

DRAFT AGENDA OF THE MEETING OF THE SUB-COMMITTEE ON THE PARTICIPATION OF THE ZULU KING AND OTHER TRADITIONAL LEADERS IN CODESA TO BE HELD AT 17H30 ON TUESDAY 24 MARCH 1992 AT THE WORLD TRADE CENTRE

1. **Chairperson's opening remarks**
2. **Apologies**
3. **Adoption of the agenda**
4. **Ratification of the minutes of 18 March 1992 and matters arising**
5. **Submissions**
 - 5.1 **Reading of written submissions**
 - 5.2 **New Submissions**
6. **Next meeting**

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

DRAFT MINUTES OF THE MEETING OF THE SUB-COMMITTEE ON THE PARTICIPATION OF THE ZULU KING AND OTHER TRADITIONAL LEADERS IN CODESA HELD AT 08H00 ON WEDNESDAY 18 MARCH 1992 AT THE WORLD TRADE CENTRE

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

G. Hutchings (minutes)

1. **The Chairperson's opening remarks**

The chairperson welcomed the members and thanked them for attending the meeting. The members were reminded of the amount of work that still had to be done.

2. **Apologies**

2.1 NJ Mahlangu, J. Slovo, J Zuma, apologised for their late arrival.

2.2 CW Eglin sent apologies.

3. **Agenda**

The agenda was adopted with no additions.

4. **Ratification of minutes of the previous meeting**

The minutes of 3 March 1992 were ratified with the amendment that MJ Mahlangu had apologised and had not been present at the meeting.

5. **Matters arising**

5.1 Expenses with regard to persons giving evidence:

5.1.1 A fact sheet on "Financial Assistance to Participants in the Subcommittee on

SUBCOMMITTEE ZULU KING, TRAD. LEADERS/18 MARCH 1992

- 5.1.2 It was noted that the Administration will carry transport and accommodation expenses (copy attached).
- 5.1.3 With regard to experts, a decision is still awaited from the Administration.
- 5.1.4 It was confirmed that the expenses of a maximum of six delegates would be covered.
- 5.2 Addendum A as referred to in the minutes of 3 March 1992 was distributed to members.
- 5.3 Timetable of oral submissions on 18 and 19 March 1992:
 - 5.3.1 The chairperson requested members to read through the schedule on the time of submissions and the schedule of each delegation.
 - 5.3.2 Dr FT Mdlalose made a plea to the members of the subcommittee to allow the IFP to present their submission, if such a submission was deemed necessary, after the other submissions had been presented. It was agreed to ask the Inyandza National Movement to present their submission when the IFP was to have presented its submission, to accommodate the IFP request.
 - 5.3.3 It was agreed that where delegations had more than six members, the advisers could be allowed to attend the presentations, under special circumstances but would not be given speaking rights.
 - 5.3.4 In respect of the Transkei delegation, it was agreed to allow their seventh delegate, Mr CS Manona, who is an expert, to present in their submission. It was agreed that an extra fifteen minutes would be added to the allocated hour for the Transkei, which would save the subcommittee allocating a separate hour to Mr CS Manona as an expert.
- 6. **Procedure for oral submissions on 18 and 19 March 1992**
 - 6.1 It was agreed to first welcome the delegations and then inform them of the mandate of the subcommittee. The Terms of Reference of the sub-committee would also be read out.
 - 6.2 Each delegation would have an hour with which to make their submissions. The sub-committee would then put questions to the delegation. If there was still time remaining in the allocated hour, the sub-committee would try to summarise the submissions presented.
 - 6.2 It was noted that no decisions regarding the submissions would be made as the submissions were to be presented to facilitate the gathering of evidence.
 - 6.3 It was agreed to remain flexible on the point of procedure.
- 7. **Paramount Chief Sandile**
 - 7.1 The letter from Paramount Chief Sandile of the Ciskei to the Codesa Management Committee (on page 8 of pack distributed to members) was referred to.
 - 7.2 In terms of the above letter the following was agreed to:

SUBCOMMITTEE ZULU KING, TRAD. LEADERS/18 MARCH 1992

- 7.2.2 that this sub-committee is not mandated to facilitate in the solving of problems in different regions;
- 7.2.3 to be flexible as far as this delegation from Paramount Chief Sandile from the Ciskei, was concerned and give them a hearing, if time allowed, as this sub-committee had been mandated to gather as much evidence as possible;
- 7.2.4 that the delegation sent officially by the Ciskei would still be given a hearing;
- 7.2.5 no preferential treatment would be given to either delegation as this sub-committee did not want to get caught up in the problems of the region;
- 7.2.6 to make an exception and cover the expenses of Paramount Chief Sandile's delegation
- 7.2.7 to encourage both delegations from the Ciskei to sort out their differences and try and come back as one representative delegation

8. Submissions

- 8.1 It was noted that both verbal and written submissions had been requested by the sub-committee.
- 8.2 If the sub-committee required delegates, who had presented written submissions to come in and give oral representation, they could request it.
- 8.3 It agreed to meet on 19 March at 08h00 to read through all the written submissions and make decisions regarding the evidence in the submissions.
- 8.4 It was noted that traditional leaders not included in delegations were not bound to make submissions in any form.
- 8.5 The following submissions were made:
 - * Document from Samuel Morwagaabusi II Mankuroane (Paramount Chief of Balthaping-Taun)
 - * Document from NJJ Oliver on Representation of the Zulu King and (other) Paramount Chiefs/Traditional Leaders at Codesa
 - * Document from MN Ramodike on Presentation of Evidence and Statement by the Leader of The United People's Front

9. Next Meeting

The next meeting of this sub-committee will be held on 24 March 1992 at 17h30 to 19h30.

The meeting adjourned at 10h00

SCHEDULE FOR THE MEETING OF THE SUB-COMMITTEE ON THE PARTICIPATION OF THE ZULU KING AND OTHER TRADITIONAL LEADERS IN CODESA

18 MARCH 1992

10H00 - 11H00: LEBOWA DELEGATION

11H00 - 12H00: PROFESSOR MAPHALALA

12H00 - 13H00: LUNCH

13H00 - 14H00: XIMOKO PROGRESSIVE PARTY

14H00 - 15H00: QWA QWA DELEGATION

15H00 - 16H00: CISKEI

16H00 - 17H00: DELEGATION FROM THE CISKEI LED BY PARAMOUNT CHIEF SANDILE

19 MARCH 1992

09H00 - 10H15: TRANSKEI

10H15 - 11H15: MR MATTHEWS

11H15 - 12H15: KANGWANE COUNCIL OF CHIEFS

12H30 - 13H30: LUNCH

13H30 - 14H30: CONTRALESA

14H30 - 15H30: VENDA

15H30 - 16H30: IFP

LIST OF DELEGATES:

EXPERTS

MR VJ MATTHEWS
PROFESSOR MAPHALALA

CISKEI DELEGATION

CHIEF LW MAQOMA
CHIEF WP ZIBI
CHIEF Z TOYISE
CHIEF P BUSOSHE
CHIEF ZULU
CHIEF ED NJOKWENI

CISKEI DELEGATION FROM PARAMOUNT CHIEF SANDILE

HIS MAJESTY MAXHOBAYAKLAVULEZA BONGIHZWE SANDILE
SIPHO MANGINDI BURNS-NCAMASHE
DOYLE MPUHLE JONGILANGA
JUSTICE THANDATHU MABANDLA
SIMON HEBE
HAMILTON MXOLISI MAKINANA

CONTRALESA

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

IFP

DR FT MDLALOSE

KANGWANE COUNCIL OF CHIEFS

CHIEF MM KHUMALO
CHIEF NE NGOMANE
CHIEF ZT MBUYANE
CHIEF MG MKHATSHWA
CHIEF MS NGOMANE
DR MADUNA

LEBOWA DELEGATION

KGOSHI LC MOTHIBA
KGOSHI MM MATLALA
KGOSHI SS MAHLO
KGOSHI LEHWELERE MATLALA
KGOSHI MOGASHOA
MR P SEKHUKHUNE

OWA OWA 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 JFM MATUTU
CHIEF NM MATANZIMA
CHIEF M NONKONYANA
CHIEFTAINNESS MN MOSHOESHOE
MR CS MANONA (EXPERT)

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



FINANCIAL ASSISTANCE TO PARTICIPANTS IN THE SUBCOMMITTEE ON PARTICIPATION OF ZULU KING AND TRADITIONAL LEADERS

HEARING OF EVIDENCE BY TRADITIONAL LEADERS AT THE WORLD TRADE CENTRE ON 18 AND 19 MARCH 1992

This is to confirm that CODESA will accept responsibility for expenses in respect of travel and accommodation for your delegation of a maximum of 6 persons attending the hearing. In order to make the necessary arrangements, please phone Ms Tanya Swart (011) 397-2452.

In pursuance of decisions by the Management Committee of *CODESA* on 13 January 1992 and on 24 February 1992, the following is brought to your attention:

CLAIMS FOR TRANSPORT AND SUBSISTENCE

- 1.1 Claims for transport and subsistence must please be completed and submitted individually for each separate meeting. Only claim forms bearing the printed date for the specific meeting can be accepted.
- 1.2 *Faxed* copies of claims, flight tickets and hotel bills are unfortunately unacceptable. All claims must please be original and accompanied by original proof of expenditure.
- 1.3 *CODESA* does not refund telephone calls, valet services, bar charges, cigarettes or any claims for meals taken at hotels in stead of those offered at the *World Trade Centre* on the days of meetings.
- 1.4 When claiming for cost of travelling by car, please note that the *car registration number* must please be supplied and that the kilometers travelled should reflect the shortest route. The engine capacity of your vehicle must also be stated in cubic centimeters.
- 1.5 *CODESA* only refunds air fares in the economic class. Bookings made through one of our accredited travel agencies may also only be made in the economic class. To facilitate problems experienced with travel, accommodation and transport problems, *CODESA* now has a special *CODESA TRAVEL OFFICE* in the *World Trade Centre* co-ordinating with the various agencies and you should not hesitate to call them at (011) 397 2452.
- 1.6 Hotel accommodation booked through any of our accredited agencies must please be made at least 48 hours prior to day of arrival. Should you not take up the accommodation booked for you, you will be personally held responsible for the "no show"-fee charged to *CODESA*. This also applies in respect of accommodation not used for the full period booked.
- 1.7 *CODESA* only accepts responsibility for hotel accommodation (when necessary) on the night before and/or after meetings.

●
CONVENTION FOR A DEMOCRATIC SOUTH AFRICA

●
PO Box 307, Isando, 1600, South Africa.
Telephone (011) 397-1198, 99. Fax (011) 397 2211
●

- 1.8 **CODESA** can unfortunately not accept claims for 5-star hotels and/or suites. Should delegates or advisers make their own arrangements for accommodation in such hotels, **CODESA** can only refund an amount equivalent to the tariff negotiated by **CODESA** with either the Jan Smuts Holiday Inn or the Airport Sun.Æ
- 1.9 When transport is required from airports in Johannesburg, requests should be made at least 24 hours prior to your arrival. Once again, if you have requested transport and do not make use of it on arrival, you will be personally held responsible for the costs incurred.
- 1.10 **CODESA** does not accept claims for car hire.
- 1.11 Please note that **CODESA** only accepts responsibility for transport arrangements between hotels, the airports and the *World Trade Centre* for official meetings of **CODESA**. We do not provide transport for representatives, their advisers or support staff to attend meetings other than those of **CODESA** in the *World Trade Centre*, elsewhere in Johannesburg or its surroundings.

REPRESENTATION OF THE ZULU KING
AND (OTHER) PARAMOUNT CHIEFS/TRADITIONAL LEADERS
AT CODESA

NJJ OLIVIER

[This memo is in response to a request, dated February 26th, 1992, from the convenor of the sub-committee dealing with this issue.]

A. Par. 2.2.3 of the terms of reference of the sub-committee:
"The practical situation presently found in South-Africa with regard to traditional leadership, as well as the position in other African countries."

1. THE POSITION IN SOUTH AFRICA.

1.1 As is generally known, the imposition of White control over Black communities - in South Africa and elsewhere - led to the loss of independence of these communities and the annexation of their land. It also meant the destruction of the traditional political and administrative structures and the introduction of a system of government more in line with the concepts of the new administration. Generally, attempts were made to use the traditional leaders as agents in administrative structures - largely based on Western models - aimed at exercising proper control over the indigenous populations and thereby inter alia to promote the maintenance of political stability and "Western" values and principles. In course of time the policy of direct administration by the "colonial" officials was replaced by a system of so-called indirect rule.

1.2 In South Africa the first attempts to introduce a system of local government in accordance with the practice existing in the White community was the introduction of the "council" system in the District of Glen Grey in 1894. In course of time this was extended to areas in the Transkei but the major legislative push occurred in 1920 with the passing of the Black Affairs Act which provided, inter alia, for the institution of "local" and "general" councils in the Black areas. This led to the creation of a large number of "councils" in these areas; and to the creation eventually of the United Transkeian Territories General Council (the "Bunga") and the Ciskeian General Council.

1.3 The Black ("Bantu") Authorities Act of 1951 (Act 68 of 1951) made provision for the creation of a series of "authorities": tribal authorities, community authorities, regional authorities, and territorial authorities. This was followed by the Promotion of

Black Self-Government Act of 1959 (Act 46 of 1959), embodying the Government's policy of "separate development" ("apartheid"), whereby the people in the Black tribal areas were to be given increasing powers of self-government, as a counter to the demand for political participation in the so-called "White" area. The Black Administration Act of 1927 provided for the appointment of chiefs and "headmen", and these were then involved in the administrative structures based on the Black Authority system. The Buthelezi Commission reported, for example, that there were 202 tribal authorities in KwaZulu, 7 community authorities and 25 regional authorities. The KwaZulu Territorial Authority developed, in 1972, into the KwaZulu Legislative Assembly in terms of the National States Constitution Act, 1971 (Act 21 of 1971); and in 1977 KwaZulu became a "self-governing territory", with a relatively large degree of legislative autonomy. The same developments took place in the other tribal areas, eventually resulting in the creation of the four independent TBVC states and of six Self-governing Territories (of which KwaZulu is one).

1.4 As far as the TBVC states are concerned, the following is the relevant information:

1.4.1 BOPHUTHATSWANA:

The Constitution of Bophuthatswana, 1978 (Act 1 of 1978 as amended) provides that the "legislative power of Bophuthatswana shall vest in Parliament consisting of the President and the National Assembly." In terms of s. 39, the National Assembly shall consist of the President (ex officio), 12 members designated by the President, 72 elected members and:

"twenty-four members designated by the regional authorities in Bophuthatswana....."(two members for each of the regional authorities).

Chapter 6 deals with "CHIEFS, HEADMEN AND REGIONAL BOUNDARIES":

"56.(1) The chiefs in Bophuthatswana shall retain their status.

(2) Chiefs and headmen shall exercise their authority in terms of an Act of Parliament.

57. (1) The designation of chiefs, acting chiefs, headmen, acting headmen and independent headmen shall, subject to the provisions of sub-section (2) vest in the President.

(2) The creation of any new chieftainship, or sub-chieftainship shall not be confirmed by the President except after consideration of a recommendation of the Executive Council.

58. Parliament shall not alter the boundaries of any regional authority area for any purpose, other than the inclusion therein, of land added to Bophuthatswana, except after consultation with every regional authority affected thereby."

In terms of Schedule 3 of the Constitution, Bophuthatswana is divided into 12 Magisterial districts "with corresponding 12 Regional Authorities each with a resident "District" Governorship and or Assistant Governorship who are responsible to the Central Government."

As regards "local government":

"Tribal Authorities under Dikgosi.... responsible to the Ministry of the President."

"Main Towns under Town Council or Municipalities....."

"Community Authorities some responsible to the Department of the President and others to that of Local Government and Housing."

"The Role, Powers and Functions of Traditional leaders at all levels of Government" are set out in the enabling Acts of Parliament."

(Information supplied by the Bophuthatswana Government to subgroup 4 of Working Group 4.)

1.4.2 CLSKEL:

"Regional Government:

"(i)(a) Tribal Authorities

"In terms of Chapter 3 of the Administrative Authorities Act No. 37 of 1984 Section 3, there shall for every tribe or community be a tribal authority or a community authority which shall bear the name and exercise control over the tribal area or community area. Every such authority shall consist of a chairman and as many other councillors as are prescribed and ex officio the chief, chiefs deputy and headmen residing within the area of the authority.

Each tribal authority (of which there are 36) shall:

- (a) generally administer the affairs of the tribe in respect of which it has been established
- (b) assist, support and guide its chairman
- (c) promote the interests of the tribe in all respects and participate actively in schemes or projects for rural devel-

opment and the improvement of the quality of life of the residents of the area.

(d) in consultation with the police authorities, take such steps as may be necessary for the safeguarding of schools and other Government buildings, property and essential services.

(e) consider and make recommendations to the appropriate authority regarding accommodation and other facilities at schools, application and administration of social benefit schemes, allocation of trading and residential site and arable allotments and licensing of businesses.

(f) keep the magistrate informed of matters of concern arising within its area

(g) exercise or perform the powers, authorities and functions assigned to it on land usage and settlement, health and social welfare, conservation, registrations and control of dogs, improvement in livestock husbandry, agricultural marketing, home industries, sports and recreation, public works, markets, births and deaths, employment, road safety and civil defence.

Tribal authorities shall meet not less than once every three months.

The Magistrate shall open a trust account for every tribal authority in his district (region) into which shall be paid all fees and charges arising from customary dues, property owned, fines, appropriation from Ciskei Government, tribal taxes, donations, contraventions of by-laws, etc. Tribal authorities fall under the control and administration of the Department of the Council of State in liaison with the Magistrates of the Districts."

"(i)(b) **REGIONAL AUTHORITY**

(A)

In terms of the Administrative Authorities Act no. 37 of 1984, "the land comprising the tribal and tribal authority areas in a district shall be deemed to be a region and for every region there is hereby established a regional authority. (Chapter 4, section 8). There are seven regional authorities in Ciskei, namely Hewu, Keiskamahoek, Mdantsane, Middledrift, Peddie, Victoria East and Zwelitsha.

(B) The regional authority consists of the paramount chief and the chiefs of all the tribes in the region with their deputies as their alternates, the chairman of every tribal authority who is not a paramount chief or chief, one other councillor from each tribal authority in the region elected by a majority vote by the councillors of that tribal authority.

The seat of a regional authority shall be at the office of the magistrate of the district (Chapter 4, section 8).

(C) The powers, functions and duties of regional authorities are defined under Chapter 4, Section 10 of the Administrative Authorities Act No 37 of 1984 as:

(i) to promote the interests of the region and whenever necessary, act in an advisory capacity in any matter affecting the administration of the affairs of the tribes of the region.

(ii) advise the Government in relation to employment, establishment of industries, protection of national monuments and the promotion of tourism, rural development projects, health and social welfare of the people of the region, conservation of farming land and natural resources, establishment of markets and pounds, controlling and licensing of businesses, education, sport and recreation, public roads and transport services and the settlement and administration of the land in the region;

(iii) exercise the powers and perform the functions and duties conferred or imposed upon a regional authority by or under any other law;

(iv) generally exercise such other powers or perform such other functions and duties as, in the opinion of the Minister, fall within the sphere of regional administration and as he may assign to the regional authority;

(D) Regional authorities shall hold meetings not less than once every three months.

(Information supplied by the Ciskei Government to sub-group 4 of Working Group 4.)

1.4.3 TRANSKEI:

"REGIONAL GOVERNMENT:

"There is no regional government in Transkei. However, at the rural level, regional authorities hold sway in respect of Regional Authority areas. Transkei is divided into nine regions.....Each regional authority is headed either by a paramount chief or a senior chief. Regional authority areas exclude all areas which are administered by municipal authorities....."

"LOCAL GOVERNMENT:

"Urban areas in Transkei are administered by municipalities or municipal councils.....Rural areas are divided into various administrative areas. Tribal authorities have been established. These tribal authorities are responsible for the administration of an amalgamated group of administrative areas. All the tribal authorities in a particular regional authority area fall under the jurisdiction of a regional authority. Tribal and regional authorities derive their existence from the provisions of the Transkei Authorities Act, 1965 (Act 4 of 1965). Municipalities discharge the same functions as the other bodies enjoying municipal status in South Africa.

"Regional authorities and tribal authorities discharge functions relative to matters of local concern. Their powers are, however, not as wide as those of municipalities. They are accountable to the central government."

"THE ROLE, POWERS AND FUNCTIONS OF TRADITIONAL LEADERS AT ALL LEVELS OF GOVERNMENT:

"At the executive level chiefs are not appointed ex officio to any position. At the local level chiefs are involved in the general administration of tribal authority and regional authority areas. Chiefs also preside over regional authority courts and chief's courts. With regard to the law-making function chiefs do not play any role. Only those chiefs serving on the Military Council have any influence on the legislative process."

[The nine regions mentioned above are: Eastern Pondoland; Emboland; Fingoland; Gcalekaland; Maluti; Tembuland; Umzimkulu; Western Pondoland; Western Tembuland. In general these different areas are inhabited by distinct tribal entities.]

(Information supplied by the Transkei Government to sub-group 4 of Working Group 4.)

1.4.4 VENDA:

REGIONAL GOVERNMENT.

"In Venda Regional Government is not in existence. Instead we have District Councils which are established in each of the five districts as follows:
Thohoyandou District Council, Dzanani District Council, Vuwani District Council, Mutale District Council and Tshitale District Council."

LOCAL GOVERNMENT

"In Venda the Local Governments are known as Territorial Councils established in each Tribal area. There are 28 Territorial Councils in Venda....." (5 in Thohoyandou District, 3 in Dzanani District, 9 in Vuwani District, 5 in Tshitale District, 6(?) in Mutale District.

"In Venda the role, powers and functions of traditional leaders at all levels of Government is that each Chief (Khosi) is always chairman of his territorial Council and all Chiefs (Mahosi) are ex officio members of the District Council where one of the Chiefs presides as a Chairman of the District Council's meetings."

".....matters emanating from territorial councils are referred to a District Council for a decision."

(Information supplied by the Venda Government to sub-group 4 of Working Group 4.)

1.5 SUMMARY:

From the particulars above it seems clear - leaving the Zulu king aside for the moment - that in South Africa traditional chiefs (including "paramount chiefs") are mostly involved in regional and other territorial structures, such structures being subject to the central governmental authority (the Legislative Assemblies in the self-governing territories and the various legislative institutions in the TBVC states). In many of the central constitutional structures the regional bodies are directly represented. For example, the KwaZulu Legislative Assembly has, amongst others, three chiefs selected from its members by each regional authority and the chief or the chairman, as the case may be, of each tribal or community authority deemed to be a regional authority.

2. THE POSITION IN OTHER AFRICAN COUNTRIES

2.1 The position occupied by traditional leaders in the constitutional structures in African countries outside South Africa seems in general to resemble that in South Africa, with the exceptions indicated below. The Western penetration of Africa, the subsequent overthrow of colonial rule, the emergence of new governing elites and the process of "modernization" have had immense implications also for the powers and functions of traditional leaders. In the former British colonial administration in sub-Saharan Africa the policy of "indirect rule" - initiated by Lord Lugard and Sir Donald Cameron - made use of the traditional authorities as subordinate agencies of rule and led to their integration in the machinery of government. After the colonies gained their indepen-

dence and as democratic, elected constitutional structures or autocratic/military governments developed or came into being, the importance of traditional chiefs, at least in central government, became less important or non-existent, although they are still widely used in regional and local structures. The more "traditional" or "tribal" the nature of the political institutions in a country, the greater seems to be their influence and involvement. And although in many cases the traditional chieftains have been stripped of their leadership and judicial powers, the "deference to chiefly authority in matters of public concern often remains the practice of large numbers of people."

2.2 In former times there were a number of "kingdoms" in Africa south of the Sahara, headed by kings and royal dynasties.

The Ashanti kingdom was defeated by the British in 1874 and the country annexed to Ghana by order-in-council dated Sept. 26, 1901.

The Kingdom of Buganda, under His Royal Highness the Kabaka ("King") was recognized by the British in 1900; Kabaka Mutesa II was deported to London in 1953 for refusing to cooperate with the British Protectorate Government; on his return in 1955 he was stripped of all his powers (the Buganda Agreement Order-in-Council 1955). He became a constitutional monarch within a ministerial government. In 1963 he was elected President of the country (Uganda) by the National Assembly. The subsequent political developments in Uganda brought an end to the monarchy.

In Burundi the monarchy ceased to exist in 1966.

[Further north there was e.g. the "Emperor" in Ethiopia; the King in Egypt; and in Morocco King Hassan is the reigning monarch.]

Historically in Southern Africa there were three recognized "Kings" and royal Houses: in Lesotho, in Swaziland; and in Zululand.

In Lesotho King Moshoeshoe II was in frequent conflict with the government of Mr. Leboa Jonathan, who stripped him of all his power and deported him. After his return he was only allowed to play a figurehead role.

In Swaziland, on the other hand, the King is both head of state and head of government. He, with the royal family, exercises practically total domination in the political structure.

The position of the Zulu king is discussed below.

B. ZULULAND AND THE ZULU KING

1.1 The Zulu "dynasty" was established by Shaka (who was in fact a military dictator) who expanded the Zulu military power over large parts of Zululand and Natal. The defeat of Dingane, his successor, in 1838, led to the annexation of what was then known as Natal to the British Crown. Dingane was succeeded by Mpande, who in turn was followed by his son, Cetshwayo, in 1872. In 1879 the Zulu "war of independence" broke out (the defeat of the British at Isandhlwana was a major event), as a result of which Cetshwayo, captured on Aug. 28th, was exiled for some years. The end of the war also spelled the end of the Zulu monarchy; Zululand was divided into 13 "kinglets" and a state of rivalry and ferment ensued. After his death in 1884 the situation further deteriorated, and in 1887 Zululand was declared to be British territory and Cetshwayo's son, Dinizulu, was appointed "paramount chief" of the Zulus. In 1889 Dinizulu and his people rose in rebellion against British authority. The rebellion was unsuccessful, and Dinizulu's uncle (who played an important role in the rebellion) and one of the foremost Zulu generals, Tshingwayo (hero of Isandhlwana), were banished to St Helena. In their absence Zululand was finally annexed to Natal in December 1897; a period of virtual civil war in Zululand ensued..

In 1906 the "Bambata rebellion" broke out, mainly as a result of the Poll Tax Act of 1905. Armed resistance collapsed with the capture and imprisonment of many of the leaders and the unconditional surrender of one of the most influential Zulu chiefs, Sigananda Shezi. Dinizulu himself was arrested in December 1907 and brought to trial and convicted on a charge of high treason; he was subsequently banished to the Transvaal.

1.2 The fact is that a "royal dynasty" was established by Tshaka some 170 years ago, and probably would have been in existence today in much of its past glory if Zululand had remained an independent state. The annexation of Zululand, its incorporation in Natal, the inclusion of Zululand in the political and administrative structure imposed by subsequent "White" governments, and the non-recognition of the royal nature and status of the Zulu King, effectively, in a constitutional sense, affected and minimized the royal dominance in the political field. In terms of that political and administrative structure, the Zulu King was simply seen and treated as, and given the status of, an ordinary "paramount chief" on a par with "paramount chiefs" of other African societies in this part of the world. The evidence, of course, is clear: the Kingship and the Royal House was something far more "majestic" than was the case with "paramount chiefs" of other communities (This does not derogate from the status and important role which these hereditary chiefs played in the political, judicial, religious and social-ceremonial life of their communities - as is evident from any study of the many ethnological works dealing with African life and society).

1.3 To equate the powers, functions and status of the former Zulu king with those of a "paramount chief" of other communities would simply not be correct. I need not elaborate on this point: the many publications dealing with this aspect leave no room for argument.

1.4 The Royal residence, representing the King's political, military, judicial and religious power and pre-eminence, was an impressive collection of huts and other constructions, with a very large population. For example, the Ondini Royal Residence, built immediately after Cetshwayo's coronation (and burned down by the British Forces on 4 July 1879) "consisted of approximately 1700 beehive huts in circular formation and one rectangular building, surrounded by a pallisade." (It was declared a National Monument under KwaZulu Government Notice No. 42 of 1983.)

1.5 Although, therefore, the Zulu monarchy has been sidelined as a result of historical events and governmental action - and even to some extent because of conflicts with the leaders involved in the more modernized political system - his status as the Zulu king has persisted, not only constitutionally (as is indicated below) but more especially in the minds of the people. His presence at any function bears evidence of this; no other person would be greeted with the royal "bayete!", for example, or be treated with the respect and adulation as befalls him..

2.1 Even in the present constitutional set-up in KwaZulu he occupies a special position. Attention could in this regard be drawn to the following:

2.2 In an attempt to overcome the problem that, in terms of existing legislation, recognition is only given to the institution of "paramount chief" the KwaZulu Legislative Assembly constitution defines "Paramount Chief" as follows:

"Paramount Chief" means the Paramount Chief of the tribes comprising the Zulu nation appointed as such by the State President....."

2.3 And the KwaZulu Chiefs' and Headmen's Act, 1974 (Act 8 of 1974) as amended provides:

"The Chief of the Usutu tribe is the paramount Chief of the Zulus, also known as the King of the Zulus or the Ingonyama."

2.4 In the KwaZulu General Law Amendment Act, 1987 (Act 3 of 1987) ("to provide for a change of the official titles of holders of certain offices referred to in all laws applicable in KwaZulu") the following is laid down:

"A reference to the words, "Paramount Chief", "chief", or "deputy chief" in English and "Hoofkaptein", "Kaptein" or "adjunk kaptein" in Afrikaans, or words having similar connotations, in any document of law which relates to any matter in respect of which the KwaZulu Legislative Assembly is empowered to make laws, shall be construed as a reference to "His Majesty the King", or "Inkosi Yamabandla Onke", or "In-gonyama", or "Inkosi Yohlanga", or "Isilo" in respect of the Zulu monarch and "Inkosi" or "Amakhosi" in respect of appointed or traditional rulers, excluding the monarch."

2.5 The King, through his personal representative, is legally a member of the KwaZulu Legislative Assembly. Section 2 (1) (a) (as substituted by Act 10 of 1989) of the KwaZulu Constitution Proclamation, 1972 determines:

"The Legislative Assembly shall consist of the Paramount Chief of the Zulus personifying the unity of the Zulu nation, aloof from party politics and sectionalism, and members who shall be:

(a) The personal representative of the King of the Zulus who shall be a member of his family and who shall be appointed by His Majesty the King in consultation with the Cabinet for a period of five years: Provided that the person so appointed shall remain in office at the pleasure of the King; Provided further that during such office, such person shall not be a member of the Cabinet."

2.6 In the oath taken by members of the Legislative Assembly (the King or his personal representative is exonerated from the taking thereof) he swears that he shall

"....honour and respect the State President of the Republic of South Africa and the Paramount Chief....."

2.7 Consultation with the King about legislation to be introduced is obligatory:

"The Chief Minister and each Minister shall prior to the commencement of each session of the Legislative assembly furnish the Paramount Chief with full details and, if available, copies of all legislation he proposes to introduce at that session of the Legislative assembly and, should the Paramount Chief so desire, discuss the provisions of such proposed legislation."

2.8 In Part VI of the Constitution Proclamation the powers, functions and status of the Paramount Chief are described in the following terms:

"25. The Paramount Chief -

"(a) by virtue of the fact that he personifies the unity of the Zulu nation, shall hold himself aloof from party politics and sectionalism and shall not by any person what-

soever be involved in politics or sectionalism and any person who so involves or attempts so to involve the Paramount Chief in politics or sectionalism shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one thousand rand or to imprisonment not exceeding two years or to both such fine and imprisonment.

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

"(c) shall be furnished with a copy of the agenda of each meeting of the Cabinet and may request the Cabinet to meet him for the purpose of discussing matters falling within the purview of the Legislative assembly and of explaining his views in regards to such matters and may also, through the Chief Minister, request any individual Minister to discuss with him any matter falling within the purview of such Councillors' department."

2.9 Whenever the King wishes to enter the Legislative Chamber he "shall be escorted by the Chief Minister and other Ministers after all the members have taken their seats."

2.10 See also the KwaZulu Members of the Legislative Assembly and Office Bearers Pension Scheme Act, 1988 (Act 15 of 1988) as amended.

3. CONCLUSIONS:

The short review above leads to the following definitive conclusions:

1. The Zulu King, historically and traditionally, occupied a very special and unique position in Zulu society.
2. Despite the fact that the Zulu power was broken and that the ensuing political and administrative structure in no way took cognisance, or gave adequate recognition to, this position of the King in Zulu society, his status, the veneration in which he is held and the loyalty of the people to him, as symbol of the power and unity of the Zulu people, remained and remains unabated.
3. The present constitutional structure in KwaZulu in many ways reflect this unique position he occupies in Zulu society.

4. To compare his position to that of a "paramount chief" in most other African communities in South Africa amounts to a denial of the factual situation, both historically and contemporarily.

C. ARGUMENTS USED AGAINST THE INVOLVEMENT OF THE ZULU KING IN CODESA.

The following are some of the arguments used in favour of denying the King representation at Codesa:

- 1.1 With regard to participants, in terms of Standing Rule 1(1), "Participants in the Convention shall be the political parties, the South African Government, organizations and administrations listed in the Annexure hereto."

However, in Standing Rule 1(2) provision is made for the possible admissions of "additional participants". No criteria are laid down in the Standing Rules as to such admissions; it is generally known (or rumoured) that a large number of bodies have applied for admission and that the Management Committee has responded negatively to some of the applications. I do not know whether hard and fast principles have been laid down regarding such applications, and, if so, what they are.

- 1.2 In terms of the application of Standing Rule 1(2) to the issue of the possible inclusion of the Zulu King, I would venture to suggest that inasmuch as the Zulu King represents a powerful political force amongst the Zulu people (or at least the majority) Codesa could ill afford to exclude him. It is true that he does not represent a political "party" or "organization", but he does represent, perhaps to a greater extent than most of these other "parties" or "organizations" do, a large number of people in KwaZulu. In this respect, it is to be noted that the Governments of the Republic and the various TBVC states are officially represented: but that the Self-Governing Territories are represented only in the form of political parties operating within those Territories. In other words, there are already represented in Codesa other bodies or institutions than political parties or organizations. One may perhaps deduce that the reason for this exclusion of the governments of the Self-governing Territories is the assumption that in the "new South Africa" it is unlikely that these Self-governing Territories will continue to exist in their present form, whereas it is more likely that the various political parties and organizations will continue to exist within the party-political structure of the future. Even if this argument is conceded, the simple fact remains that whatever may happen constitutionally to the Self-governing Territories and to KwaZulu specifically, the power and influence of the Zulu King will continue to be an extremely important factor and influence amongst the Zulu.

1.3 If decisions taken by Codesa were to be opposed by the Zulu King, or were not to have his active support and commitment, it seems doubtful whether a large percentage of the Zulu people would support such decisions. And even if one were to argue that it would be sufficient if Inkatha were to support the decisions, it would seem to me to be unlikely that there would be majority support in Inkatha itself if it were to become known that the King is unhappy with the decisions taken.

1.4 In this regard the question could legitimately be raised whether the admission of the King's representation would not open the door to pressures from a large number of other organizations for admission to Codesa. In general one would be inclined to say that if any organization has the capacity, or is powerful enough, to render nugatory any decisions taken by Codesa with which they may disagree, it would be advisable to have them represented at Codesa (this, it seems to me, is the primary consideration why steps have been taken to get the CP and the PAC involved in Codesa.) In other words, purely in terms of his potential political "clout", serious consideration should be given to allowing the King to be represented at Codesa.

2.1 In the discussion of this issue the question has been raised: If the Zulu King were to be allowed representation, what about all the other "Paramount Chiefs" in South Africa? Under par. 1.4 of the terms of reference of the sub-committee who is considering this issue the question of the representation of the Zulu King is coupled with the possible representation of "other traditional leaders". I have no objection in principle to the inclusion of "other traditional leaders", although I would prefer that this issue should be judged in terms of the criterion I have stated above, viz. whether such a traditional leaders (or leaders) would be able to exercise sufficient power to render decisions taken by Codesa ineffective or at least make their implementation very difficult. There may indeed be such a traditional leader or leaders: but I am not aware of any at this stage. I trust that the brief exposition which I have given in this memo is sufficient to indicate that the position of the Zulu King is indeed special and unique and is not to be compared with the position of other Paramount Chiefs; the fact that he has been referred to in this way in the relevant South African legislation and administration is simply because in the conceptual framework of thinking in those quarters a "Paramount" or "Supreme" chief was at the top of the hierarchy. This is evident also from the fact that the State President (formerly Governor-General) was proclaimed to be the "Supreme Chief" of all Blacks in South Africa in terms of the Black Administration Act of 1927.

2.2 If, however, it is felt that the Paramount Chiefs of South Africa should be represented, a possible basis for such representation could be: one representative from Contralesa and one from other paramount chiefs who are not members of that body.

3.1 The argument has also been raised that it is illogical to provide for the King's representation at Codesa in view of the fact that the King as such was not represented in the Buthelezi Commission and did not participate in the KwaZulu/Natal Indaba.

3.2 The Buthelezi Commission was a Commission of Enquiry consisting of people who were regarded as having the necessary professional expertise, appointed by the Chief Minister. There would have been no sense, to my mind, to have given the King representation on the Commission. I do not know whether the Chief Minister consulted with the King on the appointment of the Commission; I presume he did.

3.3 On the issue of the non-representation of the King in the KwaZulu/Natal Indaba: this is a more relevant question, and with hindsight it could perhaps be maintained that the Zulu King should have been represented. However, there is no comparison between the negotiations that took place at the KwaZulu/Natal Indaba and those taking place at Codesa. The Declaration of Intent contains the following agreement:

"We, the representatives of political parties, political organizations and administrations, further solemnly commit ourselves to be bound by the agreements of CODESA and in good faith to take all such steps as are within our power and authority to realise their implementation."

Also the South African Government committed itself:

"We, the South African Government, declare ourselves to be bound by agreements we reach together with other participants in CODESA in accordance with the standing rules and hereby commit ourselves to the implementation thereof within our capacity, powers and authority."

3.4 The participants in the KwaZulu/Natal Indaba had no constitutional capacity or leverage to implement any decisions arrived at; that was the prerogative of the South African Government. As it happened, the South African Government rejected the recommendations of the Indaba. Quite obviously, the deliberations, negotiations and decisions of CODESA are totally different and more far-reaching than those of the Indaba.

4. Another argument which has been used is that the Codes of Zulu law (the KwaZulu Code of Zulu Law, 1985, and the Natal Code of Zulu Law, 1987, makes no reference to the King and does not provide for any particular position for him. This argument is a non sequitur, since the Codes are Codes of Civil Law and have nothing to do with the constitutional position, functions or powers of the King or any other Chiefs in KwaZulu-Natal.

D. GENERAL OBSERVATION:

If it should be decided that the Zulu king should be allowed representation at CODESA, the obvious procedure - so it appears to me - would be to deliberate with, presumably, the Chief Minister as to what form that representation should take, on what Working Groups and Sub-groups such representatives should/would serve, and how to regulate the procedure and arrangements if the Zulu King himself were to attend CODESA (which I presume would only be on the occasion of plenary meetings like CODESA II).

E. LITERATURE:

A vast amount of literature has been published on Zulu society, its history, social and political structure etc. and on the Zulu King. The following are only a few of these (only authors and titles given; further particulars could be supplied):

Bryant: Olden Times in Zululand
 Dixie: A Defence of Zululand and its King
 Farrer: Zululand and the Zulus
 Gibson: The History of the Zulus
 Morris: The Washing of the Spears
 Krige: Social Systems of the Zulus
 Roberts: The Zulu Kings
 Roberts: The Story of the Zulus
 Selby: Shaka's Heirs
 Webb & Wright: A Zulu King Speaks
 Webb & Wright (eds): The James Stuart Archive (4 volumes)

Report of the Buthelezi Commission
 Report of the KwaZulu/Natal Indaba.

Blaustein & Flanz (eds): Constitutions of the Countries of the World

PARTICIPATION BY THE ZULU KING AND ZULU CHIEFS IN
CODESA.

PRESENTATION OF EVIDENCE AND STATEMENT BY THE
LEADER OF THE UNITED PEOPLE'S FRONT: M.N. RAMODIKE
AT CODESA ON WEDNESDAY 18 MARCH 1992.

The participation or non-participation by the "Kings", "Paramount Chiefs" "Chiefs" or Traditional or Hereditary Rulers should be judged against the domain and hegemony and the events of history and the traumatic experience they had in the rise and destruction of their powers as rulers and landlords. It is against the account of this background that Codesa should decide the role that can be played by our Traditional Rulers "Kings" or Paramount Chiefs or Chiefs.

The history of the Pedi, the Zulu, the Swazi, the Tswana and the Sotho Kingdoms by contrast gives a view of the Pedi Kingdom in Sekhukhuneland, the Zulu Kingdom in Natal, and the Swazi Kingdom in Swaziland. It is also against this background that Codesa shall have to address the question of whether special attention should be given to the "Zulu King" only over and above other kings or paramountcies in his participation at Codesa weighed against "a fame, the dignity and the importance of all the traditional leaders and to examine or determine whether there are inferior or superior "Kings", Paramount Chiefs, Chiefs or Traditional and Hereditary Rulers. Mr. Peter Delius the author of the book "The land belongs to us" illustrates and addresses this question and I quote, "The Pedi Paramount Sekhukhune enjoyed a fame as a Chief of dignity and importance hardly inferior to the fame of Cetewayo among Zulus" and this focuses on the history of the Pedi Polity which dates way back to the 1820's and 1870's.

The fact of the matter is that the Western Culture starting with the Colonial Government up and until the present minority White Government stripped and diluted not only the culture of our black society including the structure of relationships through which our Kings, Paramount Chiefs or Chiefs administered the affairs of their tribes. The dynamic role and involvement of our Magoshi (be it Kings, Paramount Chiefs or Chiefs) in the wars they fought to defend their rights over land and their subjects should in any way never be under-estimated by Codesa. The illuminating analysis of the Kings, Paramount Chiefs or Chiefs then as natural political Leaders who performed in the past, during difficult times and their present role of continuity in performing symbolic functions should also seriously be considered by Codesa.

Throughout, the South African history over the last decades centres around the African political systems with Kings, Paramount Chiefs and Chiefs as hereditary political figure heads of our society.

The books "The land belongs to us" and "By the rivers of Letaba" examine the challenges and the changing nature, devolution and distribution of power within the Pedi, the Roka, the Koni, the Kopa, the Ndebele, the Kutswe, the Pulana, the Makgoba, Maleboho's Paramountcies, inter alia and explores further the internal, economic, political and ideological struggles.

The beginnings if not the revival of Black protest politics as outlined in the book "Vukani Bantu" against the white rule in South Africa to 1912 and the role and the involvement of Paramount Chiefs and chiefs in the struggle for freedom of black people in South Africa relates their involvement and the role they played in assisting the black political organisations in their efforts to galvanise the people into becoming politically aware and active - a role that is still played by Contralesa today.

Having given this brief historical background, in particular that the status of the "Zulu King" can be equated to that of King Sekhukhune, King Moshesh of Lesotho, King Seretse Khama of Botswana and King Mswati of Swaziland etc. and that there are also some other Paramount Chiefs and Chiefs besides those in Kwazulu; U.P.F. wishes to submit as follows:-

01. In terms of our tradition, culture and custom our Kings and Paramount Chiefs in particular are above politics and they are symbols of Honour who cannot easily rub political shoulders or cross political swords with their subjects or commoners e.g. The Queen of England, The King of Swaziland, The Rain Queen Modjadji. It is common course that Kings, or Paramount Chiefs in particular appear on a public scene during ceremonial functions, giving a direction of a national policy etc.
02. U.P.F. would naturally therefore support a proposal that Magoshi should not be involved in acrimonious political debates which shall obviously temper with their symbolic status and that they could be given an observer status at Codesa.
03. As a result of the demand and insistence by IFP to have the Zulu King and his chiefs participating in Codesa, U.P.F. wishes inspite of our reservations to propose and support our magoshi in their submission to take part in Codesa. U.P.F. is diametrical opposed to an arrangement whereby a preferential treatment could be accorded to one King or one Paramount Chief or Kwazulu Traditional Leaders only. We reject any arrangement which will place our magoshi below the status of any King Paramount Chief or chiefs anywhere in the country.

04. Two basic factors should however be borne in mind, to wit: The Zulus have their King in Natal or Zululand, the Tswanas in the Transvaal have their King in their place of origin i.e. Botswana, the Swazis in South Africa have their King in Swaziland, and the South Sothos in Lesotho. It will be infra-dict therefore to expect that all these groups should demand to be represented by their Kings at Codesa. Equally so, there are English people who have taken South African Citizenship but who still pay allegiance to their queen of England. The second factor is that many chiefs are not traditional or hereditary rulers per se but were appointed by the Government to neutralize the powers of the real Kings, Paramount Chiefs and Chiefs in order to implement the separate development policy. Paramount Chiefs like the late Kgoshi Makgoba was sentenced to death and his domain crushed for resisting against the deprivation of his land. King Sekhukhune's domain was also distabilised because of his rejection of separate development policy. Some blue eyed boys of the Government were appointed chiefs even though they have no tinge of blue or royal blood. Their hands had to be greased for having been instrumental in expediting the implementation of Separate Development Policy, e.g. some Chief Ministers or Chief Councillors during the period of territorial authorities.

05. The point at issue is specifically however whether the Zulu King and his Chiefs should be allowed to take part in Codesa or not.

U.P.F. proposes consequently that all the Kings, Paramount Chiefs or Chiefs in whatever form of their own arrangement e.g. Lebowa College of Magoshi should be allowed to take part at Codesa

or alternatively that they be accorded an observer status.

06. It should of course further be borne in mind that establishment of Bantu Authorities and Bantustans was made after consultation with the traditional leaders and that they are in fact the ones who were involved in the establishment of the homeland structures and further that the present Bantu Homeland constitutions were amended by the chiefs to make provision for inclusion of commoners in the Homeland Legislative Assemblies, and that the magoshi/Chiefs are still in majority in some Homeland Legislative Assemblies and have still consequently a majority vote in the respective Homeland Legislative Systems. This arrangement dragged our traditional leaders deeper into Politics contrary to the generally accepted principle that a King is above politics.

Their involvement may consequently be useful in undoing what they brought about through the tactics of the Architects of Apartheid, Dr. Hendrick Verwoerd, Dr. W.W.M. Eislen etc.

U.P.F. submits consequently that the traditional leaders should directly be involved in dismantling or phasing-out the Bantustan structures.

07. Large tracts of land over which the Homelands governments have jurisdiction are allocated to the Chiefs (Magoshi) and held on their behalf in terms of ownership by the State President. The Kings, Paramount Chiefs or Chiefs should consequently be involved in the re-allocation and distribution of land.

Some Chiefs and their tribes have freehold title over large tracts of land. No decision can be taken i.r.o. this land without the consent of the magoshi or chiefs.

08. In addressing the land question the chiefs or magoshi should be consulted or directly be involved because of overcrowding and congestion of the people in their respective areas. U.P.F. submits that this matter should be addressed by Codesa in conjunction with the Traditional and Hereditary Rulers who are still regarded as Landlords.
09. The majority of people in rural areas on the periphery are subjects of the Traditional Rulers. These people recognise and accept magoshi or chiefs as their mouth pieces on matters affecting their day to day lives. The involvement of chiefs or magoshi at Codesa and their representations will consequently adequately articulate the demands of the above-mentioned categories of people who are inspite of their silence a strong force to reckon in casting a vote. It should also be borne in mind that most of these people in rural areas have not as yet joined any political party or organisations as a result of lack of political education or understanding. Membership of all the political organisations and parties in South Africa will clearly indicate that thousands of people are not members of any political party or any organisation. The tendency by the vast majority of blacks unlike Whites support an individual Leader and not a party or organisation per se. U.P.F. support consequently ^{the} request by the 135 Traditional Leaders in Lebowa to be represented in Codesa. In the context the kinship is the determining social system and ^{the} individual is transfixed at the centre of a kinship network.

In conclusion, U.P.F. submits that there should be the open-door policy in particular at the Provincial or Regional level and the local level for the traditional leaders. Political organisations should throw the prejudices against the traditional leaders and hereditary rulers, aside. Blacks recognition of the superiority of their chiefs cannot be wished away. Lebowa magoshi ask for equal opportunity and open door at Codesa. They will be instrumental to a "fresh start" which will politicise South African blacks now living on the peri-phery.

Ramodike M.N.

SIGNED: RAMODIKE M.N.
"UNITED PEOPLE'S FRONT".

All Traditional Leaders are equal with separate territories and jurisdictions which do not overlap. Each Traditional Leader therefore enjoyed his own independent authority and sovereignty over his own territory and tribe. It did occur, however, that a number of Traditional Leaders in a given area might per agreement and consensus elevate or recognize one leader amongst themselves to the status of a King paramountcy. Historically the status of a King existed only in as far as the word could be equated to a "Kgoshi" in North Sotho or "Inkosi" in Zulu. The status of paramountcy therefore developed only where traditional leaders agreed to accept one leader amongst themselves as paramount chief and the jurisdiction of such a paramount chief will be limited to only those areas under the jurisdiction of traditional chiefs recognizing him.

Given the history of this country as well as the ethnic diversity which we recognize one will therefore expect more than just one paramount chief in the country and indeed if it is the spirit of Codesa that traditional leaders be represented by paramount chiefs, quite a number of them will emerge from the various regions in the country. It is along these lines that we call for an equitable and even representation of traditional leaders at Codesa.

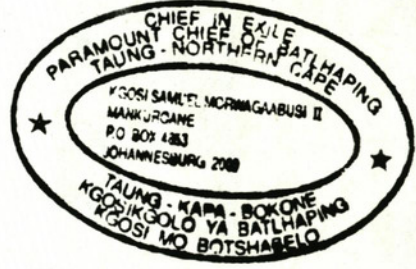
ZKTL MEETING 18/03

Attention: Mr SS van der Merwe
Mr Mac Maharaj

P.O. BOX 4853
JOHANNESBURG
2000
28th February 1992

The Secretariat
C.O.D.E.S.A.
P.O. Box 307
ISANDO
1600

Date Rec'd : ..16/3/92.....
Date Ackn : ..16/3/92.....
Docs Sent : ..019.....
Handed for Processing to :
.....Z.K.T.L.....



Sir

re: SUBMISSIONS TO C.O.D.E.S.A.

It has been noted with appreciation that the preparatory meeting which launched Codesa decided that only bona fide political parties, organisations and administrations should be accorded full participant status nevertheless at the same time the organisers of Codesa wish to encourage the greatest possible participation by all interest groups from every walk of life.

Sir, the recent political dispensation which is unfolding in our country is viewed with keen interest by almost all the inhabitants and the majority of the people expect that the old prophecy of the united, non-racial and democratic South Africa should be realised. Codesa is one process which is expected to crown and qualify the wishes of many peace loving South Africans. It is a fact that this process of a negotiated peaceful settlement is long over-due.

As part of my submissions, I want to place on record that I happen to be the PARAMOUNT CHIEF OF BATLHAPING TRIBE IN TAUNG (Northern Cape) a my territory happen to fall under the so called the " Republic of Bophuthatswana:" which has made history by failing to sign the Declaration of Intent. I was deposed in the form of a "coup" on the 14th September 1988 by Lucas Mangope and the Bophuthatswana regime and since then I am living in semi-exile here in Johannesburg. The following are my submissions to Codesa:

2/.....

I. FAILURE TO SIGN DECLARATION OF INTENT BY BOPHUTHATSWANA.

It is submitted that Lucas Mangope and his ruling party are not the representative of Batswana in Codesa. Whatever the rigid decisions his illegitimate government is taking by refusing to sign the Declaration of Intent will result into political suicide and this will hamper the progress which is far advanced in Codesa.

Their constant refusal is utterly unacceptable, and such a behaviour will totally jeopardise the negotiation process. Bophuthatswana is presently dependent on South Africa economically and it will further benefit from the proceeds which would have been achieved tirelessly through Codesa. I want to place on record that their failure to sign will be an obstacle to the negotiation process, and I foresee the economic sanctions and other measures being applied in order to bring Mangope and his government in line with the political realities of South Africa.

Bophuthatswana is not internationally recognised and other bantustans and they are financially dependent on the South African budget. It is therefore my submission that whatever the new government which might come into power through the negotiation process, that government will be under severe criticism if it can continue to finance the party or the bantustan structure which failed to be part of the process of forming the new government.

I might not be acquainted with the criteria which has been used to invite the participation of all the relevant liberation movements and political parties in Codesa, however many people who lives in Bophuthatswana were shocked to learn that the opposition parties which command a massive support like People's Progressive Party (PPP) and the National Seoposengwe Party (NSP) were not invited to sign the Declaration of Intent. In contrast, the South African government and the National Party are there in Codesa and they encourage their opposition parties like the CP, HNP and others to take part in Codesa. However we welcome the recent decision of Codesa that other parties and organisations may apply and this will help that majority of people will be represented.

2. REPRESENTATION OF TRADITIONAL LEADERS (CHIEFS)

I will ^{be} doing injustice to myself and the BATLHAPING TRIBE if I do not submit any views about the participation of Chiefs, Paramount Chiefs and Kings in Codesa. It seems there is a lot of controversy about the role which have to be played by the traditional leaders in Codesa and probably in the future South Africa. It is my humble submission that these respectable leaders of the majority of blacks in South Africa are not necessarily on the race-track with politicians to claim some seats in any negotiating table as it is the case in Codesa. A point in issue here is that for a long time especially during the apartheid era, the traditional leaders have been manipulated by the politicians, thus being indirectly forced to pursue or perpetuate a particular political ideology.

Further it is my submission that it is not wise for the traditional leader to affiliate to any political party. Each and every chief is a symbol of unity and should be above party politics. For any one who affiliates to any party will be biased in trying to resolve any dispute among his subjects. More important, however, one of the options before Codesa is whether and if so, how traditional leaders should be accommodated in the new and future South Africa. Codesa should not be seen as just a mere convention of political parties, rather it should be seen as a convention of all the leaders in South Africa representing their people irrespective of political affiliation.

Codesa's first plenary session (20 - 21 December 1991) concentrated on bringing as many parties to the negotiating table as possible, but it was rather strange to realise that it was silent about the participation of traditional leaders in this process. It is quite obvious that these parties will be taking decisions, whether good or bad about such traditional leaders and their territories without any meaningful discussions with them and furthermore without the backing of the mandate of their subjects. If the decision of Codesa is to exclude their participation, then they must come with a meaningfully convincing provision of which role are they going to play in the near foreseeable future. To cite the case of Botswana and Namibia, their constitutions provides some seats for House of Chiefs. Even Zimbabwe has a provision for traditional leaders.

South Africa has adopted the Constitutional model of Westminster system, which is applicable in Britain. It is a fact that this system of government caters with respect the existence of Kings and Queens as part of protecting the traditional heritage of English people. Sir, with respect, it is placed on record that failure to invite the traditional leaders to participate in Codesa might jeopardise the negotiation process which so many people are willing to see continuing peacefully and successfully.


Finally, it is submitted that although Mangope and the Bophuthatswana regime have deposed me as the Chief of Batlhaping, I command the massive support from my subjects. Since they are disillusioned about the Bophuthatswana regime and the bantustan politics, they demand that they rather be represented by their Chief in any negotiation process. The Batlhaping tribe demand Mangope and his government not to pretend as if they are the only representative of Batswana whereas they know very well that the majority of people have lost confidence in their government.

Finally, it was my wish to have made an intensive contribution to the Working Groups, unfortunately it seems there is no light at the end of the tunnel for the participation of traditional leaders. Nevertheless on behalf of Batlhaping tribe, we support the negotiation process which is taking place to shape the New South Africa, although it was not our wish to be the mere spectators for reforms which are going to govern our lives as a continuation of our history.

As mandated by Batlhaping tribe, I hereby apply for their participation in Codesa or my participation as their traditional leader on condition this would not spoil the talks.

Hoping my application and submissions will be considered.

Yours faithfully.



 SAMUEL MORWAGAABUSI II MANKUROANE (PARAMOUNT CHIEF OF BATLHAPING-TAUN
M. S. Mankuroane

DEPOSED CHIEF
 KGOSI E E MENOTSWENG
 MAGESITENDE LEIER