

**GENERAL CONSTITUTIONAL PRINCIPLES
AREAS OF COMMONALITY - PREPARED BY WORKING GROUP 2
STEERING COMMITTEE 12.5.92**

1. South Africa will be a united, sovereign state in which all will enjoy a common South African citizenship.
2. South Africa will be democratic, non-racial and non-sexist.
3. The constitution shall be the supreme law.
4. There will separation of powers between the legislature, the executive and the judiciary with appropriate checks and balances.
5. The judiciary will be independent, non-racial and impartial.
6. There will be a legal system that guarantees the equality of all before the law.
7. There will be representative and accountable government embracing multi-party democracy, regular elections, universal adult suffrage, a common voters role and, in general, proportional representation.
8. The diversity of languages, cultures and religions will be acknowledged.
9. All will enjoy universally accepted human rights, freedoms and civil liberties including freedom of religion, speech and assembly which will be guaranteed by an entrenched and justiciable Bill/Charter of Fundamental Rights.
10. Government shall be structured at national, regional and local levels.
 - 10.1 At each level there shall be democratic representation.
 - 10.2 Each level of government shall have appropriate and adequate legislative and executive powers, duties and functions that will enable each level to function effectively; such powers, duties and functions to be entrenched in the constitution.

- 10.3 In addition to the powers, duties and functions entrenched in the constitution, each level of government may delegate powers, duties and functions to other levels of government.
- 10.4 The general principles of the constitution including the terms of the Bill/Charter of Fundamental Rights shall apply to each level of government.
11. The new constitution shall provide for effective participation of minority political parties consistent with democracy.

3. Draft principles prepared by the Steering Committee on 23.3.92 and not yet discussed by the Working Group.

3.1 Draft principle on economic freedom, governmental intervention and economic systems:

"The constitution should provide for the promotion of the improvement in the quality of life of all South Africans by enabling economic growth, human development, social justice and equal opportunities for all."

3.2 Draft principle on the Bill/Charter of Fundamental Rights:

"There shall be a justiciable bill/charter of fundamental rights which shall ensure inter alia :

- universally accepted human rights and freedoms;
- civil liberties including freedom of religion, speech and assembly;
- the equality of all before the law;
- property rights, provided that legislation may in the public interest authorise expropriation against payment of reasonable compensation which shall in the event of a dispute be determined by a court of law.

The constitution shall enable the implementation of measures to help address the racial and gender inequities caused by past discrimination."

3.3 Draft principle on the accommodation of the diversity of languages, cultures and religions:

"The constitution at all levels of government shall accommodate and protect the right of citizens to practice their religion, enjoy their culture and use their own language both as individuals and in association with others. This shall include the right of citizens where practicable to have their children educated in their mother tongue and the right of citizens to establish educational institutions reflecting their language, culture and religion,

provided that racial discrimination may not be practised."

3.4 Draft principle on the role of traditional leaders:

"The constitution should define a suitable role for traditional leaders consistent with the objective of a united, non-racial, non-sexist, democratic South Africa."