



*South Africa*

# South Africa's multi-party constitutional negotiation process

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*"... It is therefore important that as we put our vision to the country, we should do so directly, knowing that people out there want to be part of the process and will be responding, because in the end the drafting of the constitution must not be the preserve of the 490 members of this Assembly. It must be a constitution which they feel they own, a constitution that they know and feel belongs to them. We must therefore draft a constitution that will be fully legitimate, a constitution that will represent the aspirations of our people".*

— Cyril Ramaphosa, Chairperson, Constitutional Assembly,  
24 January 1995

South Africa's diverse political parties – some of which had a broad membership base and numerous affiliated civil society organizations – were at the centre of the negotiations to decide South Africa's political future culminating in a new Constitution. Although contested at times by the Inkatha Freedom Party (IFP), South Africa's leaders chose to design and negotiate the process by themselves without the guidance of an international mediator. The leadership of the two most powerful parties – the African National Congress (ANC) and the ruling National Party (NP) – were the most influential in both instigating and shaping the negotiation process and deciding its substantive outcomes. Throughout the long transitional process, they and the other parties engaged in a range of bilateral talks, seeking to resolve differences or make alliances to advance shared goals. Nevertheless, the main process was organized around formally constituted multi-party negotiating forums that allowed smaller political groupings to voice their perspectives and help shape agreements. Over time, these forums became increasingly open to the media and thus under public scrutiny. Many of the political parties used their membership structures to consult with their constituencies on key issues in the negotiations and to 'bring them along' in the process, thus involving them indirectly in the negotiations and creating the foundations for a more inclusive representative democracy.

Deciding the principles and structure of the negotiation process was as contentious as the substantive issues to be addressed within it. The ANC wanted a unitary state that would be a powerful instrument capable of transforming the conditions wrought by apartheid, while at the same time building in safeguards to protect rights from illegitimate state intervention. From the outset, it demanded an elected assembly to draft a new constitution. It argued that a democratic state can only be built on a firm democratic basis; the people, through their elected representatives, must write their own constitution. The NP and other smaller parties representing minority constituencies feared that an elected assembly would negate the purpose of negotiations and result in majority rule without constitutional safeguards to protect effective minority

participation in political decision-making. They instead proposed a multi-party forum where all political parties – without regard to their electoral support – would agree by consensus to a new constitution subject to popular approval through a referendum. This dispute was eventually addressed through the formula of first holding a multi-party constitutional conference where all parties, irrespective of the size of their constituency could participate as equals to decide core constitutional principles and the structure of a transitional government. Then the public would elect the parties to form a power-sharing transitional government and the delegates to an assembly that would draft the final Constitution. The multi-party conference was called the Convention for a Democratic South Africa (CODESA) and, after that forum collapsed, the Multi-party Negotiating Process (MPNP). These formally constituted mechanisms became increasingly open to public scrutiny, creating the precedent for the transparent and consultative constitutional drafting process. This helped to provide widespread public legitimacy for the process to create what has become known as the 'new South Africa'.

## **CODESA: first attempts to negotiate the transition**

At the end of November 1991, after repeated postponements, an All-Party Preparatory Meeting involving most political parties and homeland governments was held to plan CODESA's structure and working methods. Importantly the delegates agreed to the procedure of 'sufficient consensus': the convention should seek consensus but, if it proved impossible, the chair would decide whether there was sufficient agreement to allow negotiations to proceed. Since an electorate did not mandate the parties and the process was designed to be as inclusive of parties as possible – no matter how small their support base – it was agreed that no decision would be taken on any matter unless the government and ANC, at the very least, were in agreement. Nonetheless, agreement between only the ANC and government was considered insufficient for a decision to be taken. Although the IFP in particular felt aggrieved by this principle and others contested its appropriate application at various points during the negotiations, this method created an incentive for the moderate parties committed to reaching an agreement not to be held hostage by the extremes.

On 20 December 1991, 238 delegates from the 19 participating parties together with nearly 1,000 international observers gathered for the first plenary session, CODESA I. Although most political groupings participated, the Conservative Party (CP) on the right and AZAPO and the Pan-Africanist Congress (PAC) to the left boycotted it. Women comprised only about 5 per cent of the delegates. Appalled, parliamentary veteran Helen

Suzman intervened to point out the imbalance, highlighting the parallels between gender discrimination and racism. Most of the parties thereafter made efforts to increase gender representivity in the negotiations. The plenary was mostly a ceremonial occasion to mark a formal commitment amongst the participating parties to negotiate a settlement. The delegates agreed a Declaration of Intent to guide the negotiators toward creating a 'united, non-racial and non-sexist state' protected by a Bill of Rights, with multi-party democracy based on universal adult franchise and a proportional representation electoral system. They also agreed to form CODESA as a standing institution to facilitate a negotiation process.

## **CODESA's management structure and operations**

The first plenary established five working groups to address key issues and a Management Committee to oversee the process; it also decided that the second plenary session would take place in March 1992. The Management Committee was responsible for the overall political guidance of the process and consisted of one delegate and one advisor from each party. To assist its work, a secretariat and Daily Management Committee were established, with administrative staff seconded by the Department of Constitutional Development and the Consultative Business Movement. The Management Committee established several sub-committees to address important substantive issues. The first addressed the representation of traditional leaders and others who applied to participate. Traditional leaders were eventually accorded special, but not equal, representation in the negotiations channelled through four provincial delegations.

Each party could nominate two delegates and two advisors to each working group. The five working groups were created to address: (1) creation of a climate for free political activity; (2) constitutional principles; (3) transitional arrangements; (4) future of the 'independent homeland' states; (5) timeframe and implementation. Working groups sat two days a week and Parliament sat the other three days. Each group had a steering committee to manage the agenda and work programme. Groups prepared interim reports tabled to the Management Committee, which would eventually table agreed proposals at the CODESA plenary for approval and ratification. CODESA soon became the most important site of political activity and its regularity helped to generate collegial working relations between the negotiators.

Although the public was invited to make submissions on constitutional principles to the working groups, CODESA made little attempt to either educate the public about its work or elicit the views of important groupings on the



substantive issues; delegates and their advisors were the primary figures to develop options and negotiate agreements. Some CODESA members later criticized its lack of transparency and the South African Communist Party's Joe Slovo noted public perceptions of a "mysterious cabal". Initial moves to open negotiations to the press, however, were interrupted by a collapse of the process. It also became apparent in retrospect that the structure of developing substantive proposals through working groups created impediments to developing integrative 'packages' of agreements across issues. It furthermore meant that successes in one group but not in another placed strain on the entire process – particularly as no deadlock breaking mechanisms had been envisioned.

## Breakdown of the CODESA process

By March 1992, the progress of the working groups halted. Facing intense criticism from conservatives that the NP did not represent white voters, President De Klerk called a risky referendum to gauge the support of the white electorate. The NP won an overwhelming victory, confirming that the majority of whites supported a negotiated settlement. With its position greatly strengthened, the NP returned to the process determined to hold its line against the ANC's insistence on installing an interim government in the near future. To pressure the parties to reach agreement in the working groups, the Management Committee set 15-16 May as the date for the second plenary session in order to ratify agreements to guide the next phase.

Yet by early April the process was beginning to flounder; parties were unable to reach a common formula on interim governance and the principles for creating the new state political structure. They agreed on the formula

of a transitional government and assembly to draft an interim constitution but disagreed over the percentage of votes needed to adopt the constitution and contested the role of a potential second parliamentary chamber. The NP wanted a system that would give it an effective veto and maintain its relevance as a political force, whereas the ANC feared it would be forced to live indefinitely with an interim constitution. The day before the plenary, Working Groups 1, 3 and 5 had reached agreement but Working Group 2 on constitutional principles remained deadlocked. The NP tabled a new proposal and the ANC called a consultation meeting for the 85 unions and political, religious, and student organisations in the Mass Democratic Movement to finalise its position. Yet at the two-day 'CODESA II' plenary, tensions between negotiators escalated under the glare of television cameras and journalist interviews. Repeated adjournments were called in the hopes that Working Group 2 could devise a breakthrough. But it never emerged and the parties agreed to convene another plenary at a later point.

Many observers thought the NP's refusal to compromise was due to its over-estimation of its power following the March referendum. After the failure of CODESA II, the ANC decided to demonstrate its power through the use of a 'rolling mass action' of coordinated strikes and street demonstrations with the aim of forcing the government to agree to an interim government, despite fears of fuelling the political violence. In mid-June 49 people were killed in the ANC stronghold of Boipatong. This time Mandela held De Klerk personally culpable and suspended all talks – both bilaterally with the government and multilaterally through CODESA.



The business and international communities immediately voiced their concern. Over the following weeks there were a number of initiatives to bring in an international mediator. In mid-July, the UN Security Council held an unprecedented two-day debate on South Africa that resulted in the appointment of a Special-Representative of the Secretary-General, Cyrus Vance, to investigate the violence and make recommendations on restarting talks. This soon led to the creation of a 50-member UN observer mission and support for the National Peace Accord (NPA) structures. The NPA was the only multi-party forum to remain operational throughout this period and provided continuity and a space for party representatives to meet when other avenues for communication were blocked, helping to stabilize the political conflict.

## **Multi-party Negotiating Process**

After CODESA's collapse, De Klerk and Mandela exchanged memoranda and the NP considerably softened its demands. By August 1992, the ANC had agreed to establish a 'channel bilateral' for maintaining quiet dialogue, nominating Cyril Ramaphosa to hold talks with the NP's Roelf Meyer. They made considerable progress and on 26 September Mandela and De Klerk held a summit to sign the *Record of Understanding*. They agreed on the principles of an interim government at the national and regional levels empowered by an interim constitution. They also agreed on a formula for an elected assembly that would serve as an interim parliament and draft a constitution based on principles agreed in prior multi-party negotiations. They agreed that to improve efficacy, in future negotiations, the ANC and NP would first reach agreement on a bilateral basis before going to other parties for multilateral negotiation: in sum, others could either agree to be a part of the process or be left behind.

The agreement appalled most right-wing parties – sparking the IFP and CP to join with a number of homeland governments and Afrikaner parties to form the Concerned South Africans Group (COSAG). They rejected the principles outlined in the agreement and demanded it be scrapped. In the following months, Buthelezi threatened secession but the move was met with intense diplomatic pressure that revealed his isolation. The agreement also surfaced fault lines within the NP and the ANC over both tactical and substantive principles. The pro-negotiation faction within the NP leadership was eventually able to predominate. The ANC engaged in consultations with constituents and eventually committed itself to a positive-sum negotiating position based on a transitional period of power-sharing, thus decisively moving away from a maximalist, zero-sum strategy aiming at the immediate elimination of the NP as a political force.

Towards the end of the year, ANC and NP teams met for several days in a secluded game lodge – an atmosphere that proved conducive both to developing political formulas and humanizing the working relationships. At a similarly structured meeting in January and successive bilaterals thereafter, they formulated a joint negotiating position to guide their participation as a bloc in a future multilateral forum. The COSAG members became increasingly aware that if they did not participate in such a forum, they would have little influence on the outcomes. By January 1993 they agreed to resume multi-party talks but wanted to have a voice in the creation of the new negotiating forum – even if many of its terms had been predetermined by the ANC and NP. A Negotiation Planning Conference was held in early March, where the political parties were able to restructure the process and address some of the previous objections to CODESA. Agreements reached in principle in the earlier forum would be a guide but were non-binding. Reluctant to use the name CODESA and unable to agree to a new one, on 1 April 1993 what became known as the Multi-party Negotiating Process (MPNP) opened at the World Trade Centre. It convened 26 participating parties comprising political groupings, national and homeland government representatives and traditional leaders. For the first time the PAC, CP and Volksunie participated; only the far-left AZAPO and several extreme Afrikaner parties refused to join.

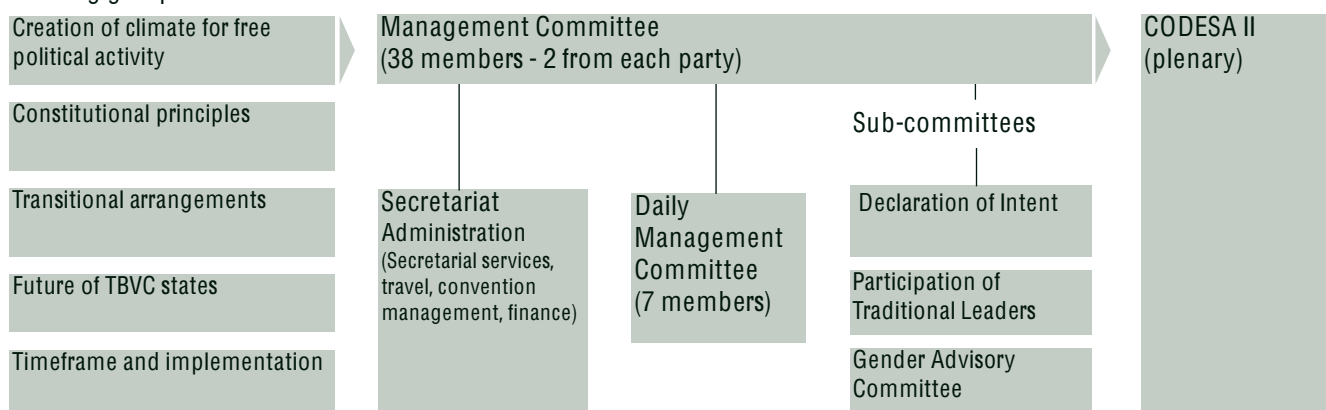
## **MPNP structures and working methods**

There were a number of innovations in the MPNP structure. The highest decision-making body was the 208-member, 26-party, parliamentary-style plenary. But the process was focused around a Negotiating Council that met three to four days a week to develop agreements that would be ratified by the plenary, which met whenever necessary. The Council was composed of two delegates per party – at least one of whom had to be a woman – and two advisers. The original idea for a Negotiating Forum situated between the Plenary and Council was deemed unnecessary and its responsibilities instead devolved to the Council.

Instead of presenting their views orally in the Council, parties prepared written submissions that were first considered by a series of issue-specific Technical Committees consisting of non-party political experts appointed by the Council. They drafted reports that sought to take everyone's views into account, seeking compromise formulas and methods for breaking deadlocks. Their reports were considered by the Planning Committee, which drafted resolutions for consideration by the Council. The Planning Committee assumed most of the same roles as CODESA's Management Committee. It consisted of 10 Council members, appointed in their personal capacities rather than as party representatives,

## CODESA's structures

### Working groups



and was chaired on a rotating basis. It tended to set the overall negotiating agenda and oversaw the work of two non-partisan commissions on the demarcation of regions and on national symbols. The process was administered by the Consultative Business Movement, which provided an independent secretariat and administrative support.

Although the Plenary continued to make decisions by 'sufficient consensus', strategies to address the substantive details of the negotiations were developed in the Technical Committees and the tough political decisions were worked out in the Negotiating Council. Bilateral bargaining behind-the-scenes complemented these formal processes.

## Violent attempts to derail the negotiations

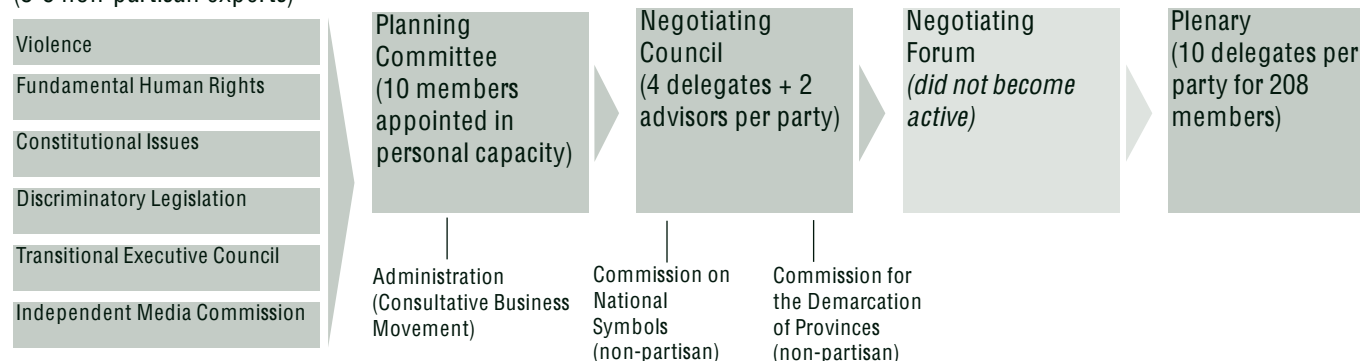
Shortly after the MPNP began, an extremist group assassinated the popular militant leader Chris Hani. Amidst the outpourings of grief, anger and frustration that threatened to engulf the country in protest and violence, Mandela appealed for calm; the leadership recognized the killing as an attempt to derail the negotiations. The ANC, NP and other moderate parties realized that they needed to move quickly to reach agreements that could begin to bring home the fruits of the transition, most visible of which would be the country's first non-racial democratic elections. To expedite the process, the Negotiating Council agreed a

new Declaration of Intent, noting the urgent need to reduce violence and inspire broad public confidence in the process and a clear vision of the milestones marking the transition process. Senior leaders in the CBM, alarmed at the uncertainty inherent in protracted negotiations and the escalating instability, met with key political leaders to demand swift settlement; a demand underscored shortly afterwards by a similar initiative from the COSATU labour movement.

At the beginning of June 1993, the Negotiating Council agreed to set the election date for 27 April 1994. The plenary had to ratify the date, which generated tremendous pressure to bargain over the principles guiding the constitution-making process. To keep the COSAG alliance in the process, the ANC made the significant concession to structure the state on the national, regional and local levels, which would each have democratically elected governing bodies. Yet when the ANC and NP blocked the IFP's demand for a debate on a federal constitution, the COSAG group staged a walkout. Although most parties eventually returned, the IFP and CP remained largely outside the process. Following an MPNP decision to reject an Afrikaner homeland, several hundred white paramilitaries stormed the negotiating chambers at the World Trade Centre in late June, roughing up the delegates. Though shocking, it mostly served to undermine the image of the perpetrators. When the Plenary – minus most of the COSAG group – finally ratified the election date, it sparked a wave of

## Multi-party negotiating process structures

### Technical Committees (5-6 non-partisan experts)



violence throughout the country. Yet throughout this period, the ongoing violence appeared to deepen the moderate parties' commitment and bound them further to the negotiation process.

From July to August, the MPNP engaged in intense negotiations over various draft interim constitutions and the structure of the Transitional Executive Council that would be the central governing authority. The IFP, the Afrikaner AWB and their allies – now regrouped as the 'Freedom Alliance' – continued to reject the process. They demanded a summit of select leaders to negotiate the final constitution prior to elections. Violence escalated amidst 'war talk' by both the far left and especially the far right. Nevertheless, in the early hours of 18 November 1993, the Negotiating Council adopted a comprehensive package agreement – including an electoral act and the interim constitution giving legal basis for the transitional institutions and specifying non-negotiable constitutional principles – that became the basis for South Africa's democratization pact.

The leaders were careful to leave the door open to the PAC, AZAPO and the Freedom Alliance to join the agreement and in the following months sought to bring them on board. Nevertheless there were real fears that the right-wing forces would organize armed resistance leading to civil war. Furthermore, there were fears that South Africa's future would be deeply compromised if major constituencies were not represented in the elections which would choose parties for the transitional government of national unity and delegates to the assembly that would write the final constitution. If they were not involved in the process, they might then work to undermine it.

In the first months of 1994, there were numerous bilateral meetings with the IFP and AWB to prevent a boycott of the elections and to bring them back into the constitution-making process. In March, the ANC and IFP agreed to international mediation led by former US Secretary of State Henry Kissinger. Although disagreement over the terms of reference meant the initiative never got off the ground, it effectively fragmented the Freedom Alliance bloc. In March, the ANC reached agreement with the newly formed Afrikaner-based Freedom Front on how they could pursue an Afrikaner '*volkstaat*' (a self-governing entity) through the constitutional process. Civil unrest in the Bophuthatswana and Ciskei homelands led the government to reincorporate them into South Africa. With the conservative bloc in disarray, the ANC, NP and IFP concluded an agreement several days before the elections, whereupon the IFP agreed to participate. Then the Freedom Front also agreed to take part. In the end, all the main political parties participated in the elections held 27-29 April 1994. Despite some minor squabbles, logistical and registration problems, and queries over the

absolute accuracy of the results, the elections were remarkably peaceful and brought out the overwhelming majority of the eligible public to cast their vote.

## Constitutional Assembly structures and working methods

The Constitutional Assembly consisted of both houses of the newly elected Parliament: the National Assembly and the Senate. Its 490 members were drawn from seven political parties, represented proportionally in accordance with their share of the vote. To prevent indefinite delays, there were numerous deadlock breaking measures and delegates had to finalize a draft within two years. The new constitution had to comply with the 34 principles agreed in the MPNP and pass by a two-thirds majority vote; failing this, it would have to pass the assembly by a simple majority and then be put to a national referendum to pass by a 60 per cent majority. The Constitutional Court would test the text approved by the Constitutional Assembly and thus serve as the only and final arbiter on whether it complied with the agreed principles.

One of the remarkable features of the process was the level of consensus achieved, despite the disparity in the proportion of seats held by the parties – with the ANC at almost 64 per cent, the NP a little over 20 per cent, the IFP almost 10 per cent and the remaining four parties comprising the remaining 6 percent of the seats. After years of multi-party negotiations, in which the parties had experienced a steep learning curve, the Constitutional Assembly was able to crystallize a consensual approach. It was based on both the flexibility of the major players who were committed to seeking 'win-win' agreements and the design of the negotiating structures that generated workable proposals. The level of camaraderie amongst the negotiators and skillful administrative support enhanced these attributes to create a conducive environment. Although the IFP ultimately withdrew from the process, the Constitutional Assembly voted overwhelmingly in favour of the final amended text on 11 October 1996.

The Constitutional Assembly was guided by a set of values that were manifest in mechanisms for public participation built into the process. The Assembly's work was organized to satisfy three fundamental principles: inclusivity, accessibility, and transparency.<sup>1</sup> To ensure inclusivity, it was agreed that the constitution had to be the product of the ideas of all the major elements of society, grouped as three categories of role players: the represented political parties; parties outside the Constitutional Assembly together with organised civil society; and individual citizens. To encourage accessibility, the parties agreed that it was not enough to merely invite submissions; it was necessary to solicit views proactively. Transparency was promoted by

allowing all meetings of the Constitutional Assembly and its structures to be open to the public and all materials – including minutes, reports and submissions – made accessible through the internet. Furthermore, the new constitution would be drafted in plain speech so that ordinary people could understand it, translated into the eleven main languages and disseminated through a massive public education programme.

## The structures

Six theme committees of 30 appointed members each were formed to address subsets of the 34 constitutional principles. The committees respectively covered: (1) the character of the democratic state; (2) the structure of government; (3) the relationship between levels of government; (4) fundamental rights; (5) the judiciary and legal systems; and (6) government institutions. The main function of the theme committees was to ensure the inclusiveness of the process by receiving the views and submissions of all the role players. The committees were therefore the initial interface between the Constitutional Assembly and the public. A technical committee consisting of three to four experts supported each theme committee and various *ad hoc* expert committees were appointed to address specific subjects.

The Assembly created a Constitutional Committee as the main negotiating and coordinating structure, comprising 44 members appointed by parties in proportion to their representation and including their chief negotiator. This helped to ensure that the smaller parties, who did not have enough representatives to always field members in the theme committees, were not disadvantaged. The Constitutional Committee's smaller size and ability to meet frequently made it the most important element of the decision-making structure. It formed a Management Committee charged with managing the day-to-day process of the negotiations – including the important task of ensuring the structures worked according to plan in order to meet the timetable deadline. When it became clear that certain issues were the subject of serious disagreement in both the large theme committee and Constitutional Committee forums, a ten-member sub-committee was established to address these topics – with a membership that varied according to the issues under discussion. The Assembly also established the Commission on Provincial Government to oversee the creation of this new governing system and the Volkstaat Council to enable proponents of this idea to develop proposals for establishing a Afrikaner self-determining entity constitutionally. An independent panel of constitutional experts was established with the primary aim of helping to resolve conflicts, avoiding deadlocks between parties and providing advice on technical issues.

## Public participation programme

To enable public participation, the parties swiftly agreed a three-phase work programme that included a first phase of activities to elicit issues to be considered in preparing a draft, followed by a second phase where the public would be invited to comment on the draft text, and a third phase when the Constitutional Assembly would finalize and adopt the new Constitution.

The first phase started in December 1994. A Media Department was immediately established to initiate print, radio and television programmes about the work of the Assembly, as well as a national advertising campaign. Much of the messaging was based on the slogan 'You've made your mark, now have your say'. Agencies were commissioned to conduct a survey to assess the penetration of the campaign after three months, which revealed areas in need of further attention and resulted in a Constitutional Education Programme.

Once the negotiators in the theme committees reached agreement on the areas to be covered, they placed advertisements in major newspapers inviting submissions and organised workshops and consultations with affected sectors to elicit views. Every South African was invited to share their thoughts by sending written submissions, making oral statements at a public meeting, phoning the Constitutional Assembly talk line, or using the internet. Through a face-to-face outreach programme, the Assembly, assisted by local civil society organizations, targeted communities that would find it difficult to access information through print or electronic media – particularly in remote areas or communities with low literacy rates. For many of these, it was the first time they were able to interact directly with their elected representatives. It elicited nearly 1.7 million submissions – most of which were in the form of signatures on petitions – and more than a thousand workshops, briefings and meetings reaching approximately 95,000 people.

The submissions were collated into reports, noting the convergence of ideas and agreements as well as contentious issues and ideas for addressing them. The submissions soon generated a long list of new issues, sparking an important debate over which issues should be addressed in the constitution and which should be addressed through ordinary legislation. This dilemma was partially addressed by the panel of constitutional experts, which drafted criteria for considering the issues for inclusion. Of the 13,443 written submissions – ranging in size from a few handwritten lines to printed reports over a 100 pages long – about 10 per cent were from organizations, about 0.6 per cent from political parties, and the vast majority from individuals. Yet a disproportionate share of the submissions were from the well-educated, the middle class, and professionals,



academics and political activists. This posed dilemmas about whether the submissions should be regarded as representative and the weight they should be given in the context of negotiations between democratically elected parties. In a country with such enormous disparities in education and access to information and other resources, issues of representativity were at the forefront of concern.<sup>2</sup>

In the first phase, responses were copied and sorted by the secretariat and then forwarded to the experts in the relevant technical committees. They collated the subjects and prepared summary reports for consideration by their theme committees. Yet the vast quantity of input created a major challenge in information management – particularly for Theme Committee 4, charged with addressing the rights issues that were the main subject of the submissions. It seems that the submissions from organizations with links to parties or with specialized knowledge of the issues were given serious consideration. Submissions from individual citizens were not utilized systematically by the drafters in the first phase, in part because of the sheer volume of material and in part because some issues were seemingly unrelated to the negotiating agenda.

In the second phase of consultation, during December 1995 and January 1996, over four million copies of the working draft constitution were distributed in the second phase of consultation, along with explanatory articles and graphics. The draft attracted about 250,000 submissions that were more focused and better processed. They were summarized and linked to specific articles in the constitution, making them more accessible to representatives negotiating a revised draft, thus increasing the probability they would be considered.

The Constitutional Assembly deliberations were open to the public and well covered by journalists. But in the late stages of negotiations, when time was running out and agreement still elusive, the parties held frequent bilateral and multilateral meetings in private. This move was criticized by some civic organizations and the media particularly objected to the closure of multilateral meetings. Yet privacy enabled the negotiators to make concessions without being revealed in the media as betrayed their constituencies; privacy also reduced the temptation to publicly score points in the ongoing debate – an experience that revealed some of the tensions between the needs of principled negotiations versus those of constituency politicking.

The Assembly was concerned to create an awareness that would help make the new Constitution a reference point for all South Africans on the foundation of their democracy. It disseminated 7 million copies of the final document in all 11 official languages, accompanied by an

illustrated popular version. There were few opportunities for formal debate between the Assembly and the public, yet there was significant informal discussion among South Africans, both in public and in private. Surveys indicated that a quarter of all adults had discussed the Constitutional Assembly and related issues with friends or family. The constitutional debate and the previous negotiations helped to legitimize and underscore the importance of democratic processes as the way to address political conflict. CASE's survey also indicated that the public participation initiatives helped to create a strong sense of ownership of the Constitution among the public, the majority of whom felt they had an opportunity to contribute its creation – despite some lingering scepticism amongst those who perceived they had the most to lose in the new system.

## Conclusion

The promise of CODESA and the MPNP was for political access and power to all South Africans and for a political machinery to achieve this promise. The mechanisms employed relied on the broad membership base of the political parties and their reach into the grassroots of South Africa's diverse communities as the principal means of opening up the transition process to public involvement. The caution is that this mode of channelling and enabling popular participation has historically been viewed by the ANC as a means to bolster the role of the state under its leadership, rather than as an independent force, potentially contradicting, challenging, or forcing it to rethink its policies. The post-1994 political scenario has seen government and civil society start a productive and co-operative relationship in the fields of service delivery and, to a lesser extent, in policy-making. Yet today, many in government see civil society's 'watchdog' role as a thorn in its side. Nonetheless, South Africa is among the few countries in the world where the ruling party openly expresses a commitment to civil society participation – a factor that can be used by civil society to strengthen its role. As in the turbulent times of apartheid, civil society in post-1994 can continue to be a force for making the government of the day accountable to its constituencies. Now that South Africa has created a system of government enabling all citizens to vote and gain access to power, the challenge is to organize people to influence the way power is conceptualized and exercised. This is the challenge for public participation today.

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<sup>1</sup>For further information, see Hassen Ebrahim. *The Soul of a Nation: Constitution-Making in South Africa*. (Cape Town: Oxford University Press, 1998)

<sup>2</sup>For further analysis, see as Siri Gloppen *South Africa: the Battle over the Constitution* (Aldershot, UK: Dartmouth Publishing Company, Ltd. 1997)