

**MEMORANDUM FOR A DISCUSSION WITH THE HON.  
BRIGADIER GENERAL G. MIYANDA,  
MINISTER WITHOUT PORTFOLIO**

**BY MANGOSUTHU BUTHELEZI, CHIEF MINISTER OF  
KWAZULU,  
AND PRESIDENT OF THE INKATHA FREEDOM PARTY**

**LUSAKA, ZAMBIA : AUGUST 16, 1993**

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The Honourable Brigadier General Mr Miyanda, and your colleagues, I thank you for finding the time to see us on our trip to Zambia. It is not often that we get the opportunity to talk to Ministers in independent Africa. Indeed, it is not often that I find the courage to address someone from the military. Under apartheid our military were a fearsome bunch - people to be avoided at all costs. While apartheid might be a thing of the past, I must be honest and tell you that for me old habits die hard.

During my whirlwind visit to Zambia, I have made it as my priority to brief your country's leaders on political developments in South Africa and what we

in the Inkatha Freedom Party see as the way forward. In South Africa we have reached a crucial stage in our transition to democracy. The next few weeks will determine whether we are to achieve the peace, democracy and prosperity that we have so long fought for, or whether we are to replace apartheid rule with that of domination under the guise of democracy. Whatever route we take it can be said with certainty that its impact will extend far beyond the borders of our country. Our future, whether it be of peace and prosperity or conflict and chaos, is not ours alone - it is the future of the entire region.



constitution where power would be monopolised by the centre - a centre which they hope to control.

These foolish and unreasonable demands are rejected by the majority of our ethnically diverse and heterogeneous society. If the ANC persists in imposing their plans on South Africa we will surely be plunged into a civil war - a war, which I once warned would make Yugoslavia look like a Sunday school picnic.

But, if South Africa is plunged into a civil war the entire Southern African region will suffer. The uncertainty and insecurity will spread out like cancer



and envelope the entire region. The effect of this would be to divert resources from badly needed development into security so as to pre-empt any possible escalation of the conflict. Like Yugoslavia the militaries of the region would have to gear themselves up to protect themselves from the fallout which would follow ethnic conflict in South Africa.

In South Africa itself, the issue of the formation of a new unified Defence Force is causing much controversy. The ANC has insisted that if we are to have peace in South Africa they must be given joint control of the security forces. This, they argue, would go some way to eliminating a so-called third

force which, according to them, is causing the violence which is ravaging our country. But we believe that if the intention of the ANC is to force the integration of the South African Defence Force, MK, and the police forces of the independent and self governing territories, then we are heading for disaster.

The SADF and uMkhonto weSizwe have fought each other for decades, even though their fights were no more than just shadow-sparring. There is no love lost between these two groupings. The attempt to integrate these two forces under the present climate of hate and intolerance will prove disastrous. Instead of bringing people together it will serve to further polarise our communities.

The only way we will be able to secure a non-partisan defence force is for a new security force to arise out of a commitment and common loyalty to a new, legitimate and just constitution. It is only then that the animosities of the past can be superseded by the commitment to a future of peace and prosperity.

This view of the IFP is, however, not confined to the forging of a new security force for our country. It extends to the other facets of civil society. All my life I have believed that it is a country's constitution and the enforcement of that constitution through the law which needs to control the exercise of government power so as to ensure freedom and democracy for all. No reliance can be



placed on the political wisdom of leaders acting outside strict constitutional parameters. These views of mine are shaped by the course of history. All too often, in incipient democracies, has the majority party set about destroying the power bases of minority parties. All too often have they attempted to seize control over all aspects of civil and political society. With this evidence in mind, we in the IFP have insisted on the need to agree before hand on constitutional guarantees which will ensure that minority parties with a proven support, are guaranteed a power base and that the constitutional autonomy and pre-eminence of civil society can be preserved and guaranteed.

As a starting point therefore it is the IFP's firm belief that South Africa's negotiators will need to agree on a constitution which will satisfy the needs and aspirations of all of South Africa's people. We insist on a speedy agreement on a central constitution which acknowledges the right of self determination for our ethnically-diverse regions and the right of those regions to draw up their own constitutions. Whether those regions wish to exercise control over their own security forces or over other areas of civil society, is for them to choose. They must nevertheless be given the choice. This is not peculiar as this is the same military system as is find in the United States, where States have State Militia. South Africa is a very large country.

We in the KwaZulu government have already drawn up our own constitution for the region of KwaZulu/Natal. It is a constitution which acknowledges our right to set up our own police force without interference from central government. We insist that we be given our own police force and not some central police force consisting of members of MK to police over us. It has been proven beyond doubt that these very members of the ANC's armed wing have been responsible for countless massacres of the Zulu people. If we are to engender confidence in South Africa's new police force, then we sure as hell will not be going about it in the right way if we allow this organisation to give



us orders. This will only exacerbate the already endemic conflict which is ravaging our country.

The acid test of whether the ANC and the government are prepared to heed our warnings and listen to our wishes will be determined by their acceptance of our position at multi-party talks. So far the results have not been promising. Two weeks ago, the first draft constitution for our country was unveiled at multi-party talks taking place at the World Trade Centre. Last week, a second draft was tabled. Unfortunately the IFP was not present to witness either of these events. Last month we walked out of the negotiating process. We

withdrew from negotiations because we wanted to protest at the manner in which decision-making was being made. At the root of our decision was our dissatisfaction at how fundamental decisions were being made against our wishes - decisions which adversely impacted on our well-known desire for a federal system of government for our country.

At the very beginning of the negotiation process, it was unanimously agreed that, in terms of forging out a new constitution, decision-making would be made by consensus. What this meant was that there would be no head counting of votes in any rush to find agreement on critical issues. However, in order to

stop any insignificant or obstructionist party from holding negotiations to ransom, it was also decided to incorporate the principle of 'sufficient consensus' to the decision-making process. Simply put, 'sufficient consensus' meant that negotiations could go ahead in despite the fact that one or more parties might be in disagreement to any decision.

As with any ad hoc principle, this was a principle which demanded a spirit of tolerance and give and take. If we were to succeed we would need to try and find common ground. Yet this is not what has happened. In their greed for power the ANC have abused this principle. They have used this vague



principle to over-ride our legitimate objections to undemocratic and irrational decision- making.

In accordance with the principle of 'sufficient consensus' the Negotiating Council instructed the Technical Committee to draw up a draft constitution. We were against this decision because we felt that these instructions were premature and would lead to a constitution which excluded federalism. Worse still, we felt that it would lead to a process which left the shaping of South Africa's constitution to a popularly elected Constituent Assembly.

We were not wrong in our assumption. The more we advance in negotiations, the more it becomes clear that our initial perceptions were absolutely correct.

We already knew then that the Government/ANC's unholy alliance was rushing headlong towards a two-phase transitional process in which the next election would be fought on the issue of who would be writing the final constitution for the country, rather than going to the people on policy issues and how agreed to democratic options, should be implemented.

We know only too well that this two-phased process is designed to give force to the myth that the ANC, as conqueror over the evil forces of apartheid, would be entitled to write up South Africa's first non-racial constitution. The intention to turn our first election into a victory call of liberation is not some crazy notion of ours, but is embodied in the ANC's Harare Declaration. It is clearly designed to go hand in hand with an election campaign which will be run on the idiom of the liberation struggle. It will be characterised by tough talk, street action, intimidation and by everything that is necessary to appease revolutionary militants and keep them in the ANC\ COSATU\South African Communist party



fold. This kind of rhetoric is already the order of the day as far as this alliance is concerned.

Going hand in hand with their self-styled liberator status, it can be expected that the ANC will deem it acceptable to continue to use violence against its political opponents. Already this is happening. Just last week IFP supporters were killed when they attempted to set up a branch in a township near Durban. The very same day another party, the Democratic Party, were driven out of another township by ANC youths. If this is a forerunner of what we can expect as the

elections draw near then we believe there will be nothing left to vote for. By election day our country would have already descended into anarchy.

It was our very wish to avoid this scenario which has driven us to oppose the route that the ANC and the Government are taking us in constitutional negotiations. It was this motivation which has made us protest against the decision to draw up a draft constitution which would be the first phase of a two-stage process which would then culminate in a Constituent Assembly writing up South Africa's first non-discriminatory election. But while we believe that this route is a recipe for chaos, our protests have been ignored with

the result that we were left with no choice but to withdraw from negotiations.

Our decision to withdraw from negotiations was taken after much deliberation. Indeed, in our efforts to avoid the disruption of negotiations, the IFP took upon itself to undertake a series of bilateral meetings with the government to thrash out our grievances.

It was therefore a total shock to us that the instructions made to the Technical Committee in no way reflected the gains and agreements made in these bilateral

meetings. It was in one of these meetings that President de Klerk gave me his personal assurance that no fundamental decisions would be made without the IFP's agreement. This was no crude attempt at securing an IFP veto on the process, but signified the realisation that there could be no peaceful settlement to our country's problems without the IFP. What this meant for decision-making was that there could be no sufficient consensus, especially on crucial issues, if the IFP was not in agreement.

The instruction to the Technical Committee on Constitutional matters to draw up a draft constitution was not the only time the principle of sufficient



consensus was used to get around the IFP's objections to farcical decision-making. In accordance with this principle, the date for South Africa's first fully-inclusive democratic election was set. Again we objected to this decision. And rightly so. We in the IFP were opposed to the setting of an election date before the Negotiating Council had agreed on the form of state that South Africa was to take. It was our reasonable belief that the issue of the form of state should be settled first. This we believed could not be done by the Technical Committee which was committed only to produce a way forward to suit the two-phase approach adopted by the Government and the ANC.

But yet again our reasonable objections were ignored. Again we in the IFP and the KwaZulu Government were so incensed that we felt that we were obliged to take the strongest democratic form of protest possible by walking out of the negotiation process. Predictably, the ANC-leaning press severely criticised our actions and labelled us as spoilers, intransigent and even as being afraid of democracy.

Yet this form of democratic action has been used right around the world. There would not have been, for example, a successful Lancaster House Conference

had Mr Robert Mugabe not earlier terminated the negotiations in Switzerland.

Why would South Africa be so different?

Behind our decision to walk out of negotiations is our belief that when the process itself is so deficient that negotiations can only steer down onto a series of negotiation destroying deadlocks, then the process itself must be put under scrutiny. We in the IFP tried to do that within the process. We forcefully made our point and repeatedly argued about the inadequacy of the decision-making process and the abuse of the concept of sufficient consensus. Predictably, the ANC and the Government, pleased with the hurried progress,

rallied to defend the ambiguities and the flexibility which made the abuses possible.

We finally had no choice but to stage a walk out, both on the question of setting an election date before there was any constitutional finality, and on the question of the instructions to the Technical Sub-Committee on Constitutional Matters with regards to drafting a constitution.

We in the IFP take strong exception to the image being created of us as spoilers. It is only because we want to secure for ourselves and our children



a democratic and prosperous future that we have taken this stand. The same cannot be said for the National Party who, knowing that their time is up, is interested only in securing for themselves a few more years with their hands on the power. So let us lay the blame where it must be laid.

Let me expand a bit on this point. The reason why negotiations have failed so horribly is due to the connivance of the ANC and the Government. At the root of our problem is the attempt by the ANC and the National Party to manipulate the negotiations process to satisfy their party political interests. This is far from being a recent phenomenon. Going right back to the Record of

Understanding of September last year, and the 5 year plan, we have seen how the ANC and the Government have connived together, how they have bulldozed all other parties into toeing their line and how they have blatantly tried to hijack the entire negotiations process. With this unholy alliance all that parties to the negotiating process have been left to do is to rubber-stamp the decisions taken by the Government/ ANC/South African Communist Party alliance. This we find as totally unacceptable and we will therefore not return to the negotiating table until decision-making reflects the wishes of all parties as it is supposed to do.

Given the collusion between the ANC and the Government it is no wonder that we have foisted on us two drafts of an irredeemably flawed constitution as the only product of three years of negotiations. It is abundantly clear to the IFP that these drafts detail a constitution with no institutional or historical credibility or stature. It represents for us merely a bridge between the present constitutional order and the final constitution which is to be adopted by the Constituent Assembly. Worse still, this draft is in no way able to set the foundation for a new constitutional order but embodies merely the institutionalisation of party-political interests.

I find it therefore quite incredible that I and my party are implored by the press and foreign observers to endorse these proposals. The fact that a Constituent Assembly will write South Africa's final constitution is totally and utterly rejected by the IFP. By our negotiators agreeing that a Constituent Assembly write up our constitution, we believe that South Africa is throwing away its chances of securing a federal system of government for our country. Given the chance, we believe that an ANC government, once in power, would entrench centralised power in South Africa's first full constitution, leaving the regions powerless.



Our bottom line is therefore that we must entrench federalism so as to ensure that different political parties are in power at the same time in different regions of the territory. This we believe will allay the very real fears of domination which exist in our divided country. Accordingly, the power exercised at regional level must be real political power supported by a list of constitutional powers for the regions capable of supporting the government and political action of a minority political party in the territory which it controls politically.

Far from seeing this embodied in the draft constitutions it is our view that only a list of powers which describe inherently administrative functions, and which

are subject to stringent control by the central government, are included in the draft constitutions. These ineffectual powers will prevent Natal/Kwazulu from achieving true constitutional or political autonomy. This is for us totally unacceptable.

It is our view that we will not return to negotiations unless certain constitutional guarantees are met. These are not merely opening positions, but standpoints on which there can be no compromise if we are to secure a true federal dispensation for our country.

As a starting point we in the IFP are not prepared to accept a two- phased approach to the writing of our constitution. We want a one- stage approach which embodies a constitution written by acceptable constitutional experts and forwarded on to the people for their approval. We hold the view that state governments and legislatures must be established under the next constitution and via the next elections. Their powers must derive immediately from the next constitution and the state's or region's legislatures shall be able to implement those powers through their own legislation. It is our view that there is a need for the immediate vesting of powers to the regions so as to ensure that we are

not going to face a two- year hiatus while the ANC's two stage process runs its course.

It is our firm view that the list of powers vested in the hands of the regions must be such that real political power can be exercised at the regional level. This must include residual powers and all the powers which are highly politically charged. Only those powers which can not be adequately and properly exercised at state level should be devolved to the Federal Government.



Of critical importance is that the exercise of powers must be autonomous. What this means is that it can not be subjected to the over-riding or concurrent powers of the central government. It is our firm view that our regions will not be able to exercise any true political autonomy if the constitution allows the central government to over-ride any decision of the regions. If we are to maintain the autonomy of the regions, it is our firm view that this arrangement must be entrenched and written assurances must be given that any future constitutional development cannot wipe out the powers of the regions. Put simply, it is our view that the regions must be established as indestructible states in an indestructible union.

If our constitution is to succeed in providing a framework in which justice is possible then constitutional legality and the justiciability of the constitution must be guaranteed by a fully independent, fully jurisdictional and easily accessible Constitutional Court.

We totally and utterly reject the notion of any deadlock breaking mechanism. According to the draft constitution tabled at multi- party talks, South Africa's new constitution can ultimately be adopted by a 51 per cent majority by virtue of deadlock-breaking mechanism built into the constitution. This mechanism renders totally useless the guaranteed built-in requirement of a 60 per cent

majority which is needed at a referendum to pass the constitution. It is the IFP's view that if we can not rely on the achievement of special majorities and agreed to procedures in changing the constitution through that form of consensus, then we have nothing on which we can rely. All we will have is a process in which the government of the day would generate deadlocks in order to relieve itself of the restraints of agreed to constitutional principles and the limitations on the power of the central government.

These are the IFP's bottom lines. We do not believe we are being unreasonable in insisting that they be met, but are merely ensuring that the pre-requisites of

successful constitutions which are to be found in the developed world are taken into account in our constitution.

Considering our unfortunate past of apartheid and domination, it was the IFP's sincere hope that our negotiators would agree on a draft which provided a total break from the past. One which prevented the centralised rule and abuses of the past; and one which provided a framework in which decision-making reflected the needs and aspirations of our people on the ground. Instead, we have received draft interim constitutions which are fundamentally flawed and beyond revision. Against South Africa's best interest and the wish of our



people, we have foisted on us a constitution which has kept intact the unitary state which has been at the heart of our problems. This is a certain recipe for disaster.

It is hoped that sanity will prevail and South Africa's negotiators will see the folly of their ways. If not we might just be forced to resume our struggle against domination all over again.

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