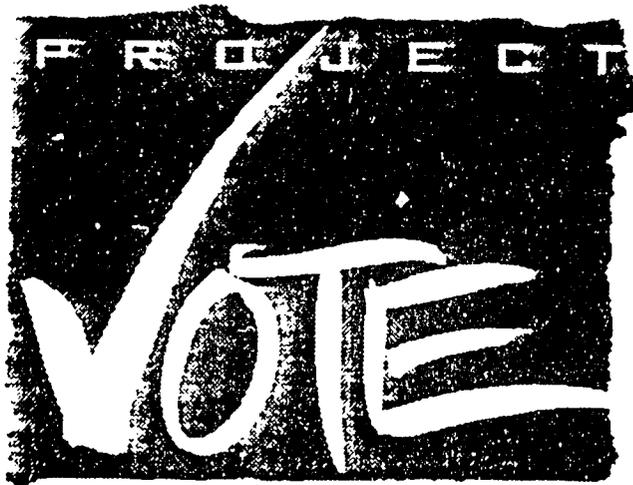


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SOUTH AFRICA BRIEFING PAPER

NATIONAL DEMOCRATIC INSTITUTE FOR INTERNATIONAL AFFAIRS

SOUTH AFRICA BRIEFING PAPER
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I. SUMMARY

In the first half of 1993 South Africa has been propelled closer to the establishment of a transitional government and the holding of its first democratic elections. The most remarkable and dramatic events of this recent period were the announcement by the multi-party Negotiating Council on June 3rd of the tentative election dates, April 27-29, 1994, and the April 10th assassination of the popular and charismatic Chris Hanu, a leader in the ANC, Umkhonto We Sizwe (MK), and the South African Communist Party.

These two events were clearly linked, for the mass anger generated by Hanu's death at the hands of a white, right-wing extremist ignited riots, violence and boycotts which signalled to participants in the on-going negotiations process, especially the African National Congress (ANC), that they must project, however symbolically, evidence of significant progress toward transition and elections. ANC Secretary-General Cyril Ramaphosa pushed through a compromise to provisionally set an election date as a palliative to the restless youth who were increasingly voicing their sense of betrayal and frustration. In exchange, the ANC agreed to the demands of the South African government and the Inkatha Freedom Party (IFP) that the current 26-party Negotiating Forum would draft an interim constitution which would govern until the constituent assembly is elected and seated next April to formulate a permanent constitutional instrument. Other actions taken by some of the political organizations indicated the election campaign had begun; the National Party (NP) changed its colors, flag and symbols, and Nelson Mandela announced that the ANC wanted a minimal voting age of 14.

The announcement on February 12, 1993 that several key agreements had been reached in the latest round of bilateral talks between the white minority government and the ANC set the general framework within which the Negotiating Council is proceeding. Those agreements include the following: (1) election of a 400-seat assembly which would write a new constitution and govern as a interim legislature for a five-year term, (2) selection of the president by the party with greatest representation, (3) guarantee of cabinet position(s) for any party with five or more percent of seats, and (5) requirement of cabinet authorization, in some cases as much as two-thirds approval, for major presidential decisions which have not yet been specified.¹

However, many obstacles to a speedy, yet peaceful, transition remain. In addition to the importance of building among the main political entities a broad consensus on the transition to a post-apartheid South Africa, these groups face the repercussions of a rapidly declining economy, widespread political and criminal violence, and the need to respond to factional pressures within their respective organizations. Not only must an agreement be reached among the elites of the now 26 parties to the negotiations, but the agreement must also be cogently translated and sold to the fractious South African demos and be effectively implemented during

¹"Mandela's Group Accepts 5 Years of Power-Sharing," The New York Times, Feb. 19, 1993.

the highly flammable transition period so as not to allow for re-ignition of violence-inspiring rivalries and turf battles.

Optimistically, the latest round of transitional negotiations has progressed, although not without interruptions such as the deaths of social leaders -- Hani, Oliver Tambo and Andries Treurnicht, with an air of unshakability. The parties to the talks have evinced an unprecedented willingness to rise above innuendo and challenge in their commitment to bringing about a tenable transitional arrangement. Potential disruptions such as a reunited white right further threatening mass action and violence loom large on the horizon. With April 27-29, 1994, named as the provisional dates of South Africa's first democratic elections to include the nation's non-white voters, an unprecedented effort must be undertaken to quell the violence and educate previously disenfranchised voters so as to maximize participation in and legitimacy of the election.

II. BACKGROUND

Throughout South Africa's modern history, the white minority, which makes up less than 15 percent of the country's population, has ruled over a disenfranchised black majority. Under the leadership of the National Party (NP) since 1948, the system of apartheid has been refined so that less than 5 million whites control nearly all of the country's material wealth and political power. Despite the existence of domestic anti-apartheid forces, the waging of armed combat by an exiled paramilitary force² and pressure from the international community in the form of economic sanctions and boycotts, the South African government continued to maintain the system of de jure apartheid throughout the 1980's.

The implementation of UN Resolution 435, which led to the independence of Namibia in 1990, marked a turning point in southern African politics. At the global level, radical changes in Eastern Europe and the Soviet Union also influenced southern Africa directly. The withdrawal of Cuban troops from Angola and the decline of the cold war in Africa paved the way for negotiations aimed at ending the military conflicts in Angola and Mozambique and bringing South Africa's troops home.

With the adoption of the Harare Declaration in 1989, the then-exiled ANC set forth the conditions that would ultimately create a climate for negotiations. The Harare Declaration called for the "unconditional" release of the ANC's Nelson Mandela and other political prisoners, the legalization of previously banned organizations and the removal of the state of emergency. The dramatic changes in both the region and the world had an important impact on South Africa. It confronted a severe economic recession as a result of such factors as the decline in the price of gold, capital flight, divestment and international financial sanctions. The governing NP was losing the support of both liberal and conservative elements within the white population, and faced an internal resistance movement that was becoming increasingly more effective. The new NP government, which came to power in August 1989 under the leadership of State President F.W. de Klerk, concluded that immediate political changes were essential to economic survival.

²Umkhonto we Sizwe (MK), the military wing of the ANC.

In February 1990, de Klerk agreed to legalize the entire spectrum of anti-apartheid forces, including the ANC and the South African Communist Party (SACP), and release Mandela and other political prisoners from prison. In addition, he committed the government to begin a process for negotiating the repeal of apartheid legislation and the establishment of constitutionally guaranteed, full rights of citizenship for all South Africans. Shortly thereafter, the government and liberation movement reached general agreement on the pre-conditions to beginning formal talks. This was followed in August 1990 by an outbreak of politically motivated violence which has destabilized the country and fractured the parties to this day. Despite the government's failure to fully meet the preconditions for talks and decrease the violence, 19 political entities agreed to convene the Convention for a Democratic South Africa (CODESA) on December 20, 1991.

The Conservative Party (CP) and other right-wing forces demanded that the NP call new national elections, maintaining that the 1989 elections did not give the NP the mandate to pursue the course it had chosen. In a February 1992 bi-election in Potchefstroom, the CP won a seat formerly held by the Speaker of the Parliament and which the NP had represented since 1948. In reaction, de Klerk called for a referendum among white South Africans on whether to proceed with the reform process. While in principle the ANC opposed the calling of the referendum, it reluctantly urged whites to vote "yes." The CP, after a fractious debate on whether to call for an electoral boycott or urge a "no" vote, opted for the latter. 68.7% of whites voted yes on the referendum, and de Klerk claimed an overwhelming mandate for continuing the reform process and negotiating for a power-sharing government.

After months of progress in the all-party negotiations on a framework for a new constitution, CODESA collapsed as a result of a series of events occurring in May and June 1992. The government, emerging with renewed confidence from its referendum victory, pressured for super-majorities exceeding two-thirds for approval of a new constitution. The ANC relented, superseding the directive it had from its national conference. However, as the ANC agreed to various proportional formulas, the government and its partners pressed for further concessions. Finally, the process stalemated and the talks were adjourned.

On June 17, 1992, political violence near Johannesburg received international attention when 40 residents of the Boipatong township were massacred, allegedly by Inkatha supporters living in nearby hostels. The attack was reportedly an act of revenge for a similar action that had taken place three weeks earlier when 20 Inkatha supporters were killed by what some witnesses claim were ANC defense units. The Boipatong incident intensified the pressure on Mandela to pull out of negotiations and return to mass action as the means for ending apartheid and bringing down the government -- the "Leipzig Option" employed in recent transitions in Eastern and Central Europe. On June 21, Mandela announced the ANC's withdrawal from CODESA, issued a series of demands for action by the government to curtail violence and appealed for intervention by the international community. The focus of action moved from the CODESA forum back to the streets and into the U.N. Security Council. A synopsis of the

ANC's demands is as follows:³

- The creation of a democratically elected and sovereign assembly to draw up a post-apartheid democratic constitution.
- An interim government of national unity.
- An end to state assassination squads, dismantling of special forces, prosecution of officers involved in violence and an end to repression in tribal homelands.
- Fencing of migrant-worker hostels seen as focal points of violence, permanent police patrols, regular searches for weapons and a plan to turn hostels into family homes.
- Banning of dangerous weapons in public.
- International monitoring of violence.
- Release of all political prisoners.
- Repeal of all repressive legislation.

Boipatong ultimately marked a watershed in South African foreign policy history by pressuring de Klerk to agree to a U.N. investigatory mission as stipulated by the July 16, 1992, U.N. Security Council Resolution 765.⁴ Special Representative to the Secretary General Cyrus Vance was dispatched to South Africa to revive the stalled talks and secure a multilateral commitment to the curbing of violence.

In September, the ANC's mass action campaign reached its climax, as over 20 ANC supporters were gunned down by troops of the nominally independent homeland of Ciskei while marching on its capital, Bisho. The incident attracted international condemnation of both the ANC's alleged proclivity to provoke violence and the government's overt and clandestine backing of anti-ANC actions. A pall of political realism fell over South Africa after Bisho, forcing the major actors to reconsider their strategies and goals. The result was the convening of bilateral talks between the ANC and government, principally between ANC Secretary-General Cyril Ramaphosa and South African Minister of Constitutional Development Roelof Meyer. As the two major players proceeded to achieve consensus, they simultaneously conducted talks with allies and adversaries from other parties both in and out of CODESA. Following months of closed door negotiations, the ANC and the government bridged formidable gaps and presented similar proposals for the upcoming transitional period.

On April 1, 1993, the 26-party Negotiating Forum convened at the World Trade Centre outside of Johannesburg to resume negotiations over the rules and structures to govern the transitional period. The talks were suspended following the Hani assassination, but resumed April 26th. The Negotiating Council (the working group of the Negotiating Forum) announced April 27-29, 1994, as the dates for the three days of voting. This decision was reached with

³ "De Klerk Addresses 14 ANC Conditions for Talks," The Reuter Library Report, July 15, 1992.

⁴ U.N. SCOR Res. 765, U.N. Doc. S/24288 (July 16, 1992).

opposition from the Inkatha Freedom Party (IFP) and the CP. The proposal will be taken to the full Forum in July.

The reunified white right has threatened to withdraw from the negotiations on June 25 following the confirmation of the election date, unless it wins concession to a separate Afrikaner-majority state or region in which Afrikaners could enjoy their right to self-determination. These parties have also warned of their intention to engage in a mass action campaign of their own.

III. CURRENT STATE OF THE NEGOTIATIONS

Given the severe divisions within South African society and the unique nature of the now-crumbling apartheid state, the transition may be described, as one scholar termed it, as "reluctant,"⁵ for both principals to the negotiations view the negotiated transition as a second-best option. As between de Klerk and Mandela there floats the unavoidable conclusion that a government of national unity is the only tenable option. South Africa's whites compose approximately 13.5 per cent of the population, but control nearly 98 per cent of the country's wealth. They are, therefore, economically indispensable. The ANC, on the other hand, may enjoy, even if in coalition with the Pan Africanist Congress (PAC), a permanent majority in the eventual constituent assembly. A growing collaboration and willingness to dampen entrenched positions in compromise are the trend, as evidenced by the compromise giving rise to the announcement of a provisional election date. One observer described the relationship between Mandela and de Klerk as a "minuet of wary respect."⁶

The bilateral talks between Ramaphosa and Meyer produced, in addition to the agreements announced on February 12, 1993, a quasi-consensus on the parameters for multi-party talks. Official multi-party talks resumed on April 1, 1993. The new forum has been much more inclusive, with 26 parties convening at the first formal session, than CODESA. Notable participants have included the PAC, the CP and its militant off-shoot, the Afrikaner Volksunie (AVU), as well as previously excluded traditional leaders such as Zulu monarch, King Goodwill Zwelethini. The major hold-outs are the neo-fascist Afrikaner Weerstandsbeweging (AWB) on the extreme right and the Azanian People's Organization (Azapo) at the other end of the political spectrum. Azapo, however, has agreed, at least in principle, to gracing the negotiating table in the near future.

A. Structure and Issues of the Negotiations

The structure of the talks is multi-layered. At the top is the Plenary, i.e. all the political parties and their leaders. There is no permanent chairperson. Rather, the delegates rely on six revolving chairpersons. Below that is the Negotiating Forum (208 members) composed of all

⁵ Steven Friedman, *South Africa's Reluctant Transition*, *Journal of Democracy*, Vol. 4, No. 2, at 56 (April, 1993).

⁶ B. Keller, *N.Y. Times*, Apr. 28, 1993.

members of the Plenary without the leaders. This body will serve to confirm decisions of the next layer, the Negotiating Council (52 delegates plus 52 advisors), comprised of two delegates - one a woman -- and two advisors from all 26 parties meeting four days a week in public until an agreement is reached. A 10-person Planning Committee meets daily in camera to develop recommendations, decisions and compromises to be fed into the Negotiating Council.

The bottom layer consists of technical sub-committees with specific issue mandates. These sub-committees report to the Planning Committee. At present there are technical committees on: (1) constitutional matters; (2) fundamental rights in the transition; (3) the Independent Electoral Commission (IEC); (4) an independent media commission; (5) the repeal of discriminatory legislation; (6) the Transitional Executive Council (TEC); and (7) violence. Seats on the technical committees are filled overwhelmingly by lawyers and experts who chew on the thorniest issues, i.e. those which the more political bodies choose to pass on.

The on-going negotiations will address, *inter alia*, such issues as: (1) the powers and functions of a Transitional Executive Council (TEC) which would take over functions of government and prepare for the ensuing national elections; (2) the powers and functions of regional governments in a new constitutional order and whether this issue should be decided in multi-party negotiations or by an elected constitution-writing body (with the government and Inkatha preferring the former and the ANC the latter); (3) the nature of a transitional constitution which would set forth the powers and structure of the interim "government of national unity" (selected by the elected Constituent Assembly) and serve as the basis for governance until the Constituent Assembly drafts a permanent constitution; (4) whether, indeed, the interim government should govern for five years or longer; (5) the definition of "government of national unity" as opposed to or in relation to "power sharing;" (6) the composition of electoral and media commissions; (7) the possibility of joint control of the security forces during the transition to ensure free and fair elections; and (8) the future of the TVBC states (Transkei, Venda, Bophuthatswana, Ciskei) and the kwaZulu region.⁷ Many observers speculate that the Transitional Executive Council (TEC) will be established by the end of July.

B. The Election Day Compromise and Constitutional Proposals

The announcement of a provisional election date, a significant victory for the ANC and like most victories in negotiation, did not come without compromise. In exchange for the announcement, the ANC agreed to the NP and IFP demand that the Negotiating Council would draft an interim constitution to govern until the constituent assembly is elected next April and writes the permanent document. This was a crucial concession for the NP and IFP, for both parties believe they wield more power in the Negotiating Council than they will in the constituent assembly. Thus, they will better be able to insure the protection of minorities, group rights and cultural rights, as well as the devolution of power to local and regional governments. Moreover, the initial constitution is likely to establish constitutional precedent that will be

⁷ See generally, "Signs of Realignment Emerge in South Africa," *The Christian Science Monitor*, Feb. 1, 1993.

difficult to undo in the constituent assembly. In return, however, the NP and IFP also conceded that the constituent assembly will have sole authority to draft the final constitution.

The NP very recently unveiled its draft constitutional proposals to initiate discussion on the matter. The clear theme running throughout the proposals is the entrenchment, even beyond the transitional phase, of "power-sharing" and an extremely diluted presidency. Under the NP's proposal, the president will be able to exercise his powers only "on the advice" of the "government of national unity." The government would consist of cabinet ministers designated by parties in proportion to their relative support in the constituent assembly, provided that the parties have at least 20 representatives in the national assembly. The head of state would be the state president, although his powers would be limited to: (1) addressing parliament; (2) defining parliamentary sessions; (3) entering international agreements; (4) enforcing legislation or referring such legislation back to Parliament on grounds of procedural shortcomings; (5) referring constitutional disputes to a constitutional court; and (6) convening cabinet meetings. All other executive powers would be exercised "on the advice" of the government.

The NP draft constitution provides for a bicameral parliament elected for five-year terms. The two bodies will be a 400-seat national assembly and a senate made up of at least five representatives from each region. These provisions, according to the NP, will help guard against tyranny of the majority and a usurpatious national government. Ordinary legislation would be passed by a simple majority in each house, or a majority at a joint sitting. However, legislation "concerning the interests of regions" would also have to be ratified by two-thirds of the regional legislatures.

The NP proposes that it will be possible to alter the constitution only by a majority of at least two-thirds of National Assembly members and only if the changes comport with the constitutional principles laid out in the interim constitution. Parliament could not consider constitutional legislation unless the constitutional court rules that the legislation falls within the schedule of constitutional principles, giving the court enormous pre-emptive power. If such legislation survives the court, it must be passed by a two-thirds majority of the national assembly. If regional rights are involved, the legislation would also have to win a two-thirds majority in the senate. The constitutional principles could only be amended by a four-fifths majority in a joint sitting of both houses. If all else fails, a referendum could be called on the proposed changes, in which case they must be approved by at least 60 per cent of the votes cast. [For an account of the constitutional proposals of the ANC and IFP, please refer to Sections VIII (A) & (C)].

The final vote on a firm election date is scheduled to take place the week of June 28, but may be delayed due to a recent attack on the World Trade Centre in Johannesburg. (See "Conservative White Right/AWB") The CP walked out on negotiations in early June due to its fervent opposition to the compromise and setting of an election date. The CP is holding out for a guarantee of a separate white state, or at least the demarcation of a region wherein Afrikaans-speaking whites would have a substantial majority and would have significant home rule.

C. Transitional Arrangements

The broad outline announced by the ANC and government on February 12, 1993 bridged significant schisms. In addition to the details listed above (see Summary), the election is provisionally set to be held April 27-29, 1994, to elect a "constituent assembly." Although the assembly would draft the new constitution, it may not take effect until 1999 after the assembly's five-year term. Therefore, the interim constitution to be drafted by the Negotiating Council may well govern through the end of the decade.⁸

Significantly, the ANC endorsed a policy proposal emanating from an ANC discussion paper in November 1992, authored by South African Communist Party Chairman Joe Slovo, entitled "Negotiations: A Strategic Perspective." The outline of the policy position entertains the majority party ruling as part of an interim government of "national unity" for possibly five years. Under the ANC plan, all political parties receiving more than 5-15% of the vote should be represented in the cabinet in proportion to their respective polling success. Slovo's arguments for advancing this arrangement, viewed as very practical by its proponents, is based on the likelihood of entrenchment provisions for the existing civil service -- the largest employer in South Africa -- and the loyalties of those employed in it and the security forces to the NP. He maintains that should the ANC alliance win an outright majority in the first democratic elections, it would find it close to impossible to make the government function in the interest of those who had elected it.

This proposal was sharply criticized by various political factions within the ANC such as Pallo Jordan, Chris Hani and Winnie Mandela as a departure from the principle of a "transfer of power" to support for "power-sharing." However, the ANC leadership succeeded in securing the support of the National Executive Committee for using the proposal as a basis for January-February 1993 negotiations with the government and other parties. Inkatha leader Chief Gatsha Mangosuthu Buthelezi rejected the arrangement proposed by the government and ANC as undemocratic collusion. The liberal Democratic Party supports the plan as an effective mutual check on "the totalitarian tendencies of the ANC, and...the tendencies of [claiming] racial superiority exhibited by the NP."⁹

Supporters of the prospective, five-year transitional government of national unity, including business leaders, highlight its potential for improving the economy, attracting foreign and domestic investment, and checking political violence during the period immediately following the election.

⁸ "Secret Deal Could Bring Democracy to SA," *The Independent*, Feb. 7, 1993; "S. Africans Move Closer to Accord," *L.A. Times*, Feb. 14, 1993.

⁹ "S. Africans Move Closer to Accord; Elections," *L.A. Times*, Feb. 14, 1993.

D. Extrinsic Challenges to the Holding of Negotiations

Several events unfolded during the first few weeks of the renewed negotiations, each of which could have derailed the talks. None of them did. Notwithstanding the employment of brinkmanship policies on the part of the government and other parties to the negotiations, the negotiations have survived. The continuation of the negotiations in the face of these extrinsic challenges evidences the strong continence and commitment of the parties to the need for a peaceful transition.

1. De Klerk's Blockade of Transkei

In late March, 1993, on the eve of renewed multiparty talks, an investigatory commission, led by Justice Richard Goldstone, claimed that the PAC's military wing, the Azanian Peoples' Liberation Army (APLA), was using the Transkei as a training base and springboard for attacks on South Africa. Using old-school NP "kragdadigheid" (power and vigor) to appease the hawkish wing of the party, President de Klerk ordered 1,000 troops to blockade the "homeland." All transport crossing the border was stopped and thoroughly searched. De Klerk defended the action as a means of pre-empting APLA cross-border attacks on innocent South Africans. General Bantu Holomisa, President of Transkei and ally of the ANC, denied the APLA's presence in Transkei and denied the charges of the Goldstone Commission.

General Holomisa and President de Klerk subsequently met to defuse the situation. Holomisa agreed to arrange a local judicial commission of inquiry into the APLA, while de Klerk agreed to ease the blockade.

2. Hani Assassination

The most significant challenge to the securance of a peaceful transition was the assassination of Chris Hani, a prominent ANC and SACP leader who had become a folk hero to the disaffected African youth. The perpetrator Janusz Walus, a Polish emigre and white supremacist, shot Hani while Hani stood on the driveway of his home in an affluent suburb of Johannesburg on the morning of April 10th. A white neighbor witnessed the incident and reported the tag number of Walus's car, leading to Walus's immediate apprehension. Conservative Party leader Clive Derby-Lewis and his wife, Gaye, were also arrested as co-conspirators in the assassination plot.

A wave of black anger and grief engulfed the country. Millions mourned and protested on April 14th, proclaimed a national day of mourning by the ANC, SACP and PAC. Many angered Hani supporters wrought chaos in the streets, burning cars and looting shops. More than 50 people died in the days following the assassination. Tens of thousands of supporters attended a mass funeral in a soccer stadium in Soweto. Hani was one of most revered/respected leaders of both SACP and ANC and kept militant youth within the fold. He was a very charismatic orator and deft organizer.

Significantly, the South African Broadcasting Corporation (SABC) gave Mandela, rather than de Klerk, air time on two separate nights to appeal for calm in the wake of the slaying. In addition, no state of emergency was proclaimed, as was past practice by the government, and the negotiations were merely suspended for three weeks.

3. Kriel's Raid on PAC

In the midst of the restored negotiations in May, Minister of Law & Order, Hernus Kriel, ordered a South African Police (SAP) raid on the PAC for its alleged connection with random attacks on whites. The SAP arrested 73 PAC representatives and forcibly broke into their homes, including that of PAC leader, Benny Alexander. Only 4 of those arrested, however, were actually charged with a crime: illegal possession of weapons. Many observers viewed the raid as an attempt to drain support for the ANC by militant youths by creating martyrs out of the PAC. This draining of support for the ANC would theoretically compensate for the NP's own hemorrhaging in the aftermath of the Hani assassination due to the flight of white conservatives to the CP and IFP and of Indians, Coloureds and middle-class blacks to the ANC.

Rather than abandon the negotiations, the PAC continued to participate. In fact, Alexander seized an opportunity during the negotiations to attack Kriel for the raid. Cyril Ramaphosa called for Kriel's resignation that same day.

4. SABC Board Dispute

Another potentially disastrous controversy centered around de Klerk's alleged intermeddling in the affairs of the South African Broadcasting Corporation (SABC) and the multiparty independent panel instituted to select a new 25-member SABC Board of Directors. During the first week of June, after having received the recommendations of the seven-member panel of selectors, de Klerk announced the appointment of the new SABC Board. Several of the names announced, however, were not taken from the panel's list. The ANC and a media watchdog group, the Campaign for Independent Broadcasting, cried foul, for these two organizations pushed strongly for the creation of the panel given the immeasurably important role the electronic media will play in the next year. The SABC is a media giant, controlling 3 television stations and 25 radio stations.

De Klerk asserted that his role was not one merely of "rubber stamp." Rather, he felt his use of discretion was above board and well-warranted. He expressed anger over the selection of 16 persons on the first list who de Klerk believed to be ANC supporters. He proceeded to present a list of 11 possible replacements, but only two of these suggestions were named to the final list, to which de Klerk finally capitulated.

The seven-member independent panel has been widely lauded in South Africa for efforts to cultivate a culture of openness and accountability in the electronic media. The first task of the new Board is to ensure the impartiality of media coverage during the ensuing campaign. The

CP has complained that conservative Afrikaners are underrepresented on the Board, while the IFP objects to the alleged overrepresentation of ANC-sympathizers. It is likely that Frederick Van Zyl Slabbert, a political independent and scholar with the Institute for a Democratic Alternative for South Africa (IDASA), will serve as interim chairperson.

E. "Privatization of Apartheid"

On February 2, 1993, shortly after the existing parliament convened in Cape Town, de Klerk's government proposed a bill of rights to ensure respect for human freedoms and rights by future governments. The white government seeks strong guarantees of individual rights, including property rights, before the transitional government takes over, notwithstanding what its critics view as white South Africa's active disrespect for such rights for the past 300 years. South Africa currently has no bill of rights or constitutional court to which claimants may seek redress for violations of rights by the government. Parliament is supreme. X

The ANC swiftly denounced the move to enshrine a bill of rights before a democratically elected body has been established. The ANC views the NP's bill of rights legislation as a means of attracting supporters and maintaining its current constituency of whites who may fear retribution by a new government and seek firm protection of their property rights. The proposed bill of rights additionally bars the government from officiously interfering in private agreements. Critics view this as an attempt to "privatize apartheid" by prohibiting future governments from integrating racially exclusive private institutions such as schools, hospitals, and sporting clubs.

A further divergence between the NP's and ANC's conceptual models for a bill of rights is the ANC's demand that such a profound document include economic and social rights to correct the wrongs of the apartheid past. Rights to housing, education and health care, argues the ANC, are essential to the empowerment of the victims of apartheid; to hold enforceable only civil and political rights would be to throw ropes of sand to the poor, homeless, uneducated, and sick of South Africa.

F. Role of Women in the Negotiations

Women represent more than 53 per cent of the voting population, and yet the role of women in the various negotiating fora is manifestly inequitable. The general agreement among the 26 parties to the negotiations that women must be included at some level is a small, but momentum-generating, victory. Several of the negotiating structures, including the Plenary Council, the Negotiating Forum and the Negotiating Council, have stipulated that there must be a female delegate with voting power from each party. Debate in the Council meetings will be suspended if the woman delegate is absent. These rules, which have largely been complied with by the 26 parties, were designed to overcome the blatant gender inequity pervading the CODESA talks. Few of these women, however, actually participate in debate.

In addition, a cross-party women's group has coalesced to forge a women's rights agenda and voice a united women's perspective on issues disproportionately affecting women. The issue

of federalism is one such issue, for it will define the powers of the putative regions over "social welfare issues" such as abortion and customary marriage.

Both within and without the formal structures of the negotiating fora, women's representation in influential bodies remains quite paltry. For instance, only 6 of the 25 members of the influential South African Broadcasting Corporation (SABC) Board are women. One such member and civil rights activist, Fatima Meer, believes that the contribution of women should improve correlatively with the increase in "female urbanisation."¹⁰ Women's issues and concerns also suffer from a lack of media coverage. A recent ANC Women's League demonstration at the Negotiating Forum went largely unnoticed by the national media.

Women's participation on the Independent Electoral Commission (IEC) is critical, for the actions taken and regulations promulgated by the IEC such as the delimitation of constituencies and the location of polling sites will significantly affect women's participation in the elections. One of the largest groups of voters will be rural, illiterate women. So IEC voter education programs should be designed with this fact in mind. Moreover, many women have argued that all political parties should comport with a code of conduct which addresses the particular concerns of women, such as violence against women and intimidation of domestic workers and farmworkers.¹¹

IV. POLITICAL INTOLERANCE AND VIOLENCE

"We are drowning in our own blood. That is why it does not rain anymore."

-- African middle class woman (Soweto)¹²

"We are scared all the time. We always fear that we will not see the following day."

-- African working class man (Durban)¹³

"We are talking about the new SA, and yet we are still killing each other. This confuses me. I don't know where we are going."

-- African working class man (Durban)¹⁴

¹⁰ Southern Africa Report, May 20, 1993, at 8.

¹¹ Rhoda Kadalie & Amy Biehl, "Women's Voices Will Be Heard at Last," The Weekly Mail, Apr. 30 - May 6, 1993.

¹² S. Booysen & C. Charney, "The Minds and Feelings of the Swing Voters: Keys to Ensuring the Success of South Africa's First Democratic Election," p. 16, §1.1 (Dec., 1992).

¹³ Id.

¹⁴ Id. at 17-18.

The greatest threat to the prospect of a smooth transition to a democratic South Africa is political violence. Comparative statistics paint an alarming picture¹⁵:

People killed in political violence, Sept. 1984 - Feb. 1990:	5,565
Feb. 1990 - Oct. 1992:	7,739
Jan. - Oct., 1992:	approx. 3,000 (1,147 in Natal; 1,663 in PWV area)
Yearly average of political fatalities in No. Ireland:	136
Monthly average of political fatalities in SA, Jan. - Oct. 1992:	307
Victims of train attacks, Jan. - Oct. 1992:	approx. 250 killed, 460 injured
Number of train attack suspects arrested through Dec. 1992:	21
Number of train attack suspects found guilty and sentenced:	1

There are numerous causes of this violence, but the principal ones include the dire economic conditions, the slow pace of change and acts of revenge. In fact, these violence-inspiring social, cultural and economic conditions are often exploited by rogue security elements and political leaders to undermine the opposition and advance their respective causes. Many argue that no party or faction approaches the negotiating table with clean hands -- all are culpable.

The National Peace Committee, established in 1991 to oversee compliance with the National Peace Accord, has had limited impact. An agreement was reached on November 25, 1991, securing a good faith agreement between Buthelezi and Mandela to hold a peace summit in the near future. On June 23, 1993, Mandela and Buthelezi indeed met for the first time in over two years in a church-brokered meeting. The two leaders committed themselves to making joint appearances in areas of endemic rivalry-fed violence. They also agreed to the prohibition of weapons at political rallies and to the allowance of free political activity in their respective parties' so-called "no-go" areas. Although the meeting is considered unlikely to contribute greatly towards immediate progress in negotiations, the peace summit could lead to the easing of suspicions and tensions between the two leaders' rival constituencies.

Fortunately, a positive trend toward less violence has characterized 1993. A recent study has reported that the per diem rate of political deaths in 1993, 4.25, is one-half that of 1992. Many of the victims of violence in 1993 were felled in the bloody wake of the Hani assassination. In addition, all parties to the Negotiating Forum acceded to a resolution on violence, reiterating an "unwavering rejection of all instances of political violence and actions

¹⁵ All statistics were taken from "Numbered Days," Work in Progress, Dec., 1992, at 9 (citing as sources: SA Comm'r of Police, Urban Found., Human Rights Comm'n, Nicro, Transvaal Attorney-General, Sunday Tribune, Southern Afr. Res. and Documentation Centre, Lawyers for Human Rights, Central Statistical Services, SA Inst. for Race Rel.), with the exception of those concerning political violence killings by region taken from Human Rights Watch, Human Rights Watch World Report 1993, at 48 (1993).

leading to the promotion of violence. The parties committed themselves "to work relentlessly to end the violence, promote law and order and bring about a climate of peace, inter alia, through constitutional negotiations."

A. The Impact of Boipatong and Bisho

Apart from the shocking Hani assassination, two of the most publicized incidents of violence in 1992, Bisho and Boipatong, were equals in degrees of tragedy and wantonness, but brought about entirely opposite political effects vis-a-vis negotiations between the ANC and the government. The massacre of Boipatong residents and de Klerk's response thereto resulted in the collapse of CODESA. Both Mandela and de Klerk retreated to hard-line positions; Mandela to respond to the ANC's disillusioned militant wing, de Klerk to manifest a sense of control over the security forces and South African Police (SAP) and the overall situation.

The September, 1992, killings of ANC protesters by Ciskei troops at Bisho, on the other hand, jolted the country toward renewed negotiations, creating an aura of realism that has pervaded the political environment of the transition process. In all of its forms, the violence has impeded the negotiations process. It has also raised doubts among the international community, especially future investors, over the prospects for a stable, democratic South Africa. The National Peace Accord of September 14, 1991, is viewed by all of the actors as an essential component to the future of the negotiations, although virtually all of its principles and codes of conduct have been mocked by the escalating violence.

Prompted by the continuing violence, both the U.N. and the Goldstone Commission called for a drastic change in the command structure of the security forces. They suggested that the forces first be brought under multi-party control, and secondly, be subjected to international monitoring and sensitivity training. De Klerk typically has refused to acknowledge widespread police misconduct, describing it instead as a series of individual, unsanctioned aberrations. Notwithstanding his past reticence, he agreed to allow international monitoring of the violence by the United Nations and other inter-governmental organizations such as the Organization for African Unity (OAU) and the Commonwealth.

On July 15, 1992, the U.N. Security Council unanimously passed Resolution 765 out of its concern for the escalating violence in South Africa.¹⁶ The key provisions were: (1) a condemnation of the massacre at Boipatong and its subsequent handling by the SAP; (2) an urging of the South African government to take "immediate measures to bring an effective end to the ongoing violence and to bring those responsible to justice; and (3) an invitation to the Secretary General to appoint a Special Representative, Cyrus Vance, to meet with the parties, reconvene negotiations and end the violence.

¹⁶ U.N. SCOR Res. 765, U.N. Doc. S/24288 (July 16, 1992).

Both the ANC and the government agreed to the presence of an impartial U.N. team to observe demonstrations and township violence. Upon the culmination of Vance's 10-day visit, Secretary General Boutros-Ghali reported to the Security Council the need for approximately 30 monitors to be stationed throughout the country. The OAU, the European Community (EC), and the Commonwealth also stationed observers, bringing the total number to 100.

The observer mission was initially headed by Hisham Omayad, a senior U.N. Secretariat official. The mission drew criticisms of inefficacy and Omayad was replaced after 6 months. Noting that the U.N.'s prior experimentation with a civilian police monitoring force, which was a success in Namibia, some argue that such a force could be the U.N.'s most important contribution to peace if international monitoring in South Africa proves effective. Prior to his assassination, Hani had been designing a peace corps intended to combine international and domestic forces to maintain law and order in the context of an election environment. Dispelling widespread fear of violence among the disenfranchised could pave the way for greater voter turnout than is predicted currently.¹⁷

B. 1992 Goldstone Commission Reports

In an effort to enforce the principles of the National Peace Accord, an independent commission, under the leadership of Justice Richard Goldstone, was established to investigate specific incidents of violence, as well as the social and economic conditions which create an atmosphere conducive to violence. The Commission has conducted investigations and issued reports.

July 6 Report: Boipatong Investigation. The Commission severely chided the government for failing to heed the warnings and implement the recommendations of its previous reports concerning township violence. In particular, the Commission reiterated its suggestions that the government fence off and police worker hostels and ban the public carrying of cultural weapons, which had been previously been exempted from the 1991 ban on dangerous weapons. It was not until September, after the Bisho massacre, that de Klerk agreed to implement these recommendations. In addition, this report labeled the ANC's charge of the government's complicity in the violence "unwise, unfair and dangerous."

July 23 Report: SAP Response to Boipatong and Township Violence Generally. This report, authored by Dr. Peter Waddington of the United Kingdom, condemned the "woefully inadequate" response of the SAP to the Boipatong massacre. Although Waddington found the white police force's leadership and organization to be alarmingly unaccountable, the Commission uncovered no evidence to suggest the government's complicity, forcing the ANC subsequently to pull back from its accusation.

¹⁷ See generally, S. Booysen & C. Charney, "The Minds and Feelings of the Swing Voters: Keys to Ensuring the Success of South Africa's First Democratic Election," (Dec., 1992).

August 8 Call for Blanket Amnesty. Heeding a call by U.N. Secretary General Boutros Boutros-Ghali for a full probe of the SAP, the SADF, the ANC's Umkhonto we Sizwe (MK), the PAC's Azanian Peoples' Liberation Army (APLA) and the KwaZulu Police, Justice Goldstone recommended blanket amnesty for all members of such organizations.¹⁸

October 1 Report: Apportioning Fault for Bisho. In addition to rebuking the Ciskei troops for wantonly opening fire on ANC demonstrators, the Commission called for a criminal investigation of those responsible and implored the homeland leaders to "tolerate and facilitate reasonable and negotiated public mass demonstrations."¹⁹ Although it initially blamed the ANC for provoking the violent response, the NP approved of the Commission's report.

November 16 Report: Misconduct by SADF Military Intelligence Unit. After extensive investigations, the Commission uncovered an elaborate SADF "dirty tricks" campaign aimed at compromising members of the ANC's MK through the use of prostitutes, drug dealers and homosexuals. Evidence showed that SADF Military Intelligence had funded companies that had trained and armed Inkatha supporters and hostel dwellers. Military Intelligence had also recruited a former drug squad policeman and convicted murderer to conduct a campaign to link MK members to criminal activity.

December 28 Report: Indictment of ANC and IFP Leadership for Violating Peace Accord. In this report, the Commission assailed the leadership of both the ANC and Inkatha for failing to take significant efforts to control violence between their supporters. It recommended the imposition of penalties for breaches of the National Peace Accord, calling the rivalry "the primary trigger" of violence and intimidation. To curb the endemic violence, Justice Goldstone called on the parties to reach consensus on the following issues: (1) free political activity in all areas; (2) clarification and definition of the role of tribal chiefs; (3) improved performance in police investigations and conviction of those responsible for political violence; (4) the withdrawal of G-3 rifles from tribal authorities; and (5) respect for freedoms of association and assembly.²⁰

C. Anti-White Violence by the PAC'S Azanian People's Liberation Army (APLA)

In the most significant incident of anti-white terrorism since the initiation of post-apartheid negotiation, members of the Pan-Africanist Congress military wing, the APLA, hurled hand grenades and fired bullets into wine-tasting soiree at a white golf club in King William's Town in the Eastern Cape. Four whites were killed, while 17 others suffered injuries. Sabelo Phama, commander of the APLA, immediately claimed responsibility for the attack and pledged

¹⁸ For a discussion of subsequent events pertaining to the amnesty issue, please see § IV (H).

¹⁹ "Panel Blames Ciskei for Massacre," *The Washington Post*, Oct. 1, 1992.

²⁰ South African Embassy, *Recent Developments in South Africa and Current United States/South African Relations* (Dec. 1992).

further violent retribution against whites. The attack brought instant condemnation from the international community, with the Goldstone Commission calling on the U.N. to launch an urgent inquiry in to the APLA.

The APLA is based in Tanzania, but allegedly operates guerilla bases out of Transkei. PAC leader Clarence Makwetu distanced the PAC from the APLA's operations, but reiterated the PAC's commitment to the armed struggle as its principal means of pressure.²¹ The APLA recently claimed responsibility for a spate of attacks on hotel patrons and white farmers in the aftermath of the Hani assassination.

D. Inkatha/UDF/ANC Violence

The fighting in Natal began in 1985, but has intensified in the last two years, and has most recently spread to other areas. At least 7,000 people have been slain in the province since 1987. At that time the main protagonists were supporters of Inkatha and the United Democratic Front (UDF - which later disbanded after the legalization of the ANC). The fighting resulted from rising tensions between the two organizations over dominance of geographical territory and ideological differences. These differences have been exacerbated by conditions of poverty, unemployment and homelessness.

However, contrary to the international media and the South African government's characterizations of this violence as "tribal fighting," the violence in Natal has occurred primarily among Zulus -- some of who support the ANC and others who support Inkatha. The violence in Natal has forced thousands of families to flee their homes and resulted in thousands of deaths, particularly among the youth. Neither the ANC nor Inkatha can refute that both sides have contributed to the violence, but to characterize the violence both in and beyond Natal as "tribal fighting," is also an oversimplification. Given the traditionally Zulu support for Inkatha and the tendency for the ANC leadership to be derived from Xhosa speakers, there is indeed an ethnic element involved in the violence. However, apartheid's legacy of divide and rule tactics, the conditions in the workers' hostels and squatter towns, and the pervasive lawlessness in the townships are at the root of the township violence.

The National Peace Accord (NPA) created the Natal Regional Dispute Resolution Committee (RDRC) to monitor unrest in the region. The RDRC recently reported that "[d]eficiencies in police investigations and court procedures, an inadequate witness protection system, bureaucratic delays in funding the NPA and a failure to fully implement its police code of conduct...compound the problems [in Natal]."²²

The month of March, 1993, was particularly bloody in Natal's midlands, surrounding the provincial capital, Pietermaritzburg. In one week, 20 civilians were killed, 14 adults and 6

²¹ New African, Feb., 1993, at 40-42.

²² "Unprecedented Peace Talks in Natal," Agence France Presse, Jan. 20, 1993.

children. The midlands are the epicenter of a fierce turf war between the IFP and the ANC. The ANC's Natal leader is the militant Harry Gwala. Gwala accuses the IFP of instigating the violent episodes because of its fear of democratic negotiations. The IFP counters by accusing the ANC of causing the violence, citing the ANC's alleged desire to derail the negotiations.

In reaction to the escalating violence, ANC and IFP leaders came together in the war-torn Ndwedwe district near Durban and established an interim peace forum. Harry Gwala and Chief Buthelezi have called for joint ANC-IFP rallies and peaceful negotiation.

E. The National Party and MK

The NP opposes the continued existence of the ANC's military wing, MK. Although the ANC did not agree at the September peace conference to disband MK, the subject is part of "continued negotiations" between the ANC and the government. The ANC maintains that the future of the MK in a new South Africa must be negotiated as part of a broader discussion of the future of all security forces, including the "homelands" and self-governing states like kwaZulu. In his opening speech at CODESA de Klerk condemned the ANC for not resolving this issue. He in turn incurred the wrath of Mandela in a nationally televised response. In addition, the ANC has been critical of the government's refusal to curtail the activities of the kwaZulu police (KZP), which the ANC considers equivalent to a "private army of [the IFP]."²³

F. Conservative White Right/AWB

The major threat of violence from the white right wing in South Africa comes from the Afrikaner Resistance Movement (AWB for its Afrikaans name). The AWB has been estimated to have anywhere from 500 to 50,000 members who identify themselves as Boers of Afrikaner descent. The organization maintains a private army, and nearly all have served, or are currently serving, in the South African Defense Force. (Military service is compulsory for white males.) The AWB is well-trained and well-armed -- there are more than 2.5 million legally registered firearms in South Africa, and nearly all belong to whites. Led by the outspoken Eugene TerreBlanche, the AWB is the most well known of the white paramilitary groups, however, some 45 other splinter groups have also been formed, such as the Wit Wolwe (White Wolves) and the Wit Bevrydingsleer (White Liberation Army).

Little is known about the actual workings of these groups, although they have claimed responsibility for recent bombings and other acts of terrorism. Most recently on June 25, 1993, hundreds of armed white separatists, led by the AWB, stormed the World Trade Centre in Johannesburg during constitutional negotiations. They used an armored vehicle to smash through the glass front of the building and once inside, held a number of prominent South African politicians under siege for more than an hour. There was some property damage, but no serious casualties. The protesters were gathered to complain that their demands for an

²³ "MK will Stay," *New Nation*, September 20-26, 1991, at 3.

Independent homeland had been rejected, and white right-wing leaders denied that the siege was planned. The participants were heavily criticized by other whites, the ANC and the government. The South African police have been roundly reproached for their handling of the situation.

It is widely believed that the white right wing has a strong influence within the police and defense forces. Some argue that the greatest danger from this group is likely yet to come if negotiations result in the redistribution of power to blacks, possibly prompting armed resistance.

G. Outlook for Violent Trend

All parties and factions in South Africa are guilty to varying degrees of their respective failures to fully control their constituents and accept full responsibility for actions taken in their names. The low-level violence will not be readily contained by a new government or new constitution. There is still an extremely wide gap between white and black, the haves and have-nots. Some analysts argue that this gap cannot merely be negotiated away. It will persist as long as apartheid remains as deeply ingrained in the economy, culture and demography as it is now, and as long as blacks are denied meaningful political rights and incidental opportunities. Most disenfranchised South Africans are under the age of 35 and lack the educational opportunities afforded to whites. A study by the International Monetary Fund concludes that 50 percent of blacks are unemployed²⁴, most of the other 50 percent are "under employed", and many are arguably fearful, angry and impatient.

Many experts contend that sincere efforts must be made multilaterally in order to reign in violence and subdue exploitation of fear and political intolerance. A strengthening of the international monitoring of the violence and the justice system and a restructuring and retraining of the South African police force, both consistent recommendations of the independent Goldstone Commission, are essential to an environment of subsiding violence. Rigorous enforcement of the National Peace Accord's principles and code of conduct and more pronounced efforts by the National Peace Committee to conciliate and resolve disputes among the various parties will also contribute greatly in this regard.

H. Political Prisoner Amnesty Issue

The call by the Goldstone Commission for blanket amnesty for all members of the SAP and SADF, as well as those of the ANC, PAC and Inkatha para-military groups, renewed the debate over whether convicted political prisoners, including terrorists and alleged SADF death squad participants, should be released from prison. The amnesty issue came to the fore as the key remaining obstacle to the resumption of the deadlocked negotiations. Mandela had already received three notable government concessions: (1) the phased release of more than 500 imprisoned guerrillas, about half of which were convicted of murder, (2) tighter security around

²⁴"South Africa: Recent Developments," CRS Issue Brief, January 29, 1993, p. 11.

migrant worker hostels, and 3) restrictions on the public bearing of so-called cultural weapons favored by Inkatha.

Against harsh opposition from the ANC and liberal critics, the white-controlled Parliament introduced legislation, the Further Indemnity Bill, that would empower President de Klerk to grant amnesty to state officials for any past political crimes, whether or not they were ever charged. The ANC deemed the measure tantamount to a criminal pardoning himself and found it ill-conceived and ill-timed. The bill, defeated in the Indian house of the tricameral legislature, was put into law by de Klerk through the President's Council, a seldom-used body with power to overrule Parliament. The measure has been widely criticized by human rights groups.²⁵

I. Mandela's Admission to ANC's Human Rights Abuses

In an effort to pressure the government to identify state officials guilty of political crimes and likely to reap the benefits of a general amnesty measure, the ANC in the fall of 1992 cautiously began to disclose past incidents of torture and maltreatment of ANC detainees in exile camps. Acknowledging the human rights abuses, Mandela publicly declared them to be "inexcusable" and vowed the provision of an independent inquiry. The abuses were committed against Congress dissidents and members suspected of working as covert informants for the state. Aside from hard labor, inmates at ANC prison camps in Angola, Zambia, Tanzania and Uganda were subjected to beatings, insect bites, solitary confinement and starvation during the 1970's and 1980's.

V. STATE OF THE ECONOMY

The debate over the political future of South Africa can not be divorced from the debate over the country's economic future. Economic factors resulting from international isolation, apartheid's drain on national resources and external factors (such as the decline in the price of gold), played a pivotal role in persuading the National Party that change was inevitable. Economic changes, and particularly the redistribution of wealth from the minority to the majority, are also essential components of the anti-apartheid platform. Opinions on the economic future of South Africa vary greatly across the political spectrum, from laissez-faire free enterprise to the total nationalization of the economy. However, it is clear that economic restructuring will be critical to the political negotiations. There is general agreement that the country must sustain a 5% per annum growth rate, as opposed to the 1992 low of minus 2%, to absorb its work force.

Currently, the South African economy is neither in ruins nor in peak condition. Per capita incomes at the end of 1993 are likely to hit their lowest since 1970. The government recently published their Normative Economic Model, which emphasized the structural flaws of

²⁵ E.g., Human Rights Watch, Human Rights Watch World Report 1993, at 51.

the economy as the root cause of the past decade of stagnation: persistent double-digit inflation, declining investment volumes and efficiency, increased government consumption spending, and the juxtaposition of rising real wages and failing formal sector employment. On the bright side, a recent surge in the price of gold and the forecast of a world economic recovery could provide a window of opportunity to take pressure off the country's burgeoning budget deficit.

The ANC's policy, as stated by its economic policy chief, Trevor Manuel, supports a mixed economy in which cooperative and private ownership co-exist. The ANC pins its hopes for addressing unemployment on heavy investment in new housing construction. The organization's draft bill of rights would guarantee basic economic rights, including the "progressive expansion of a floor of minimum rights" and the right of the state to divert resources from richer to poorer areas. Within the ANC there are capitalists, socialists and communists, and all argue for a different "mix" of the economic basket. However, most agree that a total reorganization of the economy will be necessary. A Swedish-style social democratic economic program, where the future government would control a significant percentage of productive resources, has become popular among ANC economists, although these same economists acknowledge the absence of the wealth that sustains the Scandinavian system.

Mandela has issued what critics call conflicting statements on the ANC's economic views, from reassuring future investors that the ANC will pursue an open capitalist economy, to threatening to nationalize key industries such as mining. Cyril Ramaphosa recently told journalists that the ANC would have to reconsider the honoring of foreign debt accumulated by South Africa under the apartheid regime. Such statements have made the NP and possible international investors extremely nervous.

ANC policy-makers realize that in order to break the vicious circle of South Africa's failing economy, it must re-establish business confidence and reassure South Africa's business community and international financial institutions. As evidence that attraction of the international investment community is at the fore of the ANC's economic policy is Mandela's scheduled visit to the United States in mid-summer, 1993. Mandela is seeking an economic aid package from the U.S. similar to that provided to the Philippines during the post-Marcos era. The difficulty for the ANC leadership will be to respond to the inevitable demands and high expectations surrounding a new government. Trade unions will demand greater say in industrial restructuring, with members complaining of the slow pace of black economic advancement or of uneven access to capital. The impoverished masses will cry out for government spending on expensive social service programs such as government housing, job training, and rural and township electrification.

The NP has clearly stated that a free-market economic system in a future South Africa is "non-negotiable." However, it was actually under NP rule that the South African economy was nationalized, and most experts believe that apartheid has been the most tremendous drain on the South African economy. In the late 1980s the government, in an attempt to offset the effects of international sanctions, began a phased program of privatization to sell shares of state corporations and other public enterprises. The ANC compared the government's actions to

"selling the family silver without even consulting the family," and forced the government to retreat from the active pursuit of privatization.²⁶

All of the major actors in South Africa realize the importance of economic recovery and growth. Currently, one-fourth of the country's population of about 40 million²⁷ controls 70 percent of the country's income, and at least 60 percent of the black population is below the poverty line. About three quarters of a million live in the nominally independent "homelands" of Transkei, Venda, Bophutatswana, and Ciskei -- technically outside of South Africa, according to the existing constitution.²⁸ Unemployment, homelessness and poverty of daunting proportions await whatever new government comes into power. The black population is growing at a rate of three percent per year. By the year 2010 there will be nearly 60 million people in the country. These facts are sobering for all sides of the economic debate. Moreover, the continuing violence and instability has frightened even the most positive future investors.

Despite this discouraging scenario of a future South African economy, positive steps have been taken toward cooperation on economic issues. The COSATU Economic Trends Unit has become an important voice in developing ANC policy and COSATU, until recently, had participated on the National Manpower Commission. While the ANC considered the government's imposition of a value-added tax (VAT) a step backward in efforts to cooperate on economic issues, discussion on the role of economic organizations in future negotiations has continued.

While progress toward economic compromise has occurred, this progress has occurred primarily in the industrial sector of the economy, where the trade unions and other economic interest groups have always enjoyed a considerable amount of influence, and have had previous experience in negotiations.

With respect to banking, there is a yawning gap between the formal banking sector and the black community. The symptoms, as in other aspects of South African society, present South Africa as both a first world country, with sophisticated banks with automatic teller machines, and a third world country, with very few blacks having checking accounts or access to consumer credit. The black community stands to be a huge, untapped growth market for South Africa's banks; but bridging the gap offers a daunting challenge.

²⁶ N.Y. Times, Nov. 13, 1990.

²⁷The Kennedy Center for International Studies at Brigham Young University (BYU) estimates the 1991 total population at 39.5 million, including the nominally independent "homelands" of Transkei, Venda, Bophutatswana and Ciskei (TVBC) ("Culturgram for the '90s: Republic of South Africa," David M. Kennedy Ctr. for Int'l Studies, BYU, 1991.), and the Urban Foundation offers an estimate of 38.5 million (The Citizen, Apr. 26, 1991.).

²⁸The Urban Foundation estimates the total population of TVBC areas in 1991 at 7,281,800 (The Citizen, Apr. 26, 1991.).

VI. THE LAND ISSUE

With the repeal of the Land Acts and the Group Areas Act, the government acceded to a fundamental demand of the ANC, and paved the way for future negotiations on land claims and redistribution. However, these legislative repeals were followed by swift parliamentary actions to codify land ownership and entitlements, and the government commissioned a discussion paper on land reform.

While welcoming the repeal of the laws that were responsible for the forced removal of blacks from 87 percent of South Africa's land, the ANC was not satisfied with the government's proposals. The ANC established a Land Commission to develop a strategy for land reform which rejected the government's proposals and called for the establishment of a National Land Commission. The ANC's constitutional guidelines call for a program of land reform that will: (1) abolish all racial restrictions on ownership and use of land; and (2) implement land reform which employs affirmative action to take into account those South Africans who have been the victims of forced removals.

The redistribution of land is an explosive issue, but central to the economic and political debate. The Africans' entitlement to land is central to the policies of the PAC and AZAPO. The expectations of rural blacks, who have been forcibly removed from their ancestors' land, will be difficult to meet. Rural blacks have already begun to occupy land they believe is theirs.

Likewise, rural Afrikaners have begun to arm and organize themselves to resist any attempts to repossess their land. Many argue that the potential for confrontation is great. Thus the land issue will be one of the most difficult obstacles to tackle in a new South Africa.

VII. POLITICAL ACTORS

The legalization of the anti-apartheid forces in February 1990 led to a new set of complex relationships among various political parties, the democratic movement, and interest groups in South Africa. Organizations that had existed in exile and the internal Mass Democratic Movement (MDM), which had already established infrastructures within the country, were compelled to accommodate each other as well as political entities that function within the apartheid legal framework and leaders who were released from prison. The following is a discussion of the major political organizations currently involved in the South African transition.

A. ANC/SACP/COSATU Alliance

ANC. The ANC was founded in 1912 in an effort to unify African people in the fight against oppression by the white population which had settled in the region and, in 1910, had formed the Union of South Africa. From 1912 until 1960, the ANC followed a program of non-violence and legal resistance. Following the 1960 Sharpeville Massacre in which 67 demonstrators were killed by police, the ANC initiated a campaign of armed struggle against the government and established an external military wing, Umkhonto we Sizwe ("Spear of the Nation," also known as MK) in 1961. The ANC was banned that same year.

Over the next decade, most of its leaders were imprisoned or forced into exile. Others who remained in the country were banned from political activity. Leaders such as Nelson Mandela and Oliver Tambo enjoyed wide appeal among black South Africans, and the ANC became known as the leading organization in the anti-apartheid movement. In the three years since the ban on the ANC was lifted and Mandela was released from prison, the ANC has emerged as a key player in negotiations with the current government.

South African journalists have identified Mandela as a "moderate." He represents those in the ANC who are committed to the negotiating process. Despite their considerable influence, Mandela and the leadership must occasionally defer to the more militant elements within the ANC and its allied organizations, giving rise to occasional concerns about the ANC's commitment to negotiations. However one characterizes the protagonists, the debates center around the strategy for the transfer of power.

At the top of the ANC's leadership structure are Mandela, who was elected Executive President in July 1991, Deputy President Walter Sisulu and Secretary General Cyril Ramaphosa, a trade union leader. The deaths of Tambo and Chris Hani have opened prominent leadership positions to be filled. The ANC has 56 elected positions on its 91-member National Executive Committee (NEC) which implements the organization's policies. A 20-member National Working Committee (NWC) selected from the NEC is responsible for day-to-day decision making. The ANC receives most of its funding from sources outside of South Africa. These consist of private and public funders which have been responsible for sustaining the organization over its many years in exile.

Active within the ranks of the ANC are the ANC Women's League (ANCWL), and the ANC youth, which are represented by the South Africa Youth Congress (SAYCO), the Congress of South African Students (COSAS) and the ANC Youth League (ANCYL). The ANCWL has a long history of involvement in the liberation struggle, and has recently increased pressure on the leadership to pursue a gender-positive policy in the negotiations. While the ANCWL has been successful in generating statements of commitment to this effect from the top ranks of the ANC power structure, it has been less successful in translating these statements into actions.

The youth are one of the most radical influences on ANC policy. Youth organizations have exhibited strong cohesion and have spearheaded some of the most successful mass action campaigns. However, the youth in the townships, often known as "comrades" or "Young Lions," identify closely with the armed struggle and are an explosive force. With nearly two-thirds of the black population in South Africa under the age of 25, the youth will play a critical role in the future of South Africa.

Winnie Mandela, who enjoys a close relationship with ANCYL leader, Peter Mokaba, has openly challenged the current ANC leadership and has called for the youth to take over. She advocates wresting power from the government through revolutionary means. South Africa's highest court, the Appeals Court, recently upheld her 1991 kidnapping conviction, but waived her 6-year prison term. She is, instead, to pay around \$10,000 in fines and restitution.

SACP. Founded in 1921, the South African Communist Party has played a special role in the liberation struggle. Until 1985, when the ANC leadership ranks were opened to non-Africans, it was the main organizational force for white and Indian participants in the liberation struggle. Former SACP Deputy Secretary-General, Charles Nqakula, has been elected Secretary-General, replacing the slain liberation-struggle hero, Chris Hani, as the Party's top leader. Nqakula is said to lack the oratorical brilliance and charisma of Hani, but has a reputation as a great organizer. In the 1980's he was banished to Ciskei. During this period he became involved in underground work for the ANC and SACP, ultimately heading the MK operations in Lesotho established by Hani.

The SACP's leaders, Chairman Joe Slovo and Secretary-General Nqakula, are also central figures in the ANC leadership. The party was banned in 1950 and, along with the ANC, founded the MK in 1961. The MK received education, training and arms from the Soviet Union and other communist governments.

The SACP's reputation has been enhanced over the years by the government's warnings that a "total communist onslaught" threatened the entire region. Anti-communism has been used by the government to justify the maintenance of apartheid. The SACP has lost its ideological backing and is being forced to redefine its position. The SACP held its first party congress since legalization in December 1991. It advocates an economic policy based on a "democratic socialist order," which would encompass common ownership of key means of production but include protection of personal, "non-exploitative" property. The party has not yet defined the specifics of its economic policy. In recognition of the new realities, the SACP supports regular, multi-party elections and religious freedom, and yet faces difficulties with the concerns of some church leaders over the atheistic tradition of communist ideology. Similarly, the lack of a defined policy by the SACP has cost the ANC support by important elements of the business community.

At the December party congress the SACP reaffirmed its faith in Marxism and Leninism. The party acknowledged lessons learned by the fall of communism in Eastern Europe, stating that "it is impossible to sustain and develop socialism in an authoritarian environment." In one of the most significant developments of the conference, Chris Hani, a leader of the ANC military wing (MK) and member of the National Executive's Working Committee, resigned from his ANC post to assume the party leadership post of Secretary-General. At the same time, Joe Slovo became SACP Chairman.

As noted earlier, the ANC-SACP relationship is considered a key issue in the context of the transition. While the SACP had its own seat at CODESA, it is unlikely to pursue an agenda different from the ANC's. The SACP has stated it would contest elections for a constitutional assembly under the banner of the ANC.

COSATU. As the umbrella for the ANC-aligned trade unions, COSATU represents a powerful political force in the ANC/SACP/COSATU alliance. COSATU boasts a paid membership of nearly one million workers, and because trade unions in South Africa have never

been banned, it has developed a nationwide network of urban, industrialized workers. COSATU argued for the inclusion of a Workers' Charter in a future ANC bill of rights.

Despite COSATU's leading role in shaping ANC policy, particularly on economic matters, the ANC's economic platform calls for a "living wage" as opposed to labor's traditional stance for a "minimum wage". COSATU has declared "industrial war" against the government's decision to implement the Value Added Tax (VAT) without consulting the trade unions. It also demanded the establishment of a national forum for employers, trade unions and the government to negotiate all national macro-economic issues. COSATU has also conducted its own negotiations with the government for labor law revisions and a minimum wage. COSATU Secretary General Jay Naidoo has called for the all-party talks to include full participation of economic organizations, such as trade unions, in addition to political parties.

Sam Shilowa, the Assistant General-Secretary of COSATU since 1991, appears to be line as the successor of Naidoo when Naidoo stands down. He enjoyed a meteoric rise through the ranks of the Transport and General Workers' Union prior to assuming his post at COSATU.

B. Inkatha Freedom Party (IFP)

Founded in 1975 as a cultural movement by Zulu Chief Mangosuthu Gatsha Buthelezi, Inkatha constituted itself in 1990 as a political party, the Inkatha Freedom Party (IFP). Supporters of Buthelezi and the IFP praise the organization for its "non-violent" position, its opposition to sanctions, its support of a free market economy, and its pragmatic approach to negotiations. As the chief minister of the kwaZulu homeland in the Natal region, Buthelezi refused to accept the status of "independent homeland" for kwaZulu, opposed apartheid and demanded the release of Nelson Mandela.

Buthelezi maintains that the IFP represents the Zulu nation of 6 million people. In 1992, its paid membership numbers was stated to be about 250,000 and a recent survey conducted by the Human Science Research Council concludes that it currently enjoys national support of about 11% of the 21.5 million potential electorate. This support is mainly concentrated in the rural areas of Natal, referred to as kwaZulu. The IFP has in the last two years opened its ranks to non-Zulus and is actively building its organization in the Johannesburg-Pretoria area where it is strong among migrant laborers and in the Western Cape.

Some observers argue that kwaZulu is run essentially as a one-party state. Although it is widely acknowledged that intimidation occurs on all sides of black politics in the Natal townships, critics of Inkatha claim that Buthelezi requires all kwaZulu employees and traditional chiefs to join Inkatha and that those who refuse are threatened with the loss of position, services or land. Inkatha does rely on a network of warlords, many of them quite well-known, to maintain the discipline of the organization in the region.

Inkatha is an important player in the negotiations. The IFP has deftly sided alternatively with the NP and the CP and non-integrationist homeland leaders to win concessions from the

ANC. Chief Buthelezi recently led a walk-out by six parties of the latest round of negotiations to protest the rejection of the kwaZulu government's demand that its regionalism proposals be debated before the elections dates were officially ratified. The IFP Youth Brigade is a vibrant active corps of strength within the party. The kwaZulu trade unions have been brought into some level of disrepute because of the "Inkathagate" scandal of 1990, whereby the unions were used as a conduit by the South African government for providing secret financial support to the IFP. The Inkatha Institute, a major training center for the party located in Durban, receives financial support from German foundations and has a well organized program of training and publications.

As the NP reaches accommodation with the ANC, the IFP occupies the center ground in advocating for a highly decentralized system of federal government. It has coalesced with the "homeland" administrations of Ciskei and Bophuthatswana and the more right wing elements of political opinion. This coalition, the Concerned South Africans Group (COSAG), has been a reason for calling into question Buthelezi's claims to leadership in the liberation movement. This association weakens the political message of the IFP. Notwithstanding this appearance, the COSAG coalition has acted uniformly within the Negotiating Forum, and all COSAG members walked out of the latest round of negotiations.

Buthelezi has an important role to play, along with Mandela and de Klerk, in attempting to curtail the violence that is ravaging the country. In the peace process and constitutional negotiations, Buthelezi is critical to the ultimate outcome.

C. PAC/AZAPO/Black Consciousness Movement/NACTU

The Pan Africanist Congress (PAC), the Azanian Peoples Organization (AZAPO) and the Black Consciousness Movement (BCM), represent the Africanist school of thought within the liberation movement. Also included in this group is another national trade union federation, the National Council of Trade Unions (NACTU). These organizations are adamant about a transfer of power to the majority. As the transition moves forward, these groups have become more riven with internal differences over their respective positions in the negotiating process.

Historically, the Africanists have emphasized black power and advocated socialist or Marxist economic policies, with a high priority on the return of land to black Africans. They also reject the principles of the ANC's Freedom Charter. While the Black Consciousness Movement (BCM) espoused a non-violent philosophy, the Pan Africanist Congress (PAC) and the Azanian Peoples Organization (AZAPO) have supported the armed struggle.

PAC. The PAC split from the ANC in 1959. It maintains its own military wing, the Azanian People's Liberation Army (APLA), which claimed responsibility for the November 1992 attack at a white South African golf club in King Williams Town and for repeated attacks on white farmers. Recent estimates indicate that public support for the PAC is somewhere around nine percent. There is speculation that the PAC's support has increased among urban

youth, due to Chris Hani's assassination and the recent arrests of PAC national and regional leaders.

The PAC opposes an internal settlement, and for several years following the unbanning they condemned the ANC's decision to negotiate with the government and refused to participate in CODESA. However, after engaging in their own bilateral talks with the government, they were one of the 26 parties that joined in the negotiating forum.

BCM. The Black Consciousness Movement emerged during the 1970's under the leadership of prominent dissident Steve Biko. Appealing to the educated black elite, Biko's message emphasized black pride and encouraged the psychological liberation of blacks through non-violent means. Biko's death while in government custody prompted renewed radical streams of Africanist thought as characterized by AZAPO (see below). As an active political movement, BCM has largely been replaced by these other organizations. However, Biko's ideas remain an essential component of the current Africanist organizations.

AZAPO. Founded in 1979, AZAPO advocates a Marxist Azania (the Africanists' term for South Africa) to be achieved by the overthrow of the white colonial establishment and thus refuses to enter into negotiations with the current South African government. Of crucial importance to AZAPO is returning land to Azanians in compensation for the white settlers' theft. AZAPO has refused to negotiate with the government and has criticized Mandela for "betraying the solidarity of the oppressed people" by doing so.²⁹ AZAPO is led by Professor Itumaleng Mosala.

NACTU. The labor federation NACTU has been closely tied to the Africanist organizations of the PAC and AZAPO, although it follows a slightly more pragmatic agenda in its pursuit for more open links with the COSATU. However, NACTU's independence has been a thorn in the side of COSATU, which would like to preside over a united labor movement.

D. National Party (NP)

Since 1948, the NP has presided as the ruling party in the all-white South African parliament, and as such created and maintained the system of apartheid. NP leaders have gradually consolidated a tightly controlled security state, supported by a over-employed civil service that supports the standard of living of the NP's core constituency -- the Afrikaner middle class. The NP has amended the constitution three times since 1948. The third constitution of 1984 created a new tricameral parliament that included Indians and "coloureds" in a second and third house, respectively.

The leadership of the NP is divided into at least two camps. The older "securocrats" or "hawks" believe in the strong executive-security force relationship of the 1980s and resist change. The "old breed" include the current Minister of Law and Order, Hennis Kriel, former

²⁹ Pauline Baker, "A Turbulent Transition," 1 *Journal of Democracy* 4 (1990).

Minister of Defense Magnus Malan, former Minister of Law and Order Adriaan Vlok and current Defense Minister Gene Louw. They are opposed by the younger generation of negotiators, who advance the notion of power-sharing. One of the primary difficulties faced by de Klerk has been reconciling these forces within the government as well as sustaining the ranks of the key negotiators on his team, six of whom have been removed for personal and health reasons. The "new breed" of NP leaders include such people as Minister for Constitutional Development Roelof Meyer, Minister of Planning Leon Wessels and Minister of Economic Coordination and Public Enterprise Dawie de Villiers.

The NP lost support from both the left and the right in the period prior to, and immediately following, February 1990. There have been defections to the CP (CP) and the reactionary white right wing. However, having moved forward with its reform initiatives, the NP has regained some support from those previously affiliated with the Democratic Party (DP). In 1991, the NP abandoned its white exclusivity and began the affirmative recruitment of other racial groups. While the NP can no longer claim it represents the majority of white Afrikaners, it does boast that it is the largest political party in South Africa (with emphasis on "political party" since the ANC is identified as a movement). There is speculation that the NP will reconstitute itself under another name and an ideological identity similar to that of Christian Democrats prior to future elections. It recently took steps to recast its image for broader appeal by changing its colors, flag and symbols to ones its polls suggest are more attractive to African voters.

The NP recently began to implement a strategy to expand its constituent base by engaging in such activities as organizing branches in townships and conducting motorcar speeches in a "European"-style campaign. De Klerk, in a move to bolster the NP's image, has followed these efforts by appointing "Indian" and "coloured" ministers to his cabinet. However, critics allege that this historical first is tempered by what they term the low-profile nature of the posts to which they were appointed and the fact that none of the three appointees were black. Two members of the mixed-race chamber of Parliament were named respectively Minister of Sport and Minister of Population Development. The third appointee, an Indian lawyer, will head the Ministry of Tourism. The ANC denounced the appointments as "window dressing."³⁰

De Klerk has often stated his belief in the NP's mandate to oversee the transition in South Africa and on this basis has proposed a transitional arrangement for government that would bring representatives of other political organizations into his government. This is rejected by the ANC and others as attempts at "co-option." Over the years the NP has gone to great lengths to nurture its relationship with Zulu Chief Mangosuthu Buthelezi and Inkatha. Because of "Inkathagate" and the persistence of political violence, the NP has de-emphasized the role of Inkatha as a partner in an election pact.

³⁰ "First Nonwhites Named to Cabinet in South Africa," *The Washington Times*, Feb. 21, 1993.

The recent Kriel-ordered raid by the SAP on PAC leaders and constituents was largely viewed as a political power-play by Kriel to wrest control of the NP from the "doveish" leadership of de Klerk and Dawie de Villiers. De Villiers is said to be particularly within Kriel's sights given that de Villiers is head of the NP's Cape Branch, the party's largest and most powerful, and appears to be the heir apparent to de Klerk should he fall. The NP's Cape Branch is also peculiar in that it has not yet purged itself of its conservative elements, as the Transvaal core had done when Andries Treurnicht splintered off to form the Conservative Party in 1982.

E. Democratic Party (DP)

The DP and its predecessor, the Progressive Federal Party, have long advocated systemic reforms within the white parliament and a federal structure in a new constitution. Former DP leaders such as Helen Suzman and Frederick Van Zyl Slabbert have been outspoken opponents of apartheid and strong supporters of human rights and the United Democratic Front (UDF). In addition to its white liberal backing, the DP also has the support of many pragmatists within the business community who have long recognized that ending apartheid serves South Africa's future economic interests. The party's opposition to international sanctions has suited these business interests. The DP's strong showing in the 1989 parliamentary elections was a factor in the NP's decision to expedite reforms in February 1990.

President de Klerk's initiatives and the NP's dominant role in the negotiations threatened the future of the DP. Faced with the danger of being marginalized, DP leaders have emphasized the importance of the center in finding a common ground for negotiations. They have played a critical role in CODESA, where their leader Zack DeBeer was the first chairman of the Management Committee and where the 19 participating parties often divided nine and nine with the DP mediating. The "Inkathagate" scandal in 1991 breathed new life into the DP, which was responsible for the initial exposure of the scandal. The DP has published its own constitutional proposals for a federalist state and has put forth a comprehensive plan for a transitional arrangement.

The NP has posed more of a serious threat to the political autonomy of the DP than the ANC. Although many DP members are comfortable with the ANC as an ally, the communist influence within the ANC tends to repel potential DP defectors, particularly those in the business community. However, five DP members of parliament joined the ANC in April 1992 and are now independent MPs representing the ANC. This has fueled the debate over the future of DP -- whether to merge with the NP and form a broader centrist party, remain an independent liberal party, or merge with the ANC.

F. Conservative Party (CP)/AVU/HNP

CP. The CP represents the political right of white South African politics. The CP split from the NP in 1982 over the issue of the tricameral parliament and the enfranchisement of "coloureds" and Indians. By 1989, the CP had become the official opposition within the whites

only parliament. Established and formerly led by Andries Treurnicht, who died of a heart attack in April, 1993, the CP membership is mostly of Afrikaner descent with concentration in rural South Africa. The CP has supported the partition of South Africa into separate nations for blacks and whites, with the whites maintaining the 87 percent of the land that they currently control. The CP has been prepared to negotiate these boundaries, but nothing else.

Following Treurnicht's passing, the CP elected hardliner and deputy leader, Dr. Ferdi Hartzenberg, as party leader. Hartzenberg served as Education Minister in the NP government, but left office to follow Treurnicht in 1982 when the NP split over the issue of power-sharing. As Education Minister, he refused to authorize repairs at black schools involved in education boycotts, forcing many of the schools to close. Moderates in the CP managed to broker a compromise, prevailing in the election of moderate Dr. Willie Snyman to the post of deputy party leader. In April, during an address to Parliament by de Klerk concerning the ANC's exploitation of the Hani assassination, Snyman was thrown out of the chamber when he dumped a bag of coins in front of de Klerk and accused him of being a sell-out for dismantling apartheid.

The CP has refused thus far to participate in negotiations, such as the Carlton Peace Accord and CODESA, and has maintained strong opposition to all reform initiatives. Its immediate goal is to force a white election to vote de Klerk and the NP out of office. They agreed to participate in the March 1992 referendum although they maintained that the process was stacked against them. They said that the referendum was about future black domination. However, in the wake of the referendum loss in which the CP advocated a "no" vote, the CP has split. Leaders in the party who believed the party should have boycotted the referendum and who advocate a direct negotiating position have formed a new party, the Afrikaner Volksunie (AVU).

Although the CP officially opposes violence, extremist groups under the CP's sphere of political influence, such as the AWB, have increasingly engaged in acts of terrorism. Treurnicht had often used the threat of right wing violence as a bargaining tool, claiming "...there's no form of explosive we cannot make," adding, "I've told Mr. de Klerk, it isn't me stirring up the people. It's you and your statements and what you envision for South Africa. I have to calm them down."³¹ The CP had claimed that it, not the NP, represents the white population in South Africa and pointed to recent bi-elections as proof, but the referendum results have weakened this argument.

HNP. To the right of the CP and AVU is the Herstigte Nasionale Party (HNP). A solely Afrikaner party, it advocates white supremacy and a strict separation of races with a rigid homeland policy for "ethnic" groups. The HNP holds no seats in the current parliament but is represented on local councils in the Orange Free State and Northern Transvaal.

³¹ C. Wren, "Rumblings on the Right," *The N.Y. Times Magazine*, Oct. 7, 1990.

G. Committee of Generals/Afrikaner Volksfront.

A group of retired military and police generals recently constituted a "Committee of Generals" to stage a political, not military, campaign to unify the far-right wing and resist the transition. The Committee, led by Constand Viljoen (former head of the South African Armed Forces and current AVU member), seeks to ensure self-determination for Afrikaners in an Afrikaner volkstaat (white homeland). It was created in recognition that right-wing leadership is splintered and ineffective and that Afrikaners have a great reverence for military leaders. Other members include Tienie Groenewald, former head of military intelligence, Koos Bischoff, former army chief of operations, and Lothar Neethling, former deputy commissioner of the SAP.

Present an April 21 meeting of the Committee were representatives from the newly-forged Afrikaner Volksfront, an umbrella group consisting of the HNP, CP, and AVU, and the newly-formed Volkseenheidkommittee (VEKOM), or Peoples Unity Committee. The delegates agreed to set up armed local security committees to protect farmers and farm workers from attacks. Most of the committees would be comprised of SADF and SAP reservists. Currently, about 40,000 Afrikaners belong to reserve units called "commandos". Groenewald hinted of the possibility of a military option: "If we cannot reach our aims through negotiation, other forms of action could be considered. These include mass action and ultimately violence."³²

The Generals have boosted the right in terms of both respectability and vision. Afrikaner conservatives have now shifted their focus to self-determination and an Afrikaner state, instead of apartheid and white supremacy. Groenewald's Unity Committee has even mentioned a specific location for the volkstaat: a major portion of the Transvaal and Orange Free State, less a few large tracts set aside for "black nations" who wish to exercise their own right of self-determination. Its capital would be Pretoria. Whites would be a majority in the proposed volkstaat. It comprises 16% of South Africa (barely more than the 14% Hendrik Verwoerd once allocated to blacks on which to exercise their right to self-determination).

The neo-fascist AWB has greeted the birth of the Volksfront very coolly. This may be an asset to the Volksfront, for the bullying tactics of the AWB and its demagogic leader, Eugene Terreblanche, have been targeted in the past as discrediting the Afrikaner right. The prospect of an alternative to an ANC-dominated government may cause a renewed hemorrhaging of the NP's hawkish right, posing an ominous threat to de Klerk, who has already lost some MP's to the IFP. The reunified right is also connected to COSAG, the cross-racial umbrella group committed to self-determination for its several constituent parties.

H. Apartheid Political Formations

The 1983 constitution created three houses of the national parliament in a so-called reform by which individuals who were racially classified as "coloured" or "Indian" could vote

³² Southern Africa Report, May 7, 1993, at 1-2.

and have representation in a legislative body. The House of Delegates was created for "Indians" and the House of Representatives was constituted for "coloureds". While the majority of the so-designated population sectors did not vote in elections, nevertheless many political parties emerged. The most prominent and viable entities for future elections include the DP (unlike the party of the same name listed above, it is for "Indians"), the Labour Party, the National People's Party, and the Solidarity Party.

The so-called "homelands" and "independent" states also have generated a number of political formations. The governing bodies in these territories have usually included one-party legislatures -- some of which do not continue to exist, such as in the Transkei and Ciskei -- as a result of coup d'états. Regardless of the current situation, a number of political parties are organizing with more traditional ethnic orientations. Some of the more developed include the African Democratic Movement (ADM), the Bophuthatswana National Party (BNP), the Dikwankwetla Party, the Intando Yesizwe Party (IYP), and the Inyandza National Movement (INM).

I. Alliances

As the prospect of elections becomes more of a reality, the traditional political configurations are preparing for electoral competition. These changes are reflected in membership and leadership realignments such as the five DP parliamentarians who joined the ANC, modifications in party constitutions such as the NP opening its ranks to all races, and the formation of coalitions.

The coalitions as they currently exist are for negotiating purposes. However, if the relationships prove satisfactory, it is likely that they or something like them will form the bases for electoral packs. The ANC has expanded its alliance with the SACP and COSATU to include the following organizations: Intando ye Sizwe, Inyandza National Movement, Labour Party, the governments of the nominally independent homelands of Transkei and Venda, Transvaal-Natal Indian Congress and the United People's Front.

As noted earlier, the Concerned South Africans Group (COSAG) emerged from a conference called by the IFP of parties which share a commitment to the concept of federalism and which sought to object to the September 1992 "Record of Understanding" between the government and the ANC. Altogether, COSAG consists of 12 parties and groups in addition to the IFP, including the CP, AVU, BNP, ADM and the Hostel Dwellers' Organization. As in other emerging democracies, it can be anticipated that coalitions, new parties and reconstituted existing parties will continue to emerge until the legal deadline on party/coalition filings is reached.

VIII. CONSTITUTIONAL OPTIONS AND ELECTORAL MODELS

The National Party, ANC, IFP and Democratic Party have drafted and put forward their individual proposals for constitutional frameworks. These are likely to be the basis for

negotiations when the parties begin the process of drafting a new democratic constitution. However, some of these arrangements will be reflected in the Transitional Executive Council (TEC).

A. The ANC Proposals

The ANC's constitutional plan is derived from the principles of its 1955 Freedom Charter. The ANC National Executive Committee first published a set of constitutional guidelines in 1988, which served as the basis for public consultation on the form an ANC draft constitution would take. In April 1991, the ANC published its proposed constitution. The primary features of the ANC plan are:

- a multi-party democracy based on universal suffrage, one-person, one-vote;
- a strong bill of rights ensuring, among others, educational, language, gender and property rights and a plan of affirmative and positive action to eradicate the inherent inequalities of the apartheid system; and
- a three-branch system of government with a bicameral parliament and an independent judiciary.

Under the ANC proposal, South Africa would be a multi-party, unitary state with a strong central government exercising the will of the majority. In terms of territory, the proposed republic would also include the nominally independent "homelands" of Transkei, Bophuthatswana, Venda and Ciskei (TBVC). An ANC government would be nonracial and non-sexist, and protection of minorities would be guaranteed in provisions for individual (as opposed to group) rights in the bill of rights. Decentralization is reflected in the parliament, part of which would include regional representation, and by conferring certain (largely administrative) powers to local government. The electoral system and governmental structures considered in the ANC plan incorporate various characteristics of the democratic governments of Germany, Namibia, the United States and India, among others.

1. Bill of Rights

Because of the extensive consultation process that preceded the announcement of the ANC plan, the proposed bill of rights is more expansive than some modern constitutions. The bill of rights also reflects the ANC's belief that a new constitutional order should address the inequalities that have been preserved by previous South African constitutions of 1910, 1961 and 1983.

The ANC's bill of rights provides for the basic individual rights of life, dignity, a fair trial, judicial review, home life, privacy, movement and conscience. It provides for political rights such as the right to organize politically, to have a vote of equal value, and regular multi-party elections. It also protects the rights of all South Africans to freedom of speech, assembly

and information, association, religion, language and culture.³³ In addition to identifying individual freedoms, the bill stipulates rights for nonracial and non-ethnic groups -- workers, children and the disabled.

Additional far-reaching social and economic issues are also addressed, with provisions for gender rights, economic and property rights. Included is a government mandate to establish and progressively expand a floor of enforceable minimum levels of nutrition, shelter, health care, education and income to which all South Africans would be entitled. The enumeration of affirmative actions to implement these progressive principles ensures a pivotal role for the state in addressing the inequalities stemming from discrimination.

Enforced by the courts, the implementation of the bill of rights can also be monitored through other bodies proposed in the plan. These include a Human Rights Commission, a Public Service Commission and an independent ombudsman.

2. National Government Structure

The ANC proposes three separate branches of government consisting of the executive, legislative and judiciary branches. The executive branch would be headed by the President, who, in addition to heading the executive cabinet, would also be the head of state. The ANC proposes that the president be popularly elected, thereby giving greater executive power to the President. The president would serve no more than two five-year terms.

Under the ANC plan, the president would appoint both the prime minister and members of the cabinet. The prime minister would then act as chairperson of the cabinet.

The legislative branch would consist of a bicameral parliament. The national assembly, or first house, would be the primary legislative body, elected on the basis of proportional representation (PR) by universal suffrage. The second house of parliament would be a senate, which would act as the "guardian of the constitution." The senate would have the power to review and delay legislation passed by the national assembly and would refer constitutional disputes to the constitutional court. The senate would not have veto power. The members of the senate would also be elected on the basis of universal suffrage, but the system for electing the senate would allow for regional (not ethnic) representation.

3. Judiciary

The supreme judicial body in the ANC model would be a constitutional court that would interpret the constitution and be responsible for its application. The members of the constitutional court would be appointed by the president, possibly in consultation with a judicial service commission. The constitution could be amended only if two-thirds of the national

³³Despite the freedom of speech and information clauses, the bill would also empower the state to prohibit the circulation or distribution of materials which invoke racial, ethnic, religious, gender or linguistic hatred.

assembly approved the amendment, or by a two-thirds vote in a national referendum. Under the constitutional court, a system of civil and criminal courts would be established to enforce the constitution and bill of rights.

4. Local and Regional Structures

Ten regions would be established with powers, to be determined by the constituent assembly, delegated by the national government. The ANC has proposed the following ten regions: (1) Western Cape; (2) Northern Cape; (3) Orange Free State; (4) Eastern Cape; (5) Border/Kei (consisting of Ciskei, Border, Transkei and East Griqualand); (6) Natal; (7) Eastern Transvaal; (8) Northern Transvaal; (9) PWV; and (10) Western Transvaal. Regional and local government bodies would also be elected on the basis of universal suffrage with power delegated from the national government. They would have discretion over local policies as long as they were consistent with national policies. Regional divisions would be based on the distribution of population and economic resources, while seeking a balance between urban and rural populations. The ANC proposal would pay special attention to ensuring that regions would not be divided along ethnic or territorial zones, nor would these regions be divided to perpetuate privilege in some areas at the expense of others.

The Transkei, Bophutatswana, Venda and Ciskei (TBVC) regions would be reincorporated into South Africa.

5. Electoral Mechanisms

Under the ANC plan, elections by secret ballot would be held regularly and not more than five years apart. An independent election commission would be established to supervise the elections and develop regulations for political parties in such areas as media access.

The national assembly would be elected on a system of proportional representation (PR). Preference is being given to a mixed at-large and regional system in which parliamentary seats are allocated on the basis of national party lists.

The senate would also be elected by PR, but with some provisions for regional representation. A percentage of seats would be filled on the basis of regional lists, and the remaining seats would be allocated on the basis of national lists proportional to the parties' national electoral performance. Thus, even though there would be two lists, national and regional, voters would cast one vote only for their preferred party.

B. The National Party Proposals: "The Nat Blueprint"

In September 1991, the NP announced its constitutional proposals. Also known as the "Nat Blueprint," the NP plan also provides for a unitary state organized on a federal system. In terms of territory, however, the NP proposals do not address the status of the "homelands." Based on the Swiss "Amicable Agreement" model, the NP power-sharing plan emphasizes

consensual decision-making structures, at all levels, designed to protect the rights of minorities, and in the call for "participatory democracy" disperses significant power to regional and local governing structures.

The primary features of the NP plan include:

- a rotating executive college or presidency with an effective minority veto;
- a three-branch government with a bicameral parliament in which decisions on certain "sensitive" national matters require more than a simple majority;
- a federal arrangement by which power is dispersed among nine regions.

1. National Government Structure

The NP plan suggests a collective presidency or executive college with a rotational leadership, as in Switzerland. Each of the executive college's three to five members would represent one of three to five parties with the greatest electoral strength in the first house of parliament. Decisions would be made on a consensus basis, including the appointment of a multi-party cabinet to implement the executive's policy.

The legislative branch of government would consist of two houses which are not named in the proposal. The first house would be elected by PR and single-member constituencies on the basis of universal suffrage. "Ordinary" legislative decisions would be made by a simple majority in the first house, but "sensitive matters" would require an increased majority and the agreement of the second, smaller house. The two houses would share equal status.

Theoretically modelled along the lines of the U.S. Senate, the second house would be made up of representatives of nine equal regions which according to the NP proposal would include (1) the western Cape, (2) the northern Cape, (3) the Orange Free State and QwaQwa, (4) the eastern Cape, (5) Natal/kwaZulu, (6) eastern Transvaal and KaNgwane, (7) northern Transvaal and Lebowa/Gazankulu, (8) the PWV (Pretoria, Witwatersrand, Vereeniging) area and kwaNdebele and (9) the western Transvaal. The second house would have the power to initiate legislation affecting the interests of minorities or regions.

2. Judiciary

The proposed NP constitution would contain protection for fundamental rights that would be enforced by the courts, but these rights are not expansively enumerated. Nor does it mention a constitutional court, although the plan does refer to a "rule-of-law state." Judges would be appointed by a method devised to ensure their impartiality and an independent ombudsman would also be appointed. The office of auditor-general, a public service commission and a reserve bank would each be given greater autonomy.

3. Local and Regional Structures

Mirroring the proposed national structure, the NP plan would establish multiparty executive bodies at the regional and local levels, the composition of which would be based on the results of legislative elections. The NP envisions that the executive committee would consist of leaders of all parties achieving a minimum level of support in election. Should this become unworkable, only the leaders of the strongest parties would participate on this committee. Nine regions based on present economic development frontiers, with the powers of the regions to be entrenched in the constitution.

Regional legislatures would be elected by a mix of electoral methods (see below). Additionally, the NP plan provides for town and municipal councils that would enjoy significant "original" (i.e., constitutionally recognized as opposed to delegated through legislative means) autonomy, including taxation. Moreover, within these local bodies, certain decisions would require more than a simple majority. Neighborhood councils would be elected within municipalities or suburbs to control issues such as the granting of licenses, disposition of public facilities, regulating public order, etc.

4. Electoral Mechanisms

Elections based on universal suffrage would be held regularly and by secret ballot, although the NP proposals are still ambiguous about the electoral systems to be employed at the national, regional and local levels. The plan does suggest that the first house of parliament be elected on a PR system and cites the possible utility of the German system, in which some seats are filled from single-member constituencies and the remainder on the basis of national electoral strength.

Seats in the second house would be allocated on the basis of, but not proportional to, each party's performance in regional legislative elections. Instead, a minimum threshold would be established for each regional legislative election, and any party garnering that minimum threshold receives an equal number of seats from that region in the second house. Each region, as noted earlier, is equal to every other region within the second house.

While the system for regional and local elections is not specific, both types of elections would require extensive delimitation of wards and constituencies for offices at all levels. Regional legislatures could include members elected proportionally from delimited districts as well as members elected indirectly by sub-regional bodies. The plan also suggests that, at the local level, the interest of certain voters (property owners, tenants, and taxpayers) be reflected in the franchise -- in essence creating a weighted vote.

C. Inkatha Freedom Party Proposals

As the ruling party of the quasi-independent kwaZulu region, the IFP's principal goal is strong regional autonomy. The IFP proposes that regions should together decide the powers of

the central government. As an example of its quest for regional supremacy over the national government, the kwaZulu legislature passed a constitution on December 1, 1992, that would ensure the region's citizens protection of individual property rights and free markets, as well as the power to override a new central government in areas such as taxation and military security.

The IFP envisions the drafting of a final constitution by a self-appointed, multi-party body. Under the constitution, the executive president would be elected by indirect suffrage, govern with parliamentarian consensus and enjoy no broad veto power. The constitution would mandate a multi-party cabinet to be chaired by a president-appointed prime minister.

Parliament would be bicameral. Members of the first house would be elected by PR and would, with few exceptions, legislate by simple majority. The second house would represent the ten regions, the boundaries of which to be determined on the basis of historic, linguistic, economic and geopolitical considerations. Members of this second house would be appointed by the regional legislatures and would be prohibited from legislating on issues of taxation and the budget. Governmental action generally would be subject to laws promulgated by the second house.

With respect to regional structures, the IFP insists on a strict regional supremacy model. Each region would have independent taxing power.

IX. PRESIDENT CLINTON AND U.S. FOREIGN POLICY TOWARD SOUTH AFRICA

Secretary of State, Warren Christopher, recently announced the initiation of U.S. efforts to incrementally decompose South Africa's pariah status in the world community. According to Christopher, all remaining sanctions will be lifted once an official election date is set and a multi-racial Transitional Executive Council (TEC) is in place to oversee the democratic transition process. The U.S. Agency for International Development is presently assisting the National Peace Commission in its peace monitoring and dispute resolution efforts. In addition, the Clinton administration is reportedly considering underwriting the TEC and the watchdog commissions charged with monitoring the campaign and elections.

Both Mandela and de Klerk are scheduled to meet with Clinton separately during the South African leaders' 10-day visit to the U.S. in July. Mandela and de Klerk are co-recipients of the prestigious Liberty Medal on July 4, Independence Day, in Philadelphia for their respective efforts to bring about a peaceful democratic transition.

X. NDI'S SOUTH AFRICA PROGRAMS

South Africa's transition from white minority domination to nonracial democracy is moving toward open and competitive national elections. Key to the success of these elections will be the ability of South Africans, so long denied the franchise, to confidently participate in the electoral process. Voter education is fundamental for an enlightened electorate and is at the heart of NDI's *PROJECT VOTE*.

The South African-based Centre for Development Studies (CDS) and NDI initiated *PROJECT VOTE* in November 1991 to familiarize disenfranchised citizens of South Africa with democratic election procedures.

PROJECT VOTE encompasses a wide array of components from creating multi-lingual literature for public distribution to holding small workshops for civic and political organizers who, in turn, impart the lessons they learn to others.

In its first year, *PROJECT VOTE*:

- conducted a nationwide series of voter education workshops for thousands of civic and political leaders on issues ranging from election laws and procedures to the conduct of political organizations in election campaigns;
- produced print and audio-visual educational materials including a 30-minute video depicting each stage of an election process; and
- sponsored the participation of South African community leaders as observers of elections in emerging democracies elsewhere in the world.

PROJECT VOTE is expanding its program by disseminating education materials throughout South Africa and conducting technical workshops with those who will be able to reach an even wider audience.

A. Education Materials

PROJECT VOTE offers a variety of informational materials including Election Kits for public education, print and video guides explaining the "how to" of elections, studies of election processes in other countries, and "Option Papers" addressing alternative election procedures and law.

Instead of guessing about the nature of voter motivations, *PROJECT VOTE* is tailoring its material to directly target the complex factors that shape the attitudes of disenfranchised South Africans. In September 1992, CDS and NDI commissioned a qualitative study of the attitudes of non-white South Africans toward elections. This study has provided the basis for the style and content of the materials produced by *PROJECT VOTE*.

B. Grassroots Workshops

PROJECT VOTE has sponsored workshops in more than 25 towns and cities throughout South Africa. Over 3,000 grassroots activists, themselves members of anti-apartheid political, civic, church and trade union organizations, have dealt with how to make South Africa's next election free, open and competitive as well as fully participatory. These discussions have been led by an international faculty of election experts, and political party and civic leaders from Europe, South America, Africa, North America and the United Nations.

The workshops provide information on:

- various models of election systems;
- mechanisms and practices used in other countries to promote a peaceful election environment;
- election materials and terminology;
- voter registration and identification procedures;
- universally accepted practices and standards for conducting democratic elections;
- the role of domestic and international election monitors.

In addition, at each workshop, a simulated polling station is set-up at which the audience participates in mock election-day exercises.

C. Election Studies

In recent years, elections have been used to initiate democratic transitions in Latin America, Eastern Europe, Asia and Africa. *PROJECT VOTE* has sent activists from South African political, civic and church organizations to study national elections in emerging democracies: Angola, Bulgaria, Cambodia, Chile, Georgia, Guatemala, Haiti, Madagascar, Namibia, Pakistan, Senegal, Romania, and Zambia.

In each case, South Africans witnessed important steps in the election process and experienced first-hand the mechanisms in place to ensure free and fair elections. Participants were exposed to election administration, voter and political party registration, the election of candidates, methods of campaigning, media access, polling site management, the voting procedure, different types of ballots, fraud prevention techniques, counting the ballots, announcing the results and challenging the results.

These South Africans are able to use this experience to guide them in planning elections in their own country.

D. Seminars, Consultations and Conferences

While South Africa's history of oppression and its current transition are unique, there are certain experiences of political movements elsewhere that merit consideration by those involved in shaping that country's path to a democratic society. To facilitate an exchange of ideas, *PROJECT VOTE* makes available international experts on election law, political systems and civic organization. Such forums enable South Africans to access and form their own networks of individuals with practical experience who can assist in jump-starting the transition process.

During the first half of 1993, NDI sponsored, in collaboration with several South African civic organizations, a series of three successful national conferences focusing on establishing a legal framework for elections, competing in an election, and monitoring the electoral process, respectively.