COMMENTS ON CONSTITUTIONAL PROPOSALS

1. There is considerable overlapping between objectives and principles. Is this unavoidable? For example:-

   1.1. 1(c); 1(e); 2(i); 2(n)
   1.2. 1(a); 1(b); 2(b), (i); 2(c)

2. 1(a); 2(b), (i); etc.
   2(b)- Is this a principle of the constitution?
   In other words it is not clear why one thing is an objective and not a principle and vice versa. Is it not possible to have a better separation?

3. CERTAIN FORMULATIONS

   3.1. 1(a) would "restore" not be better than "~~front~~ grant"?
   1(e) ..... opening up facilities to all.
   1(b) better insert "in" between "and" and "economic".
   1(g) "What is "anti-racist behaviour"? Suggest the following:-
   "..... habits of non-racial thinking and behaviour, and the cultivation of a genuinely.....

   N.B. 1(h) ..... for the speediest achievement of these goals
   1(i) fo..... for the achievement of these goals

4. It is not clear how "participatory democracy" differs from what is envisaged under 2(b), (c), (d), and (e). See also 1(f).

5. Some rights e.g. 2(l) and 2(q) are given "special" constitutional guarantees by the State. Others are simply "constitutionally protected". What is the difference?

6. OTHER FORMULATIONS

   It seems preferable to say 2(m) "Participatory Democracy shall

be encouraged by involving ..... "As suggested above the necessity for this provision is unclear. Perhaps we may wish to say "..... shall be encouraged by involving the people and in particular community and workers organisations directly.....".

7. 2(n) Note that in 1(e) we refer to "overcoming centuries of racial domination and inequality", not just the inequalities produced by apartheid. Would "redistribution of wealth" in 1(e) not cover Land question?

8. 8.1. The format under 1 is a little awkward. It has such unfamiliar phrases as:- "the ensuring", "the overcoming", "the creating", Would it not be simpler to state the objectives?as:-
To grant (restore).....
To outlaw.....
To ensure.....
etc

8.2. Do we need this item? Does it not justify the regime's use of "security" to achieve its goals?

9. 9.1. 2(h) Is there any reason for using "will" rather than "shall"?

9.2. Here we refer to a Bill of Rights based on the Freedom Charter.

Quare: 1. Does our statement of principles avoid incorporating what would amount to items in a Bill of Rights based on the Freedom Charter?
2. To what extent do we incorporate provisions of the Charter in our statement of:
(a) objectives
(b) principles ?

10. In the statement of the principles on which a new constitution will be based we should launch a frontal attack on and not evade the group concept so central to 'Afrikaaner Thinking'. [Whether we have group or individual rights is absolutely fundamental to our concept of a new constitution. We should permit of no vagueness on the matter.

11. There are other ideas which the regime and its allies is toying with. We should likewise explode these in dealing with the principles of the new constitution.

12. It is therefore necessary that our document, does three things.

(a) demolish the positions of the enemy;
(b) point the way forward for all to follow who seek a genuine solution and
(c) seek to rally international opinion to our point of view.

I am not satisfied that our Document as it stands meets these requirements.

Incidentally, it might be useful to read the "Broederbond Constitutional Conditions for the Future", as well as the "South African Business Charter", nor would it be a bad idea to look at the "Indaba" Bill of Rights and see how they compare with the Freedom Charter.