

SPEECH TO THE CONFERENCE OF THE SOUTH AFRICAN HUMAN RIGHTS
MOVEMENT AT PORT ELIZABETH ON 26 OCTOBER 1990 BY ADV. DULLAH
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The African National Congress is in favour of a vigorous, independent Human Rights Movement. Not only for tomorrow - but NOW! We want human rights not only for a new South Africa - we want human rights NOW. We question the motives of those who suppress human rights Now - but want to talk about human rights in a Post-Apartheid South Africa. Like the present South African Government.

Our view is that there must be a Bill of Fundamental Human Rights. There must be such a Bill NOW and there must be such a bill in a new democratic South Africa.

What do we say about the situation today? We say that the person and on going suppression of human rights cannot be allowed to continue. Here we refer to three specific areas which must and can receive immediate attention.

FIRSTLY we refer to the classical first generation rights, that is, those civil and political rights of due process - which emerged in the great anti-feudal bourgeois, democratic revolutions in Europe and America in the Eighteenth Century. These rights would include all the classical individual freedoms:

Such as freedom of speech, freedom of movement, freedom of association, freedom of conscience and belief, freedom of expression, freedom from arbitrary arrest and detention, the right to fair trial and so on.

The question we ask is why must these freedoms wait for a democratic South Africa to arrive? Why can they not be introduced now?

The ANC holds the view that for free, peaceful political activity to exist, these freedoms are essential. For the

negotiation process to enjoy legitimacy and acceptability - and for it to succeed - there must be free, peaceful political activity.

One of the pre-conditions for eliminating violence is free political activity.

What this means, therefore, is those first generation rights which guarantee free, peaceful, political activity **MUST BE IMPLEMENTED NOW!**

SECONDLY Acts of violence against persons and their homes must end. We refer specifically to State violence and state-inspired violence, right wing and vigilante violence - all of which have killed so many people. Such violence prevents free political activity. The ANC has consistently demanded that the government take immediate steps to end such violence.

We are mindful of other violence in our communities - bred by the divisions and hatred caused by the Apartheid System - the degradation and dehumanization caused by poverty and violence and intolerance bred by the system.

Whilst the responsibility for this violence lies on the shoulders of the Apartheid System, it is the duty of all parties, including the ANC to take positive steps to put an end to such violence. The ANC is prepared to co-operate with any group or party to establish a peaceful environment in South Africa.

THIRDLY the third area in which action must be taken now is the existence of Apartheid laws and practices.

Whilst there is Apartheid:

- in ownership and occupation of land and property
- in jobs and business

- in amenities and facilities
 - in housing, education and health services
- in all of which apartheid still exists, it means that human rights are denied.

Apartheid has in International Law, been declared to be a crime against humanity. We have yet to hear any Government or National Party member bold enough to say this or make such an admission. Is this such a difficult matter? Or do they in this matter not agree with the rest of the world?

If it is agreed that Apartheid is a crime against humanity, then Apartheid in all its forms is a violation of human rights. It must be suppressed and the government must abandon its velvet glove approach to dismantling apartheid.

And so I say that the ANC is very much in favour of a vigorous human rights movement. Whoever wishes to speak with legitimacy and credibility about human rights in a Post-Apartheid South Africa, must fight for the immediate ending of violence and apartheid **NOW** - and for the immediate implementation of first generation human rights **NOW!** We must not and cannot allow these issues to await resolution in a Post-Apartheid South Africa.

BUT WHAT ABOUT THE FUTURE

The ANC says South Africa must be a single, unitary, non-racial, non-sexist, democratic state, with a single parliament based on universal suffrage, one person one vote on a common non-racial voters roll. Such a State must have a Constitution which provides for a multi-party system, regular elections, a Bill of Fundamental Human Rights and an Independent judiciary.

LET US MAKE SOME FURTHER OBSERVATIONS:

FIRSTLY: South Africa has never had a Constitution as the Supreme law of the land enjoying a status greater than that of ordinary legislation.

No human rights tradition! No Bill of Rights! No tradition of Constitutionalism! and I would add no independent judiciary!

The dominant white South African tradition has been and remains that of domination and privileges. And ultimately under the 1983 Constitution - that of dictatorship - authorized by a whites-only referendum.

What South Africa now needs is a real Constitution for the first time in its history - which recognizes fundamental human rights and freedoms - in accordance with the totality of international human rights law without qualification, a Constitution which, enshrines the principles of equality, non-racialism and democracy.

SECONDLY: We totally reject a Bill of Rights or Constitutional arrangement which will entrench racism, in public and private life, existing inequalities in wealth, in land, in property, in education, housing, amenities, facilities including privatized apartheid in these spheres. A Bill of Rights must bring, extend and protect democracy and equality for all South Africa's people. It must be an instrument to eradicate racism and inequalities everywhere.

THIRDLY: We will not have a Bill of Rights which protects or entrenches group or minority privileges. However we believe that the language, cultural and religious rights of all South Africa's people must be protected and that there should be no discrimination of any person or group on grounds of 'race', 'ethnicity' or religion.

FOURTHLY: A Bill of Fundamental Human Rights in South Africa must include First, Second and Third generation rights - which would include social and economic rights - such as basic workers and trade union rights, women's rights, right to housing, education and health and also the right to peace,

development and a clean environment.

CONCLUSION

The ANC is serious about its commitment to such a programme of fundamental human rights. It therefore supports all steps taken to promote such a rights culture amongst all South Africans. We recognise that an essential precondition for the attainment of these rights and objectives is the empowerment of the people who today are disfranchised, oppressed and exploited.

Learning, not only from South African experience but recent experiences in other parts of the world, the ANC considers it imperative that we build in all our communities, strong sectoral organisations eg trade unions to fight for the interests of workers, civic organisations to fight for the rights and interests of residents eg housing, amenities, facilities etc. educational organisations such as teachers and student organisations, health organisations etc. They exist in civil society and must enjoy independence from government and political parties - an even transcend political divides.

In short we call for the building of a new human democratic tradition and development of a rights-culture **NOW**.

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A.N.C.