

STATEMENT OF INTENT BY THE  
AFRICAN NATIONAL CONGRESS (SA)

A Proposed Constitution for a Liberated South Africa

1. THE TIME HAS COME

With the advance of the people's struggle, <sup>the</sup> mounting crisis of the regime and its growing isolation ~~internally~~ and internationally, the time has come to initiate discussion in the foundation of Government in a liberated and democratic South Africa.

While the final determination of the provisions of the Constitution belongs to a democratically elected constituent assembly, representative of the people as a whole, the embryo of the new constitution is already being shaped in the struggle against the old.

It is only in conditions of freedom that a constitution dedicated to freedom can be adopted.

That involves <sup>the</sup> transfer of power from the minority racist regime to the democratic forces of the people.

This is and remains the strategic objective of <sup>The African National Congress</sup> Congress and its allies.

2. A RIGHT AND DUTY

The ANC has a right and duty arising from 75 years of struggle to launch a nationwide consultation on the basic objectives and principles of a new constitution.

Constitution-making is not a process to be dictated from above, especially not by racists and their accomplices who are responsible for the criminal policies of apartheid, <sup>and</sup> people who are beneficiaries of the system, nor is it primarily for experts, whether South Africans or foreign nationals.

Constitutions deal with rules that determine <sup>form of the</sup> the exercise of power in a society.

It is the people through their struggles and demands <sup>the</sup> who shape the nature of these rules and lay the foundations of a kind of society they wish to live in.

In the process of the struggle they acquire the consciousness of new citizenship even before the promulgation of formal legal provisions.

The basic orientation and content of the constitution will come from the people at large.

They ought to be involved from the outset in the process of constitution-making.

### 3. THE FREEDOM CHARTER

We in the ANC have much experience of the value of popular participation in the process of drawing up a fundamental document. The Freedom Charter adopted by the Congress of the People in 1955 was the product of contributions representing the aspirations of millions of South Africans.

It has gained in prestige over the years and has become a basic programme uniting patriotic and democratic forces. It is a starting point for discussion even by persons who do not share all its concepts and assumptions.

This universality stems from the democratic mode in which it was adopted. Rooted in the reality of our country and expressing the deep longings and noble aspirations of our people, the Charter continues to be the beason of our struggle and basis of our demands.

The stage has been reached when it is necessary to enrich and complement the Freedom Charter with a statement of Basic Principles of Government, the electoral system and the specific rights and duties of citizens.

### 4. ABOLISH APARTHEID

To realise and defend their national and political rights, the people of South Africa must struggle for the total abolition of apartheid. Apartheid cannot be reformed or democratised. Its complete removal is a pre-condition for the advance towards a truly democratic South Africa.

The abolition of apartheid requires a complete and unconditional repeal and annulment of all discriminatory laws. Much more is required.

The institutions built up to maintain apartheid - the army, police, civil service and the judiciary - must be replaced by non-racial and fully representative institutions.

The structures of apartheid must similarly be done away with. These include gross inequalities in land distribution, health, education services, the acquisition of economic skills and opportunities and the provision of housing and living conditions. These inequalities are the products of centuries of racist domination and exploitation. They must be eliminated rapidly. Guarantees of genuine and active involvement of people have to be introduced at all levels of government.

There must also be safeguards against the restoration of apartheid and attempts to bring about social disintegration by manipulating racist, tribalist or regional interests and prejudices.

### 5. NO DISCRIMINATION

Our movement has always worked for a society of equals in which there are no first, second or third class citizens - but only South Africans. This is the normal democratic principle that has been so hard to achieve.

Our proposed constitution will guarantee equal rights for all citizens irrespective of race, colour, sex or ethnic origin.

To achieve equality the constitution must outlaw discrimination against person or group on the above grounds. There will be not special constitutional privileges for any section of the population.

To permit such privileges would keep racism and ethnicity alive, impede the development of a common nation<sup>al</sup>/consciousness and perpetuate under the cloak of constitutional~~ly~~ <sup>change</sup> the gross inequalities of apartheid.

#### 6. AFFIRMATIVE ACTION

To overcome the legacy of apartheid and achieve genuine equality we propose to include in the new constitution a basic requirement for Affirmative Action binding on both the public and private sectors.

Affirmative Action will be taken to restore land rights to people who have been victims of land removals. Affirmative Action will be taken to reduce and eventually to abolish inequalities in education, housing, health services, welfare, recreation and employment.

Genuine, orderly, progressive and irreversible <sup>change</sup> ~~change~~ towards equality will be guaranteed by the active participation of all citizens in the process of achieving these goals. The constitution will include legal requirements to ensure that appropriate steps will be taken to secure these objectives.

#### 7. VOTES FOR ALL

We have long fought for freedom from tyranny and dictatorship. Political freedom - the right to vote<sup>is</sup> is the key to ensuring economic, social and cultural rights for the people. Our struggle includes the realisation of adult suffrage in the united, democratic, non-racial state, a multi-party democracy with regular elections and ~~adequate~~ provision of information and opportunity for discussion.

The only qualification is that racial, ethnic and exclusive political organisations must be outlawed. Persons and groups who pursue racist, tribalist or ethnic goals will be restrained. The preaching of racist sentiments will be regarded as falling outside the scope of legitimate free speech.

These steps must be taken if apartheid is truly to be abolished.

#### 8. FUNDAMENTAL RIGHTS

All citizens in a new South Africa should feel that the country belongs to them. They must be free to live, move and work as they ~~desire~~. They have a right to feel secure in their houses, choose their friends and marriages partners, establish families, enjoy leisure, sport and cultural activities without interference.

These are fundamental individual rights. In addition there are rights that would be exercised in a collective manner, such as ~~the~~ the development of languages and cultural traditions which belong to the patrimony of the whole people. These collective rights will be recognised and protected. Special constitutional provisions will be made to guarantee the rights of working people, women and children, enabling them to participate fully and equally without disabilities and discrimination as full members of <sup>United</sup> United South African nation.

Freedom of conscience supposes rights of people to <sup>worship</sup> and follow their faith. The increasing involvement of religious bodies to fight apartheid, creates favourable conditions for their positive role in the process of removing inequalities and other obstacles to the growth of common patriotism.

The principle<sup>the</sup> of separation of churches and state will be maintained.

#### 9. THE ECONOMIC ORDER

The African National Congress proposes to maintain a mixed economy for the purpose of doing away with race discrimination and bringing about rapid elimination of the gap between rich and poor, white and black. To achieve these goals the state will have an important directive and regulatory function.

The Constitution as envisaged will recognise four ~~EE~~ types of productive property - a public sector, a private sector, cooperative property and a family sector consisting largely of small-scale household farming.

Property for personal use and consumption will be recognised and guaranteed.

Racial barriers to economic activity will be removed. The State will have a duty of promoting the acquisition of managerial, entrepreneurial, technological and other productive skills amongst all sections of the population.

A major thrust of the constitution will be the active involvement of wide sections of the people in the making and implementation of decisions in the entire range of human activity - political, economic, social, cultural and sporting.

#### 10. INTERNATIONAL RELATIONS

A free, independent and democratic South Africa will strive to fulfil the aims and objectives of the Charter of the UNO, OAU and the Non-Aligned Movement. A liberated South Africa will respect the territorial integrity and political independence of all states.

It will promote <sup>the</sup> harmonious development of Southern Africa and the entire African continent on the basis of equality and mutual benefit.

#### 11. FOUNDATIONS OF GOVERNMENT IN A DEMOCRATIC SOUTH AFRICA

The National Executive Committee of ANC ~~(ANC)~~ has produced a draft document to stimulate discussion and provide opportunities for consultation. This document, entitled Foundations of Government in a Democratic South Africa expresses in point form the fundamental principles and objectives of the constitution envisaged by ANC.

This is not a final statement. It will be enriched by suggestions, criticisms and comments of our members and anti-apartheid forces within and beyond South Africa.

We call upon friends and supporters wherever they may be to give us their comments and proposals for the construction of an independent and non-racial South Africa.

Statement of Intent by the ANC about a ①  
Constitution for a Liberated South Africa.  
With the advance of the people's struggle  
and the growing isolation of the racist  
regime, the time has come to ~~that~~  
initiate discussion on the foundations  
of government in a liberated and  
democratic South Africa.

While the final determination of the  
~~actual~~ provisions of a  
new Constitution belongs to a democratically  
elected Constituent Assembly representative  
of the people as a whole — since it is  
only in conditions of freedom that a  
Constitution dedicated to freedom can be  
adopted — the embryo of the new  
constitution is already being shaped in  
the struggle against the old.

The ANC has the right and duty,

achieved by 75 years of struggle, to launch a nationwide consultation on the basic objectives and principles of a new Constitution. (Constitution-making is not primarily a matter for experts. Neither can it be a process <sup>to be</sup> dictated from the top, especially not by those responsible for the criminal policies of apartheid. Nor is it ~~not~~ primarily a matter for experts, whatever their nationality, and however learned they may be.)

~~It is the people~~

→ Constitutions deal with the rules whereby power is exercised in a society. It is the people through their struggles and their demands who determine the nature of these rules and lay the foundations of the kind of

society they wish to live in. In the process of struggle they achieve the consciousness of their new citizenship even before the formal legal provisions are promulgated.

Though the final text of any constitution may owe much to the skill of experts, the basic orientation and content will come from the people at large, who need to be involved from the first in the process of constitution-making.

We in the ANC already have experience of the value of popular involvement in the process of drawing up a fundamental document. The Freedom Charter, adopted by the Congress

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of the people in 1955, was the product of thousands of contributions from hundreds of thousands, even millions of people.

The fact that it has gained in prestige over the years so as to become the basic programme uniting all genuinely patriotic and democratic forces, and the starting point for discussion even by those who do not share all its concepts or assumptions, stems from the democratic mode in which it was adopted. Rooted in the reality of our country and expressing the deepest longings and most noble aspirations of our people, the Freedom

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Charter continues to be the beacon of our struggle and the basis of our demands.

The stage has been reached when it is necessary to enrich and complement the Freedom Charter with a further document dealing with the basic ~~institutions~~ <sup>attitudes</sup> of government, the electoral system, and specific rights and duties of citizens.

The proper protection of the national and political rights of the people of South Africa can only be achieved with the total abolition of apartheid. Apartheid cannot be reformed or democratized. Its complete removal is a pre-condition for the advance towards

a truly democratic society.

The abolition of apartheid requires the complete and unconditional repeal and annulment of all discriminatory laws, but it requires far more than that.

The institutions and structures built up to maintain apartheid — the army, police, civil service and judiciary — have to be replaced by new and democratic ones. The gross inequalities in land-distribution, health, education, ~~housing and living~~ economic skills and opportunities and housing and living conditions produced by centuries of racist domination <sup>and exploitation</sup> have to be rapidly ~~ed~~ eliminated. Guarantees of genuine and

active involvement of the people at all levels of government have to be established, as well as guarantees against a restoration of apartheid in old or new forms and against attempts to ~~cause~~ <sup>bring about</sup> the disintegration of the country by means of the manipulation of racism, tribalism or regionalism.

The ANC ~~believes in~~ has always worked for and believes in a society of equals, in which there are no first, second or third class citizens, but only South Africans. This is the normal democratic principle that has been so hard to achieve in South Africa. We strongly support ~~our~~ ~~and~~ a constitutional guarantee of equal rights for all South Africans, independent

of race, colour, ~~and~~ ethnic origin or sex. We also clearly affirm the need to have a constitutional provision which outlaw any discrimination against any person <sup>or group</sup> on the above grounds. To support equal rights and non-discrimination, however, is not the same as agreeing to any special constitutional privileges for any sections of the population. To permit ~~such~~ constitutional privileges for any group or groups would be to keep racism and ethnicity alive as constitutional principles, impede the development of a ~~genuine patriotic~~ common national and patriotic consciousness and perpetuate, under the cloak of constitutionality, the gross

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inequalities created by apartheid.

In order to ~~achieve~~ ensure ~~that~~ the achievement of the social, economic and cultural transformations needed to overcome the legacy of apartheid and establish genuine equality, we propose as ~~as a possible~~<sup>a</sup> fundamental feature of any new constitution the inclusion of a requirement to take affirmative action binding both on the public and private sectors. A special constitutional provision dealing with the restoration of land rights to the people, especially the victims of forced removals, will be required. In addition, affirmative action

will involve the establishment of clear goals for reducing <sup>and eventual abolition of</sup> inequalities in areas such as education, housing, ~~work~~ ~~employment~~ social services and employment, the active involvement of all interested parties in the determination of the methods of achieving these goals, and a legal requirement that appropriate steps be taken to ensure their realization. In this way, real, orderly, progressive and irreversible change will be guaranteed.

The ANC has long fought for freedom and been a victim of tyranny and dictatorship. Political freedom - expressed in terms of the right to vote - has always

been regarded as the key to achieving economic, social and cultural rights for the people. The ANC fights for universal suffrage in a united, democratic and non-racial state. We believe in a multi-party democracy with regular elections and ~~the appropriate~~ freedom of information and expression to enable the people to exercise an effective choice in relation to who should be their representatives. INSERT 1 11-A

All citizens should feel that the country belongs to them and that they can live, move and work freely in it. They have a right to feel secure in their homes, to choose their friends

11A

INSERT. into 11

The only limitation, and one that is fundamental if apartheid is truly to be abolished, is that racially, ~~or~~ or ethnically ~~or~~ exclusive political organisations, or those dedicated to racist or tribalist goals, would not be permitted, nor would the preaching of racist sentiments be regarded as falling within the scope of legitimate free speech.

or marriage partners, to establish families, to enjoy leisure, sport and cultural activities without interference.

Although fundamentally the rights contemplated will be individual rights, and the constitution will be completely race-free, there are certain areas ~~where groups other than~~ where rights would be exercised in a collective manner. These would not be ~~these~~ ~~ethnic group rights~~ special political or economic rights for ~~some~~ the maintenance of privilege of select race or ethnic groups, but would include such rights as the right to use and develop

~~was~~ the diverse languages and popular cultural traditions as part of the patrimony of the whole people which would be recognised and protected. Similarly, the collective rights of workers could be given special constitutional protection. Also, the rights of women to participate fully and equally, freed of disabilities and discrimination, as members of the nation, must be recognised.

Finally, freedom of conscience presupposes not only individual rights but collective rights of worship and following one's faith. The increasing involvement of religious bodies in the fight against apartheid creates favourable conditions for a -

subject to the principle of separation of Church and State — a recognised role being established for the future involvement of religious institutions in contributing towards the removal of inequalities and the creation of a common patriotism.

As far as economic activity is concerned, ~~the~~ there will be a mixed economy, in which, to ensure the rapid elimination of the gap between rich and poor, white and black, the State shall play an important directive and regulatory role. The constitution would recognise and ~~give appropriate legal backing to~~ four types of productive property, namely, a public sector,

a private sector, cooperative property and a family sector (basically peasant farming families). Property for personal use and consumption would get explicit constitutional protection. The present <sup>rapid</sup> barriers to economic activity will be removed, and the State shall promote the acquisition of entrepreneurial, ~~and~~ managerial <sup>and craft</sup> skills amongst all sections of the population,

A major theme of the Constitution will be the active involvement of the widest sections of the people in decision-making and the control of decision-making, whether in the political, economic, social, cultural or sporting spheres.

The NEC of the ANC

A free, independent and democratic South Africa will ~~abide by the~~ work towards the fulfilment of the principles of the Charter of the United Nations and of the Organisation of African Unity. It will respect the territorial integrity <sup>(and political independence)</sup> of existing States and work ~~towards~~ on a basis of equality and mutual benefit for the harmonious and rapid development of the region and all Africa.

As a basis for consultation and discussion, the NEC of the ANC has produced a draft document entitled 'Foundations of Government in a Democratic South Africa.' This document expresses

~~the~~ ~~document~~ in brief ~~statements~~ and direct  
 outline the fundamental features of a  
 new Constitution as envisaged by the  
 ANC. This is not a final statement,  
 since we are convinced that it will  
 be considerably enriched by the ~~work~~  
 observations, ~~the~~ suggestions and responses  
 of our members <sup>and</sup> of all anti-apartheid  
 forces inside South Africa, ~~that of~~  
~~supporters and sympathisers of our~~  
~~struggle outside.~~ In due course, we also  
 look forward to receiving observations from  
 our friends and supporters outside the  
 country. ~~What is required now~~  
 [While the NEC commends this  
 document for study, it calls for

full, honest and vigorous <sup>discussion</sup> ~~analysis~~ of  
 its formulations, ~~and what their inter-~~  
~~action with each other, and what they~~  
 imply.

~~It~~ <sup>of</sup> its thrust and balance, <sup>and its</sup> the overall  
 shape. If there are major omissions,  
 they should be pointed to. If it contains  
 material considered irrelevant or secondary,  
 this should be identified. In general,  
 the strengths and weaknesses of the  
 document in relation to the achievement  
 of the goals of a non-racial, democratic  
 and united South Africa should be  
 mentioned.

## Statement of Intent by the ANC about a Constitution for a Liberated South Africa

The day is approaching when the people of South Africa will at last be able to have a democratic

Through their unrelenting and heroic struggle against apartheid, the people of South Africa are at last winning the right to live under

Two changes  
or more

The time has come to ~~think of~~ <sup>start deferring</sup>

the foundations of government in a democratic South Africa. <sup>while</sup> The actual <sup>promises</sup> terms of a new Constitution for a liberated country will <sup>can only</sup> have to be decided upon by a democratically elected Constituent Assembly representative

of the people as a whole. In the  
meanwhile, it is necessary to involve  
as widely a number as possible of the  
future citizens of a free South Africa in  
determining the outlines of the kind of  
governmental and electoral system that  
they want and the range of rights and  
duties to which they should be subject.  
As possible the people of our country in  
the process of

→ of the people as a whole, ~~it~~ <sup>although</sup> since it  
is only in conditions of freedom that a Constitution <sup>dedicated</sup>  
to freedom can be adopted,

in the meanwhile, however, the  
process must be started whereby the people  
of the country are as widely as possible  
involved

the embryo of the new <sup>constitution?</sup> society is being

already taking shape in the course of the <sup>Neither should be or be prepared for the top</sup> battle  
~~created here and was in the struggle~~  
<sup>(the old apartheid)</sup> against ~~the old~~. The ANC has the  
right and duty, merited by 75 years of  
struggle, to initiate a nationwide  
consultation on the basic objectives and  
principles of ~~any~~ <sup>any</sup> new Constitution. Constitution-  
making is not essentially a <sup>primary</sup> ~~problem~~ <sup>matter</sup> for  
experts. It is the people through their  
struggles who lay the ~~kind~~ foundations for  
of the kind of society they wish to live in  
~~in~~ <sup>and prepare</sup> ~~preparing~~ themselves mentally for being  
citizens of that new society, ~~even before it~~  
~~is achieved~~. The people have the right to  
~~be involved at as early a stage as possible~~  
~~in the process of formulating the Constitution.~~  
Though the final ~~draft~~ <sup>of any new Constitution</sup> text ~~will undoubtedly~~  
<sup>may</sup> owe much to the skill of experts, the

basic substance will come from the people at large, who need to be involved ~~in~~ from the first in the process of Constitution-making.

We in the ANC already have experience of the value of popular involvement in the process of drawing up a fundamental document. The Freedom Charter, adopted by the Congress of the People in 1955, was the product of ~~thousands~~ thousands of suggestions from hundreds of thousands, even millions of people. The fact that it has <sup>gained in prestige over the years,</sup> ~~stood up over the years, ~~the gathering more~~~~

~~and more adherents~~ as to become the basic <sup>programme</sup> ~~programme~~ ~~statement~~ writing all genuinely patriotic <sup>and democratic</sup> forces, and the starting point for discussion even by those who do not share <sup>all</sup> its <sup>concepts or</sup> ~~principles~~ <sup>assumptions</sup>, stems from the democratic mode in which it was adopted. Rooted in the reality of our country and

with  
the most method?

expressing the deepest longings and finest aspirations of our people, the Freedom Charter continues to be the beacon of our struggle <sup>and the banner of our expectations</sup>

~~In the light of its principles, we now need a second document~~

The stage has now been reached whereby it is necessary to enrich and complement the Freedom Charter with a further document dealing with the institutions of government, the electoral system and specific rights and duties of citizens. <sup>when?</sup>

~~the Charter into reality~~

the decision of  
experts in a pre-arranged  
public debate should be  
final democratic form

~~so that the Charter can be translated into~~

~~reality~~ The <sup>paper</sup> ~~is~~ <sup>in</sup> only <sup>the</sup> <sup>part</sup> <sup>of</sup> <sup>the</sup> <sup>national</sup> <sup>and</sup> <sup>political</sup> <sup>will</sup> <sup>of</sup> <sup>the</sup> <sup>people</sup> <sup>of</sup> <sup>SA</sup> <sup>can</sup> <sup>only</sup> <sup>take</sup> <sup>place</sup> <sup>with</sup> <sup>the</sup> <sup>total</sup> <sup>removal</sup> <sup>of</sup> <sup>apartheid</sup> <sup>as</sup> <sup>apartheid</sup> <sup>cannot</sup> <sup>be</sup> <sup>reformed</sup>

The abolition of apartheid requires the complete and unconditional <sup>repeat</sup> ~~annulment~~ <sup>(annulment)</sup>