

CONSTITUTIONAL GUIDELINE FOR A DEMOCRATIC SOUTH AFRICA.

The Freedom Charter, adopted in 1955 by the Congress of the People at Kliptown near Johannesburg, was the first systematic statement in the history of our country of the political and constitutional vision of a free, democratic and non-racial South Africa.

The Freedom Charter remains today unique as the only South African document of its kind that adheres firmly to democratic principles as accepted throughout the world. Amongst South Africans, it has become by far the most widely accepted programme for a post-apartheid country. The stage is now approaching where the Freedom Charter must be converted from a vision for the future into a constitutional reality.

We in the African National Congress (S.A.) submit to the people of South Africa and to all those throughout the world who wish to see an end to apartheid, our basic guidelines for the foundations of government in a post-apartheid South Africa. Extensive and democratic debate on these guidelines will mobilise the widest sections of our population to achieve agreement on how to put an end to the tyranny and oppression under which our people live, thus enabling them to lead normal and decent lives as free citizens in a free country.

The immediate aim is to create a just and democratic society that will sweep away the century's old legacy of colonial conquest and White domination, and abolish all laws imposing racial oppression and discrimination. The removal of discriminatory laws is, however, not enough; the structures and institutions of apartheid must be dismantled and replaced by democratic ones. Steps must be taken to ensure that apartheid ideas and practices are not permitted to reappear in old or new forms.

In addition, the effects of centuries of racial domination and inequality must be overcome by constitutional provisions for corrective action which guarantees a rapid and irreversible redistribution of wealth and opening up of facilities to all. The constitution must also be such as to promote the habits of non-racial thinking, the practice of anti-racist behaviour and the acquisition of genuinely shared patriotic consciousness.

PLEASE TURN OVER.....The constitution must/

The constitution must give firm protection to the fundamental human rights of all citizens. This should be done by means of guarantees of equal rights for all individuals, irrespective of race, colour, sex or creed. In addition, it requires the entrenching of the principle of non-discrimination in relation to all national groups; it means equal cultural and linguistic rights for all.

The multi-cultural and multi-faith diversity of South African society should be handled with special constitutional sensitivity. At the same time, this approach must not be used as an excuse for the entrenchment of racial privilege under the guise of protecting group rights.

Under the conditions of contemporary South Africa - where 87% of the land and 95% of the productive capacity of the country are in white hands - constitutional protection for group rights would mean that the mass of the people would continue to be constitutionally trapped in poverty and remain as outsiders in the land of their birth.

Finally, success of the constitution will be to a large extent determined by the degree to which it promotes conditions for the active involvement of all sectors of the population and at all levels in government and in economic and cultural life.

Bearing these fundamental objectives in mind, we declare that the elimination of apartheid and the creation of a truly just and democratic South Africa requires a constitution based on the following principles:

#### THE STATE

a) South Africa should be an independent, unitary, democratic and non-racial state.

b)[i] Sovereignty shall belong to the people as a whole and shall be exercised through one central legislature, administration and executive;

[ii] Provision shall be made for the regional and local delegation of the powers of the central authority to smaller administrative units for purposes of more efficient administration;

- c) The institution of hereditary rulers and chiefs shall be transformed to serve the interests of the people as a whole in conformity with the democratic principles embodied in the constitution;
- d) All organs of government, justice and security shall be transformed so as to make them representative of the people as a whole, democratic in their structure and functioning, and dedicated to defending the principles of the constitution.

#### FRANCHISE

- e) In the exercise of their sovereignty, the people shall have the right to vote under a system of universal suffrage based on the principle of one person, one vote.
- f) Every voter shall have the right to stand for election and be elected to all legislative bodies.

#### NATIONAL IDENTITY

- g) It shall be state policy to promote the growth of a single national identity and loyalty binding on all South Africans. At the same time, the state will recognise the linguistic and cultural diversity of the people and provide facilities for free linguistic and cultural development.

#### A BILL OF RIGHTS AND AFFIRMATIVE ACTION

- h) The constitution will include a Bill of Rights based on the Freedom Charter guaranteeing the fundamental human rights of all citizens irrespective of race, colour, sex or creed, and providing appropriate mechanisms for their enforcement.
- i) The state and all social institutions shall be under a duty to eradicate apartheid in all its forms.
- j) The state and all social institutions shall be under a constitutional duty to take active steps to redress as speedily as possible the economic and social **inequalities** produced by apartheid, giving special attention to the unjust dispossession of the African people of their land and to all the victims of forced removals.

- k) The advocacy or practice of racism, fascism, nazism or tribalism, or the incitement of ethnic or regional exclusiveness or hatred shall be outlawed.
- l) Subject to clauses (i) and (k) above, the democratic state shall guarantee the basic rights and freedoms, such as freedom of association, expression, thought, worship, the press and a multi-party system.

#### ECONOMY

- m) The economy shall be a mixed one, with a public sector, a private sector, a cooperative sector and a small-scale family sector.
- n) The entire economy shall be placed under democratic control and direction to ensure that it serves the interests and well-being of all sections of the population.
- o) The state shall have the right to determine the general context in which economic life takes place and to define and limit the rights and obligations attaching to the ownership and use of private productive capacity.
- p) Cooperative forms of economic enterprise, village industries and small-scale family activities shall be supported by the state.
- q) Property for personal use and consumption shall be constitutionally protected.
- r) The state shall promote the acquisition of managerial and entrepreneurial skills and provide facilities to encourage commercial and industrial activities amongst all sections of the population, especially the Africans.

#### WORKERS

- s) A Charter of workers and trade union rights shall be incorporated into the constitution.

#### WOMEN

- t) Women shall have equal rights in all spheres of public and private life.

#### THE FAMILY

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- u) The family, parenthood and children's rights shall be protected

INTERNATIONAL

- v) South Africa shall be a non-aligned state committed to the principles of the Charter of the Organisation of African Unity and the Charter of the United Nations and to the achievement of world peace and nuclear disarmament.