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MCH91-31-1-34

7th February, 1986

Dr. H.J. Simons,
"Entabeni",
Roma,
LUSAKA

Dear Comrade Jack,

I write with reference to your letter to the President on the work of the lawyers commission on the institution.

The National Working Committee has met and received the report of its sub-committee on the document your commission produced. The observations that were made by the sub-committee and during the course of the NWC's discussions were as follows:

1. The type of constitutional framework that the lawyers commission envisages appears to be a conventional liberal-democratic framework rather than a framework arising from a revolutionary struggle. Perhaps it might be wiser to explore beyond this limited horizon.
2. Is the constitution that is envisaged a transitional constitution, which we anticipate will operate within a definite time frame?
3. Do we conceive of the constitution that will emerge as principally a mobilising instrument or as a tactical tool in the event that negotiations are forced upon us?
4. How do we frame a constitution which can translate the slogan "Peoples Power" into reality by making a framework of government that ensures that the government will always be subject to the people?

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At the end of the day there was general consensus that our lawyers had done a magnificent piece of pioneering work, for which NWC wishes to commend them. Our critique is tempered by the recognition that this is the first occasion on which the ANC has even attempted to give constitutional expression to its programmatic demands.

To complete the task that you have started the NWC proposes that:

a) The NEC Sub-Committee, set up to study your document draft clear political guidelines, taking account of the NWC's critique, to serve as a basis for a joint meeting between the NWC and the lawyers commission.

b) In the meanwhile the lawyers commission shall prepare a brief for the NWC on the various options posed in its document; e.g. the relative benefits of proportional representation over direct representation; the presidential system over the Prime ministerial system; etc.

c) The lawyers commission shall prepare in outline, a briefing paper on such matters as the constitutionalisation of the role of mass organisations; constitutionally endowing the state with power to limit and redefine the rights of private property.

The President is seized of the question of Cde. Albie Sachs and the proper approaches will be made to his employers to secure his release for the work of the commission.

Once again allow me, on behalf of the NWC to commend you and your colleagues on a difficult job well done. In the event that Greetings in the Year of MK - the People's Army.

How do we frame a constitution which can translate the slogan "People's Power" into reality? Making a framework of government that ensures that the people always be subject to the people.

Ruth Mompoti
Administrative Secretary

cc President's Office
Secretary-General