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AFRICAN NATIONAL CONGRESS

SUBMISSION TO SUB-GROUP 3 OF WORKING GROUP 1 ON:

Fair and reasonable access for political parties to all potential voters, wherever they may reside

1. A number of submissions to this Sub-Group have adverted to the need that political parties should have free access to voters as part of the political education process. It should be added that voters are often members of parties so that this right of access should also be seen as a component of freedom of organisation.
2. These submissions have not limited such a right of access to publicly - owned property only. It is generally accepted that all school and other halls, meeting places, traditional areas of assembly and communally - owned areas should be available to all political parties without discrimination for the holding of meetings, rallies etc., without the fixing of artificial conditions and exorbitant fees or insurance conditions. Complaints concerning access to publicly-owned venues must be speedily investigated and remedial action provided by the electoral supervisory commission.
3. The National Peace Accord recognised this dimension by providing in Chapter II, under the code of conduct for political parties that:
The state and all political parties and organisations recognise the essential role played by political parties and organisations as mediators in a democratic political process, permitting the expression, aggregation and reconciliation of different views and interests, and facilitating the translation of the outcome of this process into law and public policy, and respect the activities of political parties and organisations in organising the respective structures, canvassing for support, arranging public meetings and encouraging voting.
4. But the National Peace Accord does not stop at limiting this right of access only to publicly-owned premises and land. It recognises that many hundreds of thousands of our people - voters and members of political parties - live on mine compounds, privately-owned barracks, estates owned by fruit, wine and sugar enterprises. Even when workers live in separate houses, these are on privately-owned land and access to such voters - who are often considerable distances away from towns and main roads - is not possible as of right.
5. In recent elections in Namibia and Zimbabwe, the refusal of the tenant or free-hold owner to provide access to voters

became a contentious matter and which raised the political temperature. There were allegations that farmers and owners of property gave preference to one party over another, intimidated voters and "bussed" large numbers of voters to elections, thus interfering with their free choice.

6. It is for this reason that the National Peace Accord proposed that all parties should have access to voters and or their supporters wherever they may live or work, including privately - owned compounds and farms.
7. It has however been suggested that, notwithstanding the free expression of support by the signatories to the NPA for the above proposition that such a proposal will interfere with the right to private property. Although another Working Group is at present discussing the concept of private property, it has become necessary to point that the rights associated with private property have never been absolute in our law. Various restrictions on the exercise of this right have been introduced in the interest of the community or its values. The planning and anti-pollution laws, building regulations, common law nuisances and taxation are some examples of the way in which laws limit the freedom of the property owner.
8. More directly and relevantly, owners of and others who may have a present or future interest in the land are compelled to recognise rights which "run with the land" or which have been created. Examples of this is a right of way access private land or across pedestrian servitude. In Natal and in the Transkei, under traditional law, a right of access was provided across your neighbour's land in order that a farmer could plough his own land, which would otherwise be cut off. This was known as umlimandlele.
9. It would therefore be totally inaccurate to conclude that a landowner or tenant has the inherent right to exclude all or any interest external to himself or herself from the land and privately-owned property.
10. The African National Congress considers that there is a legitimate democratic interest identified by the National Peace Accord which needs to be protected the by law.
11. The ANC therefore proposes to this Sub-Group that the community interest identified by the NPA should be reflected in the amendment of our law so that all parties participating in the political process should have reasonable access to voters and to their members at reasonable times and under reasonable conditions.

12. No owner of property should unreasonably withhold such permission. All complaints should be referred to the independent electoral commission which should be empowered to give such directions as it considers necessary in order that the right access to voters etc., is protected and enhanced.
13. Following agreement at the Working Group, it is proposed by the African National Congress that the Working Group's initiative be submitted to Working Groups for drafting into legislation.

27 April 1992.

African National Congress

REPORT

WORKING GROUP ESTABLISHED UNDER PARAGRAPH 1 OF THE GROOTE SCHUUR MINUTE

1. On 2, 3 and 4 May 1990, at Groote Schuur in Cape Town, a delegation of the African National Congress met the State President accompanied by Ministers and officials. At the conclusion of the meeting a document, called the Groote Schuur Minute, was adopted. A copy thereof is attached. Paragraph 1 provided for the establishment of a working group. The ANC nominated as its representatives on the working group, Messrs Zuma, Maduna, Nhlanhla, Pahad, Phosa and Ndlovu (its members on the Steering Committee). The Government nominated as its representatives Minister Coetsee, Deputy Minister Meyer and Messrs Van der Merwe, Swanepoel, Louw and Viall, Major General Knipe and Brigadier Kok.
2. The Working Group was charged with -
 - making recommendations on a definition of political offences in the South African situation;
 - discussing, in this regard, time scales; and
 - advising on norms and mechanisms for dealing with the release of political prisoners and the granting of immunity of political offences to those inside and outside South Africa.
3. It is recognised that in terms of the Groote Schuur Minute, the category of persons involved only in offences set out hereunder have already been catered for, for immediate attention:
 - 3.1 The leaving of the country without a valid travel document;
 - 3.2 Any offences related merely to organisations which were previously prohibited (including membership of Umkhonto we Sizwe).
4. Persons in the above category are entitled to be dealt with in terms of the provisions set out in paragraphs 6.2 and 6.3 hereof,

negotiated peaceful political settlement and in the context of the agreements reached, the ANC announced that it was now suspending all armed actions with immediate effect. As a result of this, no further armed actions and related activities by the ANC and its military wing Umkhonto we Sizwe will take place. It was agreed that a working group will be established to resolve all outstanding questions arising out of this decision to report by 15 September 1990. Both sides once more committed themselves to do everything in their power to bring about a peaceful solution as quickly as possible.

4. Both delegations expressed serious concern about the general level of violence, intimidation and unrest in the country, especially in Natal. They agreed that in the context of the common search for peace and stability, it was vital that understanding should grow among all sections of the South African population that problems can and should be solved through negotiations. Both parties committed themselves to undertake steps and measures to promote and expedite the normalisation of the situation in line with the spirit of mutual trust obtaining among the leaders involved.
5. With due cognizance of the interest, role and involvement of other parties the delegations consider it necessary that whatever additional mechanisms of communication are needed should be developed at local, regional and national levels. This should enable public grievances to be addressed peacefully and in good time, avoiding conflict.
6. The Government has undertaken to consider the lifting of the State of Emergency in Natal as early as possible in the light of positive consequences that should result from this accord.
7. In view of the new circumstances now emerging there will be an ongoing review of security legislation. The Government will give immediate consideration to repealing all provisions of the Internal Security Act that -
 - (a) refer to communism or the furthering thereof;
 - (b) provide for a consolidated list;
 - (c) provide for a prohibition on the publication of statements or writings of certain persons; and
 - (d) provide for an amount to be deposited before a newspaper

Fax from Security Branch, 23 October 1990

1. In accordance with paragraph 5 of the Groote Schuur Minute, the Minister of Law and Order, Mr Adriaan Vlok and Mr Jacob Zuma, information chief of the ANC met to discuss the creation of efficient channels of communication between the government and the ANC.
2. After an in-depth discussion it was agreed that:
 - Liaison committees be established on a regional level and also on a district or local level depending on the needs that are identified. The objective of the committees is to maintain regular contact between the S A Police and the ANC.
 - Both the S A Police and the ANC will, as soon as possible, provide one another with the names and addresses and telephone numbers of persons they appointed as liaison officers on the different levels so that the system can become operative by 30 October 1990.
3. The object of the exchange of names of liaison persons is to ensure a line of two-way communication. Up to date the S A Police has received only 29 names of ANC liaison persons.
4. Please furnish the S A Police with the rest of the names of your liaison persons so as to ensure the efficient functioning of the channels of communication.

Signed: Brigadier R P McIntyre