

MINUTES OF A WORKSHOP ON THE CONSTITUTIONAL GUIDELINES, 23 JULY 1989

ORGANISATIONS REPRESENTED: KCD Rugby Union, Border Students' Congress, Border Youth Congress, Congress of Border Women, Fort Beaufort Youth Congress, King William's Town Womens' Congress, Queenstown Womens' Organisation, Queenstown Residents' Association, Queenstown Students' Association, Mgwali Youth Association, Mgwali Residents' Association, Kubusi Youth Congress, Kubusi Residents' Association, Peelton Youth Organisation, Zwelitsha Residents' Association, Stutterheim Womens' Organisation, Stutterheim Youth Congress, Dimbaza Youth Congress, Dimbaza Residents' Association, Cathcart Youth Congress, Cathcart Residents' Association, Aliwal North Youth Congress, Grahamstown Democratic Action Committee, Duncan Village Residents' Association, BECC.

THE FREEDOM CHARTER AND THE CONSTITUTIONAL GUIDELINES.

I have been asked to explain the relationship between the Freedom Charter and the new ANC Constitutional Guidelines. In other words I will be trying to explain the status of the Guidelines, what their position is in our struggle.

A number of questions have been asked about the new Guidelines: If we have had the Freedom Charter for thirty-four years as the guiding light in our struggle, what is this new document? why do we need it? is it meant to replace the Freedom Charter?

The simple answer is: No. The Freedom Charter is a set of principles - 'The People Shall Govern!', 'The Doors of Learning and Culture Shall Be Open!' - and these principles have guided the people for all that time.

But now the situation is very different. The country is in deeper and deeper crisis, the economy is in crisis, because of COSATU the bosses' profits are in crisis - and of course, the Nats are in crisis. This crisis has been brought about through the militant action of our people, united behind the Freedom Charter. The State of Emergency has damaged structures and imprisoned leaders, but regrouped under the MDM, unity remains strong.

The government is at last realising that South Africa is not a white country, that it belongs to all who live in it, and the word on everyone's lips is 'negotiation'.

The context for understanding the Guidelines is set by negotiations, the realisation that liberation is now very close. But this is the point: whether at the negotiating table or when in power in South Africa, the ANC needs a very clear statement of how it should govern. In other words, of how the Freedom Charter should be implemented.

The Constitutional Guidelines are an attempt to show what the Freedom Charter could look like when taken from words to actions. The ANC needs a clear mandate from the people, saying what they want and how they want it so that we do not end up in the same position as our comrades in Zimbabwe, forced to accept other people's solutions.

In other words, the Freedom Charter is the single most important document in South Africa today. But it is a Charter - it says what we want, while the new document is a Guideline - it is a suggestion of how we put the principles of the Freedom Charter into action. It says:

"The stage is now approaching where the Freedom Charter must be converted from a vision for the future into a constitutional reality".

The Constitutional Guidelines are an interpretation of the Freedom Charter; nothing in the Guidelines contradicts anything said in the Charter.

A final - and very important point. The Freedom Charter was drawn up after one and a half years of democratic, popular participation, talking to people throughout South Africa about their grievances and what their vision of the future was. The function of the Guidelines - and the reason we are all here today - is similar. The Guidelines are a suggestion which the ANC has sent us to debate here, and to take away with us back to our structures for more debate.

We must form our opinions of the Guidelines, and note our criticisms as well as our praises. We can affect the Guidelines as we did the Freedom Charter; they are open to a similar form of popular participation.

We can all help in laying the basis for our own government, so that when liberation comes we will have: the People's Charter, ie. the Freedom Charter; and the People's Plan, ie. our own Constitutional Guidelines.

REPORTBACKS FROM COMMISSIONS:

(1) The Constitution:

This commission looked at essential questions around the form of a future government in South Africa, including:

(a) **A unitary vs a federal state:** the commission was unanimously in favour of a unitary state, feeling that a federal state would entrench groups and tribalism, dividing the people not uniting them. It was felt a federal state would bring about a system no different to the Bantustan system, as federal governments could be stopped from implementing policies across South Africa if they were unpopular with some groups.

By contrast, it was felt that a unitary state under the leadership of the ANC would be a peoples' government which would look after the interests of the masses. Leaders would be elected democratically by all regions. Under this system, rich parts of the country like the OFS and parts of the Transvaal would not be able to protect their own interests and refuse to take part in the redistribution of wealth.

(b) **A universal vs a qualified franchise:** the commission was unanimously in favour of a universal franchise. It maintained a qualified franchise would maintain the present oppressive status quo. Some members suggested that the voting age be dropped to 16, since many individuals are drawn into the struggle for their rights before they are 18.

(c) **A multi-party vs a one-party state:** consensus was not reached. Those who were in favour of a one-party state argued that this system allowed for open debate with and criticism of the government by the masses, who could join the party and criticise it from within. They argued that if the ANC as the ruling party represented all the people, other parties were unnecessary.

Those in favour of a multi-party system argued that it was possible for any government to become corrupted by power. A multi-party system would allow groups who might not feel represented by the ANC as ruling party to express themselves. They pointed out that the **Guidelines** suggest ways of ensuring that such groupings would not be able to practise racism or other forms of discrimination.

(d) **Proportional representation vs majority vote:** the majority of people in the commission opted for the majority vote system. It was argued that a built-in veto for minority protection would not be necessary if a body such as the ANC, which would be committed to all South Africans, came to power.

(e) **Administrative structures and their costs:** the commission felt that street and area committees, as well as rural committees, should be extended nation-wide to ensure democratic participation in the workings of government. The government must be accountable to the masses. Accountability was described as a two-way channel of communication between the peoples' structures and the government.

The commission was not clear on what would become of the chieftainship system. One option put forward was to abolish only the chiefs who were created by the Bantustan system. Others favoured building up the *Contralesa* and making them more accountable. The commission agreed this was a major challenge facing the new government.

(2) The Economy:

This commission examined questions relating to the broad organisation of the economy, with specific reference to industry, mining and commerce. The following issues were addressed:

(a) **Free enterprise vs a mixed economy vs socialism:** the commission agreed that South Africa's economy was capitalist, with a small fraction of government ownership. Four huge monopolies - Anglo-American, Sanlam, Rembrandt and SA Mutual - own 82% of the country's wealth. The commission preferred a mixed economy as the most suitable system for transforming South Africa into a socialist state. A mixed economy would mean the majority of capital would be controlled by government, but a certain amount of ownership would be left in private hands. Democratic principles would be entrenched politically.

(b) **Redistribution of wealth:** the commission agreed nationalisation would be helped by increasing taxation. This would discourage the buying of shares by private owners, and provide money to be ploughed back into investments in different industries. Another strategy put forward was to buy shares gradually in order to buy out the big capitalists. The commission agreed the majority of the profit from taxation should go to welfare and social services. Workers will have a say in controlling industry.

(c) **Deregulation, entrepreneurship and the informal sector:** the commission felt that for the government to develop effectively, entrepreneurship and the informal sector would have to be the private sector's responsibility. This should only take place within finely-detailed economic parameters, including health and safety conditions for workers, the quality of products, and the fixing of prices.

(d) **International investment and trade:** the commission felt this should not be discouraged but be closely monitored in order to fulfil the country's long-term economic objectives. Thus no efflux of capital should be allowed; prices must be strictly controlled; and the growth of capital-intensive industries should be controlled to allow the unemployment rate to decrease.

The commission felt that as mining was proving gradually more and more expensive to maintain, other industries needed to be developed. Indigenous skilled labourpower should also be encouraged to develop.

(3)The Land Question:

The commission examined the economy with specific reference to the land question.

(a) **Land redistribution, addressing rural inequality and land hunger:** the commission described the present distribution of land in South Africa as follows: before the arrival of the Dutch and British settlers, the land belonged to the indigenous South African people. Many wars of dispossession were fought with the colonial governments over the right to own the land. The 1913 Land Act gave only 13% of the land to the majority of the people.

The commission felt that the land should be redistributed equally among South Africa's people. In terms of the rural areas, land should be added to rural villages so that each family would be in a position to practice agriculture. Villages should be situated on fertile land and must be in the vicinity of water and transport. The amount of land an individual is able to own should be controlled by the government. An individual should not be able to own bigger lands than others because he or she is in a position of authority.

(b) **Agricultural development, food for all and food pricing, farm labour:** the commission agreed that a large-scale irrigation scheme was a priority for the new government in terms of agricultural development. It was also felt that certain farming facilities should be made available to all farmers and farming collectives, including bore-holes, windmills and high-breed bulls. Certain extension services should also be provided, such as crop rotation. Loans and subsidies should be made available by the government.

In terms of food for all, the commission felt that food prices should be controlled by the state. People should be consulted before prices are increased.

In terms of farm labour, the commission felt labourers should be paid at least a living wage and enjoy bargaining rights. The government should encourage the building of farm schools, while the training of farmers should be of utmost importance.

(c) **The homelands, migrant labour and the cost of homelands :** the commission unanimously rejected the concept of homelands, describing them as an extension of racial segregation and a dumping-ground for more than 57% of the black population. It was felt that the new government should discourage migrant labour; rather, facilities for accommodating the families of miners should be provided at the mines. It was felt that much greater care should be taken with the training of miners and that their work conditions should be improved. Unions of mineworkers should be free to organise.

(d) **Group Areas and Free Settlement: homelessness and housing, rents, home ownership and private property:** the commission stated that it believed the future government of South Africa would be the government of the people, and that therefore people would be able to live where they chose. In terms of homelessness and housing, it was felt that the government should address the housing shortage as an urgent priority. Those who could afford to build houses should be given sites on which to build; others who had less money should be charged affordable rents. The money from rents should be used for welfare programmes. The aged, disabled, sick and orphaned should be cared for by the state. The commission felt that private property should be allowed to continue and that the government should not nationalise everything.

(4) The protection of the individual and the Rule of Law:

This commission focused on questions of individual liberties and the legal system.

(a) **The question of a judiciable Bill of Rights:** the commission agreed that a Bill of Rights should represent guidelines for the government according to certain norms and principles agreed on by the people. Such a Bill should address the basic fundamental needs of the people. These needs should be entrenched in the constitution, which will be based on the Freedom Charter.

As for who constitutes government, the commission felt there should be a constituent assembly, made up of popularly-elected representatives elected on a one-person, one-vote system. The government should rule in accordance with the principles expressed in the Freedom Charter.

In terms of the courts, the commission agreed that while it would be impossible to replace the present, apartheid-supporting legal system overnight, the courts should become representative of the interests of the majority.

(b) **Freedom of speech, religion, association and the press:** the commission felt that every individual had a right to these freedoms, but that they should not promote dissension. In terms of the press, the commission felt it should be transformed into a "peoples' press", within certain parameters laid down for its operation - ie it should not be allowed propagate racism, false propaganda, etc.

(c) **Security or emergency powers for the state:** the commission felt such powers would be necessary to safeguard the interests of the people against dissidents - for example, the suspension of the Bill of Rights may be necessary in times of extreme civil disorder. However, such powers should be endorsed by the constituent assembly.

(d) **The protection of group rights as opposed to individual rights:** the commission felt that "exclusivism" of any kind should not be tolerated.

(5) Nation-building: Sport, Culture and Religion:

This commission focused on questions relating to nation-building and culture.

(a) **Culture:** the commission felt that school curricula should cater for art education and the appreciation of culture, both traditional and western, from the primary school level. The present education system does not encourage debate on cultural issues, with the result that many pupils only become aware of such issues when they leave school, if at all.

The commission felt that cultural resources, such as community videos, should be established, recording important events in the life of communities. The training of community residents to produce such resources should be built into school curricula. At present this sort of training is only concentrated in the Transvaal - it should be a national phenomena.

Cultural organisations should be developed in order to develop a national culture in the new society.

(b) **Sport:** the commission pointed out that the importance of sport should not be underestimated in the struggle. The building of non-racialism in sport will require extensive debate from the grassroots up. Sportspersons should be encouraged to play active roles in community organisations.

(c) **Language, religion and tribalism:** the commission felt that all languages should be respected, including those of the present oppressors. English, however, should be recognised as the official language, as it has international status. The vernacular should become the second official language.

The customs of the various nationalities should all be treated with equal respect. Such respect does not imply a retrogressive slide back into tribalism and the wearing of blankets, but rather an appreciation of the diversity of our national culture. Tribalism shall be rejected by the people as it leads to division, both on a national scale and within communities.

While the church is a very important part of our culture, it contains many ideological currents. However, it can play an important role in helping to spread the message of liberation. It is important to support ministers who are active in spreading this message.

(6) Nation-building: the education system:

The commission felt that education should serve the interests of all the people, and be "education by the people for the people". The education system should be free, equal and compulsory, while also being able to accommodate cultural diversity. It should promote patriotism, rather than competition, and strive to develop a sense of responsibility and service to the community in students.

State schools should be established to eliminate illiteracy. At the level of tertiary education, pupils would be able to choose to be trained in various skills that were necessary to the development of the economy, as well as from the range of subjects presently offered.

The commission felt that the issues involved in building a new educational system were so central to the building of a new nation that they should be enshrined in a charter, for inclusion in the new constitution. Such a charter would help guarantee that the kind of education wanted by the people was established.

The commission felt that there should be dynamic interaction and co-operation between the schools sector and the community, so that youth feel part of the community and the community feel they have a say in how the youth are being educated.

(7) Nation-building: the position of women in a future South Africa:

The commission examined the abnormal pressures placed on the family unit in South Africa today. The migrant labour system, political oppression (detentions, exile) and unemployment all conspire to pull families apart. In addition, the plight of children is an unhappy one. Unjust child labour practices are common in the homelands (ie Dimbaza), while children are also subject to detention without legal recourse. Mothers are the ones who have to bear the brunt of these situations.

Women also suffer oppression in terms of tradition. For example, it is customary that when a husband dies, his property passes to the eldest son. The mother's fate is determined by her son. In addition, women are discriminated against in terms of their gender. For example, unequal division of labour in the home is often unquestioned: women who hold down full-time jobs (at lower wages and with fewer benefits than men) are still expected to cook, clean, wash and care for the children when they get home.

The commission recommended that women's problems should not, however, be seen in isolation from the peoples' struggle. It also recommended that there should be equal status and equal pay for men and women both at work and at home. All forms of sexism should be abolished. Marriage contracts should also not discriminate against women and their property. The crucial socialising role played by mothers was also highlighted. Mothers have a responsibility to conscientise children to understand their role in the struggle.

The question of a Women's Charter, to enshrine these issues in the constitution, was also raised. Some members of the commission felt a charter was necessary to safeguard womens' rights. The need for such a charter would diminish as these rights were enacted. Others felt that once a peoples' government came to power, national liberation would automatically safeguard womens' rights and a charter was therefore unnecessary.

(8) Labour rights and workers' control:

This commission focused on questions of management, labour relations, unemployment and workers' control. It was agreed that management plays a crucial role in the economy. At present, management serves the interests of the capitalist class. The new constitution should

make it clear that management will be appointed by the people themselves, and have the interests of the people at heart.

In terms of labour relations, labour law will be defined by a peoples' commission on law as part of redefining the legal system. Workers should have the right to strike and to form trade unions, as the Freedom Charter describes. The commission agreed that a Workers' Charter was necessary to protect the rights of trade unions and the rights of workers to make wage agreements with employers.

The commission felt that all people should have equal rights to trades, crafts and professions. International investment and trade, especially with countries sympathetic to the new government, should continue.