

APPENDIX 2

In its interim report the TRC made a number of adverse findings concerning the IFP and its President, Minister Mangosuthu Buthelezi. Both the IFP and Minister Buthelezi have taken issue with these findings. To that end, they instituted legal proceedings with a view to reviewing and setting aside those findings and requiring the TRC to publish appropriate corrections in its final report. The TRC accepts the validity of certain of these criticisms and has accordingly made appropriate corrections in its final report. In order to settle the dispute in respect of the remaining complaints and to enable the TRC to complete its mandate, the parties have agreed that the TRC will publish this appendix to the final report reflecting the viewpoint of the IFP and Minister Buthelezi concerning those findings with which they disagree.

APPENDIX TO THE FINAL TRC REPORT REFLECTING THE VIEWS OF THE INKATHA FREEDOM PARTY AND MINISTER BUTHELEZI CONCERNING THE FINDINGS MADE IN THE INTERIM TRC REPORT

In the review proceedings the IFP and Prince Buthelezi challenged some 37 findings made by the TRC in its interim report. In relation to some of the findings the TRC has made appropriate corrections in its final report. In respect of other findings which are in issue the views of the IFP and Prince Buthelezi are reflected below.

The findings of the TRC in question are, contrary to the statutory obligation imposed on it by section 4(e) of the Promotion of National Unity and Reconciliation Act 34 of 1995 ('the Act'), not based on factual and objective information and evidence received by the TRC. There is no rational connection between the evidence and material before the TRC and the conclusions reached by it in this regard.

The IFP and Prince Buthelezi wish to record in this regard that:

- The findings implicating the IFP and Prince Buthelezi in gross human rights violations, criminality and conspiracy are without any factual basis.
- The IFP and prince Buthelezi at no stage endorsed policies based on violence, criminal conduct or an armed struggle and they only advocated non-violence, passive resistance and self-defence where legally justified.
- The IFP and Prince Buthelezi have serious reservations regarding the

establishment and functioning of the TRC and its ability to make objective and factually correct findings. The TRC was the product of a mutual political accommodation reached between the ANC and the NP to the exclusion of the other participants in the conflicts of the past. The TRC was thus inclined to approach its mandate by focusing on black-on-white and white-on-black conflicts. It was ill-equipped to deal with black-on-black conflict and explore the genesis, dynamics, purposes and strategies of this conflict. The TRC process was conducted at a time very close to the animosity and tensions of the conflicts of the past and without the benefit of a historical perspective. In this context evidence was taken without any effective means of independent or adversarial verification.

- Notwithstanding the reservations which the IFP and Prince Buthelezi had regarding the TRC, they made written and oral representations to the TRC at the appropriate stages. The TRC has not taken account of these representations in arriving at its findings.
- In many instances the TRC's findings are based on unreliable, uncorroborated or hearsay evidence provided by persons who acknowledged that their conduct constituted an offence or delict. These persons sought amnesty in respect of such conduct which could only be granted if a link between their conduct and a political objective was established. This resulted in untruthful, unreliable or generally vague evidence which in some cases reflected adversely on the IFP or Prince Buthelezi. Such evidence should not have been accepted at face value by the TRC.
- The TRC acted contrary to the provisions of section 30 of the Act which required it to act in a procedurally fair manner and give notice of its contemplated findings to persons who might be implicated. The requirement of procedural fairness was aimed not only at protecting those persons who might be adversely affected but also at enabling the TRC to assess the other side of any given story or allegation. Firstly, the TRC failed to give the IFP and Prince Buthelezi notice of most of its contemplated findings. This meant that they were not afforded the opportunity of rebutting such findings and did not allow the TRC to consider their response to any particular allegation. Secondly, in respect of certain contemplated findings the TRC gave notice of such findings but failed to identify the evidence supporting such findings to enable the IFP and Prince Buthelezi to adduce countervailing evidence. Thirdly, in those cases where adequate notice of the contemplated

findings was given enabling the IFP and Prince Buthelezi to respond thereto the TRC failed properly to apply its mind to the response submitted. Despite the representations that were made rebutting these findings, the actual findings published in the interim report were in all material respects identical to the contemplated findings.

The TRC made a number of finding relating to black-on-black conflict. In this regard the figures of casualties suggested by the TRC are unsubstantiated and have been extrapolated through statistics based on an undisclosed and obviously erroneous methodology. Contrary to what is stated in the TRC's report, almost 400 Inkatha leaders were killed in a systematic plan of targeted mass assassination. More than 10,000 Inkatha members and supporters were killed and hundreds of thousands of them were dispossessed or suffered untold misery and gross human rights violations because of the armed struggle waged against Inkatha.

The TRC made certain findings relating to the KZP which suggested that on occasions they co-operated with the SAP in perpetrating gross human rights violations. These findings ignored certain relevant facts and are wrong. As the ruling part of KwaZulu, Inkatha had the responsibility of maintaining law and order. The TRC ignored the reality that Prince Buthelezi had no operational control over the KZP which, in terms of law, was under the control of the South African Government in respect of all matters relating to its deployment, training, promotion and operational control. Nothing in the TRC Report or in any credible evidence before the TRC detracts from the fact that Prince Buthelezi never ordered, authorized, approved, condoned or ratified any gross human rights violations.

Certain of the findings in the TRC report endeavour to connect crimes committed by individuals or groups operating at community level with the IFP or Prince Buthelezi. In particular the TRC has in its report reconstructed events relating to the training of 206 young people by the SADF in the Caprivi Strip. The findings in this regard are erroneous and in conflict with the approach taken by the Durban Supreme court to similar evidence before it in extensive criminal proceedings. These people were chosen on the basis of criteria determined by the SADF and trained by it in accordance with its chosen requirements. The training was requested by the KwaZulu Government solely to protect the lives of government officials and the integrity of government structures and assets which were being targeted by terrorism and insurrection related to the armed struggle. Prince Buthelezi was at the time reliably informed of ANC plans to assassinate him, which information was confirmed before

the TRC in the testimony of President Mbeki. The KwaZulu Government never had operational control of these trainees. No basis exists for suggesting Prince Buthelezi could have believed that 206 barely trained security guards could be deployed against hundreds of thousands of ANC cadres who were well equipped and well trained by Soviet and Cuban military personnel.

In fact, Inkatha and the KZG were the only major participants in the conflicts of the past which had no control over a private army to be deployed for political purposes. Private armies were available both to the exiled political forces, such as the ANC and the PAC through the military training camps abroad, as well as to the leaders of the TBVC states and, obviously, to the SAG. Prince Buthelezi's refusal to accept nominal independence was, as admitted by former State President FW de Klerk, the major cause of the demise of the great scheme of apartheid, as it prevented the SAG from consolidating its claim that the white minority was no longer ruling over the majority of disenfranchised black South Africans. The fact that the Zulu people remained South Africans and did not have an independent state, forced the chief Minister of the KZG to provide for their security.

This as the background leading to the training of the Caprivi trainees which was fully scrutinized during the 8 month Malan trial referred to in the TRC report. The trial court found nothing illegal in such training. In arriving at its conclusions the TRC failed to pay proper regard to the evidence before the Court and its judgment.

The TRC in making certain findings in relation to self protection units misconceived their true nature. The training of SPUs was legal and was intended to achieve legal purposes relating to community policing and defense supervised by the National Peace Accord. Factually, SPUs never became involved in the conflict of the past. The only contrary evidence available to the TRC was that of someone whose political allegiance changed from the IFP and its Leader. He was involved in the setting up of a military camp for self-protection training, which he did without any knowledge of the IFP Leader. The TRC never offered the opportunity to the IFP to produce evidence to counter the false testimony placed before it, during in camera hearings at which the IFP was not represented no afforded an opportunity to test such evidence.

The TRC wrongly concluded that the IFP and its Leader could have made plans to disrupt the April 1994 elections by deploying a thousand people trained for a few weeks, against the combined might of the SAP, the SADF and MK, the ANC's private army. In fact, the IFP and its Leader never considered any plan to disrupt the April

1994 elections, the Central Committee (the decision making body of the IFP) never passed a resolution to that effect and the IFP's structures were never involved in any illegal activity. When the IFP expressed its opposition to the 1994 elections, it did so in a principled fashion, relying on its usual methodology of passive resistance and nonviolence, by exercising its democratic option of not participating in such elections.

In various findings made by the TRC against the IFP it sought to create links between a variety of violent activities taking place within community dynamics and individual crimes on the one hand and Inkatha on the other hand. At no stage did Inkatha advocate a policy of violence. In fact, the public and private pronouncements of Inkatha's leader, Prince Buthelezi, indicate that he constantly urged members and supporters to refrain from violence. The TRC has ignored this body of evidence and has sought to rely on a statement by Prince Buthelezi reiterating the recognised principle that people are entitled to self defence and a statement in the KwaZulu Legislative Assembly in which he reaffirmed his legal responsibility to protect public officials and government assets against acts of violence.

The TRC has tried to make the findings against the IFP mirror the findings made against the South African Government and the ANC. Through the chain of command within the armed struggle the ANC had control of and was responsible for the violence and gross human rights violations committed by its members and supporters, who were acting in accordance with ANC stated policies. The same applies in respect of the covert operations of the South African Government and the illegal activities of the SAP and the SADF, which were conducted within the parameters of an existing structure accountable to certain leaders. In the IFP there was no chain of command or integrated structure which can in any way link community and individual violence to Inkatha or its Leader. In making its findings the TRC had ignored the absence of any causal link and has incorrectly adopted an extended notion of accountability.

Prince Buthelezi served simultaneously as President of the IFP and the Chief minister of the KwaZulu government and during the period 1982-1994 was the Minister of Police in the KwaZulu Government. The TRC sought to hold Prince Buthelezi politically accountable for the commission of gross human rights violations allegedly perpetrated by the entities by virtue of the positions which he held. As appears from this appendix prince Buthelezi does not accept that he can be held accountable, politically or otherwise, in his representative capacity for the commission of any gross human rights violations.

The TRC sought even to connect the IFP to the activities of the groups known as the 'Black Cats' and the 'Toaster Gang' as well as the activities of other groups which perpetrated violence within community level conflicts. Within this context the TRC adopted the expression 'hit squads' to refer to any group of people involved in community violence, suggesting that such people were structurally organized for such nefarious purposes and constantly involved in their pursuance. The reality is that the overwhelming majority of violence by Inkatha's members and supporters was the produce of occasional activities of unstructured groups without any underlying plan. On the contrary, the evidence submitted to the Goldstone Commission demonstrates that the violence targeted against Inkatha followed systematic and well strategized patterns and was the product of an underlying political campaign. [\(...p702\)](#)