

THEME COMMITTEE 3

AFRICAN NATIONAL CONGRESS

PRELIMINARY SUBMISSION ON NATURE OF PROVINCIAL SYSTEM AND LOCAL GOVERNMENT

I INTRODUCTION

This document presents a preliminary outline of the ANC's perspective on the nature of the provincial system and local government which the new constitution should embrace and reflect. It is our understanding that Block I of Theme Committee 3 requires that parties present their view and understanding of the nature of the provincial system and local government. This in turn entails an elaboration of general perspectives and principles which will serve as a foundation of the provincial and local government system.

South Africa's peculiar on historical context requires that we take into account a number of specific factors which impact and determine the nature of the provincial and local government system, and we identify central elements of that system which will be the subject of further submissions.

We must assert at the outset that the ANC is unequivocally committed to the creation of a non-racial, non-sexist democracy which systematically eradicates the devastation of apartheid and reduces the social inequalities that it bred. We are committed to a society in which national unity, reconstruction and development prevails.

2. GENERAL PERSPECTIVE

The ANC's conception of a provincial system for South Africa is based on the following criteria and principles.

a) **DEMOCRACY** which will ensure elected structures of government at all levels. regular elections at least every 5 years. in a common voters roll based on universal suffrage.

- b) **ACCESSIBILITY** ensuring that people are directly involved in shaping their destinies at every level of government and that government is open and transparent and responsive to people.
- c) **ACCOUNTABILITY** there must be accountability within government, between different levels of government, and of government to the public.
- d) **FUNCTIONALITY** requiring that the system is suited to South Africa's needs and reality-
- e) **EFFECTIVE & EFFICIENT** a system that works well and is productive and delivers on people's needs.
- f) **PARTICIPATORY ORGANS** government should interact with and respond to the needs and views of civil society organs
- g) **NATIONAL UNITY** must be sustained and enhanced while, at the same time, providing for the division of power between the different levels of government and facilitate nation building.
- h) **UNIFORMITY** is a vital national objective to pursue in the context of massive disparities and inequalities that prevail in South Africa.
- I) **NATIONAL RECONSTRUCTION & DEVELOPMENT** must be facilitated by the system of provincial government.

3. CONSTITUTIONAL PRINCIPLES: CONSTRAINTS & POSSIBILITIES

The constitutional principles in schedule 4 of the interim constitution are mandatory prescriptions on the constitution-making process: - in particular principles XVI to XXIII.

4. ADDITIONAL FACTORS IMPACTING ON PROVINCIAL SYSTEM

The way in which government is structured and the specific objectives it sets for itself inevitably depends on the history of the country and the specific context in which government finds itself

In the case of South Africa a number of additional factors need to be borne in mind in considering the future shape of a provincial and local government system,

- i) the terrible legacy of apartheid: massive inequalities between communities and regions between urban and rural areas. between the racial groups and sexes.
- ii) the undeniable need for redistribution, redirection, reprioritization and reallocation of resources in the quest for equality among all
- iii) deracialisation of our country
- iv) the need to discourage political mobilisation on the basis of race, ethnicity or language and especially to prevent state power at any level from being used for purposes of ethnic domination and intolerance.

In addition the actual lessons, positive and negative, emerging from the implementation of the interim constitution should be taken into account in formulating the new constitution. The experience of establishing and operationalising the present system will be singularly instructive in this regard.

It could be submitted at this stage that our institutional arrangements should be as flexible as possible so as to enable them to grow and adapt themselves in the light of actual experience. The development of our systems should be need-driven rather than ideologically-driven.

5 . ELEMENTS OF A PROVINCIAL SYSTEM

The following are some of the main elements which this Theme Committee must address in the course of its work:

- a) Boundaries and number of provinces
- b) Government structures
- c) Powers and functions of levels of government
- d) Inter-governmental co-ordination
- e) Affordability/cost of system Financial equalisation
- g) Taxation powers of each level
- g) Residual Powers

6. LOCAL GOVERNMENT

Our approach to local government must be understood in the context of the principles and values underlying provincial government.

Local government must be entitled to regulate its own affairs within the context of National Policy. It must have executive powers so as to allow it to function effectively. However, by-laws should be consistent with an applicable Act of parliament or Provincial Law and the Constitution.

This is the level of government charged with the actual implementation of the RDP to ensure the transformation of society. Hence, the task of local government is to ensure that all residents have equal access, free of any form of discrimination to basic services. Local government shall contribute actively towards the redistribution of resources on the basis of race, class and gender.

Local Government shall be structured according to the democratic principles of accountability, inclusivity, non-racialism, non-sexism, maximum participation, and full representivity.

In order to achieve these goals and plan properly, local government should have guaranteed, transparent, and predictable and equitable sources of revenue.

The delegated functions and duties provided to any local authority should be developmental as well as simply allowing for service provision.

There shall be regular local government elections in both rural and urban areas. The tenure of office of local government councillors shall not be less than 3 years and not more than 5 years.

Local government in both urban and rural areas shall promote the establishment of structures of civil society who would in turn actively participate in the affairs of local government.

In metropolitan areas, there shall be elected metropolitan governments. Local government structures shall be established wall to wall throughout the country. In

non-metropolitan areas, local government shall be structured on a two-tier basis consisting of integrated and elected districts and local councils.

Local government shall play an active role in capacity building and shall ensure education and dissemination of information on the RDP.

7. CONCLUSION

This preliminary submission contains the general values and principles which underline the nature of the Provincial and Local Government system.

A more detailed spelling out of the elements of the system will be provided in the blocks of discussion that are to follow.