



THE BISHOP OF NATAL
UMBHISHOBHI WASENATALI
DIE BISKOP VAN NATAL

P.O. BOX 899
PIETERMARITZBURG
3200

PHONE: OFFICE 941560
HOME 455698
FAX: 948785

THE RT. REVD. MICHAEL NUTTALL M.A., B.D.

24 February 1992

The Chairman,
Working Group on Constitutional Principles,
CODESA,
P.O. Box 307,
ISANDO. 1600.

Dear Sir,

On behalf of the Bishops of the Church of the Province of Southern Africa I am enclosing for your information and interest, and that of your CODESA Working Group, a copy of a booklet called "Outlines of a Christian Response to the Constitutional Debate for a new South Africa", which we have produced as a contribution to the debate on a new, democratic South Africa.

We hope that this document may prove helpful. I would be grateful for an acknowledgement of it.

Yours sincerely,

Michael Nuttall.

[Box 53 folder 50]

CHURCH OF THE PROVINCE OF SOUTHERN AFRICA



**OUTLINES OF A CHRISTIAN
RESPONSE TO THE
CONSTITUTIONAL DEBATE
FOR A NEW SOUTH AFRICA**

PREPARED BY THE SOUTHERN AFRICAN ANGLICAN
THEOLOGICAL COMMISSION, AND ENDORSED FOR
STUDY BY THE SYNOD OF BISHOPS

Outlines of a Christian Response to the Constitutional Debate for a New South Africa

Prepared by the Southern African Anglican Theological Commission, and published in November 1991 by the CPSA Publishing Committee, PO Box 61394, Marshalltown, 2107, South Africa.
Designed and typeset by Cyril Pink Frog DTP, Cape Town.

Contents

PREAMBLE	1
PREFACE	2
1. Hopes and aspirations, griefs and fears	2
2. Historical Background	2
3. A Christian Response	3
4. Implications	4
GUIDELINES TOWARDS A NEW CONSTITUTION	5
5. Democracy	5
6. Religious Freedom	5
7. Sexism	5
8. Bill of Rights	6
9. Law and the Judiciary	6
10. The Freedom of the Press	7
11. Economic Systems	7
12. Labour	7
13. Land and Resources	8
14. Local Government	9
15. Accountability and Social Responsibility	9
16. Family Life	9
17. Health	10
18. Education	10
19. Security and International Relations	10

PREAMBLE

AS South Africa moves towards a new phase in its history, the Bishops of the Church of the Province of Southern Africa have been involving the members of the church in working out guidelines for a future constitution for South Africa.

The intention of this exercise is not to prescribe to political parties what their programme should be, but rather to present what we as Christians and Anglicans see as basic foundations for a new society.

The following proposals represent fruits of the deliberations of more than fifty Anglican theologians of the Southern African Anglican Theological Commission, as well as many hundreds of clergy and lay members of the church, and have been reviewed and warmly endorsed by the Synod of Bishops as a basis for an Anglican contribution to the debate.

PREFACE

1. Hopes and aspirations, griefs and fears

- 1.1 Human life is, always and everywhere, lived with a mixture of hopes and joys, griefs and fears. Many of these are occasioned by social, economic and political realities of the historical moment.
- 1.2 Conflicts of interest mean that the hopes and aspirations of some are the anxieties of others, and that the joys of some become the fears and disquiet of others.
- 1.3 Hopes and aspirations generate the zeal to struggle for their realization. The intensity of that struggle can frighten and unsettle those who stand to lose as these aspirations begin to be realized.
- 1.4 Fear and anxiety lead people to close ranks in defence of their interests, often setting up oppressive structures to maintain them. Zeal for change can also generate destructive violence.

2. Historical Background

- 2.1 Such clashes of hopes and fears and the heightened conflicts to which they have led, make up much of South African history.
- 2.2 Amid the joy and hope of building a new South Africa, it is important to name the experiences of the past which have been marked by selfishness and suffering, struggle and conflict.
- 2.3 The S.A. reality is one where a racial minority with military superiority has
 - (a) Taken land and denied most of it to the majority of the country's people;
 - (b) Written a constitution and created a political process which excludes the majority;
 - (c) Made laws that create and protect economic privilege for the minority, thereby making all these acts of dispossession, exclusion and denial 'normal' and 'legitimate';
 - (d) Built a security apparatus to preserve for itself the gains of more than three centuries.
- 2.4 All the inequalities common to many societies have been aggravated by the racial policies and attitudes in South Africa.

PREFACE

- 2.4.1 These inequalities have led to a volatile climate, marked by social upheavals, and ethnic and racial suspicion, in which poverty and violence are endemic.
- 2.4.2 These inequalities and racial policies have further led to the present crisis in education.
- 2.4.3 The worldwide experience of sexism and the exploitation of women, including legal and customary discrimination, has been exacerbated and perpetuated by apartheid.
- 2.4.4 Those who have had limited access to legal and constitutional protection have included the poorest of the poor: the unemployed and the under-employed, children, the elderly, the disabled, farm and domestic workers, the illiterate, school drop-outs.
- 2.4.5 With some exceptions, those with money and privilege have not only protected their interests, but also used the law as an instrument of oppression against the weak.

3. A Christian Response

- 3.1 Christians believe that God created human beings in love. He endowed them with dignity and called on them to respect one another and the world in which they lived. Through their own free will, they departed from God's intention for them and have fallen under the destructive power of sin.
- 3.2 Human society tends to reflect the fallen state of humanity. Much of Old Testament law and the witness of the prophets attempted to restore and maintain human dignity and mutual respect by enshrining the love of God in social justice, expressed in law and economics. In his life teaching, Jesus endorsed and extended these principles; and by dying and rising he became the source of grace through which the power of sin is finally broken. In Christ, Christians are called to be agents of re-creation, committed to God's work of redemption and healing.
- 3.3 Jesus proclaimed the reign of God. He taught that it relates to the poor in a special way: 'Blessed are you poor, because yours is the reign of God' (Luke 6:20). He rejected the legalism of some of the scribes and pharisees who laid heavy burdens on people. He broke the sabbath law, as it was then interpreted, in order to affirm something greater: the welfare and dignity of the human person made in the image of God ('The sabbath was made for man, not man for the sabbath', Mark 2:27-28; 3:1-6; John 7:23). Jesus presents people with the law of love, a love that respects others and gives itself for them, which becomes for Christians the principal way of ordering all our social relationships.

PREFACE

- 3.4 In South Africa, Christians have failed to follow this law of love, and must repent and seek forgiveness. Nevertheless this law of love remains a fundamental principle, beneficial for all people, which needs to be taken into account in the formulation of the new constitution. It leaves no room for exclusive privileges and the protection of selfish interests, but addresses instead the equality and worth of all. Love and justice are not opposites; indeed just social arrangements are one way in which God's love should be expressed.
- 3.5 Throughout history, people have struggled to maintain human dignity and protect human rights against the pressure of vested interests. Today's citizens are called to continue that struggle. Although an ideal society can never be fully realized, South Africa's new constitution should be part of the process of securing greater justice, protection and freedom for its people. For Christians, that same process is an entering into God's work of extending his reign.
- 3.6 Jesus showed the love of God for his broken creation in laying down his life to bring together in one new humanity those forced apart by ancient and contemporary conflicts. In South Africa, the barriers erected and the destruction caused by apartheid are directly addressed by the hope of healing and genuine reconciliation which his message offers.

4. Implications

- 4.1 Arising from our faith in the person and message of Jesus, we as Christians want to see a constitution for our country which creates a caring society. For us, it therefore has to:
- redress the evils of the past
 - act positively to overcome the disadvantages resulting from past injustices
 - protect the weak, the dispossessed and the marginalized
 - respect the dignity and worth of all
 - safeguard citizens from the greed and aggression of others
 - protect the environment
 - enshrine the values of truth and freedom, justice and peace

GUIDELINES TOWARDS A NEW CONSTITUTION

5. Democracy

- 5.1 Since all human beings have been created in the image of God, they have a share in the freedom which, in its fullness, belongs to God alone. They exercise this freedom in the context of their society by responsible participation in government at all levels. This is what we understand by democracy.
- 5.2 An experience of democracy is emerging in the struggle in South Africa. We call for a democratic, non-racial, non-sexist, unitary South Africa. This implies the dismantling of the homeland system, but does not specify the exact form this unitary state will take. It must have a multi-party system with universal adult suffrage, regular accountability to the voters, government in the interests of all people.
- 5.3 Democratic processes require that the rights and dignity of all be upheld. Internationally accepted mechanisms which may contribute to upholding these rights, such as proportional representation, should be investigated.
- 5.4 The right of dissent is an essential component of democracy, and must be safeguarded.

6. Religious Freedom

- 6.1 Jesus commands Christians to proclaim the Gospel (Matthew 28:18-20), but allows individuals the freedom to follow him or to turn away (Mark 10:17-22). Compelling others of another faith, or of no faith, to follow any religion against their wills, is offensive and unacceptable.
- 6.2 The State should be secular and should affirm those of different religions and those who have none. Each person should have the freedom to propagate his or her faith as long as it is not oppressive to another. The State should guarantee religious expression and freedom of conscience.
- 6.3 For Christians religious expression is understood to include the constraint to work for justice and peace, and to address the conscience of the nation.

7. Sexism

- 7.1 The theological understanding of man and woman as both representing the image of God (Genesis 1:27; 5:1-2) was given a new depth of meaning by

GUIDELINES TOWARDS A NEW CONSTITUTION

Christ (as Paul pointed out in Galatians 3:28). We recognize that women have been exploited and discriminated against. Exploitation and harassment must be outlawed and the rights of women to participate equally at work and at home, and in society at all levels, must be protected within the Bill of Rights.

8. Bill of Rights

- 8.1 Each person is created in God's image and has an obligation to use and develop the gifts he or she has been given for the good of the whole community. Each person, therefore, irrespective of race, colour, sex or creed, has a right to life: to live where he or she wills within the bounds of just law, to be educated, to work, to speak, to worship, and to be protected by the State. These rights should be enshrined in the Constitution and should be enforceable in a court of law.
- 8.2 Each has the freedom to associate with whom he or she wills. No community or group can claim for itself special human rights which do not belong to others. The propagation of racism must be prohibited in terms of the new constitution.
- 8.3 Holding a passport is not a privilege but a right of every citizen and should be enshrined in the Constitution.
- 8.4 The Bill of Rights must protect the rights of children against exploitation and abuse.
- 8.5 South Africa must subscribe to the Geneva Protocols, the United Nations' Universal Declaration of Human Rights and the African Charter of Human Rights.

9. Law and the Judiciary

- 9.1 The justice of God, revealed in the Old Testament and Gospel, must be reflected in a just ordering of society, guaranteed by the legal system and judiciary.
- 9.2 The Rule of Law must prevail.
- 9.3 The law of the land shall be framed to secure justice, with both internationally accepted legal principles and African jurisprudence in mind.
- 9.4 The Constitution must guarantee the independence of the judiciary.
- 9.5 The Courts must guarantee and interpret the Bill of Rights.
- 9.6 The right of *habeas corpus* should be upheld. Those arrested should have the right to adequate legal protection and to visits from their family. There must be no detention without trial. Legal process should be speedy and sentencing should be consistent. All must have access to legal resources.
- 9.7 Capital and corporal punishment must be outlawed.

GUIDELINES TOWARDS A NEW CONSTITUTION

- 9.8 Anyone arrested or duly sentenced must be humanely treated and torture must be outlawed and prevented. The Bill of Rights should guarantee certain rights to all prisoners, including: legal representation, medical treatment, and access to family and religious ministrations. Prisons should be regularly inspected by an independent body.

10. The Freedom of the Press

- 10.1 The freedom of the press must be guaranteed in the constitution.
10.2 The press must be responsible to the people.

11. Economic Systems

- 11.1 We recognize that it is not possible to determine on theological grounds the most suitable form of economic system for the welfare of the community as a whole in the complex life of the modern world. Christians are called to express God's care for all people and for his whole creation, and are concerned for the material as well as the spiritual welfare of people. Therefore an acceptable economic system ought to reflect the following principles:

- (a) Recognition that the acquisition of wealth is not the prime objective of human life.
- (b) Adequate provision for the livelihood, health and welfare of all, with special attention to the needs of the children, the old, the unemployed, the sick, the handicapped and the unemployable.
- (c) Encouragement to all citizens to participate in the economy by providing opportunity for all to realize their true potential.
- (d) Recognition of the value of every human being, so that people may not be exploited or used merely as a means for the profit of others.
- (e) Recognition of the dignity of work and of the contribution of labour to the common welfare. To this end adequate wages and conditions of employment are needed.
- (f) Equitable distribution of the wealth of the country, leading to the overcoming of vast disparity between the wealthy and the poor.
- (g) Need of legislation to control monopolies so that they do not lead to the acquisition of private profit at the expense of the general welfare.

12. Labour

- 12.1 Work is given importance and dignity in the Bible and contributes to the common good (Ephesians 4:28).
12.2 Access to employment and adequate and safe working conditions are essential components of a healthy society.

GUIDELINES TOWARDS A NEW CONSTITUTION

- 12.3 Workers have the right to form labour unions, the right to strike, and the right to a living wage. This applies not only to industrial workers, but also to domestic and agricultural workers, to professional workers and others. Those in the public sector have a special responsibility to serve the public. Yet labour unions in the public sector are also essential to protect rights. People should not be exploited because they work in the state-controlled sector.
- 12.4 There should be equal pay for equal work regardless of race or sex. In a just labour dispensation, workers and management have mutual responsibilities. The state should be involved in rectifying unemployment and underemployment through soundly based development schemes.

13. Land and Resources

- 13.1 'The earth is the Lord's and the fullness thereof' (Psalms 24:1). Since the world belongs to God, men and women are but stewards. Those policies therefore which best enable people to exercise responsible stewardship should be adopted.
- 13.2 Access to land ownership and adequate housing with secure tenure should be available to all. Redress of past injustices will be an important part of the process by which people gain access to the land and the skills with which to work it.
- 13.3 Development subsidies should be a part of this programme. Steps should be taken to ensure that the land is properly managed.
- 13.4 Safeguards against land speculation and the monopolization of the land by big companies, should be built into the new constitution.
- 13.5 We recognize the need for the education of all to protect and preserve the environment, and therefore we recommend the introduction of courses in all schools to educate people accordingly.
- 13.6 Issues of environmental pollution must be addressed.
- 13.7 The mineral wealth of South Africa belongs to all the people of South Africa and must be developed for the benefit of all the people and not for the benefit of a few individuals. There is a need for equitable distribution of wealth from natural resources across the whole country, especially for the development of rural areas which do not have mineral resources. The state should guarantee the provision of essential services to the rural areas (e.g. electricity, water, roads and fuel).
- 13.8 Foreign exploitation of our natural resources should be strictly controlled by the state.
- 13.9 South Africa is also called to acknowledge its responsibility to share its resources with its poorer neighbours, who have contributed to the creation of its wealth throughout its history.

GUIDELINES TOWARDS A NEW CONSTITUTION

14. Local Government

- 14.1 Ideally local government is where the people ought to experience government and a clear-cut consistent policy is necessary, defining the rights and limits of the authority of local government. The law must apply equally throughout the country. Local government should be constituted on geographical and not racial or ethnic lines. There must be no devolution to local communities of the right to protect entrenched racial or ethnic privilege.
- 14.2 Local government should be the theatre for the experience and implementation of democracy, which involves the people in their own government. This will create a sense of responsibility, protection and participation. A reliable local representative in the legislature is important, but local rights and needs must also be safeguarded in the Law and in other ways.
- 14.3 In addition to fairly assessed local rates, the state must have a fair policy for funding the programmes of local government and development, so that poorer rural communities are not disadvantaged.
- 14.4 We believe that reconsideration should be given to the role of chiefs in rural areas, especially with regard to land tenure.

15. Accountability and Social Responsibility

- 15.1 One of the ethical themes running through the New Testament is that of subjection—not simply to rulers, but to one another and to God ('Be subject to one another out of reverence for Christ', Ephesians 5:21; cf. 1 Peter 5:6). This theme has often been used to legitimate oppression, but is more appropriately applied to the powerful than to the powerless. Those in authority, therefore, are called to be servants of their people (Mark 10:44-45). In this sense they are stewards accountable to God and the people ('Now stewards are called on to be trustworthy', 1 Corinthians 4:2). The claim of Paul is that all are under God's grace and all share responsibility for one another (Galatians 6:2; esp. Ephesians 4:25—'we are limbs of one another'). Since the use of power frequently leads to arrogance and corruption, accountability is always essential to good government, as well to the maintenance of public confidence. Mechanisms of accountability in government (eg in financial and security matters) should be built into the constitution.

16. Family Life

- 16.1 The love of God as Trinity is reflected in the life of the human family.
- 16.2 Aspects of cultural and religious tradition which enhance family life should be respected and affirmed. Destructive practices, such as the system of migrant labour, must be abolished, taking into account and compensating for the hardships this would cause to rural areas and neighbouring states.

GUIDELINES TOWARDS A NEW CONSTITUTION

- 16.3 Taxation and financial incentives should operate to promote and not undermine family life. The state has the responsibility to promote good family life, and responsible family planning.
- 16.4 The welfare of common law partners, parties to customary unions, divorcees, single parents and children born out of wedlock must be safeguarded.

17. Health

- 17.1 The state shall take responsibility for the provision of health services for all its people (e.g. hospital care), in such a way that no-one is denied access for financial or other reasons. Primary health care, preventive and community medicine, as well as care for the terminally ill, are crucial areas.

18. Education

- 18.1 Our aim is for one system of education for all people. Although education is fundamentally a government responsibility, the role of parents, religious bodies and community organizations must not be overlooked. Safeguards are required to prevent the abuse of education for the purposes of indoctrination. Accredited private schools must contribute to the new South Africa by providing equal opportunity and access for all, without regard to race or income. They must be financially supported by the state, and should be inspected by the state from time to time. Such schools must not become avenues for a new kind of racism or elitism.
- 18.2 The aim should be for compulsory education for all from the age of seven to sixteen years. Education should be viewed as a right, not a privilege. Pre-primary, non-formal and technical education are key areas.
- 18.3 Tertiary education is the responsibility of the state. In particular, the state should make it financially possible to enable all those who are academically qualified access to the colleges, technicons and universities. Universities must be funded by the state, but they should be governed as independent institutions. Academic freedom must be upheld. There should be adequate safeguards to prevent the entrenchment of race and class in these institutions.

19. Security and International Relations

- 19.1 People must be protected against crime. The need for the security of society is recognized, but the powers of the police and the military should be severely curtailed by law and should be accountable to both the courts and the legislature.
- 19.2 A small professional non-racial defence force should be maintained, adequate to meet South Africa's defence needs. The proportion of the Gross National Product spent on defence should be drastically limited. If conscription is

GUIDELINES TOWARDS A NEW CONSTITUTION

introduced, the right to conscientious objection must be secured. Alternative community service should be available to those who are not willing to bear arms.

- 19.3 A police force which is felt to belong to the people and to have their interests at heart should be created.
 - 19.4 No ordinary citizen should have the right to bear arms. The protection of the individual is the duty of the state.
 - 19.5 It should be written into the constitution that the integrity of neighbouring states shall be respected. South Africa shall not go to war unless attacked. South Africa must remain a signatory to the Nuclear Non-proliferation Treaty.
-