

Ad Hoc Committee

Comprising of Association of Management and Local Affairs Committees for the Republic of South Africa

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The Chairperson
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Dear Sir


SUBMISSION TO CODESA

Please refer to the letter dated 1 April 1992 from your CODESA Secretarial Services in response to my letter dated 1992-02-24.

In view of your delayed response to our request I am appending copy of the Ad Hoc Committee's Position Paper on the Constitutional proposals for a New South Africa for submission to the relevant Steering Committees of Codesa.

I shall be pleased to have your reply in due course.

Yours faithfully


W A JACOBS
SECRETARY

CODESA/

National Ad Hoc Committee

POSITION PAPER ON CONSTITUTIONAL PROPOSALS FOR A NEW SOUTH AFRICA (As formulated by the Constitutional Workshop on 10 April, 1992)

Proposed General Constitutional Principles

1. General Principles

- 1.1 There shall be one undivided united South Africa.
- 1.2 A Constitutional State with universal adult franchise ensuring multi-party democracy.
- 1.3 A democracy with individual rights incorporated in a justiciable bill of rights, (i.e. education, pension, health, welfare and municipal services, etc.).
- 1.4 Economic diversity - (a free market economy to ensure economic growth for the upliftment of the disadvantaged).
- 1.5 Recognition of cultural diversity with minority inclusion.

2. Constitutional Principles

- 2.1 The Constitution must be a product of the people of South Africa, respected by the people and having political legitimacy.
- 2.2 It must be rigid and should require special mechanisms to be amended.
- 2.3 Sovereignty of the people must be ensured to exercise control over elected representatives, with sufficient checks and balances.

3. Levels of Government

- 3.1 There must be three levels of government, each with its own legislature, executive and judiciary and with clearly defined duties, functions and powers.
- 3.2 These three levels shall be Central, Regional and Local governments.

3.2.1 The Central level shall comprise of:-

- (a) A Head of State directly elected by universal franchise.
- (b) An Executive Cabinet
- (c) A two chamber legislature
- (d) An independent judiciary
- (e) A Constitutional Court
- (f) An Auditor-General who shall be independent and accountable to the legislature.
- (g) An Ombudsman
- (h) A Commission to safeguard the interests of civil servants.

There should be a separation of powers between the legislature, the executive and the judiciary, with appropriate checks and balances.

3.2.2 The Regional level shall comprise of:-

- (a) An elected Governor
- (b) An elected Executive
- (c) A directly elected legislature

Regional Government shall have its own tax base and financial assistance from Central Government.

3.2.3 The Local Level shall comprise of:-

- (a) Independent, autonomous, fully-fledged and directly elected local government institutions with legislative, executive and judicial powers and :

- Should have a single tax base with financial powers.
- Should have elections on a ward system.

Due to the comprehensiveness of Local Government a National Local Government Act must contain the framework for Local Government.

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The specifics of Regional and Local Government will be formulated at another Workshop of the National Ad Hoc Committee at a later date.

4.

TRANSITIONAL ARRANGEMENTS/INTERIM GOVERNMENT/TRANSITIONAL AUTHORITY.

A Constitution making body needs to be elected by universal franchise by means of a proportional representation system.

The Constitution making body must be perceived to be legitimate.

There shall be a protem threshold of 1% of the electorate voting in order to have representation on the Constitution making body.

The existing parliament (Unicam) will operate parallel with the Constitution making body. The Unicam will consist of the existing parliament plus TBVC States.

Provincial Government to be dispensed with and be replaced with a form of Regional Government.

Voting systems in the Regional Services and Joint Services Councils to be amended to permit equal voting strength for all local government representatives on the Councils.

The Interim Measures Act to be amended to make mandatory the dissolution of the existing Management Committees and Black Local Authorities and for their incorporation into adjoining Local Authorities on geographical lines.

There will be a single administration servicing non-racial local government bodies.

Income generated from non-residential areas will be distributed proportionally amongst adjoining local authorities.

A national convention of local government representatives shall be arranged.

5.
FUTURE OF TBVC STATES

That the re-incorporation of the TBVC States into a United South Africa be supported but that the process be negotiated with the States concerned through testing the will of people.

6.
TIME FRAMES

That in view of there being an abundance of undefined pre-requisites that need to be accepted before any time frames can be determined, it is not practical at this stage to set target dates for constitutional arrangements to be concluded.

However, the seriousness of proceeding to an acceptable constitutional arrangement by all parties concerned with the utmost haste, cannot be underscored sufficiently. Therefore the Committee believes that in order to obtain stability and to reduce the violence in the country, it would not be unrealistic to propose that interim arrangements be concluded by the 30 September 1992.

7.
CREATION OF CLIMATE FOR FREE POLITICAL PARTICIPATION AND ROLE OF INTERNATIONAL COMMUNITY

- (A) That the major role players should actively assist in putting an end to the violence.
- (b) That the major role players accept the responsibility of educating the electorate in political tolerance.
- (c) Signatories to the Peace Accord should give meaning and purpose to the Accord and every effort should be made to encourage non-signatories to get involved in the peace process. This is being proposed as political intimidation is still rife.
- (d) The lack of employment opportunities is viewed as being one of the primary causes for intimidation and violence and all parties should be encouraged to call for the lifting of sanctions and to promote investment and employment.
- (e) Social upliftment programmes should be implemented and should focus its primary concentration on the socio-economic development of the under privileged areas as expeditiously as possible.
- (f) /.....

Item 7. (Contd.)

- (f) The media should reflect the broader opinions of all participants in the political field and legislative impediments to the free flow of information should be eliminated so as to avert suspicion.
- (g) The SABC should have an independent board monitoring fair coverage of participants in the transitional and electoral process.
- (h) Unitary and equitable systems of education, housing and health under a regionalised administration should be implemented forthwith.
- (i) The OAU, UN, EEC, and the Commonwealth should play a participative role in peace keeping.

JOHANNESBURG
10 April, 1992