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Association of West European Parliamentarians
for Action against Apartheid

BASIC CONSTITUTIONAL CONDITIONS FOR THE SURVIVAL OF THE AFRIKANER
(Document of the Afrikaner Broederbond, 1989)

BASIC CONSTITUTIONAL CONDITIONS
FOR
THE SURVIVAL OF THE AFRIKANER

(An English version of the Broederbond document)

1. The purpose of this document is to word out certain constitutional guidelines in draft form, building on the policy document BASIC CONSTITUTIONAL CONDITIONS FOR THE SURVIVAL OF THE AFRIKANER and taking into consideration the present continuing debate. The draft guidelines move towards greater concretisation, but do not constitute a blueprint or model. They can, however, serve as a criterion when eventual blueprints or models are to be judged.
2. This document should be read as a whole and with the retention of its internal context.

1. CONSTITUTIONAL GOAL AND METHODS

We accept the following constitutional goal as point of departure for further constitutional development: the creation of an economically viable constitutional dispensation in which:

- 1.1. freedom and equal rights and opportunities for all South African citizens are ensured, and
- 1.2. the right to self-determination of the various South African peoples, population groups and communities are ensured, and
- 1.3. the interdependence of the various South African communities is recognised.

In order to reach this goal, it is necessary that the individual and group rights of each South African citizen be protected and that he will have, in the context of component units (based on group and/or geographic region), effective participation at all levels of government in decisions that affect him, but without dominance of one component unit over another.

(In the remainder of this text references to communities also refer to peoples of population groups).

2. GENERAL NORMS

A constitutional dispensation must satisfy the following general norms:

- 2.1. It must be in accordance with the demands of Christian justice.
- 2.2. It must be democratic, i.e. the power of the rulers must be based upon the will of the governed.
- 2.3. It must be practical and, as far as possible, comprehensible to all, bearing in mind the complexity of South Africa's circumstances.
- 2.4. It must be acceptable to the majority of South African citizens and preferably also to each of the component units it envisages. Therefore it should be the result of a process of negotiation and be carried by the mutual trust of South Africans.
- 2.5. It must be affordable, bearing in mind the economic realities of the country.
- 2.6. It must be compatible with an economic system with free enterprise as its point of departure.
- 2.7. It must be in accordance with the constitutional goal as

set out in paragraph 1 and give effect to the constitutional principles expounded in the next paragraph.

3. CONSTITUTIONAL PRINCIPLES

For lasting results a process of constitutional development should be evolutionary. For the achievement of the constitutional goal in paragraph 1 this evolutionary process should be guided by the following principles, upon which the eventual constitutional dispensation should be based:

- 3.1. A written constitution, entrenched against arbitrary amendments, must set out the composition and powers of government bodies, the distribution and division of powers amongst different government bodies, and the relationship between individuals and government.
- 3.2. The following basic individual rights should be protected in a constitutional bill of rights, subject to the normal qualifications for the protection of the interests of the community and of other individuals:
 - the right to life
 - the right to freedom of religion and worship
 - the right to equality before the law
 - the right to freedom of speech
 - the right to freedom, safety and privacy
 - the right to freedom of assembly, and of association and the spontaneous formation of groups
 - the right to political participation and free formation of political parties
 - the right to freedom of movement
 - the right of unhindered access to the law and to fair trial
 - the right to freedom of language and cultural expression
 - the right to property, individually or jointly with others
 - the right to equal economic opportunity and to equal educational opportunity
- 3.3. The existence in South Africa of component units, of a group or of geographic character, must be taken into account in a constitutional dispensation. To the Afrikaner it is important that he, alone or with others with whom he wishes to associate, should be entitled to protection as a group. The same applies to others who also desire such protection.

In defining the type of component units which may lay claim to constitutional participation, unilateral or prescriptive actions should, however, be avoided. The norms for defining the component units should be the result of negotiation and should be incorporated in the constitution.

- 3.3.1. The association of individuals in groups which wish to play a constitutional role must be voluntary, as group rights should not be absolutised. The right of individuals to associate in a group is recognised and protected. The same applies to individuals who do not wish to associate in particular groups. The right of a group to determine its own membership should also be recognised.

- 3.3.2. Individuals who prefer not to associate within a

- particular group may be part of an open group, which, if they so prefer, may take decisions on matters which affect them alone, but which also form part of the process of joint decision-making.
- 3.4. The groups in South Africa are interdependent and cannot exist in isolation from each other. Loyalties and symbols which cut across existing lines therefore have to be developed and used in order to develop a sense of national unity.
- 3.5. A component unit participates in decision-making through elected representatives, both on national matters, and also on matters peculiar to the component unit in question.
- 3.6. The interests of component units must be protected in all legislative and executive institutions, both on national and on other levels. The point of departure should be joint decision-making by means of consensus on matters of joint interest and autonomous decision-making on matters peculiar to a particular component unit.
- 3.7. Autonomy should be defined by the constitution and be guaranteed to all component units. This includes, within the framework of general norms and with the maintenance of a healthy division of interests, responsible financial autonomy. This autonomy should include all matters necessary for the maintenance of the distinctive character of the component unit. This means that component units should also have, within the broad principles accepted in the constitution, the power to decide autonomously on the composition of their governmental institutions and to what extent they wish to have their powers handled by other governmental institutions.
- 3.8. In order to eliminate mutual domination, to bring government as close as possible to the governed and to reduce the conflict potential at the central level, the principle of a maximum decentralisation of power should be applied with regard to both geographic and group component units.
- 3.9. The existence of different political structures does not necessarily imply the creation of different administrative institutions. In the interest of affordability and simplicity joint administrative institutions for different political institutions should be considered, wherever possible.
- 3.10. An independent and impartial judiciary to settle disputes between individuals and between the state and its citizens must be maintained.
- 3.11. Financial structures in harmony with the constitutional dispensation should be developed, taking into account economic aims and realities.

4. TYPE AND FORM OF STATE

A unique constitutional model in South Africa will, therefore have the following characteristics regarding type and form :

- 4.1. A uniquely South African democratic type of state, in which governmental authority rests upon the will of the governed, is the point of departure.
- 4.2. In such a state component units must be recognised in such a way that important matters of joint interest will be decided on a basis of consensus by the representatives of

all component units, while decisions on matters peculiar to a component unit can be made autonomously by that unit.

- 4.3. For the sake of stability, continuity and cost-effectiveness, the component units referred to in 4.2. should wherever possible, develop from existing constitutional units.
- 4.4. The division of powers in pursuance of 4.2 should be entrenched in a written constitution. The constitution should not be amendable without complying with a prescribed procedure in which the component units have effective participation.
- 4.5. The supreme court should decide on disputes regarding the division of powers between government institutions in terms of 4.2, and also if the basic rights of individuals, protected by the bill of rights in the constitution, are infringed by legislation or administrative action.
- 4.6. A legislative institution on the national level, regardless of its structure, must recognise and reflect in its composition the size of the population as well as the existence of component units.
The component units represented in such a legislative institution must have equal status and voice and as point of departure the majority in each component unit should support a decision before it becomes valid.
- 4.7. Participation on component units in the executive at national level must be guaranteed, and at the same time the experienced management of national affairs should be ensured. The powers vested in the chair of such an executive should be of such a nature that they cannot be applied for the purposes of group domination.
- 4.8. In decision-making use must be made of vetos and different majorities, depending on the importance of the matter to be decided. Absolute consensus will therefore not be necessarily required concerning less important matters. Deviations from the requirement of consensus should be laid down in the constitution or be the result of agreement. A body empowered to settle stalemates whenever necessary in the national interest, must be created.
- 4.9. The secession of a geographic component unit (or part of such a unit) from the Republic or the accession of a state as a component unit to the Republic may take place by mutual agreement, if the inhabitants of such a component unit or state are in favour of such a step and the necessary administrative and financial arrangements can be made.
The states which have seceded from the Republic, as well as other independent states of Southern Africa, may, together with the Republic, form part of a Southern African multilateral Confederal organisation which will deliberate on matters of common interest.

5. CONSTITUTIONAL TECHNIQUES

Various constitutional techniques may be used to ensure the effective participation of all component units in both legislative and executive decision-making on matters of joint interest on all levels. Known techniques include the following :

- 5.1. Electoral systems for legislative bodies, e.g. proportional representation, which guarantees meaningful and fair representation, but is not incompatible with effective

government.

- 5.2. Entrenched representation on all levels of government to ensure the participation of component units in joint matters in such a way that the size of no single component can be decisive in decision-making.
- 5.3. The use of direct or indirect election for the composition of legislative bodies. One possibility could, for instance, be that the legislators of geographic and group component units be elected directly, and that such units appoint their representatives in the central legislature. Another possibility could be that the voters of a particular component unit directly elect both members of the legislature of that component unit and of the central legislature.
- 5.4. A non-executive head of state who serves as symbol of national unity and is appointed in a manner which underlines that role, eg periodical rotation or a prescribed maximum term of service.

ADDENDUM

The concept component unit.

There are different types of component units which may be considered on their own or in combination. A few examples, which do not constitute an exhaustive list are given below:

OPTION 1

This option entails that each component unit consists of a racial group.

- Four racial groups are recognised by the constitution, whites, coloureds, Indians and blacks.
- provision is made for an open or unattached group which may consist of members of all racial groups;
- individuals must join a racial group or the open group to qualify as voters;
- free association implies that the individual prefers to associate with a particular group, but also that he should be accepted as a member by the group;
- each racial group may decide on its own whether it wishes to manage matters peculiar to itself, but all groups participate as equals in decision-making on all three levels of government.

QUESTIONS FOR DISCUSSION.

Is a rigid approach based on race acceptable nationally and internationally? Will Blacks accept it? What will happen if all except the whites move to the open group?

OPTION 2.

This option entails that each component unit is based on ethnicity.

- Each ethnic group that wishes to do so, may register as a component unit.
- Provision is made for a non-ethnic group which may include members of all ethnic groups.
- Constitutional means are laid down to enable individuals to associate with an ethnic group. One method may be to demand that the majority of persons who in the previous census indicated that they belong to a particular ethnic group, formally register as members of that group before it gains autonomy.

- The choice of an individual to associate with an ethnic group must be subject to consideration by the group.
- Each ethnic group may, if it so wishes, have its own legislature for matters peculiar to itself.
- All registered ethnic groups participate with the open group in decision-making on joint matters at all levels of government.

QUESTIONS FOR DISCUSSION

Will it be desirable to divide whites into a number of different ethnic groups? Where do the coloured people fit in? Will the country not have a large number of small groups?

OPTION 3.

This option entails that each component unit comprises a geographic region.

- The country is divided into a number of geographic regions, for instance, four provinces, nine Development regions or 47 Regional services councils. The six self-governing areas continue to exist, or may, if they want to, merge with a new region.
- No explicit provision is made for the autonomy or participation in decision-making of racial or ethnic groups.
- Every individual may decide on which region he wants to live.
- Each region has only one common voters roll.
- Each region has autonomy, with its own legislature and executive.

QUESTIONS FOR DISCUSSION

Does this comply with the prerequisites for survival of the Afrikaner? Will it not lead to majority rule without sufficient protection of minorities?

OPTION 4

This option entails a combination of the afore-mentioned options.

- The whole Republic is divided into autonomous regions.
- In each region the different groups decide whether they wish to participate in decision-making as a group or whether they prefer a common voters roll.
- Different types of groups may be recognised. Whites may for instance prefer to participate as a racial group, while Zulus may prefer to do so as an ethnic group.
- Individuals decide for themselves whether they wish to associate with one of the groups. If not, their names appear on the general voters roll.
- Each regional legislature makes provision for an open group and for the other racial and/or ethnic groups which may exist.
- Each region is represented on an equal basis in the central parliament. Each region decides internally how its representatives are appointed.
- Provision is made in the central parliament as well that certain constitutionally relevant groups (for instance whites) who insist to do so, form a second house with powers equal to the house representing the regions.

QUESTIONS FOR DISCUSSION

Can this option be accommodated successfully? Should the Afrikaner participate as ethnic group or as part of the white racial group?