

MEMORANDUM FOR DISCUSSION WITH
A DELEGATION OF THE KINGDOM OF THE NETHERLANDS
LED BY J.P. PRONK, MINISTER FOR DEVELOPMENT COOPERATION
SUBMITTED BY
MANGOSUTHU BUTHELEZI
MINISTER OF HOME AFFAIRS
PRESIDENT OF THE INKATHA FREEDOM PARTY
CHAIRMAN OF THE KWAZULU-NATAL HOUSE OF TRADITIONAL LEADERS

Cape Town, 23 March 1995

The Kingdom of the Netherlands has had such an important role in the unfolding of our recent history and the consolidation of democracy in our country, that I welcome this opportunity of discussing with you some of the burning issues facing us in the new South Africa. You will understand, I am sure, that in meeting with Ministers of this Government, your delegation to South Africa is in fact dealing with members of different political parties comprising a Government of National Unity. As Minister of Home Affairs I therefore wear more than one hat, since I am a member of Cabinet but, as the President of the Inkatha Freedom Party, I am also the leader of the opposition within Cabinet. Moreover, as know that ours is an extremely complex country consisting of diverse forms of societal organization and societal administration, and to a certain extent I myself am the expression of such complexity and diversity. In fact, not only am I an elected member of Parliament and a Minister, but, as you know, I am also the Chairman of the House of Traditional Leaders of the Kingdom of KwaZulu-Natal which reflect a form of traditional community organization and governance based on shared land and consensus rather than majority rule. I hope therefore, that I am in a position to give a broad perspective and that you will feel free to pursue any issues arising from this brief presentation.

Allow me, first of all, to comment on some of the tasks and challenges of my Ministry in particular. There are many priorities facing us, but three are particularly important. One is the issue of translating into legislation the right to freedom of expression enshrined in our present constitution. Coming from a country as liberal as the Netherlands, I am not sure you will readily comprehend how strictly censored our people have been, not only with regard to political matters, but equally resulting from the previous Government's self-proclaimed guardianship of the country's morals. During last year's budget debate I indicated that never again should we be told what we could or could not say, write, see or read and that I would be introducing legislation to attend to this.

Another very important issue is the illegal entry into South Africa of aliens. Although we are facing problems with citizens of a number of countries --including I might add several European countries-- choosing to reside here without being entitled to do so, the crux of the crisis we are facing is that vast numbers of people from neighboring states, and from Mozambique in particular, are flooding into South Africa seeking opportunities not available in their own countries. I am aware of perceptions in Europe of South Africa being the potential saviour of Africa, or more especially of sub-Saharan Africa, but I must impress upon you the fact that we are a developing country ourselves, with huge and politically explosive problems confronting us. We are extremely willing to assist our neighbours, all the more so since they suffered so much as a result of their solidarity in the struggle against apartheid, but by the same token, this cannot be by means of millions of our people losing their jobs, housing, access to health care and so on. As both a country and a Ministry, we are struggling with this, and must reach an accord with our neighbours

on how to address the issue. Experience in Europe suggests that until and unless one's neighbours are able to provide for their own people, this problem will not go away, and I believe we must therefore do everything possible to assist our neighbours in developing their economies.

A third key concern is the registration of voters for the up-coming local government elections. The elections are scheduled for November 1, this year, but I am really worried that many millions of people will in fact be unable to vote by due date by virtue of the fact that unlike the general election of April last year, this time voters have to be registered in order to exercise their right to vote. The key concern is whether the registration effort is in fact succeeding or failing. Let me stress that my Ministry is doing everything possible to expedite our brief, but the problem is unfortunately not purely technical. More important is the fact that insufficient numbers of people appear ready or willing to be registered as voters - only 10% of eligible voters have so far registered - and this is a political problem. In general, it can be said that there is a greater propensity to register in the White, Coloured and Asian communities, which comprise only 30% of the population. The other 70%, for a variety of reasons, are not registering at an adequate rate.

This problem is particularly acute in rural areas which are organized as traditional communities, some of which are extremely isolated from any registration office and have never used identity documents and vital records. A potentially chaotic and difficult situation has been made worse by the political tensions which generate in a forced coalition such as the GNU. For instance while my department controls central government's structures and resources needed both for the issuance of identity documents and for voters' roll registration, the entire function of voters' roll

registration has been transferred and put under the control of a task force which reports to the Minister of Provincial Affairs, Constitutional Development and Local Government, Mr. R.P. Meyer, while I am the political head with respect to the issuance of identity documents required for such registration.

The result might well be very low registration and that elections on November 1 are not adequately legitimised or that the date will have to be shifted or staggered per Province. Certainly, in KwaZulu-Natal which has an IFP-led Government, we are doing everything in our power to impress upon people the urgency of registering timeously, and we hope to see much improved results shortly. During the April 1994 elections, we were assisted by several European countries and the European Community itself in fields such as voter education and monitoring, and should there be a willingness to again assist, this would be very important for the consolidation of democracy and I am sure we would be extremely grateful. In fact, these local government elections will be the real acid test of whether democracy has taken roots in our country after the April 27, 1994 elections.

I must add however, that improved voter registration does not resolve all the problems, or even the major problem in KwaZulu-Natal, with respect to local government elections, and I believe this is an opportune moment to reflect upon events from an IFP perspective rather than as Minister of Home Affairs. As far as local government is concerned, delegates to our Special General Conference held on March 4 and 5 resolved that registration should be stepped up, but that the decision as to whether we participate or do not participate in the elections depends upon whether

international mediation has taken place.

It is important to preface my remarks with a brief overview of how we view the present crisis on international mediation, and how it relates to both the constitution-making process and to local government. As you know, the IFP took exception to the process that resulted in the interim constitution, and that it took great exception as well, to much in that constitution. We objected to the fact that the Constitution reflects a non- African approach based on majority rule rather than consensus for it empowers a Constitutional Assembly and establishes a substantially unitary state from the time we walked out of the World Trade Center Negotiations process in July 1993 until the elections themselves, we engaged in extremely intense negotiations, bilaterally and trilaterally with the ANC and NP, in order to find sufficient commonality expressed by way of constitutional amendments to enable us to enter the elections. The process almost failed, but was saved at the eleventh hour by an agreement between the country's three most senior leaders. The Agreement for Reconciliation and Peace, signed by Presidents Mandela, De Klerk and myself on 19 April 1994, and which was the sole basis upon which the IFP entered the elections, provided for outstanding constitutional issues in respect of both the Monarchy and the Interim Constitution, to be addressed by means of international mediation as soon as possible after the elections. These outstanding issues were clearly identified in the Consolidated Terms of Reference agreed upon earlier.

However, we have totally failed in over 10 months of intense pressure, to get the ANC and NP to abide by the Agreement they signed. As one of the three signatories, I have exhausted private

conversations and correspondence with the other signatories as avenues to take things further. And in other fora - ie, the National Assembly, Senate, Cabinet, Constitutional Assembly, Constitutional Committee and Management Committee - IFP representatives have tried everything possible to get the ANC and NP to honour their word. For all that we tried, it was to no avail, and a stage was reached when it was clear to us that we were getting nowhere. This resulted in our walking out of Parliament last month to seek a fresh mandate from our constituency. I must stress that were it not for the Agreement of Reconciliation and Peace, the IFP would not have participated in the election and I would not be here as Minister of Home Affairs in the Government of National Unity. Once it became clear that the ANC and NP were not going to implement the Agreement, we had no choice but to obtain a fresh mandate.

The other parties signed the Agreement knowing full well what its consequences were and have reneged on this. In essence, we agreed between ourselves that notwithstanding the important role of the Constitutional Assembly in the process of constitution-making, there were certain issues that would not be addressed by the CA itself, but would be addressed by the mechanism of international mediation. The issue now is not whether this is a good or a bad idea as the other two parties are intimating, but whether the Agreement is going to be implemented or not. We are insisting that the Agreement be honoured for the simple reason that the very issues it was intended to resolve remain the core issues surrounding our rejecting the Interim Constitution and the present process of constitution-making and our refusing to participate in the April 1994 elections. If we were lured into the elections on false pretenses, we believe the ANC and NP should be straight and honest with us. They should inform us of this, so we at least know where we stand.

If this is not the case, then the Agreement should simply be implemented.

Instead we get one story after another which amount to nothing but prevarication and obfuscation - for example, that there is nothing to mediate, or that we should first agree on the terms of reference, or that if there are constitutional issues in contention, that the Constitutional Assembly should deal with them. These are all non-issues, and we are not going to be fobbed off in this manner.

On March 6, 1994 the Special General Conference adopted a very measured, if not moderate view, largely on my suggestion, in agreeing to go back to the Constitutional Assembly. I say this because the delegates to Conference were not impressed by the breach of the Agreement and were very angry. However, they took into consideration, as did I, the fact that Deputy President Thabo Mbeki, who had been mandated by President Mandela to deal with the issue, had called me from the USA during our 3 March National Council deliberations on this very issue, pleading with me to give the ANC a chance to pursue a satisfactory resolution of the matter. In the end, and after much sometimes very heated debate, we agreed. Conference resolved to give the other parties one month to start implementing the Agreement, failing which the IFP's Parliamentarians were instructed to withdraw from the Constitutional Assembly. The Conference also made it very clear that our withdrawal from the Constitutional Assembly would carry the necessary consequences that the IFP would not recognise the final Constitution produced by such an Assembly. We also must realize that we accepted the Interim Constitution only because of the agreement for Reconciliation and Peace, the breach of which forces us to reconsider to which extent we and our

provincial government in KwaZulu-Natal may consider ourselves bound by the spirit of the Interim Constitution.

So Far Deputy President Mbeki has not been in touch with me. The following is a letter that I wrote to him on the 20th of March, on seeing no response from him about this matter of international mediation in spite of his return from Washington and the Netherlands.

20 March 1995

The Hon Mr T M Mbeki
Executive Deputy President
Office of the President and Deputy Presidents
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Dear Deputy President

INTERNATIONAL MEDIATION

I wish to thank you for your call from the United States on the 4th of March when you asked me to talk to our National Conference in such a way that decisions they were going to reach the following day should not make it difficult for you to do something to find a way forward as far as the international mediation is concerned.

I am enclosing a copy of the resolutions that were taken by Conference on the 6th of March 1995.

I was rather concerned when I heard that you have gone again on official business before I could hear from you since it was my understanding that you were going to get in touch with us in the IFP on your return from Washington. I am not complaining knowing as I do the responsibilities that you carry for the whole Country.

I however appeal to you now that something be done to try and find the way forward in this matter

of the Agreement that we signed with President Mandela and Deputy President de Klerk on international mediation on the 19th of April 1994. We had to postpone our National Council meeting that was scheduled for the 18th of March because of the fact that it had not so far been possible to know from you as someone who was designated by the President to go into this matter what next, as far as this matter is concerned.

I will be grateful if I can know if you think there is a way forward as AmaKhosi of KwaZulu see a nexus between sorting out this issue of international mediation and the forthcoming local government elections. I know that all sorts of motives are attributed to us, when we talk in this way. I wish you to accept our bonafides and that we do genuinely see a nexus between this issue of international mediation and the local government elections. I therefore see some urgency about this since there are time frames for these elections.

So far it was resolved that our people register for the local authorities elections without committing ourselves to participating in the forthcoming local authorities elections. Believe us when we state that we are willing and even eager to do so should a solution be found for resolving the problem of international mediation. It is this which makes the whole matter urgent in our view, thus this letter.

Awaiting to hear from you Mr Deputy President.

My respects and warm regards.

Yours sincerely

M G BUTHELEZI
PRESIDENT - INKATHA FREEDOM PARTY

/bdm

Encl.

Even though Mr Mbeki carries quite a lot as the Executive President it is quite extraordinary that he has not been in touch with me, after his return from these overseas trips.

Moreover I must express my disappointment at the comment made by President Mandela last Saturday when he intimated that he saw no reason for international mediation going ahead at all, and that he was not prepared to consider it at all unless he was first convinced of its necessity. Really, I thought that the person to whom he had delegated the issue should not be preempted in this manner, and I thought moreover, that leaders of such stature do not consider whether they are prepared to honour agreements they make. They simply honour them.

You should note that this is where the linkage with local government comes into play, for the President made his comment after a meeting with His Majesty the King of the Zulus. His Majesty was not a signatory to the Agreement and is in fact immaterial as far as the Agreement is concerned, and the ANC is using His Majesty as a crutch to support its rejection of mediation. But the issue at stake is not centered on the King, but on the institution of the monarchy and the restoration of our Kingdom in the context of provincial self-determination and a Provincial Constitution for KwaZulu-Natal. And the institution of the monarchy is inextricably linked with the Kingdom of KwaZulu-Natal, with the role of traditional authorities within it, with the principle of pluralism and how people choose to organise themselves, of subsidiary and of federalism.

It is very unfortunate, but I must state - even as a member of Cabinet - that the ANC-led central Government is interfering in provincial affairs, especially in matters that should not concern it.

For instance, traditional matters are a provincial competence, but the central Government is constantly dealing with His Majesty on a bilateral basis, ignoring the Provincial Government of which he is the Constitutional Monarch. It has taken it upon itself to provide security for the King. It is trying to pay the amaKhosi directly from central Government coffers. It is attempting to dictate the form of local government appropriate to traditional communities. These are all instances of issues which international mediation is intended to address - the status of the Monarch, of the Kingdom, of the Kingdom's right to self-regulation. More than half of the province's population reside in areas where traditional rule is the norm, and these people have taken great exception to what the central Government and the ANC in particular are doing. It is for this reason that amaKhosi have insisted upon the Agreement on international mediation being honoured prior to their committing themselves to participating in the local government elections.

This is why there is such a clear nexus between the issues identified by ourselves and the other signatories in the Consolidated Terms of Reference for international mediation, and local government elections and the position of the amaKhosi in this regard. They are not issues which the Cape Town's Constitutional Assembly should determine on the basis of whichever party or parties can put together the requisite majority. They are instead, issues which the three signatories agreed before the elections should be addressed by means of mediation and negotiation prior to the Constitutional Assembly coming into being, and that the Constitutional Assembly would in essence flesh out the constitution on the basis of agreement first reached by way of mediation.

South Africa is a fledgling democracy with great promise. We must therefore do everything in our

power as political parties and as leaders to ensure that this democracy does not flounder. That is why it is so very important that this Government roots out corruption, that it develops a clean administration, that it abides by the Constitution, and that its leaders abide by agreements. It is therefore untenable for leaders and parties to shrug off their obligations in a cavalier fashion, for this not only heightens mistrust within Parliament and Cabinet itself, which is surely the last thing we need in a Government of National Unity, but it seriously undermines the very foundation upon which the new order is being built. It is our view that the people of KwaZulu-Natal in particular have the right to constitute an intrinsic part of a united South Africa, and moreover, that they have the right to determine for themselves the nature of the federal relationship they have with the rest of the country as well as the manner in which they choose to rule themselves, all within the constraints, of course, of the new constitution. For instance your country is a kingdom and yet is part of the European Union which is increasingly resembling a federal system.

No one is talking of confederalism, let alone secession, but you would imagine from the hyperbole expressed by our opponents that we are attempting to pursue a constitutional path that will automatically result in a Bosnia in South Africa. Nothing could be further from the truth. Our constitutional proposals, which we believe will be endorsed by the vast majority of the people of KwaZulu-Natal, are perfectly in line with modern Western constitutionalism, offering our people the highest protection possible against the possible abuse of state power, offering them the highest level of participation in legislative and administrative processes, and offering them highest level of autonomy commensurate with a modern and developing country. I wish to stress that our proposal for the restoration of the Autonomous Kingdom of KwaZulu-Natal is based on the notion

of the Constitutional Monarchy in which the King reigns but does not govern.

The point I would like to stress is the necessity of constitution-making being as consensus-based a process as is possible under any given set of circumstances. This was lacking prior to the elections, but was achieved at the very last minute on the basis of the Agreement for Reconciliation and Peace. We need to return to the ethos that produced that Agreement, which is the African ethos of consensus for only in that way can we proceed with constitution-making on the basis of consensus and mutual trust, and only in that way can we avoid unfortunate results arising from the failure to honour the Agreement.

Our country has witnessed a miraculous transformation, and we are rightly acclaimed for having achieved as much as we have. We must of course, build on this in every way possible. We must build our economy. We must create maximum opportunity for the maximum number of people. We must deliver the services people need. We must create a rights culture. We must protect the autonomy of civil society. As individuals, communities, political parties, leaders and governments, we must in fact do everything expected of a modern registration, for that is what we have deliberately set out to create, and that is what we have in fact created, albeit imperfectly. But we must do all this deeply aware of the fact that we are rooted in Africa, not Europe. Our culture is largely a hybrid of Africa and the West, and we need to take the best from each as we build that which is uniquely South African. This requires great tolerance and understanding from all of us, so that we do not create a destructive backlash which harms us all.

No matter the common South Africanism that unites us all, South Africa is a plural society and the acknowledgement of this is a necessity in our process of constitution-making. I therefore fear the consequences of refusing to accept this reality, and I fear the consequences of pretending that unity and uniformity can and should be imposed from above. I hope that reason and honour will prevail in the crisis facing us, and that the constitution we create will be a truly South African constitution which will serve us and our descendants for generations to come.