

Working Group I

The Role of the International Community : A Position Paper

1. Introduction

1.1 Working Group I at its meeting on 28 April 1992 asked me to prepare a paper on Assignment 2 of our terms of reference with a view to guiding a discussion on this issue at the Working Group plenary on May 4.

1.2 In drafting the report, I was asked to take into account the submissions made by delegations on this issue and to examine the work done by other Working Groups on this assignment.

1.3 Delegations are reminded that our terms of reference begin with the preamble that '... the validity and acceptability of the process of transition and the outcome thereof internally and internationally, will depend on an open and fair process providing for full and effective participation of all South Africans.'

1.4 More specifically, the terms of reference refer to the need:

(i) to investigate, consider and report upon all proposals and make recommendations with regard to the role that the international community and/or organisations could be asked to play in the formal or informal processes involved in the period leading up to the introduction of a new South Africa;

(ii) to identify the key issues and problems that need to be addressed;

(iii) to identify areas of commonality and aspects where agreement already exists between participating organisations.

1.5 At the very least, the Working Group must discuss and report on all proposals made, identify issues and attempt to determine the areas of 'commonality'.

2. The Submissions

2.1 Submissions were received by the Secretariat from the following delegations: African National Congress (2 documents), Inkatha Freedom Party (2), Inyandze Freedom Movement, National People's Party, Labour

Party, Natal Indian Congress/Transvaal Indian

Congress, Transkei Movement (2), United People's Front, and Venda Government.

- 2.2 The submissions were of varying length, with two simply referring to the terms of reference and supporting the need for an international role, while other submissions were extensive. The first ANC document identified various roles the international community or organisations could play, without prescribing any particular mode.
- 2.3 Two submissions - from the IFP and Dikwankwetla Party - limit the extent of the role of the international community to that of observers. Both contend that as South Africa is a sovereign, independent state, any international supervision - beyond that of observer - would amount to interference in our domestic affairs.
- 2.4 The other submissions touched on various aspects. Inyandza, in addition to adverting to the role of the UN as mediators, referred to the provision of financial aid to all political parties 'on an equal basis' and the need for international assistance for socio-economic development; National People's Party suggests that the international community can play a role in facilitating a settlement; NIC/TIC considers such a role desirable and requests the Working Group to identify the areas, the appropriate bodies/persons and 'the different modes and options'; the Labour Party refers to the 'long period of dissension and strife in South Africa' and proposes that the Commonwealth, the European Community, the Non-Aligned Movement, the OAU, the United Nations and others could assist. The United People's Front desires the 'active' involvement of the international community to act as advisers and observers and the possibility of establishing an independent body to monitor the negotiations process. Other duties may include the monitoring of elections, mediation and arbitration in the event of deadlocks and interpretation of agreements and the provision of peace-keeping forces.
- 2.5 Both the Venda and Transkei governments refer to the continuation and accentuation of the violence since the negotiation process began and to the high level of distrust between the parties and the distribution of power. The control, composition and role of the security forces is one area which is identified as requiring international intervention. The Transkei recommends that certain international agencies should send officials to South Africa to monitor the violence and security forces and these should have 'investigative powers', with responsibility to Codesa. Transkei also recommends that the UN should have a full-time active observer who will participate in the negotiations, ensure that agreements resolved are implemented, and serve as a mediator where there are deadlocks. Venda and Transkei would provide for a peacekeeping force to supervise transitional arrangements, arrangements to monitor the elections, and advise whether they are 'free and fair'.

3. The International Role

3.1 In order to guide the discussion and acting as dispassionately as possible, the following propositions ought to be borne in mind:

(i) Any international role at any level and in any mode must be acceptable to the parties and, especially, to the South African government;

(ii) The South African situation has been internationalised for many years and every international or regional body has been actively involved in one way or another. The most dramatic examples are the imposition of the binding arms embargo in 1977 and the declaration by the Security Council in 1984 that the elections for the tricameral parliament were 'null and void'. There are numerous other examples.

(iii) Since 1990, the Government, in reflecting its commitment to change, has cooperated with the UN. Firstly, in June 1990, a UN mission visited South Africa to investigate the question of irreversible and fundamental changes called for by the UN Declaration of 1990. The Government fully cooperated with the mission and thus accepted the principle of international evaluation of the political situation in South Africa. A second mission took place subsequently. Secondly, the Government has negotiated an agreement with the United Nations High Commissioner for Refugees on the latter's participation in the repatriation of refugees. Thirdly, observers from various international organisations were invited to be present at Codesa I.

These examples could provide a point of departure.

3.2 The intervention of the United Nations or other international organisations is no longer limited to 'colonial' or independence issues. The UN has recently been involved in conflicts where the core issue is the internationally supervised change of the internal political and legal order. Neither has the intervention been limited to 'peace-keeping' forces where the UN commits a fairly large number of 'Blue Berets', from 5-15,000 troops to separate warring parties or to supervise an election process.

3.3 Recent UN assistance has ranged from establishing the electoral procedure, identifying voters, monitoring the election campaign and the ballot, supervising a cease-fire, removal of troops to barracks, demobilisation of troops, monitoring human rights violations, drawing up an election security plan, announcing the outcome of a referendum or election, and, providing the result was fair and free, guaranteeing the implementation of the result.

- 3.4 These examples of alternative modes of participation of the international community in the transition process show that UN peacekeeping operations are employed not only in the aftermath of colonialism or international conflicts but also in the overcoming of situations, among others, of civil war, foreign intervention or unstable governance. This is especially true in cases or countries where a government, being de facto in power, but with its legitimacy being fundamentally questioned, shows its readiness to transform the political system of the country into a participatory democratic way of governance.
- 3.5 Recently, the UN has set up a special programme, the UN Programme of Advisory Services and Technical Assistance in the Field of Human Rights, to provide technical and legal assistance for conducting a democratic election.

4. The Present Dimension

- 4.1 Since Codesa I, there has been an unending increase in the violence. This issue can no longer be treated as one of apportioning blame as in the context of accusation and counter-accusation there can be no confidence in the process itself for determining innocence or guilt. The necessary general confidence among the parties, necessary for negotiations, can also be seriously affected by such a threat to the political process.
- 4.2 On the ~~basis~~ of the submissions received, and in the light of the situation in South Africa, it may be possible for the Working Group to discuss and agree on the need for the following:
- (i) Since observers were invited to Codesa I and the need for scrutinising the political process continues they could be invited to Codesa II. In addition, observers from national and international bodies during the transitional and the actual election processes would assist in establishing the acceptance nationally of the process.
 - (ii) International monitors in each magisterial area ~~with a higher concentration~~ in the urban 'trouble spots', who will work with the security forces and the courts, would create greater confidence in the maintenance of order. As part of the interim arrangements, such international participants could play a role in the command structure of the security forces for the same reason.
- 4.3 I am not aware that any other Working Group has discussed ~~the~~ issue of third party intervention. It is therefore necessary to refer to the reasons for the proposals in 4.2 and for those that follow.

- 4.4 In order to get this process recognised both nationally and internationally, such a transition process must take place under conditions of full transparency and equal participation of all sectors of society.
- 4.5 International presence in countries of civil war and long political repression offer the population of a country the trust in their right to free political expression. International bodies of mediation boost the process of confidence building and consensus finding among the parties concerned. International observers are, finally, important 'watch dogs' over the compliance of the parties with the agreements reached. Breaking provisions of the agreement on the mechanism of transition is thus an act not only against one's partner in the agreement who, perhaps, does not have the means and possibilities to react adequately, but also against the international community and the institutions themselves. International monitoring makes it more probable that a higher degree of observance and implementation of the transitional arrangements can be reached.
- 4.6 It can well be stated, that the situation in South Africa constitutes a case of fundamental change: the minority government is de facto effectively in power but governs on the basis of a constitution which the Security Council has declared null and void. Therefore in principle the case of South Africa does not differ from other cases where so-called multi-dimensional peace-keeping operations were carried out.
- 4.7 Moreover, from the point of view of the international community, the transition process in a country of such importance as South Africa should not be left to the power game of South Africans alone - having in mind the actual unequal distribution of power in the country. The international community has to secure an internationally acceptable solution, i.e. in line with international standards of democratic governance and basic human rights. In South Africa, there is a lack of neutral, non-partisan institutions within the country, which have both the moral authority among the parties and the political power to act as an effective mediator, to find binding decisions on concrete debated issues according to agreements between the parties, and to enforce them.
- 4.8 Moreover, with regard to transitional security mechanisms, for the same reasons there is no force inside South Africa in sight which seems to be suited for upholding law and order during transition in a non-partisan and unchallenged way. A possible role for the United Nations would therefore probably not be one of actually conducting the implementation of the agreement(s) on the transition process but of acting as an additional accompanying mediation and verification institution.

- 4.9 Features of UN participation in the transition process could be: As in many other cases, the UN Secretary-General could appoint a Special Representative on South Africa who participates in the capacity of an observer in the talks about talks and in the negotiations. He may convene negotiations, and could submit mediating proposals to overcome deadlocks. In the agreements on the transition mechanism, the United Nations could be given a guaranteeing role, securing the proper implementation of the arrangements. A rather limited United Nations presence could monitor and verify the compliance of the mandated authorities with the tasks and obligations assigned to them under the agreements and use its good offices in the case of disagreement on the interpretation and application of the agreements. The United Nations could be used to secure the impartiality of the transitional government, be it by monitoring the de facto government.
- 4.10 The deployment of a large-scale UN peace-keeping force to put an end to township violence may be unrealistic because of time and other constraints. The UN could, however, supervise and secure the impartiality of the transitional security mechanism. The form of UN participation could be to expand national commissions of enquiry to include UN experts, or to deploy a UN mission of experts. International investigation of this issue would result in the internationalisation of the question of violence and would give this burning issue a more prominent place with regard to the evaluation of the overall international community's policy towards South Africa.
- 4.11 Recent investigation processes act, as one newspaper put it, as an information sponge, sucking it all in and storing it indefinitely. What is needed is a decisive political intervention, something that can be swift, strong and effective - and can command the support of all parties'.
- 4.12 The strongest arguments for UN involvement can be found in relation to the holding of general, free and fair elections or to the holding of a referendum. Since in the ~~elections~~ the partners at the negotiating table are becoming competitors for power in the new political system, all means will be used to influence the elections in one's favour and to dominate the electoral process. Of course, the party de facto in power has many advantages in that respect. One measure to meet this problem is to entrust a national body consisting of representatives of all political organisations with the implementation of the elections. Additionally, in most cases international observers are invited to give a judgement on the character of the elections and increasingly the United Nations are requested to assist in the election process. UN participation in the electoral process can take different forms, as has been shown.

4.13 In the case of South Africa, it is likely that a national electoral body will be formed. In addition, the United Nations could be invited to monitor and supervise the proper implementation of the elections. Such a UN operation could be mandated to monitor all aspects of importance for the holding of free and fair elections, but also to secure a climate free of intimidation and fraud by a limited presence on the ground. An international guarantee by the Security Council could also be provided.

5. Conclusion

- 5.1 As has been shown, an increasing number of countries, whose de facto governments with a questionable legitimacy are trying to be admitted to the international community as fully accepted members by embarking on a policy of fundamental reform, have invited one form or another of international assistance. From this it follows that such an invitation is not a matter of inadequacy or shame but a recognition that third party intervention is necessary for transparency or openness in decision-making and to enable the removal or containment of action - such as violence - which militates against free political activity in the period up to elections.
- 5.2 A dismissal of such a role by third parties imposes a heavy duty to ensure that confidence is maintained in the capacity of our institutions in South Africa to provide for the minimum conditions for the transition and the elections.

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CODESA 2
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Assignment 2
Submissions:
Internal submissions

1. K Asmal: The role of the international community
2. Package: Internal submissions, vol 1:ANC Draft terms of reference of the WG on the role of the international community
3. Venda Govt: The role of the international community