

THE 1993 CONSTITUTION, THE ELECTION AND DEMOCRACY

AN ASSESSMENT BY MANGOSUTHU BUTHELEZI], CHIEF MINISTER OF KWAZULU AND
PRESIDENT OF INKATHA FREEDOM PARTY

ULUNDI : MARCH 23, 1934

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Mr Chairman; Your Majesty the King; Members of the Royal family; Amakhosi of the Kingdom of KwaZulu;
Judge Kriegler and Commissioners of the Independent Electoral Commission; Members of the KwaZulu
Legislative Assembly; Senior officials of the KwaZulu Government; Indunas and Councillors of AmaKhosi;
Members of the Zulu Nation present; other distinguished guests, ladies and gentlemen.

Judge Kriegler, I welcome you and your Commissioners to Ulundi. I decided that the issues which must be
discussed today are of such fundamental importance to democracy and the future of South Africa that what you
say, Sir, and what I say, should be said in front of the people.

I was told that you wished to see His Majesty the King, and that you were prepared even to see him at one of
his residences. His Majesty the King graciously agreed to make himself available as, in terms of our Legislation,
he is the Head of our Legislature and has his seat in the KwaZulu Legislative Assembly. I was told that you
also wished to see me, that you wished to see members of the Cabinet, officials of the KwaZulu Government
and Members of the KwaZulu Legislative Assembly. My Cabinet colleagues and I are members of the KwaZulu
Legislative Assembly.

I was told that you also wished to see AmaKhosi, who are pillars of the Kingdom of KwaZulu, and a few of
whom are members of the KwaZulu Legislative Assembly; the majority of them are not members of the
KwaZulu Legislative Assembly. They have Councillors and Indunas who in terms of our tradition, accompany
AmaKhosi wherever they go. It was because of this closely-knit KwaZulu Nation set-up that I decided that it
was best for you and your Commissioners to address us together, as I assumed that your message would be and
large be the same message for all of us, as the leadership of KwaZulu.

I have therefore arranged for the discussion we will now have to take place in the presence of His Majesty and
members of the KwaZulu Legislative Assembly, AmaKhosi, their Councillors and Indunas. What we say to each
other, and the issues which we raise, are of national importance and since you wanted to meet with the entire
leadership of KwaZulu, I decided to hold the meeting here, where you can then say what you want to say to all
of us.

When we heard that you, Sir, were appointed as Chairman of the Independent Election Commission we were
overjoyed. We could not think of anybody more qualified and suitable for the position. We have always known
you to be fearless, and we know you to be one who just can not be bought by anybody. There is no office high
enough to entice you to seek your own advantage by doing what others want you to do in order to be appointed

to it. Please be aware of the great esteem in which we hold you in mind, as you hear what I have to say to you and your Commissioners today.

I, Sir, modestly claim some immunity from the charge of being open to be bought, and I too, Sir, can genuinely say that there is no office high enough to entice me to abandon my principles in order to a secure appointment to it. I have never been bought by anybody, nor will that ever happen.

I pause, Sir, to observe that integrity beyond doubt, and independence of being and mind, is sometimes a great burden men or women like you, Sir, and myself, have to carry. Integrity and independence of mind does not take one out of a sick society should you live in one. Integrity does not immunise one from being on the wrong side of hideous conflicts, nor does it leave one blameless if the side you are on sins against your integrity. We are none of us free from the limitations of our day and age, and from the limitations of societies which we struggle in vain to change in our own lifetime.

On every side of every great social conflict one will always find men and women of integrity who are, by their birth and station, wrong in what they are doing. They are in the end finally only tested when there is such fragmentation of their societies and their norms that there is no longer anything constructive left to do. They are then only released from the moral obligation to live on in a hideous society to do what can be done to change it.

In your memorandum addressed to me in preparation for this meeting, you ask for assistance in paragraph 5.8.2 to "secure the whole election process in the region as well as preventing violation of the Electoral Code of Conduct; the terms of the Electoral Act, 1993; the IEC Act, 1993; and in terms of any other statutes which have a bearing on the elections as proclaimed by the South African Constitution Act, 1993."

I offer co-operation and assistance to the extent of my authority, but certain details in the requests that you have conveyed in your memorandum, need to be discussed with Tribal and other communities and individuals over whom I have no power.

Allow me to put before you the circumstances in which I have to make decisions and lead people. The broad South African scene is one in which there is effectively no government. The South African Government capitulated to the ANC during the election process, and we are faced with the will of the TEC which has great powers, to force their will on anybody and everybody.

I am appalled at what is happening in Bophuthatswana. The TEC should have been well aware that the Civil Service strike was politically inspired by the ANC and the South African Communist Party and that the ANC was spreading rumours and fears amongst the people that their pensions were not safe. The TEC on any enquiry would have discovered that the Bophuthatswana Civil Service Pension Scheme was admirably run and very secure.

The TEC was aware that the ANC was busy destabilising Bophuthatswana and that that destabilisation would only succeed if the Civil Service strike and consequent civil disobedience ran quite out of control to threaten or actually produce ungovernability.

The TEC did not intervene. One rather gained the impression that the TEC watched, waiting for the right moment to swoop in and take control. That they did this, through the South African Government and the use of the SADF, does not detract from the reality that it was the ANC in the TEC and the TEC itself which must be held accountable for the destabilisation of Bophuthatswana.

There is a big fuss being made about the TEC, and no one - not even the media, questions th

e fact that most members of the TEC are members of the ANC and many of them are ANC candidates in the April elections. The TEC at present is composed of: the Management Committee in which five of the seven positions are occupied by ANC members; a Sub-Council on Intelligence where the respective figure is five out of eight; a Sub-Council on Law and Order where the figure is also five out of eight; a Sub-Council and Regional Government where three out of six posts are ANC; a Sub-Council on Foreign Affairs where the figures are 3 out of five; a Sub-Council on Finance where the figures are three out of 6; a Sub-Council on the Status of Women which has five out of six posts going to the ANC; a Sub-Council on Defence where six out of the eight posts are held by ANC people.

Judge Kriegler and Commissioners, the view that President Mangope did not permit free political activity in his country may or may not be true. The point I make is that whether or not it was true, the destabilisation of Bophuthatswana was quite unjustified. The real conflict, as I understand it, arose from the fact that the ANC refused to register as a political party in Bophuthatswana. That refusal led to them being barred from participating in normal political activity.

I am raising this view because beyond it, there is the question of how one is entitled to bring about changes in a society in which there is either a government that does not approve of, or an oppressive government. That question is germane to our discussion today.

I make the point, Judge and Commissioners, that fair and free elections are now quite out of the question in Bophuthatswana. You may have polling booths. You may have freedom of the ANC and other political parties to campaign in Bophuthatswana. There may even be a large turnout at the polls. None of these facts will, however, reverse the reality that President Mangope and the Christian Democratic Party will not find the circumstances of a free and fair election for themselves in Bophuthatswana. If what I contend is true, that if an election is not fair and free for even one party, then it cannot be regarded as being free and fair for other parties then, you, Sir, are faced with having to make a very difficult choice of saying that elections can be fair and free in a country that has been destabilised to overthrow a government and bar the ruling political party from participating in the elections. Or, alternatively, you have to say that in a region like KwaZulu-Natal there could be free and fair elections even if the region was so destabilised that the KwaZulu Government actually fell.

There are, Sir, a number of ready answers that you could give to that assertion but I plead that you actually hear my deep concern which lies behind the question, because it is a very real concern.

No doubt you have already seen and studied the document "Prepare the Anvil for the Coming Hammer : subtitled Towards a Programme of Action in Natal." I am distributing it amongst yourselves today, Judge Kriegler, just in case I am wrong in that assertion. In it there is the clearest evidence that the ANC and the SACP are committed to destabilise KwaZulu and from all accounts a beginning is going to be made with

tomorrowâ\200\231s ANC planned marches and mass action. Mr Joe Slovoâ\200\231s statement on Radio 702 this morning "Two down and one to go" says it all. 5

Judge Kriegler and Honourable Members of the Commission, it is this kind of product of the negotiation process to which I am drawing your attention. I am drawing your attention to the fact that this kind of environment has been produced by the negotiation process as the environment in which the election is going to take place. I believe that you, Sir, stand in danger of seeing your Commission and its responsibilities and powers today in the same way that you would see it in a normalised society.

I am fully aware, Sir, that the TEC Act is an Act and it is now law. We are tragically now faced with having to make decisions about obeying laws in a sick and indeed sickening society.

We were not party to the finalisation of the 1993 Constitution. I made it very clear on many occasions last year that if the South African Government and the ANC went on without us, to finalise a Constitution and to take it through Parliament, I could not be expected to support the implementation phase that would follow the Constitution being made law.

You have come today, Sir, with a long list of requests for full participation in preparation for elections and the holding of elections, with which we disagree. /

As the KwaZulu Government we take more than a political view of the matters under discussion. KwaZulu, as you know, was defeated by the British and annexed to Natal and then dragged into the Union of South Africa without so much as by your leave by anybody. We then had racism and then apartheid foisted upon us. KwaZulu was the only region in South Africa which said an absolute NO to the Bantu Authorities system and it was only when it was spelt out to us that we had no choice in the matter and we were governed by laws, which we had to accept whether we were party to their formulation or whether we or not we liked them.

The people of KwaZulu then turned firstly the Territorial Authority and then the KwaZulu Legislative Assembly into an arena for the fight against apartheid.

The Assembly, as an arena for that fight, has earned a place in the hearts of many of our people, and even in our minds and souls which is very sacrosanct to us.

The KwaZulu Government was faced with its total exclusion in CODESA and was faced with a massive attempt to exclude it from the World Trade Centre. The KwaZulu Government as a bastion against apartheid is now being turned into a bastion against many of the things that will be forced on us by the 1993 Constitution.

We have maintained a right as a sovereign kingdom to say no to KwaZulu being dragged into a new political dispensation, and even a new era, quite against our will.

His Majesty the King has now spoken. He has said that he will not be able to advise his subjects to vote in the planned election if the sovereignty of his kingdom has not been secured in an all-inclusive political settlement.

The Annual General Conference of the IFP has advised the IFP members that they should desist from voting in the election. This was a decision of the Party at a Special General Conference held on the 29th and 30th of January. The Central Committee was given a mandate to finalise the issue of the amendments proposed in the December 19 Yellow Paper of the Freedom Alliance and to decide whether or not to enter elections, depending on whether or not they were met.

We now face the difficult realities that these decisions, which we have taken and which have been forced on us by ordinary people, both members of the IFP and non-members, are now going to have to be adjusted to meet the requirements of your Commission, Sir.

Take one of the points of divisions of interest - the use of schools for polling purposes. A vast number of schools in KwaZulu are community schools which the people themselves have built with their own money, and however much - technically, they fall under the KwaZulu Department of Education, they actually belong to the people. I do not have the authority to tell the people to make them available for elections.

We have no objection to the use of our government buildings and when you called here on the 17th of February, with some of your Commissioners, we stated then that we have no objection to the setting up of polling booths in KwaZulu. I wish to repeat that statement today. The difficulties come only now, when we are trying to apply this on the ground. We, as the Government of KwaZulu, will certainly put at your disposal the government

school buildings, as distinct from community school buildings which belong to communities. We will certainly make available to your Commission other government buildings, where disruption of essential services is not a risk.

Many other schools in KwaZulu are at least partially built from funds that the poorest of the poor took out of their pockets, in order to make the building of the school possible. We thus face the situation in which we as a Government may be pitted against our communities even when it comes to government schools and buildings.

I am very aware of the powers that you wield as the Chairman of the IEC. I am aware that you can bring the full might of the law to bear upon us. I am also aware, Sir, and perhaps you should be more aware, Sir, that nothing would suit the purposes, of destabilising KwaZulu more than IEC action against myself, the KwaZulu Government and the Inkatha Freedom Party.

Take another difficulty, Judge Kriegler - the availability of public fora for party political rallies and meetings. I can give you absolutely every assurance that I, the KwaZulu Cabinet, the KwaZulu Government, were not party to planning and executing the initiatives to take occupation of the King Zwelithini Stadium in Umlazi and the Princess Magogo Stadium in KwaMashu. As President of the IFP, I also give you the absolute assurance that neither I, nor the IFP's Central Committee, had any hand at all in planning and staging these events. These events actually reflect the will of a people to resist elections and the 1993 Constitution. The media reports them as IFP actions, in spite of the fact that in the case of the Umlazi incident, the Hostel Dwellers Association stated openly that they had organised this in sympathy with His Majesty the King's issue on the KwaZulu Kingdom and the Monarchy.

I am very well aware that in law when a member of a political party does things such as to occupy a stadium and bar another political party from its use, the political party itself is deemed to be implicated.

There is a very peculiar harshness in the laws which state that the political party or a government shall be held responsible or accountable for the action of the people, and that accountability will be strengthened if the party or government benefits from that which was done without its consent.

How, now, Sir, do we look at the value of your total honesty and your total integrity and my total honesty and integrity, across the divide which separates your interests from my interests? Your interests are to secure free and fair elections for all who want to vote in compliance with the law, and my interests are to persuade the electorate not to vote in compliance with the decision of our Party. How do we deal with each other, Sir, across a situation in which, what you do, serves your interests, and works against not what I do but against what my people do, without me instructing them or without direction. This could mean that in terms of the Acts under which you work what my people do, and what you do, may make me a criminal?

We, Sir, anticipate your arrival and as a mark of our good faith we report to you the following resolution adopted by the Cabinet of the KwaZulu Government:

RESOLUTION

The KwaZulu Cabinet resolves that:

- a) Government buildings could be made available for election purposes on a selective basis, i.e. excluding those buildings/institutions which are involved in the rendering of essential services, and where such activities on the days of the election may result in the disruption of services; buildings and institutions, which are community based institutions (including community-based schools) and the buildings and facilities of Tribal Authorities, can only be used if the communities

and/or Tribal

Authorities have assented thereto, given that the KwaZulu Government has no authority to grant such approvals;

in respect of paragraph (b), the Amakhosi which are available, be invited to attend the meeting to be held with the IEC in Ulundi, on March 23, 1994;

any damages occurring to the property of the KwaZulu Government during the elections should be the responsibility of the IEC, who should agree in writing to take responsibility for any costs associated with the damages, prior to the buildings being made available;

in the manning of the polling stations, the current working arrangement between the KwaZulu Police and the South African Police be extended for the joint manning of the polling station.

Civil Servants of the KwaZulu Government, who volunteer and are willing and who are available from their normal duties, be allowed to assist and man polling stations, provided that

) staff involved in the essential services are excluded;

ii) in the light of the current political climate, the possible danger to staff who undertake such duties be spelt out with the indication that the KwaZulu Government cannot accept liability for any incident affecting staff whilst undertaking these duties;

iii) the Public Service Commission is to take note of this paragraph of this Resolution and ensure its orderly implementation;

government transport which is not attached to or being used for essential services, and which is available for use by the IEC, be placed at the disposal of the TEC for purposes of the elections;

the questions of tribunals of the IEC, as set out in the Cabinet Memorandum 12/3/4 dated 14 March 1994, be dealt with within the above mentioned framework.

Rev Mthetwa, the Minister of Correctional Services, first report to Cabinet on the position in prisons before the matter of the interaction with prisoners on the elections is finalised.

it takes note of the Memorandum of the IEC to the Chief Minister.