

"Democracy means freedom to choose"

INKATHA

Inkatha Freedom Party

IQembu leNkatha Yenkululeko

Noted.

CONFIDENTIAL

NATIONAL COUNCIL MEETING

Address by Mangosuthu Buthelezi, M.P.
President, Inkatha Freedom Party

ULUNDI: MARCH 9, 1996

The National Chairman, the Deputy National Chairman, the Secretary-General, members of the National Council. I really feel that on this occasion, I do not need to stress to any one of you the importance of this National Council meeting. Anyone looking at our agenda today will see how our discussions on the adoption of a constitution for KwaZulu Natal, and our consideration of the grave problems which we are encountering in the preparation for local government elections, are perhaps two of the most crucial and important issues ever brought before the National Council. On many occasions before we had the perception that the IFP was reaching a fateful cross-road, passing the road of our political success from that of our political decline. I think that now more than ever we have reached that moment and I hope that every member of this Council feels the great significance of the discussions which we will have today.

I have followed very attentively the process of negotiations for the KwaZulu Natal Constitution. Now the Constitution has been finalised and the text before us has even undertaken the preliminary process of legal editing. This text will need to be approved by the Constitutional Committee next Monday, and we must give a very clear mandate to our representatives in that Committee. If this Constitution does not receive the support of at least two-thirds of the members of the Constitutional Committee during its meeting on Monday, March 11th, we will not have a Constitution for the Province of KwaZulu Natal. If the Constitution is approved by the Constitutional Committee it will be delivered for final approval to the Parliament of KwaZulu Natal which sits on Wednesday and Thursday next week in Pietermaritzburg.

Also on this Constitution we will need to muster a two-thirds majority of all the members of the Legislature and I need not stress that the absence of one single member of the IFP could collapse this Constitution and our political work over the past four years. I do not want in my presidential address to go into the details of this Constitution which will form the object of the report of the negotiation team and of POCOLA. It will suffice for me to mention that this Constitution is the result of an enormous amount of negotiations which exacted from us the toll of very severe and significant concessions. I must clearly state that I regard some of these concessions as very politically painful, and yet necessary to achieve the purpose of having a Constitution for KwaZulu Natal.

I understand that there are still a couple of issues which need to be finalised during the meeting next Monday, namely the crucial issue of the Council of State which is supported by the National Party and opposed by all the other Parties whose support is necessary for the adoption of the Constitution. I also understand that the provisions related to the Cultural Councils and provisions related to referenda are still to be finalised.

To understand the nature of the document before us, and of the many concessions that it contains, we must consider the process of negotiation which produced it. In fact, this Constitution bears in itself many concessions which we made throughout the course of negotiations in order to try to bring the ANC on board. Chapter by chapter our negotiators tried to meet the ANC, making one concession after the other. These concessions were at times captured by other political parties to further their own constitutional agenda, and for this reason are now entrenched in the constitutional draft.

In spite of our attempts to seek reconciliation with the ANC, the more concessions we made, the more the ANC increased the gulf between its and our constitutional positions. After the voting on the base document which took place on February 1, 1996, only a few items seemed to be outstanding between the IFP and the ANC, and our negotiators expeditiously moved into bilateral negotiations with the ANC to work around these items. As this process began, they saw the proliferation of issues raised by the ANC, with the end result that the ANC claimed that the Constitution for our Province could not be adopted. Their final proposal was to adopt a partial Constitution containing only the chapters on the Legislature, the Executive and the Monarchy, in spite of the fact that even with respect to these three chapters, the ANC had raised so many fundamental and new issues that it was no longer possible to reach any agreement on the Executive and the Monarchy.

We could not have agreed under any condition to the idea of having a partial Constitution which would not meet any of the fundamental reasons for which we engaged in the constitution-making process in KwaZulu Natal. The ANC was fiercely opposed to the notion that our provincial Constitution should express the aspirations of this Province for greater autonomy and self-determination within a unified South Africa so as to offer a constitutional platform for further stages of negotiations, including possible international mediation, which we have always demanded.

The ANC also rejected the notion of a Bill of Rights in the provincial Constitution after we made the enormous concession of dropping the Bill of Rights which had been painstakingly negotiated with the National Party to replace it with that contained in the interim Constitution, subject to the addition of the elements of our proposals which are not contained in the interim Constitution's Bill of Rights.

The ANC attempt to wreck the adoption of this Constitution became evident in a flourishing of intense activities which took place in Cape Town at the highest possible level. It has been reported that President Mandela summoned the President of the PAC, Mr Clarence Makwethu, to convince him to reject the KwaZulu Natal Constitution. It has also been reported that the Constitutional Assembly Chairman, Mr Cyril Ramaphosa, flew Mr Rajbansi into Cape Town to apply the same pressure on him. The ANC has applied similar pressures on the ACDP, the DP and the National Party. It is most regrettable that once again the National Party turned out to be the weakest link in the chain as Mr Danie Schutte, the NP's chief negotiator in KwaZulu Natal, became the spokesperson of the ANC's demand for a ridiculous partial interim Constitution. He became very active in Cape Town in brokering

this idea of a partial Constitution, while his own people in KwaZulu Natal were making a firm commitment to us to stand by that agreement on the draft Constitution which they signed with us on December 11, 1996.

While our negotiation team rejected this last hour attempt to wreck the provincial Constitution, Mr Schutte tried to go behind our back and approached other IFP leaders to try to sell to them the same idea. On Wednesday this week I was asked to join in a meeting with Deputy President de Klerk who tried to convince me that we should hold a summit with the ANC to look at the ANC proposal which was endorsed by Mr Schutte. I told him very clearly that such a summit could not take place at this late juncture, for it would have no purpose other than to promote an idea which was a complete non-starter, tailored only to wrecking this Constitution.

I have, however, allowed Advocate Schutte to come up and address the National Council at 3.00 p.m. today, because I have always believed in your right to decide all important issues for the Party. You all know for instance how I was demonised before the 1994 elections. It was I who was unreasonable and all those who were in the Central Committee were rational except me. This is why I decided to allow Mr Schutte to come and speak to you directly. In the meantime, I will share with you Dr B.S. Ngubane's notes on the meeting that the leader of the National Party, Deputy President de Klerk, asked me to attend with Advocate Danie Schutte. I decided to invite all my colleagues in the Government of National Unity, that is Dr Mzimela, Dr Ngubane and Mr Matthews, to attend that meeting in President de Klerk's office with me. The following are Dr Ngubane's notes:

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NOTES ON MEETING WITH DEPUTY PRESIDENT FW DE KLERK AND ADVOCATE DANIE SCHUTTE IN CAPE TOWN ON 6 MARCH 1996

Present: Deputy President FW de Klerk
Advocate Danie Schutte
Dr MG Buthelezi
Dr Siphon Mzimela
Mr VJ Matthews
Dr BS Ngubane

1. Mr de Klerk said that the ANC was prepared to participate in a tripartite discussion on the KZN Constitution:
 - constructive development
 - if the ANC was unreasonable, it would strengthen the IFP's hand in getting the KZN Constitution passed without the ANC
2. Concerning what should be done in central level Constitution writing in the CA, he said that there had to be a two-third majority of 490 - with the result that even if the IFP was not there, their vote would be counted; he said that this could be discussed later.
3. Adv Schutte said that from the NP side they were committed to obtaining a Constitution, but that the way matters were going at this stage, this seemed unlikely; hard thinking was required on strategic moves. If the NP was to adopt a Constitution

without the ANC, it should be on absolutely high moral ground. There was a need to accommodate some of the ANC proposals and to get the DP on board.

It was necessary for the IFP and the NP to have a preparatory meeting and then to meet with the ANC the following day.

4. Mr Matthews said that right now it was necessary to deal with the substance and not the detail. POCOLA had daily been following the Constitutional negotiations in KZN. How did this link up with constitutional negotiations at the centre? The ANC was desperate to get the IFP back into the CA as a participant, even if there was not consensus. This could involve some quid pro quos and bargaining. The IFP needed the ANC's consent to pass the KZN Constitution. What was the ANC prepared to do at central level? If the objectives were known, those who negotiated would have a mandate. It must be ensured that something was sketched in broad outline before the matter was taken to the National Council.
5. Mr Schutte said that the ANC wanted the IFP in the CA, but did not want the Constitution in KZN. Hence the two must be linked, so that if the ANC still did not want the KZN Constitution, then it could be said that the ANC did not want the IFP back in the CA.
6. Mr Matthews said that the sunrise clauses had to be internationally mediated so that they were acceptable as normal international standard clauses in a plural society.
7. Dr Mzimela suggested that the KZN Constitution should be adopted and the sunrise clauses then taken to international mediation.
8. Dr Buthelezi said that he did not trust the ANC and if the IFP was to be used by them for deceit then he would rather not have the KZN Constitution. He said that Mr Mandela did not want to hear about international mediation.
9. Mr de Klerk said that Mr Mandela had not yet been given substantial proposals and that this had to be done. He said that it would be right to go through with this exercise; high moral ground would be gained. If the ANC could not come up with something reasonable, the IFP would still not take it.

He said that it was strategically important that this route was followed, in case of confrontation; at least the IFP would be on high moral ground. He said that Mr Mandela was briefing all the parties but that he had not called the IFP and the NP; Mr Mandela was busy with a strategy to cut the ground from under the IFP's feet.

10. Mr Matthews said the ANC was going to work on minority parties in KZN with the aim of making it impossible for the IFP to gain a two-thirds majority in KZN. This two-thirds was necessary to pass the KZN Constitution. He said that one of the ANC methods was that whenever there was a crucial issue coming up, e.g. election or the Malan trial, they would listen to any scheme which created a pretext and which enabled them to say that the IFP had not tried its best.

11. Mr de Klerk said the probability of getting the ANC to agree was remote, but in order to ensure that the DP and other minority groups were brought abroad, he felt that this was the approach that should be followed.
12. Adv Schutte said that the DP's concern was with the Bill of Rights and that this concern should be dealt with. He said that the package which was to be devised must meet the wishes of the smaller parties so that even if the ANC rejected the matter, the smaller parties would still be brought on board. He asked whether Dr Buthelezi really wanted to be in the CA.
13. Dr Buthelezi affirmed that this was what he wanted.
14. Adv Schutte suggested that the Constitution should be submitted to international mediation. He felt that if the ANC refused this, they would be on very weak ground.
15. Dr Buthelezi commented that the late former Minister of Foreign Affairs of Norway had been in touch with Sir Laurence van der Post.
16. Mr de Klerk remarked that the Scandinavians would not participate if the ANC rejected the matter.

He suggested that the KZN Constitution be adopted with a two-thirds majority; if the ANC did not participate, it would be subjected to international mediation.
17. Mr Matthews remarked that the ANC could then claim that the NP and the IFP were outside the reference of the Reconciliation and Peace Agreement of 19 April 1994.
18. Dr Buthelezi said that the National Council would have to decide on the proposal; care had to be taken.
19. Mr de Klerk enquired whether Dr Buthelezi could not mandate exploratory talks, to which Dr Buthelezi replied that such talks were on the go.
20. Mr de Klerk asked whether the possibility could be explored of any chance of getting the ANC on board and Dr Buthelezi commented that the ANC had been participating in the Constitutional Committee in KZN.
21. Dr Mzimela pointed out that it was not as if the IFP was not talking to the ANC in KZN; it should not be underestimated how absolutely the ANC did not want a Constitution in KZN.
22. Adv Schutte said that the NP would be very hesitant to support the passing of the KZN Constitution without the participation of the ANC. Something had to be done to accommodate the ANC's moral dilemma without abandoning principles.
23. Mr Matthews said that if the KZN Constitution had to go through the Constitutional Court it would be in terms of the constitutional principles in the Interim Constitution; therefore it had been stated that the powers the IFP wanted in KZN should be on the list of sunrise clauses which were not required to come into force immediately.

24. Mr de Klerk commented that this could be taken out of the actual Constitution.
25. Mr Matthews said that resolution was possible on a Bill of Rights. He referred to a schedule in the 1909 Constitution, which indicated the possibility of incorporation of Rhodesia and British countries in the Union of South Africa and felt that KZN could ask for powers in a separate schedule as sunrise clauses.
26. Mr de Klerk commented that this could be done on the basis that even if the NC did not vote for it, but it was accepted by two-thirds, such rights would be on the schedule as part of the KZN Constitution.
27. Adv Schutte pointed out that the ANC was entitled to say that it did not want the powers.
28. Mr de Klerk suggested that the IFP should mandate their people to come to Cape Town and explore the matter with Adv Schutte and thereafter explore it further with the ANC. Alternatively, together with Adv Schutte the IFP could work something out, get a proper mandate over the weekend and then pursue the matter further on Monday.
29. Mr Matthews commented that he felt that this would not be possible before Saturday; the issue could be raised in POCOLA or the National Council.
30. Dr Buthelezi said that Adv Schutte could address the National Council.
31. Mr de Klerk said that around 14 March the issue of the deadline in May for the CA to finalise the Constitution would be raised.
32. Dr Buthelezi asked whether the meeting was aware that Mr Mandela had asked Mr Makwetu to instruct his party in KZN not to support the passing of the Constitution.
33. Dr Buthelezi concluded the meeting by suggesting that Adv Schutte should speak to the IFP National Council; this to be authorised by the President of the IFP.

This provincial Constitution was reviewed by the KwaZulu Natal House of Traditional Leaders which made several comments and in general supported and approved it. I am pleased to see that all the suggestions of the House of Traditional Leaders have been adopted in the final text.

There is still uncertainty on whether all the minority parties will on the day of voting be with us. I feel that we will not be able to reach this certainty until the very last moment, but we can take courage in the fact that at this juncture none of the minority parties has given us notice that there is anything in the Constitution that would motivate them to vote against it. It would stand to reason that none of them would take upon themselves the enormous responsibility of wrecking this process, also being responsible for the unpredictable consequences of such a crisis if they have not given notice that the Constitution contains a fundamental flaw which makes it unacceptable to them. The minority parties have given notice that during the clause-by-clause vote, they may vote against some of the provisions in the draft to preserve for the record their positions, without voting against the Constitution as a whole.

The ACDP has a specific problem related to having an abortion clause in the Constitution which created for us an unsolvable dilemma. Simply put, they told us that unless the Constitution contains an anti-abortion clause, they would vote against it and at the same time, the DP gave us notice that if the Constitution did contain an anti-abortion clause, they would then vote against it. Our negotiation team on my instructions, but subject to the ratification of this National Council, agreed with the ACDP and the DP that the abortion issue be kept out of the Constitution, but that we make a written political agreement to hold a referendum on this issue as soon as feasible.

This leads to another major concession which our negotiating team had to make and on which the National Council must pronounce. This concession is not yet in the text before you but has been voiced in the Constitutional Committee and consists of a provision that the capital of the Province can only be determined through a referendum. The DP and the Minority Front have served notice that without this provision they will vote against the Constitution and it must be noted that from their viewpoint they are making a concession of their own in so far as the capital of the Province is not determined in the Constitution as they originally demanded. The negotiation team also made another very important concession which will need to be considered and discussed by the National Council. They agreed that until April 1999, or until the first elections whichever comes first, all the parties which hold positions in Cabinet will be entitled to retain the same number of Ministers. This means that if the number of Ministers goes to 15, the ANC will be entitled to retain the three Cabinet posts which it now holds.

Among the last moment significant concessions is the provision which requires the Province to adopt at a future time a law enabling members of traditional communities to choose to have an elected or partially elected local government structure for their communities. As our negotiating team made this concession, they regained some of the lost ground, forcing the acceptance of the fact that even if a traditional community chooses to have an elected or partially elected Regional Council, the Inkosi of that community will remain entitled to be an *ex officio* member of the Regional Council under all circumstances.

The most salient characteristics of this text which we have had discussions about during past meetings, is the fact that we have succeeded in entrenching the Monarchy over and above the position and role of the Monarch. This was a major breakthrough which forced the National Party to shift its position and accept the IFP demand, and it must be regarded as a success in the tactic adopted by our negotiation team when it opened substantive and intense negotiations with the ANC. In fact, because of the leverage put on the ANC, the IFP has succeeded in entrenching the notion that His Majesty is the Monarch of all the people of the Province, irrespective of race, colour or creed, and that he, as a constitutional Monarch, is the head of the provincial government.

In the text agreed with the NP, neither of these two essential elements appeared. Furthermore, other essential features of a typical constitutional Monarchy have been inserted, amongst which is the notion of the inviolability and unaccountability of the Monarch, subject to the fact that all his actions must be counter-signed by a competent Minister or the Premier. We also strengthened the Monarchy by providing clear and stable procedures with respect to the often crucial issues of succession, regency and incapacitation of the Monarch which throughout world history has offered an opportunity to detractors of a Monarchy to do away with it.

This strengthening of the Monarchy is an important achievement for the IFP and a very good omen for the historic meeting which is set to take place on March 15, 1996 between His Majesty the King and his amaKhosi, as well as myself and President Mandela. His Majesty has been advised of the present situation by a delegation of the Constitutional Committee which consulted with him yesterday in order to complete the process of public consultation. On that occasion, the delegation submitted a Memorandum to His Majesty stating what the IFP has done to protect the Monarchy and the Kingdom.

The other most important issue before us is preparation for local government elections which will determine whether we as the IFP have a future of political success or whether we are destined for a political decline. In all my recent public addresses, I have stressed that these local government elections are the most important responsibility for the IFP at this time. I have stressed that it is essential that all IFP leaders make the fulfilment of this responsibility their only and full-time preoccupation. In spite of my many appeals, I find that there are a large number of IFP leaders who are not directly involved in electoral campaign work but are spending their time on other issues. I recognise that there are other issues which are also important and require attention, but we must realise that if we lose these local government elections, we will be in a much weaker position to deal with any of the issues which are now occupying those who are not working full-time on the election campaign.

I must say that I hear reports of IFP leaders who are spending their time on private matters and I must stress with them that if they have any respect for our Party and for me as a person, they should get it into their heads that for the next two and half months none of us can claim the luxury of doing anything but political work for the IFP. I just ask from you for two and a half months of dedicated political work and I feel that I am not asking too much. I am extremely unhappy that in spite of my declaration of a moratorium on all overseas trips by members of this Council until after elections, that I still get many requests that I must make exceptions.

In preparing for elections each of us must operate from the political position and within the responsibility that he or she has, but must do so thinking about the relevance of what he or she does with respect to local government elections. For instance if people are involved in political work in the Health Committee, they must capture the issues of the day to secure IFP political gains.

It is most concerning that our electoral management structures are not yet in place when we are so close to elections. I am also quite disappointed having reviewed the record of public speeches of IFP leaders. It seems that very few IFP leaders are taking it upon themselves to find occasions and venues to speak to the people of KwaZulu Natal and are sitting comfortably in their chairs waiting for the telephone to ring for somebody to invite them to do something. This is not the way we can operate. The higher the position of leadership, the more we should become proactive and seek opportunities to speak to the people, to work in communities and to prepare for elections. Especially those who are Ministers must promote high-profile activities and must be seen as much as possible amongst the people of KwaZulu Natal at all levels of society and in all communities.

It is also the responsibility of all the leaders to help with fund-raising to reverse what is otherwise going to be a disastrous financial situation for the Party. Those who are high-ranking IFP leaders have often well-positioned and wealthy friends, and yet they feel embarrassed to knock on their doors for support. This is not the time to be shy and I am the

first one to recognise that at times it is difficult to ask for financial support. I have always had a problem in doing it myself, but I have gritted my teeth and done what I have to do. If we do not get money into our electoral machine, we are not going to have one.

This is the time of make-or-break for the IFP and I have nothing more to give to this Party than my total commitment to the struggle which together we began nearly 21 years ago. I hope that all the members of this National Council will rise on this occasion as they have often done in the past to the challenges before us.

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