

AFRICAN NATIONAL CONGRESS CONSTITUTIONAL COMMITTEE

25.03.1986

Notes: re Inclusion of Democratic Mass Organisations in the Constitution.

Memorandum by Albie Sacks

Maputo

This is clearly a question that has to be determined in the light of the overall character and structure of the Constitution. Constitution of a liberal-democratic type normally do not contain such provisions. Essentially they state the rules of the game without identifying <sup>any</sup> social forces or organisations as having a leading or important role in governing society or managing public affairs. Constitutions of a 'people power' or 'socialist' type may or may not have references to democratic mass organisations. Where they do ( for example, the 1977 Soviet Constitution) it will

F. Get further notes for NWC  
 Prepared by me in response to an NWC request. Corrections by Jack Simons? Note: autonomous workers' rights - doc. not by me, and doc. by another commission?

On the other hand, there are 'Peoples Power' type constitution which do not mention Democratic Mass Organisations. The function of these organisations is determined by their statues and not by the Constitution.

Thus the Constitution of the People's Republic of Mozambique refer to the leading role of FRELIMO (Arts 1,2 and 3) and the special role of the Peoples Army (Art 5) but makes no reference to Democratic Mass Organisations.

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It will be noted that apart from the YCL, organisations are <sup>not</sup> mentioned by name, not even the Trade Union organisation, nor the Soviet Women's organisation.

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Such organisation exist e.g. the organisation of Mozambican workers the organisation of Mozambican Women, the organisation of Mozambican Youth. There are also what are called Socio-Professional Organisation e.g. the National Organisation of Teachers, the National Organisation of Journalists, the National Organisation of Photographers. Infact only the organisation of Mozambican women <sup>XIS</sup> existed at the time the Constitution was adopted, namely, on the eve of Independence. But there has been no move since to give constitutional as opposed to political recognition of the role of these organisarion, neither generally nor specifically.

A reference to the Draft Nicaraguan Constitution indicates that no special place is alloted to either a leading Party or to Democratic Mass Organisation.

Re; SOUTH AFRICA

An article in a future constitution based on Peoples Power principles could refer to the constitutionally recognised role of Democratic Mass Organisation. In the absence of an article dealing with the special role of the ANC (and its allies?) such a provision might lead to confusion, however. My recommendation, therefore, is that the matter be looked at as a whole before any attempt be made to draft provision dealing with PMO's. In the absence of such an analysis, I would suggest a generalised formulation on the following lines.

ORGANISATIONS OF THE PEOPLE

"~~Trade union~~, women's, youth, students', community and other democratic organisations of the people shall, in accordance with the aims laid down in their statutes, participate actively in the formulation and the implementation of social, economic, political and cultural policy".

*In any constitution special provision shall be made for workers rights and trade unions*