

MCH91-13-2-6

I have to leave by 12 noon.

The main thing missing re local govt. is some principle of healing the city - the objective of promoting balanced urban development and creating a decent, healthy and dignified <sup>and peaceful</sup> living environment for all.

The purely technicist approach might over-favour ratepayers' interest and prudent spending at the expense of equity and development.

There are a no. of problems.

Should it be spelled out in detail -  
or broad. One view - only 3 basic as -

next - shop floor quest - to Ind. Pt.  
coll. barg - closed shop.

Strike - restricted, Picketing -  
safety - life? any.

Status of Workers Charter?

Process. Labour Code,

Rt to voice in enterprise  
- co-determ?

Rt to voice in econ policy

Tripartite?  
Rt to influence govt.

The P shall appoint members of the

from MPs after consultation with  
DP's & leaders of parties  
entitled to portfolios. The P  
shall in the spirit of GND  
attempt to make these appointments  
on a basis of consensus, but  
if consensus can't be reached,  
the P's decision on allocation  
of portfolios & the advice of  
party leaders on the persons  
to be appointed from their  
parties shall prevail.

## PREAMBLE

### REFERRED TO PC/BILATERALS

WHEREAS there is a need to create a new order in which all South Africans will be entitled to a common South African citizenship in a sovereign and democratic constitutional state in which there is equality between men and women and people of all races;

AND WHEREAS in order to secure the achievement of this goal, elected representatives of all the people of South Africa should be mandated to adopt a new Constitution in accordance with a solemn pact recorded as Constitutional Principles;

AND WHEREAS it is necessary for such purposes that provisions should be made for the promotion of national unity and the restructuring and continued governance of South Africa while an elected Constitutional Assembly draws up a final Constitution;

NOW THEREFORE the following provisions are adopted as the Constitution of the Republic of South Africa:

Govt. proposal:

Keep as is + opening phrase:

In humble submission to Almighty God

We the people declare that

ANC unmandated response:

- 1). Have a pre-amble with Xhosi sikelela in 6 languages
- 2). Open with the phrase:  
'Whereas all South Africans are endowed by the Creator with equal dignity and right.'
- 3). A possible alternative would be to 'create a new order under God' and add 14 (3) There shall be no State religion and no religious test shall be required as a qualification for any governmental office.

6) The ~~present~~ SADF, CDF, RDF and  
UDF and those non-statutory  
armed formations which so  
desire shall be integrated,  
consolidated and rationalised to  
to form the <sup>new</sup> SADF.

7) Pending the adoption of new  
legislation, the terms and conditions  
of service ~~existing~~ as laid down  
by the Defence Act 44 of 1957  
shall <sup>serve as the basis</sup> ~~continue to operate~~ in  
relation to the ~~new SADF~~  
national defence force.

Ch. 10.

Note - Jewish Person

Wards Councils - loaded

Sub-struct. wards.

- remove. of wards.

1). ~~The President shall be the C-in-C of the Defence Force.~~

1). The status, powers and functions of the SADF shall be as set out in this Constitution.

2). Art. XXVII

[no party pol. int.]

3). President shall be C-in-C!

4). A Dept of Defence headed by the Min. of Defence will be established to supervise the setting up of a unified SADF and to direct its activities.

5). There shall be one national defence force called the ~~SADF~~ with responsibility for the defence of the Republic

# 1. On the commencement

- 1) Const. governs.
- 2) Const. Principle XXVII (?)  
'Every member of the security forces
- 3) President (-in-(-  
[see powers]

4). All armed formations under control of Min. of Defence which shall:

(i) Integrate SADF etc +

non statutory into a single

(ii). Provide for interim <sup>national defence</sup> <sup>overall</sup> <sup>forces</sup> command structure.

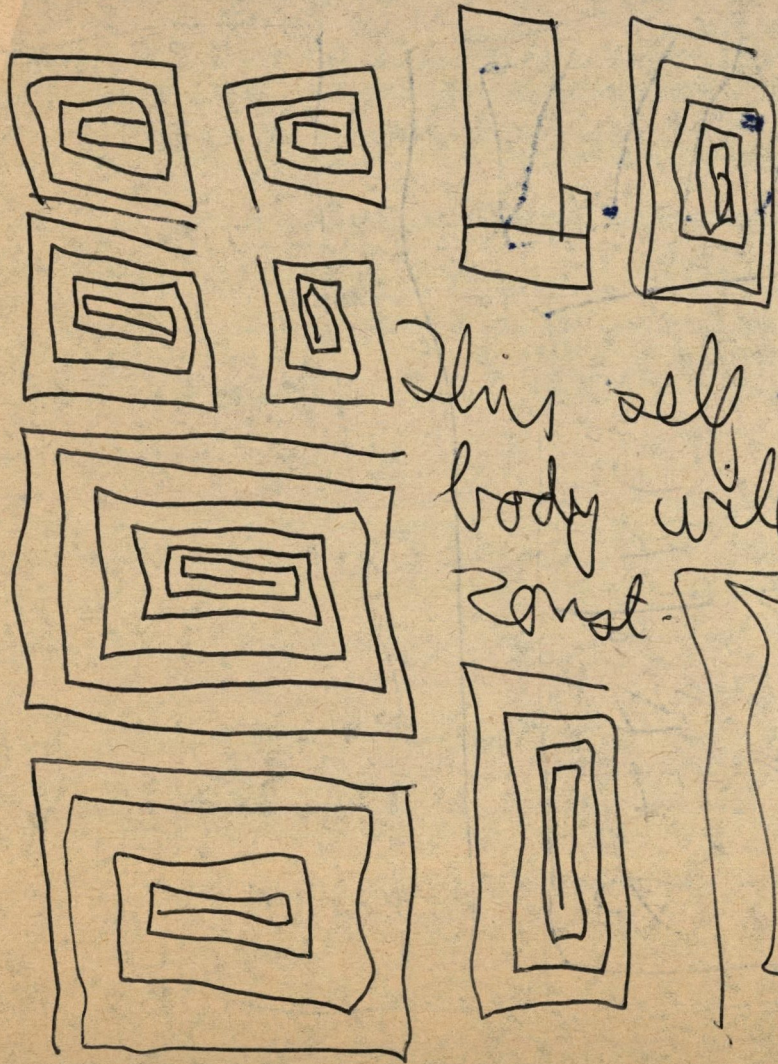
5). Interregnum [see other bilateral]

6). Continuity of jobs - of civil service



By committing themselves  
in the first paragraph to  
giving effect to the  
decisions of CODESA  
the Govt. & the majority  
parties in Parliament  
bind themselves to  
ensure that Parla.  
adopts the legislation.

We don't want a  
repetition of the problems  
of interpreting the  
Groote Schuur minutes.



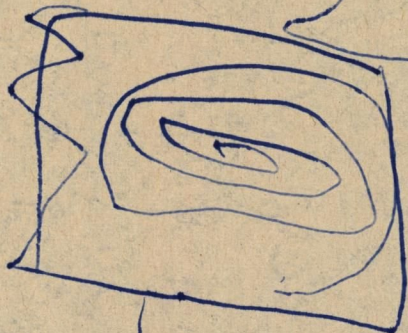
Decisions  
by majority/  
consensus

This self appointed  
body will see  
const.

Referendum  
- tree.

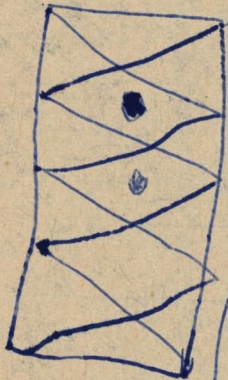
EMR -

Form -



Legally entr.

Int B of Rts.



# Distance

- ① CODESA - full potential
- ② Pop. density 200 - 4  
threshold: population

Referendum

Freedom Charter -  
for future

Pand.

Key issues

① no new elects for period  
of GNU.

② 77-6 - rot-basis ~~elec~~-presids.

③ 80-3,4 - alloc of parts,  
appt.

81-1. deputy presid -- preside  
meet'g of Cab.  
1/2 for Cab. decisions.

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118 - edue. 1, 2 & 3.

reintrod - environ - sched. 9.  
natl. party

languages - clause - sched 9.

concessions - fin fisc com - advise  
after consult. with SPR's

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Revel society.

2 tier .

ii) - deploy

We must include  
already agreed principles  
in a schedule - as part  
of the package.

Under inter alia.

Ask them if they  
are trying to walk  
away from the broad  
democratic principles  
in the commonalities?  
Guaranteed that the  
federal option is still  
open, what is controversial?



Albie,

I fear to see

the problem with

their proposal?

If it is a code  
enforced  
for power-sharing  
we must be careful!

Do we have a  
problems with his  
Summary?

Use the the meaning.  
i.e. word "domination".

Principles

① Potential foregoing.

Multi-party consensus-seeking.  
Minorities

Result

Public involvement

Limited role  
CODESA

Votes used  
Conv.

Violence.

Govt N Unity  
Healing

A Coer War  
Repetition

Remember - inter-  
cast ~~2~~ ~~mean~~.  
diffy -

Qualified  
Present Legisl -  
1910 - Gov.  
C.A. - <sup>leg</sup> ~~mean~~.  
- remains

Joint el. Lists converted

$\frac{2}{3}$  may. - 68%

400 - C.A. gov.  
too large,

DP -  
broadly based  
principles  
need.

# Threshold - package

Legislat. functions

complex

conflict of int.

Pol; admin a legal continuity

→ [Symbolical]

Legislat. 4 months.

start de novo.

① Ref. - Reg. Process

② Special maj. - figure

Workers 3  
Ratis: 4 regions. Round off.  
Lang, cult-ots.  
- mach.

③ Censensus.  
Part. -

Tricam  
dissolved  
Multi p. int. sec.  
Own  
No leg. -

- ① Maj. - device. 1 Party.  
Judges - 80% - 15%  
Negotiable
- ② PR - Direct represent.  
Hybrid.
- ③ Time periods - Const. Panel
- ④ Panel - C.A.  
Const. appt. panel.

① 1910 - TBUC

One refuses -

② Principles - part of  
concepts.

③ Referendum - elected  
decide.

④ Violence - abate

⑤ Large CA voter  
than small. 400-  
50,000 440.

⑥ Conflicts - here

Form. Constit -

Repres - States

Formula

Senate - small states

① Bicameral system.

Delegates - USA

② Great, Switz,  
2 houses.

③ Nationalism - nation  
Racism.

④ TRVC states - refuse -  
reincorp - Against bicam.



1.

CMB into Parlo.

When - Senate

CMB - not become auton.

first Lower House.

2.

When regional govt -  
interim admin.

3.

①  $\frac{2}{3}$  - suff to amend.  
If one party gains more.

② Best. Best P  
will have to be  
enforced

③ Delegates -

Bind whole nation -  
Min show Maj. in capitol

Issues specific to minorities  
- special maj.

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B of Rts.

Pressure -  
Commit

2/3 - hum. its. 3/4

Worst case scenario

Principles - binding

2/3

65 - 59  
Lecture 1

sectoral needs  
p. 2. - set up to create  
a body.  
where decided

Der

Adverts. proposed  
'simple maj.'  
Distasteful Argument.

Seeking consensus  
all-inclusive

$\frac{2}{3}$  - 4 months

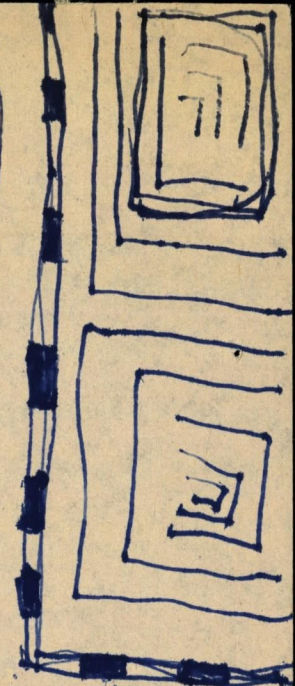
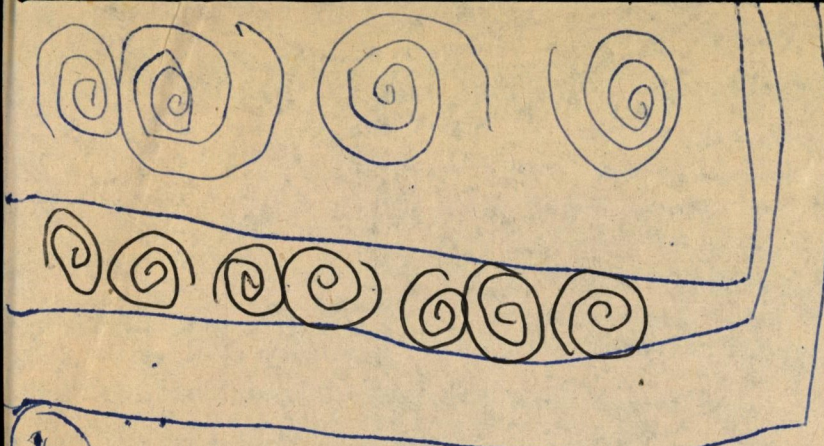
Const-making process  
- within Parls,

Bicam

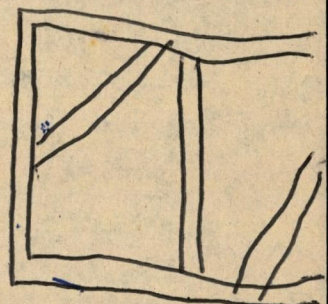
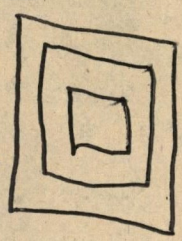
Tricam. case.

TRVC govt.

S govt state.

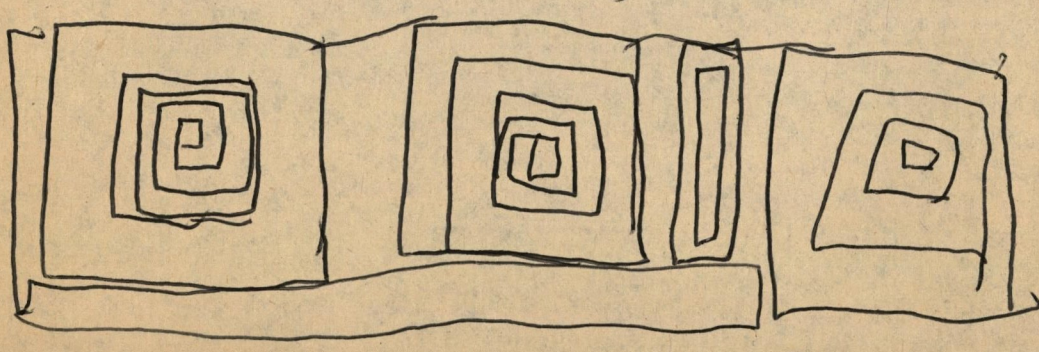


① Just popularly  
 elected ass.  
 test of Benst.



② Happy medium

Near consensus consensus



DECEMBER 4, 1991.

TO: DR ALBIE SACHS  
NATIONAL CONSTITUTION COMMITTEE  
AFRICAN NATIONAL CONGRESS  
FAX - (021) 222-626  
TEL - (021) 222-424

FROM: ADRIAN CLOETE  
JOURNALIST  
WEEKEND POST  
FAX - (041) 554-4966  
TEL - (041) 523-480

DEAR DR SACHS,

THANK YOU FOR TAKING THE TIME TO RETURN MY CALL THE OTHER DAY.

AS I MENTIONED ON THE TELEPHONE, MS JEANETTE SOLWANDLE OF THE ANC'S INFORMATION DEPARTMENT HAS GIVEN US OFFICIAL PERMISSION TO SPEAK.

I WAS IN THE AUDIENCE WHEN YOU DELIVERED YOUR LECTURE DURING THE HUMAN RIGHTS TRUST CONFERENCE IN PORT ELIZABETH RECENTLY. I'M GLAD I TOOK THE TIME TO LISTEN TO YOUR MESSAGE.

WE RAN AN ARTICLE ON "THE FOUR CONSTITUTIONAL PRINCIPLES WHICH EXPRESS VALUES SHARED BY ALL SOUTH AFRICANS", WHICH YOU EXPLAINED. I CAN SEND THE ARTICLE TO YOU IF YOU ARE INTERESTED IN READING IT.

FOR THIS WEEK'S PAPER, WE WANT TO FOLLOW UP ON YOUR COMMENTS SURROUNDING PROPERTY RIGHTS.

IN MY NOTES, I HAVE YOU SAYING:

"WHAT WE WANT TO DO IS TO RESTORE PROPERTY RIGHTS. YOU CAN'T JUST ACKNOWLEDGE EXISTING TITLES ESPECIALLY WHERE EXISTING TITLES WERE GAINED BY TRAMPLING ON THE PROPERTY RIGHTS OF OTHERS."

"YES, WE DO BELIEVE IN THE PRINCIPLE OF PROPERTY RIGHTS BUT WHERE PROPERTY RIGHTS HAVE BEEN TRAMPLED ON, THEY HAVE TO BE RESTORED."

WOULD YOU PLEASE TAKE THE TIME TO FURNISH US WITH FURTHER EXPLANATION ON THIS ISSUE.

SOME QUESTIONS WE HAVE IN MIND ARE:

- (1) WHAT WOULD BE THE ROLE OF THE LAND CLAIMS TRIBUNAL THAT YOU SPOKE OF?
- (2) WHAT ABOUT PEOPLE WHO WERE MOVED OUT UNDER THE GROUP AREAS ACT, FOR EXAMPLE EX-RESIDENTS OF DISTRICT SIX IN CAPE TOWN AND SOUTH END IN PORT ELIZABETH? WOULD THEY RECEIVE ANY FORM OF COMPENSATION UNDER A BILL OF RIGHTS ADVOCATED BY THE ANC OR UNDER AN ANC GOVERNMENT?
- (3) WHAT ABOUT THE PEOPLE WHO OWN PROPERTY IN THESE AREAS NOW? IS THEIR TENURE SECURE? WILL THEY HAVE TO CONTRIBUTE TO THE COMPENSATION OR AFFIRMATIVE ACTION PROGRAMMES, IN CASES WHERE THEY GOT THE LAND OR PROPERTY "FOR A SONG" DUE TO APARTHEID POLICIES?
- (4) YOU SAID THE ANC WOULD SUPPORT AFFIRMATIVE ACTION TO PROMOTE LAND OWNERSHIP BY BLACK SOUTH AFRICANS. WHAT TYPES OF PLANS ARE BEING CONSIDERED? HOW DOES THE ISSUE OF COMPENSATION FEATURE?
- (5) WHAT ABOUT FARM LAND?
- (6) HOW DO FARM WORKERS FIT INTO A NEW LAND DISPENSATION?
- (7) HOW WOULD THE MFENGU PEOPLE IN THE CAPE AND OTHER PEOPLES DISPOSSESSED OF THEIR LAND ACROSS THE COUNTRY BENEFIT FROM THE ANC'S IDEAS FOR A NEW CONSTITUTION OR NATIONAL LAND POLICY? AS YOU MENTIONED DURING THE LECTURE, A SUBSTANTIAL PORTION OF THE MFENGU LAND IS HELD BY THE STATE. BUT WHAT ABOUT THE PORTION OF LAND OWNED BY FARMERS?
- (8) ARE THERE ANY OTHER POINTS WHICH YOU FEEL SHOULD BE HIGHLIGHTED IN AN ARTICLE ON THIS ISSUE?

THANKS FOR TAKING THE TIME,

ADRIAN CLOETE

ENDS

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