

OBSTACLES TO NEGOTIATIONS

Working document of the KwaZulu Government presented to the joint South African/KwaZulu committee investigating obstacles impeding negotiations in South Africa.

A. PREAMBLE

It is accepted that there are real obstacles impeding negotiations in South Africa and that unless these obstacles are clearly identified and sincerely addressed negotiation politics will not take off.

B. OBSTACLES AS IDENTIFIED BY THE KWAZULU DELEGATION

1. Exclusive as opposed to inclusive Negotiations

The South African Government seems to favour exclusive negotiations (i.e. negotiations that exclude certain groups and individuals who, for one reason or the other, are not acceptable to the

Government as negotiating partners). The KwaZulu Government favours inclusive negotiations (i.e. negotiations that include all groups and individuals without any pre-conditions). KwaZulu believes that inclusive negotiations would entail the acceptance of the following measures by the South African Government.

- 1.1 **The Immediate and Unconditional Release of Mr Nelson Mandela and other Rivonia Trialists** as well as the release of all those political prisoners that have already served sentences of over 15 years. Other political prisoners must also be considered for release.
- 1.2 **Declaration of an amnesty** which would enable all political exiles to return to South Africa and participate in negotiations. The amnesty would have to be

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The KwaZulu Delegation clockwise from top left: Dr O D Dhlomo, Dr F T Mdlalose, Mr S J Maphalala and Mr Rowley I Arenstein.

adequately guaranteed and returning exiles would need to be assured of immunity from prosecution.

1.3 Unbanning of organisations so that the leaders might freely consult with their followers before and during negotiations.

1.4 The Lifting of the State of Emergency, The Release Of Political Detainees And The Restoration Of Press Freedom. This should be done to facilitate free debate and assembly.

2. Removal of Discriminatory Laws
It is accepted that all discriminatory laws cannot be removed overnight in South Africa. Nevertheless there are specific laws that are regarded by the majority as "pillars of apartheid". The following laws would need to be removed before the start of negotiations:

One single obstacle to negotiations is the existence of the tricameral parliament (with all its consequences like the Regional Services Councils, Own Affairs etc) which are perceived by the black majority as entrenching apartheid and racism and making a mockery of the concept of power sharing.

- 2.1 The Group Areas Act
- 2.2 The Population Registration Act
- 2.3 The Separate Amenities Act

3. Inability Of the Government To Allow Groups To Form Themselves Voluntarily And The Insistence That Only Race-Based Groups Should Be Constitutionally Recognised

This inability is demonstrated by the Government's refusal to discuss any other alternative suggested formulae that seek to move away from rigid race classification, e.g. KwaZulu-Natal Indaba, geographic (as opposed to Ethnic) federalism, etc., as well as the Government's inflexible belief that the only solution is rigid ethnic separation e.g. the Homelands Policy and the Tricameral Parliamentary System.

4. The Existence Of the Tricameral Parliament

One single obstacle to negotiations is the existence of the tricameral parliament (with all its

consequences like the Regional Service Councils, Own Affairs, etc.) which are perceived by the Black majority as entrenching apartheid and racism and making a mockery of the concept of power sharing.

C. PROCEDURES IN ADDRESSING THE OBSTACLES

1. Exclusive As Opposed To Inclusive Negotiations

1. Political Prisoners:

The following procedure should be adopted.

1.1 Mr Nelson Mandela And Other Rivonia Trialists

These should be released immediately and unconditionally.

1.2 Political Prisoners That Have Served Over Fifteen (15) Years.

These should also be released immediately and unconditionally.

Dr Nelson Mandela and other Rivonia trialists should be released immediately and unconditionally as should political prisoners that have served over 15 years. The principles of remission of sentence and parole should be immediately applied to all political prisoners that qualify as happens with other categories of prisoners.

1.3 Other Political Prisoners

The principles of remission of sentence and parole should be immediately applied to all political prisoners that qualify as happens with other categories of prisoners.

2. Declaration Of An Amnesty:

2.1 The Government should announce an amnesty through appropriate national and international channels.

2.2 The co-operation of instances like the International Red Cross, the U.N. Commission For Refugees, Western Governments and the International Commission Of

Jurists should be sought encouraging exiles and refugees to take advantage of the amnesty.

3. Unbanning Of Organisations

Once prisoners under C1.1 and 1.2 are released, the Government should immediately negotiate with them the modalities for the unbanning of their organisations.

4. The Ending Of The State Of Emergency, The Release of Detainees And The Restoration Of Press Freedom

The release of detainees and the restoration of press freedom should happen immediately and the lifting of the State of Emergency could be done either immediately or progressively according to districts and in accordance with a predetermined time table before the start of negotiations. In any event C.1, 2 and 3 would of necessity have to lead to the lifting of the State of Emergency, the release of detainees, and the restoration of press freedom.

An amnesty should be declared which would enable all political exiles to return to South Africa and participate in negotiations. The amnesty would have to be adequately guaranteed and returning exiles would need to be assured of immunity from prosecution.

II. Discriminatory Laws:

2.1 There are laws that are already being considered for abolition and these should be abolished immediately before negotiations begin, e.g. Group Areas Act, Separate Amenities Act and the Population Registration Act.

2.2 Other laws like the Land Acts of 1913 could then be phased out in accordance with a definite time table which would be subject to negotiation.

III Race-Based Group Concept

3.1 The Government must announce its acceptance of the principle of voluntary association or freedom of association.

3.2 Voluntary groups that arise should enjoy protection from the State and their constitutional right should be guaranteed.

Organisations should be unbanned so that the leaders might freely consult with their leaders before and during negotiations . . . The State of Emergency, the release of political detainees and the restoration of Press freedom should be done to facilitate free debate and assembly.

IV. Tricameral Parliament

A mutually acceptable Statement Of Intent should be issued stating clearly that negotiations would aim at replacing the tricameral system with a system acceptable to the majority of the people of South Africa.

D. POINTS OF COMMON AGREEMENT

1. Establishment of a united South Africa with one sovereign parliament:

If this principle is mutually acceptable then the qualification should be that no self-governing territory should henceforth be allowed to declare itself independent, and that the TBVC states that wish to rejoin a United South Africa should be allowed to do so.

2. Belief in a democratic, non-racial and multi-party political system.

3. Belief in the protection of individual and minority rights.

4. Belief in freedom of association for individuals regardless of race.

5. Belief in the free enterprise economic system with built-in mechanisms to create wealth, eliminate poverty and afford disadvantaged sections of the South African population maximum opportunity to fully participate and have a meaningful stake in the economy.'