

## PROPOSED LEGAL CONFERENCE

Professor Dworkin proposes a conference "about South Africa and the idea of legality or rule under law." He suggests that it should address two major questions. The first is whether basic legal principles can be used as a yardstick by which to judge and criticise the actions of the South African government and a basis for court action to curb or frustrate the government.

The second is whether there are principles in the existing law of South Africa which can be carried through into the law of a future democratic South Africa.

No conference is needed to clarify the ANC's own position on these questions.

The answer to the first is clearly "yes". Throughout its 76 year history, the ANC has been judging and criticising successive South African governments on the ground, among many other grounds, that their actions violate legal principles. Action against the government in the courts is a practical tool which has also been used throughout these 76 years. The ANC understands the usefulness of such action and its limitations, puts its understanding to work all the time and needs no academic instruction on the subject.

The answer to the second question is also "yes". There are principles both in the Roman-Dutch common law and in the traditional African common law which enjoy the general acceptance of the people and will certainly form part of the legal order in a future democratic South Africa.

What, then, would be the purpose of such a conference? There are two possible purposes. One could be to provide South African judges and practising lawyers with ideas which will encourage them to resist the government. The other could be to propagate ideas which will influence foreign governments and business organisations against collaboration with South Africa.

If the first purpose is to be served, there will have to be adequate means of bringing the conference to the attention of South African judges and practising lawyers. Also, the discussion will have to be based upon Roman-Dutch rather than English and American law. It is not clear from Professor Dworkin's paper whether he is in a position to meet these requirements.

The second purpose may therefore be more promising. Professor Dworkin appears to hold positions both at Oxford University and at New York University. A conference aimed essentially at American legal academic opinion could be useful. Legal theory and principles are more likely to influence government and business circles in America than in Britain, France or West Germany. There are wider possibilities in America than in any other country of bringing court proceedings to compel business enterprises or even government agencies to cease collaboration with apartheid. If a conference succeeded in producing a legal doctrine on which American courts were prepared to act, it would be extremely valuable.

It is, therefore, suggested that Professor Dworkin be steered in the direction of a conference to be held in the U.S.A., directed primarily at an American audience. Such a conference would have to be organised by him, not by the ANC. The agenda which he has outlined would require the participation of several high-powered academics. The ANC does not have the necessary access to, or knowledge of, such people. Its role should be to approve the calling of the conference and send perhaps one speaker to present one paper, together with three or four delegates to take part in the discussion.

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