

24

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REPORT OF THE AFRICAN NATIONAL CONGRESS TO THE
O.A.U. COMMITTEE FOR THE LIBERATION OF AFRICA
54TH SESSION OF O.A.U. LIBERATION COMMITTEE.

1. At this time of the struggle for the Liberation of the people of South Africa from the evil of Apartheid Colonialism, any report of the situation in South Africa should take into consideration not only the terms and the concept of the Harare and the UN Declarations on South Africa, but also their implimentation.
2. To make the report on South Africa complete, i.e. after looking at the Harare and UN Declarations and their demanded implimentation, we need to look into the statement made by F.W. De Klerk, racist South African President on the 2nd February 1990.
3. The Harare and the UN Declarations, together with F.W. De Klerk's 2nd February Speech have come to form a watershed in the history of the South African political scene. The new situation demands that the Liberation Movement as a whole must adjust accordingly and advance with trepidation and caution; new strategies and tactics must be formulated and implimented to enhance the old ones. Outdated tactics must necessarily be abandoned. New friendship and alliances must be strengthened.
4. In our last report we stated that the internal factors that characterise the major change in the balance of forces were and still are:
 - * The unconditional release of some political prisoners including Comrade Nelson Mandela, the Deputy President of the African National Congress;
 - * The unbanning of the ANC, PAC, SACP and other political organisations;
 - * The reclamation of legal space by the mass democratic movement;
 - * The ANC and MDM emerging as the political Centre around which all other genuine anti-apartheid forces are coalescing;

- * Some flickers of protest and defiance among black soldiers and police; and
 - * Uncertainty and confusion within the ruling class on how to handle the crisis.
5. On the international scene, we said that the positions of the movement -in particular on the issue of negotiations-have won acceptance among a wide spectrum of forces. Even the erstwhile allies of the regime such as the US Administration advance conditions close to that of the ANC. Those who seek to block further actions against the regime base their arguments not on whether the demands of the movement should be met, but on whether **they are being met and how.**
6. The situation as stated in 4 and 5 above remain the same with changes manifesting themselves in the detail of the development of the situation inside South Africa.
7. Political Prisoners and Detainees:
- a) The Harare and the United Nations Declaration on South Africa categorically demand that the present Pretoria regime should, at least "release all political prisoners and detainees unconditionally and refrain imposing any restrictions on them".
 - b) On the 2nd February 1990, Mr. F. W. De Klerk addressed the question of political prisoners and said:

"People serving sentences merely because they were members of one of the (previously banned) organisations or because they committed another offence which was merely an offence because of prohibition of one of the organisations was in force, will be identified and released. Prisoners who have been sentenced for other offences, such as murder, terrorism or arson, are not to be affected by this".
 - c) De Klerk also put on record that "The conditions imposed in terms of the security emergency regulations on 374 people on their release are being rescinded, and the regulations which provided for such conditions are being abolished... The period of detention in terms of the security emergency regulations will be limited henceforth to six months. Detainees will also

acquire the right to legal representation and a medical practitioner of their own choosing.

- d) The President of racist South Africa further stated that: "... the government has taken a firm decision to release Mr. Mandela unconditionally... unfortunately, a further short passage of time (before his release) is unavoidable".
- e) It is estimated that when the Harare Declaration was adopted on August 21st 1989, there were 3,000 political prisoners in Pretoria prisons. However, as of now 700-750 political prisoners of the 3,000 have been confirmed. It should be stated here that the difference between the confirmed and the unconfirmed prisoners is the result of the secrecy that surrounds arrests, trials and their outcomes as well as the narrow, self-serving manner in which Pretoria defines political prisoners. De Klerk's definition of a political prisoner excludes deliberately the majority of persons serving sentences having been convicted for so-called offences which occurred in the course of the struggle against apartheid.
- f) De Klerk's faulty definition of a political prisoner is not accidental, no, it is meant to criminalise all anti-apartheid activity in which case all political activists, and the Mass Democratic Movement are charged for such "offences" as public violence, arson, murder and terrorism.
- g) Up to date, the Pretoria racist regime has yet to sign or act in accordance with Protocol 1. of the Geneva Convention on the Treatment of Prisoners of War of August 12, 1949. The said Protocol accordingly recognises wars of National Liberation as legitimate armed conflicts and that combatants captured in action in the battlefield must be accorded prisoner of war status. Members of Umkhonto Wesizwe are still arrested and treated as criminals.
- h) From February 2nd 1990, several racist ministers in South Africa have hinted to the fact that prisoners convicted for "common law crimes" could have their amnesty negotiated. De Klerk himself on the 10th February 1990, in a press statement stated that whilst such persons (prisoners) positions "...should be

dealt with in negotiations, exploratory discussions could take place meanwhile". In this manner, and against both the terms and spirit of the Harare and UN Declarations, the President of the Pretoria regime is suggesting that a factor necessary for the creation of a climate conducive for negotiations must itself be a subject for negotiations.

- i) Reports coming from inside the "Apartheid enclave point to the fact that detention without trial is still the order of the day. The Pretoria regime, true to its form, has not as yet allowed for independence verification of detentions without trial as well as releases.
- j) Mr. F.W. De Klerk has since announced
 - i) the commutation of death sentences imposed on 23 political prisoners to life imprisonment,
 - ii) the declaration of a moratorium on executions.
- k) It is a fact that up to now 64 other political prisoners are still on deathrow. Pretoria still retains the power to lift the moratorium and resume executions.
- l) In conclusion it is clear that since 2nd February 1990, De Klerk's pronouncements and activities, including those of his racist ministers, are more of an exercise in public relations rather than an effort to irreversibly dismantle repression and create a political climate conducive to negotiate the total destruction of Apartheid Colonialism, and the setting up of a Unitary, Non racial Democracy in South Africa.

8. The Legal Regime and/or changes thereto:

The Harare and the UN Declarations have both called on the Pretoria regime to create a climate that will allow for negotiations to take place between South Africans. This can be done among other things, by repealing all restrictive legislation, such as, and including the notorious Internal Security Act, which is tailored to circumscribe political activity. To understand this act it is necessary to give a resumé of this Act.

9. The Internal Security Act:

The South African state's security legislation is consolidated under the Internal Security Act NO.74 of 1982 (1). Following are some of the provisions of this Act.

a) Preventive Detention.

For the above the Internal Security Act has Section 28 ,which authorises the Minister of Law and Order to order an indefinite incommunicado detention of a person if in the Minister's opinion such a person is likely to commit an offence or offences likely to endanger state security.

b) Detention for purposes of Interrogation.

For the above the Act's Section 29 provides for the indefinite detention of a suspect for purposes of interrogation.

c) Detention for purposes of giving evidence.

Section 31 of the said Act provides for the detention of actual or potential state witnesss in a security trial for the entire length of the trial.

d) Banning of Persons.

Under Section 18-21 a person said to be engaged in or promoting activities that endanger state security or public order... or just simply thought likely to do so can be banned.

e) Banning of Organisations.

Section 4 and 5 provides for organisations to be declared unlawful if they threaten state security or public order.

f) Banning of Meetings or gatherings

Section 46 empowers the Minister of Law and Order or a Magistrate to ban or impose restrictions on all manner of gatherings and meetings.

g) Police Powers:

Section 49 accords the police the power to disperse prohibited gatherings as well as lawful gatherings seriously threaten life or valuable property, using such force as may be "necessary" including firearms and lethal weapons if other means failed.

h) Additional detention Powers.

Section 50 accords the police to detain without a warrant for 48 hours anyone whom they believe to be contributing to a state of public disturbances or disorder. Such persons can be detained without charge for a further 14 days on a warrant issued by a magistrate.

10. Other Permanent Legislation:

a) The Defence Act NO.44 of 1957.

Provisions of this Act prohibits access to designated areas and authorises various other means of control to prevent "internal disorder" simply by declaring an area to be operational.

b) The Intimidation Act NO.72 of 1982.

People organising protest activities such as strikes and boycotts have been charged under this Act.

c) Public Violence.

Thousands of people have been charged with the common law crime of public violence and related criminal offences, such as arson x trespass and malicious damage to property.

d) Other such draconian Acts are Prisons Act NO.8 of 1959(section 44(1)); Police Act NO.7 of 1958(section 27(b)); The protection of Information Act NO. 84 of 1982(section 4); Newspapers and Imprints Registration Act NO. 63 of 1971.

11. The State of Emergency:

Despite all the available draconian laws in the hands of the

racist regime, Pretoria declared a State of Emergency in 1985, which it maintains to this day. The emergency regulations significantly extend the powers of the ordinary security forces to take measures which under the Internal Security Act, would have required the authorization of a Cabinet Minister, a Magistrate or a higher ranking police officer. Under these regulations, any member of the security forces (of whatever rank) can make an arrest without a warrant. The latest renewal of the state of the emergency was in June 1989 and remains to this day.

12. It cannot be denied that the unconditional release of Comrade Nelson Mandela, Deputy President of the African National Congress and other Rivonia Trialists, and the unbanning of political organisations, are amongst factors that have immensely contributed to the new political atmosphere in the racist enclave.
13. Be it as it may, the conditions on the ground are still far from satisfactory: because under the Internal Security Act, a person can still be detained or arrested as a preventive measure; the same is true of the detention of state witnesses; Persons Organisations and gatherings can still be arbitrarily banned; Police can still arrest or detain persons or search premises without a warrant.
14. It is a fact that F.W. De Klerk has not lifted the State of Emergency, what he did was to modify some of the regulations. It is correct to conclude, given facts on the ground, that at this stage repressive laws remain substantially the same. Unless all these laws are repealed or substantially amended, the Pretoria regime cannot be said to have created the most needed climate for negotiations.
15. The Liberation Movement demands that all restrictive regulations and laws must be repealed immediately in order to meet the terms of both the Harare and UN Declarations.
16. Negotiations and the Process of Negotiations:

The Harare Declaration categorically states that, upon the creation of the climate by the South African regime as the first step should enter into negotiations aimed at delivering the suspension of

armed hostilities on both sides by agreeing to a mutually binding ceasefire. The very first step in the negotiation process is, therefore, the creation of the requisite climate by Pretoria. Both the Harare and UN Documents do not require the Liberation Movement to do anything in this first phase or step of the negotiation process.

17. The Armed Struggle and Armed Hostilities.

Despite the clear position stated above, Pretoria seeks to merge the first and the second steps, by demanding that the Liberation Movement should unilaterally renounce the armed struggle, as part of climate creation. Contrary to the letter and spirit of the OAU and the UN resolutions the regime is insisting that the Liberation Movement create a climate by disarming itself. In adopting this counter productive posture, Pretoria hopes to escape the responsibility of negotiating a mutually binding ceasefire, and thereby avoid acknowledging the legitimacy of the armed struggle. If this were to happen, the regime would remain as the sole armed party to the conflict, with dire consequences for the disarmed majority. This the African National Congress categorically rejects.

18. Flexibility of the African National Congress:

Despite the regime's intransigence the ANC has demonstrated flexibility and statemanship by agreeing to meet the regime in order to discuss remaining obstacles to negotiations. For this, a meeting initiated by the ANC, took place on the 2-4 of May 1990, at Groote schuur (Cape Town) between the ANC and the Pretoria regime. After the meeting a Minute called the Groote Schuur Minute was released by both the ANC and De Klerk's team and it reads:

"The government and the African National Congress agree on a common commitment towards the resolution of the existing climate of violence and intimidation from whatever quarter as well as a commitment to stability and to a peaceful process of negotiations.

Following from this commitment, the following was agreed upon:

1. The establishment of a working group to make recommendations on a definition of political offences in the South African

situation; to discuss, in this regard, time scales; and to advise on norms and mechanisms for dealing with the release of political prisoners and the granting of immunity in respect of political offences to those inside and outside South Africa. All persons who may be affected will be considered. The working group will bear in mind experiences in Namibia and elsewhere. The working group will aim to complete its work before 21st May 1990. It is understood that the South African government, in its discretion, may consult other political parties and movements and other relevant bodies. The proceedings of the working group will be confidential. In the meantime the following offences will receive attention immediately:

- (a) The leaving of the country without a valid travel document.
- (b) Any offences related merely to organisations which were previously prohibited.

2. In addition to the arrangements mentioned in paragraph 1, temporary immunity from prosecution for political offences committed before today, will be considered on an urgent basis for members of the National Executive Committee and selected other members of the ANC from outside the country, to enable them to return and help with the establishment and management of political activities, to assist in bringing violence to an end and to take part in peaceful political negotiations.

3. The government undertakes to review existing security legislation to bring it into line with the new dynamic situation developing in South Africa in order to ensure normal and free political activities.

4. The government reiterates its commitment to work towards the lifting of the state of emergency. In this context, the ANC will exert itself to fulfill the objectives contained in the preamble.

5. Efficient channels of communication between the government and the ANC will be established in order to curb violence and intimidation from whatever quarter effectively.

the government and the ANC agree that the objectives contained in this minute should be achieved as early as possible".

19. The Third Step:

The Harare Declaration, after an agreement on a mutually binding ceasefire, calls for negotiations aimed at establishing the basis for the adoption of a new constitution by agreeing on, among others, principles contained in the Declaration. The most important of these being the principle of majority rule. In its statement, Pretoria has consistently refused this principle by insisting on the constitutional protection of "minority rights". De Klerk is on record condemning what he called "Politics of confrontation, characteristic of the Westminster system". He argues for a constitutional model based on the politics of "consensus". De Klerk is advocating for the white minority to be given a right of veto over decisions which do not accord with their "white" interests. This is yet another example of the fragrant violation of the terms of both the OAU and UN Documents. In any way, in the African context, the ANC is not aware of any precedent where the principle of one person one vote was ever negotiated. What has been negotiated, is the process of implementation of that principle e.g. Zimbabwe. We hold a firm view that South Africa should not be treated as an exception.

20. Control of the Negotiated Process:

The African National Congress is of the view that only a democratically elected body is capable of negotiations as envisaged under the above mentioned third step. We have therefore, called for the election of a constituent Assembly as the only representative body which would have the necessary mandate to decide on the future of our country. Secondly, The African National Congress is insisting on the formation of a joint transitional government to run the country until a new government, elected on the basis of a new democratic constitution assumes office. These arrangements would ensure that the people themselves are in full control of the negotiations. The ANC position is consistent with point 21.5 of the Harare Declaration. The regime rejected this position. De Klerk is insisting that for the duration of the negotiations "orderly government should continue in terms of the existing constitutional system". The regime is therefore intent on controlling the negotiation process. This is untenable since the regime cannot be a judge in its own case. It is in recognition of this fact, inter alia that the Harare Declaration calls upon the parties to the conflict to define and agree on the

role to be played by the international community in insuring a successful transition to a democratic order.

21. The Last Step:

The fourth and last step would be the adoption of the new constitution. After the adoption of the new constitution, drawn in accordance with the above mentioned procedures. "all armed hostilities will be deemed to have formally terminated. For its part, the international community would lift the sanctions that have been imposed against apartheid South Africa". It can only be noted that the regime is complicating the process further by demanding that the Liberation Movement abandon the armed struggle and cease calling for more sanctions as a contribution to climate creation.

22. By refusing to follow prescribed procedures, the regime has further complicated the negotiation process. This obstructive position betrays an agenda geared towards the reformation of apartheid colonialism rather than its total destruction. To this, the African National Congress has and still says no; the international community has said no and should continue saying so in no uncertain terms. All pressure against South Africa including sanctions should continue to be imposed and intensified. Those who played no role in the creation of a climate of repression in South Africa, cannot be expected to assist in its elimination by surrendering to the regime.

23. The General Situation in South Africa:

Mr. F.W. De Klerk, the President of racist South Africa has made positive and brave pronouncements since he assumed the leadership of the Nationalist Party. He has also made positive and brave moves since he came into power: he has made statements committing himself and his regime to negotiate the future of South Africa, he has released some political prisoners; unbanned the National Liberation Movement; partially lifted the State of Emergency; allowed a few ANC members to temporarily go into South Africa for specified duties etc.

24. But on the ground, the day to day lives of the people, particularly of political activists remain as bad as before if

not worse. A few statistics on Detainees; Political Prisoners on Deathrow; Deaths in Police Custody; Torture and assault; Missing Persons etc. will illustrate this point.

25* Between 1986-9 about 32,000 people were detained.

- * The regime announced a moratorium on executions and the commutal of the death sentences imposed on political prisoners to life imprisonment.
- * 64 political prisoners remain in deathrow.
- * 200 detainees presently held under the State of Emergency include children as young as 12 years old.
- * 32 adults are detained under Section 29, of the Internal Security Act.
- * Reports indicate that 57 people are held in the so -called "homelands" for political reasons.
- * On the 19th April 1990, 12 political prisoners from Klerksdorp went on a hunger strike for more than 10 days.
- * On the 2/4/90 Michael Mokhoba, aged 12, was detained and after two days he was charged with public violence.
- * 4 political prisoners have already died this year in police custody. One of this was a 16 year youth, Nixon Phiri.
- * Clayton Sithole, a Section 29 political detainee is also one of the people who died this year in police custody.
- * Micheal Zunga, also a political detainee, died after Clayton Sithole in police custody.
- * Lucas Tlhotlhomisang, a civic member from Schweizer Reneke, a political detainee died in march 1990 in police custody.
- * In Sebokeng Township in Evaton recently 14 people were murdered by the police during a peaceful march.

- * On the 19/04/90 in Ramulotsi Township, in the Orange Free State four youths of between the ages of 13-16 were shot dead during a peaceful march.

The list is long. This shows that beyond De Klerk's utterances the racist enclave is still to the people of South Africa, a horror of horrors. The struggle to change this situation continues and must continue until final victory.

26. Activities of the Liberation Movement.

- (a) After the release of the ANC veteran leaders from prison, and after the unbanning of the Liberation Movement, there were several consultations between the ANC leadership inside the racist enclave and the leadership of the ANC in exile.
- (b) Following this, a national committee under the veteran Walter Sisulu was formed to rebuild the ANC within the country.
- (c) The ANC decided to divide South Africa into 16 ANC regions.
- (d) The ANC has opened its Head Quarters in Johannesburg and has several offices countrywide.
- (e) The ANC embarked on a massive membership drive all over the country. Statistics soon to be given to the OAU.
- (f) The concept of unity of all anti-apartheid forces within South Africa has, once more, become the primary concern of the Liberation Movement.
- (g) For this reason, the ANC leadership within South Africa made moves to approach individuals, traditional rulers, homeland leaders all of whom were and are not ANC supporters or members on the question of a common approach to an anti-apartheid strategy which if agreed to could form the basis of unity, a united front but most particularly could eliminate divisions within the anti-apartheid forces. The result has since been encouraging and it is still being pursued and broadened.
- (h) Comrade Nelson Mandela:

- * Comrade Nelson Mandela the revered member and leader of the African National Congress and of the struggle of South Africa was at long

11th February 1990. The African National Congress- in its entirety, the oppressed majority in South Africa was taken up by happiness and jubilation. At a press conference in Cape Town the same day of his release, Comrade Mandela stated his commitment not only to the African National Congress but to the Struggle of the South African people for a United, Non-racial Democracy in our country.

- * Comrade Mandela proceeded to Zambia where he consulted with President Kaunda and all the leaders of the Frontline States. Comrade Mandela had a meeting with the ANC leadership in exile where he was elected unanimously as the Deputy President of the African National Congress. Comrade Mandela also addressed the general membership of the African National Congress in Lusaka/ Zambia.
- * Comrade Mandela then proceeded to Sweden to meet his long time friend, Comrade and leader, President Oliver Tambo to consult on various aspects of the struggle.
- * Comrade Nelson Mandela since paid visits to the following African countries: Zambia, Zimbabwe, Tanzania, Angola, Botswana, Nigeria, Algeria, Libya, Egypt, Ethiopia and is billed to go to Uganda, Kenya, and Mozambique. In all these countries he was given the utmost welcome by the governments and entire people. He thanked the governments and the peoples of all these countries for their efforts they made towards his release and the release of his colleagues and the relentless support these countries have given to the ANC and the struggle in South Africa.
- * Comrade Mandela is currently on the tour of Europe where he is going to meet several European leaders and the anti-apartheid movements. As in the African tour, among others, he'll brief them about the recent developments inside the racist enclave.
- * Inside South Africa Comrade Mandela has addressed large rallies and meetings in all the 4 Provinces and the support has been massive. Mandela and the ANC have been firmly re-established inside South Africa and many people representing several political formations go to him for consultations.
- * Comrade Mandela has, among other things, seen some homeland leaders and the church leaders including traditional chiefs about the future of South Africa. In certain cases like in the Transkei he

* Comrade Mandela has emerged within South Africa as a unifying force of anti-apartheid forces. His credibility goes across the colour line.

- (i) Outside South Africa the ANC continues to meet various people, organisations etc from South Africa to consult on the future of our country. The most recent one was held in Lusaka, Zambia between the ANC and the IDASA.
- (j) The five-day Idasa-ANC conference was on "The Future of Security and Defence in South Africa". It brought together two delegations of South Africans who shared a common concern about the need for peace and security in a post-apartheid South Africa. The one delegation consisted of about 60 members and the leaders of the ANC and Umkhonto we Sizwe, including 10 members of the ANC National Executive Committee. The other consisted of 46 South Africans from home, including SADF citizen Force officers, former or retired Officer of the Permanent Force, officers of the armies of Transkei, Ciskei and Venda, academics and researchers on military-related affairs, SADF conscripts, members of the End Conscription Campaign and Church leaders. The home delegation was not homogeneous and included a range of views on the issues under discussion. At the end of the day they issued a joint press statement which is attached to this report.

27. The Natal/Inkatha Problem.

- * The Natal/Inkatha problem remains. Reports coming from the area, in and around Pietermaritzburg are disturbing in the extreme. Thousands of lives are being lost, families broken, hundreds and thousands of people are rendered refugees in their own country.
- * Inkatha impis continue to be on rampage against all anti-Inkatha individuals and groups.
- * What has become apparent is that Inkatha's activities are supported by the South African Police and the SADF. The area is in a state of war.
- * One report reaching us is that one of the problems facing the people there now is the shortage of graves.

- * The Inkatha War lords are above the law. They can kill at will whilst De Klerk's people and army looks.
- * The bringing in of the 32 Battalion has exacerbated the situation and the African National Congress calls for its withdrawal.
- (b)*The ANC has and is addressing this issue of violence in Natal. Comrade Nelson Mandela, the Deputy President of the African National Congress, has since met the King of the Zulus on this issue.
- * Chief Gatsha Buthelezi, Chief Minister of Kwazulu Homeland, and the man in the centre of the Natal violence does not want the issue to be solved. Violence in Natal keeps him in person in the South African political scene; as a man to be reckoned with particularly in the envisaged talks and negotiations for the future of South Africa.
- * De Klerk does not want the issue of Natal to be resolved either. To De Klerk, violence in Natal keeps Gatsha Buthelezi on his side to be used ultimately around the negotiation table.
- * The African National Congress will not rest until the problem in Natal is resolved and peace is restored in that area.

28. Conclusion:

- (a) Despite De Klerk's high profile public relations posture the ANC has managed to gain ground inside South Africa by concentrating on uniting the various forces on the ground. In the international plane we have managed to expose De Klerk for what he is and have kept the sanctions issue on the cards.
- (b) The ANC will continue to relentlessly fight and work for the implementation of both the Harare and the UN Declarations on South Africa until final victory.
- (c) At this delicate time of our struggle the African National Congress calls on the OAU to redouble its support to the Liberation Movement as its needs have increased given the new responsibility to rebuild and expand the ANC internally, and the problem of repatriation and rehabilitation of returnees into South Africa.

- (d) The African National Congress wants to put on record that Pretoria has not as yet created the climate conducive for negotiations, and that until then the struggle must continue on all fronts.