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Which way to a democratic constitution?

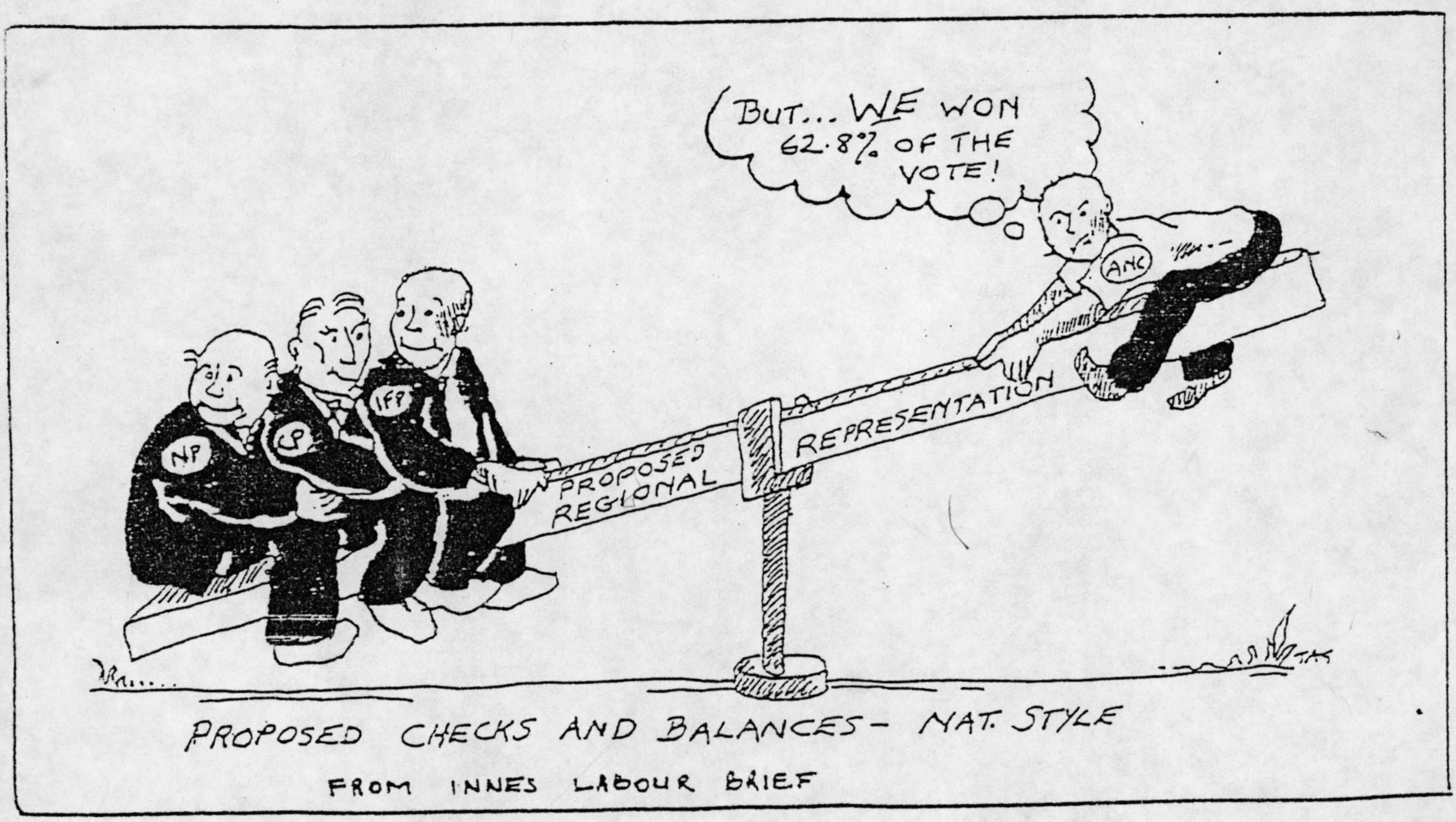
A comparison of NP and ANC Constitutional Proposals

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Introduction

In this paper we look at and compare the constitutional proposals of the ANC and the NP. We argue that for a lasting peace to be built the new South African state must have the power to redress centuries of discrimination and engage in a meaningful process of reconstruction. The difference in the two sets of proposals lies in their attitudes to the majority and minorities. The ANC aims to make the vote meaningful so that ordinary people can exercise political power to achieve their demands. On the contrary, the NP proposals represent an attempt to block majority power at every point and prevent the new state from carrying out any meaningful social reform.



Since 2 February 1990 the entire context of South African politics has altered. As a result of the many internal crises of apartheid and the mass resistance of the 1980s, the South African government was forced to recognise that it could not govern as it had, that it would have to seek a new relationship with the ANC and other anti-apartheid forces.

While the context changed substantially, it did not mean that the playing field was levelled and that all political organisations were given the opportunity to operate freely and under similar conditions.

February 2nd opened up a new form of political contest. The Nationalist Party and ANC both recognised that the struggle for a negotiated settlement brought them together, but their distinct identity and different interests were maintained. For either side to achieve their goals required struggle - deploying their respective power while simultaneously trying to win over as many allies as possible.

It is in this light that we must understand the failure of the regime to allow the ANC full freedom of political activity, the various forms of harassment and other factors that have rendered its unbanning subject to a wide range of qualifications.

It is against this background that one should understand Inkathagate - as a scandal of a special kind. Money was given to Inkatha to assist it to compete against the ANC and enhance its value as a NP ally.

Likewise, the government has tolerated the violence and been implicated in it, because the violence has served certain political goals:

- a. Weakening the ANC and strengthening Inkatha
- b. Increasing ethnic tensions, since the violence has been projected as being between Xhosa and Zulu. This again weakens the ANC whose historic role has been in seeking unity over tribal divisions. In contrast, Inkatha has mobilised on an ethnic basis. There is no need to stress that this feeds into political goals of the NP that depend on the existence of distinct and cohesive groups.

We in the ANC often say that the government realised at the end of the 1980s that it could not rule in the old way. But this did not mean that it had to change both its way of ruling and its goals. In other words, 2 February introduced changes, but can we say with certainty that this indicated substantially different goals on the part of the NP?

The NP constitutional proposals throw serious doubt on any interpretation that suggests that the goals of the NP have changed and departed from the maintenance of white minority privileges.

The ANC, in contrast, remains committed to the establishment of a new

constitutional order, basically non-racial, non-sexist and democratic.

This divergence in objectives has serious implications for the entire negotiation process. If there is not a fundamental agreement on the principles for a new constitution, if there is not therefore a basic consensus over the objective of the entire process - the process is doomed to failure.

That is why, in both the Harare and UN Declarations, which form the international community's unanimous view as to the course that negotiations should take, there is stress on the need to agree on common principles. And these principles are reflected in the ANC fundamental constitutional documents and policies as a whole.

A CONSTITUTION

The constitution is the most important law of a country because it sets out the rules as to how the laws will be made and how they will be applied by the government. It describes how the government will be elected and how the courts will work, what rights the citizen will have and what powers the government can and cannot exercise. It may also say what the official name, flag, anthem, religion and language of the country will be.

The ANC's Constitutional Proposals

The ANC's constitutional proposals originate from the Freedom Charter, adopted in 1955 after a mass campaign to establish the demands of ordinary South Africans throughout the country. Because the Freedom Charter is a broad and general document and because new demands have come to the fore in the last 36 years, it has become necessary to develop and elaborate policy on a number of issues, including a future constitution.

Recently the African National Congress Constitutional Committee produced a discussion document entitled *Constitutional Principles and Structures for a Democratic South Africa*. The proposals are described as a discussion document, not only because it is not yet ANC policy, but also because we want to prepare ordinary people to make their input into the process of constitution-making which we believe should be in an elected Constituent Assembly. As the introduction states:

"The question may be asked: Why not leave all these discussions to a Constituent Assembly? Are we not pre-empting the Constituent Assembly? Our answer is that we do see the Constituent Assembly as the mechanism which must adopt a new constitution. However, discussion on all constitutional issues must take place now to ensure that representatives to a Constituent Assembly are fully informed and mandated, and that popular participation in constitution-making is real. To postpone discussion on all these important issues until a Constituent Assembly is convened, will in reality mean that people would not be participating in the process."

The document expresses principles and suggests constitutional structures that are in line with the Freedom Charter and it is likely that the ANC's final position will be very similar to this document. The areas of possible disagreement and further debate are recognised by the Constitutional Committee, eg. the provision of a second chamber in parliament, but these are of minor significance in relation to the rest of the document.

Having said that, it should be recognised that the ANC is not seeking an ANC constitution, but one broadly acceptable to the majority of South Africans. Consequently we would be willing to make compromises necessary to win broader loyalty, as long as these do not undermine the overall democratic impact of a new constitution.

The ANC intends the vote to be meaningful. It intends it to be a means for exercising rather than curbing power. But the ANC also believes that the power of the government, police and officials of the state must be limited through tried and tested constitutional methods. In particular we have in mind a clear separation of powers between the various arms of the state (See box) and a justiciable bill of

rights protecting all the recognised individual liberties.

THE THREE ARMS OF THE STATE

Most constitutions provide for three basic organs of government:

The Legislature: This is the law-making body ie. Parliament

The Executive: This is the branch of government responsible for governing the country eg. The President, Ministers, the civil service, police and army

The Judiciary: The body that ensures that the laws of the country are obeyed by the citizens and the government itself eg. the courts

JUSTICIABLE BILL OF RIGHTS

A Bill of Rights sets out broadly what the rights and freedoms of the people are. It also establishes specific mechanisms for ensuring that rights and freedoms are respected. A justiciable bill of rights is one where the courts uphold and protect these rights.

According to our proposals, the head of the Executive will be an elected President, who will also be the Head of State. The document leaves open for debate whether the president should be elected directly by the public "and vested with greater executive powers, or whether s/he should be elected and answerable to Parliament." The President may only hold office for a maximum of two terms of five years each and is subject to removal by a resolution passed by a two thirds majority of the National Assembly.

The proposals envisage two houses of parliament, with elections to the first house being on the basis of "proportional representation by universal suffrage in which all persons will have an equal vote without regard to race, gender, ethnic origin, language or creed. The power of enacting legislation will primarily be vested in the National Assembly."

In the ANC proposals a second house is suggested. This will be a Senate, "which will also be elected according to universal suffrage without regard to race, gender, colour, ethnic origin, language or creed. The Senate will neither be a corporatist chamber made up of interest groups (youth, labour, women or business, or other groups) nor will it represent ethnic or so called 'community' interest. The

electoral system will, however, be different to that adopted for the election of the National Assembly, and will make provision for representation on a regional but not on an ethnic basis."

The Senate is described as "the guardian of the constitution." It will be able to refer any dispute concerning the interpretation or application of the constitution to the appropriate court for its decision and the power to review. The Senate will have a limited power to delay legislation, but no veto power.

The ANC advocates an independent judiciary with power to review and set aside legislation and actions which are unconstitutional. In addition, to strengthen the constitutional basis of government, the proposals advocate the establishment of a Constitutional Court.

The ANC proposals also address regional and local government. Local and regional government will not enjoy original powers. They "will exercise delegated powers but with wide discretion in regard to the priorities to be pursued at these levels, provided always that such policies do not conflict with national policies."

In other words, a higher authority - parliament for instance - will decide on the limits of the powers of regional government. Parliament will also have the power to modify or withdraw these powers at a later stage. At the same time regional governments will have the discretion to determine their priorities as long as these do not conflict with national policies.

Whereas the NP and Democratic Party proposals see the local and regional authorities as a counterweight to central power, the ANC sees the necessity to avoid any contradiction and harmonise the local with the national.

The ANC constitutional proposals are made within the framework of a desire to address the effect of centuries long discrimination against the majority of South Africans. Consequently, there is a commitment to empower the state at all levels to pursue policies of affirmative action, to redress the multifaceted impact of past discriminatory laws and practices in the social, economic educational and housing spheres and the maldistribution of land. Special attention would also be paid to the additional discrimination suffered by women and the victims of forced removals.

The Nationalist Party's Constitutional Proposals

The Nationalist Party has produced constitutional proposals that fall so far short of the reasonable expectations of oppressed South Africans, that one wonders whether they could seriously have been advanced as a basis for negotiation. They claim to provide a model for participatory democracy. But what democracy there is in the proposals, is completely undermined by the range of checks and balances used to limit it.

At the national level the proposals envisage a two chamber parliament, the first house elected on the basis of one person one vote and with proportional representation, broadly the same as the ANC advocates.

The impact of the first democratic election in South African history is immediately undermined by a number of devices aimed at limiting the power of the majority party or organisation. In the first place there are those that we accept in principle, that is, the protection of certain interests in a bill of rights, though what is contained in such a Bill would obviously be the subject of intense negotiations.

But there are other checks on the will of the majority, that are wholly unacceptable. The first objectionable feature is the structure of the second house which is comprised of representatives of nine regions. Irrespective of their size or population each of the regions has equal representation. This immediately loads decision making against an area like the PWV where Africans are the overwhelming majority.

This device does not satisfy the NP in their insatiable desire to deny real power to a democratic government. Each party that receives a certain percentage of the vote is entitled to an equal number of seats in the region's representation. In other words if one party gets 60% of the vote, it would get equal representation with three others which get little more than 10% of the vote. As a result the party with 10% of the vote can block policies that parties commanding 80% of the votes wish to pursue. If the 10% have been elected with a mandate to preserve white privilege as far as possible, legitimate attempts to pursue policies of reconstruction and to eliminate the legacy of apartheid, could be frustrated. (10% was the figure initially mentioned in the NP draft, but later omitted)

In effect, the party with majority support becomes a minority in the second house.

The Nationalist Party proposals require that special types of legislation be passed with a weighted majority in the second house. The special types of legislation are defined as relating to the interests of minorities, the interests of regions, "entrenched provisions of the constitution" and amendments to the constitution.

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These vague concepts of "interests of minorities", "interests of regions", and "entrenched provisions of the constitution" are dominant features of the old apartheid system. The existence of ethnic divisions, segregation in education, the racial occupation of land, and other aspects of white privilege could be defended by some of the parties as interests which are entitled to protection under these provisions. The weighted majority and the disproportionate allocation of seats to minorities, could make it impossible to pass legislation dealing with such matters against the wishes of a party which might command as little as 10% of the national vote.

Even this does not satisfy the NP's desire to limit state power in a new South Africa. The NP proposes a rotating presidency comprising 3 to 5 of the major parties, each holding office for one year at a time. Decisions are made by consensus. They appoint a cabinet to carry out their policies.

A motion of no confidence can only be passed in the entire presidential grouping but not in any individual. The overwhelming majority of parliamentarians, representing the overwhelming majority of the population may consider the role of one of the members of this executive college completely unacceptable and contrary to national interests. But they cannot get rid of this person unless they also get rid of all the other members, who may have performed in an exemplary manner.



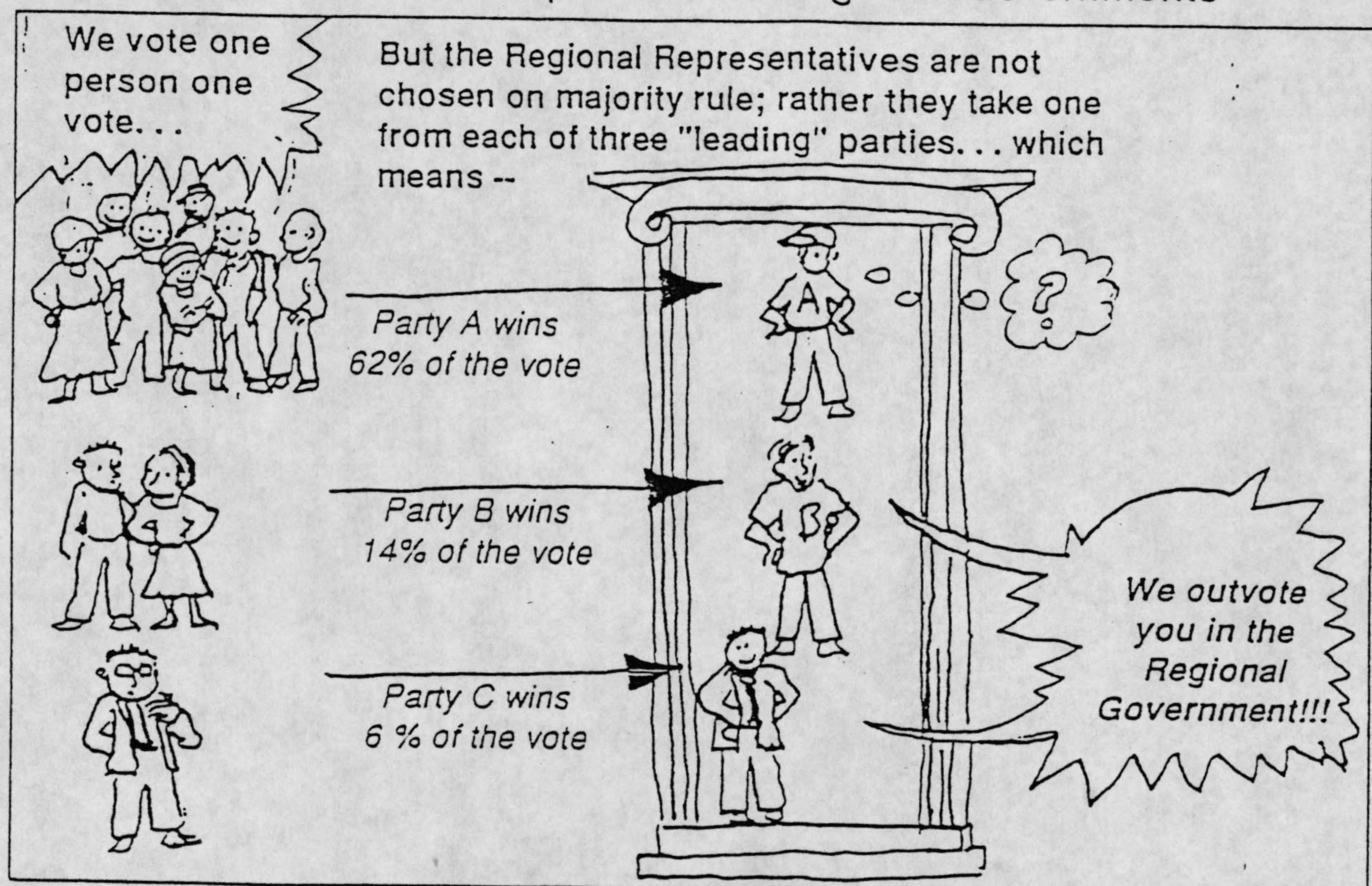
9 NP and ANC Constitutional Proposals

This is clearly a recipe for paralysis. That is why a forthcoming ANC publication on the NP proposals are entitled: Making the New South Africa Ungovernable! Making Post Apartheid Democracy Unworkable! The ANC and possibly a grouping including the Conservative Party will have to rule through consensus. There is an incentive for parties to fragment rather than unify. If parties A and B share sufficiently similar interests to consider unification, they stand to lose power in the process of government, if both would qualify through electoral performance for representation at the level of the presidency and regional representation. Unification would mean one representative at the presidency, distinct identity two, just as separation doubles their power.

Rule by consensus is an attractive suggestion. Indeed, the ANC is trying to achieve a broad consensus over the type of South Africa that should replace the present social order. We also try to find consensus over other matters of grave national concern, like the violence.

But consensus is not always possible to achieve. What type of consensus be achieved between the lion and the prey that it wants to eat? What type of consensus can be achieved between those wanting equality and those seeking to retain privileges? Must the majority's desire for equal rights be held to ransom by a minority's desire to resist this? The NP clearly answers "Yes!"

Diagram X: Election process for Regional Governments



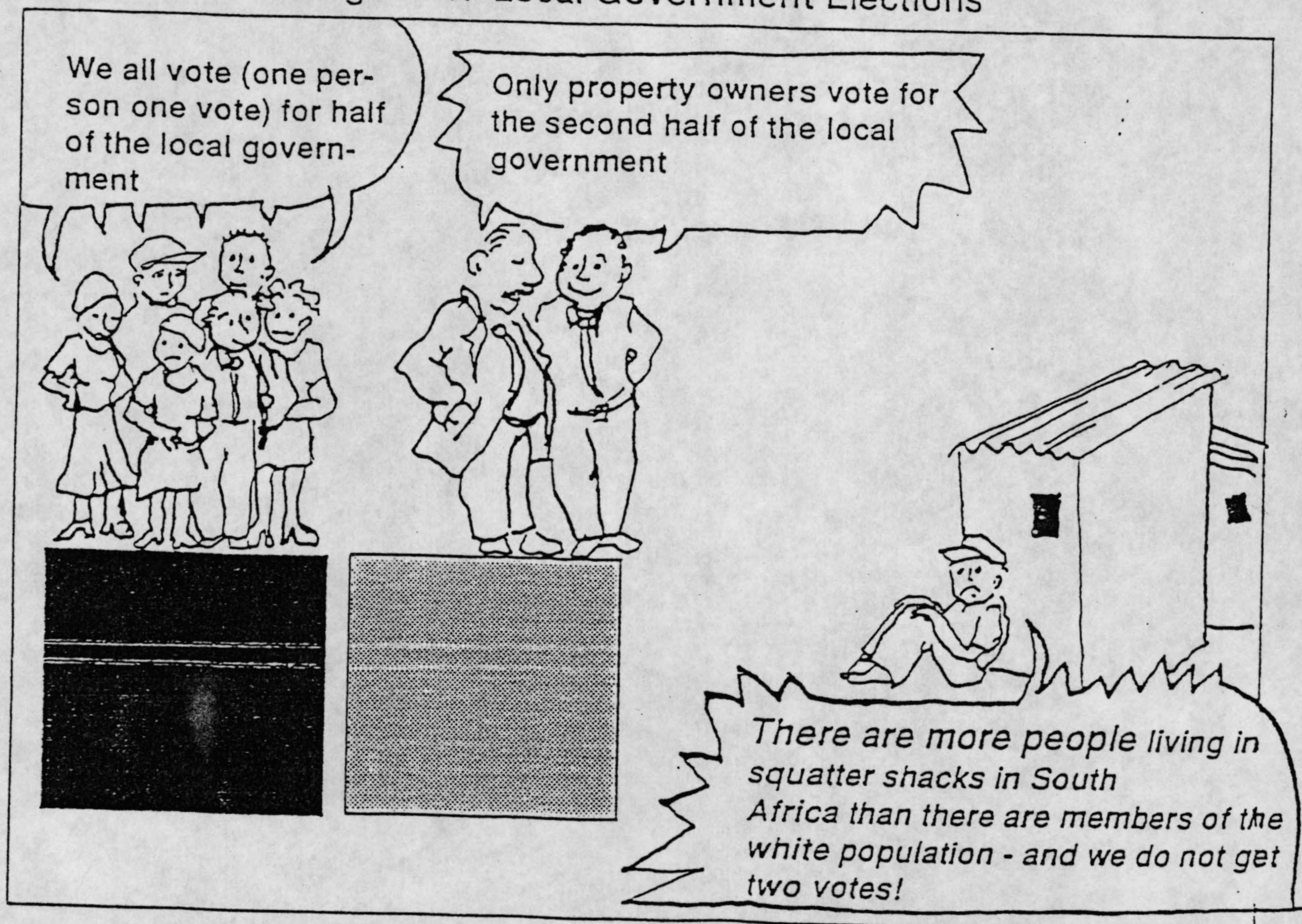
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The process of splintering central state power continues at every level of government. At the regional level a similar version of NP "powersharing" between the majority party and all other major parties is envisaged. Here this is described as special procedures to deal with minority interests and circumscribed matters. It reflects once again an intention to enable small groupings to block governmental action and legislation with which they do not agree.

What is more, the proposals entrench powers in regions which cannot be taken away by the central government. This would make it impossible for a future parliament to implement any national policy of reconstruction. It would render social and economic transformation and nationally directed affirmative action impossible.

With regard to local government, powers are vested in city councils elected on a basis which takes account of both the interests of "lawful residents" and the particular interests of "owners, lessees and rate payers". It is proposed that the allocation of wards should be done on the basis of property values and voting numbers. It is also suggested as an example that half the city councillors should be elected by a voters roll consisting of "all residents" and the other half by a voters roll "containing only the names of owners, lessees and ratepayers."

Diagram Y: Local Government Elections



11 NP and ANC Constitutional Proposals

The proposal clearly intends to favour people with property interests over other voters, in a situation where Africans have generally not had the opportunity to buy property. People in low density living areas (whites) will be preferred over people in high density living areas (blacks) and people in formal houses (whites and some blacks) will be preferred over people in informal housing (blacks). In addition, it is said that "special decision making procedures such as increased majority votes" will be required in respect of certain "circumscribed sensitive matters."

We have seen that the principle of consensus government is treated as a sacred thread running through much of the document. But with astonishing brazenness, the principle is abandoned in regard to an element of the local government structures. This concerns the proposed constitution of neighbourhood councils who can come together on a voluntary basis within any geographical area of the local authority. The neighbourhood councils are to be elected by the residents of the neighbourhood and vested with "autonomous power over neighbourhood matters such as the regulation of norms and standards for residential environment, the granting of licenses/permits in regard to the use of property, the provision of communal facilities, security matters and civil protection, and matters that may be allocated to a neighbourhood council in terms of other legislation, for example education and welfare."

Here consensus is no longer required. Autonomy is vested in the neighbourhood groups who may deal with matters within identified spheres of power, and raise money from the residents of the neighbourhood for that purpose. In this way we see the continuation of Group areas under a different guise.

Our support for the principle of proportional representation is based on our desire to see both representative democracy and the inclusion of all interests.

This does not suffice for the Nationalist Party. Much is made of the need to include every interested party and ensure that no party is left out of government. Now this has a superficial attraction, an appeal to generosity and broadness rather than selfishness. But where in the world are parties compelled to enter into coalitions with other parties, especially ones that may represent diametrically different interests?

This is said to be the pattern of Western Europe. It is true that many European states have coalition governments, but these are entered into voluntarily on the basis of political conditions which they consider will be best confronted in that way. In the same way SWAPO in Namibia chose to bring other parties into its government.

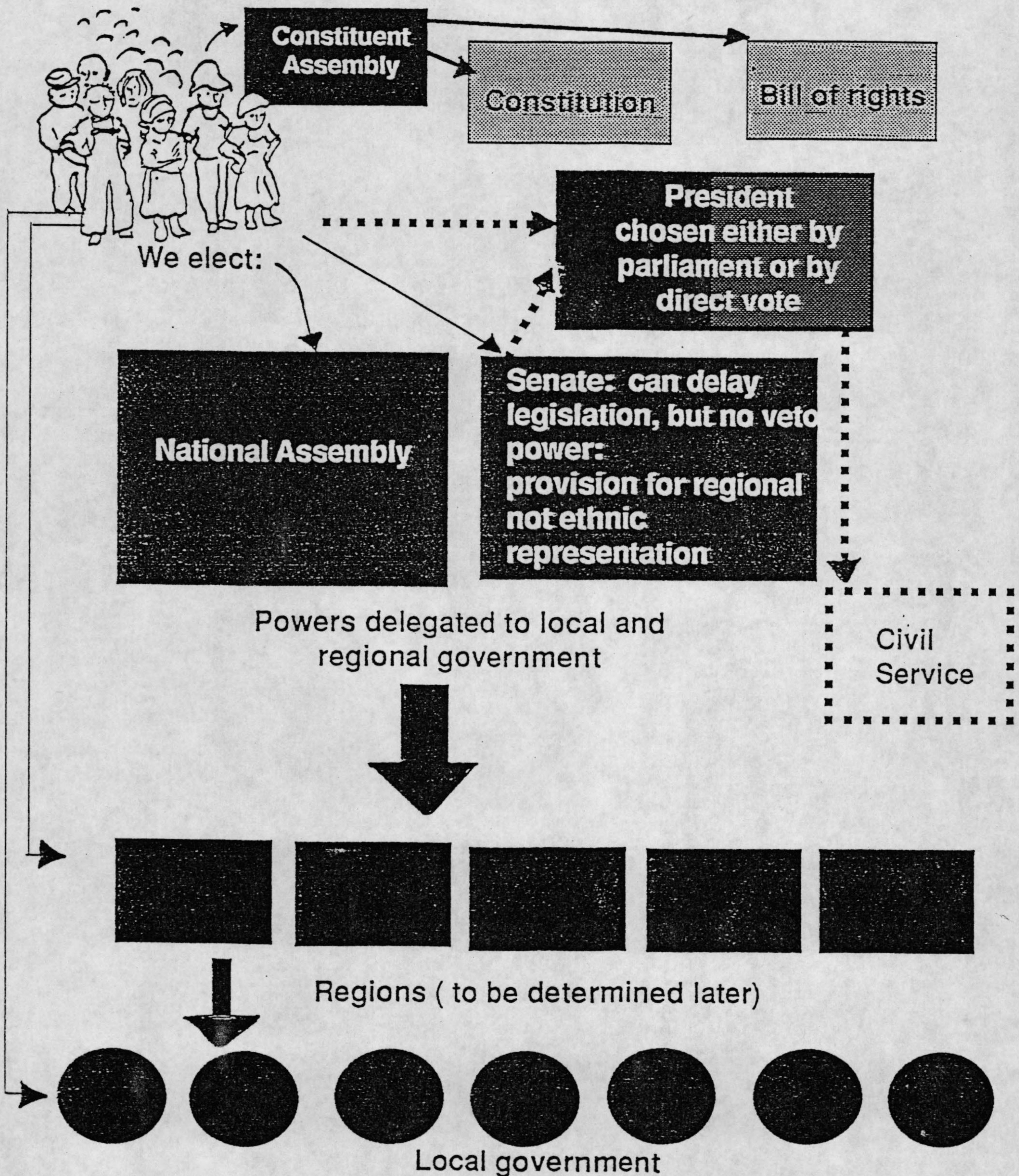
We believe that a future South African government should also enjoy a similar freedom of choice.

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South Africa has traditionally made unique contributions to constitutional law. Without exception these have been devices aimed at securing white domination. These proposals follow this unworthy tradition.

On the following two pages the constitutional proposals of the ANC and the NP are represented diagrammatically. The diagrams show the dramatic differences in the power of the majority in the proposals. All those areas shaded black in the diagrams are bodies that are elected by one person, one vote. Areas shaded with stripes and dots are bodies elected through another mechanism which effectively undermine majority rule.

ANC Constitutional Proposals: The People Shall govern!



Nationalist Party Constitutional Proposals: The people shall NOT govern!

*Probably resulting
from negotiations
between "key
players"*

Constitution

Bill of rights

*(unclear whether
one or both
houses choose
presidency)*

Joint Presidency: "Rule by
consensus through
representatives of three to
five parties"

**1st House of Parliament
(elected by one person
one vote)**

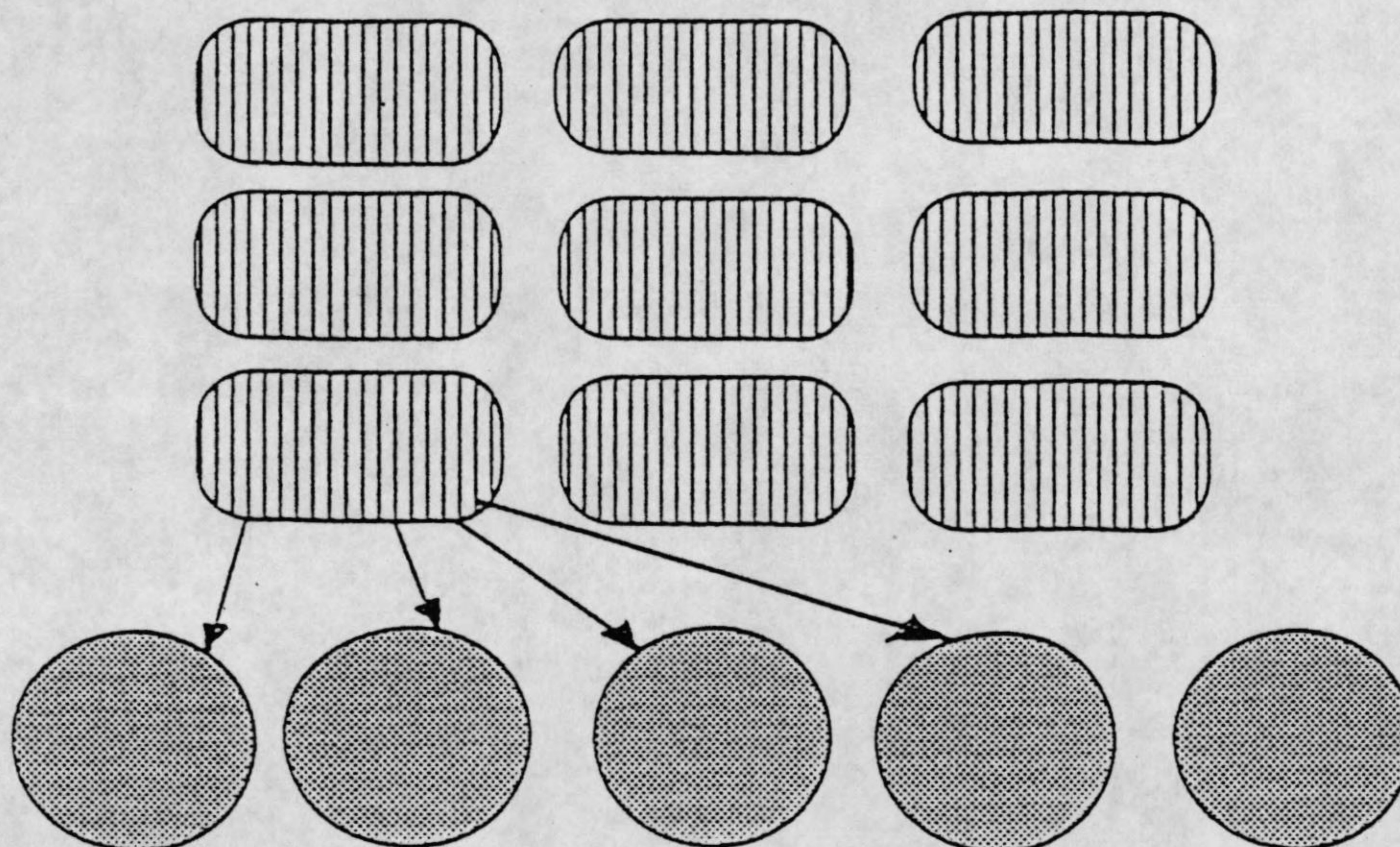
*veto
power*

2nd
House of Parliament

Cabinet

Civil Service

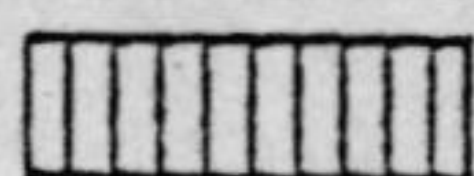
Regional governments: these would be vested with their own powers (eg. control of education): they are autonomous and do not depend upon Parliament for their powers.



Local government:
these would also
have their own
powers



Part of government chosen solely by one person one vote, and majority rule



Chosen on a regional basis: every party with more than a certain percentage of the vote gets the same number of representatives (see diagram X)



Chosen by "local government" voting process: owners vote twice (see diagram Y)

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Areas of agreement and disagreement

Despite what has been said, there are some areas of agreement between the NP and ANC and these ought to be noted:

- * Common and equal citizenship rights for all South Africans
- * Universal and equal voting rights for all South Africans in a lower house (though this is immediately undermined by the composition and functions of the second house as already mentioned)
- * The existence of a justiciable bill of rights
- * An electoral system based on proportional representation.

Let us now look more closely at the areas of disagreement:

The status of the majority and the minority

In essence the difference between the ANC and NP constitutional visions lies in their attitudes towards the majority and minorities.

It is important that the ANC demonstrate that it is able to address both of these issues and I believe that we do. The question of the majority is essentially, whether one is going to allow a conventional principle of democracy to prevail, the right of the majority to rule, subject only to recognised constitutional principles, enshrined in a bill of rights.

Clearly as demonstrated in the analysis above, the NP does not intend the majority to be able to exercise power. The type of concessions required for it to reach consensus with other co-rulers means that the vote is meaningless. Those presently disenfranchised may have the vote but they will not have the power that they want the vote for. There is no point in winning elections. You have as much or more power in losing.

But what is important to realise is that the ANC does not scorn the idea of minority rights. The question really is whether we are speaking of privileges or rights, because the object of the ANC's struggle as a whole (and in this regard they stand side by side with all democrats) is to end white privilege and ensure equality. That is why Nelson Mandela, President of the ANC has said:

"We have no intention of attacking legitimate rights. What we will attack are the privileges accumulated through apartheid domination. We will try to create a South Africa where fundamental rights are guaranteed and basic social needs

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are met. We are looking for a constitution that conforms to universally accepted democratic principles."

But the ANC recognises the right of all people, minorities as well as the majority to have their legitimate rights recognised. The right to language, culture and religion are advanced in the Freedom Charter, the Constitutional Guidelines of 1988, the ANC Draft Bill of Rights and the Constitutional Proposals.

The NP proposals see as a central objective that there should be freedom from domination. But there seems simultaneously to be an assumption that majority rule means domination. But this is false: As it was put in an ANC discussion paper:

"Democracies function on the basis of parliamentary majorities. It is only if a majority acts oppressively towards minorities that it is appropriate to talk about domination. What a constitution needs to do is prevent such oppression. There can be no objection in principle to the inclusion in the constitution of mechanisms designed to secure protection for the legitimate interests of minorities in South Africa...Protection against "domination", and the accommodation of cultural differences, can be and usually are dealt with through a bill of rights and related mechanisms. But to go further, and to require in effect, as the National Party's proposals do, that legislation and executive action can only be undertaken if minorities give their consent thereto, is neither democratic nor practical."

'Power (of the majority) corrupts'

There is an assumption made by both the Nationalist Party (today) and the Democratic Party that there is something inherently undesirable about power and that one needs to curb it wherever possible. We support a justiciable Bill of Rights because we do not want to see the abuses of the South African past or that of other countries repeated.

But power is necessary to make the attainment of political freedom more than an empty shell. Power is necessary to fill the stomachs that are empty. Power is necessary to provide decent healthcare, housing and jobs. Power is necessary to address all the social questions that have to be resolved to make peace lasting. Dullah Omar has remarked in a recent paper:

"Apartheid rule has created a monstrous edifice in every area of life. Because the edifice is complete, the preservation of the edifice no longer requires overt apartheid laws. It would be sufficient to establish a system of blocking mechanisms to prevent change. To address the legacy of apartheid a constitutional framework is needed which will enable a democratically elected government to take legislative steps, executive and administrative steps to pursue a policy of reconstruction, equalisation

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of and eradicating historically created inequalities in an orderly manner. Blocking mechanisms seek to prevent that eventuality."

It is very shortsighted to assume that blacks will settle for a meaningless vote. They want the vote for what the vote can do. They want the vote to lead a better life. If the vote does not provide this, arguments about the inclusion of all interested parties in government and the dangers of power will not stop the country from becoming ungovernable.

We are told that the present constitutional proposals are needed to prevent "a Lebanon". It is precisely because of the attempt to institutionalise in the constitution artificial checks and balances between the Muslims and Christians that the constitutional order there broke down.

Why not a federation?

The NP proposals incorporate very rigid provisions containing a federal element. The DP has a more conventional federal proposal, although it too entails artificial demarcation of "states". The ANC does not have an abstract, generalised opposition to federalism in all situations. But there seems little reason to entertain the idea for South Africa today. What are our reasons?

* There is no natural basis for federalism in South Africa. In South Africa it is the centre that has character as a state entity and there are no regions with character sufficiently distinct to be natural bases for sovereignty.

Generally federations have come into being through smaller states joining to form a larger state, rather than a larger state devolving power from the centre to regional entities. In other words, the states that make up the federation normally already have an existing distinct historical and legal personality which provide a basis for their continued sovereignty.

In South Africa no such state entities exist. Even the NP seems to now acknowledge that the bantustans do not constitute such a basis. (See Albie Sachs, *Protecting Human Rights in a new South Africa*, for further discussion on federalism)

* Economically also, South Africa is an integrated unit. There are no areas that are autonomous or self-sufficient. Urban and rural areas, including the bantustans are linked through migrant labour and dependency.

* Culturally, South Africans of all races share a great deal in common. Christianity is the religious persuasion of some 80% of the population. The ANC has in its process of nation building, since 1912, done a great deal to overcome tribal and regional divisions. Trade unions are national in their scope.

* Major areas of the civil service are also organised on a national basis. The army, the police, the prison services are organized on a nation-wide basis; so are transport and telecommunications; there is one Stock Exchange for the country, one basic electricity grid, an integrated water supply system and a single time zone. Companies have one head office and even the sporting unions are national in character.

Prior to Union there was a strong lobby for the establishment of a federation. But the view that prevailed held that no region was so distinct in character as to warrant a separate sovereignty. Consequently the provincial councils set up under the Act of Union were granted delegated rather than exclusive powers.

As Albie Sachs has written: "For nearly eighty years, to quote the official motto, Unity has been Strength. Only now that the prospect of universal suffrage is on the near horizon does Unity suddenly become Weakness."

As far as genuine concerns of federationists over the need for checks and balances are concerned, there are other ways that this can be addressed, without breaking the unity of the South African state. In particular separation of powers together with a Bill of Rights is crucial.

Sachs correctly indicates that the question of grassroots democracy and opposition to an overcentralised and bureaucratic state has been a strong theme of community-based organisations. There is a strong desire to develop local democracy and this can be done without dividing the country up into a myriad of political group areas.

Instead of posing the question: "How can we weaken central government?" We may ask: "How can we strengthen local government?" How can we encourage direct community involvement, grassroots empowerment, immediate accountability of those in authority? How can we promote the organic structures of civil society and prevent the emergence of a remote, office-bound and potentially authoritarian state? Such an approach would seek to harmonize rather than counterpoise strong local democracy with large national goals.

The shift

Some people ask whether we are surprised by the NP proposals. To an extent they are surprising, because they are something of a regression. A penetrating article by Steven Friedman "The National Party and the South African Transition" in *Lee and Schlemmer* remarked on a shift in the NP away from seeking constitutional protection for group privileges, towards building alliances that could if not challenge the ANC, at least be a sufficiently significant force, to make it difficult to assail privileges.

It was an important contribution in that it forced us to take seriously the attempts to build a non-racial coalition of conservative anti-ANC forces. It should also be seen in the light of various opinion polls suggesting that the ANC may be losing ground amongst coloureds and Indians, to the NP. (Whether this is a continuing trend is another matter).

What the constitutional proposals show is a regression from this approach and a return to constitutional devices. This surely indicates a sense on the part of the NP that their support amongst blacks, especially Africans must be insufficient to struggle for their position on the political terrain alone. It tells us something of their true estimation of Inkatha's strength as a political actor and ally.

But there is another way of reading the proposals in relation to alliance building. The NP proposals may be an attempt to split the Conservative Party and draw some of them into negotiations-something that may already be succeeding.

Anyone who reads the proposals carefully will draw great comfort if they wish to see the status quo maintained. It is surely not far fetched to suggest that they may be an overture to sections of the Conservative Party (some of whom, it is known, partly through NIS infiltration, want to negotiate). This overture should be read as suggesting that the NP is also in the business of protecting white privilege, or rather it has never gone out of that business and it can offer a more realistic deal for preserving it, than can the Conservative Party or any other right wing force.

Surely, also, the most reliable base for a party wanting to preserve white privilege is the most reactionary section of the white community? Winning back these, together with Inkatha, whose leadership is known to be amenable to something less than universal suffrage, may be another route to building a strong, albeit minority alliance.

De Klerk's Threat

Having presented this set of proposals to the public, in his speech to the Federal Congress of the NP, Mr de Klerk threatens us:

"In our defence of these values, we shall not waver. The National Party has the capacity to prevent the adoption of a constitution which will militate against these values. We will not hesitate to use that ability."

What are the values that Mr de Klerk commits himself to impose on us?

* There will be no actual transfer of power to a democratic government and impotence of a majority party. The NP will be permanently in power.

* "Sharing of power" between forces representing diverse interests and

commanding widely differing degrees of political support will be enforced. The support that a party commands is nullified, the majority is outweighed by the minority. In short the minority rules. The people do not govern!

* A majority government will not be able to address the question of social construction, to ensure better housing, education etc, where the minority parties oppose this. Government expenditure must be a compromise between the forces of privilege and the forces for liberation, democracy and social justice.

* South Africa will be broken up into nine autonomous regions, weakening the central government and its capacity to tackle its social tasks nationally.

* Property holders will be favoured, thus entrenching their capacity to resist change.

What is the capacity that Mr De Klerk wishes to deploy against us? It is surely that power that accrues as referee and player in the process of transition. It is the power to determine unilaterally that certain things are not on the negotiating table, even where these are universally accepted democratic principles.

But Mr De Klerk is making a mistake if he thinks he has the power to permanently impose these infamous values on the South African people.

He is one person representing 1 million white voters. We are many, many more. Our power will not be stopped by illegal financing, state endorsed violence or any other force that may be deployed against the cause of freedom.

The desire for freedom is unquenchable. Mr De Klerk says that he wants peace. We all want peace. But there will not be peace without democracy. The national interest demands that there be genuine democracy. The national interest demands that there be rule by the majority without any constitutional shams designed to assure permanent life to apartheid privileges.

The national interest also demands that an Interim Government of National Unity be formed so that there can be freedom of political activity and that no party can threaten - as Mr De Klerk does - to determine the content and result of negotiations.