

MINUTES OF THE SECOND PLENARY SESSION
OF THE ANC(SA) CONSTITUTION COMMITTEE

7th April, 1986 10.30 hrs.

Present: Comrades Jack Simons, Albie Sachs, Zola Skweyiya, Penuehl Maduna, Kader Asmal and Z.N. Jobodwana

Apologies: Comrades Teddy Pekane is on a political mission in Bulgaria.

Agenda: The agenda is annexed to these minutes as "Annexure A".

Chairperson's opening remarks:

- Minutes of the meetings held on the 9th to 14th January; the 12th February and the 4th March, 1986 are read.
- Cde Zola moves for the adoption of the minutes.
- Minutes are duly adopted.

Matters arising

- Meeting expresses concern that up to now the Constitution Committee has not been furnished with Political Guidelines as promised by the NEC in their letter of the 7th February, 1986.
- It is reported that Cde Pallo Jordan, NEC member, was instructed to draft the Guidelines by the NEC sub-committee on Constitution.
- Now Cde Pallo Jordan is on a political mission in the USA and is rumoured to have lately joined ANC delegation in China.

Cde Jack reports to Cdes who were not present in our meeting of the 4th March that a decision was taken to circulate our first report to the NEC to the chairman - SACP and Secretary General - SACTU, inviting them to comment on the report and submit their suggestions to us before the 2nd April.

- None of the two officials have replied as yet.
- Meeting is asked to ratify this decision of the 4th March - No objection, ratified as requested.

The question is asked as to what the nature of our 2nd report shall be.

- It is moved that we demand a meeting with the NWC on the 8th March, 1986 at 8.00 a.m. Thereafter we will be in a position to answer the question.
- Cde Zola phones Cde Ruth so as to arrange for a joint CC/NWC meeting.
- Meeting arranged for 10.00 hrs following day.

12.00 hrs - 12.30 hrs TEA BREAK

Committee discusses topics to be discussed and questions to be raised with the NWC.

Committee members are allocated topics they will address NWC on as follow :

- (a) What kind of Constitutional Document does NEC want (Cde Albie Sachs).
- (b) What does NEC think of a multi-party system.
 - What kind of provisions must be included in the Constitution to ensure that no party is based on ethnicity or race;
 - Are there limitations or constraints on formation of parties;
 - Does the NEC contemplate special position for ANC and its allies in the Constitution. (Cde Zola Skweyiya)
- (c) Non-central government bodies (Cde Maduna).
- (d) Demographic Survey (Cde Kader Asmal).
- (e) What does the entrenched bill of rights entail (Cde Jobs).
- (f) Workers Rights; place and role of Trade Unions (Cde Jobs).
- (g) Land question (Cde Maduna).
- (h) Nationalisation of Monopolies, Trusts, etc. (Cde Zola).
- (i) What does the concept "mixed economy" entail in our context. (Cde Jack)
- (j) State Apparatus. (Cde Kader).
 - Cde Jobs is instructed to prepare the agenda for the NWC/Constitution joint meeting on those lines.
 - Cde Albie introduces a brief discussion on the Nicaraguan experience.

Further discussion is shelved till later.

5. As Comrade Albie will be leaving on the 8th April for Maputo, it is suggested that his paper on "Inclusion of Mass Organisation in the Constitution" be discussed today.

- The paper is discussed at length and the following amendments on page 2 last paragraph are made:
 - i) That reference to "Trade Union" be removed from the paragraph, i.e. quotation;
 - ii) That the following sentence be included as a concluding paragraph:-

In any constitution there shall be a special provision made for workers rights and place and role of trade unions.

6. Comrade Jack is requested to write to the Minister of Foreign Affairs, to enquire whether he communicated with the Minister of Justice, Mocambique, about releasing Comrade Albie from his official duties for the purposes of attending our Constitutional Committee meetings.
 - Cde Albie proposes that he be given in advance three (3) weeks' notice of our meetings.
 - Shall arrange reservation for him on plane: Maputo-Lusaka-Maputo. (Same applies to Cde Kader in his booking arrangements should be made in time).
 - It is advisable that the next session be arranged for the 17th to the 22nd July, 1986.
 - Difficult months for Cde Albie: August and November.
7. Meeting closes 17.00 hours.

8th April, 1986 - 10.50 hrs.

JOINT NWC/CONSTITUTION COMMITTEE MEETING

Present: Cdes Ruth Mompoti, Stuart, NWC, Cdes Jack Simons, Zola Skweyiya, Pennuel Maduna, Kader Asmal, Albie Sachs and Z.N. Jobodwana.

1. Cde Ruth advises that it is not possible to meet members of the NWC.

Two members of the NEC sub-committee on constitution are out of the country.

- Cde Pallo Jordan was to have drafted the Political Guidelines which have been discussed and decided upon by the NEC sub-committee.

2. Cde Ruth proposes meeting members of the Constitution Committee to take down notes as she is being addressed by members of the Committee.

- She will reserve questions on matters she cannot provide satisfactory reply for the consideration of the NEC.
- Apologises that the Political Guidelines are not yet available.
- Cde Albie should address her first as he is leaving.
- The other members of the Committee will address them tomorrow at 9.00 hrs.

3. Cde Albie addresses the meeting on "what kind of a constitutional document does the NEC want".

- He states that at the present stage the Committee should not attempt to draft a constitution.
- Discusses briefly three constitutional formats, viz.:

- i) Liberal Democratic Constitution;
- ii) Anti-Fascist;
- iii) People's Power.

- Further proposes that at this stage ANC can produce set of papers analysing and exposing ANC policy; converting strategy and tactics into constitutional language.
- After the discussion it is proposed that Cde Albie should prepare a brief on his topic for presentation to the NEC with other Constitution Committee briefs.
- 12.30 Hours meeting adjourns for LUNCH.

8/4/86 - 14.30 hrs meeting resumes

4. Constitution Committee meeting reverts to its original agenda and deals with correspondence:

Professor Scidman's letter/Memorandum.

- The following observations are made:

- (a) Sidman's letter is

- i) undated;

- ii) addressed to nobody;

- iii) unsigned.

- It appears that Sidman is working for the SWAPO, giving advice on constitutional drafting for the future Namibia.
- He is interested in ANC.
- Is one of the Think Tanks involved in Constitution research for the future of South Africa.
- It is felt Seidman can be useful to us in so far as he can get very important material for us.
- Can disclose to us names of some of the Think Tanks he is working with.
- It is agreed that we can, without informing Prof. Seidman of the existence of our committee, write to him and indicate that we shall be pleased to "receive any material or proposals from him."

5. Cde Kader introduces his paper on "Electoral Systems".

- This paper has already been circulated to members of the Committee for perusal.
- We stated in our first report that constitutional provisions must be seen to be fair to everybody.
- Cde Kader makes a point that this system must be interpreted in a way that favours the oppressed majority in particular the Africans. All parties in power manipulate elections in their favour.
- Pebliscitory system is discussed.
- Presidential System - the first past the post system recommended.
- The various ways of nominating the President were discussed, e.g. Nomination by Political Parties, Electoral Colleges, Provinces, etc.

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- More explanatory questions on this topic would be asked and sent to Comrade Kader.
- Every member of the Committee should become an expert on electoral systems.

MEETING ADJOURS AT 16.30 HOURS.

9th April, 1986.

TIME: 9.35 hours

JOINT NWC/CONSTITUTION COMMITTEE MEETING

Present: NWC - Cdes Ruth Mompoti and Stuart

Constitution Committee - Cdes Jack, Zola, Kader, Maduna,
Jobodwana, Teddy Pekane

- Cde Teddy Pekane to be a rapporteur.

1. The NWC was presented with an agenda for the meeting. The agenda contains ten (10) selected topics.
 - The agenda has now been annexed to these minutes as "Annexure B".
2. Cde Zola addresses NWC on items 2 and 8 of the agenda.
Cde Maduna addresses NWC on items 3 and 7 of the agenda.
Cde Kader addresses NWC on items 4 and 10 of the agenda.
Cde Jobs addresses NWC on items 5 and 6 of the agenda.
Cde Jack addresses NWC on 9.
3. Members of the NWC take notes asks questions and reserved replies.
4. It is agreed the members of the Constitution Committee assigned to deal with these topics prepare short notes on them so as to formally present them to the NEC.

NEC's reply will follow later.

MEETING ADJOURS AT 12.30 HOURS.

9th April, 1986 - 14.30 hrs meeting resumes.

1. The next item on the agenda, is the discussion of the work of Foundation for International Conciliation.
 - Comrade Zola introduces the topic.
 - (a) ANC was invited to meet the representative of the Foundation.
 - ANC was represented by Cdes Secretary General, Treasurer General, Thabo Mbeki. Cde Zola Skweyiya of our department was included in the ANC delegation.
 - (b) The Foundation was represented by a certain David and his Secretary.

- Foundation has established their headquarters at Carlton Centre, Johannesburg.
- Have met personalities in the Transvaal and the Cape.
- Have had discussions with SACC, UDF and Trade Unions inside the country.
- Most people were sceptical about them including Heunis - racist Minister of Constitutional Affairs.
- They are confidential (they claim) about their work.
- They refused to present ANC with information about the stand of other people they met.

(c) Cde Zola further informs the meeting that he heard from Comrade Makhathink of our International Dept. that the group had approached the Australian government and had made a statement that ANC had given them greenlight for the continuation of their work.

2. The meeting commissions Cde Kader to write a memorandum on the work of the Foundation; the memorandum to be forwarded as an opinion to the NEC.
3. Discussion of Paper by David Chapman on "Electoral System for South Africa".
 - Cde Kader introduces the topic and makes the following observations:
 - (a) The Institute for Social Inventions is a relatively new organisation.
 - It is not known in London.
 - (b) Its chairman is Nicholas Albery.
 - (c) The Institute has commissioned David Chapman one of its directors to write a paper on "Electoral Systems for South Africa".
 - David Chapman is not a regular contributor to the Guardian.
 - Word apartheid does not appear in the Document. Race is a referral point in the document.
 - It would seem the objection is not against Black government but radical government.
4. Meeting discusses the paper at length and instructs its Secretary to communicate its views to the NEC together with the memo prepared by Cde Kader.

10th April, 1986

TIME: 10.10 hours

1. Item on "National Front" is removed from the agenda by consent.
 - Cde Jack to continue with the idea by consulting other comrades.
2. Cde Kader proposes a discussion on external factors that may influence the future elections in South Africa.
 - It is observed that;
 - a) Imperialism and its agents in their ploy will use also our neighbouring states;
 - b) E.P.G. will also apply pressure on us;
 - c) Think Tanks set up representing certain interest within and outside country will be involved.
 - Willy Brandt's visit to South Africa and his involvement in the Socialist International matters is discussed.

3. Matters incidental

- a) Question of Tony O'Dowd raised;
 - It was felt the President will give us directive.
- b) Our Secretariat should get Constitutional Acts of the homelands Bantustan.
- c) Cde Kader to get us literature and material concerning:
UN Bibliography, material from various Think Tank,
Questionnaire compiled by Institute for Social Inventions.
- d) To arrange with the Secretary General so that we attend all meetings, seminars and conference of interest to our department.

Cde Jack passes a vote of thanks and closes our plenary session.

DATED IN LUSAKA THIS 10TH DAY OF April, 1986.

In the Year of MK,

Z.N. JOBODWANA
Secretary
CONSTITUTION COMMITTEE