

# AGREEMENT of SETTLEMENT

## AGREEMENT between the CONGRESS OF SOUTH AFRICAN TRADE UNIONS (COSATU) and INKATHA

It is hereby agreed between COSATU and INKATHA, hereinafter referred to as "the parties", that:

1. The parties agree to settle the interdict proceedings in the matter of **Zondo and Others v Inkatha and Others**, Case no. 372/88 in the Natal Provincial Division, by the application being withdrawn and that each party will pay its own costs.
2. The parties agree to issue a joint declaration affirming their commitment to the following principles:  
That residents of the townships in the greater Pietermaritzburg area be free and unfettered to select which organisation, if any, to belong to and to choose freely and without fear whether or not to participate in any activity, protest or campaign of any organisation.
3. The parties agree that the said Declaration, annexed hereto, marked "A", will be given full publicity by the parties for the purposes of making known to their members the contents of the said Declaration. More specifically, each party undertakes to provide the other with a written acknowledgement of receipt within twenty-eight (28) days

hereof, signed by the Chairman of each and every of the parties' Pietermaritzburg branches, including youth branches, verifying that the Declaration has been explained to the members of the committee of the said branch.

4. The parties agree to institute, and to formally recognise, a Complaints Adjudication Board, (hereinafter referred to as "the Board") whose structure, function and operation is more fully set out in annexure "B", for the purposes of hearing alleged contraventions of the policies enunciated in the aforesaid Declaration by members of the parties. The Board shall be instituted as soon as possible and shall operate for at least one (1) calendar year from the date of this agreement, whereafter either party may elect to terminate their participation in the Board upon three (3) months' notice to the other party.
5. The parties agree that in view of the establishment of the Board, Court proceedings as specified below,

That residents of the townships in the greater Pietermaritzburg area be free and unfettered to select which organisation, if any, to belong to and to choose freely and without fear whether or not to participate in any activity, protest or campaign of any organisation.

scheduled to commence in the Supreme Court of South Africa, Natal Provincial Division, shall be withdrawn and/or discharged, each party to pay its own costs:

Nothing in this agreement shall be construed as preventing or inhibiting any person from seeking the protection of the Police or the prosecution of any person by the Attorney-General, either in respect of a criminal act occurring in the future or arising out of any past act. Nor shall any individual be precluded from seeking civil redress.

MKHIZE v NTOMBELA Case No. 2887/87  
SILISO v MNCWABE Case No. 3199/87  
ZULU v ZONDI Case No. 3029/87  
ZONDI v ZONDI Case No. 677/88  
HADEBE v ZUMA Case No. 2895/87  
MKHIZE v ZUMA Case No. 2894/87  
MKHIZE v ZUMA Case No. 1119/87

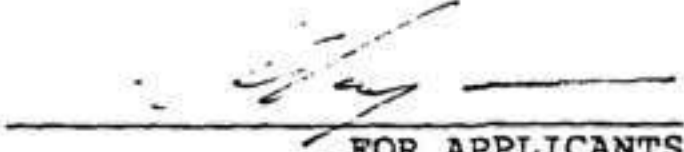
- 5.1 The interim interdicts and applications will be anticipated and discharged or withdrawn on 1 December 1988 or as soon as possible after the Board commences its first hearing, whichever occurs first.
- 5.2 The individuals concerned in the aforesaid applications may refer any complaint to the Board.
- 5.3 Nothing in this agreement shall be

construed as preventing or inhibiting any person from seeking the protection of the Police or the prosecution of any person by the Attorney-General, either in respect of a criminal act occurring in the future or arising out of any past act. Nor shall any individual be precluded from seeking civil redress.

6. The Chairman of the Board shall have the power to make rulings concerning the proper implementation and interpretation of this agreement, either on his own initiative or upon application of either of the parties.
7. Wherever reference is made to a member of COSATU, it is deemed, for purposes of this agreement, to include members of the affiliate unions of COSATU.
8. The provisions of the paragraph captioned "Withdrawal of Financial Assistance" in annexure "B" hereto, are incorporated herein by reference.

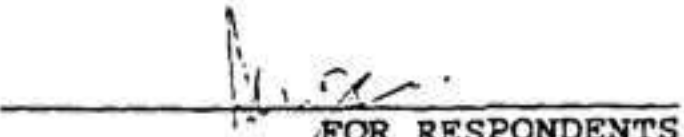
SIGNED AT JOHANNESBURG ON THIS  
1ST DAY OF SEPTEMBER 1988.

  
FOR COSATU

  
FOR APPLICANTS  
IN ZONDO v INKATHA, Case No. 372/88  
Other than Second Applicant  
AND THE APPLICANTS REFERRED  
TO IN PARAGRAPH 5, ABOVE

SIGNED AT PIETERMARITZBURG ON THIS  
2ND DAY OF SEPTEMBER 1988

  
FOR : INKATHA

  
FOR RESPONDENTS  
IN ZONDO v INKATHA, Case No. 372/88  
Other than First Respondent  
AND THE RESPONDENTS REFERRED  
TO IN PARAGRAPH 5, ABOVE

"A"

## JOINT DECLARATION ADOPTED BY CONGRESS OF SOUTH AFRICAN TRADE UNION and INKATHA

COSATU and INKATHA hereby unambiguously reassure the residents of these communities that they strongly condemn the intimidation and attacks upon residents.

1. INKATHA and COSATU acknowledge and regret that there has been extensive violence in the townships of Pietermaritzburg.
  - 1.1 Each party recognises the immediate necessity to make it abundantly clear to its members that COSATU and INKATHA

categorically condemn acts of intimidation, forced recruitment and violence. Each party recognises the right of every community resident to make a free and unfettered choice as to:

- 1.1.1. which political organisation, if any, to belong;



INKATHA and COSATU hereby pledge to take steps to ensure that the rights of these communities will be respected.

That all political organisations have the right to exist and the democratic right to espouse their own particular viewpoint.

That neither party condones the use of violence against any organisation which expresses a policy different from that of its own organisation.

That threats of violence and the refusal to provide public convenience to any resident on the grounds of his membership in any organisation and further, the use of such threats to induce or enforce membership, is condemned.

1.1.2. whether or not to participate in any campaign, protest or activity.

1.2 In January 1988, acts of violence were committed against the residents of the communities of Ashdown, Caluza, Mpumuza and Sweetwaters. COSATU and INKATHA hereby unambiguously reassure the residents of these communities that they strongly condemn the intimidation and attacks upon residents. INKATHA and COSATU hereby pledge to take steps to ensure that the rights of these communities will be respected.

1.3 Both COSATU and INKATHA, in recognising their respective responsibilities, and in order to take effective steps to bring about a lasting peace, have agreed on the following:

1.3.1 That all political organisations have the right to exist and the democratic right to espouse their own particular viewpoint.

1.3.2 That neither party condones the use of violence against any organisation which expresses a policy different from that of its own organisation.

1.3.3 That threats of violence and the refusal to provide public convenience to any resident on the grounds of his membership in any organisation and further, the use of such threats to induce or enforce membership, is condemned.

2. In order to give effect to the foregoing, INKATHA and COSATU have agreed to establish a COMPLAINTS ADJUDICATION BOARD. The Board is to consist of independent chairmen, who are public figures, assisted by assessors, nominated by both COSATU and INKATHA.
3. The authority of the Board will be to hear and determine complaints by residents, and to recommend what steps should be taken by COSATU and INKATHA against any of their respective members who may act, or who may have acted contrary to the foregoing principles.
4. The agreement has been concluded in a spirit of co-operation and with the hope of providing a convenient and speedy forum for the solution of the problems which have beset the townships of Pietermaritzburg.
5. The costs of establishing and operating the Board will be borne equally by INKATHA and COSATU.

“B”

## THE STRUCTURE, FUNCTION AND OPERATION OF THE COMPLAINTS ADJUDICATION BOARD

### PREAMBLE

The parties have agreed to establish a Complaints Adjudication Board (hereinafter referred to as “the Board”), to hear and adjudicate complaints by residents of the Magisterial district of Pietermaritzburg and Vulindlela, including, but not limited to Elandskop, and to make advisory recommendations to COSATU and INKATHA as to what steps should be implemented to discipline any member of their respective organisations who have in the past, or may in the future, transgress the principles set forth herein:

### 1. COMPOSITION OF THE BOARD

#### 1.1 Convenor

The Board shall be comprised of a Convenor, the Honourable Mr Justice R.N. Leon, who shall convene a panel of chairmen.

#### 1.2 Chairman

The Chairman, in principle, shall be a public figure. A panel of chairmen shall be selected by agreement of both parties from whom the Chairman shall be designated by the Convenor to hear and adjudicate complaints brought by the Board.

#### 1.3 Assessors

To assist the Chairman, each party may designate one assessor who may be a member or supporter of that organisation. The parties may waive their right to appoint an assessor. Notwithstanding this provision, the parties reserve their right to challenge the selection of the assessor and request his recusal on good cause shown. In the event

The Board shall be comprised of a Convenor, the Honourable Mr Justice R.N. Leon, who shall convene a panel of chairmen.



To resolve disputes conveniently and expeditiously, the Board shall function as an inquisitorial body. Accordingly, the parties to the dispute shall not be represented by an attorney or counsel during any hearing. Nonetheless, a legal representative of the parties may be present during any hearing and may consult freely with the parties outside of the hearing chamber.

The complaint may only proceed to a full hearing after the Chairman first determines that the Complainant has established a **prima facie** case.

On notice, both the Complainant and respondent shall appear at a full hearing on the merits, where they are free to testify, present witnesses or produce scientific, documentary or expert evidence.

All witnesses shall testify under oath or, where impracticable, by sworn affidavit if permitted by the Chairman.

Questions may be put to any witness by an adverse party, by directing such enquiry to the Board.

that an assessor declines to recuse himself, application may be made to the Chairman, who shall make a finding which is binding on the parties.

#### 1.4 Registrar

The Board shall be further assisted by the appointment of a permanent Registrar, mutually agreeable to the parties.

The Registrar shall:

- (a) receive all complaints;
- (b) have responsibility for the Boards' calendar in consultation with its members;
- (c) advise the parties in writing of the dates and places of hearings;
- (d) provide for and maintain recording equipment at hearing dates;
- (e) ensure the attendance of an interpreter as is required and more fully specified below;
- (f) to provide such further and other assistance to the Board as is required in the discretion of the Convenor or Chairman.

#### 1.5 Interpreter

An interpreter shall be present at any hearing if the Chairman considers it necessary.

### 2. DESIGNATED ATTORNEY

Each party shall designate an attorney, or firm thereof, to act on its behalf for purposes of accepting service of process and to provide a liaison with the Registrar and with the Board. All notices by the Registrar, as more fully set forth below, or findings and recommendations by the Board, shall be served in writing upon the "designated attorney". The parties are free to select or change their designated attorney but must do so in writing to the Registrar.

### 3. LEGAL REPRESENTATION

To resolve disputes conveniently and expeditiously, the Board shall function as an inquisitorial body. Accordingly, the parties to the dispute shall not be represented by an attorney or counsel during any hearing. Nonetheless, a legal representative of the parties may be present during any hearing and may consult freely with the parties outside of the hearing chamber.

### 4. INVOKING JURISDICTION

The jurisdiction of the Board shall be invoked upon the filing of a complaint with the Registrar by a Complainant. The Complainant shall identify the Applicant and Respondent and set forth, in concise language, a brief outline of the case, sufficient to inform the Board and the Respondent of the

nature of the allegations made against him.

Should the complaint fail to set forth the allegations with sufficient particularity, the Registrar, in his discretion, may order further particulars, or other amplification, from the complaining party before accepting the complaint.

### 5. BOARD'S COMPETENCE

The Board is empowered to hear any complaint if:

- (a) the Respondent named is a member of either COSATU or INKATHA; and
- (b) the events underlying the complaint occurred in any Magisterial district of Pietermaritzburg and Vulindlela, including, but not limited to, Elandskop; and
- (c) the complaint alleges any incident which arises on or after 1 January 1987; and
- (d) the Respondent is alleged to have violated any of the established principles of the parties which have been stated in sub-paragraph 1.3 of the **Joint Declaration Adopted by COSATU and INKATHA**, attached hereto as annexure "A"; or
- (e) both COSATU and INKATHA agree that the matter should be heard by the Board.

### 6. THE HEARING

The complaint may only proceed to a full hearing after the Chairman first determines that the Complainant has established a **prima facie** case.

On notice, both the Complainant and respondent shall appear at a full hearing on the merits, where they are free to testify, present witnesses or produce scientific, documentary or expert evidence.

All witnesses shall testify under oath or, where impracticable, by sworn affidavit if permitted by the Chairman.

Questions may be put to any witness by an adverse party, by directing such enquiry to the Board.

### 7. RULE OF EVIDENCE

The application of the rules of evidence, including whether hearsay evidence, shall be received, shall be within the discretion of the Chairman.

### 8. SERVICE

Responsibility for informing a Respondent or witness of his obligation to appear at any proceeding in connection with the Board, shall devolve upon the organisation in which the Respondent or witness is a member, which organisation shall take all reasonable steps to ensure that the



Proceedings conducted by the Board shall not be open to the public, but shall be confined to the Complainant, Respondent, or legal representatives so designated by the parties, witnesses and the interpreter. Nor shall the identity of any Complainant or witness be made public, save with the consent of such Complainant or witness.

complaint is brought to the attention of the Respondent or a witness.

Service of the complaint shall be satisfied if it is served on the designated attorney who shall take all reasonable steps to ensure that the complaint is brought to the attention of the Respondent.

Similarly, the Registrar shall notify the parties and witnesses of any scheduled hearing by serving such notice upon the designated attorney.

Proof of service shall be satisfied by affidavit submitted by any designated attorney or by the Registrar.

**9. FAILING TO APPEAR**

Upon proof of proper service, the Board may draw an adverse inference from the failure of a witness, Complainant or Respondent to appear. The failure of a party or his witness to appear shall not bar the Board from hearing the complaint and issuing its recommendation.

**10. RE-OPENING AN ENQUIRY**

The Chairman may, in his discretion, re-open an enquiry to receive newly discovered evidence or upon good cause shown.

**11. PUBLIC DISCLOSURE AND PUBLIC ACCESS**

Proceedings conducted by the Board shall not be open to the public, but shall be confined to the Complainant, Respondent, or legal representatives so designated by the parties, witnesses and the interpreter. Nor shall the identity of any Complainant or witness be made public, save with the consent of such Complainant or witness.

All proceedings shall be mechanically recorded by the Board, but transcripts hereof shall be made available only to the parties or their legal representatives.

**12. FINDINGS**

The Chairman shall make recommendations to the party of which the Respondent in any matter is a member.

The Chairman shall make public his

recommendations thirty (30) days after remission of the Board's findings to the parties, together with the report of the action taken by the party to whom the recommendations are directed, provided that the Chairman may, in his discretion protect the anonymity of a party or a witness.

Further, the Convenor shall issue a monthly and bi-annual report, setting forth the complaints heard, recommendations issued and the action taken by the parties in respect thereof.

**13. WITHDRAWAL OF FINANCIAL ASSISTANCE**

13.1 If INKATHA or COSATU denies that a person against whom a complaint has been lodged is a member of that organisation and the chairman makes no finding to the contrary; or

13.2 If a recommendation is made by the Chairman to INKATHA or COSATU that disciplinary steps be taken against a member;

the organisation to whom the said person allegedly belongs or to whom the said recommendation was made, as the case may be:

13.3 shall in principle not provide any financial assistance to the said person or member, as the case may be, in any civil or criminal litigation which may arise from facts which form the subject matter of the complaint in question; and

13.4 shall, if it decides to provide the said financial assistance, forthwith inform the Registrar of its said decision and of its reasons therefor.

**14. COSTS**

No costs shall be awarded to any party, unless the Chairman determines that the complaint was vexatious or frivolous, in which case an award of costs, being the costs of the Board, may be made in the discretion of the Chairman.

The Chairman shall make public his recommendations thirty (30) days after remission of the Board's findings to the parties, together with the report of the action taken by the party to whom the recommendations are directed, provided that the Chairman may, in his discretion protect the anonymity of a party or a witness.

**Inkatha, in making every attempt to foster and publicise the spirit of the peace agreement between it and COSATU, has called together leaders of the movement in the Pietermaritzburg area and exhorted them to inform Inkatha members of the accord and to do everything possible to ensure its implementation.**

**NATIONAL CULTURAL LIBERATION MOVEMENT  
INKATHA YENKULULEKO YESIZWE**

PRIVATE BAG 9,  
ULUNDI,  
KWAZULU,  
3838  
TEL.: (0358) 9330  
TELEX: 6-23624

**13 September 1988**

Messrs Friedman and Friedman  
Attorneys

Dear Sirs  
PEACE ACCORD BETWEEN  
INKATHA AND COSATU

On 11 September 1988 I held an Inkatha meeting at KwaMpumzuza Tribal Authority Court House to explain the terms of the above accord and to secure the signatures of support from branch committees in the Greater Pietermaritzburg area.

The meeting was attended by approximately 4 000 Inkatha members with chairmen and other senior officials representing about 39 branch committees.

The terms of the Accord which had already been translated into Zulu were thoroughly discussed and distributed. The National Chairman of the Youth Brigade

was also present and pledged the support of his Brigade.

The signatures of branch committee leaders are herewith attached for your records.

In order to monitor the implementation of the Accord the meeting resolved as follows:

- (a) Complaints from branches would be submitted to the Chairman and Secretary of each branch.
- (b) The chairman of each branch would then forward the complaints to a Committee of Constituency Chairmen which would meet every week to process complaints and submit them to the Registrar of the Complaints Adjudication Board. The local Amakhosi and the local members of the KwaZulu Legislative Assembly

would also be members of this main Committee which would be convened by the KwaZulu Urban Representative Mr V. V. Mvelase.

The branch chairmen together with the Committee of Constituency Chairmen would also ensure that the terms of the Accord are observed in their respective areas. The process of explaining the terms of the Accord will continue at local branch level under the guidance of branch chairmen, the Main Committee and the National Chairman of the Youth Brigade and his staff.

Yours sincerely

*O. D. Dhlomo*  
**DR O.D. DHLOMO**  
**SECRETARY-GENERAL**

**WE, THE MEMBERS OF INKATHA BRANCHES IN THE GREATER PIETERMARITZBURG AREA, DO HEREBY DECLARE THAT WE HAVE READ AND UNDERSTOOD THE CONTENTS OF THE JOINT STATEMENT SIGNED BY INKATHA AND COSATU ON THE 2ND SEPTEMBER 1988, AND WE RESOLVE TO ENSURE THAT THE TERMS OF THE JOINT STATEMENT ARE IMPLEMENTED BY ALL INKATHA MEMBERS IN OUR AREAS OF JURISDICTION:**

<u>NAME</u>	<u>RANK</u>	<u>BRANCH</u>
1. PHIKELISA NDLOVO	CHAIRMAN	IMBALI WARD 5
2. ZEBULON PINCHABE	CHAIRMAN	SINKATHI WARD 1



3.	MICHAEL GATLO	CHAIRMAN	Tobele
4.	HAMALO JULY	CHAIRMAN	PHAYIPHINI
5.	Lanwea Mafunga	Chairman	Ward 14 Hlabisa
6.	L.H. NABASA	Chairman	Women's Brigade
7.	David Nombela	Chairman	Mxani B Park
8.	A. Awethu	Ward 14	Tubal
9.	Jayus Khwela	Chairman	Harambee! Educ. Corp
10.	C. Zandi	Chairman	Unit 13 Inda
11.	MOSES MATLO	CHAIRMAN	ASHDOWN
12.	Eros Ngcobo	Chairman	Maswazi
13.	JEROME M. MCHWABE	CHAIRMAN	Ward 3 IMB
14.	Deputy C. G. GONGO	CHAIRMAN	LADYMA INWADI
15.	Zwelahe Enock	Chairman	C. Sigodini
16.	Ak Khwela	Chairman	Khokhwane
17.	Gatto Zhabetha	CHAIRPERSON	DINDI
18.	J. Johnson	CHAIRMAN	BHEWZI SWES
19.	Gervude Mkhize	CHAIR PER	DEDA
20.	M.A. Bheru	Chairman	Sukhman (Maca)
21.	T. Z. Ngwenya	Chairman	Sigca (Maca)
22.	Ngwenya David	Chairman	Lyeluyazaza
23.	R. Mkhize	Vice Secretary	Wakwani
24.	Kenneth Duma	V. Chairman	Inububu
25.	Shawn Shizi	Chairman	Zgedontophle
26.	Shir... Mkhize	Chairman	Inububane
27.	Isaac Menele	Chairman	Ward 3 Kwamane
28.	Alfred M. Ngcobo	Chairman	Kw... 11/10/10
29.	S. Mkhize	Chairman	Telelegu Ward 12
30.	Eli... Mkhize	Chairman	Ward 10 Kwamane
31.	S.B. Zandi	Chairman	Ward 9 "
32.	A.M. Mkhize	Chairman	AA PUMUZA/ASHDOWN
33.	Zabulile Mkhize	Chairlady	Nkheshekemi
34.	Bhadrakumari Mkhize	Secretary	Zdebegheke
35.	S. Zuma	Chairman	Stungoort
36.	Shir... Mkhize	Chairlady	Zgubhweni
37.	THEMBA Mkhize	Chairman (Youth Dept)	Mkhizelekeleke
38.	JAMES NGCOSO	Chairman	Suero
39.	Relie Ngcobo	Chairlady	Inububane