairing the proceedings. If a suitable person or persons could be found, such a chair could act as a facilitator as well as a neutral person presiding over the proceedings.

Rang

advance

It is not so much, as they say, that we wish to Africanise the South African economy, as that we seek to to South Africanise it. (By South Africanising South Africa we mean acknowledging the full dimensions of the country and all its people, which can only be achieved by breaking the laws, habits and assumptions that restrict participation in the country's public, economic and cultural life to a racially privileged few.)

To the extent that the African people have been the main victims of the procedures of exclusion in the past, so will they be the main beneficiaries of the process of inclusion in the future. Yet the objective will not be to replace one form of race rule with another. Rather, it will be to get rid of the system of race domination altogether.

This is why in political terms we say that power should pass from a racial minority to the people as a whole. Economically speaking we insist that all should be entitled to share in the country's wealth. We must put an end to the cycles of domination and subordination, of pride for one and humiliation for the other. We must become, all, South Africans.

even worse, that it
This means far, far, more than simply declaring that the New South Africa is at hand or has arrived. Nor are mere intonements about the virtues of the market and free enterprise enough, to solve any problems. The reality is that neither the job market nor the capital market in South Africa are free, and that the reward for enterprise and risk depends more on skin colour and connections than it does on effort or ingenuity.

If we wish truly to South Africanise the South African economy, we must dismantle all the barriers and impediments - whether legal, financial, psychological or cultural - which keep the majority out of full and free participation in the country's economic life.

We hear a lot about power-sharing in the political field; it would not come amiss to hear a few words about power-sharing in the economic sphere.

There are three major forms of monopolisation of economic life which restrict free participation in the economy.

The first is the extraordinary degree to which share-holding, and with it economic decision-making, is concentrated in a few hands. Here once again, the voices that are most insistent on the need for political diffusion of power, for pluralism and for diverse points of competition, are the quietist in relation to devolution and dispersion of economic power.

The figure of eighty per cent of shares quoted on the Johannesburg Stock Exchange belonging to four major conglomerates is well-known, and has given rise to the jibe that if any real privatisation is needed in South Africa then it should be in relation to these economic mammoths. Central planning is central planning, commandism is commandism, whether done by a few people in a government department or a few people in the boardroom of a giant finance house.

Enterprise can be as un-free if strangled by a monopolistic cartel as it could be if throttled by the state: to adapt a phrase by Samora Machel, some people do not mind being devoured by a capitalist lion as long as they are not eaten by a socialist tiger.

The second form of monopolisation relates to government boards which control ~~such activities as the buying and selling of products~~, particularly in the rural areas. More competition in this area will be particularly beneficial to black farmers who are presently virtually excluded from both managing and benefiting from the work of the boards.

The third is the concentration of economic control in white hands. It grieves one to be referring to categories of race. Our whole objective is to look at human beings as human beings, and not as members of this group or another. Yet if we are to face honestly and realistically up to the problems of the country, whether in the economic or any other sphere, we cannot ignore the extent to which the racial factor opens the door for advance for some and closes off the way for others.

It is not as if the playing field is not level: we are not even on the same playing field. Whites have beautifully mown grass to run on and changing rooms with hot showers. Blacks play on bumpy and out of the way tracts, and have to change behind trees.

The exclusion of blacks from the economic arena did not just come to pass. It was the result of a deliberate policy of successive governments, backed up by law and the police

farmers & business people.

Historians have documented how every attempt by Africans to compete in the economic sphere was beaten back by the state at the invocation of white entrepreneurs. When, after the opening up of the diamond fields in the second half of the last century, African farmers were outproducing whites for the new market which opened up, special laws were introduced into the Cape Parliament to destroy the prosperity of the African farmers.

At the time of Union in 1910, Africans were seeking by means of purchase to re-acquire the land from which they had been dispossessed by conquest. The Native Land Act was introduced to prevent this process from continuing, one of the arguments in its justification being that African competition was unfair since Africans clubbed together to outbid whites.

Similarly, when Senator de Klerk introduced the Job Reservation Act into Parliament, his objective was to keep blacks out of competing for skilled and semi-skilled jobs [and even some unskilled ones].

The Bantu Education Act was, in the words of Dr. Verwoerd, designed to prevent blacks from seeking to graze in pastures reserved for whites.

The figures today tell the story of past discrimination.

Less than 3% of managers or executives in South Africa are black.

Less than 2% of all direct shares in companies listed on the JSE belong to black business. [This proportion is said to be increasing by half a per cent each year, which means that in just under a century, black business will account for half the shares].

Estimates of black shareholding in non-listed companies are in the order of 2%.

Black sole owners are said to account for approximately 15% of small formal businesses.

Lumping together all informal sector enterprises, it is estimated that Africans control about 40% of the total in number and about 30% of their capital and turnover.

Add all these figures together and we find that effective African participation in the business sphere is barely 10%

1. The national government and provincial governments shall not alter the rights, powers and functions of the governing bodies, management councils or similar authorities of departmental, community-managed or state-aided primary or secondary schools, unless agreement, resulting from *bona fide* negotiations has been reached with such bodies and with the community served by such schools, and reasonable notice of implementation has been given.
2. The national government and provincial governments shall not alter the rights, powers and functions of the controlling bodies of universities and technikons, unless agreement, resulting from *bona fide* negotiations, has been reached with such bodies.
3. Where agreement is not reached after such negotiations, the legislative ^{prerogative?} prerogative of the government will not be constrained and individuals will have recourse to challenge the exercise of the prerogative of the government within the framework of the Bill of Rights and the Constitution.
4. The responsible authorities shall fund departmental, community-managed or state-aided primary or secondary schools on an equitable basis which ensures an acceptable quality of education.

The etc etc, shall not be altered

ANTITRUST

Competition = Discipline

To evade discipline of competition

Collude -- Cannot form cartels
Price fixing, market division, quality limits illegal
No defense of good purpose or effect.

Capture -- Mergers with rivals permitted only in
deconcentrated markets
Government pre-screening
Role of: foreign competition
"industrial policy"

Destroy - Law forbids exclusionary practices that
raise rivals' costs and thereby
confer market power.

Suspect practices -- exclusive dealing,
refusals to deal, "vertical" mergers,

*Only movie theater in town.
Copyright*

Monopolize? - Legal vs. illegal monopolies

*Pyroclastic
ownership*

*Competition
regul.*

Mechanisms - problems

Special issues: (1) Should law focus only on market
power? What about political power? (2) Should law
seek to deconcentrate, as well as to prevent further
~~concentration~~ concentration? (3) How far to protect cost-reducing behavior?

nation,

overcoming the legacy of apartheid and preventing the possible emergence of new forms of oppression and racial domination,

enabling democratic South Africa, respectful of international law, to take its rightful place as part of the family of nations in Africa and an active member of the world community,

we, the people of South Africa, affirming that our country belongs to all who live in it, solemnly agree to govern ourselves in terms of the principles and rules of the Constitution as set out below.

Nkosi sikelel iAfrika. Morena boloke sechaba sa heso. Ons vir jou Suid Afrika.

May the Lord bless our country. ~~Peace be on our land.~~

II [bearing in mind - Harare Declaration
and UN statement]

We, the participants in CODESA
the following principles,

CIVIL SOCIETY

172. (1) All individuals shall have the right to form an organisation of civil society and to join, maintain and participate in any such organisation of civil society on the basis of non-discrimination and free association. ~~in accordance with the~~

Constitution and the Law -

(2) An Organisation of civil society shall conduct its affairs in accordance with the Constitution and the law.

Subject to the Constitution and the Law,

(3) The state shall not interfere with the lawful activities of such an organisation of civil society.

Civil Society

172. (1) Self-determination may be expressed collectively by any group of people by lawfully forming, joining and maintaining any organ of civil society on the basis of non-discrimination and free association.

(2) For the purposes of this Constitution "organ of civil society" shall mean any institution which is not competent to act for or in the name of the state or any organ of the state, including sports, cultural and welfare organizations, voluntary associations, educational, professional, traditional and religious institutions and the public communications media.

Subject to R & R's
(3) No organ of the state shall interfere with the lawful activities of an organ of civil society and no such institution shall be transformed into an organ of the state without its consent or for the purpose of depriving it of its protection under this section or for the purpose of favouring it above similar institutions.

(4) Notwithstanding the provisions of this section, public funds may be allocated to organs of civil society, provided that such funding may not cause an organ of civil society to be favoured above any other similar institution.

① Min. of State in
the Presidency.
Promote reconstruction
and national unity.
Programme

② Council of State
Elder.

NEGOTIATIONS

Issues needing decisions / considerations by the NEC

1. Discussions between MK and SADF:

- 1.1 Multi-Party control of armed forces.
- 1.2 National Peace Keeping Force (NPKF)
- 1.3 MK camps inside S.A.
- 1.4. Perparation for integration

2. I.G.N.U:

- 2.1 Structure
- 2.2 Decision-making

3. Interim Parliament:

- 3.1. One/two Chambers

4. Regions:

- 4.1 Constitutional Principle on regions (pages 28 - 31).
- 4.2 Powers and Functions of Interim Regional Administrations (pages 38 - 40).
- 4.3 Structures of Interim Regional Administrations.
- 4.4 Commission on Regions (Page 45).

5. TBVC Areas:

- 5.1 The process and timing of reincorporation.

~~DRAFT BILL TO CREATE CONDITIONS FOR PEACEFUL POLITICAL ACTIVITY~~

1. (1) *in the RSA* Notwithstanding anything to the contrary contained in the ~~Internal Security Act No 74 of 1982~~, or any other law, all persons shall have the following rights, which shall be exercised subject to the provisions of sub-section (2) hereof.

(a) Freedom of speech and expression, which shall include the freedom of the press and other media; *rt. to reply?*

(b) Freedom of thought, conscience and belief;

(c) The right to assemble peaceably and without arms;

(d) The right to form and join associations or unions, including trade unions and political parties;

(e) The right to move freely throughout the territory of the Republic of South Africa;

The right not to be detained without trial.

(f) The right to leave and to return to South Africa;

(g) *hold public meetings, and gatherings and* The right to participate in peaceful political activity intended

processions to influence the composition and policies of the State.

(2) Nothing in sub-section (1) hereof shall affect the operation of any existing law, insofar as such law imposes reasonable restrictions on the exercise of the rights and freedoms conferred by the said sub-section and which are necessary in a democratic society in the interests of the security of the State, public order, decency or morality, or in relation to contempt of court, defamation or

to personal freedom, incl the rt.

incitement to an offence. Save as aforesaid, any provision of any law that is inconsistent with this Act shall be deemed to have been repealed.

- (3) Subject to sub-section (2) hereof, the Executive and agencies of the government, including institutions of local and regional government, shall not commit any act or omission which takes away or abridges the rights and freedoms specified in sub-section (1) hereof.

*otherwise exercise any powers that they have
of act in any way which or refrain from acting
in a way*