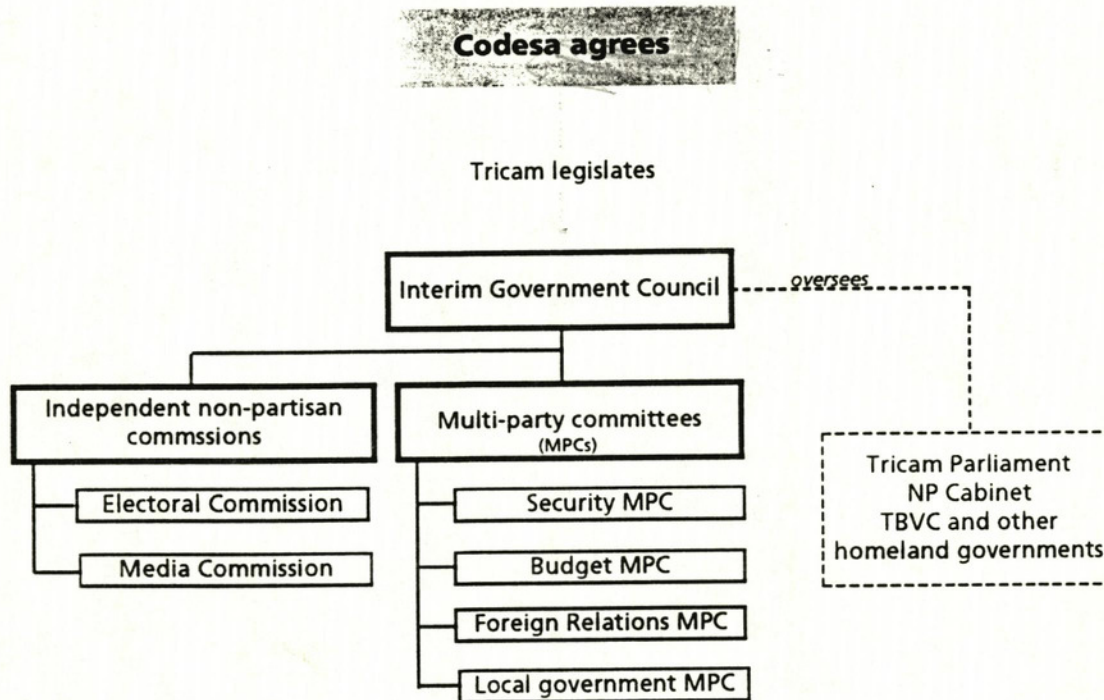


Phase I: An impartial referee



Elections for Constituent Assembly

Interim structures in this phase will be charged with the task of levelling the playing field. They should ensure equal treatment for all organisations, especially in the election campaign.

Three categories of structures will be needed:

1. Independent commissions appointed by Codesa and non-partisan in their composition:
 - Electoral Commission – made up of South Africans of integrity to organise and supervise elections. It will have sole and exclusive control of the electoral process, with powers to validate or invalidate election results.
 - Media Commission – made up South Africans of high standing to ensure fair and balanced reporting. Emphasis will be on an Independent Communications Authority which will take charge of all state broadcasters and appoint new boards. This will also cover the TBVC territories. (See page 45)
2. Multi-party Committees to take charge of the most important areas: security, the bud-

get, foreign relations and others such as local government. They will have complete control over these areas.

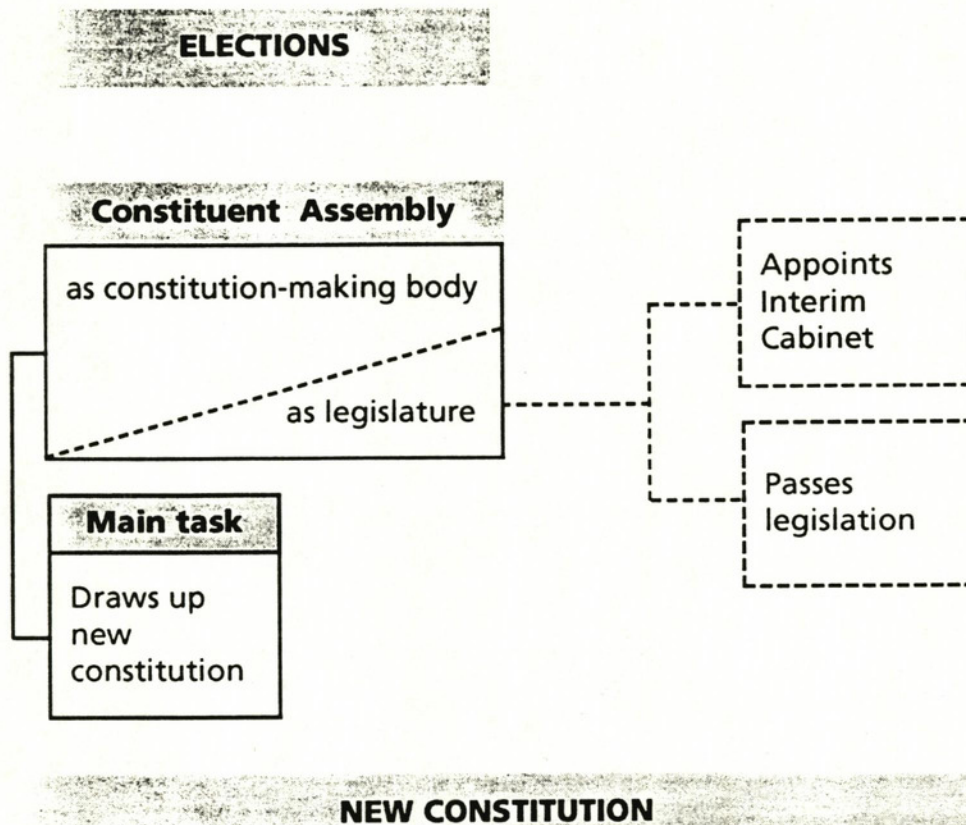
3. Interim Government Council: A body made up of parties in Codesa which oversees the tri-cameral parliament, the NP cabinet and structures in the TBVC and self-governing territories. It can veto as well as initiate legislation. Tri-cameral parliament to dissolve either when elections are declared or when the Constituent Assembly is elected.

The international community should be intimately involved at various levels. In particular, organisations which were represented at Codesa 1 should help supervise elections. Preferably, they should be integrated into at least the Electoral Commission.

Attention needs to be paid to the place and role of socio-economic forums. (See page 29)

The period between the legislation of Codesa decisions and elections should not exceed six months.

Phase II: Sovereign structures



1. The Constituent Assembly (CA) will be elected on the basis of proportional representation. All South Africans 18 years-old and above will be eligible to vote. Some form of identification will need to be agreed upon. Parties which receive 5 per cent and more of the vote will have seats on a proportional basis in the CA.
2. The CA will operate both as a constitution-making body and as a legislative assembly.
 - When it operates as a constitution-making body (the main task) it will take decisions by a two-thirds majority.
 - As a legislative body it will pass legislation relevant to the transition and operate on the basis of consensus. It will also appoint an interim cabinet, preferably from all the parties in the CA. The interim cabinet will also strive to operate by consensus.
3. The constitution-making process should not exceed nine months. Incentives/penalties should be worked out to ensure that this is adhered to. This should apply to all parties.
6. The constitution could include "sunset" clauses to help ease the country into full-blooded democracy.

THE ANC'S PROPOSALS ON INTERIM GOVERNMENT

The ANC's attitude to interim government is well known. We want an interim government for the limited purpose of supervising the transition to democracy. That should be a comparatively short period - a matter of months rather than years.

There are a number of reasons why an interim government is required during this period, and what is important to us is that the interim government should be structured and should function in a way that will enable it to serve the purposes for which it is required. We would be willing to give serious consideration to any structure that adequately meets these purposes.

To begin with we stress that as far as we are concerned interim government is not itself an end. It is a necessary part of the process of establishing a democratic order in our country. This should be the clear and only purpose of an interim government. Codesa should not concern itself with structures whose purpose is to delay or frustrate the coming of democracy.

Since we see interim government as part of a process we cannot talk about it in the abstract. We have to relate it to the constitution making process which means that the debate and discussions in this working group will be influenced by and in turn could influence the debate and discussions in the other working groups.

The ANC is firm in its position that the new constitution should

itself be the result of a democratic process, and should therefore be decided upon by an elected Constituent Assembly. The role of the interim government is to supervise the transition from the time when agreement has been reached on the process, until the time when the work of the Constituent Assembly is completed and a parliament has been installed in terms of the new constitution.

For most of that time the country will be preparing for the elections and the crucial tasks of the interim government will be to ensure that the elections are fair and free and that government is conducted without favouring any of the parties who are participating in the elections. None of the parties should be able through the use or abuse of governmental power, to influence the outcome of the elections. It is for this reason that the ANC has always placed emphasis on the role of an interim government in relation to the electoral process, the public media, the security forces and the budget.

The primary role of an interim government will be to ensure that during the transition to democracy there will be peace and stability, that the elections are fair and free and that government continues to function at its essential levels. No contentious legislation should be enacted, and no contentious executive action should be taken during this period. We see it as a period during which there should be government by consensus or substantial consensus. It will be a comparatively short period and the interim government will fall away as soon as a new

government is installed in terms of the new constitution.

What is also important to us is that all apartheid structures should be removed during this period. That is why our proposals are linked to the reincorporation of the TBVC states, and an end to the tri-cameral parliament and other apartheid legislatures.

It is also important to us that the interim government should have legal form which means that the structures and powers of the interim government must be defined in legislation and that where necessary amendments should be made to the existing constitution.

For the preliminary period at any rate - that is the period prior to the elections - we can see no alternative to an interim structure or structures being established that will be vested with appropriate legislative and executive powers in regard to:

1. At least the electoral process, the security forces, the public media and the budget.
2. All other action that is considered necessary for proper government during the interim period.

Our proposal is that an Interim Government Council be appointed by Codesa to co-ordinate and supervise the existing administrations, and that the Interim Government Council be vested with legislative and executive functions to be exercised in accordance with procedures and structures to be determined by Codesa.

Once the elections have taken place there are two possibilities that can be considered. Either the Interim Government Council continues to function in the agreed manner until the Constituent Assembly has completed its work and a new parliament is in place, or the Constituent Assembly is vested with sovereign powers so that it functions both as a constituent assembly and as a legislature until the new constitution has been adopted.

We are still considering the implications of the suggestion that the Constituent Assembly be vested with sovereign powers and do not yet have a firm position on this issue. What concerns us is that the Constituent Assembly should not be diverted from or in any way hindered in achieving its primary purpose which will be to adopt a new constitution. The processes of constitution making and legislating should not be conflated. Procedures and decision making processes which are appropriate for an elected interim government may not be appropriate for an elected constituent assembly, and the two functions should therefore be kept distinct. Above all the process must not be delayed and we would be opposed to the adoption of any processes or structures which would have that result.

There is possibly a way in which our proposals and those of some of the parties who have already stated their positions can be brought together so as to meet the purposes that we have identified as the essential purposes of an interim government. We are willing to explore such possibilities.

The timing of the dismantling of the apartheid legislatures may depend on the process and structures adopted, and we are willing to consider suggestions made in that regard. Our firm position is, however, that this should be part of the process, and should be accomplished by the time that the Constituent Assembly is established.