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Kader Asmal : The Role of the International Community.

Item VI: Paragraph 1.1.3 expects the Working Group to identify areas of "commonality and aspects where agreement already exists between participating delegations." We will have to be careful about any a priori assumptions about agreement on these topics as so much turns on the details and interpretation. We will have to guard against premature agreement, while trying to ensure that the Working Group does not get bogged down in details.

Query: Is it a fruitful exercise at this stage to identify certain areas where agreement already exists?

The Role of the International Community

Item VII: This assignment may well prove to be the most complex, controversial and difficult of all. There is, in principle, no reason as to why effective machinery should not be established by the parties to negotiations in CODESA to deal with the range of issues which require urgent action. In other words, there could be a purely internal solution to the issue of creating conditions for confidence building and consensus by relying solely on structures established by CODESA.

If this approach is adopted then, the Working Party will need to refer to the process by which decision-making on a whole range of issues will take place, how deadlock will be broken and the extent to which it is possible to identify "watch dogs", relying solely on South Africa resources, who will ensure the compliance by the parties with agreements reached.

As far as mediation is concerned, the Working Party will need to discuss the extent to which there are parties inside our country which have the moral authority and the political power to act as an effective mediator and to ensure that binding decisions are arrived at and to enforce these decisions.

Finally, the Working Group will have to determine the extent to which effective supervision, monitoring or control can be exercised over the sensitive issues of security and law enforcement, including the restructuring of the police etc., the conduct of the whole electoral process, access to the publicly-owned media and decisions taken in relation to controversial matters.

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Query:

However, there are two dimensions that we will have to look at if we are to rely entirely on South African resources. Firstly, there is the extraordinary power differential between a government which has state power and the ANC which does not have the resources or capacity to ensure a level playing field; neither is there the existence in South Africa of people or bodies with sufficient impartiality or clout to ensure that agreements entered into will be carried out or where intervention may be accepted by the major parties. Secondly, there is now in existence a rich history of international assistance in situations where an illegitimate authority/government is attempting to transform itself to a democracy. This ranges from the purely technical and legal aspects of conducting a democratic parliamentary election (under the UN Programme of Advisory Services and Technical Assistance in the Field of Human Rights) to a more avowedly political and mediation role for a range of international organisations, from the OAU to the European Community, and not limited to the UN.

Item VII: We must therefore work on the basis that some form of international participation is both necessary and desirable. This should be done under two headings, participation by the international community and the possible modes of participation.

Participation by the International Community

The Working Group must identify the most appropriate body or body of persons or organ of an international organisation which is best qualified or most appropriate to assist in the period of transition. The Working Group should recognise that different ad hoc arrangements could be made for different purposes, depending on the specific objective or task to be dealt with.

The Working Group should therefore investigate the possibility of the involvement of the United Nations, the Organisation of African Unity, the Commonwealth and the Non-Aligned Movement and the extent to which any distinction ought to be made in the role of the international community in the period before elections for the constituent assembly and during the election period itself.

Modes of Participation by the International Community

The Working Group should therefore investigate the extent to which the international community can assist

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in the transition period. The options available are not exclusively limited to the following:

- (i) An investigation of the possibility of an international guarantee concerning the process of transition and, in particular, a guarantee of recognition of a definitive election for the transfer of authority, providing that it is certified as fair and free;
- (ii) The necessity or otherwise of a peace-keeping force in order to provide security, to ensure the maintenance of order and compliance with agreements reached by the parties;
- (iii) The necessity or otherwise of the appointment of a Special Representative in South Africa by the Secretary General of the United Nations or by any other acceptable body who could participate in the capacity of an observer in the talks and in the negotiations and the extent to which such a Special Representative could convene negotiations and submit mediating proposals to overcome deadlocks;
- (iv) Whether a limited international presence could monitor and verify the compliance by the mandated authorities of the tasks and obligations assigned to them under the agreements and use its good offices in the case of disagreement on the interpretation and application of the agreements;
- (v) Whether international participation could be used to secure the impartiality of the transitional government either by monitoring the operations of such a government or by being included in the transitional or interim government as a "deadlock breaker";
- (vi) If the option of a peace-keeping force is rejected, the extent to which international participation could supervise and secure the impartiality of the transitional security mechanism. In particular, international participation could be utilised to expand national commissions of inquiry or for the deployment of a UN or other international mission of experts for effective investigation and decision-making;
- (vii) The usefulness of observers from international and regional bodies to ensure that agreed procedures are followed and who could report back to their own constituencies;

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- (viii) The extent to which UN or other international participants could, if necessary, supervise and control vital areas of national administration;
- (ix) The extent to which the international community could provide machinery for the independent investigation of complaints against the security forces and sensitive areas of administration;
- (x) The extent to which international participation could assist a national electoral body - composed of representatives of all political parties - with the implementation of elections. Such a role could involve the monitoring and surveillance of all the aspects of importance for the holding of free and fair elections and the securing of a climate free of intimidation and fraud by a limited presence on the ground. Finally, such a body could assist by providing technical assistance and provide a conclusive judgement on the character of the elections.

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