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AFRICAN NATIONAL CONGRESS  
*Constitutional Committee*



RESOLUTION SUBMITTED TO CONFERENCE ON  
CONSTITUTIONAL PRINCIPLES, BILL OF RIGHTS AND  
RELATED ISSUES

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## PREAMBLE

Following the guidelines for negotiations set out in the Harare Declaration, it can be expected that when an All - Party Congress is convened, the ANC will seek agreement on the following issues:

1. Principles for a new Constitution for South Africa;
2. The mechanism for drawing up the Constitution;
3. The formation of an interim government;
4. The role of the international community; and
5. Steps to be taken by the regime to legalise the above processes.

A fundamental issue is the Principles and Structure of the new Constitution. In this regard there are clear differences between the Principles put forward by the ANC Constitutional Committee and the proposals of the South African government.

# CONSTITUTIONAL PROPOSALS OF THE SOUTH AFRICAN GOVERNMENT

The regime's proposals fall short of the principles contained in the Harare Declaration and endorsed by the international community including the United Nations Resolution of December 1989. They seek under the guise of "protection of minorities" to entrench minority domination and deny majority rule. The S.A. Government proposes:

## 1. STRUCTURE OF GOVERNMENT

The government wants a two-chamber parliament in which there would be one person one vote on the basis of universal franchise in the one chamber but seeks to entrench a group or minority veto in the second chamber.

## 2. POWER SHARING

The government's proposals with regard to the Cabinet (or Executive) and head of State, also seek to provide for "power sharing" which means the exercise of a veto by minority parties.

*THE RESULT: NO MAJORITY RULE !*

## 3. DECENTRALISATION OF AUTHORITY AND DEVOLUTION OF POWER

The government's proposals reject a unitary state. Its call for maximum devolution and decentralisation under the Constitution to the lowest levels will result in stripping the central parliament of power to effect social and economic transformation;

*THE RESULT: NO MAJORITY RULE !*

## 4. BILL OF RIGHTS

South African Law Commission proposes a Bill of Rights which entrenches existing property rights, the right to profit and freedom of dissociation (that is freedom to create apartheid groups). It really is a bill of rights for the privileged minority.

*THE RESULT: MINORITY DOMINATION !*

The government's constitutional proposals therefore fall far short of the demands of our people. They are in fact designed to frustrate our people's aspirations for majority rule, a non-racial democracy, social and economic justice and protection of the human rights of all people.

# THE CONSTITUTIONAL PROPOSALS OF THE AFRICAN NATIONAL CONGRESS

The ANC Constitutional Committee has published a number of documents which have been circulated amongst branches. The relevant ones are:

## 1. DISCUSSION DOCUMENT: PRINCIPLES AND STRUCTURES OF A CONSTITUTION FOR A DEMOCRATIC SOUTH AFRICA

## 2. A DRAFT BILL OF RIGHTS FOR A NEW SOUTH AFRICA

## 3. DISCUSSION DOCUMENT: ELECTORAL SYSTEMS

Basically the ANC proposals remain (as they have historically been) FOR MAJORITY RULE - not racial majority but elected non-racial majority rule - in the context of a unitary, non-racial, non-sexist democratic South Africa. This includes a multi-party parliamentary structure: a National Assembly (on the basis of a list system) and Senate, probably on the basis of a regional list system to provide for adequate representation for regions) elected without any regard to "race" or ethnicity.

## 4. CONSTITUTIONAL MECHANISMS

To ensure that there is no discrimination against any person on grounds of colour, religion or gender include the following:

- i) A democratic and participatory non-racial governmental structure at every level - central, regional and local;
- ii) A separation of powers between the legislature, executive and judiciary;
- iii) Territorial division of the country into regions and local authorities within the context of a unitary state;
- iv) All election by proportional representation to ensure a just system of representation;
- v) A Bill of Rights which provides not only for individual political rights but for social, economic, cultural, religious and environmental rights as well.;
- vi) An independent judiciary headed by a Constitutional Court;
- vii) The civil service, army and police force that function according to the principles of representivity, competence, impartiality and accountability; and
- viii) Constitutional provisions for addressing the historical inequalities and imbalances of the past.

## ENDORISING THE SENTIMENTS EXPRESSED ABOVE, CONFERENCE HEREBY RESOLVES:

To adopt the proposals submitted to it by the Constitutional Committee in respect of Constitutional Principles and Structures for a democratic South Africa; and to reiterate its commitment to a Constitution which incorporates the following principles:

(a) that South Africa shall be a non-racial, non-sexist, democratic and unitary State;

(b) that South Africa shall consist of the whole territory recognised by the international community and shall include the Transkei, Ciskei, Venda and Bophuthatswana;

(c) that Parliament shall be the supreme legislative body operating within the ambit of the Constitution;

(d) that Parliament shall consist of two Chambers. The first House of Parliament will be the National Assembly which will be elected on the basis of proportional representation based on a list system by universal suffrage in which all persons will have an equal vote without regard to race, gender, ethnic origin, language or creed. The Senate will be the second House of Parliament to be based on regional representation. It will also be elected on the basis of proportional representation based on regional lists and according to universal suffrage without regard to race, gender, ethnic origin, language or creed. *com-voters' roll.*

(e) that there shall be an entrenched Bill of Rights which shall guarantee fundamental rights for all on an equal basis irrespective of race, ethnic origin, colour, language, gender, status or creed along the lines set out in the Draft Bill of Rights and ~~the Amendments placed before Conference,~~

(f) that there shall be an independent and representative judiciary responsible for the interpretation of the Constitution and the application of the law of the land. A Constitutional Court that enjoys the respect of all South Africans, that draws on the experience and talents of the whole population, that functions in a manifestly fair and objective fashion, accountable only to the principles of the Constitution and Bill of Rights shall be set up;

(g) that the civil service, defence, police and prison service shall be restructured according to the principles of representivity, competency, impartiality and accountability;

(h) that all languages of South Africa will have an equal status - they will include in alphabetical order the following: Afrikaans, English, *Sindebok* ~~Sotho~~, Sesotho, Seswati, Tsonga, Tswana, Venda, Xhosa and Zulu. At the same time a language/languages of record - for national and regional purposes - will have to be adopted after broad consultation in all areas and regions of South Africa.

Conference further resolves to reject any constitutional framework or proposals which may have the effect of entrenching minority domination or of denying democratic non-racial majority rule.

