

## SECTION I - THE FOUNDATIONS OF ANC POLICY

### 1. A NEW CONSTITUTION FOR SOUTH AFRICA

The goal of the ANC, ever since it was formed in 1912, has been to give the people of our country, all the people, the chance to choose the government they want. That is why generations of our leaders and members have set their sights on the objective of a new and democratic constitution which would at last remove the colonial status of the African people, abolish all forms of discrimination, and recognise the basic equality of all South Africans.

We are proud of our role in pioneering the spirit of democracy and constitutionalism in our land, we are proud of the Freedom Charter. We hope that the people will elect us to office. None has fought harder for freedom and democracy than we have. What matters, however, is that the people will finally have won the right to choose their own government. They should have the right to elect us if they so wish. Similarly, they should have the right to throw us out of office if we fail them.

Our task now is to rally all South African patriots around the principles for which we have always stood, namely, of equality, mutual respect and promotion of basic human rights. After so many decades of struggle and sacrifice, we must achieve a constitution that guarantees that oppression, inequality and division will never stalk our land again.

We want a country that is unified, open, non-racial, non-sexist, democratic and free. We must abolish all forms of discrimination, domination, privilege or abuse. We must ensure that the basic rights and freedoms of all are respected. We must see to it that the religious, linguistic and cultural variety of our land is fully acknowledged, and that neither the majority nor minorities nor individuals are subjected to any forms of oppression or abuse. We do not want new forms of tyranny to replace the old.

South Africa has never had good government for all. Government has until now always been used to harass, divide and humiliate the great majority of South Africans, while securing privilege and relatively high standards of service for the minority. We need a constitution that guarantees a high quality of government service for all. The public service must be based on the principles of representation, competence, impartiality and accountability. For the first time we envisage a public service that is drawn from and serves the interests of the public as a whole.

### THE VOTE

The ANC stands for one person, one vote on a common voters roll. The achievement of the vote will signal the achievement of full citizenship and equality for all. It will place elections at the centre of political life in our country and ensure that from now

onwards government is both accountable and responsive to all the people.

We have long opposed the idea of entrenching race or ethnic group rights in the constitution. We feel that the diversity of our population will best be catered for by a system of non-racial, non-sexist democracy, in which appropriate checks and balances will ensure the active participation of all in political life and prevent the abuse or oppression of any.

In keeping with this inclusive and balanced approach, the ANC supports the system of voting by proportional representation. Instead of voting for single candidates to represent geographically delimited constituencies, people will vote wherever they are for party lists. The parties will then get a share of the members of Parliament in proportion to their share of the total vote. A party that gets half the votes will get half the seats, one that gets ten per cent of the votes will get ten per cent of the seats, and so on.

In order to ensure that people in the regions have a strong say in the preparation of the lists, we propose that there be a single vote which will count towards both national and regional lists of the parties. The persons elected on the regional lists will then be directly accountable to people in the regions, without losing their position as members of a national party.

These lists will have to be balanced as well in terms of women's representation.

#### A BICAMERAL PARLIAMENT

The ANC favours a Parliament consisting of two chambers.

The National Assembly will be elected by universal suffrage according to proportional representation. It will control the nation's budget and have primary responsibility for the preparation and adoption of the country's main laws. The Senate will be representative of the regions, and have the power to review and delay legislation. It will also have special responsibility for promoting regional development and for ensuring respect for the principles of the Bill of Rights. The Senate will, in addition, have particular powers in relation to blocking amendments to the constitution.

#### THE EXECUTIVE

The ANC proposes that the Head of State be a President with both ceremonial and executive powers. The President should either be directly elected by the people, or else chosen by the National Assembly at its first session. He or she will have a fixed term of office and be available for re-election only once. The President will nominate and supervise the functioning of the cabinet, acting through and in liaison with a Prime Minister who will be directly accountable to the National Assembly.

## A BILL OF RIGHTS

A central place in the Constitution will be occupied by a Bill of Rights. This will set out certain basic rights and freedoms as universally understood which no future government or Parliament will be able to take away. Basically, it will enshrine principles for which we have fought all our lives. At the heart of the Bill of Rights lies the notion of the fundamental equality of all men and women, irrespective of race, colour or creed.

The Bill of Rights will guarantee that South Africa is a multi-party democracy in which people enjoy freedom of speech and assembly and the right to change their government. Furthermore, the public have a right to know what is being done in their name - we believe in a strong right to information and a firm guarantee regarding the free circulation of ideas and opinions.

The Bill of Rights will be enforced by the courts, headed by a newly created Constitutional Court, which will have the task of upholding the fundamental rights and freedoms of all citizens against the state or any body or person seeking to deny those rights. The judges will be independent, and will consist of men and women drawn from all sections of the community on the basis of their integrity, skills, life experience and wisdom.

The Bill of Rights must secure the rights of individuals to equality and protection from discrimination in all spheres of life, including housing, employment and access to facilities.

It must pay attention to:

The rights of the child; environmental rights; the rights of disabled persons; and the right not to be discriminated against or subjected to harassment because of sexual orientation.

The ANC is against capital punishment and will seek to have it outlawed in the Bill of Rights.

### *Worker's rights*

Workers have fought long and hard for their right to set up independent trade unions, their right to engage in collective bargaining and their right to strike. These rights must be protected in the Bill of Rights, which should be supplemented by a Workers' Charter. This charter should set out all those rights that workers throughout the world have gained for themselves.

### *Human rights for women*

Special emphasis will have to be given to the realisation of women's emancipation.

Women are discriminated against and subordinated in every area of public and private life. They have inferior access to education and employment and are shut out from decision-making at all levels of society. We in the ANC acknowledge that we still

have a long way to go in remedying this state of affairs in our own organisation.

We support the principle of equal rights for women and men in all spheres, and the creation of special agencies to ensure that equal opportunity operates in practice.

Women cannot walk in the streets freely without fear of being assaulted, and frequently they feel unsafe from violence even in their own homes. Concepts of family privacy and the nature of the marriage vow are used to deny women legal protection against abuse in the home. While strongly supporting the inviolability of the home, the Bill of Rights should make it clear that this will not in any way deprive women of their constitutional rights to physical and moral integrity. Similarly, guardianship should be shared and rape in marriage outlawed.

In providing that women should be allowed to take their rightful place in every area of South African life without impediment or discrimination, the law should take account of the reality of the lives that women lead and the contribution they make to society through maternity, parenting and household work. Much of the work that women perform goes unrecognised and unpaid; the contribution of women to national income must be acknowledged.

The Bill of Rights should include mechanisms to ensure that women as well as men are assured of the ability to exercise their constitutional rights in all fields of life. The Bill of Rights should thus be supplemented by an enforceable Charter of Human Rights for Women which spells out in detail the full range of rights to which women are entitled, highlighting the range of rights which they have been blocked from exercising, and the means whereby they will be realised.

#### *The family*

People shall be free to form families on a voluntary and equal basis. Subject to the principles of voluntarism and equality, appropriate legal recognition shall be given to all matrimonial unions, independently of the religious or other rights used for their creation. The Bill of Rights should support the provision of homes, employment and utilities such as light and water, so as to repair the damage done by apartheid and the migrant labour system, and in order to give real meaning to the right to family life.

#### *Property Rights*

The property rights of the majority have been systematically ignored and violated by apartheid. A new system of just and secure property rights must be created, one which is regarded as legitimate by the whole population.

People should have undisturbed enjoyment of their personal possessions.