

PRELIMINARY EVIDENCE TO THE SUBCOMMITTEE ON THE PARTICIPATION OF  
THE ZULU KING AND OTHER TRADITIONAL LEADERS IN CODESA

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**DRAFT AGENDA OF THE MEETING OF THE SUBCOMMITTEE ON THE PARTICIPATION OF  
THE ZULU KING AND OTHER TRADITIONAL LEADERS IN CODESA TO BE HELD AT 07H45 ON  
WEDNESDAY 18 MARCH 1992 AT THE WORLD TRADE CENTRE**

1. Chairperson's opening remarks
2. Apologies
3. Adoption of the Agenda
4. Ratification of minutes of 3/3/1992 and matters arising
  - 4.1 Timetable of oral submissions on 18th and 19th March 1992
  - 4.2 Procedure for oral submission on 18th and 19th March 1992
  - 4.3 Paramount Chief Sandile
5. Submissions
  - 5.1 From traditional leaders not included in delegations
  - 5.2 New written submissions
6. Next meeting



SUBCOMMITTEE ZULU KING, TRAD. LEADERS/3 MARCH 1992

**MINUTES OF THE MEETING OF THE SUBCOMMITTEE ON THE PARTICIPATION OF THE ZULU KING AND OTHER TRADITIONAL LEADERS IN CODESA HELD AT 10H00 ON TUESDAY 3 MARCH 1992 AT THE WTC**

**PRESENT:** TJ Mohapi (Convenor)  
TT Matanzima  
FT Mdlalose  
J Slovo  
J Zuma  
  
T Eloff (secretary, minutes)

1. The Chairperson's opening remarks

The chairperson welcomed the members and reiterated the importance of the work of the subcommittee.

2. Adoption of the agenda

The agenda was adopted after "Ratification of the minutes of the previous meeting and matters arising" was added as item 3.

3. Ratification of the minutes of the previous meeting and matters arising

3.1 Ratification

The minutes of the meeting of 24 February were ratified, with the amendment that Mr Slovo had apologised and had not been present at the meeting.

3.2 Matters arising

3.2.1 List of experts to give evidence

It was agreed to add the following names to the list of experts to be invited to submit evidence to the subcommittee:

- \* Prof RB Mqoke (Unitran)
- \* Prof CF Manona (Unitran)
- \* Mr VJ Mathews (Durban)

It was further agreed to invite Mr Mathews to give written or oral evidence to the next meeting of the subcommittee.

CONVENTION FOR A DEMOCRATIC

PO Box 307, Isanda, 1600. Soweto  
Telephone (011) 597-1194-99. Fax (011) 597-1194-99



It was agreed that Mr Slovo will investigate whether the report of the Law Commission (of Justice Olivier) was in any way beneficial to the proceedings of the subcommittee that he will communicate with the secretary in this regard.

### 3.2.2 Expenses with regard to persons giving evidence

- \* It was agreed in principle that expenses should be met.
- \* With regard to the experts, further negotiations between the Administration and the experts was necessary.
- \* With regard to traditional leaders giving evidence, it was agreed that, if necessary, the travel and accommodation costs of a limited number of traditional leaders from each region will be carried.

### 3.2.3 The hearing of evidence by the subcommittee

It was agreed that a follow-up letter to the heads of delegations of all administrations should be written in which the following should be communicated:

- \* The subcommittee would like to meet with six traditional leaders from each region to hear evidence.
- \* The meetings for the hearings would take place at the World Trade Centre on the following dates and times:  
  
Wednesday 18 and Thursday 19 March, 10H00-17H00.
- \* Heads of Administrations should please indicate who would come and which date and time was appropriate.
- \* It was also agreed to invite a 6-person delegation of CONTRALESA to do the same.

## 4. Submissions and applications received to date

It was noted that, before the meeting, the following applications/submission had been received:

- \* King G Zwelithini
- \* Transkei Kings and Chiefs
- \* King DM Mabhoko - Ndzundza Mabhoko Royal Kraal
- \* Batlokwa Tribe National Council
- \* The Lebowa College of Magoshi
- \* Paramount Chief EM Mabena II of Kwandebele



The following new applications/submissions were handed out:

- \* Mopeli Chiefs' Council - Qwaqwa
- \* Contralesa
- \* Batlokoa Chiefs' Council

5. Presentation by Dr Viljoen

Dr G van N Viljoen addressed the meeting on the issue of the participation of the Zulu King and the view of the SA Government in this regard (see addendum A - available later).

After the subcommittee had questioned Dr Viljoen, the chairperson thanked him for his presentation.

6. Progress report to the Management Committee

It was agreed that the secretary would prepare a draft for the chairperson, who will approve and amend it (if necessary) before it is circulated to members.

7. Date of the next meeting

It was agreed that, in the light of the deadline of 12 March 1992 for written submissions, as well as the hearings on 18 and 19 March 1992, the subcommittee should a planning meeting on 16 March. The time will be determined between the Chairperson and the secretary and communicated to members. This will be dependent on other meetings taking place on 16 March.

The meeting adjourned.





**SCHEDULE FOR THE MEETING OF THE SUBCOMMITTEE ON THE PARTICIPATION  
OF THE ZULU KING AND OTHER TRADITIONAL LEADERS IN CODESA**

**18 MARCH 1992**

- 10H00 - 11H00: LEBOWA DELEGATION
- 11H00-12H00: PROF MAPHALALA
- 12H00 - 13H00: LUNCH
- 13H00 - 14H00: XIMOKO PROGRESSIVE PARTY
- 14H00 - 15H00: QWAQWA DELEGATION
- 15H00-16H00: CISKEI
- 16H00-17H00: TRANSKEI

**19 MARCH 1992**

- 10H00 - 11H00: MR MATTHEWS
- 11H00 - 12:00: IFP
- 12H00-13H00: LUNCH
- 13H00-14H00: CONTRALESA
- 14H00-15H00: VENDA
- 15H00-16H00: INYANDZA NATIONAL MOVEMENT



**EXPERTS**

MR VJ MATTHEWS  
PROFESSOR MAPHALALA

**OTHER (POSSIBLE)**

MAJOR GENERAL HB HOLOMISA  
KING DAVID MOKGALA TSOTETSI  
PROF SS RIPINGA  
MR MB SANDILE

**CISKEI DELEGATION**

CHIEF LW MAQOMA  
CHIEF Z ZIBI  
CHIEF Z TOYISE  
CHIEF P BUSOSHE  
CHIEF ZULU  
CHIEF B JALI

**CONTRALESA**

CHIEF SP HOLOMISA  
CHIEF VT SIFORA  
PRINCE RS NDOU  
PRINCESS S SIGCAU  
CHIEF G RATHOGWA  
CHIEF F BAISITSE

**IFP**

DR FT MDLALOSE

**INYANDZA NATIONAL MOVEMENT**

CHIEF MM KHUMALO  
CHIEF NE NGOMANE  
CHIEF ZT MBUYANE  
CHIEF MG MKHATSHWA  
CHIEF CM DLAMINI  
CHIEF MS NGOMANE

**LEBOWA DELEGATION**

CHIEF MINISTER MN RAMODIKE  
KGOSHI LC MOTHIBA  
KGOSHI LM MOKOENA  
KGOSHI SA MOLEPO  
KGOSHI L MATLALA  
KOGSHI ME MOGASHOA  
MR F LEDWABA  
MR P SEKHUKHUNE  
KGOSHI SS MAHLO  
KGOSHI LEHWELERE MATLALA





**QWAQWA DELEGATION**

PARAMOUNT CHIEF LC MOTA  
MR MA MOLEFE  
MR BM MOTA  
PARAMOUNT CHIEF MJ MOPELI  
MR MG MOHALE  
MR HE MOKINGOANE

**TRANSKEI DELEGATION**

CHIEF GSK NOTA  
CHIEF GD GWADISO  
CHIEF JKM MATUTU  
CHIEF NM MATANZIMA  
CHIEF M NONKONYANA  
CHIEFTAINNESS MN MOSHOESHOE  
MR CS MANONA

**VENDA DELEGATION**

MA NETSHIMBUPFE  
PF KUTAMA  
L MULIMA  
M MPHAPHULI  
U LALUMBE  
TL MASHAMBA

**XIMOKO PROGRESSIVE PARTY**

CHIEF SDW NXUMALO  
CHIEF MS MUHLAVA  
CHIEF CJ HLANEKI  
CHIEF NM MATHEBULA  
CHIEF CHABALALA  
SUB-CHIEF DW MABUNDA



CODESA  
Management Committee

The Ciskei Paramount Chief Makhobayakhawuleza Sandile some senior chiefs and Councillors wish to make the following observation regarding the delegation of chiefs from Ciskei, who intend to see a Codesa Committee in respect of the representation of Traditional Leaders at Codesa.

- a) The Paramount Chief did not receive an invitation to attend the meeting where the chief's delegation was supposed to be elected by chiefs.
- b) The delegation was nominated by Ciskei Head of State and not elected by the chiefs at the meeting. The Head of State submitted the names of the following chiefs :-
  - i) Chief L W Maqoma
  - ii) Chief Z Zibi
  - iii) Chief Z Toyise
  - iv) Chief P Busoshe
  - v) Chief Zulu and
  - vi) Chief B Jali to form the delegation.

In addition Minister of State, Mr Nogcantsi (Chairman) told the meeting that the matter should not be discussed.

- c) The delegation therefore has no mandate to speak to the Codesa committee on behalf of Traditional leaders.
- d) Traditional leaders in our area distance themselves from this act of disrespect and disregard of our Paramount Chief - Chief Makhobayakhawuleza Sandile and the Chieftainship as a whole in our area.
- e) We therefore send a delegation that has been elected by the Traditional leaders themselves that will carry the mandate of Traditional Leaders to Codesa.





MERERO YA SETJHAEA SA MOKGALONG

MORENADL TSOETSETSI  
M.H. King D.L. Tsoetetsi; CFS

Enquiries:-  
Royal Blood Tsoetetsis.

H.E. Prince P.A.L. Tsoetetsi  
No 10546 Marentsa Street  
Mini-Selcourt Extension

Ref N11/2 & 2/1/2

Kwa-Thema Township  
Springs Transvaal

Ref N11/3/2

1563 PVV Area

Ref (SA) N3/1/2

1992-02-27

CFS Adm 15/5

KINGDOM COMPONENTS:

Tvl Adm 13/17  
ATTENTION:

- BATEKENG
- BALOKENG
- BAKGUTSENG
- BASALENG
- BASESENG IN NATAL
- BAKOTLENG
- BARAMOKGOPA
- BANATJHAKA

- Dr Gerrit Viljoen
- Dr Zach De Beer
- Dr Frank Mdhlalose
- Dr Tertius Delport

The National Chairman  
CODESA  
P.O. Box 307  
ISANDO  
1600 ER

MOKGALONG NEGOTIATION PROCESS

Dear Sir

RE: NEGOTIATIONS FOR REPRESENTATION:

We wish to place on record that the representation of the people of His Majesty King David Mokgale Tsoetetsi is absent at Codesa level and we would like most respectfully to request for immediately this national issue be sorted out by all Working Committees of this organisation.

No homeland leader or government in South Africa represents this nation of the Kingdom Of Mokgalong even Pretoria well know this matter.

On His Majesty's Service  
His Highness Prince A. Leloka II Tsoetetsi  
(ROYAL MALOKENG HOUSE)







**IKhanda**

Mbuso  
Regering  
Government

Mnyango kaNdunankulu  
Departement van die Hoofminister  
Department of the Chief Minister  
Privaatsak/Private Bag X4014  
KWAMHLANGA 1022

Isiqondiso  
Verwysing  
Reference

Imibuzo  
Navraa  
Enquiries  
S J MAHLANGU  
No Yethel TTX 350259 X 233  
Telex No.  
No. Yethel (01215) 2211  
Tel. No.  
Fax./Faks. (01215) 2808

ATT: MS M DU PLESSIS  
CODESA Subcommittee on the  
participation of the Zulu  
King and other Traditional  
Leadears in CODESA

**PRESENTATION OF EVIDENCE**

As suggested by your Sub-Committee I have been able to arrange  
meeting of all traditional leaders in my area of administrati  
early this month.

Consequent to this meeting the various traditional leaders ma  
their written representations as per attached documents.

It would seem that no one of the traditional leaders whose rep  
sentations are attached is indicating a will to present ver  
evidence on 18 or 19 March 1992. They apparently feel that th  
written representation will serve the purpose.

Hoping that you will find this in order.

Yours faithfully

.....  
PRINCE S J MAHLANGU

92-03-13  
DATE

sjm/npm0039

REPABOLEKI  
YA BOPHUTHATSWANA

REPUBLIC  
OF BOPHUTHATSWANA



REPUBLIEK  
VAN BOPHUTHATSWANA

**KANTORO YA TONA YA BOSIAMISI LE TIRELO YA DIKGOLEGELO  
OFFICE OF THE MINISTER OF JUSTICE & PRISONS SERVICE  
KANTOOR VAN DIE MINISTER VAN JUSTISIE & GEVANGENISDIENS**

Nr. Tshup./Ref. No./Verw. Nr.

4/3/9

Bosa go/Enquiries/Navrac

MOTHEBE S. G.

Tel No.: (0140) 89-9290/1

Fax No.: (0140) 84-2406

Kgethanaposo } X2033  
Private Bag }  
Privatevak }  
MMABATHO 8681

16/03/1992

Chairperson of the Subcommittee on  
the King of the Zulus and  
Other Traditional Leaders:


CODESA

THE PRESENTATION OF ORAL EVIDENCE TO THE SUBCOMMITTEE.

Your letter of 9 March 1992 addressed to President L M Mangope has  
reference.

We do not wish to tender any evidence on this matter.

Yours faithfully

  
S. G. MOTHEBE  
MINISTER OF JUSTICE AND PRISONS



Amandebele - Ndzundza Sekhulumi  
Tribal Authority  
P.O. Box 345  
KWAMHLANGA

REPRESENTATION OF THE CHIEF OF SEKHLUMI TO CODESA

If all the chiefs are allowed to participate at Codesa, the Sekhulumi suggest that only the chief's representatives should participate at Codesa.

The Sekhulumi Tribal authority believed that the dignity of the nation lays on the chief.

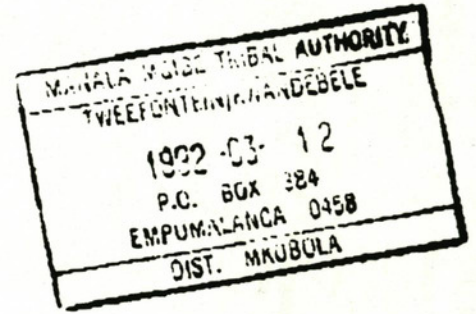
CHAIRMAN. *[Signature]*  
VICE - CHAIRMAN. *[Signature]*

Received 12/03/1992 10h00

*Jim Masabuka*  
UNLAWFUL: INIBOZI YEINTWABA  
CONTROL OFFICE: TRADITIONAL AUTHORITIES  
IBHEKHEMPE: TRADISIONELE ONKHEMPE  
KWANDEBELE

Mkhulu Mkhulu Tribal Auth.  
 P.O. Box 384  
 EMPUMALANCA  
 0458  
 12 March 1992

THE CONTROL OFFICER  
 TRADITIONAL AUTHORITIES  
 KUSANDLEBELE



THE CONVENER  
 SUB COMMITTEE INVESTIGATING  
 Possible Participation in Colesra  
 By the Kings of the Zulus AND  
 OTHER TRADITIONAL LEADERS

RE:- Presentation of written evidence by Traditional Leaders to the Sub Committee.

The above mentioned Tribal Authority has after deliberation with Tribal elders and members of the Royal kraal, decided on the above mentioned matter as follows:-

1. Ingwenyama S. M. Mabele II in his capacity as the head of Awasibele akusandlebele in Kusandlebele, be granted delegates status to participate in Colesra.
- Reasons being that, the Ingwenyama is the Custodian of our norms, traditions and culture. We feel that the participation of our traditional leaders at Colesra will enable us to understand that our traditions will be protected by those who will be representing our interests at Colesra.



(iii) The application already submitted by Ingwenyama  
S.M. Mabeza II should be positively considered.

We hope that this motivation will receive your  
favourable consideration

Yours faithfully

*D.A.W.*  
CHAIRMAN, MGBE TRIBE

MANALA MGBE TRIBAL AUTHORITY  
TWEEPONTETIKWANDEBELE  
1992-03-12  
P.O. BOX 201  
ENKOPONG TWEETRIBES  
2311 TWEETRIBES

Received 12/03/1992 09A30

*J.M. Mabeza*  
ORLAWULI: IMIBI TEENTRABA  
CONTROL OFFICER: TRADITIONALE A. TRIBES  
BEHERRSAMPT: TRADISIONELE KWANDEBELE  
KWANDEBELE

**NDZUNDZA**  
**Fene Tribal Authority**  
P O Box 179 - Kwamhlanga 1022

ENQUIRIES: M C SKHOSANA  
TEL: 1404 SIDU

The Chairman  
CODESA Management Committee  
P.O. Box 301  
ISANDO  
1600

Sir

**RE: CONTRIBUTIONS/INPUTS TO CODESA MANAGEMENT COMMITTEE / SUB -  
COMMITTEE ON THE ZULU KING AND OTHER TRADITIONAL LEADERS.**

Mr Chairman, with regard to the abovementioned matter, I, Msehla Charlie Skhosana and my Honourable Ikosi of Ndzundza Fene Tribal Authority, wish to state that we are fully insupport of the present negotiations at Codesa.

Infact Mr Chairman we also fully recommend that traditional leaders at Codesa should be given an opportunity to take part in the negotiation process. Reason being that inawadays, politics also challenge them as traditional leaders and therefore, their involvement in the daily deliberations at Codesa could be of significance towards preparing for the new South Africa.

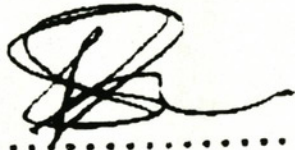
Therefore, living out these traditional leaders, could be of a disadvantage to their subjects and more - over they are regarded as people who unite and build up nations and promote their day to day affairs.

...../2



- 2 -

Furthermore, I recommend that traditional leaders be involved in the negotiation process at Codesa.



.....  
CHAIRMAN N.F.T.A.

1992.03.11.....

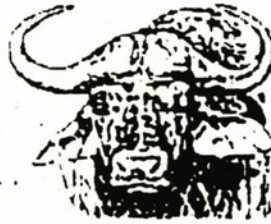
DATE

Received 12/03/1992 10h00

*J.A. Manombuko*  
UMLANULI: IMIBUSI YENINJABA  
CONTROL OFFICER: TRADITIONAL AUTHORITIES  
IBHEKIBHEMPTE: TRADISIONELE OMBUSI  
KWANDEBELE

# MANALA TRIBAL AUTHORITY

Ref. no. 6/4/6/4  
Tel: 0020 no. 15  
Enquiries: MASUKU S.I.



P.O. Box 2  
MBIBANE  
0449  
Date: 1992/03/11

The Control Officer  
Department of Tribal Authorities  
KWAMHLANGA

1022

Sir

**RE: PRESENTATION OF WRITTEN EVIDENCE BY TRADITIONAL LEADERS TO THE  
SUB-COMMITTEE**

The above named Tribal Authority has after deliberation with the tribal elders members of the Royal Kral, decided on the above-mentioned matter as follows:

- i. Ingwenyama E.M. Mabena II in his capacity as the head of AmaNdebele akwa-Manala in KwaNdebele be granted delegate status to participate at CODESA
- ii. Reasons being that, the Ingwenyama is the custodian of our norms, traditions and culture. We feel that his participation at CODESA will enable us to understand that our Nationhood will be protected by those who will be representing our interests at CODESA.
- iii. Ingwenyama E.M. Mabena II has already submitted an application to CODESA which is presently being considered.
- iv. We are hoping this motivation will receive your favourable consideration.

Yours faithfully

*Mabena*  
(Chairman/Secretary)

<b>MANALA MIBANE</b>
P.O. BOX 2 MIBANE 0449
12-03-1992
MBIBANE
TRIBAL AUTHORITY

*Immanuel Mabena*  
RECEIVED  
12/03/1992  
UNLAWFUL IMITATION OF THE  
CONTROL OFFICER, TRADITIONAL AUTHORITY  
BENGELE/AMPTHE TRADITIONELE OVKRHELE  
KWANDEBELE

Under Paramount Chief Makhosiwoke Mabena

*M. Mabena (Kasi)*



THE CHAIRMAN (IKOSI)  
MAKERAME TRIBAL AUTHORITY  
P.O. BOX 36  
KWA-MHLANGA  
1022  
11. March 1992

AMANDebele  
STAMP  
CHIEF

The convenor  
Sub. Committee Investigating  
Possible Participation in Codesa  
By the King of the Zulus AND  
Other Traditional Leaders

Re: Presentation of written evidence By Traditional L  
to the Sub. Committee

The above mentioned Tribal Chief (Ikosi M.S.M. Mabena  
after consultation with my councillors decided on the  
above matters as follows

- I. Ingwenyama E.M. Mabena II in his capacity as  
head of all Amandebele at kwaMahlala in kwaNdebele  
be granted delegate status to participate fully  
Codesa.
- II. Reasons being that the Ingwenyama and other  
are the custodians of our traditions and culture  
feel that the participation at Codesa will enable  
us to understand that our interests as Amandebele  
and our Nationhood will be protected by those  
who will be representing our interests at Codesa.
- III. Ingwenyama E.M. Mabena II has already submitted  
and application which we wholeheartedly support  
as our own application.

We hope that this application or <sup>motivation</sup> ~~request~~  
reach your favourable consideration

Yours faithfully,  
Ikosi M.S.M. Mabena  
M.S.M. Mabena





# NDZUNDZA

## Somphalali Tribal Authority

P O Box 33 - Empumalanga 0458 - Tel.: 0121282 x 31

EXCIPLES: P. Z. MASITANE  
 TEL: 0121282 31

THE CHAIRMAN  
 CODESA MANAGEMENT COMMITTEE  
 BOX 307  
 ISANDO  
 1690


Sir

RE: CONTRIBUTIONS / INPUTS TO CODESA MANAGEMENT / SUB - COMMITTEE FOR ZULU KING AND OTHER TRADITIONAL LEADERS.

- 1.1 With the reference to the above, the Ixosa B.M. Mahlangu (traditional leader and the Council Members) of Ndzundza Somphalali tribe hereby submit our representation to Codesa management that we support the participation of the traditional leaders in the present negotiation process.
- 1.2 Throughout history of Africa and in particular South Africa traditional leaders have been national unifying character, they have been responsible for maintenance of law and order. They have been playing major role in settling disputes amongs people, communities and they have been responsible for the making and the implementation of the national and or regional and local constitution.
- 1.3 They have been acting as or responsible for judicial assemblies and other important national issues.
- 1.4 We would therefore recommend the full participation of these impartial leaders in Codesa.

Our participation in this regard will be <sup>of</sup> help in transforming South African

Yoursfaithfull

  
 .....  
 CHAIRMAN B.S.T.A.

1992  
 DATE



# NDZUNDZA MABHOKO TRIBAL AUTHORITY

INAMBA YETEFOMU: (012182) 3303  
TELEPHONE NUMBER:

P.O. BOX 1059  
SIYABUSWA  
0472

ISICONDISO 002/078/3  
REFERENCE.

MALUZO A.M. MAHLANGU  
ENQUIRIES

THE CHAIRMAN  
CODESA MANAGEMENT COMMITTEE  
P.O. BOX 307  
ISANDU  
1600

Sir

RE: CONTRIBUTIONS/ INPUTS, CODESA MANAGEMENT COMMITTEE/ SUB -COMMITTEE  
ON THE ZULU KING AND TRADITIONAL LEADERS.

Relevant to the above matter, I would like to state the following that, we as members of NDZUNDZA MABHOKO TRIBAL AUTHORITY being AMAKHOSI (CHIEFS) AMAKHOSANA (SUB - CHIEFS) AMADUNA (HEADMAN) and COUNCIL MEMBERS hereby pledge our support behind the participation of the delegation of our king D.M.MABHOKO in the negotiation process at Codesa.

The history of the leadership of ukuNgwanya (kingdom) of king D.M. Mabhoko dates back to the 15<sup>th</sup> century. Ever since the 17<sup>th</sup> century, there has been a continuous resistance this kingdom against the oppressive measures against apartheid powers.

To count but a few, one of the wellknown kings known as king Nyabela was captured tortured for resisting the unlawful and ungodly arrest of wellknown king Mampuru of Bapedi nation. He tried to negotiate for a peaceful settlement of the differences between the Zuid Afrikaanse Republiek and king Mampuru but he unfortunately landed in goal and as a result he was captured and sentenced to death and hanged publicly.

During the reign of the present monarch king D. Mabhoko the South African Minority regime tried and forced several times to imposed the policy of the system of dividing and ruling the people of South Africa. After a continuous resistance from his Royal Highness the South African Government passed laws and regulations that prohibited people of this region from getting employment in the cities. Subjects of this region requested the king to accept the so - called Bantu System so as to en-



them to get employment for their living. In the years between 1947-1986 the South African Government tried to usher in an unasked-for kind of independence without the concern and consultation with the concerned people of this region. After a call for negotiations by the King and his subjects was not adhered to, instead a South African Government sponsored a vigilante group was formed namely, Imbokodo to silence the masses. This led to violence and resulted in the death of hundreds of people and demolishing of millions worth properties.

There was once more a call by King T. Mabhoko for negotiations to resolve the matter which call was once more not adhered to and this matter was therefore, referred to the courts of law and was amicably resolved.

We therefore, feel that with the present political changes in the country which come to effect by negotiations is desired. The King T. Mabhoko and his delegation be given an opportunity to participate in the present negotiations together with the other traditional leaders.

We hope and trust that these contributions/inputs will meet your favourable consideration.

  
.....  
CHAIRMAN N.M.T.A.

1992.03

DATE



IKOSI M.P. SKOSANA  
 AMANDEBELE KAMUSI/MOSOMBUK  
 c/o P.O. Box 408  
 KWA MILANCA  
 1022  
 12 MARCH 92

THE SECRETARIAT  
 CODESA  
 P.O. Box 307  
 ISANDO  
 1600

Dear Sir

Re: APPLICATION FOR PARTICIPATION IN CODESA BY IKOSI  
 MARUWANU P. SKOSANA OF AMANDEBELE KAMUSI/MOSOMBUK.

As the above matter refers to IKOSI M.P. SKOSANA, of Amandebele  
 Kamusi/Mosombuku, who has applied for participation  
 in Codesa for the sake of those I represent &  
 their traditional leaders.

As an Ikosi of the Amandebele Kamusi/Mosombuku  
 I am the custodian of my people's tradition  
 and culture.

Should other traditional leaders be afforded the  
 opportunity, I also feel that the rights of  
 my clan, also need representation at Codesa.

Thanking you in anticipation.

Yours faithfully

IKOSI M.P. SKOSANA

Peter Skosana



University of  
Universiteit van  
Zuhiland



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## THOUGHTS ON HOW TO BUILD A NATION -AND A LASTING CONSTITUTION

BY

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(30 December 1991)

Looking at history, three factors have been decisive in the formation of nations. The first has been conquest, which has brought about the forceful amalgamation of different communities; if, after conquest, there has been a non-discriminatory inclusion, and intermarriage, of people from all conquered communities into all the layers of society, particularly into the ruling layers of society, then conquest ceases to be a sore point, to be revenged, and a new national consciousness, in time, emerges; however, if there has never been an integration of the conquerors and the conquered, particularly at the ruling layers of society, then there is no united national consciousness; the conquered and conquerors interact as different communities within the same society; and the conquered people remain with a wounded pride, and wounded humanity, which becomes the basis for a future nationalist movement of the oppressed community. As a result of European conquest of Africans, accompanied by white supremacy, South Africa is in the latter category.

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The second factor has been the emergence of close economic interdependence of many clans, tribes, villages, towns and cities, forming a large economic network, a national economy. This economic interdependence tends to change the self-identity of the people within this network, and becomes a basis for the emergence of a broader Nation-State. The success of this process is not automatic. Ethnic or class oppression may complicate and actually retard the process of nation-formation, and may even breed multi-nationalisms. This factor is also strongly active in our case, fueling the flames of nationalism, as well as the tendency, in some quarters, to deny the relevance of nationalism.

The third case is the effort to create a new nation, and write a new constitution, through peaceful give-and-take, in a negotiated forum, as a by-product of a struggle for democracy, equality, and freedom. This is the road of negotiations. This has occurred either after the defeat of the old, oppressive, ruling order, by the oppressed (in which case there is then convened an assembly of the "people", who are to democratically write a new constitution); or when the struggle between the oppressive, ruling order and the oppressed has reached a stalemate, or when both communities realize that further armed conflict, at this point, shall do more harm than good, that it shall bring about mutual destruction 'too ghastly to contemplate.' The major, organized, warring sides then agree on the principle of a negotiated settlement of the problem, i.e., on the need to negotiate the formation of a new nation, and the writing of



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a new constitution. Most political parties and movements, in South Africa, principally the ANC, INKATHA, and the ruling, white National Party, have agreed that South Africa is in the latter situation, and have started the process of negotiations, hence CODESA.

Note that the success of this process is not automatic: it may succeed, it may fail. It is important to realize that all the three factors, mentioned above, as having been decisive in the formation of nations, are very active forces in the South African situation. This is what adds extreme complexity to our situation, calling for profound wisdom, humanism, boldness, and tactical flexibility, on the part of the leadership of society.

The conquest of Africans, and white supremacy, left the masses of African people with a deeply wounded pride and humanity, a sore wound which translates itself politically as African Nationalism. African Nationalism is a living factor in our political process. Afrikaner intellectuals are, therefore, much more realistic, than liberal or left-wing white scholars, in their assertion that the key forces at work in the politics of this country are African Nationalism and Afrikaner Nationalism.

African Nationalism is all the more alive, as the final conquest of Africans is a relatively recent historical event. Countless African men and women are still alive, whose grandparents fell in the



heroic efforts to ward off conquest by Whites. All this moving drama is still alive in the historical memory and folklore of masses of African people, particularly in the historical memory of peasant and semi-peasant Africans in rural and urban South Africa. This is the basis of the Africanist spirit of PAC and AZAPO; it is a strong, currently ignored, sentiment also within ANC, and is in the souls of ordinary members of INKATHA. You cannot be an indigenous African and not have this feeling. It is very important and incumbent upon all of us to guide this feeling along humanistic channels. Whites, Indians, and Coloureds should not fear, and seek to undermine, this feeling. The degradation of Africans by white supremacy also distorted the humanity of Whites, and of every other group that looked down upon Africans. Therefore, the raising of Africans to full human stature is a pre-requisite to the raising of Whites, Indians, and Coloureds to full human stature. Unity in brotherhood and sisterhood, and peace, among Africans, is a pre-requisite to forging unity in brotherhood and sisterhood, and peace, principally between Africans and Whites, and between Africans, Whites, Indians, and Coloureds, in general.

The point remains, however, that, at this point, we have not defeated the Whites, as a community, more specifically, the White State. Therefore, calls, at this time, for an immediate transfer of power from the "racist white regime" to the people, smack of adolescent militancy; the same goes for demands for a transfer of power from the "racist white regime" to the people, as a condition



for participating in negotiations. Power from the oppressors to the oppressed is not transferred the way ownership of a house is transferred from one person to another. It is a result of struggle, military and otherwise. Most political organizations, in South Africa, as already stated above, have concluded that it is, at this point, wiser to search for a peaceful settlement, through negotiations.

It is very clear that, at this moment, the military balance of power, between the organizations of the African people, on one hand, and the White State, on the other hand, overwhelmingly favours the White State. On the other hand, the leadership of the white community, and of the white state, realized that the continuation of armed conflict is harming the economy and sense of security, and that the military balance of power would, in the long run, shift in favour of the African people. The options are quite clear, hence CODESA.

The refusal of PAC and AZAPO to enter the present negotiation process is very much tied up with the issues of (a) transfer of power from the "white regime" to the people; and (b) the Constituent Assembly. The Constituent Assembly, elected on the basis of one person, one vote, with no consideration of race or class, with the majority having the dominant role in writing the new constitution, would, of course, amount to the surrender of power by the De Klerk government. Indeed, the demand is often made

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that De Klerk must hand over power to the democratic majority.

De Klerk, of course, is simply the head of the White State, which is the State, first and foremost, of the white community; and every State is based, first and foremost, on military force.

The fact remains that the oppressed people, through their liberation movements, have not defeated the armed forces of the White State. In fact, the balance of power still overwhelmingly favours the armed power of the White State.

The demand for the immediate transfer of power to the democratic majority amounts, in fact, to demanding that the White State must surrender its power to African people without the armed forces of the White State having been defeated. We expect the fully armed and powerful white State to hand over power to the oppressed much as a rich philanthropist donates money to the poor. One is astonished by this demand, in such circumstances, and wonders whether one is not face-to-face with wild adolescent dreaming! We must be clear about the options before us: either we opt to continue the armed struggle, even in circumstances, such as now, when the balance of military power is overwhelmingly in favour of the White State, and we shall suffer the greater losses, when the war really gets going; or we opt for peaceful politics, including negotiations. But we cannot say that we are ready to enter negotiations, on condition that the "white regime" hands over power to the oppressed people, when we have not physically defeated the



White State. From the point of view of realistic politics, this is utlogical.

There are, for us, at present, two roads leading to real democracy, and solution of the nationalist aspiration of African peoples:

- 1) the direct route: this is by means of a physical, military defeat of the armed forces of the White State, or of the armed white community, by the armed forces of the oppressed community, principally the armed might of the African community. Through this direct road, the leaders of the victorious African people capture control of the power of the State from the defeated white community, and proceed to create a new State and to restructure society.

Everyone agrees, however, that we are nowhere near such a possibility, at this moment, and probably shall be no near such a victory for some years to come, given the overwhelming military might of the white community and of the white State, at this moment. At best, at this moment of relative powerlessness of the African people, in relation to the White State, the armed struggle, conducted by the liberation movements of the African people, can only consist of isolated, guerilla attacks and planting of bombs in police stations, etc., which, certainly, can create an atmosphere of insecurity for whites, and for the oppressed people, engaged in their

daily activities. An armed struggle is really an armed struggle when at least 15 to 20 percent of the population of society is participating in it, not when it is confined to just the trained soldiers, be they 5, or 10, or 20 thousand. We are not at the stage when the masses of African people are militarily trained, as the masses of white males are, or organized into local, reserve, military combat units, as the white community is. The route of armed struggle for the African people, in present circumstances, as the route to liberation, is tactically illogical and unwise.

2) The second is the indirect road, which is resorted to when conditions for a direct military assault, which can end in victory, are not present or favourable to the oppressed. The key process, on this road, is taking every opportunity to quietly, but certainly, build up the intellectual, organizational, and military strength of the oppressed people, to the extent that the balance of power between the oppressors and the oppressed changes in favour of the oppressed. All this is in preparation for the next attempt to win liberation. In the South African situation, negotiations is precisely such an indirect route to the total liberation of the African people. The indirect route is, indeed, longer; but it saves the lives of the oppressed, and allows for



the building up of their strength. Should our leadership and tactics be wise, we should make sure that our people receive military training, as all white males do; that African people are put in important positions in the military and other Civil Service institutions of the State; that agricultural, industrial, educational, and intellectual development of our people is accelerated, with the financial and State support which white farmers, white business people, white workers, and white students received under white supremacy; that the health of our people is secured, etc., etc. All this shall, in time, decisively change the balance of power in our favour, at the same time that we shall be strengthening ourselves by winning the confidence of more and more Whites, and transforming their suspicious, hostile, or racist attitudes towards African people.

The major mistake made by people opposed to negotiations is the assumption that the negotiated settlement of our problem shall be the final solution of the South African problem of white conquest and white supremacy. It shall be nothing of the sort. A negotiated settlement shall be only a phase in the long process of emancipation struggle. We have been forced to enter into this process, for the reasons given above. Our tactic here should be to achieve such a settlement as shall enable us to increase our strength, to put our fingers on the levers of power, and change the

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balance of power in our favour, for the next phase of the struggle for emancipation; and if we are wise and humanistic enough, the next phases shall not, and need not, involve military force at all, not more than the physical force involved in the citizens' payment of taxes to the State.

Now to CODESA. The most serious problem with the presently constituted CODESA is that it is made up only of political parties and leaders of political movements.

What is the best way of formally putting together a nation, and writing an effective, long-lasting, and revered constitution? Let us look at the writing of the US Constitution, which has stood the test of time better than any other constitution in the world today. Who were selected to gather in Philadelphia, in 1787? The 55 delegates charged with this awesome duty were leading citizens of the 13 states, including, but not exclusively, politicians.

This was a very sound instinct, even though some sectors of the society (e.g. slaves, and women) could not be recognized as leading citizens: for that reason, the issue of slavery, and status of Afro-Americans, almost tore the Constitution apart; and the issue of abortion, and of other women's rights, are causing major constitutional strains in present-day USA.

The crucial point here is that all the major constituencies and



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sectors of "civil society" must participate directly in the deliberations on the official making of a new nation, and in the writing of the new constitution. Yes, all major constituencies of "civil society," including politicians and political parties; but under no circumstances must this task be left solely in the hands of politicians. All sectors of society must, through their delegates, participate directly in this process, so that all sectors of society assimilate acceptance and respect for the new constitution, and develop a conscience about it. Politicians, and political parties, are singularly unqualified to accomplish this task. Why?

- 1) In every society in the world, the majority of society members are not members of political parties. The same applies in our case. The totality of all the active and registered members of all the political parties and movements that were at CODESA, combined, would not make up even a third of the total adult population of South Africa. The total membership of political parties is not inclusive enough, for the consensus needed in deciding constitutional issues. Again, consider the US rule. The US Constitution cannot be changed by Congress alone, as representative as it is. Amendments to the Constitution must be ratified by three-fourths of all the States. The point here, again, is that as many of the various sectors of "civil society" must be involved ("civil society" referring to all the various sectors, excluding the State). The



principal point here is that what is needed is not "sufficient consensus" of political figures in CODESA, but "sufficient consensus" of the various sectors of the whole society, which is infinitely more inclusive than all loyalties to political parties and movements put together; and this consensus is crucial, not only in altering an already written constitution, but in the very process of writing that very constitution.

2) Political parties, and politicians, were created solely for struggling to capture, or to influence, the power of an already existing State. Their record in history as creators of a State, and writers of constitutions, has been singularly bad, for the very simple reason that, by nature, they are extremely sectional, and selfish, each party after power for itself, either by itself or in alliance with another or other parties. It is striking that pleas were repeatedly made to members of CODESA to rise above narrow interests of political parties, and think of the interests of the entire nation. That, of course, is possible, but very rare, just as the plea that business people should rise above narrow profit interests, and think first of national interests, often meets with little success. This emphatically does not mean that there are no individual political leaders who are real statesmen, who rise above the temptation to work for selfish ends of amassing power



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and wealth for themselves. Certainly there are; but we are talking about the general dangers before us. The tendency for each political party, world-wide, is to so load the dice that it falls in its favour, or in the favour of those who have formed an alliance. Consideration of serious national issues by political parties is likely to be interfered with by selfish, sectional consideration of power politics. Instead of a full, comprehensive, honest and clean discussion of the problems on the ground, the tendency is for the emergence of "deals" or special, behind-the-scenes deals between some of the participants, in order for "their" stand to be victorious. Whether true or mere perception, this problem which shall trouble any attempt at constitution-making solely by political parties. The furor which led to the PAC withdrawal from CODESA is merely one instance of this dilemma.

Therefore, a constitution written and agreed-upon solely by political parties and politicians is almost certain to be controversial and divisive from the very beginning, largely because it shall be the product of the deliberations of a mere fraction of society, and because of the distorting effects of power-politics among the political parties involved.

The type of Constituent Assembly often mentioned is equally not an answer to this problem, for the simple reason that it shall be

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political parties that shall field the candidates for election into the Constituent Assembly; and suggestion has already been made that the political party which wins the majority should have the dominant role in writing the constitution. The point to stress is this: What is needed in the writing of a constitution is the "sufficient consensus" of the entire differentiated society, so that the constitution can stand as the revered document of the entire society. "We, the People..." is the most fitting spirit of the first sentence of that document.

That is strikingly different from the formation of a government, as a result of that constitution. Any subsequent government shall then be the result of the struggle of political parties, and there, it is the "sufficient consensus" of the voting public, which may be 50 or 60 percent of the adult population of the society, even less, which designates the victor.

What I am proposing here is a form of Constituent or Constitutional Assembly, however not elected only on the basis of political affiliation, because that is not inclusive enough.

What then is the best forum for the official making of a new nation, and the writing of a new constitution? In our case, the question is, "what should be the constituent parts of CODESA?"

All the major constituencies of our entire society, of "civil



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society," should be directly represented in CODESA, and should participate in this most delicate and humanistic project. What are some of these constituencies?

- a) political parties
- b) the major religious bodies
- c) trade unions or the labour sector of society
- d) representatives of African rural society, either chiefs or other elected delegates from various villages.
- e) business farmers
- f) manufacturers and industrialists
- g) educators - universities, teachers, and other professions
- h) WOMEN
- i) sports bodies
- j) small business people
- k) students
- l) Kings and Queens

This is the crucial principle of representation in CODESA, which shall ensure genuine, society-wide "sufficient consensus," which shall produce a constitution that shall be likely to stand the test of time - that is, if we are really serious.

I can understand, of course, the reason for the current preference for political parties as sole participants in CODESA - that is the terribly mistaken opinion that it is the consensus and agreement of political parties, and of politicians, which are crucial in this

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process; and that it shall be easy to make compromises and deals between political leaders. The government, in particular, may feel this way. It may well be easy to make deals between political leaders; but what shall the people, and history, say about those deals? Think of the compromises, and agreements, and deals, that were made by Churchill, Roosevelt, Truman, Stalin, and De Gaulle, at the end of World War 2!

The most secure agreement, compromise, or deal possible, is not the one that shall arise from the deliberations of political leaders, no matter how awesome these leaders are; it is the agreement, compromise, or deal that shall be the result of the deliberations of the delegates of all the major constituencies of the entire society.

We must also guard against class prejudice, specifically the prejudice educated people have against people without certificates from tertiary institutions of education. For example, in the prayers at the opening of CODESA, one would have expected a prayer from the leader of the largest church in the country, ZCC. However, I suspect there was a class-based oversight here: members of ZCC are largely uneducated or semi-educated people! We must also realize that the solid base of this society is not Western, in culture, but is part of African civilization. Western culture, in terms of which we conduct our politics, is only a thin layer at the top of this society. If we are wise, we should be hoping for an



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organic, or planned, synthesis of precepts and norms from Western and African civilizations. This means, in addition, that proceedings of CODESA cannot be only in English and Afrikaans, for the greater bulk of our population does not understand these languages and these proceedings must not be held in secret.



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13 March 1992

Rev T. J. Mahapi  
Convener, Subcommittee on Zulu King and Traditional Leaders  
Management Committee CODESA  
P O Box 307  
ISANDO 1800

Dear Rev Mahapi

Thank you for your letter dated 26 February 1992. My submission to your Subcommittee is attached, and I hope that it will be found helpful.

Sincerely

(Prof) Harriet Ngubane





PARTICIPATION BY THE ZULU KING  
IN CODESA

March 1992

1. Implications of the Terms of Reference

1.1 The terms of reference of the subcommittee on the appropriate part in the negotiations process to be taken by (a) the King of the Zulu and (b) traditional leaders of other African peoples make mention of two points having special relevance. They are that "CODESA has been convened for the purposes of transforming South Africa into a real and true democracy" and "that all the people of South Africa ought to be accorded the right to contribute to the negotiating process of CODESA on a meaningful basis".

1.2 The goal of transforming the country into a real and true democracy must be pursued by democratic means. The rights of all South Africa's people to contribute meaningfully to the negotiation process, through their various representatives, will not be adequately realized if the mode of participation is imposed by others on any significant section of the population. At pre-

sent, if even only unwittingly, the dominant minority is in a position to impose its own preferred modes of participation and representation, of discussion and of debate, even to the language exclusively employed, on the rest of the population. Members of this majority can join the discussions and the debates only if they are familiar with what have already been established as the modes of discourse and the languages employed.

- 1.3 The disadvantages of unfamiliarity with such established modes of participation, and with "accepted" languages are compounded, for many potential indirect or direct participants, by lack of literacy and of affluence. Without special attention to the dangers of this compound isposition, participation by the less advantaged may be reduced effectively to insignificance - with ultimately the far greater danger of rejection by the majority of the population of the outcome of the negotiations.

## 2. The Inherent Rights of Historically Constituted Peoples

- 2.1 The peoples who before conquest inhabited what became South Africa are still in most cases in existence, with forms of traditional political organization, as well as economic arrangements and religious beliefs and practices, which are continuous with what their ancestors followed. In the rural areas especially, but by no means exclusively, daily life is regulated still by



forms of chieftaincy and kingship which operate according to long-established understandings as part of cultural identity.

2.2 Elsewhere in this continent the fully functioning survival of indigenous political institutions has been acknowledged and recognized when constitutions were being devised, especially prior to independence. Notable instances were the participation of the Kabaka of Buganda and other indigenous monarchs in the 1961 discussions leading to independence for Uganda, and the participation of the king of the Basotho in similar discussions before Lesotho's 1966 independence. In both cases there were active political parties which took a full and even decisive part in the process of negotiating the new constitution, yet it was deemed essential that the traditional leaders be independently present or else adequately represented. Thus it is unfortunate that, in spite of the many opportunities which people in public life have to be, or to become, aware of the continuing political significance, above all for numerous ordinary African folk, of their institutions of chieftaincy and kingship, there is a widespread failure in South Africa to see the right of participation or of adequate representation of incumbents of such positions as indisputable.

3. The Case of the Zulu Monarchy

3.1 The considerations urged above apply with special force to the King of the Zulu people. He heads and represents a large nation originally built by his ancestor Shaka between 1818 and 1828. It combined, and combines, in an enduring and ordered union, several formerly autonomous groupings of the kind commonly called chiefdoms or, especially by some Western-oriented writers, 'tribes'. Today it comprises two hundred substantial chiefdoms with a known and clear organizational structure of rights and responsibilities, under the leadership of the King. It is the extent and scope of these rights and responsibilities which makes the Zulu nation a major political entity.

3.2 The historical identity of the Zulu nation has not been destroyed or diminished by conquest or ensuing domination over more than 110 years. The attempts to dismember the kingdom, after the conquest in 1879, met continual resistance until they were given up, and the Zulu leadership thereafter steadfastly sought means to re-establish the nation, eventually within the wider framework of a South African union. This historical continuity of the Zulu people and its leadership, their determination over successive generations to retain their own identity and political institutions, gives them a distinctive claim to participate as of right, through the leaders they themselves recognize, in the central process of reconstruction of the



country. Their continuity as a people is reinforced by the continuity of the kingship, stretching from before the establishment of the rule of Shaka over the several chiefdoms already mentioned.

- 3.3 The incorporation of the Zulu into what became the South African union, at first by conquest but subsequently by general consent or acquiescence, has not caused them to disappear, nor do they show any inclination to renounce their historical identity as a nation. If traditional leaders generally have a right of participation in the negotiations, on behalf of those they lead, that should have been regarded as indisputable, the right of the Zulu nation to be represented by its King is doubly so.

#### 4. Traditional Leaders of Other Peoples

- 4.1 Although other traditional leaders do not reign over nations in the same sense as does the Zulu King, and their history of continuity and resistance differs in various ways, the considerations previously urged apply as much to their peoples as to the Zulu. Like them lacking (in their majority) comparable familiarity with procedures and forms of language imposed by the dominant minority, and widely lacking literacy and affluence as well, they likewise need arrangements to facilitate their full participation in the negotiations which are to decide the

political future of all South Africa's peoples.

4.2 The precise nature of these arrangements will depend on the varying nature of the political organization of each people, and the means they find appropriate for their adequate representation at the national proceedings, given the multiplicity of chieftaincies and the variety of the interrelationships among them. This is a matter of enquiry and of consultation, certainly not of prescription by anyone.

5. The Need for Simultaneous Translation in Future Negotiations

5.1 The working arrangements for the future proceedings of CODESA will not adequately embody this kind of indigenous participation as long as they are conducted entirely in English. It is not automatically the case that a participant who is able in expressing the needs and interests of his or her people is fluent in English - and even if he or she does have a command of English, it may well be the case that such a participant prefers expression in the mother tongue, as indeed happens from time to time in various contexts with speakers of Afrikaans. Some compromise on this may be unavoidable in certain instances, but at least there should be one of the main Sotho languages and one of the Nguni in use, with simultaneous translation thus between four languages altogether, including Afrikaans and English.



5.2 The case that there is a need for adequate arrangements for the use of indigenous languages in future negotiations is reinforced if it is accepted that such negotiations will not provide adequate opportunities for all the people of South Africa to contribute meaningfully to future CODESA negotiations unless the chiefs and kings of the indigenous people are able to have their say - which cannot be guaranteed as long as what they say must be in English.

6. Final Note

This has been a brief outline of the main points which I think have special relevance to this matter. Supporting references for the statements made in the course of presenting these views can be provided as and when required, and if need be I can make myself personally available.

Harriet Ngubane

Professor

Department of Social Anthropology

University of Cape Town



## XIMOKO PROGRESSIVE PARTY

10 MARCH 1991

POSITION PAPER ON THE ROLE OF TRADITIONAL MONARCHS AND  
OTHER TRADITIONAL LEADERS IN THE NEGOTIATIONS TOWARD A NEW SOUTH  
AFRICA.

In making its submission in the above regard the Ximoko Progressive Party wishes to concentrate essentially on the enunciation of certain principles which it considers could be useful in resolving the question as to the role of traditional monarchs and other traditional leaders in the negotiation process.

## 1. POINTS OF DEPARTURE

In making its submission to the relevant Working Group the Ximoko Progressive Party proceeds from the following points of departure:

- 1.1 That the objective is not to create in South Africa a feudal state or, in fact, to encourage feudal practices, but rather to establish a modern constitutional state founded on the principles of inclusive democracy;
- 1.2 That such state, while recognising the diversity of peoples and interests in South Africa, and extending to all citizens the freedoms of language, culture, religion, etc consistent with international practice and convention, will not institutionalise, or cause to be institutionalised, ethnic or racial divisions amongst its peoples;
- 1.3 That due political process involving voluntary associations of citizens for the purpose, into political grouping or parties to articulate particular policies and to test support for those policies through the democratic process, will be the operative mechanism for determining the direction of the State. In other words, South Africa will be a political state;
- 1.4 That traditional emotional and historical allegiances on the part of various groupings toward a variety of monarchs do exist in South Africa. These monarchs do not only include the traditional monarchs of the Black peoples of the country, but also those of such countries as Great Britain and other European countries from whose shores settlers colonised what is now South Africa in previous centuries;
- 1.5 That certain categories of traditional leaders, for example the tribal chiefs in the (traditional) rural areas, continue to exercise varying degrees of statutory and local traditional influence over the peoples resident in those areas;
- 1.6 That much of the power currently exercised by traditional



leaders emanates from the provisions of legislation dealing with Black administration and enacted by Parliament and by the Legislative Assemblies of the self-governing territories, etc and therefore has been derived from these legislatures in accordance with the provisions of the various constitutions. To this extent certain categories of traditional leadership have been reduced largely to creatures of statute.

## 2. THE XIMOKO PROGRESSIVE PARTY'S POSITION

The position of the Ximoko Progressive Party in the light of the above is as follows:

2.1 That in respect of traditional leadership generally the freedom exists either to align with existing political parties or groupings or to establish their own political parties or groupings. Such groupings should be fully entitled to participate in the negotiation process on the same basis as any other political grouping and subject to the same criteria relating to proven popular support and the like which may be a condition of such participation.

2.2 That, in respect specifically of the question of traditional monarchs within South Africa, the factors to be considered in determining their role in the negotiation process should be as follows:

2.2.1 The extent of the present constitutional role of traditional monarchs and the extent of the real constitutional power which they exercise; and

2.2.2 The pervasive present support for inclusive democracy in a new South Africa in which all matters, including the matter of the future constitutional or other roles of traditional monarchs, will be determined by the will of the people within the context of a constitutional state.

The Ximoko Progressive Party holds the view that royalist groups are free to constitute themselves to participate in the negotiation process on the same basis as other parties, and to advance their cause in relation to a new constitution. As regards traditional monarchs within South Africa, it is considered appropriate to accord them symbolic recognition in accordance with their status in their own communities. Such recognition could, for example include special V.I.P. status at plenary meetings of CODESA, etc. The Ximoko Progressive Party does not believe that the present role of such monarchs de facto or de jure, and the objects of a modern constitutional state being striven for in the present negotiation process, warrant the direct participation of such monarchs per se in that process.



# CONTRALESA

## The Dawn of Freedom

Congress of Traditional Leaders of South A.



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1992 March 12th

The Convenor  
Rev T.J. Mohapi  
Sub-committee for Traditional Leaders  
Codesa  
P. O. Box 307  
ISANDO  
1600

Rev

Traditional Chieftainship,  
Its role in the socio-  
historical development  
of the Traditional Community

In a basic statement of policy, the Congress of Traditional Leaders of South Africa ( CONTRALESA ) states on the issue of hereditary chieftainship:

" Tamper with this institution and you succeed not only to violate long cherished spiritual norms and undermine to social fabric that make for their cohesion as a people ( communities ), but you effectively destroy the basis for government, social discipline and the rule of law itself and you are left with an uprooted, radarless collective who are less than carbon copies of others in spheres of socio-political development and culture " .

Traditional Leadership is in our view as supported by sociological research, co-evil with the traditional community itself from time immemorial in Africa and for Africans until usurped, distorted and stripped of its true nature and status by colonial regimes during and after the aggressive, imperial scramble for Africa when custom, the unwritten law operative in all traditional communities, was subverted, chiefs ceased to be the spiritual leaders of their people and were gradually reduced to hirelings to subservie idiological ends of their masters represented today by architects of apartheid surrogates in both city and so-called homelands.

2/- .....



V. I. SIORRA  
SECRETARY GENERAL



Yours faithfully

TRADITIONAL LEADERS ON THE MARCH TO FREEDOM

As leaders in their midst chiefta-in-council cannot be  
washed away for as long as the traditional community  
exists even in South Africa tomorrow and should be  
represented in all policy, decision-making bodies and  
organs, as Codomo, an subsequent institutions and hence  
CONTRALESA has no problem in the claim of King Swelind  
of KwaZulu to be represented as a traditional leader.



TU 3

No.....

IRIPHABLIKI YETRANSKEI

REPUBLIC OF TRANSKEI

IAdilesi yoCingo } "UTHUTHO"  
Telegraphic Address }

INgcwaba eYodwa yeFoni } X5036  
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IMIBUZO }  
ENQUIRIES }

IFoni } 9  
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ISEBE LEZOTHUTHO,  
DEPARTMENT OF TRANSPORT  
UMTATA  
1992 3. 19.

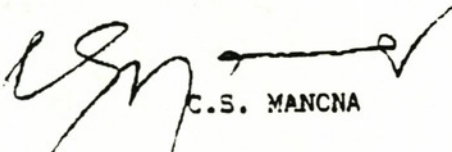
Rev. T.J. Mchabi  
CODESA  
P.O. Box 307  
ISANDO  
1600

Sir

Enclosed herewith is a submission highlighting reasons why King Zwelithini and other Traditional leaders should participate at future Codesa meetings.

I am prepared to give oral evidence at the meeting scheduled for 18th and 19th March 1992.

Yours sincerely

  
C.S. MANCNA



ZAMBIA

Colin Legum who edited speeches by Kenneth Kaunda in a volume entitled ZAMBIA INDEPENDENCE AND BEYOND states that the onerous task of clearing the decks for the independence in Zambia was borne by Kaunda whom he styles the "forgiving victor". If the view held by Historians who analysed the fall of the Holy Roman Empire, is that the surprising thing is not that it crumpled when it did, but that it lasted as long as it did, the surprising thing is that the role of traditional leaders has never been underestimated.

However when the mantle ultimately fell on Kenneth Kaunda, he acquitted himself creditably.

If there is any lesson to be learnt from the man and his times particularly the constitutional development of Zambia, it is that the traditional leaders were never elbowed out nor put in a lumber room. Kaunda left no doubt as to what the role of the traditional leaders was going to be. He never veered from this view. Viewed in retrospect the man was vindicated.

It has been the Government's aim throughout the discussions with the opposition parties, and with the Chiefs, prior to the independence conference and at the conference itself, to do all that was possible to create confidence in the new State of Zambia among our people, and in the world outside. The provisions of the constitution are ones which, I believe, will give the confidence and will convince all our people, and those in other countries of our good intentions". Whilst Kaunda was keenly aware of the dim role some of the Chiefs played during the days of the Federal Government, he was at the same time cognisant of the need to utilise them if the position were to be redeemed.<sup>2</sup> The redeeming feature was that this was the prevailing view in the length and breadth of the country.

Rather than quote in extenso from the writings of Colin Legum

we found it necessary to put the few pages as they are so as to highlight views about the role of the Chiefs in his country or possibly in any given society. This is what he propounded as a new Prime Minister at the helm.<sup>3</sup>



"Some words of the late President Kennedy have the greatest relevance for the people of an underdeveloped country. Those words I repeat to you now.

A special problem was the Government's relation to the Chiefs. While many of the traditional leaders had loyally supported the nationalist struggle, others had been suborned by the colonial regime and especially by the Federal Government to treat the nationalists as enemies of Chieftaincy and of African traditional institutions. The Chiefs had to be made to understand that they owed an overriding duty to the Central Government, and that, while their position as traditional leaders would be respected, their role would have to change to meet the modern circumstances of a new society. Based on genuine co-operation, the Chiefs had an important role to play."

On April 5, the Prime Minister appeared before the Chiefs with several of his Ministers as "an indication of the importance which the present Government placed upon the House of Chiefs as an instrument of the constitution".<sup>5</sup> The Prime Minister went on to say:

"I would also like to point out to you that the subject of Chiefs is one which is retained within my own portfolio; this again is an indication of the importance which I personally place not only upon the House of Chiefs but upon the position of the Chiefs themselves."<sup>6</sup>

"It is our intention that the status and standing of this House should be maintained within the framework of the constitution, and that Ministers should obtain the advice and opinions of this House on all matters which are the direct concern of the Chiefs and their peoples. We hope thereby to continue to foster a spirit of goodwill and co-operation between the Chiefs on the one hand and the Government on the other. Consultation between the House and the Government can take place in a number of different ways, and the method of Ministerial Statement, which I am adopting now, will be followed at this meeting by a number of my colleagues. We will be putting before you the policies of this Government in a number of fields, and it will be open to Honourable Members to ask us questions upon what we have said.

"In this way, Mr President, or by means of debates in this House, the vic



and opinions of Honourable Members who are representative of some 230 Chiefs in the whole territory, can be made readily available to the Government. We can say that we intend now and in the future to continue to ask for your advice, and having done so, to give the fullest consideration to your views.

"If we could not entirely square this happy picture with the earlier days of our struggle for independence and with that period when our faith in Her Majesty's Government was dimmed by the imposition of a Federal Government in Central Africa, nevertheless we do not wish to indulge in recriminations. There is no bitterness in our minds and we can offer the hand of friendship to all men, whether they have been our political friends or opponents. When we embarked upon this struggle for independence many years ago our origins were humble but our heads were high. We realised that the struggle might be long, it might be arduous and would often result in personal inconvenience but we know so well that anyone who looks for honey in the bush must expect bee stings. We have been stung in the past, but we feel that the reward of the honey is now ours to share amongst our people.

"When we look back along the path which led to this conference room today cannot entirely forget, but we can certainly forgive, the days of our impatience and the occasions when many of us have been subject to personal indignity and hardship because of our political ideas. These unhappy memories have only to broaden our minds, just as fruitful labour builds the body; and, we repeat, Mr Chairman, we have no place for bitterness in our minds or in our actions.

"To the contrary, I would state most emphatically and without fear of contradiction from any man at any time, that our promise as to our beliefs and our attitudes to people is both a solemn pledge and also a promise to God to the people whom we serve. Our pledge is that we regard all our people as human beings, the possibility of ill-treatment or discrimination against people because of their tribal or racial origins, or their religious or political beliefs does not exist; this problem does not arise because it has no place in our hearts or in our intentions.



Our aim is to create a society in our independent Zambia in which every law-abiding citizen throughout the country will feel free at all times to go about his legitimate business and to lead his own life without fear of interference.

"We recognize the past contribution of Her Majesty's Government to the establishment of a modern form of Government in this country and we are indeed grateful for the assistance which the people of this country have been given in building up the modern state which Northern Rhodesia has become".

"It is with considerable satisfaction, Mr Chairman, that I am able to inform you that as a result of discussions that I and my colleagues have had in Lusaka with leaders of the African National Congress and of the National Progress Party, and with a Committee of the House of Chiefs, general agreement has been reached on the type of Independence Constitution we want for our country.

"Another feature of our present Constitution which will be adopted in the independence Constitution is the House of Chiefs. My views on, and support for, our Chiefs are well known, and I reaffirm that it will be the intent of my Government to uphold the position of Chiefs in our country and to consult them, and seek their advice, on all matters affecting their people and themselves. As proof of this I need only point to the last meeting of the House of Chiefs when not only I, but a number of Ministers, addressed the House of Chiefs and sought their advice on a number of most important points. It is our full intention to continue in this manner in the future.

"There was some criticism of the fact that the Chiefs were not represented at the conference in London, but as I pointed out to the House of Chiefs they are now represented, as are their people, by an elected Government it would not therefore be appropriate for the Chiefs to be specially represented at the conference. It would in fact have suggested a lack of confidence in their elected representatives and I may add that this point was agreed by the Chiefs at a private meeting I had with the Standing Committee.



of the House of Chiefs before leaving for London, when they also gave complete support for our proposals for the Independence Constitution. In this respect I am glad to report that the provisional agreement, which was reached in Lusaka with the Litunga and the Northern Rhodesia Government under the Chairmanship of His Excellency the Governor, has now been endorsed by the British Government. I am glad to say that common sense has prevailed and that Barotseland will be part and parcel of the Independent Republic of Zambia".

Having announced the new constitution to the Legislature, the Prime Minister on July 2 summoned a special meeting of the House of Chiefs:

"We consider, and we have said it before in public and private, that the Chiefs have a major role to play in the future development of Zambia. My Government has already announced some of its plans for the expansion of economic and social activity in the rural areas where you all come from. I hope before long that we shall be able to indicate our long-term plans for this major task of re-construction in the rural areas, which must be top priority. The mobilization of the efforts of the people will be a task for which all Chiefs are fitted, by reason of the respect for a Chieftain which you have inherited from your predecessors. You can act as a link between the old and new in Zambia which will enable the country to go ahead as one nation, as one people. Your customary rights and responsibilities respect of land will remain unaffected by the new Constitution. Chieftainship will be respected by my Government as part of our inheritance, but narrow rigid and obstructive tribalism cannot be tolerated.

"The House of Chiefs will continue to function after the grant of independence in exactly the same form as at present. This Government will wish to seek advice of the Chiefs on all matters affecting their people and themselves and it is the House of Chiefs which will form a platform for discussion and consultation. This House will continue to meet shortly before meetings of Parliament, so that proposed Government legislation and other matters of which the advice of the Chiefs is needed can be placed before you for discussion. My Cabinet colleagues and I have established a system by which we, or our senior officials, address you and answer your questions so far



we are able. This method of consultation at that level will continue as before. In brief, Mr President, the House of Chiefs is to be preserved without any basic change, and I am confident that your contribution to the future successful Government of this country will be greatly enhanced by virtue of our success in obtaining the type of Independence Constitution which I have outlined".

**BOTSWANA**

Here Chiefs participated in the making of the Constitution. Valuable information on this can be gleaned from the Journal of Modern Political Studies published in 1965 by Professor J.H. Proctor, in an article entitled The House of Chiefs and the Political Development of Botswana.<sup>9</sup>

Prior to the establishment of the Protectorate over Bechuanaland in 1885 the country was inhabited by the Botswana people who were divided into eight tribes - each of whom was ruled by a powerful hereditary Chief and was politically distinct from the others.

There was no Paramount Chief in existence nor was there any national consciousness that transcended tribal loyalties. The British Government through a form of indirect rule thus allowed a great deal of autonomy to eight separate tribal administrations.

Even the Native Advisory Council that was created in 1920 consisted of eight Tribal Chiefs as ex officio members. The Chiefs in Botswana had repeatedly pressing the Central Administration for the power to make law. In 1961 a Legislative Council of ten elected Africans, ten elected Europeans, one elected Asian, ten elected officials and a few nominated unofficial members, was created.<sup>10</sup>

This body provided a forum in which the Central Government could consult Chiefs and other tribal spokesmen.

According to Proctor the Committee which drew up the new constitution



that the legislation affecting the Chiefs' powers and functions, Tribal Administration, African Courts, and Customary Law required special consideration and anticipated that no bill making significant changes in these areas would be presented to the Legislative Council until it had been considered by the African Council. The Chiefs were given ex officio seats on this body rather than on the Legislative Council because it was believed it was in the African Council that their own specific and important contribution to good Government would best be discharged. <sup>11</sup>

When Britain considered a further advance toward Self Government in Botswana she authorized the Resident Commissioner in April 1963 to undertake consultations on the revision of the constitution. The Resident Commissioner invited the Chiefs to designate three of their number to meet with three representatives from each of the three political parties, three Europeans, one Asian and officials, in a series of joint discussions under his Chairmanship.

In the first round of negotiations the delegates confined themselves to consideration of general principles. According to Proctor it was readily agreed that the traditional institutions were of great importance to some people in Bechuanaland and the need for harmonious relations between the Tribal structure and the Central Government was recognized to be so crucial for the stability of the new system that a specific role for the Chiefs at the national level was deemed essential.

Proctor states that at a special meeting with the Commissioner held in 1963 the Chiefs' representatives opted for the Advisory Council primarily because they believed that the traditional rulers could be more influential if they were organized as a collegial body with a chamber of their own in which they could reinforce one another and speak with a strong collective voice. <sup>12</sup> To further illustrate that they participated in the discussion they insisted on certain improvements in their Council, particularly by increasing the number of sub-Chiefs to four, removing the limits on the scope of which it might be consulted by the Government, and authorizing it to discuss on its own initiative any matter which it considered would affect the interests of the tribes and to make representations thereon.

Prime Minister or Cabinet.

As a result of these inputs from the Chiefs the British officials then prepared a tentative outline of a constitution and invited all the delegates back to Lobatse to discuss these detailed provisions at the beginning of October. The Chiefs now asked that the name of the institution be changed to "House of Chiefs", and this was done. The House, it was accepted, conno a Legislative Chamber.<sup>13</sup>

According to Proctor the arrangements for the House of Chiefs were then accepted by all present.

It is said that although the Chiefs preferred a house with a law making authority which would enable them to protect themselves more adequately, they were, however, caught up in the strong emotional urge for unanimity which prevailed at the conference and accepted those terms as best they could hope to secure from the politicians who outnumbered them by three to one. It can be seen, therefore that the establishment of the House of Chiefs in Botswana was a result of the Chiefs' direct participation in the Constitution making process of that country. Proctor rightly opines that to have denied the Chiefs a position at the centre would have been a serious affront, especially since they had functioned as a major link between the tribes and the Government in the earlier Councils. It was also realised that they still possessed sufficient influence in their tribal areas to effect the implementation of Government policy if they should choose to do so. It was also realised that tribesmen still looked to the Chief for leadership and often regarded them as the only personification of political authority. The new Constitution then became effective on 30 January 1965.<sup>14</sup>

#### GHANA

In Ghana the first involvement of Chiefs was in 1949 in the Coussery Commission on Constitutional Reform which had strong representation from the traditional elements. Again one of the main parties campaigning for independence, the National Liberation Movement drew its main support from the traditional



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authorities and their supporters, principally in Ashanti. As a result of these endeavours Ghana established a House of Chiefs at independence sometimes styled the National Assembly. "No African of the Gold Coast is without some admiration for the best aspects of Chieftaincy".<sup>16</sup>

The first Constitution of Ghana in 1957 undertook to "guarantee and preserve Chieftainship but the most serious assessment of Chiefly authority came four years later with the Chieftaincy Act (No. 81) of 1961.<sup>17</sup> Many Ahafo Chiefs who were not of the C.P.P. persuasion remembered with unhappy memories how Dr Kwame Nkrumah had asserted that he would 'set the Chiefs running without their sandals' but the 1961 Act does not reflect a particularly harsh attitude to traditional authority".<sup>18</sup>

According to Independence and Opportunity in Ghana at this time Chiefs were divided into four grades:

- (a) The Asantenehene and Paramount Chiefs;
- (b) Paramount Chiefs who were subordinate to the Asantenehene;
- (c) Divisional Chiefs; and
- (d) Headmen and other Chiefs not included above.<sup>19</sup>

Chiefs were expected to be competent and were under the Minister of Local Government. At this time it was an offence to undermine the authority of Chief. Chiefs could not just be deposed at random, according to the Legislative Instrument. Their power was also clearly defined in order to protect subjects. The issue of Chiefs was regarded as a National Crusade in which everyone was expected to take an active part. No lackadaisical bearing or mien was countenanced. The regional adviser of the Brong - Ahafo State Council emphasized the importance and necessity of discovering most of our traditions, customs and festivals which had died down or (we) lost from the face of Ghana through the British Colonial misrule.<sup>20</sup> He therefore implored the Chiefs to co-operate and keep the Government to light our "Traditions customs which were buried by the Colonialists". A Chieftaincy Secretariat was established and the Commissioners under the Chairmanship of Mr Justice Akujo Addo looking into the new Constitution

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for Ghana suggested that the whole problem of the place and status of Chiefs in the Government and administration of the country in proper perspective.

The promulgation of the new Ghanaian Constitution left no one in doubt about the unique position of Chiefs.

"The institution of Chieftaincy together with its Traditional Councils as established by customary law and usage is hereby guaranteed". A National and Regional Houses of Chiefs were set up to administer traditional affairs but at the lower level the integrated traditional secular Local Councils for which the constitution made provision were not established before the Progress Party Government of Dr Busia was overthrown by the second military coup d'etat in 1972.<sup>21</sup>

Equally pertinent is the N.L.C. Decree of 1966:

"It would be good to have Chiefs in the National Assembly because when the elders are there the young men will not have the opportunity to play the fool".<sup>22</sup>

"The value of a Chief as a Communal symbol remains great. The office is the kind of community growth."<sup>23</sup>

## NIGERIA

In Nigeria there has always been two houses: the House of Assembly and the House of Chiefs.<sup>24</sup> Doubtless Nigeria has had a number of coup d'etats (four successful, 2 unsuccessful) but the House of Chiefs has operated undisturbed except in 1966 when both were dissolved.<sup>25</sup> They hold their parliament in Lagos. This is much akin to the House of Lords in Britain (the Peers). "Men may come and men may go but I go on forever" - Father Time, Chiefs therefore are the anchor in Nigeria and how well has Horatius kept the bridge.



### KING ZWELITHINI'S POSITION VIS - A VI OTHER PARAMOUNT CHIEFS

Though the British Government had consistently refused to annex Port Natal which had come under its wing in 1824, by 1837 the Voortrekkers had reached and inhabited Natal, an event which brought the Trekkers face to face with the Zulus. The British Government started fearing that if they did not intervene, chaos would reign as the Boers would either collide or enter into some agreements with the Zulus.<sup>26</sup>

After Natal had been annexed, in 1845 civil servants were so few that the British were forced to use Chiefs in administering the African population.<sup>27</sup> The use of Chiefs in administration was "more acceptable to the Government in Natal than in the Cape Colony".<sup>28</sup>

Many Chiefs were commoners appointed to the office by Shepstone, they were therefore more amenable to control. Coupled with this was the fact that the organisation in Natal had been pulverised and then refurbished through Shepstone. Also the Natal tribes were fewer than at the Cape.

Theophilus Shepstone who was known as the Architect of the segregationist system and a great believer in the use of hereditary Chiefs as a means of maintaining white supremacy, had however to monitor the system.

"Chieftainship does not depend upon hereditary succession but upon appointment by the Supreme Chief".<sup>29</sup>

Just like Tshaka, Theophilus Shepstone used the policy of divide et imper. Acts of contumacy by Chiefs were treated ruthlessly by the Natal authorities. Shepstone acknowledged that "the transfer of power from Chiefs to the Supreme Chief has entirely changed the political relationship between Chiefs and people and that the social and political status of Chiefs had seriously declined", indeed it was ostensibly part of his long term policy that the legitimacy of hereditary Chieftainship should decline.<sup>30</sup>

No doubt Shepstone rightly claimed that his administrative system had us

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in an era of tranquillity. In Natal, while in other parts of South Africa wars with Blacks and tribal revolts were common.

In comparison with Natal the Cape was endowed with militant and bellicose Chiefs from the start. During Lord Charles Somerset's regime (1814 - 1826) attempts to oust Ndilambe and elevate Ngqika did not only fail but resulted in the Battle of Amalinde (1819). Makana died on Robben Island but remained a martyr.

The 1834 - 35 war had broken out between the British Government and the area now called Ciskei. Hintsa had not been involved but was accused of allowing Fransker to be used as a receptacle for stolen stock. It was during this war that Hintsa was murdered by Richard Southey.

Sarili another Paramount Chief suffered as a result of Nongqause in 1856.

The nine Xhosa wars (1779 - 1877) are indicative of the bedevilled relation between the White man and the Blacks. Small wonder South-Africa was in erstwhile times known as the White man's grave. (reference not only to malaria but to the wars).

History teems with numerous factors which are not in harmony with the view that King Zwelithini is above the other Paramount Chiefs. These are they:

1. In Mqhayi's Ityala Lamawele on Page 58 Mqhayi says:  
'Kuzo zonke ezi zizwe, uXhosa akafumanekanga engomncinane nakwesinye s  
JTshaka ubusekile ubukumkani bakwaZulu ngekrele lakhe, nangocugorna b  
camazhaba akowabo, ngexesna likaHintsa - ngomnyaka we 1820. UHintsa  
wayesel'enobukumkani obunezithanga rabo, obuqalele eMbashe, baya kup  
emaXelelwa, (Gamtoos R.) nakwezo ntaba zikaWojoli (Somerset East).  
UMshweshwe ubusekile ubukumkani baseLusuthu ngowe-1824 ngengqondo yak  
nangobulumko bakhe nobamagqala akowabo abunye ngokuzalilezi enaka usan
2. David Welsh, in "The Roots of Segregation: Native Policy in Natal  
1845 - 1910" states:



Many years later, when asked by the Cape Government Commission on Native Laws and Customs, Shepstone agreed that there were no such great Chiefs in Natal as there are in the Orange River. "The most considerable Chief in Natal would not be able to raise more than five thousand men"<sup>2</sup>

3. Both the Colonies (Cape and Natal) and the Republics had always been administered as separate entities. There never was any unity until 1910. There was no Prime Minister of South Africa until 1910. Pretorius, Burgers, Botha were Presidents of the Transvaal only, the Orange Free State was headed by Presidents like Brandt - "Alles sal reg komen" and the Cape by Cecil Rhodes etc. Decentralization was in vogue.
4. Each Paramount Chief was supreme only in his only domain. Never were Paramount Chiefs put in close juxtaposition. Each colony, republic, had its own "native" policy - the policy of divide and rule.
5. During the Tembu - Gcaleka war an official who was involved in the war reminded a protagonist of peace:  
 "In the lack of unanimity amongst the native tribes, lies the safety of the colony".
6. South Africa has always been the land of contrasts - the English at logger-heads with the Dutch and the Whites at each others throat with the Blacks.
7. There has never been amity amongst the Blacks themselves at the Cape 1877 - 78 Fingo - Gcaleka war, let alone the strife between the Zulu and the Xhosa.
8. Be it also noted and remembered that when Eric Louw (former Minister Foreign Affairs) adumbrated a dubious statement in 1955:  
 that the Black should remember that Van Riebeeck arrived at the Cape on 6th April 1652, long before the Blacks met the White man along the Fish River, Professor Monica Wilson took up cudgels against Louw.

shed ample light on past events, with historical evidence, some of which was based on Radio Carbon dating. The survivors of the ship Sao Joao<sup>33</sup> in 1652, produced evidence of katts, tswana stock that belonged to Tembu Chiefs who inhabited Transkei as early as then, 100 years before Van Riebeeck set foot in South Africa, Monica stated.

Among these Tembu people were Paramount Chiefs. Little wonder Ngangeli Ngubengcuka, Sabata inhabited this area - Buyelekaya's forebear. Historical records prove this and an analysis of earlier wrecks in Transkei will be found useful.<sup>34</sup>

Radio Carbon dating tells it like it is.

9. The Zulu Rebellion and the Barabata Rebellion were fought by the Zulu quite independently of the Xhosa.
10. The Langalibalele Rebellion of 1873 in Natal is another classical case Langalibalele suffered at the hands of Pine and others. Not only did "Paramount Chief" not intervene but there was no assistance from the Cape (Xhosa) Chiefs. Only Bishop John Colenso and the Aborigines Protectionist Society could nerve Carnarvon into action in 1875.<sup>35</sup>
11. The use of the phrase "Supreme Chief" was anathema to the Zulu. It was only on sufferance that they put up with it.  
  
"To Africans the Supreme Chief was part of a system which they regard as oppressive".<sup>36</sup>
12. At the Cape there has never been any period during which a Paramount Chief was superseded by a White man called the "Supreme Chief" as this way his power would be diluted.<sup>37</sup>

Taking sight of the following pages in "The Roots of Segregation"<sup>38</sup>  
287 - 289 might be to the Reader's edification.



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NUMBER OF PAGES : 1 + 9

ATTENTION : MR. ELOFF

MESSAGE /

ATTACHED PLEASE FIND THE CHIEF  
MINISTER OF QWAQWA AND LEADER OF  
DIKWANKWETLA PARTY DR. T.K. MOPELI  
INPUT, RELATING TO THE ROLE OF  
TRADITIONAL LEADERS.



## THE ROLE OF TRADITIONAL LEADERS

## DEFINITION

In South Africa traditional leaders have under colonial regimes come to be called chiefs. The term is, however, better understood by reference to the relevant words in African languages. In Setswana, for instance, the appellation is Kgosi (pl diKgosi) which means the highest executive, judicial and legislative authority in the morafe, or the head of the lineage recognized as senior by all members of the morafe. Morafe (pl. merafe) means the people ruled by a Kgosi. Some speakers and authors intimate that the English version of Kgosi is King. One particular author refers to chiefs as monarchs. We feel that this is a too literal application of European terminology to African institutions. Authors like Gluckmann have pointed out that African concepts cannot be expressed in European terminology without more ado. A King is, after all, the ruler of a nation, whereas a tribe is not really a nation.

The Zulu King falls into a different category. He has for a long time been regarded as a King and the Zulu people are generally regarded as a nation. One must, however, be careful not to elevate the Zulu kingship to unrealistic heights. Other tribal groups have what are termed paramount chiefs. There are, for example, four in Transkei. They may rightfully claim to be on a par with the King or paramount chief of the Zulu.

In the final analysis we feel that for constitutional purposes chiefs need not be named kings, nor regarded as such. It may in fact cause confusion, because kingship has constitutional significance. Chiefs are in their own right, as indicated above, the highest executive, judicial and legislative authorities of the people ruled by them. They need not be accommodated in a constitution as if they were kings in the European sense of the word. Paramount chiefs and the King of the Zulu do constitutionally enjoy a higher status which is typically African and need not be equated to a European monarch.



-2-

To complete the picture it must be mentioned that the State President is in terms of section 1 of the Black Administration Act 38 of 1927 paramount chief of all blacks in the country. This would exclude blacks in the TBVC states and probably also all citizens of those countries, even those resident or domiciled in the RSA.

The supreme chieftaincy of the State President is a colonial relic with no real content any more. It is not clear why it has not been done away with after granting self-government and independence to national units and after establishing full-blown black local authorities in urban areas. One can only surmise that the national party government still regards it as part of the existing constitutional dispensation which can only be changed by negotiation.

In our view the institution should forthwith be abolished - the sooner the better. It serves no political or administrative functions. It might indeed create the impression that the national party government is clinging to the archaic concept that blacks are best administered by a governor with extraordinary quasi-traditional powers.

#### RECOGNITION/APPOINTMENT

A chief is born, not made. This means that a chief is a chief by succession - generally the first-born son of the reigning chief's main wife. But, and there's the rub, since colonial times up to the present chiefs have been appointed or recognized. This has resulted in numerous commoners becoming officially chiefs. This went hand in hand with the creation and adjustment of tribes. The State President and in the self-governing territories the Cabinets, may define the



boundaries of the area of any tribe or of a location and may from time to time alter or divide a tribe into two or more parts or amalgamate tribes or parts of tribes into one tribe or constitute a new tribe. All these nuances of making and breaking tribes and appointing or dismissing chiefs have in fact been put into practice over many years. The result is that there are many official tribes and chiefs that have no traditional status. This gives rise to cultural conflicts on the one hand and political and boundary disputes on the other.

It has moreover been convincingly shown that tribes are and never have been the clearly discrete groups that they are made out to be. People are from nature volatile and the proverb, birds of a feather flock together, is only partly true in regard to tribes. It has been shown that defined tribes living within confined boundaries are largely colonial definitions and demarcations. As a result of industrialisation and the national party policy of separation further ethnic fusions took place. The boundaries of the self-governing territories and independent states were drawn and people were willy-nilly physically re-located or by addition or excision of land included in or excluded from a territory without due regard to tribal affiliations.

All this has given rise to dissatisfaction, legal disputes and even bloody conflicts, sometimes euphemistically termed faction fights.

This situation cannot be ignored in negotiations about the role of traditional leaders.

However, we feel that this should be viewed from a pragmatic, positivistic angle. The present position should be taken for granted, because it is plainly impossible to unscramble the hotchpotch. The task is too immense and will give rise to further problems. In the circumstances it is suggested that the official record of chiefs and tribes be accepted as it is.



It is, however, strongly recommended that administrative machinery, say a system of district officers, be created to keep a check on the situation at grassroots level. If tribal disputes are allowed to flare up unattended they can have devastating consequences at regional and national level. Civil (tribal) wars should be avoided at all costs.

#### FUNCTIONS OF CHIEFS

##### (a) Administration

A chief is the father of his people. He stands in the same relation to his people as does the head of a family home to the occupants of the home. He is responsible for his people, who in turn owe him loyalty and obedience. He is the senior representative of the tribe. He is also the religious leader, sometimes said to be the chief priest. He is commander-in-chief of the army and last, but not least, chief judge.

This is a traditional and somewhat idealistic sketch of a chief's functions. The role of chiefs has changed drastically over years for two reasons. Firstly, the role of central government institutions has grown stronger and stronger as years went by. For one thing, central governments dispose of police forces, armies, judicial officers - you name it - that largely make chiefs redundant, whether we like it or not.

Secondly, chiefs themselves - at least a substantial number of them - have not come up to expectations. Some of them - fortunately probably a minority, but still a substantial number - are reported by observers to over-indulge in liquor, to be uneducated, to be prone to accepting bribes, to oppose development and to be generally lethargic.



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The evidence from various quarters that this is so cannot be ignored, because it may be true or at least partly true. And it has created the perception that chiefs do not make the grade.

It also appears from a study of literature that chiefs, irrespective of personal weaknesses, have not been good administrators. It is partly due to the fact that they are rulers not administrators, but also the fact that they have never been given an adequate infrastructure. Now it is not a matter of merely providing an infrastructure. It is plainly unnecessary and somewhat clumsy to do so in the face of the fact that modern administration is in any event centralised even in regional government. Granting chief administrative functions and powers that are already exercised by central, regional and district government authorities is artificial in the extreme.

It has been suggested that tribal authorities are or should be local authorities. This will, in our view, not work either. Tribal authorities are not geared to perform local government functions and chiefs, again, are rulers - not mayors nor town clerks. To expect them to establish and run townships will, for instance, probably merely end in embarrassment.

Administration of land deserves special mention. We feel that chiefs generally do not have the knowledge and expertise required for administering land in present-day circumstances. In Lesotho and Botswana the control of land has already been taken away from chiefs. They are merely members of land boards. It would be rather incongruous to allow them to retain sole authority over land, while their power basis has in other respects dwindled. It has been said of chiefs in Lesotho that "their footing has long been eroded by the cumulative effect of social, economic and political change".



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We are not suggesting that European models of land tenure should be introduced lock, stock and barrel. The indigenous models should rather be adapted to meet the changing needs.

(b) Development

Development administrators should give chiefs a meaningful role in development projects. Development projects in Africa have often been failures because tribal considerations were overlooked. Chiefs in whose areas development agencies operate should be fully represented on such agencies. They should be afforded an opportunity to make real contributions towards development and the provision of services in their own areas.

(c) Political

This is the most crucial issue. One may begin by saying that in Africa chiefs have generally not been given prominent, formal roles in national political institutions. In some constitutions, particularly those written in French, chiefs are not even referred to. On the contrary, English language constitutes, in a number of cases, such as that of Malawi, mention the institution of chieftaincy. Informally they virtually constitute second tiers of government and are consulted. Two or three African countries have houses of chiefs. For the rest chiefs have to fight elections or are nominated members of legislative assemblies. In South Africa a different position prevails in the self-governing territories and in the TBVC states.

Some comments on the latter are required. The experiment to give chiefs such direct and substantial role in the legislative assemblies is regarded by most commentators as a failure for several reasons:

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- (i) Having so many nominated traditional leaders went against the grain of all concepts of democracy.
- (ii) Many chiefs were plainly incompetent as members of legislative assemblies.
- (iii) Traditionally chiefs do not enter into the political fray. It is so to speak infra dig for them to participate in petty party political issues.
- (iv) It created distorted overlaps of representation. Some areas were represented by elected members cum chiefs, some by only one of either and some had a mixture of several chiefs and elected members.
- (v) Chiefs all the same never contributed significantly to the process of making laws. They were mere spectators.

In the circumstances the South African experiment should preferably not be repeated.

That leaves only three options:

- (i) Limited representation by a few nominated chiefs or a number of chiefs elected by an electoral college. This is quite feasible. Nomination of a limited number of members is a fairly general feature of modern constitutions.
- (ii) A house of chiefs which could fulfil an advisory function, such as in Botswana. The constitution and functions could be worked out on a pragmatic basis, using the Botswana arrangement merely as a point of departure. It is perhaps not feasible to create a national House of Chiefs, but we suggest that such houses could be readily established on a regional basis, for those areas where there are tribes and chiefs.



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(iii) A senate or second house consisting of chiefs. This is not favoured, because such a house consisting of chiefs only would be lopsided. Chiefs constitute only one interest group. A second house should represent other important interest groups as well. Chiefs in fact, as a result of their rural orientation, will not be the most important interest group.

#### Party political considerations

Lastly, we wish to point out that chiefs will undoubtedly have political clout in the sense that they could influence voters. Politicians can therefore not ignore them at constituency level. Even in so far as they are not accommodated in a formal political setup, they should be reconciled with the political process at grassroots level. Political parties will be well advised to maintain good relations with them. Somehow, informally, they should be made to feel that they are part of the political process, except in areas where candidates depend upon urban based voters only. Politicians, we feel, cannot ignore the presence of chiefs in their constituencies.

#### (d) Judicial

We feel that this is an area in which chiefs could not only retain their present functions, but could even be granted increased jurisdiction.

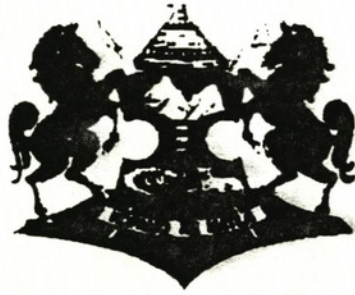
We feel constrained to sound two warning notes:

(i) Several observers have pointed out that control over chiefs' courts are inadequate. It is suggested that a control commissioner, such as in Botswana, be appointed to monitor the activities of chiefs' courts and to exercise discipline over them, of course within the bounds of judicial expediency.

(11) Domestic and international human rights norms must be borne in mind. For instance, corporal punishment normally imposed by chiefs may be regarded as inhumane in terms of human rights norms. Human rights norms furthermore require that all persons should be subject to the ordinary courts of the land. Chiefs should therefore as heretofore have concurrent jurisdiction with the ordinary courts - not exclusive jurisdiction.



TSHEBELETSO YA PIISO KA GWACWA  
SWAZI REGERINGSDIENS  
SWAZI GOVERNMENT SERVICE



REPABOLIKI YA AFRIKA-B  
REPUBLIEK VAN SUID-AF  
REPUBLIC OF SOUTH AFR

TELEFAXS / TELEFAX

DATUM / DATE : 13/03/1992  
VERWYS. NO :  
REF. NO :  
TEL. NO. : 01438 - 3012 ext 2258  
FAXS No. : 01438 - 34638  
FAX NO. :  
NAVRAE ENQUIRIES : P/c M.J. Mopeli

DEPT. OF THE CHIEF MINISTER  
DEPT. VAN DIE HOOFMINISTER  
PRIVAATSAK X 814 PRIVATE  
WITSIESHOEK.  
9870

AAN / TO : The Chairperson  
CODESA (D.M.C.)

TEL. NO :  
FAXS NO : 011 347 2211  
FAX NO :

AANTAL BLADSYE : 2 including cover  
NUMBER OF PAGES:

VIR AANDAG :  
ATTENTION :

BOODSKAP / MESSAGE / : Dear Sir

Receive with a submission  
of the Mopeli Chiefs' Council of  
Qwa Qwa with participation  
at your forum  
Thank you  
S D Mbuli



## MOPELI CHIEFS' COUNCIL SUBMISSION TO CODESA

1. MOPELI CHIEFS' COUNCIL

There are seven principal chiefs under the paramount chief. Regular meetings and discussions are held under the chairmanship of the paramount chief.

2. BACKGROUND

The Sotho group established here was established by chief Paulus Mopeli, brother of the great king Moshesh, founder of the Basotho Nation.

Mopeli was one of the great warriors of his brother, Moshesh during those difficult years of Boer wars. He, however, decided to negotiate with the president of the Free State Republic, namely John Brand for a place where he could settle with his followers.

President Brand gave him Witsieshoek (Qwaqwa) where was later joined by the Tlokwa's, under Koos Mota, who settled on the eastern part of the region.

The Mopeli of the Bakwena are ruled today by their paramount Chief. On the score of the above we would request that we be allocated a position for participation in CODESA.

THANK YOU VERY MUCH



PARAMOUNT CHIEF

M.J. MOPELI



P.O. BOX 13046  
WITSIESHOEK  
9870

12-03-1992

The Chairperson

c/o Dr T. Elloff

The Commission for investigation of possibility  
of including Traditional Leaders delegation in CODESA

APPLICATION FOR ALLOWING PARAMOUNT CHIEF L.C. NOTA'S DELEGATION TO CODESA

I have already applied for allowing me and my delegation at CODESA in my letter dated 1992/02/23.

In support to you for my application to be considered, I like to give you the following background and information :-

- (a) The ~~Batlokwa~~ Nation is known in history from the time King Tabana's rule whose children or Kings came to settle in Polokoane (Pietersberg), from there in Tsoana (Preterria) and from there in Heidelberg.
- (b) After settling in the Orange Free Province from the year 1650 at Sefate (Verkerkekop) the following Marena (Chiefs) ruled the Batlokwa Nation :-
- (i) 1650 Marena Makhalka
  - (ii) 1670 Marena Malefe
  - (iii) 1698 Marena Sebili
  - (iv) 1715 Marena Maforo
  - (v) 1735 Marena Mafosai
  - (vi) 1755 Marena Mafiseli
  - (vii) 1775 Marena Mafetjo
  - (viii) 1880 Marena Mafumehali Manthatisi
  - (ix) 1845 Marena Mota
  - (x) 1864 Marena Letsosaka who in 1864 was given the Land in Witsieshoek.

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- (xi) 1932 Morena Mafesahadi Masotonosi
- (xii) 1942 Morena Wessels Mota

- (c) It was during Morena Wessels Mota's rule that he accepted Bantu Authority System. The aim was to fight the oppressors from inside the system and the survival of his nation. It is a known fact that he was the only Motlokoa King who ruled in this Province which was and still is governed by Afrikaans speaking whites. Their attitude to a black person is known to us all. He ruled during the years 1942 - 1988 at Phomolong in Tseseng, at my present Royal Kraal.
- (d) It is also worth noting that I have three (3) Marena (Chiefs) under my jurisdiction. These Marena have their own dittricts with well demarcated and defined boundaries as well as qualified secretaries.
- (e) Mr Chairperson, it is against this background and information that I, the undersigned, is entitled to take part in forming the new South Africa, Our beloved Country.
- (f) My delegation of the Batlokoa Nation will be as follows :-
- (i) Morena's Mpholo L.C. Mota
  - (ii) Mr A.M. Molefe
  - (iii) Mr B.M. Mota

Thanks

.....  
 MORENA E MHOLO NA BATLOKOA  
 LCM/lm



**FASCIMILE MESSAGE**

**TO: CODESA SECRETARIAT**

**FAX NO: 011 397-2211**

**MESSAGE:**

KINDLY PLACE ON RECORD THAT GASA KINGDOM OF NGUNI NATION PRESENTLY LED BY PRINCESS REGENT THENGASE MKATSHWA ASSISTED BY PRINCE NATHANIEL SIKHUMBUZO BONGANI MKATSHWA ON BEHALF OF THE LATE KING MANDINDA KASOGASA OF MANZELWANDLE WHOSE FOLLOWERS NUMBER ± 5 MILLION WISHES TO BE REPRESENTED IN SHAPING THE NEW SOUTH AFRICA.

THE MAJOR FOLLOWERS ARE PRESENTLY AT MGOVODZI IN THE EASTERN TRANSVAAL. THEY ARE ORGANISING TO MIGRATE TO MAGUDU THEIR HOMELAND IN ZULULAND.

**SEND FULL TERM OF REFERENCE TO: -**

**NATHANIEL SIKHUMBUZO BONGANI MKHATSHWA**

**FAX NO: (09268) 46105**

**MBABANE, SWAZILAND.**