

MEMORANDUM FOR PRESENTATION TO SIR LAURENS VAN DER POST**BY MANGOSUTHU BUTHELEZI, CHIEF MINISTER OF KWAZULU
AND PRESIDENT OF INKATHA FREEDOM PARTY****LONDON, SEPTEMBER 1993**

Sir Laurens, one of the great joys of my life is to meet trusted old friends during the periods in which the going really gets rough. My meeting with you is such an occasion. You have an artist's mind as well as the wisdom only a fine intellect such as yours could accumulate over the decades, and I have always valued your insights. I believe the time has now come for me to stand really firm in principle and not to abandon my commitments to establish a federal South Africa, resting on an enterprise-driven economy.

I find myself in the position which many governments and a great many people are criticising because the IFP and the KwaZulu delegations left multi-party talks at Kempton Park because they would not become part of a process in which there would be a unitarian interim government elected under an interim constitution. This government would become the country's Constitution Making Body and the work it did drafting a constitution would be directed by the ruling party.

The IFP and the KwaZulu Government said no to that. Our objections were spurned, and a call for sufficient consensus against us was made. I do not accept the legitimacy of that call and I can not abide by the decision reached. The IFP and KwaZulu delegations had to leave the negotiation process in protest in order to raise the objections in the outside world that they could not raise successfully within the negotiating process.

You have the kind of wisdom which tells you that our country needs healing. Your belief that the route to healing our country lies in saying "sorry" is a simple, yet powerful one. If anything is clear it is that our country needs to be cleansed of the hatred and distrust of the past. A few honest words will certainly go a long way to building up trust and a commitment to making the new South Africa work.

I think that this was the intention of President de Klerk when he apologised for apartheid at a public meeting earlier this year. Sadly, the apology was belated, qualified and lacked sincerity. Instead of the honest and unconditional repentance for the sins of the past, President de Klerk accepted guilt for apartheid yet exonerated the National Party of any moral wrong-doing by arguing that apartheid was a sincere effort to cater for the differing needs and aspirations of South Africa's different peoples.

What President de Klerk has failed to realise is that apartheid was an intrinsically evil system which legitimised racism, white supremacy and ethnicism. It was a system which made Blacks aliens in the land of their birth, which removed Blacks from their ancestral land and turned them into roaming migrants. It was a system which degraded us, destroyed our self-

esteem and made us beggars. For this, I believe there should have been an unconditional apology, instead of a qualified one.

When President de Klerk committed his National Party Government to the abolition of apartheid in February 1990, most Blacks were prepared to forget about the past and look to the future. Despite the inhumanity of the National Party of old, we were prepared to accept our President's commitment to a new, just and democratic South Africa without domination and discrimination. By all accounts this was a bold and courageous move which could so easily have precipitated a backlash from the right wing. For this we were grateful. For this we placed our trust in the man.

Today, however, that trust is gone. Today the Inkatha Freedom Party and most other South Africans are disappointed at how Mr de Klerk has reneged on his promises of steering our country to a new and better South Africa. We are bitterly disappointed and angry at how the National Party has joined forces with the ANC in order to dictate the negotiations process. This unholy alliance has not only served to manipulate constitutional talks taking place at the World Trade Centre in Kempton Park, but has destroyed any prospect of South Africa achieving a federal system of government for our country.

For you who are intimately familiar with South Africa and its politics, the alliance between the National Party and the ANC must hardly seem believable. The National Party has been the same party which has enforced the inhuman and evil policy of apartheid on Black South Africans. However much the Government might still wish to rid South Africa of the ANC, they do know that they need their support for their continued survival. The same can be said for the ANC. So in return for a guaranteed junior role in government, the ANC has secured the National Party's agreement on a Constituent Assembly writing our constitution. As a consequence of this deal South Africa will get an authoritarian ANC government ruling in terms of a constitution which guarantees centralised domination. In terms of this constitution there will be no room for federalism.

I feel I do not need to go into any great depth as to why I believe that federalism is the only system of government which will bring lasting peace to our country. You know as well as I do that in South Africa there is distrust and deep-seated fears and suspicions between races, and within races, which go beyond the apartheid era. Apartheid might have accentuated differences between races, it however did not create them. We will be foolish to think that a new government will easily undo the antagonism and suspicion that centuries of conflict has created.

Yet the ANC thinks that it can wave its magic wand and South Africa will overnight be a non-racist, non-sexist state. For the ANC, racial and ethnic hostility is a creation of apartheid and will therefore disappear in the New South Africa. One can either see these views as those of the misguided or, worse still, as a deliberate ploy to justify the subjugation of the regions under the power of central government as the Soviet authorities had so successfully done before.

It has been federalism which has been the casualty of the negotiations process. On Tuesday the 24th of August the third draft of the interim constitution was tabled at the multi-party talks. As you may well know, the IFP did not contribute to any of the drafts of this interim

constitution. We had withdrawn from the negotiations process in protest at the manner in which decisions were being made in terms of the concept of 'sufficient consensus' - decisions which led to the writing of a draft interim constitution in the first place and the setting of an election date before we had agreed on what form of state South Africa was to take. Both these decisions were rejected by the IFP. Both have an adverse impact on our desire to secure a true federal dispensation for our country.

On a more fundamental level, these three drafts are the flawed products of a two-phased process which holds no prospect of a successful outcome. It is a two-phased process which would leave the writing of a final constitution to the discretion of an elected Constituent Assembly which would double up as a Constitution Making Body. With the power of writing the final constitution authorised to it, this Constituent Assembly could either amend, alter or even scrap the final interim constitution put before it. This holds the inherent danger that our constitution would be written more to the dictates of political expediency than to any desire to secure a constitution which would satisfy the hopes and aspirations of all South Africans.

Of concern for those who are hoping for a peaceful transition, is that this two-phased process will allow the ANC to fight our first non-discriminatory election on the issue of who would be writing the final constitution for the country. This would suit the ANC down to the ground since it would give credence to the myth that the ANC, as conqueror over the evil forces of apartheid, would be entitled to write South Africa's first non-racial constitution.

Going hand in hand with their self-styled liberator status, it can be expected that the ANC's quest for power will incorporate the Communist view that all means necessary must be used for securing power. This will include the use of violence and intimidation against political opponents. Already this is happening. Just last month eight IFP supporters were killed when they attempted to set up a branch in Bhambayi, a township near Durban. The very same day the Democratic Party was driven out of another township by ANC youths.

Another particularly disconcerting feature of the two-phased process is the ability of ANC/National Party agreement to obliterate KwaZulu as a political force during the first phase of the process. The first phase envisages a six months run-up to elections in which South Africa will be governed by the National Party in conjunction with Transitional Executive Councils which are at present being put together at the negotiations. The sub-Council on Local and Regional, in union with a Local Government Negotiating Forum which consists of members drawn from the South African Government and the ANC-front, the South African National Civic Organisation will have the authority to disband KwaZulu's Administration. Part of their brief is to take charge of everything that is owned by the KwaZulu Government, and take charge of everything that the KwaZulu Government does.

While there is wide consensus that the nominally independent homelands and self-governing territories will need to be reincorporated into South Africa, the IFP rejects the idea that KwaZulu is a construct of apartheid and therefore must suffer the same fate as the other regions. KwaZulu existed long before the implementation of the Government's homeland policy. KwaZulu emerged as a sovereign Kingdom way back in the nineteenth century. It secured that recognition, and it was that recognition which led the British to seek to destroy it in a full scale war. The fact that KwaZulu was subjugated in 1879 does not mean that we

lost our sovereignty. We were annexed to the colony of Natal, and we were subsequently dragged into the Union of South Africa without our consent. However, no conquest and no subjugation can ever destroy the sovereignty of a people once they have achieved it. We wish our negotiating partners to take note of this. If they do not, we are prepared once again to fight for our freedom.

It was our very wish to secure a peaceful settlement to our problems that we proposed a one-stage process to democracy which would have constitutional experts write the final federal constitution, which would then be put to the people in a referendum for their acceptance or rejection. It was this very need to minimise violence and intimidation which has driven us to oppose the route that the ANC and the Government are taking in constitutional negotiations. It was this motivation which has made us protest against the decision to draw up a draft constitution which would be the first phase of the ANC's two-stage process. While we believe that this route is a recipe for chaos, our protests have been ignored with the result that we were left with no choice but to withdraw from negotiations.

The decision to over-ride our objections went against the spirit in which negotiations were first agreed to be undertaken. At the very beginning of the negotiations process, it was unanimously agreed that in terms of forging a new constitution, decision-making would be made by consensus. This of course meant that there would be no counting of hands in any rush to find agreement on critical issues. However, in order to stop any insignificant or obstructionist party from holding negotiations to ransom, it was also decided to incorporate the concept of 'sufficient consensus' to the decision-making process. Simply put, 'sufficient consensus' meant that negotiations could go ahead despite the fact that one or more parties might be in disagreement with any decision.

However, it was also agreed that since 'sufficient consensus' was a vague concept which could easily be abused, it was to be used with caution and only after all other avenues had been exhausted. This did not happen. Sufficient consensus has been used again and again to circumvent opposition to those who wield a majority at the talks. It was even used against the Government to hand over Walvis Bay to Namibia. That got them talking about the need for a review of the concept.

Despite the fact that we have long been aware of the deal made between the ANC and the Government, we continued with negotiations in the hope that we could overcome their dishonest plans. Throughout negotiations we consistently questioned the bona fides of these two organisations. Throughout, we incessantly objected to the flagrant contempt shown by the ANC and the government to negotiations. We constantly warned that their actions would lead to a deadlock. Despite our objections these two parties were not to be deterred. We were therefore left with no choice but to withdraw from talks.

Our decision to withdraw from talks was not taken lightly, however. We in the IFP, more so than any other party, are keenly aware of the need to secure a quick settlement to our country's problems. It has been our party more than any other which has borne the brunt of violence sweeping our country. The extent to which we have suffered is clear from the fact that thousands of our supporters have been killed by revolutionaries within the ANC/South African Communist Party alliance. Of particular concern to us is that more than 300 of our leaders have been assassinated by the armed wing of the ANC, uMkhonto weSizwe.

Despite the cost in human lives that we are suffering, we are unbowed in our commitment to democracy. Despite the attempt to wipe us off the political landscape we are not prepared to accept a unitary state where the wishes of the KwaZulu/Natal region - or any other region - are ignored. From the standpoint of our desire to secure a just and democratic federal democracy for our country, we feel that we were justified in our decision to walk out from a process which will only deliver a unitary, centralised state.

In spite of our insistence that we are not prepared to accept anything except a genuine federal system of government and are therefore prepared to stay out of negotiations until our reasonable demands are met, we in the IFP nevertheless do believe that a solution to our country's problems lies only in a negotiated settlement. That is why we are continuing with bilateral meetings with the Government and the ANC in order to find a way out of the impasse. However, in order to prevent a reoccurrence of the undemocratic decision-making which has plagued the negotiating process, we insist that before we return to the negotiating table the whole question of decision-making made in terms of the concept of 'sufficient consensus' will need to be reviewed. It is this desire to rid the negotiations process of this unacceptable concept which has seen us institute legal action with the Supreme Court in order to have its legality assessed.

While I have dwelt at some length on the process which has led to our present two draft interim constitutions, I feel that it is justified. As anyone would tell you, an outcome will always reflect the process that has gone before it. Thus as a consequence of the secret deals, the connivance, and the use of 'sufficient consensus' to get around our objections, we have on the negotiating table two draft interim constitutions which in no way reflect the wish for federalism by the majority of South Africans. Although the ANC and the Government argue that there are 27 constitutional principles which concern the powers to be wielded by regions, these are far fewer than those already granted to self-governing territories under the present centralised unitary system. To add insult to injury, the principles that do concern the powers of regions are either vague or biased towards the centre.

The powers that are to be devolved to regions are either limited to peripheral issues like the right to horse racing and gambling, or, when they are of a more substantive nature, such as housing education and health, the central government will have concurrent powers over these areas. What this of course means is that central government will have an over-riding say in these areas.

It is our view that if we are to secure a genuine federation for our country then the bottom-up approach of allowing different regions to write their own constitutions and then have them fed into a central constitution, be recognised. Genuine federations, we believe, are based on a treaty concluded by representatives of the centre and the regions. Such a constitution can only come into place when there is agreement between the regions and the centre to establish a common federal level of government which shall enjoy only those powers delegated to it from below.

What the ANC and Government negotiators fail to realise when they state that we already have federalism in all but name, is that the crucial mark of whether there is federalism or not, lies not in the extent of the powers conceded to the regions but in where the source of the regions' powers originates from. You can concede to the regions as much powers as you

like but so long as the powers derive from the centre, then you do not have federalism. We want the ANC and the Government to concede this. We want them to recognise our right to have the Constitution for the State of KwaZulu/Natal imputed into a central constitution.

The IFP's participation in future talks is further dependent on whether the ANC and the Government are prepared to accept the requirement of federalism, that is that powers of states or regions must derive immediately from the constitution, and their legislatures must be able to implement those powers through their own legislation. It is our firm view that the list of powers vested in the hands of the regions must be such that real political power can be wielded at the regional level. This must include residual powers. Only those powers which can not be adequately and properly performed at state level should be devolved to the Federal Government.

Of critical importance to us is that the exercise of powers must be autonomous. What this means is that they can not be subjected to the over-riding or concurrent powers of the central government. It is our view that our regions will not be able to exercise any true political autonomy if the constitution allows the central government to over-ride any decision by the regions. If we are to maintain the autonomy of regions this arrangement will need to be entrenched and written assurances given that any future constitutional development cannot remove any powers of regions.

The flawed nature of the draft interim constitution is indicated by the deadlock-breaking mechanism which is built into the constitution. According to this mechanism South Africa's final constitution can ultimately be adopted by a 51 per cent majority of the Constituent Assembly, without adhering to any constitutional principles which might be included in the interim constitution. This mechanism renders totally useless the guaranteed built-in requirement of a 60 per cent majority which is needed at a referendum to pass the constitution. By including this mechanism in the interim constitution, all any party with majority support will need to do to free itself from the guiding principles of the interim constitution, is to generate deadlocks in the various stages of constitution drafting.

Next year if the ANC has its way, South Africa will be voting for a new government. While this will be a momentous occasion for Black South Africa there will be millions who will not be celebrating. The prospect of elections for many does not bring jubilation, but merely scepticism. It is a scepticism that one will not be free to vote for the party of one's choice. It is this scepticism which will keep many away from the polls.

As much as a stay-away from the polls will affect the IFP's election prospects, we cannot blame our followers for not wanting to vote. The stark choice facing them is standing up for their beliefs and facing the threat of being intimidated or even killed, or not voting at all and therefore surviving to fight another day. Sadly this is the choice that the new South Africa brings. We in the IFP are not prepared to accept this and are prepared to fight for our right to exist and contribute to the development of our country. Anything less is unacceptable and will be resisted.

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