

THESE ARE MINUTES AS APPROVED BY THE CHAIRPERSON. THEY ARE CONFIDENTIAL. THEY ARE RESTRICTED TO MEMBERS OF THE SUB-COMMITTEE, THE DAILY MANAGEMENT COMMITTEE AND THE MANAGEMENT COMMITTEE. THEY ARE STILL SUBJECT TO RATIFICATION BY THE SUB-COMMITTEE AT ITS NEXT MEETING.

ADOPTED BY THE SUB-COMMITTEE AT THEIR MEETING OF 21 APRIL 1992.

MINUTES OF THE MEETING OF THE SUB-COMMITTEE ON THE PARTICIPATION OF THE ZULU KING AND OTHER TRADITIONAL LEADERS IN CODESA HELD AT 07H30 ON MONDAY 30 MARCH 1992 AT THE WORLD TRADE CENTRE.

- PRESENT:**
- TJ Mohapi (Chairperson)
 - FT Mdlalose
 - MJ Mahlangu
 - NJ Mahlangu
 - J Zuma
 - J Slovo
 - CW Eglin
 - TT Matanzima

 - T Eloff (Secretary)
 - G Hutchings (Minutes)

1. Chairperson's opening remarks

The members were welcomed. The chairperson thanked J Zuma for assuming the chair in his absence.

2. Apologies

No apologies were noted.

3. Adoption of the agenda

The agenda was adopted with the following additions:

"Recommendations/Progress Report to the Management Committee" was inserted as point no. 6.

4. Ratification of the minutes of the meeting of 18 March 1992

The minutes of 18 March 1992 were ratified with no amendments.

5. Matters arising

5.1 Expenses with regard to persons giving evidence:

It was noted that the DMC had reached the following agreement in this regard:

- * The fee for experts should be negotiated between the expert and the Codesa administration.
- * The travel and accommodation expenses of Traditional Leaders making submissions would be met. They would receive no fee for their presentations.

5.2 Ciskei delegations:

- 5.2.1 It was noted that the sub-committee would wait to hear from the two delegations from the Ciskei about the outcome of their proposed meeting of 28 March 1992.
- 5.2.2 It was agreed that if no joint submission was submitted by the two delegations concerned, the sub-committee would take the two individual submissions already submitted as final submissions.

6. **Submissions**

- 6.1 An initial summary of oral and written submissions was submitted to the members. It was noted that there was still work to be completed on the remaining submissions and that this was not a final summary. A final summary should be available for the members of the sub-committee in the week commencing 6 April 1992.
- 6.2 The summary was read to the members and relevant corrections made.
- 6.3 It was noted that this document is for use by the sub-committee only.
- 6.4 It was agreed that even though the final summary was not yet available to members, the discussions necessary to formulate recommendations to the DMC should proceed.

7. **New Submissions**

The following submissions were noted:

- 7.1 Submission by G van N Viljoen of the SA Government - "Answers to specific questions raised during a meeting of a sub-committee of the management committee of Codesa regarding the accommodation of the Zulu King and Traditional Leaders". (Addendum A)
- 7.2 Submission by IFP - "The removal of some major obstacles to the achievement of a climate conducive to peaceful negotiation". (Addendum B)
- 7.3 Submission by IFP - "Addendum regarding participation of his majesty the King of the Zulus and the Kwazulu Government at Codesa". (Addendum C)

8. **Recommendations/Progress Report to MC**

- 8.1 After discussions the following was noted:

- 8.1.1 Codesa should be as inclusive as possible.
- 8.1.2 The principle of participation has widespread support.
- 8.1.3 The same principle should apply to the Zulu King and all other Traditional Leaders.
- 8.1.4 The nature and form of this principle of participation are still being discussed.
- 8.1.5 It was further agreed that a progress report and no recommendations, would be submitted to the MC meeting of 30 April 1992. (Addendum D).

8. Next meeting

The next meeting of this sub-committee will be held on 21 April 1992 at 07h30.

The meeting adjourned at 10h00.

Republiek van Suid-Afrika



Republic of South Africa

Ministerie van Staatkundige Ontwikkeling
Ministry of Constitutional Development

Verwysing
Reference 3-A5/6/11

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8000

Dr T Eloff
CODESA
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1992-03-25

Dear Dr Eloff

During a meeting of the Sub-committee regarding the accommodation of the Zulu King and other traditional leaders on 3 March 1992, specific questions were raised to which I undertook to respond in writing.

I herewith enclose the questions and answers for submission to the Sub-committee, please.

Yours faithfully

G VAN N VILJOEN
MINISTER OF CONSTITUTIONAL DEVELOPMENT

**ANSWERS TO SPECIFIC QUESTIONS RAISED DURING A MEETING OF A
SUB-COMMITTEE OF THE MANAGEMENT COMMITTEE OF CODESA
REGARDING THE ACCOMMODATION OF THE ZULU MONARCH AND
TRADITIONAL LEADERS**

1 QUESTION

Detail regarding (existing) constitutional arrangements for the accommodation of the Zulu monarch in the legislative and executive structures of KwaZulu is requested. (Mr Jacob Zuma)

ANSWER:

Section 2 of Part II of Schedule II of the KwaZulu Constitution (R70 of 1972) makes provision for the Zulu monarch to be part of the Legislative Assembly, and that he,

... shall retain his traditional powers and functions and shall continue to enjoy the personal status he has hitherto enjoyed and shall, with regard to ceremonial and tribal matters within his tribal area and at ceremonial occasions within the area of the Legislative Assembly, take precedence over the Chief Minister and Ministers, except in respect of matters or occasions directly connected with the business of the legislative assembly.

Regarding the Zulu monarch's participation in the Executive structures of the KwaZulu government, section 20(4) of Part II of Schedule II of the KwaZulu Constitution Act (Proclamation R70) requires the Cabinet to inform the monarch of impending legislation and to discuss it with him. Section 25(c) provides that the monarch shall be informed of the agenda of each Cabinet meeting and that he may request the Cabinet or members thereof to meet with him so that he can convey his opinion to them. He thereby obtains the opportunity to exert a direct, although not statutorily enforceable, influence on the governing of his nation.

2 QUESTION

Regarding the payment of a salary to traditional leaders, the question is whether there is any difference between the position when the Central Government was responsible and the position *after* the devolution of the function to Self-Governing Territories in terms of the National States Constitution Act (21 of 1971). Furthermore, was there at any stage a difference between the salaries of the Zulu monarch and the salaries of other Paramount Chiefs or Chiefs? (Mr Jacob Zuma)

ANSWER:

No distinction was drawn by the South African Government regarding the payment of salaries to paramount chiefs, chiefs and headmen prior to the devolution of the function to Self-Governing Territories. Since the promulgation of the National States Constitution Act, 21 of 1971, Self-Governing Territories have separately determined their own criteria in this regard. Naturally, this differs from the position before the promulgation of the Act.

3 QUESTION

Did the Law Commission recommend that traditional leaders be represented at local and possibly at regional (and therefore by necessary implication *not* at central government) level? (Mr J Slovo)

ANSWER:

On page 723 of Volume 2 of the Law Commission's Report on Constitutional Models (1991), with regard to the question of the representation of traditional leaders at central government level, the Commission states:

The problems attached to this option are legion. It is not known at present how many chiefs would qualify for a seat in such a house or chamber. And what of the other population groups who have no tribal ties - whites, Indians and coloured people? How would they be given representation in the same house or Chamber? In what proportion would such representation be given?

The position of those black voters who are detribalised is also a problem. How and in what proportion, would they be represented? ...

This option creates more problems than it can solve and is not supported.

Regarding representation at the level of constituent states or regions the Commission argues as follows:

The same problems as those discussed above would arise in these cases.

Regarding representation at the municipal level the Commission argues:

It is at this level that the chiefs could probably play the most useful role and also be accommodated with relative ease. In addition to elected members, municipal councils could also accommodate those chiefs who have a seat in their region as ordinary members with full voting rights.

4 QUESTION

During the period in which the Government was (directly) responsible for the subsidy payable to Chiefs and Paramount Chiefs, was there a so-called stipendium based on the amount of tax which was paid, or collected in a given tribal area? (Mr J Mahlangu)

ANSWER:

Yes. The stipendium was an amount, based on the number of registered rate-payers within the area of a traditional leader, payable to a traditional leader for services rendered to the government.

5 QUESTION

In the clause in Act 38 of 1927 which authorised the Governor-General to appoint and to expel any traditional leader, was any distinction drawn regarding the Chiefs or Paramount Chiefs who could thus be affected? (Mr J Mahlangu)

ANSWER:

It appears that no distinction was drawn in the original act. This function at present vests in the Self-Governing Territories themselves in terms of section 27 of the Schedule to Act 21 of 1971. The position therein is also that no provision is made for a distinction between the various tribes.

6 QUESTION

Did any legal prescription in existence before the enactment of Act 21 of 1971 provide for different categories of traditional leaders, especially insofar as the Zulu monarch is concerned? (Mr J Mahlangu)

ANSWER:

As far as could be ascertained, no such prescription existed. Under British rule in the 19th century the Native policy in the Cape Colony was based on assimilation and westernisation. The Native policy in Natal, however, was

the more traditional British approach of "indirect rule". Thus while there were separate administrations in the two colonies, the approach in Natal tended to encourage the strengthening of cultural and traditional feelings and the aspirations of the Zulu nation.

7 QUESTION

Does any South African legislation whatsoever exist which provides for the differentiation in status between the Zulu monarch and other traditional leaders? (Mr J Slovo)

ANSWER:

The KwaZulu Constitution proclamation differs in certain respects from that of other self-governing territories. A principal area of difference relates to the position and status of the Zulu monarch, as explained above.

In terms of Proclamation R70 of 1972 the Paramount Chief, as he was then known, was in terms of Section 2(1) of Part II of Schedule II made a member of the Legislative Assembly. In terms of Act 3 of 1987 (KwaZulu) the expression "Paramount Chief" was replaced by the expression "His Majesty the King". (The reason for this being that KwaZulu had only one Paramount Chief, so called by the South African Government, but who was in effect King of the Zulus.)

To the best of our knowledge none of the constitution proclamations of the other Self-Governing Territories contain such provisions.

As far as can be ascertained, however, no legislation exists which has been passed by the South African Legislature wherein a distinction is drawn between the status of the Zulu monarch and that of other traditional leaders.



INKATHA

Inkatha Freedom Party

Iqembu leNkatha yeNkululeko

CODESA
WORKING GROUP 1
ALSO FOR SUBMISSION TO ZKTL SUB-COMMITTEE

SUBMISSION OF THE IFP REGARDING THE REMOVAL OF SOME MAJOR OBSTACLES TO THE ACHIEVEMENT OF A CLIMATE CONDUCIVE TO PEACEFUL NEGOTIATION.

INTRODUCTION:

It is the duty of CODESA to inspire confidence in the populace at large that it will display fair play and leave no-one feeling that they were ignored, sidelined, tricked or snubbed.

To this end Working Group 1 was charged with the task of investigating ways and means to:

- (a) Level the playing field and to;
- (b) Ensure the achievement of a climate conducive to
 - (i) Free political participation and
 - (ii) Peaceful negotiations.

As a consequence of the fact that the various sectors of the South African population approach the negotiating table from differing backgrounds, experiences and apprehensions, many "obstacles" have been identified and deo volente are in the process of being addressed and eliminated.

In this short submission the IFP representatives in Working Group 1 wish to focus on one issue that has remained a serious obstacle and is in the process of moving from being a thorn in the flesh to being a festering sore, namely, the growing feeling among the Zulus that they are not only being marginalised but totally rejected.

This feeling arises from the refusal to give His Majesty the King of the Zulus, and his Government a seat at CODESA.

President: The Hon. Prince Dr. Mangosuthu G. Buthelezi
National Chairman: Dr. F.T. Mdlalose
Deputy Secretary General: Inkosi S.H. Gumede
Sub Committee Chairmen:
Political Constitutional, and Legal: Dr. D.R.B. Madide
Economic and Finance: Mr. M.A. Nzuza; Social and Cultural: Dr. F.T. Mdlalose; Elections Publicity and Strategy: The Rev. C.J. Mtetwa
Appointment and Disciplinary: Mr. E.S.C. Sithebe; Community Development: Mr. M.V. Ngema.

RESTLESSNESS AMONG THE ZULU

1. Let us at the outset emphasise that the IFP is a national multi-ethnic and multi-racial party and thus cannot arrogate unto itself the duty or the right to act as spokespersons for the Zulu since its membership is not a primarily or purely Zulu one.

2. The IFP is nevertheless concerned about all people and all minorities.

3. Our party in this Working Group therefore raises this issue only in so far as failure to resolve it means failure to achieve:

(a) The levelling of the playing field and

(b) The peaceful climate required for meaningful negotiations.

4. We are aware that the matter has previously been raised in other CODESA forums. Group 1 Sub-group 2 in particular nevertheless has a duty to alert the Management Committee that failure to resolve this matter timeously has the potential to delay progress in the CODESA process and, worse, to lead to a deterioration of confidence in CODESA and to destabilise a section of the population of our country who are otherwise very keen and supportive of the very foundations of CODESA, namely, peace and reconciliation.

WHY:

1. His Majesty has at all times shown a keen interest in CODESA and its aims and objectives. He has been a keen participant in the peace process leading to the National Peace Accord and shows the same interest in CODESA.

2. The KwaZulu Government has time and time again adopted resolutions calling on the previous and present Governments to abandon apartheid, release political prisoners, allow the return of exiles and enter into negotiations.

3. All the TBVC States and self-governing States (albeit sometimes de facto though perhaps not de jure) participate in CODESA except the KwaZulu Government.

4. CODESA was always meant to be an inclusive and not an exclusive forum. As such CODESA is actively trying to broaden participation in it by inviting groups from the far left and from the far right, justifiably so. Remember the old saying "the more the merrier."

5. So the question is asked "Why exclude the Zulus qua Zulus"?

6. Some people woefully ask "is this the way to reward the Zulu for all they have done, at great cost to themselves, to resist imperial, colonial and racist suppression not only for themselves but also on behalf of other blacks"?

APPEAL

The IFP therefore appeals in the name of reason and justice that the contributions and the bona fides of the Zulu be recognised by:

(a) Letting His Majesty the King of the Zulus and the KwaZulu Government take their seats at CODESA without any further ado.

The thought of having millions of Zulus excluded from CODESA in this way and with the possibility of them feeling outsiders with all the dark unfathomable repercussions is not only abhorrent but even frightening.

CONCLUSION

We have looked at this issue from all angles and are absolutely certain that the participation on behalf of the Zulus that we call for poses no threat to any other participant.

We only plead for some understanding and generosity from other participants as a down-payment for the political tolerance that is to be a corner-stone of the New South Africa we are in the process of building. We do not want to see this precious promise scuppered by malevolent forces who would use the legitimate grievances of the Zulus to lead us from one long nightmare of racist domination and counter-action to another nightmare of sectarian conflict.

DENNIS MADIDE. March 30, 1992



INKATHA

Inkatha Freedom Party

IQembu leNkatha yeNkululeko

CODESA WORKING GROUP 1

ALSO FOR SUBMISSION TO ZKTL SUB-COMMITTEE

ADDENDUM TO IFP'S SUBMISSION REGARDING PARTICIPATION OF HIS MAJESTY THE KING OF THE ZULUS AND THE KWAZULU GOVERNMENT AT CODESA.

INTRODUCTION:

This addendum is merely supplementary to our Main Submission and elucidates some misunderstandings surrounding this issue. Certain arguments have been raised to justify the exclusion of His Majesty. Here we wish to address just a few lest such a major decision be based on faulty misconceptions.

ARGUMENT 1

The King is above politics and therefore it is an inconsistency on the part of the IFP to now want to involve him in politics when the KwaZulu Government's Constitution puts him out of the political arena.

RESPONSE:

With respect, this is a factually incorrect argument. The truth is that the King is above party politics. The relevant legislation make this abundantly clear. As a constitutional monarch who actually has a seat in the KwaZulu Legislative Assembly and a Personal Representative in this Chamber, it is understood that he does not eschew politics in general but only party politics. Consequently a particular political party cannot act as his sole spokespeople since his subjects belong to a variety of political homes.

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ARGUMENT 11

Why should CODESA give a special privileged position only to the Zulu King and not to other "traditional" leaders?

RESPONSE:

It would be presumptuous for the IFP to pontificate about other areas without consultation. It must be remembered, however, that when a proposal was made that not only the Zulu King but also Contralesa be represented, the IFP accepted that. Had this proposal been acted on, much of the bitterness might have been dissipated.

Clearly traditional leaders are an important ingredient of certain sections of our population's lives whilst others are not concerned with it. It is therefore severely counter-productive that when we are trying to fashion a home grown brand of democracy ab initio we should not only ignore but reject those things that are so near and dear to some of our fellow countrymen.

ARGUMENT 111

Admission of the Zulu King will lead to an untenable situation of multiple loyalties. The King himself will run the risk of not representing anybody.

RESPONSE:

The monarchy is an institution which should be taken into account when designing a future society. For some people it is their cultural umbilical cord. CODESA is a negotiating forum, a market place of ideas and not an arena for power-play. Multiple loyalties already exist at CODESA and, however inconvenient, have nevertheless not been questioned by the IFP. What is sauce for the goose is also sauce for the gander. Acceptance of this principle would go a long way towards "levelling the playing field".

DENNIS MADIDE. March 30, 1992

**PROGRESS REPORT FROM THE SUB-COMMITTEE ON THE PARTICIPATION OF
THE ZULU KING AND OTHER TRADITIONAL LEADERS IN CODESA
TO THE MANAGEMENT COMMITTEE ON 30 MARCH 1992**

1. Meetings

The sub-committee met on 18 March 1992 and 30 March 1992.

2. Hearings on 18 and 19 March 1992

The sub-committee was presented with oral submissions on 18 and 19 March 1992 by the following groups/individuals:

- * VJ Matthews - Expert
- * Professor Maphalala - Expert
- * Ciskei Delegation
- * Ciskei Delegation from Paramount Chief Sandile
- * Contralesa
- * Kangwane Council of Chiefs
- * Lebowa Delegation
- * Qwa Qwa Delegation
- * Transkei Delegation
- * Venda Delegation
- * Ximoko Progressive Party Delegation

The following written submissions have been presented to the sub-committee:

- * Letter from MB Sandile
- * Letter from Prince A Leloka II Tsotets
- * Letter from Prince SJ Mahlangu
- * Letter from Bophuthatswana Government
- * Submission from Amandebele Ndzundza Sekhulumi
- * Submission from Ndzundza Fene Tribal Authority
- * Submission from Manala Ngibe Tribal Authority
- * Submission from Manala Tribal Authority
- * Submission from Ndzunza Somphalali Tribal Authority
- * Submission from Chief Moses Sonkalane Makerame Mabhena
- * Submission from Mabhoko Tribal Authority
- * Submission from Mr MP Skosana
- * Submission from Professor HW Vilikazi
- * Submission from Prof H Ngubane
- * Submission from Ximoko Progressive Party
- * Submission from Contralesa
- * Submission from Transkei
- * Memorandum from Transkei
- * Submission from Dr Mopeli
- * Submission from Paramount Chief Mota
- * Facsimile from Nathaniel Sekhumbuzo Bongani Mkhatsywa
- * Submission from NJJ Olivier
- * Submission from MN Ramodike, Leader of The United People's Front
- * Submission from MS Mankuroane (Paramount Chief of Batlhaping-Tau)

- * Transcription of presentation by Dr G Van N Viljoen to sub-committee
- * Submission of answers to specific questions raised during a meeting of the sub-committee by G Van N Viljoen
- * Submission from IFP
- * Submission from IFP re the removal of some major obstacles to the achievement of a climate conducive to peaceful negotiation

A summary of the proceedings and the written submissions is being prepared for consideration by the sub-committee. A part of this summary was already discussed at the meeting of 30 March 1992.

3. Issues Identified

- 3.1 Consensus has been reached on the principle of participation.
- 3.2 The same principle should apply to the participation of the Zulu King and all other Traditional Leaders.
- 3.3 The nature and form of this are still being discussed.

4. Next Meeting

The next meeting of the sub-committee is scheduled for Monday 21 April 1992 at 07h30.