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SLOVO: A NEGOTIATIONS STRATEGY

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JOE SLOVO opens the debate on a negotiations strategy
ooner or later we will be back at the
negodating table. I believe that it is
urgent to arm ourselves with a more
adequate theoretical framework within
which to determine our approaches. Some of
our responses have been too ad hoc and have
sometim es been influenced by a passing mood
and - a passion generated by an event or a
particularly Outrageous pronouncement by the
- other side.

The starting point for developing a
framework within which to approach some
larger queStions in the negotiating process, is
to answer the queSLionzwhy are we nego-
tiating? We are negotiating because towards
the end of the 803 we concluded that. as a result
of its escalating crisis,-the apattheid power
bloc was no longer able to continue ruling in
the old way and was genuinely seeking some
break with the past. Atthe same time. we were
clearly not dealing with a defeated enemy
and an early revolutionary seizure of power by
the liberation movement could not be
realistically posed.

Author's note: The views set out here are purely my own
individual contribution. They do not reflect at the monient the
collective thinking 0! our alliance or any of its constituents.

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This conjuncture of the balance (if forces
(which continues to reflect current reality)
provided a classical scenario which placed the
possibility of negotiations on the agende'And'
we correctly initiated the whole process it:
which the ANC was accepted as the majOr
negotiating adversary.

But what could we expect to achieve in the
light of the balance of forces and the historical
truism that no ruling class ever gives up all its
power voluntarily? There was certainly never
apmspect of forcingthe tegime'sunconditional
surrender across the table. It follows that the
negotiating table is neither the soletemin of
the struggle for power nor the place where it
will reach its culminating point. In other words.
negotiations is Only a part, and not the whole,
of the smuggle for real peopleis power.

It should also be clear that the possibility for
and the relative success of negotiations have
little to do with mutual trust. or good faith, or
some special chemistry between leaders. We
are negotiating with the regime because an
objectiveb'alance offorces makes this afeasible
political strategy. Negotiations that are based
on vague psychological criteria are bound to
mislead and falter. Of course. where there is

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some reciprocal trust, then that is a bonus. What then is the more precise place of negotiations in the liberation contest? It is clearly a key element or a stage in the struggle process towards full and genuine liberation. It is a key element because it holds out the possibility of bringing about a radically transformed political framework in which the struggle for the achievement of the main objectives of the national democratic revolution will be contested in conditions far more favourable to the liberation forces than they are now.

In other words. we can realistically project the possibility of an outcome for the negotiating process which will result in the liberation movement occupying

significantly- more favourable heights from which to advance.

This will clearly be the case if.

among other things, the tri-cameral parliament is replaced

by a democratically elected sovereign body and executive

power is led by elected representatives of the majority.

If this comes about. the balance

of forces will obviously have, been qualitatively transformed

in our favour.

Four considerations flow from the above analysis: '

. Firstly. the immediate outcome of the negotiating process will inevitably be less than perfect when measured against our long-term liberation objectives. If such an outcome is unacceptable then we should cease raising false expectations by persisting with negotiations. On the other hand. if it is strategically acceptable then a degree of compromise will be unavoidable. And we must not fear to be up front about this reality with our mass political constituency.

- Secondly, we should not underestimate the danger of the counter-revolution in the period following a major transformation. The extreme right will target sections of the white community. in particular the incumbents (hundreds of thousands) in the civil service, army and police who fear for their jobs and for their economic future. Precisely because racism gave them a monopoly of skills and experience, their potential for destabilising a newly born democracy is enormous. Hence. in addressing areas of compromise. we should also consider measures which will help pre-empt the objectives of the counter-revolution to reduce its base.

- Thirdly. the key test for the acceptability of a . . . compromise is that it does not permanently block a future advance to non-racial democratic rule in its full connotation. Therefore. to avoid such a compromise we must have bottom-lines from which there can be no retreat

even if it means abandoning the negotiating table and adopting other Options. Here too we must be up-front about where we stand.

- Fourthly. to test the acceptability of -a negotiated agreement. we need to weigh up the package as a whole and not get bogged down in its individual elements; For example. the passion generated towards the leadup to CODESA- 2 by our 70% concession on the special majority required in the Constituent Assembly was totally misplaced. Had our package as a whole been accepted we would have scored a most positive advance in the negotiating process. Its rejection by the regime indisputably left-us in occupation of the moral high ground.

in regard to the above considerations. it is

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necessary to emphasise that we - should not allow the necessary bargaining postures within the negotiating process to inhibit us from taking our membership (and therefore inevitably, the whole public) into our confidence in relation to seminal strategic perspectives. V

The argument that we should keep the other side in the dark, especially when it comes to possible compromises, has a valid place in the i art of negotiations. But it becomes both harmful and counter-productive when it also keeps our support base in the dark in really vital areas: it will eventually attract charges of "sell-out" and departures from accountability.

Bottom-line . .

Our negotiating team should be given the following mandate:

a The future constitution must be adopted by a democratically elected sovereign constitution-making body (CMB), representing all inhabitants of our 1910 borders and arriving at decisions democratically without a veto by any other body.

b. The only limitation on the sovereignty of the CMB will be a required adherence to the principles of CODESA's Declaration of Intent and such other general constitutional principles which the key actors agree should be binding.

This does not include the powers and functions of future regions which must be determined by the CMB;

c. Effective structures must be put in place which will ensure a free and fair election.

d. Acceptable timeframes must be provided for the whole process as well as acceptable dead-lock-breaking mechanisms in constitution making, -

e. The tri-cameral parliament and its executive arm must be automatically dissolved upon the election of the CMB which shall also have ordinary legislative functions during the interim.

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f. The legislative instrument which makes provision for constitutional continuity and which empowers the CMB must not have the effect of substituting CODESA for the CMB in - - the adoption of the constitution.

Quantitative Compromises

We must distinguish between what I choose to call qualitative compromises which imply a surrender of the whole or part of a substantive demand and quantitative compromises which allow for a degree of elasticity within otherwise fixed parameters.

Quantitative compromises should not be problematic although, even here, we have experienced tendencies to confuse detail with substance and to demand mechanical adherence to a mandate through thick and thin. Our negotiators should, for example, have flexible space to decide in the hurly-burly of negotiations whether (as part of a bargaining package) to concede 9 months in place of 6 months as a time-scale for the holding of elections to the CMB.

' It is not conducive to effective negotiations to demand a reference back to the whole organisation on every such concession. As

long as the concession does not. in substance,
conflict with a key bottom-line mandate, some
immediate flexibility is permissible. Indeed.
without such flexibility our negotiators
would be seriously disadvantaged.

Qualitative Compromises

Qualitative compromises do not arise in the
course of the give and take of day to day
negotiations. They constitute a clear departure
from major policy positions. After obtaining a
mandate we made concessions on a number of
such positions including the following:

We conceded Special majorities for
constitution making and the Bill of Rights, and
special regional involvement in the determi-

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In determining whether it is permissible to make any further qualitative compromises we need to focus on some of the issues which have loomed large in the regime's positions. Among the positions on which a retreat on our part would be impermissible are the following:

Mandela and De Klerk: Some concessions could situate us indisputably in the high moral ground

Compromises of the above sort are unacceptable because they would permanently block a future advance to non-racial democratic rule in its full connotation.

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There are, however, certain retreats from previously held positions which would create the possibility of a major positive breakthrough in the negotiating process without permanently hampering real democratic advance. Let me at once grasp the nettle and specify some areas in which compromise may be considered as part of an acceptable settlement package.

a. a "sunset" clause in the new constitution which would provide for compulsory power-sharing for a fixed number of years in the period immediately following the adoption of the constitution. This would be subject to proportional representation in the executive combined with decision-making procedures which would not paralyse its functioning.

b. as already emphasised, the constitutionally entrenched boundaries, powers and functions of regions is the exclusive province of the CMB. It is, however, imperative that we immediately elaborate our own policy positions on future regions in all essential detail. Without, therefore, in any way impinging on the sovereignty of the CMB, is it unprincipled to attempt to reach a bilateral understanding between the two main parties to the negotiations on positions in relation to regional powers, etc., that the main parties commit themselves to support in the CMB?

c. There are two other categories which lend themselves to publicly committed agreements which do not have the status of constitutional principles binding on the CMB. These are: a general amnesty. We must continue to insist that there is no link between this issue and the release of political prisoners and that, in any case, the decision must be left to an interim government of national unity. But this should not prevent us from indicating now that, as part of such a government, we will support a general amnesty in which those seeking to benefit will disclose in full those activities for which they require an amnesty.

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The proclamation of such a future general amnesty could be the subject of a bilateral agreement which would spell out all the conditions under which we would give our support (cut-off dates, establishing who did what, etc.).

ii. An approach to the restructuring of the Civil Service (including the SAP and the SADF) which takes into account existing contracts and/or provides for retirement compensation.

This area too could be the subject of negotiated bilateral commitments, perhaps excluding those categories of unilateral appointments and promotions carded off with an eye to the post-apartheid structure.

I am of the view that, subject to a package which would include the "bottom lines" set out above, and subject to proper consultation with our constituency, the compromises touched upon here are both permissible and conducive to a speedier democratic transformation.

They are permissible because they will not permanently block the advance to real democracy. They are conducive to a positive break-through in the negotiation process because they address, in a principled way, 'some of the basic and more immediate fears and insecurities of a our adversary and its constituency.

In particular, the prospect of a period of power-sharing. a shared vision of the future regional diSpensation, some security for existing incumbents in the civil service. and under. takings which will promote reconciliation. will make it exceedingly difficult for the other side to continue blocking the transformation.

As a bonus. these concessions would situate us indis-putably in the moral highground and weaken the capacity of the more extreme hard-liners within the regime's camp to block an early agreement. A)