

NATIONAL PARTY PLANS FOR A FUTURE SOUTH AFRICA**1. INTRODUCTION**

The National Party has released (through a newspaper) its thinking with regard to a new constitution. The terms "participatory democracy" and "multi party democracy" have been used to describe some of the proposals. Once again it seems that the NP is appropriating language for its own ends because the proposals have very little to do with participatory democracy and represent a total distortion of multi party democracy.

2. PROPOSED STRUCTURE OF THE SOUTH AFRICAN STATE

The plan is that South Africa shall be broken up into nine autonomous regions, each to have original powers entrenched in the constitution.

This means that South Africa will have nine regional autonomous governments. Within the federal arrangement, central parliament would be considerably weakened. The 9 regions proposed are Western Cape, Northern Cape, OFS, Eastern Cape, Nadel, Eastern Transvaal, Northern Transvaal, PWV region and Western Transvaal.

3. LOCAL GOVERNMENT

The proposals make provision for the redrawing of municipal boundaries to ensure non-racial local government with one administration and one tax base. In each local authority area a "own local constitution" may be negotiated. Different methods for electing councils are proposed. It is suggested that a balance should be struck in the interests of property owners, non-property owning tenants and rate payers. A strong possibility, according to the proposals, is the establishment of neighbourhood committees to enable communities to have a say in matters affecting their own interests. Residents would have the right to set up a committee of this kind and regulate matters relating to norms and standards as well as security matters.

4. STRUCTURE OF PARLIAMENT

The plan proposes a parliament consisting of two Houses. The first House is to be elected on the basis of one person one vote according to one voters roll. It proposes the adoption of the proportional representation electoral system. The number of seats each party would get will be in proportion to the percentage of votes attained by the party in relation to the total votes cast.

It is possible, however, that voters would be able to vote not only for parties but for specific candidates. It is this House which will be the actual law maker - under the scrutiny of the second House which will have the right to consider, accept or reject proposed legislation.

For the second House people will vote on a regional basis. Taking into account the proposal that South Africa be divided into 9 regions, each with its own regional government, representatives of regions and of parties in regions which do well in the regional elections, would be members of the second House.

NOTE: THE PROPOSALS WITH REGARD TO PROPORTIONAL REPRESENTATION SYSTEM AS WELL AS THE STRUCTURE OF PARLIAMENT ARE VAGUE IN A NUMBER OF RESPECTS. A MORE DEFINITIVE OPINION ON THESE PROPOSALS COULD BE GIVEN ONCE CLARITY HAS BEEN OBTAINED.

EXECUTIVE AUTHORITY

This area as well as the proposal in relation to presidency represent key elements of NP proposals, leaving aside the proposal to fragment South Africa. The proposal is for a multi party government. There should be an executive college consisting of 3 to 5 persons - probably leaders of the strongest parties in the first House. In other words there shall not be one State President nor shall there be elections for State President nor shall the party winning the elections have a say in proportion to its support.

The executive college will, according to the proposals, put together a cabinet consisting of members of the different parties.

Within the regional government arrangements, structures will be similarly constituted.

5. **COMMENT ON FRAGMENTATION INTO NINE AUTONOMOUS REGIONS**

Entrenched or original powers in a constitution means that devolved powers may not be taken away. A great deal therefore depends on what powers are actually devolved.

If the powers which are usually devolved within federal arrangements were to be so devolved in this instance, it would render it impossible for a future parliament to implement any national policy of reconstruction. It would render social and economic transformation impossible and render nationally directed affirmative action policies impossible. It will affect the content of a Bill of Rights - the ANC Bill of Rights especially in relation to social and economic rights, environmental rights, etc. would be in jeopardy.

6. **MULTI PARTY CABINET AND PRESIDENCY**

The proposal for multi party government to be entrenched in a constitution is another unique South African contribution to constitutional law. In terms of the proposals, this is where the levers of power would be located.

Stoffel van der Merwe is quoted as saying that the proposal is based on European constitutional models. He (deliberately) confuses a multi party system with multi party government entrenched in a constitution. In Western Europe it is the former (multi party system) which is entrenched in constitutions - not multi party government.

In Western Europe coalition arrangements take place as part of the electoral and political processes - freely entered into or not entered into by parties on the basis of how they perceive their interests and support.

Multi party democracy is guaranteed in Continental models in the sense that all political parties have the right to exist, to organise, to meet, to compete for support and participate in elections. All constitutions guarantee that the party which wins the elections has the right to form the government. Coalitions and multi party arrangements are never entrenched in any constitution. The NP proposal therefore is unheard of in any democratic constitution.

Its clear objective (as stated) is to prevent democratic majority rule. It will render altering the status quo extremely difficult.

It is to be noted that there is no reference to a Bill of Rights.

CONCLUSION

The NP plan accepts that institutionalised apartheid is no longer viable and therefore the apartheid constitution must go. However, the constitutional framework proposed by the NP is clearly designed to entrench minority domination and to prevent democratic majority rule. It is a cardinal principle of democracy that a party which wins elections should be entitled to form the government and govern the country. Democratic constitutions also entrench the right of parties which lose the elections to participate in the role of opposition parties. Coalitions and multi party governments do arise from time to time but entrenching this in a constitution will render South Africa ungovernable.