

APC ty CROESA

Aho Agar DEMOCRATIC FARTY

FOR THE MANAGEMENT OF THE TRANSITION
DF National Congress on 14 November 1991}

INTRODUCTION

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1.1 What is "Transition

1.1.1 South Africa is in a process of moving from minority domination to a new inclusive democracy. This process is commonly referred to as "the transitionâ\200\235, and encompasses the passage of time and sequence of events that will, or should, take place between now and the date on which the new constitution for South Africa comes into operation.

1.1.2 There are two distinct features or processes which will characterize the transition:

{a) the negotiation process itself from which a new constitution, @conomic system and social order must emerge; and

the manner in which the country is governed and managed until the introduction of a new constitution.

2.1 The Democratic Farty is committed to working towards

political orientation in South Africa in which democrats will naturally be drawn together. In the process of achieving this ideal, the Democratic Farty will work for a convergence towards the democratic centre involving the coming together of significant sections (if not all) of the ANC, the NF, the IFF, the DF and other democratic parties and carrying the endorsement Of millions of South Africans who are today without a political home. This should lead to a Government of National Reconciliation. Post-negotiation South Africa cannot successfully be administered without such a government inter alia because:

fa) A government which cannot command the loyalty of the Population as a whole will result in political volatility, while a government which cannot command the confidence of investors will result in economic stagnation;

(b) The failure to bring about such a government will perpetuate the present â\200\234system" versus "struggle" politics, with all its inherent instability, violence, poverty, inefficiency and corruptions

(c) There is no long-standing tradition of democracy in South Africa, and democratic procedures need to be carefully nurtured. Until the tradition of democracy is strengthened to withstand the strains of open, competitive and confrontational politics, and until the wrongs of the past have been righted, politics needs to be directed towards unity and consensus; and

(d) Only a centrist alliance will be able adequately to maintain law and order, restore stability and create a climate attractive for investment.

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=. CONVENTION FOR A DEMOCRATIC SOUTH AFRICA

S.1 The BF believes that the negotiation and transition processes must commence with the first meeting of the Convention for a

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Democratic South Africa (CODESA). This body will continue to be the principal agent for the management of the transition.

2.2 To be effective, the conference must be as broadly representative of all shades of political opinion as possible, and all reasonable steps should be taken to secure the attendance by as many parties and movements as possible.

= The purpose of CODESA should be to agree oan:

kÂ¥ the composition, functioning and powers of the body to be charged with drawing up the new constitution (the DF favours an elected Constitutional Conference);

a set of principles upon which the new constitution will be based.

the form and functioning of the governing authority during the process of transition from an apartheid South Africa to a new non-racial democracy (the DF favours a multi-party Transitional Government of National Reconciliation);

procedures to be followed to ensure the legal continuity and legitimacy of the new constitution; and

the participation of the TBYVC states in the negotiation and transition process and the principle of their re-unification with South Africa under the new constitution; and

the drawing up and introduction of a Bill of Rights for the transitional period.

4. PROPOSALS FOR TRANSITIONAL GOVERNMENT

4.1 Introduction

4.1.1 However imperfect the present constitution may be, South Africa has an elected government recognized by the international community. Nevertheless the constitution excludes the vast majority of South Africans from participation in the formation of the government and accordingly lacks legitimacy.

4.1.2 South Africa therefore needs a Transitional Government of National Reconciliation, which must be the product of agreement at CODESA.

4.1.2 The objectives of the Transitional Government of National Reconciliation should be:

- * TO preserve constitutional and legal continuity of governments

To Build credibility, legitimacy and acceptability of government decisions and policies by broadening the base of government; i

To promote, and as far as possible ensure, even-handed and impartial stewardship of key government functions, particularly control of government expenditure, of the broadcast media and of the security forces;

To ensure stability, and the continued loyalty and commitment of public servants; and

To promote shared responsibility and to build trust and goodwill between participating political groups.

In addition, such a transitional government would help to prepare the people of South Africa for the advent of a fully democratic constitution and would assist in containing violence and preventing the polarization and militarization of our politics.

4.2 The Council of Leaders

4.2.1 A Council of Leaders will be appointed by CODESA representing significant political parties or groupings and will include the State President.

4.2.2 The State President will exercise all executive functions provided for in the constitution on the advice of the Council of Leaders in the same manner in which he normally acts on the advice of the Cabinet.

4.2.2 In the event of an inability to reach consensus on a matter of significance, the Council may refer this dispute back to CODESA.

4.2.4 The State President and the Council of Leaders shall:

- * Give effect to decisions of CODESA: and

- * Resolve deadlocks which may be referred to them by the multi-party Cabinet committees.

The State President and i Leaders may further
her decide to:

* Change the composition and structures of the Cabinet;
for interim participative structures om provincial
al government levels

the representivity of the judiciary, public
and armed forces;

specialist commissions to
particular issues; and

X Make appointments to various government advisory bocies.

4.2 Multi-Party Cabinet Committees

4.3.1 Each Cabinet Minister, or where it is practical, group of
Cabinet Ministers, will in the execution of his or their
responsibilities act on the advice of a multi-party cabinet
committee, appointed by CODESA. The Minister(s) will be mamber(s)
of the committees.

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s2ee The multi-party cabinet committees will be consulted before
legislation is introduced to parliament and before the
Minister(s) exercise(s) the executive power vested in him/them,
and he/she/they will not proceed with the legislation or
executive action until the committee has given its advice,
subject to reasonable time limits.

4.2.3 Should the Minister, or Ministers, be tinwilling to follow
the advice of a multi-party cabinet committee, the matter shall
be referred to the Council of Leaders.

4.3.4 While the multi-party cabinet committees would be competent
to give the Minister(s) any advice they saw fit, it is not
anticipated that such committees would involve themselves in the
day-to-day administration of the government departments.

4.4 Remuneration

4.4.1 Any person who serves on CODESA, the Council of Leaders, a
multi-party cabinet committee or any commission set up by any of
these bodies will be paid a salary drawn from the State Revenue
Account: provided that persons already receiving a salary from
the State shall not be entitled to receive a double salary for
such service.

4.4.2 In addition, funds should be made available for the
maintenance of secretariat and research services for persons
serving on these bodies.

4.5 Integration of the Public Service

4.5.1 The composition of South Africaâ\200\231s public service should
reflect the composition of the population far more than it does
at present. In cases where political groupings control their own
bureaucratic structures, a start can be made by negotiation to
integrate these bureaucracies into the existing public service.
In any event specialist commissions should be set up to negotiata

appropriate criteria for such issues as standards of education and training, efficiency and effectiveness, repatriation, pension and pay, promotion policy, re-orientation, command and control during the transition and compensation payable for the taking over of assets. A negotiated and appropriate affirmative action programme should also be commenced as soon as possible.

2.2 Of particular significance is the integration of the foreign missions of the ANC and the FAC, and the integration of their armed wings into the SADF and the SAF. (The issue of integration of the armed forces is dealt with in more detail in the Democratic Party Position Paper "Containing Violence - The

Peace Management Dimension")

The specialist commissions' reports will be submitted to the Council of Leaders for endorsement or amendment, and implementation.

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ther Interim Arrangements

4.6.1 The Democratic Party believes that it is not necessary to wait for a new constitution to be finalized before negotiating and applying solutions to urgent problems facing the country, even if such solutions may be temporary and may change once the constitution is agreed to in its final form. It is, for example, urgently necessary to negotiate interim local government structures, and in this connection attention is drawn to the Democratic Party Position Paper "The Political and Structural Transformation of South African Cities : Principles, Processes and Policies". Other areas requiring urgent attention are the negotiation of measures for inclusive participation at regional and provincial levels of government, the development of underdeveloped areas and communities, the development of black skills, particularly in government and administration, and the negotiation of new national symbols.

4.6.2 Some progress has been made in this respect in a few important fields already, including sport, low cost housing and education. Significant success has also been made in addressing the issue of violence in the National Peace Accord, and success in lowering levels of political violence will be a critical determinant in the success of the transition. Another critical determinant of its success will be making change visible on the ground, and the Democratic Party's solution to some of these problems is contained in its position paper "Proposals for the Alleviation of Poverty, Hunger and Unemployment during the Transition". Equally important is the removal of residual "constitutional" apartheid and the counteracting of the effects of apartheid.

4.6.3 Transitional Constitutional Adaptations

4.6.2.1 While the formation of the Council of Leaders and the multi-party cabinet committees are essentially contractual arrangements between political parties, some changes will have to be made to the present constitution to sanction transitional

structures and procedures, as outlined above, prior to the negotiation of an entirely new constitution.

4.6.3.2 In addition, Parliament should, as soon as possible, pass legislation abolishing the distinction between so-called "own affairs" and "general affairs", and providing for single,

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functional departments of health, education, on, as well as for a unicameral legislature. procedure (including the appointment of joint committee) be likewise amended. Other constitutional provisions to be enacted.

4.6.4 Bill of Rights for the Transitional Period

4.6.4.1 CODESA should negotiate an initial Bill of Rights, covering basic rights, inter alia freedom of speech,

of movement, of association and of assembly. Also included should be provisions outlawing race and gender discrimination of any nature, as well as protection against arbitrary arrest and detention.

4.6.4.2 Such a Bill ought also to contain a Code of Conduct for Political Parties, including an obligation to conduct their activities peacefully, the prohibition of intimidation and the obligation that financial statements be properly audited.

4.4.4.2 To have legal force, the Bill of Rights would have to be submitted to, and endorsed by, Parliament.

3. PROPOSALS FOR THE PROCEDURES FOR THE NEGOTIATION OF A NEW CONSTITUTION

5.1 General Principles

5.1.1 The general principles upon which the constitution is to be based and procedures to be followed in the negotiation of a new constitution should be agreed to by CODESA, and will be binding

on all parties. Chapter 4

5.2 Neutral Facilitation or other Chairmanship

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5.2.1 The National Party cannot be both referee and participant in the negotiation process leading to a new constitution. CODESA may determine a permanent or rotating system of chairmanship from amongst the parties participating, or it may invite a neutral facilitator or facilitators to convene and chair meetings of the body or bodies established to undertake the task of drawing up the new constitution.

5.2 The Negotiation Commission and Secretariat

5.2.1 The facilitator or chairman designated by CODESA will be the head of a negotiation commission which will supervise the negotiation process. The duties of the commission will include providing facilities for the body or bodies negotiating the constitution, providing legal or other research and information, supervising the election of any body or bodies which may be agreed upon, ensuring compliance with any interim arrangements which may be negotiated, and certification of the results of an election held after the adaptation of the new constitution.

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5.2.2 The negotiation commission will be served by a secretariat.

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The negotiation commission will have a budget, which will

include the costs associated with meetings of the body or bodies set up to negotiate a new constitution, to be drawn from the State Revenue Account.

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Once the Constitutional Conference has approved
the Constitution and each of the clauses thereof, it will
be presented to the people of South Africa for approval and enactment
by referendum. After endorsement by such a referendum
the new Constitution of South Africa will be approved

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and for transitional measures contemplated

5.6 The Referendum IN

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constitution by a referendum of all adult South Africans. and
shall enact that the constitution will become law upon its
approval by a majority of voters.

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5.4.2 The referendum will be organized and supervised by the
negotiation commission.

Â»6.2 The constitution will become law when the negotiation
Oommission has certified that a majority of voters have approved
It in the referendum.

5.7 Elections under the New Constitution

5.7.1 Elections in terms of the new constitution will be held
within three months of the constitution becoming law.

5.7.2 These elections will likewise be supervised by the negotiation commission or such other body as may be agreed upon by consensus by CODESA.

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UNITED PEOPLE'S FRONT'S SUBMISSION TO CODESA ON CONSTITUTION - MAKING BODY:
CODESA WORKING GROUP 2

24 MARCH 1992

WHEREAS The U.P.F. is convinced that it is most important for the people of South Africa to be assured of the envisaged negotiated constitution of

national reconciliation and democratic government;

WHEREAS it is desirable that the envisaged democratic constitution should be seen to be a constitution with legitimacy for the whole of the people of South Africa;

The United People's Front proposes the following in respect of the constitution making - body:-

1. There shall be an interim government whose functions shall include the formation of a constituent assembly for the governing of South Africa during the transitional period.

The Constituent Assembly shall draw the constitution based on agreed democratic principle established by Codesa.

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The voters)shall include all South Africans and shall be by universal adult suffrage.

The new government shall be formed by the majority party who may include minority political parties in the executive branch of government and also in any other administrative arms of government.

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UNITED PEOPLE'S FRONT:

SUBMISSION TO CODESA WORKING GROUP TWO MARCH 09-1992.
THE MEANINGFUL PARTICIPATION OF POLITICAL MINORITIES.

MEANINGFUL PARTICIPATION OF POLITICAL MINORITIES:

We, in the UPF acknowledge and appreciate that there are minorities in South Africa. These minority groups have, within the South African Context, been allowed to freely engage in various activities promoting their linguistic, religious and cultural pursuits.

We believe that such activities have to be encouraged and protected as they reflect South Africa's rich cultural mosaic. We further believe therefore that minority

participation in the new South Africa is a sine qua non

for a viable, democratic and just government. While in the past the diversity of the South African Society has been used negatively to the detriment of the country through divisions and racial schisms, this horrendous mistake should not be repeated. The diversity and dynamism of the people of South Africa should rather be used positively for the benefit of the country.

However, the UPF, whilst acknowledging the existence of minorities, is of the belief that such minorities should not be given special treatment in the political sphere so as to thwart all the wishes of the majority. Neither should the minority be clothed with a veto right under the guise of meaningful participation. We believe that the governmental power in the three tiers of government will ensure a representation of the various minorities in the legislative, executive and judiciary.

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The UPF also believes that a non-racial, democratic and non-sexist society in which political affiliation is not based on one's race, colour, or creed shall have addressed the question of minorities. Moreover, the proportional: system of voting is geared towards giving the minority the opportunity of participating in any of the three tiers of government.

The UPF is of the view that for democracy to thrive, political parties shall have to be encouraged and those who feel that they are the vanguards of political minorities should be allowed to form such parties.

It is the UPF's belief that in the new constitutional dispensation, some parties' participation shall be more active at the regional and local levels than in the national level government.

The UPF believes that to encourage political minorities to remain as minorities forever is inconsistent with the spirit and effort of nation building and reconciliation and a sure recipe for conflict and political instability as one minority group may feel being more left out than the others.

Whereas the UPF is also of the opinion that measures necessary for nation-building should be adopted, it is also of the belief that all South Africans should develop a common loyalty and common patriotism.

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INTANDO YESIZWE PARTY SUBMISSION ON CONSTITUTION-MAKING

BODY:

CODESA WORKING GROUP 2

23 MARCH 1992

It is our strongest belief in Intando Yesizwe Party that a Constitution is the most important Law of the country, as it is this legal document which determines and defines political and civil rights of the country's people. Acceptability by and respectability accorded this document by its people is of the greatest importance for peaceful life and successful government.

Intando Yesizwe Party therefore submits the following in respect of the Constitution-making

Body:

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The body that drafts the Constitution should have legitimacy based on national elections within the 1910 boundaries of South Africa, according to the principles of universal suffrage.

Elections should be by proportional representation.

The body should be inclusive, rather than narrow, in character, ensuring that all parts of the country and all currents and trends are represented.

The Constitution-making Body should be in charge of its own procedures. All important issues shall be decided by two-thirds majority.

The principles agreed on by this Working Group shall be enshrined in and not contradicted by the new Constitution, issues left open shall be freely debated and left to the decision of the Constitution-making Body. In the case of any dispute in relation to interpretation of the general constitutional principles, a special body of respected and competent persons shall decide the matter in as speedy and fair fashion as possible.

The Constitution-making Body should be entrusted with sovereign powers to draft, adopt and put into operation the new Constitution for the New South Africa:

We have waited far too long to get into Parliament, to decide the course and quality of our lives along with our fellow South African citizens and we want our representatives to sit in the Parliamentary Buildings in Cape Town. We do not want to be reminded of our divided past. The New Democratic South Africa must get off to a clean start.

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