

MEMS3GNU

GNU AND RDP

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1994 Life in the NEC.
Ultra-presidential.

DUP

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I took part in many debates on the NEC. Sometimes my points were accepted, sometimes rejected. Usually I spoke on matters of legal or constitutional significance but I also participated in general policy discussions. I think the four of us who were on the Constitutional Committee played an important role over the years in ensuring that the constitutional dimension was understood by members of the NEC and also in seeing to it that the political dimension was fully appreciated in constitutional debates. There are only three moments that stand out sharply in my memory in relation to my speaking at NEC meetings.

First let me describe a typical NEC meeting. The platform normally consisted of what were called the 6 officials, that is OR, Madiba, Walter Sisulu, Thomas Nkobi, Cyril Ramaphosa and Jacob Zuma. Thabo Mbeki was asked from time to time to take the Chair, that is even before he was elected to replace Oliver Tambo. Occasionally someone else like Trevor Manuel would be asked to preside. At first Madiba chaired the meetings but, as I have described elsewhere, he gave that function to others and he would sit there making detailed notes of all the interventions and controversial issues. One member even once said that he was standing up to speak because he was hoping that he would get into that mysterious book that the President was keeping. In any event one of my strong memories involved Madiba referring to his book. We usually had an attendance of about 75. We had no fixed seating arrangements. Debates were usually quite lively and would go this way and that. Frequently you would not know the outcome when it started and I often found myself being persuaded to change my opinions. This particular case concerned a meeting of the NEC shortly after the breakdown of CODESA 2. I felt that the negotiations were sticking in the mud and that the NP were happy to drag them out more or less indefinitely while keeping the idea going that both sides were still talking. My experience as a trial lawyer had suggested that sometimes it was better to break off negotiations and say "See you in court" rather than to carry on with negotiations when there was no common ground or common objective. Accordingly, I made a formal proposal to the NEC that the ANC declare that negotiations were suspended and would only be resumed when certain conditions were met. I argued that these conditions should be clearly spelt out, manifestly reasonable and serve as indicators of good faith on the part of the Government. I felt particularly strongly about the bad faith of the

Government in keeping political prisoners on Robben Island and elsewhere long after they had agreed that all political prisoners should be released. I said the fact that they were still being kept in prison brought great discredit on the ANC and that we were behaving dishonourably by not insisting forcefully that they be set free. I think I mentioned the carry of so-called traditional weapons as a second item that required good faith behaviour by the Government and the third item I mentioned was that Joffel Van der Westhuizen who had signed that order to permanently remove Goniwe should be dismissed. Dullah Omar supported me. I might mention that generally in the debates I was regarded as a dove rather than a hawk and the people who on the whole were suspicious of Government motives and cautious about agreements backed up my proposal. At the same time a number of people like Mac Maharaj and Aziz Pahad spoke strongly in favour of keeping negotiations going and trying to solve the problems that had arisen at CODESA 2. My argument had been that the critical issues at CODESA 2, in particular the conflict over the deadlock-breaking mechanisms and the percentages required had only been symptoms of a much deeper divide between ourselves and the Government and that sometimes one delayed a negotiated outcome by keeping fruitless discussions going on endlessly and advanced a negotiated solution by acknowledging a rupture and laying down clear and achievable conditions for a resumption of the process. After some hours of discussion Madiba intervened to say that something like 30 people had spoken of whom 20 had favoured keeping negotiations going and 10 had supported Albie's position. I am not sure about the exact figures but he consulted his book and came up with precise totals. From what people had been saying during the tea break I am sure that a majority would have supported my proposal. The result however would have been a strong division in the NEC with perhaps 60% favouring a rupture and 40% against. I had formally put forward a resolution to be accepted or rejected by the NEC. Madiba called me up and said in view of trend in the speeches would I consider withdrawing my motion or rather he asked did I insist on proceeding with the motion. I was in quite a spot. None of the arguments in favour of continuing had convinced me and I was fairly sure that if put to the vote, the resolution would have obtained a majority. But it would not have been the kind of core consensus support that such an important tactical measure would have required to be successful in practice. So I told the President that my objective in tabling the motion had been more to force a serious debate rather than to divide the house and so that I neither insisted in putting the motion nor desisted from my positions. Dullah was also called upon and mumbled

something about being a disciplined member of the organisation. He was willing to abide by the majority position. In summing up Madiba said with a smile that Comrade Albie had beaten a diplomatic retreat and accordingly it was no longer necessary to take a vote. He added, however, that all the opinions expressed had been noted and that due weight would be given to them as events unfolded.

Some weeks or months later while the Constitutional Committee was touring the United States as guests of the State Department, we received information of the Boipatong Massacre and the decision of the NEC to suspend negotiations. (In fact we were asked, those of us who were members of the NEC, to fax our opinion as to whether we supported this decision or not.) The NEC then in fact laid down certain concrete and achievable conditions for a resumption of negotiations. Some of them corresponded with those in my earlier proposal. Some were different. The NEC positions were published and the subsequent proceedings involving the period of so-called rolling mass action, followed by resumption of negotiations, are well-known.

I have said that in general I was considered one of the doves on the NEC. I would say that we had a small group of members who invariably took positions involving conciliation with the Government and an equally small group who invariably warned us that we were walking into a trap. About 80% of the members however fluctuated between these positions. There was certainly no large blocks that consistently positioned themselves one way or the other. I would regard myself as having been very much in the mainstream of ANC thinking. I had belief in the negotiation process. I was always searching for solutions but at the same time had been distressed by negotiating practice in 1990 where vague agreements had been arrived at and insufficient attention had been paid to drafting and to implementation. My contribution in respect of the process, accordingly, had been to tie the continuation of negotiations to concrete commitments on the part of the Government manifested in verifiable behaviour rather than bland statements by De Klerk or other Government leaders. The timing was conditioned by events. Looking back now I am convinced that it was necessary for the ANC to suspend negotiations, perhaps not when I first suggested, but certainly later on. I have little doubt that Government strategy was to drag negotiations on for years so that the electorate eventually would not vote in what the Government feared would be Uhuru elections, that secondly, the Government wanted time to mount Third Force activities

against the ANC, and that thirdly, they were relying on a huge gap being created between the ANC leadership and the rank and file. The suspension of negotiations not only enabled the ANC to regain the initiative, it also established a much closer relationship between the leadership and the people in the townships and I am sure, had the result of strengthening the hand of those inside the National Party who wanted serious negotiations with the ANC and who acknowledged the inevitability of their ending up as junior partners rather than as the dominant force in any future dispensation. As long as the Government felt that allied with Inkatha, they could defeat the ANC and remain in command of the Government, the chances of a negotiated settlement were slender.

When Cyril and Roelf respectively were appointed as the only channel for communication, serious negotiations got under way again. This was later in the year. I can remember Cyril reporting to a specially convened NEC that he had worked out a Record of Understanding with Roelf but that the matter had not been finalised. We received a typed draft that had a few handwritten passages and a few blank spaces. The blank spaces interested us more than what was written. Cyril told us that he was expecting a phone call from Roelf so could we delay our discussion. Cyril went out with an air of quite importance and about half an hour later returned. We all looked at him expectantly and hopeful. He kept a poker face, allowed the discussion to continue for a while and eventually intervened. He had had trouble getting through to Roelf and eventually when he had made communication Roelf had told him that he still did not have a definite answer. Could we wait until the next day. The next day something similar occurred. We were getting increasingly irritated. It looked as though the Government was once more trying to lock us into a three-quarter agreement, that is negotiations would be back on track again, we would agree on certain items and other difficult matters would be left on the table. This would have undermined the very idea of getting concrete commitments showing good faith by the Government. There was strong and almost universal feeling in the NEC that the incomplete Record of Understanding was unacceptable. We insisted on strict adherence to certain limited but symbolically important conditions. If I remember correctly, the three crucial matters were release of political prisoners, a ban on the carrying of traditional weapons and fencing of the hostels. The ANC leadership stood firm. De Klerk backed down. It had not been intended to compel a showdown or as a battle of nerves or endurance. It was De Klerk himself who painted his side into a corner by making these three issues

make or break ones. At first he refused to concede on them, thus converting them into a trial of strength, and eventually he gave way. I am not sure of the exact sequence and it is possible that I am telescoping two NEC meetings into one. What I do recall, however, is the strong sense of cohesion and forward movement of the ANC leadership after the mass action and diplomatic activities in the middle of 1992.

This cohesion, however, nearly foundered on the question of a Government of National Unity. I suspect that there had been a crucial off-the-record negotiating encounter between an ANC team and an NP team in Cape Town where the NP had indicated, or rather the more enlightened NP negotiators, had suggested what they regarded as their minimum conditions for a settlement. The ANC team would have been Cyril, JS and Valli and the NP team Roelf, Leon Wessels and maybe one or two others. Joe Slovo drafted a paper setting out a scenario for negotiated settlement which he showed around over a period of several weeks. I saw an early version. It indicated that in addition to the normal checks and balances of a modern democracy certain guarantees could be given to the Nats. These would include pensions, job security, non-prosecution for offences that might have been committed in the apartheid period and a government of national unity for a limited time. I told him that the first items made sense and that from a realistic point of view one could not ask people who were in power voluntarily to hand over their power if the result was going to be loss of jobs and pensions and possibly going to jail. I said I was not happy, however, with accepting an obligation of having a government of national unity. Joe was obviously showing the document around extensively and some months later when negotiations were properly under way he published it in amended form. In the meantime the phrase "sunset clauses" was being freely bandied about. I remember at one NEC meeting saying that sunsets were very good for making love but very bad for making constitutions. What we didn't want were hidden agreements or compromises which would prevent an ANC-led Government from introducing processes of transformation in South Africa.

The issue finally came to a head in a special NEC meeting called to discuss the question of a Government of National Unity as well as other issues. We gathered in a rather gloomy hotel in Hillbrow in an atmosphere of excitement and tension. Joe's paper and Pallo Jordan's response had been widely publicised in the press. The NEC had drafted a carefully worded resolution which had not excluded the

concept of a Government of National Unity but neither had it committed the NEC to accepting a GNU. There was considerable anger in a number of regions both in relation to the content of the resolution and in terms of the procedures being followed. I am sure that if some kind of referendum had been adopted there would have been decisive rejection of the resolution. We had got very far with the negotiations but now the issue of GNU seemed to threaten everything. The matter was put down for a three hour debate if I remember correctly. The minute discussion was opened a score of hands went up of people who wanted to speak. There were some emotional criticisms of the NEC statement and of the proposals that were being made to have a Government of National Unity that reflected the support each party had in the National Assembly. Speaker after speaker said that there was nothing against the ANC voluntarily agreeing to a coalition if that was in the national interest but agreeing to a forced coalition meant undermining the principle of majority rule. Speaker after speaker indicated that the majority would feel betrayed if they saw the ANC entering into government with De Klerk. At the same time, everyone was aware that to pull out of the arrangement tentatively arrived at with the Government could lead to the whole negotiation process unraveling. We really seemed to be trapped. We didn't want a forced coalition but we couldn't see how we could go back on it. I thought I could possibly suggest a way forward. My hand went up in the second forest of hands. By 12 o'clock it was clear that we needed much more time to debate the matter. Each speaker was allowed two minutes. The persons on the Chair were fairly strict and the two-minute rule worked well because it forced everyone to focus on their main points and not to beat about the bush. The atmosphere in the room got heavier and heavier. People were lining up for the proposed arrangements but with heavy hearts or against the arrangements with equally heavy hearts. Some strong feelings were expressed. I felt the tension personally and was bursting to make my contribution which I felt could help resolve the impasse. By 5h30 it was clear that the debate would not be concluded on that day. My name was about fourth down the list so I thought I would get in my contribution before the day was out. Some announcements were made and guillotine came down just ahead of me.

It turned out for the good. I remember going upstairs to my airless and noisy room in the hotel, sorting out my thoughts, having a reasonably good night's sleep and preparing for my two minutes in the morning. I was the first speaker. The papers were carrying stories about a split in the ANC. I think everybody like myself had been

aware of the weight of the occasion and the decisiveness of our deliberations. People were in a more sober frame of mind than they had been the day before. I stood up and said: "Why was it that when we were about to achieve one person one vote in a united South Africa, our lifelong dream, we all felt so sad and joyless? The answer was that we would get the vote but then feel that the outcome of the election was going to be frustrated by an artificial arrangement which would enable the minority to hold on to their privileges. But there was another way of looking at the matter. What South Africa would need would be several years of profound reconstruction. The real question was whether the process of reconstruction would be blocked or facilitated by having De Klerk in the Government. We would have to reconstruct the administration, create new provinces, transform the Army and the Police Force and reconstruct education and health. Provided we could commit the Government of National Unity to a programme of reconstruction of that kind it would actually be advantageous to have the Nats in rather than outside where they could be sabotaging and undermining everything." I accordingly proposed that we call for an Interim Government of National Unity and Reconstruction so that having a coalition government would end up favouring the achievement of real equality in South Africa rather than in undermining it. I concluded by proposing that the ANC should mobilise its membership to establish in advance of elections a concrete programme of reconstruction so that instead of our members discussing all the time abstract questions of Government they were focussing on the real changes that the country needed.

Of all the many many speeches I have made in my life I think this is the only one that had a truly decisive impact on events. Immediately the atmosphere in the room changed. People started smiling. Many of those who had their hands up who I am sure intended to attack the Government of National Unity now started exploring the idea of a Government of National Unity and Reconstruction. Kader Asmal proposed that the ANC Conference be not only concerned with Reconstruction but also with Development, that is that it be a conference to draw up a programme of Reconstruction and Development. And that was how the idea of the RDP was born.

The latter part of the debate turned on how decisions were to be made in the GNUR. The speakers felt that they could unanimously support a GNUR provided that De Klerk did not have a blocking veto and various proposals for how this could be avoided. Later that day or perhaps it was on the

third day, when the NEC meeting closed, we all stood up and sang the National Anthem. We had not done that for a long time. As we emerged into the foyer where the Press and diplomats were waiting we were animated and laughing. I recall one diplomat nabbing me and saying something about "Was it very bitter?" I just laughed and said "Wait for the press statement but all I can say was that we had a wonderful meeting". The Press had in fact built up public excitement by highlighting conflicting statements made on the first day. I think they were genuinely amazed by the degree of consensus achieved. I felt very proud of the process we had followed. Kader mentioned afterwards that 62 out of 85 members of the NEC. We had finally come up with a consensus position that had truly emerged from the debate and that no-one could have anticipated at the beginning. It was a real triumph of open and democratic decision-making. I was also proud of the particular contribution I had made.

A few months ago when I was travelling with a group of South Africans looking at federalism in Canada, I found myself in a bus sitting next to Roelf Meyer. For some reason he volunteered the information that he and other had appreciated the contribution I had made to the negotiation process. He mentioned in particular the work I had done in negotiating very difficult and sensitive section on language and, he said I had been the one who had persuaded the NEC to accept the Government of National Unity. I wondered how he knew of my role in the debate. I had long suspected that the National Intelligence Service bugged NEC meetings. To this day I feel it is more probable than not that they did so. Madiba once indicated that the Government had had advance notice of some decisions which they could only have got through bugging the room in which the decisions were taken. I like to think that the robust and open way in which the NEC discussed hard questions had a beneficial impact on those who got transcripts of the bugged discussions. I got the feeling that De Klerk increasingly followed our lead in opening up hard issues to debate. Far from open discussion exacerbating the difficulties, it made it possible for the NEC to achieve meaningful consensus. One reason why I had deep confidence in the outcome of the negotiations as well as of the elections was the vitality and maturity of the NEC. I would travel from anywhere in the world to attend an NEC meeting. It was not simply a question of being in the know. They were just so damn interesting. There was a lot of humour and frequently quite brilliant argumentation. I can only recall one really bad and bitter meeting and I am speaking now about two and a half years during which we must have met at least 20 times.

There were frequently moments of heated interventions, accusations and counter-accusations. But there was only one occasion where members became truly bitter and acrimonious and that was when the question of disciplinary procedures against Winnie Mandela was on the agenda.

To tell the story about Winnie I have to go back a little. It was early in 1990 and I happened to be in Lusaka on the day that Nelson Mandela left South Africa for the first time to meet up with the NEC. There was great excitement at the airport. I will tell the story of that day in another record. I will just say that it was a hard and emotional day for me. I felt physically weak and crushed in the crowd. I had had to push my way forward to be able to greet Madiba and had more or less flung myself into his arms. Later that day there had been a special lunch for him and his party. I had not been on the guest list nor did I go to the lunch when eventually someone said they were sure they could find a seat for me. Later when we all met I was hoping for some recognition from some of the leaders who had come up. I suppose we had all changed so much in 30 years that the spark of being reunited just was not ignited in my case. I felt both elated and sad - elated because our movement had survived and we were now together again, sad because we would all return to South Africa but my arm would not be coming with me. I think it was the only time that I ever felt I wanted a special embrace. As the leaders walked past us where we were standing in the hall I kept hoping for recognition and an embrace and the only person who identified me and came up to me and put his arms around me was Raymond Mhlaba whom I had known but not all that well from the days when he was a trade union leader in Port Elizabeth. A week or two later the Mandelas visited London for the first time. Once more there was huge enthusiasm. We met them at a house in Mayfair. Half of us waited downstairs, the other half went upstairs. As it turned out Madiba went to greet the people upstairs and Winnie was introduced to each one of us downstairs. As she moved through the throng she found herself standing in front of me and her escort said: "This is Comrade Albie Sachs." She stopped, drew herself up a little and said in a warm strong voice: "Albie Sachs" and she put her arms around me and embraced me with all the warmth and recognition I had been hoping for. She then moved on down the line and graciously and vivaciously met all the others. When I returned to South Africa I discovered how controversial a figure she was. Most of my friends in Johannesburg detested her. They told me story after story about her misconduct, of how she trampled all over people and only thought of herself. These were hardworking and committed members of the ANC, not

normally given to extravagant statements. On the other hand, she had her supporters who tended to be as extreme in her defence as her accusers were in her denunciation. I found that at least one very important friendship for me in Johannesburg was grossly disturbed by the fact that I tried to come up with a balanced appreciation of Winnie and refused to accept that she was totally and unredeemably evil. When the members of the NEC were elected in Durban in 1991 I think she came about two after me on the list and so we received our applause and hugs at about the same time. Afterwards, at NEC meetings she would always be quite friendly towards me, give me a smile and a hug or offer me tea. She did not take an active part in NEC debates. I can hardly remember an intervention by her on any subject. I think she was one of the biggest defaulters in terms of attendance and as far as I can recall, rarely if ever offered explanations of her non-attendance. I used to be curious about her dress which seemed to correspond to an image she wished to present at any stage. At times she would appear quite elegant in smart and tasteful clothing that looked good on her. At other times she could appear in the sort of garb designed to show that she was a freedom fighter in the frontline. We all dressed comfortably and in a non-ostentatious way in the NEC. Some of the men wore suits, others came in open-neck shirts. I would say the general appearance was smart/casual. Winnie sometimes just looked out of place, as though she was trying too hard.

After the separation between herself and Madiba, she got a special kind of support from a number of members of the NEC including some whom I knew did not like her at all. It was a sort of rallying around to lessen the sense of her exclusion. I think in my case she appreciated the fact that I was not shunning her. At the same time I felt genuinely indignant about many of the things she had done and things she was continuing to do. I hadn't liked the way she had presented herself at her trial and particularly felt angry at the way she seemed to be completely oblivious to the damage that her conduct and situation was causing. I saw the difference in Madiba after their separation. He clearly was far more composed, energetic and on top of himself. At the same time I couldn't forget the warmth of her greeting in London nor could I forget what Winnie had meant to us in exile. We saw her interviews on TV and we read her statements in the Press. She was defiant, spirited, courageous and had a vivid turn of phrase. She had frequently been in the firing line herself. Her impetuosity seemed to give her the strength to deal with the cruel State. It was like there were two Winnie's in one person. The first Winnie was warm, vivacious, intelligent and

loving. The second Winnie was cold, ruthless and entirely self-concerned. I had felt for a long time that if I had had real courage I would have gone up to her and suggested that instead of maintaining her defiant posture, she find some means of publicly acknowledging the harm that she had caused, apologising for it, seeking understanding of what had led to it and looking for support in restoring her relationship with the whole movement. I did not know how to raise the question and even had fantasies of organising a TV interview in which she could be asked questions which would enable her to show a degree of acknowledgement of what she had done and indicate her genuine sorrow.

One of the items on the agenda at an NEC meeting was the process to be followed in relation to an enquiry by the NEC into misconduct by Winnie. The background was the alleged sending by her of several women to occupy offices at the ANC Headquarters in Shell House and demand her reinstatement as head of the Welfare Department. The debate was acrimonious from the beginning. It lasted a couple of hours. Her defenders spoke forcefully on her behalf. Her critics were equally angry and bitter. The atmosphere was totally sour. When I stood up to speak my mouth turned dry and I had difficulty in getting the words out. I turned round so that I was half looking at her sitting behind me and half at the Chair. I said that I was sure the discussion was painful for all of us. I indicated that none of us liked the situation where we felt she was at war with the leadership of the organisation and added that if such a war were to continue she would surely lose. I then went on to say that I was sure that if she could make some gesture acknowledging the damage that her conduct had caused to the movement she would get a very strong positive response and that many people would appreciate it very much. After that I made some proposals of a technical nature about the proceedings against her and sat down. The meeting hall was totally silent as I spoke. Some time later Getrude Shope, then Chairperson of the ANC Women's League, mentioned to me that she and everybody in the room were almost crying when I was speaking. I had not realised that the intense emotion which I felt was shared by others.

I was wondering how Winnie would respond. One or two other people spoke and then she put up her hand and asked if she could reply. She stood up and I listened. She sailed straight into making attacks and denunciations. It was as though my appeal had not been made at all. Something inside me in relation to Winnie snapped. What compassion I had for her vanished. She had no sense of the heartache that she was causing everyone at the meeting. She showed no

embarrassment or remorse at the fact that her conduct and her personality was causing NEC members to attack each other. Terror Lekota, whom we all knew to be one of the warmest and most balanced of members, had become quite emotional jumping up time and again to protest at slanders she had levelled at him in the Press. I imagined that if, say I had been the cause of such tension inside the movement I would have buried myself in shame and done everything possible to remove the causes of dissension. She just did not seem to care. It was like a relentless and totally uncaring determination to fight her way through and come out victorious. It made it easier for me to understand accusations that when something or somebody stood in her way she could be totally ruthless.

The last time I saw her was at a large conference held in Pretoria on the creation of a Pan-South African Language Board. She made the opening speech in her capacity as Deputy Minister of Culture, Science and Technology. It was a well-prepared speech which she delivered effectively. I was billed as the keynote speaker and went up to the microphone to explain the basic themes of the constitutional provisions on the language question. Winnie listened with manifest interest for about 20 minutes, got up from her seat, walked up to me, kissed me on the lips and left the auditorium. It was quite stagey but somehow not offensive. I don't know how I would feel if I came face to face with her again. She has caused great damage. She has contributed quite a lot and the general feeling as far as I understood it in higher up circles was that it was better to accommodate her somehow than to fight her all the time.