

POSITION PAPER OF TRADITIONAL LEADERS FROM TRANSKEI PRESENTED TO THE CODESA SUB-COMMITTEE INVESTIGATING POSSIBLE PARTICIPATION OF TRADITIONAL LEADERS IN CODESA

18 MARCH 1992 AT 16H00 AT THE WORLD TRADE CENTRE

1. Introduction

1.1 The following traditional leaders have been mandated by traditional leaders from Transkei to present this memorandum and also to testify before and to make oral representation to the sub-committee on this subject viz: -

- * Chief M Nonkonyana
- * Chief MN Matanzima
- * Chief GSK Nota
- * Chief GD Gwadiso
- * Chief JFM Matutu
- * Chieftainess M Moshoeshoe

We are accompanied by Mr CS Manona - B.A. Hons M.A. (SA) History lecturer at the University of Transkei.

1.2 We must mention from the very onset that the heading pertaining to the Terms of Reference is indicative of the fact that the King of the Zulus is the only King in SA. The express mention of the one is the exclusion of the others. We have five Kings in Transkei alone. SA is composed of different ethnic groups with their kings. We believe that the use of the terms traditional leaders is wide enough to accommodate all our kings and chiefs.

2. Participation of Traditional Leaders in Codesa

2.1 Historic Background

2.1.1 South Africa

Before the advent of Colonial rule in this country, the traditional leaders were rulers of their subjects. They were vested with all powers of the states viz : Legislative, Administrative and Judicial Powers. The rule of traditional leaders, contrary to popular belief, was the most democratic form of government. The traditional leader was a Chief-in-Council. The communities participated freely at all traditional meetings. These principles are firmly entrenched in our communities and that is why the institution of traditional leaders has survived the colonial rule. The apartheid regime realised the role of traditional leaders and had no choice but to accord them some form of recognition. We agree with Father Tiber that "men may come and men may go but I go on forever".

Our history proves conclusively that traditional leaders fought with their people in defending their kingdoms. King Hintsa was brutally murdered by the British colonialists, Maqoma died on Robben Island. Kings Langalibalele, Cetywayo and Dinizulu also suffered a similar fate. We may go on and on mentioning the valuable contribution of traditional leaders in the fight against oppression and their involvement in the liberation struggle.

We therefore emphasise the point that traditional leaders and their subjects were rulers of this country and cannot be left out in any negotiation process leading to a creation of a new order.

2.1.2 Observation from African States:

2.1.2.1 Botswana

The all-party talks were free from conflict on two questions which presented serious problems in one or both of the other High Commission Territories - the position of the chiefs and their tribal authority and safeguards for white interests. The chiefs were offered a House of Chiefs separate from the Unicameral Legislative Assembly. 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.

It was also realised that tribesmen still looked to the Chief for leadership and often regarded them as the only personification of political authority.

2.1.2.2 Namibia

As far back as 1958 opposition to SA rule was led by Chief Kutako and the Herero Chiefs Council. The traditional leaders were instrumental in the formation of SWAPO. They also petitioned the United Nations.

2.1.2.3 Swaziland and Lesotho

These countries are still ruled by Kings as the Kings and their subjects successfully defended their territories.

2.1.2.4 Ghana

In Ghana the first involvement was in 1949 in the Coussey Committee on constitutional reform which had strong representation from traditional elements. The National Liberation movement, among other things, fought for the protection of traditional interests. As a result of its input established a House of Chiefs on independence.

The promulgation of the new Ghananian constitution left no one in doubt about the unique position of chiefs. It inter alia provides: "The institution of Chieftaincy together with its traditional councils as established by customary law and usage is hereby guaranteed."

2.1.2.5 Zambia

If there is any lesson to be learned from comrade K Kaunda and his times particularly constitutional development of Zambia, it is that the traditional leaders were never elbowed out nor put in a lumber room.

THE DOYEN OF AFRICAN LIBERATIONS ONCE SAID:

"Another feature of our present constitution which will be adopted in the Independence Constitution is the House of Chiefs. My view, and support for our chiefs are well known, and I re-affirm that it will be the intention 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. (our emphasis) Comrade K Kuanda addressing a special

meeting of chiefs once said - "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 Chiefmanship which you have inherited from your predecessors. You can act as a link between the old and the new Zambia which will enable the country to go ahead as one nation, as one people."

3.3.1 Justification for Participation of Traditional Leaders

- 3.3.1.1 Traditional Leaders have been rulers of their subjects since time immemorial.
- 3.3.1.2 They are the custodians of the land under their jurisdiction. The number of treaties signed by chiefs when land was annexed by previous governments if historical proof of this assertion.
- 3.3.1.3 Political parties come and go but the chiefs who are culturally custodians of the traditions of their subjects and are therefore a source of stability as they are expected to be non partisan cannot be left out of the negotiation process.
- 3.3.1.4 Not all subjects belong to political parties and if chiefs are not allowed to participate the non aligned subjects are in fact cut off from representation.
- 3.3.1.5 The chiefs fought many battles in defence of the land and many of them died in battle.
- 3.3.1.6 The institution of chiefmanship has survived many attempts of compromising its stature. Even attempts by the Nationalist Government to compromise the administrative position of chiefs by passing the Bantu Authorities Act were misinterpreted and the chiefs were targeted as collaborators by some political parties.

It is trusted that the resistance to the admission of Traditional Leaders to Codesa is not caused by remnants of such feelings.

There is no justification therefore to single out the Traditional Leaders.

- 3.3.1.7 The chiefs should not only be represented at Codesa but must be fully represented in the working groups. The recommendations of the working groups are likely to influence the final decisions of Codesa and the Traditional Leaders must therefore be involved in the working groups as well.

The Terms of Reference of the various working groups justify the involvement of Traditional Leaders for example the creation of a climate for free political participation. The various political groups require the leaders blessings for meetings to be held or for the use of facilities. Tensions created by the various political groups have to be toned down by Traditional Leaders.

The future of chiefs in the TBVC States involves the destiny of chiefs as well and what justification is there for resolving such matters without involving Traditional Leaders in the process of shaping the necessary changes. The same argument is also valid when the question of the interim government, the constitution making body/process as well as other Terms of Reference of the working groups is considered.

- 3.3.1.8 Traditional Leaders cannot merely be regarded as an interested party but

must form the core of the participants in the negotiation process. It should also be borne in mind that the majority of blacks live in rural areas. Even those who live in the cities have their roots in rural areas.

3.3.1.9 The very composition of Codesa should be redefined to include Traditional Leaders as their exclusion, is for the above reasons, not justified.

4. Conclusion

The overwhelming majority of people in South Africa supports our demand to be heard at Codesa. The National Liberation movements have been consulted and they acknowledge that there is a role of Traditional Leaders in this country. We were excluded in the Peace Accord and we hope that the ongoing violence is not the result of this omission.

5. Recommendations

We strongly recommend the following viz:

- 5.1 All Kings (Izikumkani) should be accorded observer status at all Codesa meetings in accordance with tradition and culture.
- 5.2 Codesa should facilitate the holding of a forum to which representatives from the various regions would send delegations to work out the strategy for their representation.

ALTERNATIVELY

Alternatively: Four forums of South African Traditional Leaders should be allowed to represent traditional leaders in all four Provinces forming part of the Union of South Africa.

BIBLIOGRAPHY

1. A History of Resistance in NAMIBIA by Peter Katjavivi
2. Readings on Namibian History by Brian Woods
3. Speeches by KAUNDA by Colin Legum
4. Politics and Society in BOTSWANA
5. SWAZILAND Tradition and Change by S Booth
6. Dependence and opportunity in NIGERIA by Dunn and Robertson
7. Government and Politics in TANZANIA by T Tordoff
8. GHANA and the Ivory Coast by Philip Foster
9. SWAZILAND by S Booth
10. LESOTHO by T Strom
11. WELSH DAVID
The Roots of Segregation
14. Journal of Modern Political Studies: The House of Chiefs by Mike Proftess