

MCH 91-18-3-13

Introduction:

The last version of the Constitution was drafted in a different period reflecting a different political situation, different forms of activity and different structures in the organisation. In 1958 the ANC was a Campaigning organisation operating within the limits of legality imposed by the racist state. The 1958 Constitution represented the high level of consciousness and discipline achieved by the campaigns of the epoch, and by adopting the Freedom Charter, became a landmark in the history of liberation. In the years that have followed, however, the evolution of our struggle has produced profound changes in the character of our organisation which render large parts of the 1958 Constitution obsolete.

At the structural level, the ANC now has a military wing, a security apparatus and representation in thirty or more countries. None of this is reflected in the 1958 Constitution. At the leadership level we still have the Presidency and the NEC, but no longer have a Chaplin, and a number of important organisational changes have been made since Morogoro.

In 1958 the ANC was the head of the Congress Alliance, and the four part structure meant four organisations with four Constitutions, and a special form of liason between them. Now in practice, the leading role of the African people is expressed in terms of what might be termed an African thrust and personality given to a single, intergrated organisation embracing all democratic and patriotic elements who accept its programme and discipline. Although for well-known reasons certain elements of the Congress Alliance still survive inside SA, internationally, in the underground, in the prisons and other areas of combat, the former organisational divisions have long disappeared. Interestingly enough, the farsightedness of the drafters of the 1958 version of the Constitution has meant that these changes had already been contemplated, with the result that the only alteration in this respect required today to the Constitution to bring it into line with the existing practice of the organisation would possibly be in relation to the Youth Section, though even here provision was made for the Youth League to be "open" to any persons of a stipulated age ( Sec. 7 B ).

WHY IS A CONSTITUTION IMPORTANT?

It is not the Constitution that creates the rights of members and the structures of the organisation. On the contrary, it was the struggle which has established the rights and duties of members and relationship of comradeship, as well as created the institutions. Nonetheless, the Constitution consolidates the advances already made; it tells our people, the world

and ourselves what sort of organisation we are; it is a compact point of reference outlining the essence of our organisation in terms of its principles and structures; it defines the internal relationships in such a way as to permit the orderly and correct resolution of disputes and differences, giving individual members a sense of security against abuse, on the one hand, and protecting the organisation as a whole and various structures from mischief-making and abuse on the other; it lays down basic guidelines for the functioning of the organisation, the regular holding of conferences, relations between higher and lower organs of the movement, and so on. It is both a beacon and a working document.

The Constitution is thus basically a political instrument that ~~it~~ to a certain extent <sup>is</sup> given a legal form. It is the Basic Law of the ANC, that emphasises the unity and inter-relationship of all the different sections of the organisation and the indivisibility of the ANC in all its zones and sections of struggle. One may envisage a set of inter-related documents; (ANC handbook)

1. The Constitution of the ANC.
2. The Programme of the ANC (Freedom Charter)
3. The Constitution of the component parts of the ANC, MK, Women's Section, Youth and Students Section etc.
4. A Code of discipline.
5. Strategy and Tactics of the ANC.

#### PROPOSALS re THE CONSTITUTION

Should it be a new Constitution or should it be an amended Constitution? The advantage of a new Constitution is that it would mark the advance to a qualitatively new phase, the evolution from a campaigning organisation of mass people's resistance to an insurrectionary organisation preparing the people for the seizure of power. The advantage of calling it an 'amended' Constitution is that it emphasises the continuity with the past and highlights the unique historical position of the ANC as leader of the people's struggle since 1912.

It is proposed that the term 'amended' be used for the reasons given.

A preamble? It is common for Constitutions to have preambles which give a certain resonance and ~~and~~ solemnity to the document, establishing the appropriate political tone, situating the Constitution in time and place.

It is proposed that consideration be given to the <sup>writing</sup> Constitution of a Preamble, that could be in the following terms, or other terms of equal generality and solemnity.

Whereas the ANC was founded in 1912 to defend and advance the rights of the African people after the violent destruction of their independence, and the creation of the white supremacist Union of South Africa; and

whereas in the course of fulfilling this historical aim, the ANC has emerged to lead the fight of all democratic and patriotic South Africans to destroy the apartheid state and replace it with a unitary, non-racial, democratic South Africa in which the people as a whole should govern and all shall enjoy equal rights; and

Whereas through the struggles and sacrifices of its members over the years the ANC has come to be internationally recognised as the authentic voice of the South African people and the organiser and inspirer of a vast popular upsurge, involving a great array of social, cultural and political organisations.

Therefore it is proclaimed that;

1. Name---

Proposal: That Clause 1 remain unchanged.

2. Aims and Objects;

Proposal: In line with the principle of continuity, these should be changed only when clearly necessary.

Thus para (a) (" To unite the African people ....") can remain;

Para (b) is really covered by para (a) and could be deleted.

Para (c) could remain.

Para (d) could be brought up to date by adding, " to defend African unity within the context of the OAU, to support the " Non-Align Movement and all anti-imperialist forces".

3. Membership;

(a) Can remain.

(b),(c) and (d) need to be up-dated as far as the procedures are concerned.

It is proposed that the Rights and Duties of members follow immediately, and should refer to the voluntary character of membership, the acceptance of discipline as part and parcel of being a member, and the absence of material advantage as a consideration. It might not be necessary to state in the Constitution that membership is open to all South Africans, since there are good reasons for accepting 3 (a) as it is. Spouses and other persons very closely connected with the struggle can be permitted membership in terms of NAC instructions or guidelines.

Proposed:

3 (a) As it is.

(b) Membership should be purely voluntary and based on dedication to the goals and ideals of the liberation struggle.

(c) The NAC shall issue regulations covering the procedure to be adopted

relation to admission of new members.

(d) New members shall make a solemn declaration in any of the six major languages of South Africa in the following terms;

" I,....., solemnly declare that i abide by the aims and objects of the ANC as set out in the Constitution and the Freedom Charter, that i am joining the organisation voluntarily and without motives of material advantage or personal gain, that i agree to respect the Constitution and the structures <sup>and</sup> to work as a loyal and disciplined member of the organisation, that i will place my energies and skills at the disposal of the organisation and carry out tasks given to me, that i will work towards making the ANC an ever more effective instrument of liberation in the hands of the people, and that i will defend the unity and integrity of the organisation and its principles, and combat any tendencies towards divisionism or factionism.

#### RIGHTS AND DUTIES OF MEMBERS.

Could remain basically as it is.

#### PART TWO ; ORGANISATION

This part needs to be completely re-structured so as:

1. Take account of the new circumstances in which we operate-the impossibility of thinking in terms of Provinces etc.
11. Include the Army and Security as defined structures, as well as Missions in different countries and RPO'S.
11. Re-think the composition of the NEC in relation to the new structures thus the offices of National Speaker, National Chaplain and , possibly, National Organising Secretary, could be replaced.  
Attention might be given to the special historical circumstances of having many top leaders in prison e.g., it would be possible to have a phrase that any members of the NEC at the time the ANC was banned in 1960 shall be regarded as ex officio members of the NEC. The exact position of each and appropriate title could be left to such time as each one becomes available to directly fulful functions once more.
7. Re-define the tasks and responsibilities of officials at different levels.
7. Determine the regularity and agenda of National Conferences.

#### DISCIPLINE

The Constituion could issue a general statement to the effect that discipline is essentially a question of political consciousness but that in certain circumstances where conduct seriously threatens the integrity of the organisation, appropriate penalties can be <sup>imposed</sup> taken. The NEC could then be empowered to adopt a Code of Discipline.

ANTHEM AND FLAG

Proposal: That Nkosi Sikeleli Afrika be adopted as the anthem, and the Black Green , and Gold flag be adopted as the flag- once more to emphasise continuity within the advancing revolutionary process.

