

WEEKLY MAIL - SOWETAN

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Are we not perhaps heading for our first national non-racial referendum before elections take place? The emerging agenda between, predominantly, the NP and the ANC has to be sold to a few reluctant, even suspicious, other parties, e.g. IFP, PAC, CP, AZAPO. There are two critical phases that have to be overcome before elections can take place: the first is the CODESA III-phase followed by the TEC phase.

The CODESA III-phase is the one in which talks between parties have to move from bilateral to multi-lateral discussions which then end in a multi-party conference of some kind to be called CODESA III. De Klerk himself, on 28 November 1992, admitted that this may be the most difficult and time consuming phase because the emerging consensus between the ANC and NP on how the agenda should unfold from then on, has to be made acceptable to other parties. By implication, the other parties have to accept at

least the next phase of the agenda, if not the critical phases of elections and the bringing into being of a Government of National Unity.

However, assuming the CODESA III-phase runs smoothly and we do move to the TEC-phase (i.e. Transitional Executive Council-phase), the problems that have to be overcome here, are as daunting and controversial as anything in the CODESA III-phase. In the TEC-phase, there has to be consensus on :-

- (a) the nature of regional government and the status of Homeland the TBVC Governments;
- (b) The nature of the security system and what is to be done with Homeland and TBVC Police and Armies as well as private militia such as MK, APLA, Aquila, etc;
- (c) The creation of a Media-Council to oversee the role of the media, particularly radio and TV during and even after elections;
- (d) The creation of an Electoral Commission (presuming the principle of an election is accepted) to oversee the electoral process in all its facets;
- (e) Transitional Constitutional Principles that will be binding on an interim Constitution and perhaps the deliberation of

an elected Constituent Assembly (assuming the principle of the latter is accepted.)

Consensus on the above is deemed to be essential before there can be progress towards elections. Parties may differ on whether there should be "complete" consensus (which is a tautology) or "sufficient" consensus (whatever that means!) or they may differ on whether consensus (of whatever kind), is necessary for all, or only some of the above issues. Whatever the case may be, progress by consensus is dependent on the absence of a minority veto of some sort. If all parties, whatever their policies, constituency or size of support, are given more or less equal weight in making up consensus, it can be taken as given that the unfolding of the agenda for transition will be cumbersome and time consuming. Listening to De Klerk when he opened Parliament, the one thing that was quite clear was that time was the one commodity that South Africa could not afford to squander.

What happens if by August this year negotiations are still bogged down in the CODESA III-phase, or stuck halfway down the issues of the TEC-phase? Furthermore, that the process is bogged down or stuck because smaller parties with questionable or limited sectional support are delaying progress because they withhold consensus or refuse to co-operate at all. Would the "big ones" (in terms of power and/or support) not be tempted to go for a referendum?

Why would a referendum be tempting under such circumstances? In the first place, it will provide some kind of popular mandate for a transitional agenda. Secondly, it will determine the extent to which smaller parties can outbid from the margins. Thirdly, it would make it easier for an emerging interim government to act on problems of security, violence and crime. Fourthly, it would find favour in the international community as it would be the clearest indication of transitional legitimacy thus far. Fifthly, in the lack of progress on negotiations, it would provide some clear guidance and stability for those interested in the economy and development. Sixthly, it would consolidate parties in the centre on a common agenda for transition. In the seventh place, depending on the question, it would resolve some major constitutional issues by implication. For example, if the question is : "Do you favour elections for a Government of National Unity which can jointly govern transition and negotiate a democratic constitution for South Africa?", then a Yes vote would be some popular mandate for the emerging agenda for transition. In the eighth place, a referendum could side step a premature election where many unresolved issues between competing parties could tear the country apart in turf battles for constituency space. In the ninth place, depending on the question, a referendum will bring home to recalcitrant parties to what extent their leadership stances reflect grassroots support. Finally, losing parties in a referendum tend to lose some support, split or become more moderate after the event (again, of course, depending on the question.)

There are some obvious drawbacks to a referendum of this kind as well. Firstly, referenda create strange bedfellows which can cause ideological confusion and tension amongst the rank and file. Helen Suzman and Pik Botha shared political platforms in the last white election; De Klerk and Mandela, or even stranger, Slovo and Hennis Kriel may have to do so in this one. Opponents would immediately dub it an "NP-SACP Coalition" referendum. Parties would have to calculate the risk of losing support by going into such temporary coalitions. Secondly, opposing parties may feel deliberately marginalised and this may increase political volatility and militancy. Thirdly, referendum mandates are never very focused and unambiguous and may cause subsequent tension between the victors on the meaning of the outcome. Fourthly, bigger parties may lose the referendum, in which case the whole process of negotiation can be put at risk.

However, given the pitfalls and problems in the CODESA III and TEC-phase, there appears to be ample opportunity for recalcitrant parties to delay progress by withholding consensus. Under such circumstances, the bigger ones have to choose between negotiations indefinitely stalling or some other course of action. The latter could mean them ignoring some parties and proceeding regardless. This raises the prospect of premature elections in which excluded parties can play havoc with the electoral process itself. Or, the bigger parties may begin to lead toward a referendum as a means of digging themselves out of the hole of bogged down negotiations. De Klerk dug himself out of the hole that the Potchefstroom by-election results created.

Maybe the NP and ANC may do so later on if there is not sufficient progress on negotiations and time seriously starts running out.