

To Dumisani Aduli. ^{c/o} UK Regional Office

From Manchester Unit.

cc Albie Sachs

Re Unit Submission on:-

STRUCTURES AND PRINCIPLES OF A
CONSTITUTION FOR A DEMOCRATIC SOUTH AFRICA.

1. On the specific questions set out by Cde Skweyiya, the following views are put forward:-
 - (a) The President should be an Executive President, answerable to Parliament.
 - (b) Consistent with the above, the President should be elected by Parliament.
 - (c) It is considered that the National Assembly should be the sovereign body of the state. The President is the premier executive officer, answerable to Parliament.
 - (d) We accept the documents proposal for two Houses of Parliament, the functions set out for each, and the proposed method of election. [but see (h) below].
 - (e) To avoid over centralisation of government, we suggest ~~a~~ provisions in the Constitution that:-

- (i) executive functions be delegated to the lowest competent tier of government.
- (ii) that the document's suggestion that functions be delegated to regional and local government does not go far enough to meet (i) above; rather, we would wish to see local and regional government having power to decide on effective means of achieving national aims.
- (iii) that the constitution should include provision for local and regional government to raise revenues autonomously of central government, and have total control over the use to which that revenue is put (subject of course to the constitution).
- (iv) Alternatively to (iii) above, local & regional government should be afforded complete autonomy over the disposal of a set percentage of its revenues.
- (v) It is our view that there will be need for a local government act & a regional government act, and that the constitution should not constrain the development of these Acts.

- (f) Accountability of officials may be strengthened by ensuring that the Civil Service Commission is empowered to review appointments of all officials advising on policy formulation at 5 yearly intervals.
- (g) Both officials and organs of government will be more accountable if there is a requirements for reports/accounts to be passed both "up" for approval and "down" for comment. If electors were able to append comments on these reports before they were passed "up" for decision, the process of accountability would be genuinely democratic!
- (h) To genuinely and directly provide equal opportunities for women, it is considered that all seats in the National Assembly and the Senate shall be paired, and the electoral process provide for the election of one man and one woman to each 'seat'.

2. From the above, the following amendments are required to the discussion document:-

Page 1 Para 3.2: Omit 2nd + 3rd sentence

Para 3.3: Amend to read:-

"The President will govern through a Cabinet of Ministers. The President will appoint members of the Cabinet, and head the Cabinet."

Page 2 Para 3.8: Omit "Presidency"

Page 4 Para 7:-

In first sentence, add "sexual orientation"
In second sentence, omit "will exercise delegated powers, but

Insert:- "Carry out functions defined in Regional and Local Govt. Acts, which may be both delegated Executive functions and also autonomous functions and powers defined in the Acts."

Begin new sentence:-

"They will have levels, subject only to the constraints of the Regional & Local Govt Acts and the Constitution."

Omit sentence:- "Functions presently Regional Government."

In final sentence, insert after "development" :- "geographic, historical and cultural...."

Page 5: Para 8: Add at end:-

"This provision shall take into account the needs of workers from neighbouring African countries"

Omit Para 9.5

Page 6 Para 10.1

"freedom of assembly" to read
"freedom of assembly without arms"

Prepared by Howard Smith
Sibusiso Ngobo

on behalf of Manchester Unit

4th + 5th June 1991.

CITY OF STOKE·ON·TRENT
REPORT OF THE DIRECTOR
OF PLANNING & ARCHITECTURE

SMALLTHORNE COMMUNITY HALL

The Management Committee of this Community Hall are planning alterations to the Hall as indicated on the plan on the reverse of this report. The proposal is to enlarge and re-equip the existing kitchen facilities.

The intention is for the Management Committee to fund the cost of the works themselves but they would appreciate the City Council providing the Architectural Service in preparing the necessary plans obtaining tenders and overseeing of the work on site.

The committee is recommended:-

1. To approve the proposals subject to all requisite approvals being obtained not only for planning consent and building regulation approval but also the agreement of the Fire Officer and the Director of Housing & Health (Environmental Health Officer) to the Scheme.
2. To authorise the Director of Planning & Architecture to provide the architectural service to the Community Hall Management Committee.
3. To require that all of the work to be carried out to the complete satisfaction of the Director of Planning & Architecture.

WP3/AKDEM.JUL

9/1/92.

Robert,

Many, many thanks for your
piece on a Const. Ct.

There are a no. of themes we
have to develop. We need such
a court to strengthen the role of
a Bill of Rts & weaken the
claim for group rights in
Part. We are winning that
one. The question is to make
the Constitutional principles
clear, and ensure a truly
representative, credible and
competent Const. Ct.

p. 18 para (d). What about
discrimination in the private sphere?

This is a key area.

Can you get the SA Law Commission Reports:

- (i) On a Bill of Rights
 - (ii) On Constitutional Options?
-

We desperately need good formulations on property etc.

- Everything from: general concepts;
 - Personal property;
 - Land rights;
 - Compensation/reparations.
 - Any ideas?
-

- Albie
Gore Town.



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MEMORANDUM

TO: Zola Skweyiya
Randi Erentzen

FROM: Patricia Keefer

DATE: 27 January 1992

SUBJECT: USIA - Constitutional Committee

Per your request, I have enclosed a copy of a memo I sent to John Arbogast regarding some program ideas should members of the Constitutional and Legal Affairs Committees visit the US to investigate the application of federalism. These ideas actually came from a conversation Randi, Bulelani and I had after our November workshops when Bulelani asked me if I had any ideas on what the committee might address in such a visit to the States.

Coincidentally, John asked me the same question a few days later. What I said to both John and Bulelani was the same, only John asked me to send him a note on the subject -- hence, the enclosed memo.

Let me stress that NDI has no interest in serving as a programming agent for this visit -- USIA has program officers which serve this purpose. We only hope that such a visit has maximum utility, which is why I have proposed the following suggestions. We are willing to assist with the visit on an informal basis, within our own limitations.

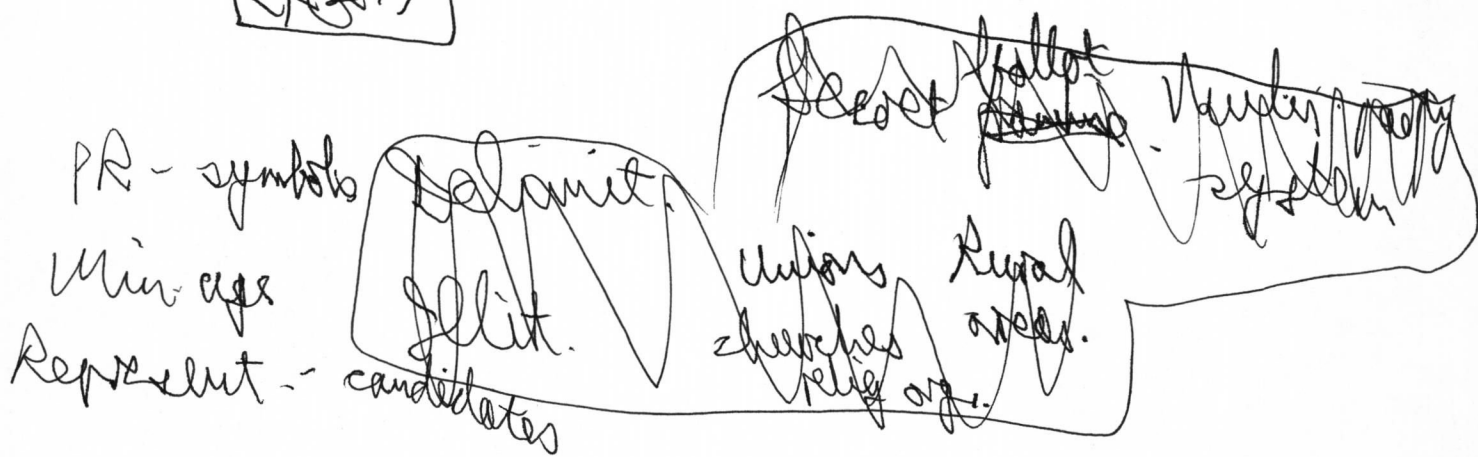
- C. A meeting with former Supreme Court Justice Brennan to look at the role of an activist in the Supreme Court.
 - D. While in the region, the delegation could then split up and visit each of the six New England States.
3. Austin, TX
- A. Meet with Governor Anne Richards
 - B. Meet with Congresswoman Barbara Jordan
 - C. A one day program sponsored by the LBJ School on States' Rights
4. California
- A. Visit 1) Sacramento, 2) San Francisco and 3) Stanford
 - B. One day program sponsored by the Hoover Institute on the "New Federalism" introduced by the Reagan Administration

NDI can help put together parts of the program. The Kennedy School, for example, has an active interest in South Africa, beyond Roger Fischer. I am also confident that members of the Judiciary Committee would be interested in participating.

For your information:

- 1. My meeting with Kent Obey went well and he acknowledged that stopovers can be done on USIS programs.
- 2. I would suggest pursuing a stopover in Brazil for the Constitutional/Legal Affairs Committees, on the way to the United States, to look at Brazil's application of federalism. I know that it is a country that members of the committees have expressed interest in.

In addition, Kent and I discussed the apprenticeship program to fill in the political calendar in the United States. We talked about placing individuals into relevant campaign positions for three week stints. I promised to send dates, places, as well as recommendations of South Africans to be considered for the program.



The danger of making constit. arrangements through deals is that they can be un-made through deals. The more solemn, public, popularly-based, widely-agreed to, fully-debated the terms of the constitution, the more profound and open the process of altering should be.

TOWARDS A NATIONAL ELECTION
FACULTY ORIENTATION

I. Welcome and Introduction

Dullah Omar - ANC National Executive Committee
Randi Erentzen - CDS
Patricia Keefer - NDI

Introduction of Faculty

II. Briefing

Critical Issues in Transition

III. Purpose and Design of the Program

Slide Show Presentation

IV. Team Deployments and Schedule

LUNCH

V. Team Working Session

Whereas it is necessary to

①

~~have an orderly~~
~~create~~ ~~structure~~
~~provided~~ the legal framework
for the orderly transition of
SA to democracy.

Whereas ~~to this effect~~ ^{to this effect} all S. Africans
must be permitted to take part
on an equal basis in free and

fair elections of a body ^{empowered}
according to ~~defined~~ ^{defined} processes and principles
to draft a new non-racial, non-
sexist constitution.

Whereas conditions must be created
to ensure that the process of
transition ~~to democracy~~ ^{to democracy} takes place in conditions
of freedom and stability, and
with the greatest degree of
national unity guaranteed rights;

2

Whereas it is necessary
to establish democratic
mechanisms and
procedures through which a
non-racial non-sectarian ~~and~~
democratic constitution ^{based on dem.} can
be brought into being;

3

Whereas ~~there~~ ^{it} is a ~~need~~ ^{necessary}
to ensure that elections for the
~~to create a climate of free~~
~~above purposes are free and fair~~
and that participants take part on a basis of
~~above purpose~~ equality;

Whereas ~~there must be certain~~ ^{it is necessary to guarantee}
certain fundamental rights during the process of a
transition to democracy is orderly
and takes place in the context
of secure rights and freedoms

4

Whereas it is necessary to secure
~~encourage the~~ ~~provide for~~
~~facilitate~~ the engagement of
all sectors of SA society
in the process of national
reconstruction

in a common endeavour to bring
about national reconstruction,
economic growth, social justice
and peace