



Van Heerden.  
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## DIE NASIONALE PARTY • THE NATIONAL PARTY

Questions: What is meant by political minorities?

A: Parties

Same authority for all regions?  
Yes & no.

Examples of meaningful part by minorities?

A: Switzerland

W. Europe, PR systems & coalition govt.

Gen. args. of civil society practice racial discrim. \* A: As long as civ. soc. & local gov. do not come with provisions in Const. or Charter of Rts. Any const. in the world prescribe market economy, fiscal control?

Rt to property & free choice of profession.

Const. should promote.

\* Follow up: If no state support, can private bodies discrim.? A: If a Charter or Const. does not provide - OUT.

# CONSTITUTIONAL PRINCIPLES WHICH SHOULD BE ENSHRINED IN A NEW CONSTITUTION FOR THE REPUBLIC OF SOUTH AFRICA

## 1 SUPREMACY OF THE CONSTITUTION

The Constitution will enjoy a higher status than all other law; it may be amended only if special procedures prescribed in the Constitution are followed; compliance with its provisions will be enforceable by the courts. The sovereignty of Parliament will therefore be replaced by the supremacy of the Constitution.

## 2 THE CONSTITUTIONAL STATE

South Africa must display in the new dispensation the characteristics of the **constitutional state** in the formal and material sense as embodied in various principles, inter alia and notably:

- the supremacy of the Constitution;
- a justiciable Charter of Fundamental Rights;
- an independent, professional and objective judiciary;
- the autonomy of non-political institutions of civil society;
- mechanisms for the prevention of the abuse of power and of maladministration;
- protection of the integrity of the Constitution specifically through effective and balanced control over professionally led and non-partisan security forces;
- an impartial and effective civil service for which the Constitution must guarantee job security and fair treatment on the basis of merit and accessibility;
- legal certainty.

## 3 FUNDAMENTAL RIGHTS

A Charter of Fundamental Rights must form part of the Constitution and as such be constitutionally protected and legally enforceable. The Charter of Fundamental Rights should provide for the effective

protection of fundamental rights of individuals irrespective of race, colour, sex, religion or group affiliation; it should accommodate the diversity of languages, cultures and religions of the peoples of South Africa; and it should underpin and protect the values embodied in various other principles, e.g. the autonomy of non-political institutions of civil society and community self-determination and a market-oriented economy coupled with social responsibility.

#### 4 DIVERSITY OF LANGUAGES, CULTURES AND RELIGIONS

The diversity of languages, cultures and religions should be acknowledged. The Constitution must recognise and accommodate this diversity. Individuals must therefore have justiciable guarantees to exercise rights relating to language, culture and religion.

#### 5 SEPARATION OF POWERS

The Constitution must prevent the executive authority from dominating the legislative authority, and vice versa; confer on Parliament the authority to call the executive to account; and confer on the judicial authority jurisdiction, based on the Constitution and the Charter of Fundamental Rights, to test and set aside Acts of Parliament and actions of the executive.

#### 6 A DEMOCRATIC STRUCTURE OF GOVERNMENT WITH MEANINGFUL PARTICIPATION OF POLITICAL MINORITIES

The Constitution should create a system based on universal adult franchise in a sustainable democratic structure of government. In view of the fact that South Africa has a plural society and that domination, in any form whatsoever, is unacceptable, the principle of fair treatment of, and meaningful and effective participation by political minorities, must be embodied in our Constitution. In the constitutional field the political party is the appropriate instrument for articulating and furthering the interests of people who naturally and voluntarily associate with one another. The Constitution should, as far as is practicable, and conforming with effective government, offer the

opportunity for every viable political party to play an effective role in the legislative and executive organs at local, regional and central government levels.

#### **7 REGIONAL AND LOCAL AUTONOMY AND COMMUNITY SELF-DETERMINATION**

Regional and local authorities should not be mere administrative extensions of central government with decentralised functions, but they should be accorded autonomous and constitutionally defined and entrenched authority. In bringing government closer to the people, proper devolution of power will play an important role in the maintenance of regional and community interests. By these means community self-determination may also be achieved.

#### **8 AUTONOMY OF THE NON-POLITICAL INSTITUTIONS OF CIVIL SOCIETY**

The effective application of this principle will guarantee self-determination in non-governmental organisations and institutions of civil society active in the field of e.g. business and professional life, trade union affairs, education and culture, sport, religion, language and tradition.

#### **9 MARKET-ORIENTED ECONOMY AND SOCIAL RESPONSIBILITY**

The Constitution should promote a market-oriented economy coupled with private initiative and social responsibility. An economic system where regulation and control by government are kept to a minimum, must be safeguarded; an economy based on private ownership, freedom of contract, free competition, and the maintenance of fiscal and monetary discipline, must be ensured.

Q: Re judiciary - why not 'non-racial'  
non-sectist.  
yes, not even necessary to include. 755.

Q: Any role for trad. leaders, which is supported.

A: Yes, should be provisions if tribal chief heads a community. Should be a role.

Q: Min. participation: is it entrenched in other  
Constit.

We feel it can be done in SA - 'in conformity with effective govt.'

Q: Is partic. in other countries in  
constit?

Yes, the results in Switz. are the same. Wait for debate!