

In the next few weeks the African National Congress will unveil the most comprehensive and detailed picture ever of its vision for post-apartheid South Africa.

After two years of extensive discussion within the banned organisation, officials in the ANC's legal affairs department last month put the finishing touches to this picture - draft guidelines for a post-apartheid South African constitution. These draw on the experiences of more than a dozen African countries and at least a dozen others as disparate as Nicaragua and Sweden, Cuba and Britain.

By mid-year, says legal affairs department head Zola Skweyiya, the document will be sent for consideration to anti-apartheid organisations inside the country. This, Skweyiya believes, could set in motion a

process of debate not dissimilar to that which led to the drafting of the Freedom Charter in 1955.

The guidelines, the ANC hopes, will then be discussed at a seminar of anti-apartheid organisations towards the end of the year 'somewhere in the frontline states'.

From slogans to realisation

The ANC's draft document is unlikely to be published before the major components of the internal opposition have seen and commented on it.

But key elements of the ANC's draft constitutional guidelines have already been

pre-figured in ANC statements of the past two years - notably that the ANC favours a unitary, non-federal, multi-party democracy with a mixed economy.

Other elements in the guidelines, say ANC officials in Lusaka, are intended to create a

in the organisation itself and within the 'broad democratic movement' as a whole, Skweyiya and others emphasise that the resultant document will be no more than a guideline: 'There were initial suggestions that we should produce a complete constitution,

but we argued that the drafting of such a document could only correctly be drawn up by elected representatives of all the people of our country - ideally sitting as a constituent assembly'.

The struggle against apartheid will also affect conditions under which a constitution is finally drafted and implemented, he adds. 'And the nature of the transfer of power from the apartheid regime to the majority will obviously play a major part in defining the terms. An armed seizure of power will bring with it different demands

and requirements from those of a negotiated hand-over, assuming that is possible. From all these perspectives, compiling a final constitution would be inappropriate'.

Although the document contains constitutional guidelines rather than a comprehensive picture of post-apartheid South Africa, the several dozen papers delivered to an ANC internal seminar on the subject in the first week of March reportedly filled in many of the gaps.

No breaks with the Charter

The guidelines involve no major breaks with the Freedom

BUILDING ON THE FREEDOM CHARTER

The African National Congress is about to release proposed guidelines for a post-apartheid constitution. DAVID NIDDRIE reports.

legal and constitutional framework through which the aims and concepts contained in the Freedom Charter can be realised.

'An obvious example is the Freedom Charter's third clause: that the people shall share in the country's wealth', adds a senior official. 'The charter itself does not say how that will happen. Part of the reason for examining future constitutional options is to make it possible - to take the idea past the slogans and towards realisation'.

Despite the priority ANC leadership has given to the process of gaining consensus both

The ANC

Charter, although they incorporate some elements not included in 1955 (among them the right to strike, the exclusion of which has long been a source of criticism).

Not surprisingly, the guidelines envisage a non-racial, democratic and unitary post-apartheid South Africa.

Reflecting the ANC's overriding commitment to rid South Africa of its racist heritage, the guidelines envisage a complete ban on all institutions organising or structured on racial lines. 'Obviously the National Party would have no place in that society', says Skweyiya.

It is not yet clear where this leaves organisations such as Inkatha. Officials in Lusaka did not comment specifically on Chief Gatsha Buthelezi's Zulu-based organisation, although constitutional committee secretary ZN 'Job' Jobodwana said: 'We see parties like Inkatha and the bantustan parties as contributing nothing. Their tribal, ethnic base will act against the whole concept of a united, democratic South Africa'.

It would require far greater naivety than the ANC has demonstrated over the past decades to believe that closing down Inkatha would destroy the tribal chauvinism that the organisation has succeeded in constructing around itself. That, however, is a matter of practical legal implementation rather than for constitutional guidelines - the flesh of post-apartheid society, rather than its constitutional bones.

Although the ANC had already committed itself to a unitary post-apartheid state, the eight-person constitution committee, headed by Congress veteran Jack Simons, included in its search for an appropriate constitutional model several

countries governed federally - among them the US, Nigeria and Czechoslovakia (where they spent a week last year). They came away convinced of the necessity to retain unitary government. The ANC sees federalism as a possible way of weakening the ability of a democratically-elected government to control the pace and direction of change.

It is not yet clear whether the guidelines will be sufficiently detailed to give preference to an executive presidency over a prime ministerial system, but there appears to be consensus within the ANC in favour of the former. 'We must remember that almost the whole of Africa has opted for that system. In (immediate post-colonial) countries in need of visible and real symbols of national unity, an executive president can play a powerful role', says Skweyiya.

If this is the path chosen, the presidency of post-apartheid South Africa is likely to be a directly-elected post - closer to that of the US and France than South Africa's current system.

But a number of factors favour a more collective leadership structure. There is, firstly, the tradition within the ANC itself over its 23 years of illegality. While Tambo has, particularly in the last few years, increasingly acquired a more clearly-perceived presidential stature, the leadership remains strongly collective.

A second point is that, while the ANC baulks at any public debate on succession to the presidency, Tambo and the other obvious presidential candidate, Nelson Mandela, are both in their 70s. Ronald Reagan notwithstanding, the energy and physical resources required of the first post-apartheid president of South Africa may

demand a younger man. And so far, at least publicly, no single, unchallenged candidate has emerged - partially because of the organisation's emphasis on collective leadership.

The next stratum of democratically elected representation will, logically, be in a national parliament. A single, non-racial national parliament lies at the heart of the political demands of the ANC and its allies.

But there is within the ANC a strong dislike for the exercise of popular political participation only through voting in infrequent elections for a candidate who then departs for a distant national parliament.

So the guidelines lay much emphasis on third-tier representation in powerful, although not fully-autonomous, local government structures. 'In the GDR (East Germany) local authorities have substantial control over many areas of industry and exercise a large amount of autonomy. Local authorities therefore impact directly on people's everyday lives', adds Skweyiya.

What he envisages is a form of devolution which will incorporate the advantages of federal rule (with easier and more direct access to the corridors of power) while avoiding the regionalism which often develops as a result.

Education and the economy

Not surprisingly, in a country in which unequal education has provided the spark for some of the most bitter and sustained resistance to apartheid, the guidelines are emphatic on the need for free, equal and compulsory education in post-apartheid South Africa.

In addition, says Jobodwana, the post-apartheid state will provide 'financial assistance to the

The ANC

children of the working class to enable them to attend university'.

And in line with its emphasis that the guidelines themselves must be rooted in present realities, the ANC emphasises that the nature of post-apartheid education is, to a degree, being decided now. Its endorsement of the 'people's education' initiatives of the last three years has been not so much a matter of winning tactical advantage as supporting the construction of an education system capable of feeding into a future South Africa.

While the constitutional guidelines themselves give only an indirect image of the future economy envisaged by the ANC, the organisation has been engaged in extensive economic research for some time. And here, more than anywhere else, ANC officials emphasise that the manner in which apartheid ends will drastically affect the number and nature of options available to the first post-apartheid government.

It thus approaches the question of knee-jerk nationalisation with extreme caution. 'When the Zambians nationalised their mines, they took 51% of the mines' interests, leaving the remaining 49% with Anglo-American', says one senior ANC source. 'But there were no Zambians to run the mines - they had to rehire Anglo to do it for them. Anglo did it, through their hastily-formed, Bermuda-based Zamanglo.

'Zamanglo is still running Zambia's mines, and Zambia has to rely entirely on their goodwill - they can't check the books, can't verify the profits, the turnover, anything, because Zamanglo is off-shore.

'We must be careful to avoid that'.

Adds Skweyiya: 'Can we honestly say that on day one we will be able to replace all the skills, the entire skilled strata, with skilled managers, planners and workers of our own? Look what happened in so many African countries - the white settlers, the colonialists ran away - leaving the economies to crumble.

'Any policies we pursue must be developed with that permanently in our minds'.

Present strategies create future options, and the ANC's constitutional seminar reportedly heard strong arguments in favour of 'winning the professionals, the management-types away from apartheid to a less hostile perspective'.

Despite a recognition that clumsily-implemented nationalisation or transfer to worker control could be disastrous for a highly-vulnerable, immediate post-apartheid economy, the ANC is unlikely to back away from its 33-year-old Freedom Charter pledge that 'the mineral wealth beneath the soil, the banks and the monopoly industry shall be transferred to the ownership of the people as a whole'.

But current thinking within the organisation also appears to hold that acrimonious public debates on the precise details of the theoretical formulations of that process are, at this stage, a waste of time. The guidelines are, therefore, likely to be fairly broad on this aspect - firmly committed to a mixed economy without, for the present, defining the precise breakdown of that mix.

But if ANC economic forecasts contain a strong dose of pragmatism, they also contain a clear recognition of the centrality of organised workers both now and in the future. In addition to introducing the right

to strike, the guidelines foresee the constitutional entrenchment of the independence of the trade union movement. 'The (March) seminar was very clear that it did not want to see the trade unions tied in to the ruling party', Skweyiya said.

'We have also provided for the incorporation into either the guidelines or a future constitution of a workers charter - a charter of worker interests compiled by the workers themselves, through the trade union movement'.

Within the ANC there is also a powerful lobby, led by officials of the South African Congress of Trade Unions, on the right of all South Africans to work. While the immediate creation of a national social security system will not be easy in an economy weakened by the transition from apartheid, there is strong support for the Freedom Charter's guarantee that 'the state shall recognise the right and duty of all to work and to draw full unemployment benefits'. The draft guidelines are likely to reflect this.

Making formal rights real

A further major element of a post-apartheid constitution should, the ANC believes, be a bill of rights incorporating many of the ideals of the Freedom Charter - specifically those covered in the charter's sixth clause, 'All shall enjoy human rights'. But here too the draft guidelines will, say ANC officials, attempt to take the ideals 'past the slogans and towards realisation'. For example the guaranteed right to publish has been seen by a number of officials as being an insufficient guarantee on the issue of press freedom. 'Unless you guarantee the right to access to information by all South Africans -

something like the US Freedom of Information Act - the right to publish could be a very limited one', says an ANC official.

The second leg to this argument is a recognition of the necessity of creating the distributive infrastructure, and of access to the means to publish, to ensure that all South Africans are able to exercise their right to information.

While the guidelines themselves reportedly do not go into detail on the issue, ANC department of information and publicity official Victor Moche recently argued on behalf of the ANC for post-apartheid legislation prohibiting centralisation and monopolisation of the mass media.

Not a government-in-exile

The public appearance of the ANC draft constitutional guidelines, and the process of consultation which the organisation hopes will result in a wide-ranging consensus on a constitutional framework, do not mark an abrupt shift in ANC policy.

The process of formulating a collective ANC position on a constitutional framework for a post-apartheid society has been in motion for some time. But one of the reasons for the ANC's reluctance to pursue the drafting of a finished constitution - awaiting only liberation for its imposition on the country - has been its logical consequence: the declaration of an ANC government-in-exile. In the face of repeated suggestions from well-meaning friends, the ANC has held to the position (enshrined in the Freedom Charter) that only the people of South Africa, through a formal democratic process, can determine the legitimate government of the country. This has led, in

the past, to a hesitancy to build what one official called 'practicalities on the foundations of the charter'.

The strands only began to come together just over two years ago, when the political convulsions of 1983-84 combined with years of quiet ANC diplomacy to give it, in the eyes of even the most conservative Western administrations, unquestionable stature as a major player in the South African game.

This Western recognition brought with it intense scrutiny not only of the organisation itself, but of its strategies and - most importantly - its perspectives of the future.

Building on this, ANC President Oliver Tambo embarked on an extensive 'world tour' in 1986. 'We managed to use the Freedom Charter and more recent policy documents to end the often repeated challenge that we were trying to force socialism on an unwilling majority', says Skweyiya. 'Western leaders found that the charter contained nothing they themselves - whatever their political perspectives - would be unhappy with in any constitution'.

But if this greater awareness of the ANC's national-democratic objectives muted past accusations, it also brought - most recently and powerfully during Tambo's meeting with US Secretary of State George Schultz - a follow-on question: 'That's fine, but how do you plan to implement it?'

The need for a clearer answer than the ideals of the Freedom Charter added impetus to the process.

Similarly, says Skweyiya, the flood of interest in South Africa added further urgency. 'Post-apartheid research has become an international industry.

Pretoria itself is examining alternative constitutional models, and there is extensive research going on at Columbia University and elsewhere in the US, in Britain (where researchers have reportedly adapted the federalism of South African free marketer Leon Louw for their model), in West Germany and in Geneva.

'As a serious movement we cannot allow ourselves to be dictated to by outsiders on this issue - we have the experience of Zimbabwe and the Lancaster House constitution, and of Zambia which was handed a constitution by Britain.

'We will not get our freedom tomorrow, but our people need to start knowing what is involved. These are political issues, and should not be allowed to be the exclusive preserve of the intellectuals, of governments and of party politicians. This is something which should involve every member of the mass democratic movement, of the ANC and of Umkhonto we Sizwe', says Skweyiya.

Representation at the constitutional seminar was substantial, drawing delegates from virtually all sectors of the ANC and MK, and followed extensive debate within the organisations' structures.

The next stage, the ANC believes, is to draw other elements of the country's 'democratic opposition' into debate.

Whether by coincidence or design, this stage will peak towards the end of the year - as South Africans are going to the polls in countrywide local authority elections on 26 October. Because they are divided on rigidly racial lines, these elections will contrast sharply with the ANC guidelines.