

SUBMISSION BY THE AFRICAN NATIONAL CONGRESS TO W.G. 4 SUB
COMMITTEE 1 ON TESTING THE WILL OF THE PEOPLE

1. INTRODUCTION

The terms of reference of Sub committee 1 must be considered within the context of the terms of reference of W.G.4. In the terms of Reference of W.G.4, the parties recognise the "need to provide for the meaningful and democratic participation, of all the people living in the TBVC states in the process of drawing up and adopting a new constitution for South Africa as well as in all possible transitional arrangements."

This means it is imperative in working out recommendations to WG4 to ensure that the people in the TBVC States do in reality participate in the constitution making process as well as the transitional arrangements.

2. OBJECTIVE

Working Group 4 (including Sub-Committee) must work within the framework and objectives as set out in the Declaration of Intent which speaks of bringing about an undivided South Africa and creating a South Africa which is united, democratic, non-racial and non-sexist. The Terms of Reference of W.G.4 and the Declaration of Intent, must therefore, guide the proposals with regard to the issue before us.

3. BANTUSTANS ARE APARTHEID CREATIONS

Each of the TBVC States was created by a Statute of the South African Parliament (the various Status Acts). This form each part of a pattern which unfolded with the passing of the Black Authorities Act No.68 of 1951 followed by the National States Constitution Act of No.21 of 1971 and finally completed through the various Status Acts granting "independence" to Transkei, Venda Bophuthatswana and Ciskei.

This fragmentation of South Africa was never accepted by the people of South Africa nor was it recognised by the international community. In terms of international law, the creation of so-called independent Bantustans is illegal. In this regard we refer to the document annexed hereto.

4. TESTING OF WILL

In our view, for us to embark upon an exercise of testing the will of the people in each TBVC State separately is to condone and accept the crime which was committed by apartheid.

The present government which imposed the Bantustan system upon our people bears great responsibility to facilitate the process of reuniting our country. Other parties and organisations which are part of CODESA are also duty bound to hasten the process of reincorporation. Correcting the wrongs committed by apartheid requires nobodys' consent.

Of course there should be a process of testing the will of the people. We in ANC regard it as a matter of principle that the wishes of people should be ascertained and that the people should be involved in constitution making. Indeed our whole struggle against the present Government has been for Government with the consent of the governed.

For CODESA to embark upon a process of a separate referendum in each TBVC State or separate testing of will in some other form is tantamount to accepting or condoning apartheid and what apartheid has done to our country. It must be borne in mind that in the so-called Republic of South Africa itself, the voteless majority have not been consulted nor have THEIR wishes been sought. Why should their will also not be tested? In our view therefore the process of testing the will of the people must involve the whole of the South African people on a non-racial basis.

Not one single country has recognised the present fragmentation of South Africa. The international community regards South Africa (inclusive of the TBVC States as one country. The ANC shares this view. How then is the will of the South African people (which includes the people of the TBVC State to be ascertained.

5. ANC VIEW

The ANC's view is that this can and should be done by making the constitution making process truly democratic. All the people of South Africa must be afforded the opportunity to participate meaningfully in the constitution making process and all transitional processes. The ANC proposals for making the process democratic and in this way testing the will of the people have been submitted to Working Group 3 and 4.

In our view there is no alternative to our proposals if we are truly concerned about ascertaining the wishes of the people.

What is the alternative to the ANC proposal? The alternative is to embark upon separate "testing of will" exercises for the TBVC States.

The implications of this are;

- 5.1. The implication of this is that the people of the TBVC States are not South Africans.
- 5.2. It also means that when a process of "testing the will" is to take place in the R.S.A., they - the people of the TBVC States will be excluded. In the constitution-making process in R.S.A. they will be EXCLUDED. In the transitional arrangements they will be EXCLUDED. (This incidentally is the intended effect of the S. African Government and National Party's proposals).
- 5.3. It means further that should re-administration of a TBVC State decide to secede or go its own way, it can do so. Surely this is totally out of the question.
- 5.4. Separate testing of Wills in the South African context is also tantamount to perpetuating racist and ethnic solutions - which is what apartheid is all about. The ANC does not accept such an alternative.

6. CONCLUSION

In the view of the ANC therefore one of the first steps which must be taken is to restore the integrity of our country so as to make it possible for the process to proceed democratically and in accordance with the wishes of the people.

Those who bear the greatest responsibility, particularly the South African Government as well as the TBVC States should act with this in mind.