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The National People's Party Of South Africa

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POSITION PAPER ON THE BALANCE BETWEEN CENTRAL, REGIONAL AND LOCAL GOVERNMENT

This is an important issue because of the distrust with which some of the parties view decentralisation or devolution of power and, in particular, any suggestion of a federation. Devolution is a general term which may be used to denote any form of delegation of power by a superior body (more specifically the central legislature or Parliament) to subordinate bodies such as regional or local authorities. A distinction may be made between legislative and executive delegation/devolution, and also between decentralisation and deconcentration of power. True devolution or political decentralisation implies the transfer of a real measure of decision-making power, while deconcentration or bureaucratic decentralisation refers to a limited delegation of authority which may be described as authority to implement the policies of the central government rather than autonomy to frame policy independently of the central government. Deconcentration may be said to lead to a system of local administration rather than local government.

A certain measure of devolution of power is desirable in any system of government, for the following reasons :

- "it promotes the dispersal of political power, thus avoiding an undue concentration of power;
- it permits a wider degree of local participation and involvement in the democratic process;
- it leads to greater efficiency because of greater sensitivity to local needs and conditions"

The important issue is to decide how much decentralisation is desirable in a particular community. There is an entire spectrum of possibilities that can be considered, from a fully-fledged federation to a highly centralised system in which local and regional authorities act purely as the agents of the central government and implement its policies to the letter.

Whatever form of devolution is chosen, there are a number of conditions which must be met if the system is to meet the requirements mentioned above (dispersal of power, local participation and greater sensitivity to local needs):

The most important is perhaps that the local or regional authorities which are brought into being must enjoy political legitimacy in the community they serve. This has proved to be the major obstacle to the effective functioning of non-white local authorities in the "old" South Africa, as we all know. There is no need to belabour this point. The bodies to which powers are delegated must therefore be truly representative, ie. elected on a fair, regular and effective basis by the people they profess to represent. In this respect there is no difference in principle between the requirements applicable to the process whereby the central government comes into power and the process whereby the smallest, most insignificant village council takes office.

Secondly, the local authority must have an adequate revenue base, otherwise any decision-making power it has will be valueless. This, too, is fairly obvious: if the central government controls all the purse-strings, there can be no real devolution. The fiscal policy of the central government is of crucial importance here.

The actual question to be answered is: what form of devolution is the best for this country? A federation in which the constituent parts or provinces enjoy a very high measure of autonomy is anathema to many because of the suspicion that this could leave the door open to the perpetuation of apartheid in one or more of the provinces; for example, if a province or region were to have the power to provide for whites-only state schools subsidised by taxpayers money. On the other hand, if there is a constitution with a bill of rights which is applicable to the whole country, and the bill of rights contains a non-discrimination clause (as it certainly must - this no longer seems to be in doubt at all), then the province in question will arguably not have the power to enforce any kind of apartheid in the formal sense, at any rate. (The potential for informal social, economic, non-statutory) apartheid to apply in certain spheres and geographical regions can never be discounted, as has been proved the world over).

The issue of regional autonomy cannot be separated from other burning questions such as the self-determination issue, which in turn is closely linked with the right to associate or dissociate. One must ask whether it would not be more conducive to peace and racial harmony to permit those who do not wish to mix socially and educationally with other races, to dissociate rather than to compel them to integrate. Perhaps the Namibian solution is worth considering: no state school, to use the education system as an example once again, may refuse entry to a pupil on the grounds of race or colour; persons or organisations that want to establish racially exclusive schools are not forbidden to do so, but they receive no financial assistance from state funds.

One of the important issues relating to the balance between the central government and regional authorities is the role that the courts will have to play in maintaining this balance. It is generally agreed that South Africa's new constitution will confer on the courts a testing power not only in respect of the rights protected in the bill of rights, but also in respect of structural matters such as the separation of powers between the legislature, executive and judiciary, but also between the competing claims of the central and regional legislatures and executives. Their task will be to guarantee as large a degree of local autonomy as is consistent with the objectives of the country as a whole: this means that local autonomy should not be such that it has a divisive effect, because that is something we cannot afford. On the other hand, as explained above, if too great a measure of conformity is foisted on the people at grass-roots level, this could in itself prove divisive. The courts will therefore have to display a considerable subtlety and sensitivity in this sphere.

One fact that emerges is that the adoption of a system of federalism or regionalism in South Africa would not have the effect of entrenching white supremacy in any region in the country, as there is no region in which whites are in the absolute majority numerically. Another is that the success of any system of regional or local government will depend almost entirely on the commitment of all parties to it.

In addition we have to take care to avoid a system which creates the impression that the more affluent regions (in effect the urban, industrialised regions where most of the white population lives) will be able to hoard scarce resources rather than share them with poorer regions, for obvious reasons. A geographical division which leans too heavily on present "homeland" boundaries is therefore unwise.

A system whereby regions are represented in the central government, for example in the second chamber of the legislature, merits serious consideration. Again the Namibian Constitution may be cited: structures of regional and local government are accorded express recognition in the constitution (art 102 - 111), and the most important point to note is that the second chamber of parliament (the National Council) is composed of two members from each region, elected from its own ranks by the members of the Regional Council from that region.

To sum up: some form of devolution of both legislative and executive autonomy to regional and local authorities is desirable; this should in no way be a pretext for the entrenchment of the status quo; everything possible should be done to ensure consensus so that both the white fears of domination by an impersonal central authority, and other fears of an entrenchment of apartheid in another guise, should be allayed; the role of the courts in maintaining the required balance is a vital one; and it is suggested that some form of regional representation in the central legislature (and perhaps even the central executive) be given very serious consideration.

In terms of powers - some should be pre-determined and become part of the constitution and thus apply uniformly to all regions and some must be flexible.

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