



INKATHA

Inkatha Freedom Party

IQembu leNkatha yeNkululeko

2. CONSTITUTION MAKING PROCESS AND BODY

- 1.1 Issues related to the constitution-making body and its process are intertwined with issues related to the transitional period.
- 1.2 It is essential that constitutional provisions are drafted by people who are not involved in the daily care of government and under the pressure of special interest groups. Constitution drafters must be objective and must be detached from the political process. They must be free to look to the future of South Africa and be free to make determinations which might not be immediately popular or politically wise. They must exercise technical knowledge and competence and not use their constitutional roles as stepping stones to political preferment.
- 1.3 The constitution making process must also have the imprimatur of political representation and popular approval. Political representation can be achieved through the recognized political leaders and popular approval through referenda.
- 1.4 It would not be advisable to hold elections to appoint the constitution drafters. An election for this purpose would require the adoption of a new electoral law. The provisions of a new electoral law can not be written until the structure of the South African state is clearly defined. An electoral law could not be adopted merely on the basis of the regional, autonomist, or federal principles without defining the boundaries of those regions or states.

Furthermore, the constitution drafting process will determine what type of representation should form the legislature. Most likely this representation will combine representation of the people with representation of state/regions, territories, social entities, of other groups. The electoral law has to reflect this approach which can only be specified in the constitution. The adoption of an electoral law prior to the adoption of the constitution would prejudice the core of the constitution negotiation.

- 1.5 An election would also exacerbate the present situation of widespread violence. This would jeopardize the serenity of the constitution-making process. In fact, the constitution making-process is already in progress, and with the conclusion of the Codesa meeting the first half of this process will be completed. A political campaign characterized by violence, in the middle of the constitution making process, would be a extremely counterproductive.

The tones of the debate would be necessarily exasperated, players would be changed and the entire process would be seriously jeopardized. Given the lack of strong and credible constitutional institutions at the present time, a serious break

in the present constitution making process might bring South Africa into chaos.

- 1.6 The constitution-making process must be continued, not interrupted.
- 1.7 The following are the steps to be taken:
 1. The Codesa meeting will be concluded with a document which embodies and specifies all the principles and terms of reference of the constitution. This document will be detailed even if it will be general in nature. The document will also include a list of recognized political formations in South Africa, which will also include political formations which did not participate at the Codesa meetings.
 2. The Codesa document will be submitted to the voters for approval. The referendum will be called by a law of the current legislature, and will be on the basis of a single state-wide constituency which will include all South African citizens of age. A majority of the validly casted votes, not including blank ballots, shall approve the Codesa document.
 3. A Constitution Drafting Convention [CDC] shall be established. Each recognized political formation shall designate its representatives to the CDC. Each recognized political formation will appoint the same number of members. One third of the membership of the CDC will be reserved for appointments made by the trade unions, employers' organizations, the chambers of commerce, the universities and other predetermined social formations.
 4. The function of the CDC will be to draft the constitution in strict compliance with the terms of the Codesa document. A special committee of the CDC not involved in drafting activities shall verify that any proposed language is consistent with the Codesa document. The CDC shall prepare the draft constitution and adopt the electoral law.
 5. In pursuance of the electoral law adopted by the CDC a referendum and a general election shall be held to approve the constitution. A majority of the validly casted votes, not including blank ballots, shall approve the constitution. The general election will fill all the representative positions provided for in the constitution. Should the voters not approve the constitution, the legislature voted in office in the general election will also sit in as a constitutional assembly.
 6. The transitional government will cease office within a predetermined period from the general election.