

Constitutional guidelines for a democratic South Africa

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The Freedom Charter, adopted in 1955 by the Congress of the People at Kliptown near Johannesburg, was the first systematic statement in the history of our country of the political and constitutional vision of a free, democratic and non-racial South Africa.

The Freedom Charter remains today unique as the only South African document of its kind that adheres firmly to democratic principles as accepted throughout the world. Among South Africans it has become by far the most widely accepted programme for a post-apartheid country. The stage is now approaching where the Freedom Charter must be converted from a vision for the future into a constitutional reality.

We in the African National Congress submit to the people of South Africa, and to all those throughout the world who wish to see an end to apartheid, our basic guidelines for the foundations of government in a post-apartheid South Africa. Extensive and democratic debate on these guidelines will mobilise the widest sections of the population to achieve agreement on how to put an end to the tyranny and oppression under which our people live, thus enabling them to lead normal and decent lives as free citizens in a free country.

The immediate aim is to create a just and democratic society that will sweep away the centuries-old legacy of colonial conquest and white domination, and abolish all laws imposing racial oppression and discrimination. The removal of discriminatory laws and eradication of all vestiges of the illegitimate regime are, however, not enough; the structures and the institutions of apartheid must be dismantled and be replaced by democratic ones. Steps must be taken to ensure that apartheid ideas and practices are not permitted to appear in old forms or new.

In addition, the effects of centuries of racial domination and inequality must be overcome by constitutional provisions for corrective action which guarantees a rapid and irreversible redistribution of wealth and opening up of facilities to all. The Constitution must also be such as to promote the habits of non-racial and non-sexist thinking, the practice of anti-racist behaviour and the acquisition of genuinely shared patriotic consciousness.

The Constitution must give firm protection to the fundamental human rights of all citizens. There shall be equal rights for all individuals, irrespective of race, colour, sex or creed. In addition, it requires the entrenching of equal cultural, linguistic and religious rights for all.

Under the conditions of contemporary South Africa 87% of land and 95% of the instruments of production of the country are in the hands of the ruling class, which is solely drawn from the white community. It follows, therefore, that constitutional protection for group rights would perpetuate the status quo and would mean that the mass of the people would continue to be constitutionally trapped in poverty and remain as outsiders in the land of their birth.

Finally, success of the constitution will be, to a large extent, determined by the degree to which it promotes conditions for the active involvement of all sectors of the population at all levels in government and in the economic and cultural life. Bearing these fundamental objectives in mind, we declare that the elimination of apartheid and the creation of a truly just and democratic South Africa requires a constitution based on the following principles:

The State

- a* South Africa shall be an independent, unitary, democratic and non-racial state.
- b* Sovereignty shall belong to the people as a whole and shall be exercised through one central legislature, executive, judiciary and administration. Provision shall be made for the delegation of the powers of the central authority to subordinate administrative units for purposes of more efficient administration and democratic participation.
- c* The institution of hereditary rulers and chiefs shall be transformed to serve the interests of the people as a whole in conformity with the democratic principles embodied in the constitution.
- d* All organs of government, including justice, security and armed forces, shall be representative of the people as a whole, democratic in the structure and functioning, and dedicated to defending the principles of the constitution.

Franchise

- e* In the exercise of their sovereignty, the people shall have the right to vote under a system of universal suffrage based on the principle of one person/one vote.
- f* Every voter shall have the right to stand for election and be elected to all legislative bodies.

National identity

- g* It shall be state policy to promote the growth of a single national identity and loyalty binding on all South Africans. At the same time, the state shall recognise the linguistic and cultural diversity of the people and provide facilities for free linguistic and cultural development.

Bill of Rights and Affirmative Action

- h* The constitution shall include a Bill of Rights based on the Freedom Charter. Such a Bill of Rights shall guarantee the fundamental human rights of all citizens, irrespective of race, colour, sex or creed, and shall provide appropriate mechanisms for their protection and enforcement.
- i* The state and all social institutions shall be under a constitutional duty to eradicate race discrimination in all its forms.
- j* The state and all social institutions shall be under a constitutional duty to take active steps to eradicate, speedily, the economic and social inequalities produced by racial discrimination.
- k* The advocacy or practice of racism, fascism, nazism or the incitement of ethnic or regional exclusiveness shall be outlawed.
- l* Subject to clauses (i) and (k) above, the democratic state shall guarantee the basic rights and freedoms, such as freedom of association, thought, worship and the press. Furthermore, the state shall have the duty to protect the right to work and guarantee the right to education and social security.
- m* All parties which conform to the provision of (i) to (k) above shall have the legal right to exist and to take part in the political life of the country.

Economy

- n* The state shall ensure that the entire economy serves the interests and well-being of the entire population.

- o* The state shall have the right to determine the general context in which economic life takes place and define the limit to the rights and obligations attaching to the ownership and use of productive capacity.
- p* The private sector of the economy shall be obliged to cooperate with the state in realising the objectives of the Freedom Charter in promoting social well-being.
- q* The economy shall be a mixed one, with a public sector, a private sector, a co-operative sector and a small-scale family sector.
- r* Co-operative forms of economic enterprise, village industries and small scale family activities shall be supported by the state.
- s* The state shall promote the acquisition of management, technical and scientific skills among all sections of the population, especially the blacks.
- t* Property for personal use and consumption shall be constitutionally protected.

Land

- u* The state shall devise and implement a land reform programme that will include and address the following issues: Abolition of all racial restrictions on ownership and use of land; Implementation of land reform in conformity with the principle of affirmative action, taking into account the status of victims of forced removals.

Workers

- v* A charter protecting workers' trade union rights, especially the right to strike and collective bargaining, shall be incorporated into the constitution.

Women

- w* Women shall have equal rights in all spheres of public and private life and the state shall take affirmative action to eliminate inequalities and discrimination between the sexes.

The family

- x* The family, parenthood and children's rights shall be protected.

International

- y* South Africa shall be a non-aligned state committed to the principles of the Charter of the OAU and the Charter of the UN and to the achievement of national liberation, liberation, world peace and disarmament.