

African National Congress

51 Plein Street
Johannesburg 2001
P O Box 61884
Marshalltown 2107

Tel: (011) 330-7000
Fax: (011) 333-9090
Telex: 421252

The Secretary
SACBC

HASSEN EBRAHIM (Internal Co-ordinator -
Negotiations Commission)

Date: 3rd July, 1992

Dear Comrade,

RE: ANC MEMORANDUM AND RESPONSE

Please find under cover hereof a copy of the Memorandum by our cde. President to
De Klerk and the response to it.

Yours in Struggle

HASSEN EBRAHIM

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TO:

AFRICAN NATIONAL CONGRESS

MEMORANDUM

MR. F. W. DE KLERK,
PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA.

FROM: MR. NELSON MANDELA,
PRESIDENT OF THE AFRICAN NATIONAL CONGRESS.

Introduction.

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The Declaration of Intent which we adopted at Codesa | committed us to the establishmen
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a â\200\234democratic South Africa". On the basis of this commitment many would have be
en led to
believe that it would have been possible to overcome many obstacles in the path of real
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this goal.

Our country is on the brink of disaster. First there is the cnsis in the negotiation pr

process itself.

The central blockage stems from the refusal of the NP government to move together with all of us in the process of truly democratising South Africa. Secondly, the continuing direct and indirect involvement of the NP government, the state security forces and the police in the violence as well as your unwillingness to act decisively to bring such violence to an end has created an untenable and explosive situation.

The NP government persists in portraying the crisis as a creation of the ANC. This attitude is

unhelpful and extremely dangerous. The NP government is placing party political interests above national interest by trying to minimise the seriousness of this crisis.

Attached to this memorandum is the statement of the National Executive Committee of the ANC adopted at its emergency meeting held on the 24th June, 1992 (marked annexure A°B*). This statement explains the basis on which the ANC has decided to break off bilateral and Codesa negotiations. It contains a set of specific demands addressed to the NP government in connection with the critical issues around which the negotiation deadlock arises, as well as those relating to the violence ravaging our country. We are of the view that the response and concrete steps by your government to these demands will play a critical role in determining the direction and pace with which bona fide negotiations can take place. For its part the National

Executive Committee has resolved to monitor the developing situation on a continuing basis. A©

In what follows in this memorandum we first address the crisis in the negotiations A°\200\224 and then proceed to look at the issue of violence.

The Negotiations Crisis.

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The crisis in the negotiations process arises, primarily; from the fact that the NP government has been pursuing the path of embracing the shell of a democratic South Africa while seeking to ensure that it is not democratic in content. ;

In my letter to you written from prison in 1989 | outlined the kernel of the political problem which the government and the ANC would have to address in order to resolve the SA conflict through negotiations. | stated:

Two political issues will have to be addressed... Firstly, the demand for majority rule in a unitary state; secondly, the concern of white South Africa over this demand, as well as the insistence of whites on structural guarantees that majority rule will not mean domination of the white minority by blacks.

The most crucial task which will face the government and the ANC will be to reconcile these two positions.

In this context I added that:

"Majority rule and internal peace are like two sides of a single coin; white South Africa simply has to accept that there will never be peace and stability in this country until the principle is fully applied."

The crux of the deadlock in the negotiations process lies in the failure of the NP government to face up to the need to reconcile these two issues.

In the first place, you have chosen to reject internationally accepted democratic principles which define a democracy. You have chosen to equate majority rule, which is the quintessential hallmark of democracy, with black domination.

In the second place, you have interpreted the concern (and)...insistence of whites on structural guarantees that majority rule will not mean domination of the white minority by blacks" to establishing a white minority veto (often concealed in intricate formulae).

Instead of engaging in a constructive exercise of finding ways to address white concerns you continually slide back to white supremacist mechanisms.

There can be no movement forward as long as you seek to reconcile the two issues I have outlined through any form of minority veto. Such solutions may well address white concerns, but they are guaranteed to leave majority concerns frustrated. This is a recipe for instability and makes peace unrealisable. For as long as the NP government insists on a minority veto in whatever form, the negotiations deadlock will remain unresolved.

The ANC, for its part, has rigorously kept to the need to reconcile the above-mentioned two issues. This is evident in the manner in which we have handled negotiations as well as the way in which we have developed our substantial positions.

Thus we advanced the idea that we should formulate and agree on a set of general constitutional principles at Codesa. These principles, which would be binding on the Constituent Assembly, would, to a certain degree, reassure all parties as well as the people of our country, black and white, of a democratic outcome.

Along this direction we took on board any suggestions and ideas as long as they could be accommodated and were consistent with internationally accepted democratic principles. We committed ourselves to one-person-one vote elections on the basis of proportional representation to ensure that every political formation which has any degree of support would

have a Pipe in the Constituent Assembly.

In our view constitution making should be a unifying and legitimising process which should enjoy overwhelming support. Hence we advocated that the constituent assembly should arrive at decisions by a sixty-six and two-thirds percent majority.

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In South Africa a\200\224 differences have been fostered by the apartheid system. Irrespective

of whether they rise from ethnic factors or vested interests nurtured by the apartheid fragmentation of our country, we sought to accommodate these regional differences. We therefore proposed that the Constituent Assembly should further:

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Be elected by all the people of South Africa, defined as all those whose citizenship could be traced to the boundaries of South Africa as at 1910. 4

Be composed of 50% of the delegates elected by means of a national list and 50% elected on the basis of a regional list, both on the basis of proportional representation.

Have special procedures for deciding on clauses of the Constitution dealing with structures and their powers and duties. That is, the constituent Assembly as a single body decide on such issues by a sixty-six and two-thirds percent majority. In addition such a decision would further require an additional sixty-six and two-thirds percent majority by that half of the delegates to the Constituent Assembly who are elected on the regional list.

It is our firm view that the Constituent Assembly be a single sovereign chamber body with powers. The only constraints on it would be:

The general constitutional principles agreed upon through the negotiation process.

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The pre-determined mechanisms to break any deadlock in the Constituent Assembly should it fail to decide on a Constitution within a relatively short time-frame. In our view a short time-frame is essential in order to prevent our country from drifting in uncertainty and instability.

The NP government positions have been directed basically at subverting

the sovereignty of the Constituent Assembly, subjecting it to the veto of a second house and ensuring that a majority in the Constituent Assembly shall be able to frustrate an overwhelming majority.

The NP government's determination to impose a minority veto is also manifest in seeking to make interim government arrangements permanent. Our interim government proposals were fashioned so as to further address minority concerns in a way that would take our country into a democratic order. In our proposals for the transitional period we have further sought to address the concerns of the white people and of minority political parties. You persist in converting these proposals into entrenched constitutional arrangements. This constitutes another effort at destroying the sovereignty of the Constituent Assembly.

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The Government and Violence. .

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The negotiations crisis and the issue of violence, particularly with regard to the NP government's involvement in it, are inter-related and impact on each other. Our demands, emanating from the Emergency Session of the National Executive Committee meeting held on the 24th June 1992, are specific and pointed. They relate to the security forces and the police including the use of SADF detachments composed of foreign nationals. They also relate to

government's failure to implement agreements made almost a year with measures aimed at curbing the violence. i regard to

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The Boipatong massacre on the 17th June, 1992 is but a tragic culmination of the practices followed by the NP government. In this instance the wil cmoucees ect's the South African Police in relation to the KwaMadala hostel is extensively documented. Attached hereto is a letter and memorandum from Attomeys Nicholls, Cambanis, Koopasammy and Pillay dated the 23rd June, 1992 (marked annexure "Aâ\200\235) and addressed to Mr. Cyril Ramaphosa. Ministerial defences of the SAP and your government's failure to act against the KwaMadala hostel make :government collusion an inescapable conclusion.

It is your government which legalised the carrying of dangerous weapons under the pretext of their being cultural weapons in 1990. The fact that the majority of the deaths and injuries have been caused by these so-called â\200\230cultural weaponsâ\200\231 has not moved you to restore the ban on carrying them in public on all occasions. How do we explain the failure of such a formidable force such as the SAP to arrest people involved in the massacres?

In those few instances where security force personnel and police, or IFP members have been

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arrested, how do we explain the fact that inadequate police investigation is the basis for their acquittal, laughably light sentences and ridiculously low bail? You cannot but be aware of the judge's comment when he acquitted the 7 in the recent Sebokeng trial. How is it possible for you to ignore the observations of the judge and the evidence of the investigating officer in the Trust Feed massacre trial which showed extensive cover up, and the frustrating of investigations by numerous highly placed officers in the SAP? Recently the Minister of Police sought to obtain a Supreme Court injunction to prevent the Weekly Mail from publishing a report on the existence of a highly clandestine police network in the Southern Transvaal region. The report showed that such covert operation networks existed in 11 regions into which the Police have divided our country. Furthermore these covert operations were directed not against increasing criminal activities as alleged, but against activists and local leaders of the ANC and the democratic movement. Is the effort to obtain an injunction not proof enough that such covert operations are being carried out at the present moment? The evidence shows that either the NP government, even at its top most levels, sanctions such activities or that it is powerless to restrain the very forces it created.

At the root of the violence is apartheid and its legacy. All religions recognise that reconciliation requires confession and repentance. I have avoided imposing such requirements in the hope that you and your government would reach that recognition on your own.

We believe that your failure to acknowledge and recognise the centrality of apartheid with regard to the issue of violence can no longer be ignored. This is particularly so because the NP government persists in attributing the carnage in the black townships to black political rivalry.

In this regard the Second Interim Report of the Goldstone Commission provides a useful point of departure. This report notes that the causes of the violence are many and complicated. The report outlines a number of the causes without ordering them in terms of their relative importance. Many of the causes in that report can be categorised in terms of apartheid and its legacy.

The Goldstone Commission Report is unequivocal:

*The economic, social and political imbalances amongst the people of South Africa. These are the consequences of three centuries of racial discrimination and over 40 years of an extreme form of racial and economic dislocation in consequence of the policy of apartheid * (para 2.3.1. of the Report) ---

The Report is equally clear on the legacies of apartheid:

Â°A police force and army which, for many decades, have been the instruments of oppression by successive White governments in maintaining a society predicated upon racial discrimination...For many South Africans, the police and the army are not perceived as fair, objective or friendly institutions.â\200\235 (para 2 3 2.)

Â°A history over some years of State complicity in undercover activities, which include criminal_conduct....That and the well documented criminal conduct by individual members of the South African Police and the KwaZulu Police exacerbate the perception of so many South Africans that the Government or its agencies are active parties responsible for the violence.. Government has failed to take sufficiently firm steps to prevent criminal conduct by members of the security forces and the police and to ensure that the guilty are promptly and adequately punished * (para 2.3 7)

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The failure or refusal of the NP government, which is the sole architect and enforcer of apartheid, to acknowledge that apartheid and its legacy lie at the root of the violence is also inexcusable. You ignore the reality that the security forces and the police are the products of apartheid, have been trained in the ideology of apartheid, deployed in its defence, brutalised by that experience. and nurtured to see the ANC, its allied organisations and black people in

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general as THE ENEMY. You would have the public believe that such an army and police have undergone a Damascene conversion as a result of your Proclaiming that â\200\234apartheid is deadâ\200\231.

Recently the Goldstone Commission recommended that Battalion 32 which is made up of foreign nationals not be deployed in unrest areas. Yet on the 24th of June, 1992 the Chief of the Army, Lt. General George Meiring, arrogantly dismissed this recommendation by announcing that Battalion 32 will continue to be deployed in Black residential areas.

This basic failure by you and your government induces you to perceive the political rivalry between the Inkatha Freedom Party and the ANC the central cause of the violence. Once more you consciously turn a blind eye to the fact that your government used millions of rands of taxpayers money to foster such rivalry. The Inkathagate scandal stands as proof of your Complicity and bias in this regard. Your rendering military training to IFP-members at 4 number of bases is also abundant proof of your involvement. ;

Conclusion.

None of us can escape the gravity of the crisis facing our country. The point has been reached where your responses will be looked at by us to determine whether you are taking concrete measures to terminate forthwith the involvement of the NP government, the state security forces and the police in the violence. We draw your attention to the demands contained in the statement of the National Executive Committee of the ANC in this regard.

Similarly, specific measures are expected of you to make negotiations a bona fide exercise i

charting the way to a democratic South Africa, in particular that the future of our country shall

be determined by a popularly elected and sovereign Constituent Assembly.

Our demands are the minimum measures required of your government if it is to establish a

credible base for resolving the wnpasse our country has reached '

26th June 1992

Johannesburg.

ANNEXURE A

MEMORANDUM ON ATTEMPTS TO PREVENT THE BOIPATONG
MASSACRE

FROM: NICHOLLS, CAMBANIS, KOOPASAMMY & PILLAY

INTRODUCTION

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Since the Massacre on the Night Vigil in Sebokeng in January of 1991, where 38 people were killed, there have been ongoing incidents of violence in the Vaal Area.

These incidents are characterized by the fact that they are random insofar as they are directed against residents of the Vaal Townships in an indiscriminate manner. For example, numerous attacks by gun-wielding men have taken place at shebeens and stations where patrons and commuters are killed and injured indiscriminately.

During the course of 1991 and 1992 it became apparent that the perpetrators of these attacks were living in the Kwa-Madala Hostel situated in the ISCOR Compound in the Vaal Triangle. Pursuant thereto, efforts were made repeatedly to prevent violence emanating from the Kwa-Madala Hostel.

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The Boipatong Massacre could have been pre-empted if the South African Police, the ISCOR Management and the Goldstone Commission had acted immediately and effectively on receipt of the numerous representations to them about the Kwa-Madala Hostel and the danger it constitutes for the communities of Boipatong, Sharpeville and Sebokeng.

The South African Police have been negligent in failing to conduct effective investigations. After countless reports to them by the Vaal Council of Churches of ongoing abductions, kidnappings, rape, assaults, intimidation and murders connected to the Kwa-Madala Hostel.

- The Vaal Council of Churches, as recipients of complaints from victims of violence perpetrated by residents of the Kwa-Madala Hostel have consistently approached the local police to investigate the individual complaints about violence committed by Kwa-Madala residents. The

police's consistent response to the approaches for assistance and action by the Vaal Council

of Churches was that there was not sufficient evidence for them to respond. It is submitted that the police are equipped with investigative machinery and it is their responsibility to gather evidence on receipt of complaints. The Vaal Council of Churches as a result of their fieldwork, had concluded that a pattern of random incidents of violence linked to the Kwa-Madala Hostel had emerged in the Vaal. This was a matter of great concern to them. They believed that the

police would share their concern and would accordingly launch and conduct a thorough investigation into the activities of the Kwa-Madala residents

The Vaal Council of Churches have consistently, since early 1991, attempted to elicit the assistance of the police. The police have consistently failed to respond to the complaints and have neither conducted effective investigations nor ensured that the perpetrators of the violence

arrested and charged. The police also failed to act timeously to prevent attacks by Kwa-

residents. It is submitted, and it will be shown in this memorandum that a failure to

ignore the multitude of complaints about violence and intimidation perpetrated from the Kwa-Madala Hostel constituted acts of extreme negligence on the part of the South African Police.

In addition numerous representations were made to the ISCOR Management to ask them to act decisively to ensure that they were not housing perpetrators of violence in the Kwa-Madala

Hostel. Again the Vaal Council of Churches repeatedly approached the ISCOR Management on receipt of complaints from victims of violence perpetrated by Kwa-Madala residents. While

the ISCOR Management initially appeared to accept the representations that the Kwa-Madala

Hostel constituted a threat to the safety of residents of the Boipatong, Sharpeville and

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Sebokeng Communities, they subsequently denied and rejected the submissions of the Vaal Council of Churches that acts of violence were planned and executed from the Kwa-Madala Hostel.

It is perplexing that the ISCOR Management, despite reports of numerous incidents of

violence perpetrated by residents of the Kwa-Madala Hostel, adopted this attitude. It is

submitted that the Boipatong Massacre could have been prevented if the ISCOR Management had shown due concern to the ongoing requests for the Kwa-Madala to be closed, for the ISCOR workers living there to be integrated into the other ISCOR Hostel, the Kwa-Masiza, and

for the remaining residents of the Kwa-Madala Hostel, believed to be the perpetrators of the

violence, to be arrested and charged. Moreover

In the face of the negligence of the South African Police and the reluctance of the ISCOR Management, an approach was made to the Commission for the Prevention of Public Violence

and Intimidation (The Goldstone Commission) to inquire into the violence emanating from the

Kwa-Madala Hostel and to take steps to prevent further violence. The Commission

was asked to inquire into the violence emanating from the Kwa-Madala Hostel and oversee the issues arising from this process. After the initial submissions, the violence in the Vaal escalated and the

Commission was asked to act urgently to prevent further deaths.

However, after a preliminary hearing, the Commission decided that it would not appoint a

Committee to inquire into the violence emanating from the Kwa-Madala. It is submitted that the decision to ignore this request is regrettable. Moreover, it is believed that the Goldstone

Commission had been in a position to convene a procedure to deal with the suggestion for the closure of the Kwa-Madala Hostel, the recent massacre could have been pre-empted. This process could have been speedily implemented and facilitated. It is submitted that if the legislation framing the Commission and the mechanisms provided there could not an such a process, then recommendations for amendments to the legislation should be made. ft

Following hereto are details of the efforts which have been made to prevent the violence emanating from the Kwa-Madala Hostel. Initials have been used at the request of the individuals concerned,, who desire that their identities be withheld. t' â\200\231

HISTORY

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Fieldworkers for the South African Council of Churches (SACC) (Vaal Region), Rev. Peter Moerane and the late Saul Tsotetsi, since early 1991 have repeatedly made attempts to bring to the attention of the South African Police and the ISCOR management that the Kwa-Madala Hostel has been a base from which attacks against residents of Boipatong, Bopelong, Sebokeng and Sharpsville have been perpetrated.

In the first half of 1991, the fieldworkers, pursuant to numerous reports that residents of the Kwa-Mazisa Hostel had been abducted by residents of the Kwa-Madale Hostel, met with the District Commander of Police and with Col. Steyn of the Security Branch in order to bring to their attention that the activities of the residents of the Kwa-Madala Hostel constituted a threat and danger for the communities surrounding the hostel

The meeting was requested by the fieldworkers, in order to explain to the police that consequent to their fieldwork, they had perceived that people residing at Kwa-Madala Hostel

had been responsible for numerous acts of public violence and intimidation in the Vaal Triangle in the preceding months. t

At the meeting they outlined the incidents of violence and requested that the police undertake an immediate investigation into the unlawful activities of the residents of Kwa-Madala Hostel and take action to prevent further violence. i

The fieldworkers were of the view that they had not been able to convince the police of the dangers for the community relating to the activities of the residents of the Kwa-Madala Hostel

and they held a joint press conference with -COSATU. They felt that the holding of a press conference exposing the activities of the residents of the Kwa-Madala Hostel would exert pressure on the police to investigate and to take action to protect the workers of the Kwa-Mazisa Hostel, as well as the residents of the surrounding townships.

After the meeting with the police in June 1991, attacks in the area continued to take place. The incidents of violence linked to the Kwa-Madala Hostel included:

a. During the last week of June and the first week of July 1991, a group of men went a number of times to the house of Ernest Sotsu, an executive member of the Boipatong Branch of the African National Congress (ANC). They informed Mr. Sotsu's family that he should report to them at the Kwa-Madala Hostel and threatened that should he fail to do so, they would take drastic action.

On the 3rd July 1991, an attack was carried out on his house and his wife, daughter and grandson were killed and two grandchildren were injured.

On or about the 7th July 1991, an attack took place at the Erica Tavern in Zone 7, Sebokeng. Two residents of the Kwa-Madala hostel were arrested for this attack.

The fieldworkers of the SACC continued to receive reports from the residents of Boipatong, Sharpville and Sebokeng of violence and intimidation perpetrated by residents of the Kwa-Madala Hostel. In addition to approaching the police to intervene to protect the residents of the townships, they decided to approach the Iscor Management.

On the 15th August 1991, Rev. Moerane accompanied a delegation of women from the Boipatong township to Mr. Viljoen, a manager of ISCOR. The delegation handed to him a letter wherein they stated that they believed that the perpetrators of numerous incidents in the Vaal were residing in the Kwa-Madala Hostel. They further stated as follows:

"We want to know why are you insensitive to the use of the Kwa-Madala as a base for dangerous weapons and attacks on human life?"

They requested that ISCOR stop housing "enemies of peace and life".

ISCOR responded in a letter wherein they denied that violence is executed from the Kwa-Madala Hostel. They stated that "all allegations had been thoroughly investigated by ISCOR and no evidence could be found to convince management that the Kwa-Madala Hostel should be managed differently to that of ISCOR's other hostel, Kwa-Mazisa".

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They, however, proposed a meeting to "exchange further information and clarify our respective positions". :

On or about the 24th September 1991 the fieldworkers met with the ISCOR Management and attempted to establish a monitoring committee with them. However, this process subsequently

broke down.

On or about the 25th September 1991, the SADF attempted to enter the Kwa-Madala Hostel in response to various complaints about the activities of the residents. The SADF members were shot at with AK 47 weapons by the residents of Kwa-Madala. The SADF thereafter shot

and killed 5 residents of Kwa-Madala.

The fieldworkers of the Vaal Council of Churches continued to receive reports of public violence and intimidation perpetrated by residents of the Kwa-Madala Hostel, including:

a. The abduction of J.M. and Sipho Mthimkulu on the 17th October 1991 by residents of the Kwa-Madala Hostel. They were taken to the hostel and held there against their will for two weeks;

On the 29th November 1991, P.H. and Sipho Mazibuko were abducted and taken to the Kwa-Madala Hostel. P.H. was severely assaulted before he was released. He identified Sipho's body at the mortuary the following day; :

On or about the 8th December 1991 a number of young girls were, abducted by residents of the Kwa-Madala Hostel. They were held at the Hostel against their will and taped repeatedly.

During the period July to December 1991 and in response to the ongoing reports of violence received, the fieldworkers met with the Divisional Commissioner of Police in Vereeniging on at least four occasions.

They repeatedly raised their concerns that public violence and intimidation against residents of Boipatong, Sharpville and Sebokeng emanate from the Kwa-Madala Hostel. The fieldworkers reported that the response of the police at these meetings was that there was insufficient evidence for them to take action.

On the 8th January 1992, and pursuant to reports of further abductions of residents of the townships to the Kwa-Madala Hostel, the fieldworkers and the General-Secretary of the Vaal Council of Churches met with Capt. de Klerk and Col. Steyn of the former Security Branch in Vereeniging. They requested the assistance of the police in securing the release of people being held against their will at the Kwa-Madala Hostel.

In the week subsequent to this meeting, the police stated to the fieldworkers and to the attorneys acting for the Vaal Council of Churches that there were legal constraints preventing them from raiding the Kwa-Madala Hostel. Col. Steyn informed attorneys Nicholls, Cambaris, Koopasammy and Pillay that the evidence provided by the Vaal Council of Churches was not concrete enough for them to take action against the Kwa-Madala Hostel.

The request was made repeatedly between the 9th January and the 15th January 1992 to the police to investigate the allegations of abductions. On the 16th January 1992 Saul Tsotsetsi was informed by the police that they had raided the Kwa-Madala Hostel, but had not discovered anyone being held against their will at the Kwa-Madala Hostel.

The fieldworkers continued to receive reports of incidents of violence during January and February 1992:

a. On the 12th February 1992 a young boy reported to the fieldworkers that he had forcibly been taken from the Mark Park Shopping Centre in Vereeniging by residents of the Kwa-Madala Hostel. He, however, escaped.

On the 21st February 1992 an attack took place at the Ha-hlo-ho-ya-peye Tavern in Sharpville. Five people were killed by the gunshots and several others injured. The survivors informed the fieldworkers that one of the perpetrators was recognised as a resident of the Kwa-Madala Hostel.

On the 15th March 1992, an attack took place at Chiefs Place Tavern in Sharpeville. Two women were killed and several injured. One of the perpetrators of the attack was injured by one of his colleagues by accident. He has stated on affidavit as follows:

"I am able to live at the Kwa-Madala Hostel without charge. I am unemployed, as are several of the other residents of the hostel. We are supported by those residents who are employed. In addition, we receive food parcels from the International Red Cross every two weeks. We also robbed people in town. We, as a group, approached individuals and threatened them so that they gave us money.

Although the Kwa-Madala Hostel is owned by Iscor, only some of the residents work at Iscor. Some work at other factories and, as mentioned above, the rest are unemployed.

All the residents of the Kwa-Madala Hostel are members of the Inked... 1 *cedom Party. Amongst the residents there are individuals whom are leaders of the Inkatha Freedom Party. Amongst them is one, Buthelezi.

A system exists at the Kwa-Madala Hostel whereby each resident becomes part of a unit. I was placed in a unit consisting of four members"

I was trained in the use of weapons by Buthelezi"

Every resident is trained in the use of weapons.

I am aware that other members of other units were also trained in the use of weapons.

I have seen many arms and ammunition stored at the Kwa-Madala Hostel. Meetings were held every Tuesday and Thursday. At these meetings, we were informed when new weapons had arrived.

The arms are brought by members of the Inkatha Freedom Party, who arrive at the hostel from Natal. I have seen them arrive with AK 47's and spears with poisoned tips.

Some of those who arrive come to the area to work. However, others come to carry out missions and attacks in the local township. Others come to bring arms and then leave

During the four months that I have lived at the Kwa-Madala Hostel, I have seen units being sent out on missions. However, I have not known exactly where they have been sent to or what missions they have carried out.

On the 15th March 1992, my unit was instructed by Buthelezi to go to Sharpville Township for the following purpose: :

i. to attack comrades who had been responsible for the killing of an Inkatha member, one Tlholah;

to attack two taverns, namely, Chief's Place and the Philadelphia Tavern. We were instructed to kill people there because it is known that comrades drink there.

We were also informed that a secondary purpose to our mission was to assist in the attack of comrades for the purpose of Inkatha regaining entry to the townships.

We were given arms by Buthelezi. We were given two rifles amongst the four of us. I was not myself carrying a rifle.

I moved with N. He was carrying a rifle.

Between 8 and 9p.m and at or near Phomolong Section in Sharpville, we saw a group of comrades. Amongst them was one comrade known to me as Ntopia. My partner opened fire and Ntopia was struck.

We formed two groups. Two stayed on the ground and myself and my partner went forward to shoot. Thereafter, we moved to Chiefs Tavern. K was shooting at people in the tavern and the gun jerked and that was when I was hit. I was carrying a rifle at Chiefs Tavern. N gave me the rifle.

As far as I am aware our second mission at the Philadelphia Tavern was not carried out after I was struck and injured".

In light of the evidence from Mr. X of a military style operation being conducted from the Kwa-Madala Hostel, the fieldworkers became all the more anxious for action to be taken. Their requests to the police and the SCOR Management had been unsuccessful. Thus in March 1992, the fieldworkers instructed attorneys Nicholls, Cambanis, Koopasammy and Pillay to approach the Commission for the Prevention of Public Violence and Intimidation (The Goldstone Commission) to request that the Commission inquire into the causes of violence

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intimidation in the Vaal and recommend steps for the prevention thereof. Affidavits and Documents were submitted to the Commission on their behalf, which documents included a request to the Commission to take urgent steps to prevent further violence from the Kwa-Madala Hostel.

On the 3rd April 1992, Adv. J J du Toit and a Colonel from the Commission met with Mr. X, to hear his evidence of the activities at the Kwa-Madala Hostel. Lawyers acting for the Vaal Council of Churches requested that the Commission urgently convene a meeting of representatives of ISCOR, the SAP, the residents of Kwa-Madala Hostel and residents of the townships to discuss the closure of the Hostel and the reintegration of residents of the Kwa-Madala Hostel into the Kwa-Masiza Hostel and the surrounding townships.

On the 17th April 1992, two young men were kidnapped in Zone 7, Sebokeng by residents of the Kwa-Madala Hostel. Their corpses were identified by their families at the Vereeniging Mortuary on the 19th April 1992.

In the early hours of the 19th April 1992, eight members of the Lefeidi family were killed at their home at Vergenoeg in Sharpsville. In the affidavit of a survivor of the attack, it is averred that the perpetrators of the attack indicated that they were from the Kwa-Madala Hostel.

Attorneys acting for the Vaal Council of Churches forwarded the affidavits detailing the above events to the Commission with a request for urgent assistance in resolving and ending the violence surrounding and connected with the Kwa-Madala Hostel. The request stated that the fieldworkers believed that any further delay would lead to an escalation of the violence and to further deaths.

The police were also approached and the affidavits were forwarded to them.

On the 24th April 1992, attorneys acting for the Vaal Council of Churches were approached telephonically by an Advocate from the Commission with a proposal that the Commission combine an inquiry in respect of the Vaal, Alexander and Soweto. The attorneys agreed with the proposal but referred the Commission to the discussion on the 3rd April 1992 with the Advocate where it had been stated that steps to prevent violence in the Vaal could be taken almost immediately. It was further communicated that the Vaal Council of Churches was concerned that the implementation of steps to prevent further violence in the Vaal be done as soon as possible.

On the 5th May 1992, a preliminary inquiry into violence in the Vaal, Alexander and Soweto was convened by the Commission.

The Vaal Council of Churches submitted an overview of the Violence in the Vaal to the Commission. The following submissions were made in respect of the Kwa-Madala Hostel.

We are of the view that the Kwa-Madala Hostel is central to the reign of violence in the Vaal area. We request that the Commission inquire into the assertion made by Mr. X that the Hostel is organised and run as a military style camp from where violent missions are

launched.

Myself and my colleagues at the S.A.C.C. believe that the steps to be taken to prevent further violence is the closure of the Kwa-Madala Hostel. We request that the Commission inquire into the process and mechanism for such a closure. We understand that the process will require extensive discussions with the respective parties.

We also request the Commission to assist in ensuring that the perpetrators of the violence be

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charged and brought to trial. This is particularly urgent in relation to perpetrators who have been identified as having been involved repeatedly in attacks.

We also request the Commission to inquire into whether the police are empowered to conduct raids of the hostel on receipt of information regarding unlawful activities of residents of the hostel and to advise the police in relation thereto. Should the Commission find that in terms of current Legislation the police are not so empowered, we request that the Commission recommend to the State President that Legislation be passed empowering the police to conduct such raids of the hostels".

I believe that residents of Sharpville, Sebokeng and Boipatong have been looking to the Commission for a remedy for the end of the violence, since our initial request to the Commission in March 1992. I am fearful that any further delay will result in the loss of more lives".

On the 13th May 1992, the Commission issued a press release wherein they stated that a mission of Inquiry would be established with the following terms of reference:

- a. To establish the circumstances in which people may have been forced by violence or intimidation to vacate homes or hostels in Alexandra Township, the Greater Soweto Area and the Vaal Triangle;
- b. To establish the names and present whereabouts of such persons;
- c. To establish whether persons have acquired occupation of homes or places in hostels in those areas in consequence of violence or intimidation and, if so, the circumstances in which they have come to do so;
- d. To consider practical and effective ways and means of placing the persons referred to in (a) and (b) back into possession of their homes or places in hostels;
- e. To consider whether the persons referred to in (a) and (b) are legally or morally entitled to compensation for damages suffered by them by reason of the foregoing circumstances and, if so:
 - i. the amounts thereof; and
 - ii. appropriate sources of funding such compensation,

& To consider steps which should be taken to ensure the safety of persons in the position of these" referred to in (a) and (b) and of their property.

On perusal of the terms of reference, the Vaal Council of Churches were concerned that the terms of Reference of the Commission which had been established would not necessarily include an inquiry into the danger for the Community emanating from the Kwa-Madala Hostel.

They therefore submitted to the Commission that in their view, the problem of displacement is a secondary issue in the Vaal and that the central issue is the violence carried out fr

om the
Kwa-Madala Hostel. They urged the Commission to take account of the safety of persons who
are victims of violence, but are not displaced persons.

At a further meeting of the Commission on the 27th May 1992, the Vaal Council of Churches
again placed on record that they were concerned that the terms of inquiry would not include
the question of the safety of victims of violence perpetrated by residents of the Kwa-Madala
Hostel.

The Vaal Council of Churches are of the view that the closure of the Kwa-Madala Hostel is

essential to bring peace to the area. In this regard, they have consistently sought the assistance of the police, ISCOR Management and the Goldstone Commission. They, on

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numerous occasions, expressed the need for an urgent response to their ongoing representations to the abovementioned parties. They believe an urgent response would have
prevented the massacre which occurred in Boipatong on the 17th and 18th June 1992.

The Vaal Council of Churches noted that the Interim Report of the Goldstone Commission recommended that all hostels should immediately be adequately and securely fenced and that
a strong and efficient police presence should ensure that no arms are taken in or out of the
hostels. The Vaal Council of Churches are aware that this recommendation was submitted to
the State President a considerable time ago. Once again, if there had been an urgent response
to this recommendation, the massacre at Boipatong would have been prevented.

The closure of the Hostel however remains a priority.
The State President should act immediately and effectively in taking steps to achieve this.

The arrest and charging of the perpetrators of the massacre and of the other incidents of
violence is also a priority and the State President must ensure that all efforts are concentrated
thereon.

DATED at JOHANNESBURG on this the 23rd day of JUNE 1992.

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ANNEXURE B

STATEMENT OF THE EMERGENCY MEETING OF THE NATIONAL EXECUTIVE COMMITTEE OF THE ANC 23 JUNE, 1992

The National Party regime of FW de Klerk has brought our country to the brink of disaster. Riddled with corruption and mismanagement, the regime is determined to block any advance to democracy. It pursues a strategy which embraces negotiations, together with systematic covert actions, including murder, involving its security forces and surrogates. This subversion of political processes to destroy the democratic movement in South Africa led by the ANC cannot be allowed to prevail any longer.

We cannot tolerate a situation where the regime's control of state power allows it the space to deny and cover up its role in fostering and fomenting violence.

The Boipatong massacre is one of the most chilling instances of the consequences of the actions of the FW De Klerk regime. Before the people of South Africa and the bar of international opinion it cannot escape culpability.

What is at issue is more than the crisis of the negotiations process. The fundamental reason for the deadlock is whether there is to be democratic change, or white minority veto powers. There is only one way forward. It is a road which must unmistakably and unequivocally lead to the establishment of a democratic South Africa.

To this end it is necessary that the De Klerk regime agrees to:

The creation of a democratically elected and sovereign Constituent Assembly to draft and adopt a new constitution; and .

The establishment of an Interim Government of National Unity which is the only way all South Africans will recognise that the country shall have moved decisively to end white minority rule.

Demands on the Regime

The regime must immediately end its campaign of terror against the people and the democratic movement. In this regard it must immediately carry out the following measures:

Terminate all covert operations including hit squad activity

Disarm, disband and confine to barracks all special forces as well as detachments made up of foreign nationals.

Suspend and prosecute all officers and security force personnel involved in the violence.

Ensure that all repression in some of the self-governing states, and in the so-called independent states, is ended forthwith.

Our people are compelled to live in a perpetual state of fear - be it in their homes, on their way to work, in trains and taxis, at funerals and vigils, at their places of work and entertainment.

This is the stark reality. Between July 1990 and April 1992 there have been 261 attacks on township residents by hostels, which led to 1,207 deaths and 3,697 injuries.

We further demand that the regime implements agreements on curbing violence reached with the ANC almost a year ago. In particular:

The immediate implementation of the programme to phase out the hostels and convert them into family unit accommodation.

Installation of fences around these establishments

Guarding of these hostels by security forces on a permanent basis, monitored by multi-lateral peace structures, and the expulsion of those who occupy the hostels illegally

Regular searches of hostels with the participation of multi-lateral peace structures

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Banning the carrying of all dangerous weapons in public on all occasions, including so-called cultural weapons. *

We insist that the regime agree to: Hg

The implementation of the universal demand requiring at least the establishment of an International Commission of Inquiry into the Boipatong Massacre and all acts of violence as well as international monitoring of the violence.

Release all political prisoners forthwith

Repeal all repressive legislation, including those laws which were so hastily passed during the last days of the recent session of parliament.

Call to the People of South Africa

The crisis caused by the regime constitutes a challenge to all South Africans to unite in a broad movement for democracy, peace and justice now. We all, black and white together, share the responsibility to stop the regime from plunging our country into chaos and anarchy. The ANC shall consult all formations with a view to holding a summit to unite and mobilise our people against continued white minority rule and for democracy. Unity and disciplined struggle remain the surest basis for realising peace and stability.

We call on the entire people of our country, including the business community, to join in observing 29 June as a National Day of Mourning and solidarity with the victims of the Boipatong massacre as the dead are buried.

Appeal to the International Community

The National Party regime is acting in contempt of the wishes of the international community for a speedy end to apartheid.

Now, more than ever, the international community is required to compel the De Klerk regime to bring violence to an end and to commit itself to solutions based on internationally accepted

democratic
principles.

In consultation with sporting bodies, we shall be reviewing the forthcoming international sports engagements involving South Africa.

We appeal to the United Nations Security Council to convene as a matter of urgency to undertake measures which will help stop the violence and reinforce our efforts aimed at bringing about a democratic order.

We call on the international community to act in solidarity with our people on the day of the funeral for the victims of the Boipatong massacre, June 29. In particular we appeal to all workers throughout the world not to handle South African cars and goods on this day.

On Negotiations

The ANC reaffirms its commitment to a negotiated resolution of the conflict in our country which would

bring about democracy, peace and justice. The refusal of the regime to accept such a settlement compelled the NEC to review the current negotiations process.

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: val play a critical role in determining the direction and speed with which bona fide
can take place.
taken today will be conveyed to the regime by ANC Preside!

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Die Sicatspredidert â\200\230
The State President -

Pretoria

2 July 1992

To: Mr Nelson Mandela
President of the African National Congress

Dear Mr Mandela

I acknowledge receipt of your memorandum dated 26 June 1992. However, an exchange of memoranda is no substitute for face-to-face talks. I was therefore disappointed that you did not accept my invitation to immediate discussions. Every day that is lost will make the resumption of the process more difficult and may lead to the loss of further lives.

Annexures A-F contain observations relevant to issues raised in your memorandum and elaborations on issues dealt with in this letter. | There are however a number of fundamental issues which need to be addressed urgently at a meeting between us.

I, VIOLENCE

Contrary to the ANCâ\200\231s accusations, the Government has not, and will not plan, conduct, orchestrate or sponsor violence in any form whatsoever gaihst any political organisation or community. The lie that the Government is sponsoring and promoting violence remains a lie no matter how often it is repeated. Where

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elements in state structures err in this regard, the Government will not hesitate to take appropriate measures. There are prosecutions and convictions on record to prove this.

The second interim report of the Goldstone Commission showed that the causes of violence are numerous and complicated. The fact remains that most political violence occurs between supporters of the ANC and the IFP. This question must therefore be urgently addressed by the leaders of the ANC and the IFP, and by the Government, in view of its responsibility for the maintenance of order. I therefore propose that you, Dr Buthelezi and I meet as soon as possible for this purpose. The agenda for this meeting could be to consider:

an active full-time monitoring mechanism on the adequacy, efficacy and performance of all the instruments and processes already in place to combat violence and intimidation; and

the advisability of a joint monitoring body through which the three parties could act to defuse and solve problems that could give rise to violence. The role of the international community in an observer capacity could be considered, especially in relation to this item.

THE ANC'S PROGRAMME OF MASS MOBILISATION

The South African Government acknowledges the right of peaceful demonstration and protest as important civil liberties. However, the ANC Alliance's campaign of mass mobilisation, owing to its nature and aims, poses serious threats to the stability and safety of the whole of South African society, particularly in the current volatile climate.

Furthermore, the use of this kind of mass mobilisation to make and impose demands in the negotiation process is just as unacceptable as the use of violence for this purpose. Our information indicates that the SACP and COSATU have played a dominant role in redirecting the ANC from negotiations to the politics of demands and confrontation which are inherent in mass mobilisation.

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Insurrectionist thinking is currently flourishing within the ANC and is propagated by a cabal with close links to the SACP and COSATU. These elements undermine the attempts of many ANC realists to negotiate and also induce within the ANC the spirit of radicalism and an insurrectionist school, which was evident at the SACP's 8th congress in 1994.

The ANC/SACP have been trying to create the impression that the South African Government are the only adversaries. This is patently wrong since there are numerous players on the South African political scene each with an own identity but opposed to ANC/SACP policies and the ANC's rhetoric; been radicalised and is now virtually indistinguishable from that of the SACP, and so are the ultra-radicalised polarisation politics conducted. In recent days this rhetoric has degenerated into

violence and hatred at grass-roots level.

be able to control. This will, in turn, make extended government unavoidable. The programme of mass mobilisation, in prevailing

circumstances, will inevitably:

lead to further violence;

delay the search for democratic solutions; and

damage the economy, on which all South Africans depend; and

seriously disrupt social services to the detriment of those in need of

medical care, protection, support and education.

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The Government does not seek confrontation and has repeatedly stated its belief that negotiations present the aply viable option for the solution of our iproblems. However, it will not hesitate to take all steps necessary to pr the country from sliding into anarchy. Any change of government must come about in a negotiated constitutional manner. The stated ultimate goal of the â\200\234ANCâ\200\231s mass

mobilisation campaign is the overthrow the Government by coercign. This will

not be countenanced.

THE ANC'S ABORTING OF THE NEGOTIATION PROCESS

You say that you have withdrawn from the negotiating process because of the Government's involvement in violence and its lack of commitment to genuine democracy in the negotiating process.

Your allegations about Government involvement in violence have already been dealt with.

With regard to your allegations concerning the Government's commitment to genuine democracy, I should like to refer you to the substantial agreements already reached in the Working Groups of Codesa. The fundamental difference between the approach of the ANC and that of the Government regarding the purpose of negotiations lies, on the one hand, in our commitment to constitutionality and a transitional government as soon as possible; and on the other hand, in the ANC's insistence on an unstructured and immediate transfer of

power before a proper Transitional Constitution is negotiated.

Even after Codesa 2, our approach to transitional arrangements was again explained to ANC representatives. Our proposals are in line with universally accepted democratic principles. A summary of our approach can be found in Annexure "F", and in Annexure "B" allegations that the Government is clinging

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to power are conclusively refuted.

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Once again, the remaining differences between the ANC, the Government and the other political parties on key constitutional questions make multi-party negotiations more - and not less - imperative.

ANC "DEMANDS"

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In our view what you are presenting as demands are issues that are being tailored by the ANC to support its programme of mass mobilisation and to justify the abortion of the negotiation process. All these issues could have been suitably discussed at the negotiation table and it is imperative that such discussions do take place to remove any misconceptions and misunderstanding. It should be recorded that some of these have already been dealt with by way of agreements, or have been dealt with by governmental measures. Annexure "E" contains observations in this respect.

However we would like to comment in particular on the hostels and dangerous weapons.

The problems relating to the hostels have been the focus of much concern and attention, but, as you are aware, it is an extremely complex situation and although extensive deliberations and consultations have already taken place, much work remains to be done. This is therefore an issue that we would like to be given particular attention at our proposed meeting.

As regards dangerous weapons, weaponry and explosives measures have been taken and adopted regarding the carrying and possession thereof. These measures will be strictly enforced. Further regulations about the possession and carrying of dangerous weapons are currently under consideration.

The carrying and possession of dangerous weapons should receive attention when we meet, but particular attention must be given to the implementation of measures relating to the illegal possession of firearms and explosives, and the introduction of such weapons into the country. The AK47 has become the symbol of political and criminal violence and firearms are the weapons mainly used to kill political opponents and to perpetrate criminal violence. Ways and

means must be found to ensure that this problem is resolved and we must discuss this issue when the leaders of the Government, the ANC and the IFP meet. Until now this question has been dealt with bilaterally, but it has become such an

integral part of the problem of violence that it can no longer remain solely on a bilateral agenda.

ANNEXURE A

I reiterate the Government's commitment to peaceful negotiations as the only way to

bring us to a new democratic constitution as soon as possible. I repeat my proposal that THE CURRENT INFLUENCE OF MARXISM-LENINISM WITHIN THE ANC

* we should meet urgently for fundamental discussions, especially on the abovementioned

ne four issues. ; a Wes

Despite initiatives to become more independent, the SACP still has a close relationship with the ANC, which not only enables its members to constantly influence ANC strategy, but creates a climate conducive to radical and militant thinking during a phase in which negotiation and reconciliation should be a priority. In fact, the SACP lends so much support to initiatives to influence and even transform the ANC, that it seems that its independent profile serves only to draw attention away from its primary revolutionary strategising role within the ANC.

It is clear that the SACP, COSATU and individuals within the ANC still pursue

FWDE KLERK outdated tactical communist doctrines and objectives. The question arises whether the ANC is not becoming a captive of these forces. The SACP

furthermore still regards a socialist system as only a necessary phase towards

realising an eventual communist system. It should be obvious that these

objectives and the prominent position of their proponents within the ANC cast

doubt on the real character of the ANC. r

There can be no doubt that both the SACP and COSATU were, in their individual and collective capacity, instrumental in a number of recent crucial ANC decisions regarding the negotiation process. These decisions followed intense deliberations between SACP and COSATU members and were clearly the result of specific guidelines drawn up by the SACP/COSATU! The following examples are relevant in this regard:

The ANC's decision to implement a programme of mass action in order to force the Government to meet certain bottom lines and/or to transfer

power to the ANC.

The ANC's attempts to deadlock Codesa.

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s The ANC's decision to suspend negotiations nobienhsuladiog Opposition within both the NEC and the so-called Codesa PF.

As South Africa moves towards a new democratic order, the strategy and policy of various revolutionaries within the ANC Alliance are increasingly in conflict with internationally accepted norms. For example, to regard negotiation in principle as a "terrain of struggle" undermines the essence of the concept itself.

In the final instance it gives rise to concern that the ANC allows these influences to flourish when these forces are already committed to extra-parliamentary struggle against the new dispensation that the ANC is propagating. [This extraordinary approach underlines the fact that revolutionary ethics generally overrule all other principles, and are therefore incompatible

with democracy.

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â\200\231 ANNEXURE B

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PERCEPTIONS REGARDING THE NEGOTIATION PROCESS

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When the process of negotiation was initiated by the Government, it was clearly stated that its aim was to extend democracy to the whole of the South African nation. It was also made clear that a fundamental and sincere policy decision had been taken by the governing National Party, fully endorsed by its supporters and many others, to remove racial discrimination, to abolish apartheid and to be instrumental in the establishment of a constitutional state in the new South

Africa in which all citizens would be equal and justice would reign supreme.

This approach will require a restructuring of government and society on an immense scale. Hardly any sphere of life, any element of administration or any aspect of politics has been or will be left untouched by the processes of constitutional change. It would therefore be irresponsible to advocate less than an orderly, albeit urgent, process of transition from present structures, administrations, politics and processes to those of a responsibly negotiated new dispensation. That is why, as a first priority, the Codesa negotiation process focused on transitional arrangements whereby those not now represented in

government could become involved.

The ANC, on the other hand, has been advocating a sudden plunge, virtually without preparation, into simple majoritarianism. The Government responsibly insists upon the replacement of the present dispensation with a fully functional and comprehensive Transitional Constitution providing for proper curbs on the misuse of power during the sensitive period of transition to an eventual constitution. It appears that the ANC wants to avoid proper checks and balances on a "Constituent Assembly", which, according to a fair construction of the ANC's views, will function in a constitutional void after the destruction

of the present dispensation. To accede to such a demand founded on revolutionary thinking would be irresponsible on the part of the Government. The unreasonableness of the ANC in this regard is the real obstacle to progress in constitutional negotiations. Further negotiation on the details of a transitional

dispensation with the purpose of extending democracy to all South Africans and

to bring social and economic stability to the nation, must be the priority of negotiating parties having the well being of all South Africans at heart,

Given the initiatives that the Government has taken over the past years and the structures created, financed and managed for the purposes of sober negotiation and the restoration of social peace, it is invidious and entirely unconvincing to accuse us of attempting to cling to power in an undemocratic manner. After all, we express our proposals for a transitional dispensation in terms of power sharing and fully accept that such political parties as may be capable of demonstrating substantial support in a democratic election, must not merely be present in the decision-making processes, but must also have meaningful

influence under a transitional constitution,

The progress that was made in the various working groups of Codesa is indeed impressive even in summary. Key elements of agreements which were endorsed

by the ANC negotiators as well, include the following:

"A climate for free political participation is an essential element of the transitional phase towards and in a democratic South Africa" (Working

Group | Report, par 6.1.2.1)

Political intimidation must be terminated. This means "any action or set of actions committed by any ... organisation ... that is designed by the use or the threat of use of force or violence to disrupt or interfere with the legal rights of an individual, inter alia... the right of freedom of

movement." (Working Group | Report, par 7.2)

A reaffirmation of the National Peace Accord, (Working Group | Report, par 10)

"Political parties and organisations should have fair access to public facilities and venues without discrimination". (Working Group. | Report, par 14)

Codesa should draw up a transitional constitution, (Working Group 2

Steering Committee Proposal of 13 May 1992)

The Transitional Constitution should provide for a bicameral Parliament elected by universal adult suffrage, proportional representation being the basis for the election of one Chamber; a multi-party executive; the separation of the legislative, executive and judicial powers; a justiciable Charter of Fundamental Rights and the establishment of the boundaries, powers, duties and functions of a regional government structure and its entrenchment in the Transitional Constitution. , (Working Group 2 Steering Committee Proposal of 13 May 1992)

The establishment and detailed structuring of a Transitional Executive Structure for the purposes of preparing the ground for the institution of a transitional dispensation was fully agreed upon by Working Group 3.

The principle of and some details concerning the re-incorporation of the TBVC states was agreed upon by Working Group 4.

The Government at all times made it clear that it was willing and eager to support and promote progress in the negotiation process, whereas the ANC has lately derailed Codesa 2, reintroduced "mass action" to a tense and suffering society as a form of struggle, and is now making demands in a threatening manner apparently in order to coerce the Government into irresponsible

concessions that could not be negotiated with the parties in Codesa. a

An honest analysis of the events leading to the present impasse makes it clear that the ANC is responsible for obstructing the negotiation process, which was progressing extremely well until shortly before Codesa 2. It would appear that the ANC found shortly before Codesa 2, that such progress did not serve its political purposes, and therefore insisted upon driving Working -Grpup; 2 to a point where agreement to its proposals or none at all in the whole of Codesa was demanded. The ANCâ\200\231s perception, it would seem, was that its purpose of an unqualified take-over of power would not be served by the reasonable

agreements in Codesa that were ready to be sealed.

The Government tirmly believes in democracy. We maintain that democracy entails universal adult suffrage and majority decision-making procedures.

However, to suggest as the ANC does, that simple majority decision-making is the sole essential feature of modern democracy, is over-extending the notion. A far more fundamental feature of modern democratic states is the extent to which all citizens enjoy meaningful participation and fair representation in government institutions.

It is not democratic to attempt to deny meaningful political segments of society access to assemblies tasked with the determination of their future. Furthermore the Government does not accept the ANC's reduction of South African politics to a battle between Black and White. This reduction ironically exposes the

ANC's approach to be founded upon outdated racial considerations.

The perception that the road to democracy is simple, is a dangerous one. The approach that mere majoritarianism is sufficient will not bring peace to our land. It is the Government's opinion that participation and representation, and not majority domination, however structured, are the building blocks of a democratic future. In a country whose human wealth lies precisely in the diversity of its population, the exclusion of significant minority political parties from decision-making regarding a matter as fundamental as the terms of a future

constitution would be courting disaster.

Modern democracy goes beyond the mere identification of the majority: it is equally concerned with the protection of minorities against possible excesses of the majority. Universally acknowledged constitutional mechanisms like bicameralism, regional autonomy (federalism), effective proportional participation in government by all significant parties and enforceable and justiciable fundamental rights entrenched in the constitution, serve precisely the purpose of curbing majority domination. It is significant that the Government has been advocating these and the other elements of the constitutional state, while the ANC was prepared to derail Codesa 2 on the grounds of rejecting these mechanisms of modern democracy which had virtually been agreed upon for the transitional dispensation.

A healthy and responsible administration constructed on the basis of the effective, representation of all meaningful political parties and providing for their participation in the process of government is surely in the national interest. On

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THE ANC AS A NEGOTIATING PARTNER

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The Government believes that a sound foundation for at least a mutually acceptable process was laid at the Groote Schuur and subsequent bilateral agreements which, besides reflecting a clearly identifiable spirit, also contained

the following :

"The Government and the ANC agree on a common commitment towards the resolution of the existing climate of violence and intimidation from whatever quarter as well as a commitment to stability

and to a peaceful process of negotiations" (Groote Schuur Minute).

"Both parties committed themselves to take steps and measures to normalise and stabilise the situation, within the spirit of mutual

confidence that exist between the leaders" (Pretoria Minute).

"The right of the broad population to make their views known through peaceful demonstrations".

It was further agreed that violence and intimidation, from whatever quarter, that form part of mass action, should be eliminated.

Further agreed that peaceful political activities and stability should be promoted (DE Malan Accord).

Despite these agreements and the spirit in which they were concluded, the ANC at regular intervals started using threats and ultimatums as part of its political approach, which from the start had a detrimental and erosive effect on the mutual trust that was beginning to develop. The ANC do have a bad track record in maintaining agreements and can be considered an unreliable negotiating partner.

Therefore the decision of the ANC NEC on 24 June 1992, in collaboration with its Alliance partners, to suspend negotiations, is viewed as only the most recent of a range of similar past decisions which further contributed to the creation of negative perceptions regarding the ANC's approach to negotiations per se and as a process. The perception that has been created includes indications that:

the other hand, a constitution in whichâ\200\231 politically meaningful elements of society had no say, would in all probability lead to political instability of no

mean proportion, The ANC seems to be bent on such a disastrous outcome.

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ANNEXURE D

VIEWS ON THE CURRENT VIOLENCE

The South African Government remains responsible for the maintenance of law and order in South Africa. It does, and has been doing, everything â\200\230possible within its power and within the existing political climate to address this scourge that has descended on our country.

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The Government is however not the only role player in this regard. It is the responsibility of every individual, organisation, party and leader (whether

political or otherwise) to strive for stability.

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The appalling events at Boipatong on 17 June 1992 have once again shown that the situation in South Africa is highly volatile and accompanied by a vicious

spiral of violence and counter-violence.

The Government wishes to state categorically that, contrary to ANC claims, the Government does not plan, conduct, orchestrate or sponsor violence in any form

whatsoever, against any political organisation or community.

The time has come for the ANC in particular, but also for other political groups, to recognise the fact that policies aimed at gaining a monopoly on

power in themselves promote violence.

The Second Interim Report of the Goldstone Commission of Inquiry quite correctly stated that the causes of violence are numerous and complex. However the ANC has to date not acknowledged its involvement in violence, and as far as the Government is aware has consequently taken little constructive action to curb violence. As a matter of fact, the ANC is guilty of selective quoting from the above report. It never refers to criticism of the ANC by the Commission but uses the Commission to put the blame for violence on other parties. The Government takes a serious view of the criticism in the Goldstone Commission report,, but expects the ANC to do the same.

The question may also be asked: to what extent does the ANC's non-compliance with the various accords, in particular the National Peace Accord, contribute to the web of violence in which South Africa is entangled? On the other hand the Government regards the existing bilateral and multi-lateral

agreements, especially the National Peace Accord and the Codesa Declaration of Intent, as important instruments for curbing violence and finding permanent solutions to the problems facing South Africa and its people.

The ANC's direct and indirect involvement in the creation of a climate conducive to violence gives rise to the question whether the ANC was ever fully committed to the National Peace Accord, in particular to paragraph 2.4, which

reads as follows:

"ALL political parties and organisations shall respect and give effect to the obligation to refrain from incitement to violence or hatred. In pursuit hereof no language calculated or likely to incite violence or hatred, including that directed against any political party or personality, nor any wilfully false allegation, shall be used at any political meeting, nor shall pamphlets, posters or other written material containing such language be prepared or circulated, either in the name

of any party, or anonymously."

In this regard the following statements by prominent ANC leaders are highly revealing:

Mr Harry Gwala admitted that the ANC is fighting a war and that the ANC is killing IFP "warlords" and their associates (Natal Witness, 29 April 1992).

On 26 April 1992 Mr George Mathusa (Chairman of the ANC in the Western Transvaal) vowed that Bophuthatswana would be made

ungovernable through necklace killings and bombs. Addressing people

at a funeral service Mr Mathusa said: "In South Africa we did it through our necklaces and bombs. we can easily repeat it here." (Cape Times, 27 April 1992).

In The Citizen of 23 May 1992 it is reported that Mr Nelson Mandela said in Helsinki that President De Klerk was involved in the violence in which almost 1 000 people in South Africa have been killed this year. Mr Mandela told a news conference that it was a serious responsibility to accuse a Head of State of fuelling the violence and the killing of innocent people, but that facts indicated that President De Klerk was

involved in this.

THE DEMANDS OF THE ANC

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How the interruption of the negotiation process can be brought to an end, how the demands of the ANC can be dealt with to achieve this end, and how the negotiation process can be structured so as to ensure progress and avoid similar interruptions in future, are matters that should be discussed and deliberated upon at the proposed meeting between the ANC and the Government. What follows are observations about certain aspects of the statement of the ANC on 23 June

1992. and of the Memorandum of 26 June 1992 from Mr Mandela to Mr De Klerk.

ALL the information at our disposal points inevitably to the conclusion that factions within the SACP and the ANC were not happy with what was being negotiated at Codesa and that they initiated, before Codesa 2, a strategy to abort the negotiation process by deliberately creating a deadlock and by reverting to the pursuance of their own goals by way of what is euphemistically called mass action, but what is in reality physical confrontational action. This is our perception of what has happened and this is the only interpretation that can be placed on "demands" backed up by threats to completely destabilise South Africa if these demands are not met. In our view, mass mobilisation and activation with the war-talk presently being built into these can only be

described as reckless given the existing climate of violence.

A second leg of this strategy is that at the same time the ANC has also been using mass action and confrontational politics to mobilise support when they registered that their support base was dwindling. This has been happening in spite of the ANC's undemocratic and violent isolation of areas they have taken control of, against all other political parties or viewpoints. They simply do not seem able to adjust to a democratic political process where the people are allowed to listen to the points of view of all the other parties and then to make up their own minds whom they would like to support. We have experienced the violent excluding actions of the ANC and have been informed that these were not isolated incidents but firm policy. Many examples of such "no go" areas for other political parties can be cited.

Observations on Aspects of the Memorandum:

Par 1.2 to 1.5 (The Government is blamed for the crisis in the negotiation process and accused of minimising the crisis):

The Government is not trying to minimise the seriousness of the situation. We are convinced that the ANC/SACP tried to engineer a crisis. What other interpretation can be placed on the withdrawal of the ANC from Codesa and from bilateral negotiations? That is how a crisis is created, not how it is solved.

ar2 (The Government is accused of ignoring democratic principles and of trying to build a white minority veto into the political process and constitutional

SHUCTUTES) 2

The constitutional negotiation process leading up to the ANC-created deadlock is dealt with in another annexure. What follows are examples of inconsistencies in the Memorandum:

2.5. According to figures of the Development Bank of Southern Africa approximately 23 million people will be able to vote in 1993 in an election for a constituent assembly/transitional government. Of those only 4 million (17%) will be white voters who will probably be voting for different parties. How can a 70 or 75% majority requirement

possibly amount to a white veto?

2.6 Here the deadlock is attributed to the Government's supposed insistence on a minority veto (whatever that may mean); but the ANC itself is proposing a sixty-six per cent majority. There is therefore agreement on the principle that a constitution should not be created by a mere majority but should rather have an overwhelming support.

2.10 to 2.13 Here the ANC aligns itself behind the principle that constitution making should be a unifying and legitimising process which should enjoy overwhelming support. This is the guiding principle underlying the Government's approach to the process. This is why the Government wants as many parties and interests as possible to be part of the constitution-making process. The product of the process, the new constitution, must be accepted and supported by all; it should not be a

In The Citizen of 25 May 1992, it was stated that Mr Mandela, in Geneva, likened the violence in South Africa to the killing of Jews in Nazi Germany.

On 16 June 1992 at the Dan Qege Stadium, Zwarte, Port Elizabeth, Mr Harry Gwala stated inter alia: "a

"If the only way to our freedom is through bloodletting, so let it be and if we all perish let that happen." He said those who believed the time for armed struggle was over were seriously mistaken, (EP_Herald, 17 June 1992) P

The Government recognises that the ANC's suspension of armed action on 6 August 1990 was taken in the interest of a peaceful transition in South Africa. Unfortunately, this has had no marked effect on violence. Since the suspension of armed action, numerous cases of MK involvement in establishing self-defence units and renegade self-defence units, as well as armed crimes by MK members, have occurred. Numerous ANC arms caches - in violation of the provisions of the DF Malan Accord - still exist. For example 13 MK arms caches have been uncovered since 2 February 1990. Considering the well

documented lack of discipline that MK members have demonstrated, both locally and in foreign countries in the past, the Government must inevitably ask whether the ANC still has any control over arms caches and how many of the murder weapons presently being traded to the highest bidder, originate from ANC caches.

The Government finds it contradictory that the ANC's answer to violence is the formation of so-called self-defence units, which eventually become

uncontrollable, as in the case of Phola Park. It is well known that these self-defence units are themselves major contributors to violence.

Another urgent matter is the question of how many incidents of violence can be ascribed to ANC members masquerading as members of the Security Forces.

Taking the two recent incidents in this regard into account, the question also arises whether actions such as these are official ANC policy or reflect a lack of

control over ANC members.

The ANC owes the people of South Africa an explanation for the extreme forms of violence perpetrated against its own dissenting members in detention camps.

Since South Africans were involved and since Codesa (Working Group |) has interested itself in this issue, all investigations and findings, notably the ANC's own commission's report, should be tabled - preferably at Codesa.

The ANC's history of violence, and its murder of innocent civilian men, women and children, its barbaric extrajudicial "necklace" executions, the torture and murder in its detention camps and its total disregard for the consequences of mass action, remove whatever moral base it may have had to point fingers at others concerning the violence. Most of the perpetrators of the atrocities mentioned are still at large and the dossiers are still open.

It is clear, in order to escape their own involvement in violence, that the ANC blames other political parties, the Government and the Security Forces for the violence. What is particularly reprehensible is to blame the State President - the very man who started the negotiation and National Peace Accord processes.

There is a clear strategy of discrediting the Security Forces. This statement is made due to the following supporting facts:

Complainants in criminal cases are often influenced by the ANC not to co-operate with the SAP.

Unfounded allegations are presented as facts to create the perception that the SAP, in particular, is biased and takes part in violent action.

In conclusion, the ANC has to account for its direct and indirect involvement in the more than 30'000 incidents of violence since February 1990, and the murder of over 6 000 persons during the same period. Likewise the ANC must also answer the question as to what extent its calls for attacks on Security Force members in the 1980's, and which have never been withdrawn, contributed to the deaths of over 90 members of the SAP in acts of violence since January 1992 alone.

When is the ANC going to transform itself from a liberation movement to a conventional political party, and thereby shed its image as a violent organisation?

constitution enacted by a majority in a constituent assembly elected on party political issues.

Par 3 (The Government is blamed for all violence and {read with the NEC statement} accused of pursuing a strategy embracing negotiations together with systematic covert action, including murder, involving security forces and

Surrogates):

Nothing in this whole paragraph even attempts to support the bizarre and completely unfounded opening sentence of the ANC Statement. The whole paragraph is blatant propaganda rhetoric containing factual inaccuracies and distortions. Thus it is not true that the majority of deaths have been caused by "cultural weapons". There is also a distorted description of police investigations, while the ANC itself has been intimidating Boipatong residents from talking to the police. The ANC has also not once fulfilled its obligation under the Peace Accord to assist the police in their investigations when ANC members have been involved in atrocities. Compare this with the numerous instances when the criminal acts by security force members were investigated, prosecuted and punished. Apartheid is blamed for the current violence, while the ANC's history of political intolerance and violence and atrocities against mainly black political opponents over more than a decade is ignored. The difference is that the Government has rid itself and the country of apartheid but the ANC has not been able to adjust to democratic political competition,

Par 3.3 (The Government is blamed for legalising the carrying of dangerous

weapons)

In terms of the National Peace Accord the parties agreed that no weapons or firearms may be possessed, carried or displayed by members of the general public attending any political gathering, procession or meeting. The Government has subsequently honoured its obligation in terms of the National Peace Accord by issuing the relevant proclamations after consultation with political parties, ie the ANC and IFP. On 28 February 1992 a prohibition was issued in term of Section 2(2) of the Dangerous Weapons Act, 1968, prohibiting any person attending or participating in a political gathering at any public place to be in possession of any dangerous weapon which clearly includes traditional

weapons.

Other steps taken by the Government are as follows:

a On 19 March 1992 a further prohibition was issued in terms of the Dangerous Weapons Act, 1968. prohibiting a person from being in possession of any dangerous weapon at any property of the South African Rail Commuter Corporation Limited. Objects, including so-called traditional weapons, which are to be regarded as dangerous weapons, are explicitly listed.

a Various prohibitions concerning dangerous weapons were issued under the Unrest Regulations in terms of the Public Safety Act, 1953. Provision was also made for an additional substantial prohibition with regard to spears.

a The Government is presently preparing draft regulations in terms of which the possession and carrying of all dangerous weapons at any public place may be absolutely banned. As the need may arise these regulations will be implemented in areas declared to be unrest areas.

The Demands

In preparation for the discussion of the demands, the following observations are made and need to be dealt with in such discussions:

a The Government will do whatever it can, without departing from its principles and ideals, to get negotiations, both bilateral and in Codesa, on track again.

a Fourteen issues have been identified:

Re the issues of a constituent assembly and an interim government of national unity. In Codesa complete agreement was reached on the broad structure of transitional arrangements, including a transitional executive council, an independent electoral commission and a constitution-making body within the framework of an elected transitional government. The Government has therefore already agreed, in Codesa together with the other parties, to that which is now demanded. What the Government was not prepared to agree to was a, appointed, as opposed to an elected, interim government. If there are

any misunderstandings on these issues, the Government would like to discuss these when we meet.

Re the issues of covert operations, special forces, prosecution of Security Force personnel and repression in Self-governing States. These demands are introduced with a general demand that the "regime must immediately end its campaign of terror against the people and the democratic movement". This is a demand that cannot be met simply because there is no such campaign of terror; and the ANC knows this. The Government is however agreeable to discussing once again the specific issues mentioned, but will also want to discuss the ANC's own contribution to political and other violence and to explore ways and means of bringing that to an end. kL

Re the issues concerning hostels. The Government is concerned about the hostel situation and has therefore approved a comprehensive hostel strategy. The aim of this strategy is to create humane living conditions for the hostel dwellers by means of upgrading the hostels or converting them into family units. The upgrading/conversion will however be based on consensus reached after negotiation between the hostel dwellers, surrounding town residents, the owners and all other concerned parties such as political groupings, civic organisations, trade unions, employers etc. A peaceful resolution of the issue is therefore not possible without consensus amongst the parties directly involved at local level. In its memorandum to the Government, the ANC attached a document dealing with the problem of the KwaMadala hostel in which many allegations were made against a number of individuals and organisations. It is clear that factual disputes will arise. As the Goldstone Commission is currently investigating the Boipatong incident, it is suggested that any findings concerning these allegations

be left to the Commission.

Re the issue of dangerous weapons. The carrying of dangerous weapons has already been dealt with but can be further discussed. The Government would also want to discuss the application of measures to counter the illegal possession of all dangerous weapons, including fire-arms and explosives, and ways and means of stopping the introduction of such weapons into South Africa and of ensuring that such weapons are not used in the perpetration of political and criminal violence. Contrary to the ANC's allegations, these are mainly the weapons used to-kill political opponents and to perpetrate criminal violence.

Re the issues of international involvement, "political prisoners" and "repressive" legislation. Although grouped together by the ANC, these demands concern three separate issues, two of which, namely "political prisoners" and "repressive" legislation, have already been the subject of extensive agreements. These two can nevertheless be further discussed and so

can the third issue, namely ways and means of arriving at the truth about the Boipatong massacre and other acts of violence; and ways and means of preventing such occurrences in future together with the role the international community can play in this regard. With regard to these issues the Government

would like to elaborate as follows:

International Involvement

The Goldstone commission, charged with investigating the Boipatong case involved international assistance to assess and evaluate. The Government wishes to reiterate its abhorrence of all the events surrounding the Botpatong incident and trusts that justice will prevail in the shortest possible time. At the same time the Government wishes to express its grave concern over newspaper reports to the effect that witnesses were instructed not to co-operate with the

SAP in its investigation.

Political Prisoners

The Government has fulfilled its obligations under the various agreements resulting in the release of a very large number of prisoners. What is now disputed is the release of a number of prisoners who have committed common law crimes such as murder and whom the Government maintains fall outside the ambit of the agreed definition on guideline for identification of political prisoners. Yet the Government (and the ANC) have agreed at Codesa working Group | that a task group consider the identification of such prisoners, and the definition of "political prisoners".

Apart from the above, the Government and the ANC have been involved over a

period in bilateral talks on a number of issues identified as far back as the

etora Minute, which should and could be finalised in one: single agreement -~with a multilateral effect, including the disputed prisoners; the lack of indemnity for MK and senior officials of the ANC; the future of MK; and the arms caches.,.,. Ancillary issues such as the question of treatment of former detainees in ANC camps abroad and whether such camps still exist will possibly have to be addressed.

"Repressive Legislation"

Working Group | has made extensive unanimous recommendations, in regard to security and emergency affairs at Codesa 2. The ANC's inexplicable delaying tactics are keeping these issues alive. The Government can not possibly abrogate its duty to govern and to take steps to reduce the level of violence, intimidation and crime. In this regard reference is made to legislation passed recently in Parliament, pertaining to the illicit trafficking in arms and ammunition, usurping police and military powers, violence and intimidation,

drugs and drug related crimes.

In conclusion, withdrawing from negotiations, especially from Codesa, cannot contribute to the resolution of any of these issues. The Government is only one of nineteen parties in Codesa. How can the ANC justify the deliberate wrecking of Codesa by putting demands to the Government? What better forum is there for putting its demands, if this is what it really wants to do, than Codesa itself.

ANNEXURE F

GOVERNMENT PROPOSALS REGARDING A TRANSITIONAL CONSTITUTION FOR SOUTH AFRICA

PRINCIPLES GOVERNING A TRANSITIONAL DISPENSATION

The Transitional Constitution must be a complete constitution.

The Transitional Constitution must effect the fundamental replacement of the principles of the current Westminster system with those of a Constitutional State.

The diversity of interests existing in the South African community must be accommodated in the Transitional Constitution.

The further restructuring of the second and third tiers of government must be facilitated by the Transitional Constitution.

The Transitional Constitution must satisfactorily underpin the maintenance of order and stability.

Autonomous regional government
Autonomous local government

Special provisions regarding the following functionaries and institutions in order to safeguard them against political manipulation:

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The South African Defence Force

The South African Police

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at,

An independent Auditor-General

An independent Ombudsman

An independent Commission for Administration

The entrenchment of constitution-related legislation (such as electoral laws, laws

concerning the courts and laws applicable to the Public Service) and of other laws such as those relating to existing pension rights and laws regulating standards for

MAIN FEATURES OF A TRANSITIONAL CONSTITUTION see also
public offices and professions. -

The following are the main elements of the Transitional Constitution proposed by the

REPLACEMENT OF THE TRANSITIONAL CONSTITUTION
Government:

A Parliament consisting of a National Assembly and a Senate

An Executive Council directly elected by all the voters

A Cabinet appointed by the Executive Council

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An independent judiciary, with judges being appointed by a non-political body

A justiciable Charter of Fundamental Rights

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For the amendment or substitution of the Transitional Consitution a majority of 70% will be required and 75% for the Charter of Fundamental Rights.

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If the Transitional Constitution has not been replaced within three years, a general election will be held in terms of the Transitional Constitution.

The Transitional Constitution will be amended or replaced only within the framework of general constitutional principles as agreed upon at CODESA, and the Constitutional Chamber of the Appellate Division must certify this to be the case.

The following must, inter alia, be enshrined as general constitutional principles:

Â» The autonomy of civil society, 1 Â¢ the exclusion of interference by the state in the affairs of the civil society, such as sport, culture, professional life, religion, trade unionism and traditions.

Â» Democratic standards to which political parties must conform.

pla The Transitional Constitution must itself also be drafted within the framework of the agreed general constitutional principles, including the above.

PARLIAMENT

The National Assembly

> s The Transitional Constitution will provide for a National Assembly vested together with a Senate, with legislative powers as well as the power to amend and

replace the Transitional Constitution by special majorities.

s The National Assembly shall be elected proportionally by universal adult suffrage according to the party list system.

Senate

a The Transitional Constitution will provide for a Senate. An equal number of : members will be elÃ©cted from each of the electoral regions that will be delimited for this purpose, using the development regions as the point of departure. Seats are allocated to a region in proportion to the party support in that region.

. [Be]station may be initiated in the Senate and all laws must be approved by both Houses. The Transitional Constitution will provide for mechanisms for the resolution of differences between the Houses as well as for exceptions in regard

to specific subjects in respect of which the powers of the Senate may be upgraded \\

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or downgraded (eg financial laws, laws relating to education or specific regional

matters).

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s When the â\200\230Transitional Constitution is amended or replaced, the boundaries of each region and its functions, powers and form of government will also have to be approved by a majority of the representatives from each electoral region that

will be affected in each case.

REGIONAL GOVERNMENT

s There will be regional governments in the transitional dispensation. Agreement must be reached regarding the powers, functions and boundaries of regions and regional governments prior to the coming into operation of the Transitional Constitution. Should the process of the full establishment of the regional dispensation delay the implementation of the Transitional Constitution, the finalisation of the boundaries and the implementation of aspects of the system of regional government may be left to the Transitional Parliament.

. If some of the present regional authorities still existâ\200\231 when the Transitiona
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Constitution comes into effect, they will continue to exist for the time being; provided that a TBVC state may participate in the transitional dispensation by undergoing a transformation of status beforehand from independent state to self-

governing territory.

5 The autonomy of regions will consist in their powers, functions and boundaries being derived originally from the Transitional Constitution and will not be subject to amendment without the concurrence of the authorities of the regions concerned.