

## CHAPTER 4

# Strengthening the Structures of the National Peace Accord

### Introduction

United Nations Security Council Resolution 772 of 17 August 1992 called on international observers both to work in close co-ordination with, and help strengthen the structures set up under, the National Peace Accord. This Accord, signed by a broad spectrum of political parties and other interest groups on 14 September 1991, is one of the few truly consensual documents to have emerged in South Africa over the past two years. Its provisions are comprehensive, applications far reaching and its relevance extends well into the future.

Among the most positive impressions that COMSA carries from the first phase of its mission is the image of men and women from vastly different walks of life, racial and ethnic backgrounds and political persuasions, sitting around a table under the umbrella of the National Peace Accord structures to resolve their differences. The Peace Accord is, in the first instance, a forum for the reconciliation of South Africa's peoples, without which there can be little hope for a new tomorrow.

COMSA is proud to have been associated with the Accord, and is firmly of the view that without it, the levels of violence in South Africa would have been considerably higher. The fact remains, however, that levels of violence are still unacceptably high. Those involved in the workings of the Peace Accord structures are painfully aware of its shortcomings and are engaged in an introspective exercise to improve its efficacy. This Report, in outlining COMSA's interaction with the structures set up under the National Peace Accord, will therefore simply highlight the areas of the Accord which COMSA feels could be strengthened, and some of the initiatives which COMSA undertook in this regard.

### The National Peace Committee

Comprising the top leaders of all the signatories to the Accord, under the chairmanship of a South African businessman, John Hall, the National Peace Committee (NPC) is at the apex of the National Peace Accord structure. Its key preoccupation is to secure the continued political commitment of the signato-

ries to the functioning of the Accord. This, no doubt, is one of the most difficult tasks of all. For while it has proved fashionable to sign the Accord, there are few mechanisms to bind signatories to the agreement.

During its stay in South Africa, COMSA followed the efforts of Mr Hall and his team to resolve the dispute between the leaders of the IFP and ANC over whether or not the ANC breached the Accord by calling Inkatha a surrogate of the Government in a speech made by the ANC leader to the United Nations Security Council. It also followed the announcement by representatives of the two parties at an NPC meeting on 24 November 1992 that preparations would be made for a meeting between Chief Buthelezi and Mr Mandela. COMSA welcomes indications from officials of both parties, who have been preparing for this summit, that such a meeting might take place.

In the light of the growing public disillusionment over the lack of commitment by politicians to the Peace Accord, COMSA also strongly endorses the call by the NPC for a summit of leaders of all signatories to the Accord at the earliest possible date. Such a meeting, though not necessarily linked to multi-party constitutional negotiations, could act as a powerful catalyst for the crucial resumption of such talks.

### **The National Peace Secretariat**

During its first three-month phase, COMSA had extensive contact with the National Peace Secretariat (NPS), which sees to the day-to-day functioning of the Accord, particularly the establishment of regional and local structures, which are covered in greater detail below. Regular meetings were held by COMSA and other international observer groups with the NPS to co-ordinate activities and to exchange ideas. Further, COMSA often received requests from the NPS for assistance in various problem areas and it was to the NPS which COMSA first turned for help whenever confronted with problems. COMSA also attended two policy meetings of the NPS in November and December 1992. These were to be followed by a meeting in February 1993, where important strategic decisions on the way forward were to be made. The reflections under the heading 'Weaknesses in the Accord' at the end of this chapter to a large extent mirror views already held by participants in these structures, but are offered as areas which COMSA, from its contacts, feels to be particularly important.

### **RDRCs and LDRCs**

Unlike UNOMSA, COMSA did not have the human resources to designate observers to specific localities on a full-time basis. However, COMSA endeavoured to work closely with Regional Dispute Resolution Committees (RDRCs) and Local Dispute Resolution Committees (LDRCs) in areas facing particular

difficulties. The following are some examples of the work undertaken by COMSA to help strengthen structures set up under the National Peace Accord.

## Natal

At the time of the arrival of the Commonwealth team in Natal, only six of the 26 LDRCs envisaged had been set up in the province. Of these, only Pinetown and Umlazi LDRCs appeared to be functioning.

There were a number of reasons for this state of affairs. The KwaZulu Government and IFP have signed the Peace Accord, but the *amakhosi* (chiefs), as a group, have not. Some chiefs were suspicious of the local peace structures (LDRCs), which they seemed to perceive as taking on functions that properly belonged to chiefs. Then there were the rivalries between the political parties, which went to stifle efforts to achieve peace.

At the time of COMSA's arrival, the general perception was that Natal was sliding towards an 'all-out civil war', and that the violence had gathered a momentum that could no longer be contained (*Weekly Mail*, 30 October–8 November 1992). The killing of a number of political leaders involved in the peace process only compounded matters.

Against this background, the Commonwealth team based in Durban concentrated its efforts on helping to form peace committees and to strengthen them where they already existed.

## Umbumbulu

Umbumbulu, a sprawling rural district of some 400,000 people in the upper south coast of Natal, was the first area in which the COMSA (Natal) team worked. It was the area worst affected by the violence in the whole country, and at the beginning of November 1992, shortly after the team's arrival, was declared an Unrest Area.

Previous efforts by the Natal/KwaZulu RDRC to bring the ANC and IFP together in an LDRC had proved futile. At the request of the Amanzimtoti Crisis Centre, an NGO catering for the needs of victims of the violence, and in consultation with the political parties and the *amakhosi*, COMSA agreed to help form an LDRC for the area.

It was clear from the outset that if the initiative was to prosper it would need to have the support of the *amakhosi* in addition to that of the political parties. The team therefore approached Inkhosi Wellington Hlengwa, President of the Umbumbulu Regional Authority, the equivalent of the House of Chiefs for the region, who agreed to co-operate. He called a meeting of the regional authority on 20 November 1992 at which the *amakhosi* gave their support for the initiative.

This was followed a week later on 27 November 1992 by a larger meeting which included the *amakhosi*, representatives of the IFP and ANC, leading business people, church leaders, the RDRC and NGOs. It was this second meeting which formally authorised the formation of an LDRC for Umbumbulu, which was duly launched on 4 December 1992. The establishment of the LDRC was described by the *New Nation* newspaper as an 'unsurpassed feat in the strife-torn Natal Upper South Coast'.

### **Port Shepstone Area**

The next area of major COMSA effort in Natal was in the Ensimbini Valley of the Port Shepstone area, on the Natal Lower South Coast, an area of some 50 square kilometres, with a population of 73,000.

Violence had been endemic in the area since the beginning of 1990. From its establishment in March 1992, the Port Shepstone LDRC had made several unsuccessful attempts to bring peace. The conflict had also generated a substantial number of refugees who made no less than three attempts to return to their homes, with each attempt ending in violence and death. By August 1992, the local press had effectively written off the area as a 'wasteland'.

As in Umbumbulu, the request for Commonwealth assistance in the Ensimbini Valley came from one of the most senior chiefs in the area, Chief Khawula of Umzumbe. The initiative was undertaken with the blessing of the Port Shepstone LDRC.

The two localities in question were KwaNdwalane and KwaMavundla, respectively ruled by Inkhosi Aaron Ndwalane and Inkhosi Samuel Mavundla.

Inkhosi Ndwalane was a particularly controversial figure. He had earlier served a prison sentence for the illegal possession of firearms, and at the time of the launching of the initiative was on bail after being charged with 11 counts of murder. It would appear that he had run his area with something of an iron hand in the course of which he had alienated many of the youth. An uprising of the youth against the perceived excesses of traditional rule at the beginning of 1990 compelled him to flee the area and to seek refuge at Umzumbe (Inkhosi Khawula's domain).

Between January 1991 and June 1992 the traditional forces launched a counter-offensive and systematically regained control of the area. According to local accounts, Inkhosi Ndwalane personally led some of the worst reprisals against the ANC-supporting youth, driving hundreds of them into internal exile, some of them as far afield as Durban.

By the time COMSA began to work in the area, feelings had hardened. Inkhosi Ndwalane had come to be seen by many as no more than an IFP warlord. When the COMSA team first announced to a full meeting of the Port Shepstone LDRC that Inkhosi Ndwalane wanted Commonwealth assistance to bring peace back to his locality, hardly anyone would believe this. It was therefore important first to ascertain the sincerity of Inkhosi Ndwalane's peace

intentions, and thereafter to convince all concerned, especially the ANC and the refugees, of this.

In the course of the protracted negotiations that followed, the Inkhosi gave a number of undertakings to the team. He agreed to observe scrupulously his traditional role as the father of the entire community irrespective of political affiliations and as such to be above partisan politics. He also agreed to allow the return of the refugees.

For their part, the ANC and the refugees informed the team that as long as the Inkhosi was truly non-partisan and acted as father figure to every member of the community, they would have no problem in recognising his authority and according him due respect.

COMSA felt that these mutual undertakings needed to be made public as a way of effectively underpinning the peace process. Accordingly, a peace rally was convened at Nyandezulu in KwaNdwalane on 6 December 1992. At this rally the Inkhosi and representatives of the ANC and the refugees made public their pledges.

As part of the agreement, a Resettlement and Development Committee was formed to supervise the orderly return and resettlement of the refugees; repair the houses damaged in the violence; settle local political differences; and promote the long-term socio-economic development of the area.

In KwaMavundla, COMSA followed broadly the same strategy as that pursued in KwaNdwalane. Unlike Inkhosi Ndwalane, Inkhosi Mavundla was not a controversial figure. True, the uprising of the youth early in 1990 had similarly compelled him to seek refuge in Ulundi; but his return had been considerably more peaceful than that of Inkhosi Ndwalane. He was associated with no excesses, and it proved a great deal easier to convince the ANC, the refugees and others of his good intentions.

The subsequent public rally in his area on 12 December 1992, which was attended by some 500 people, paved the way for the return of refugees and the establishment of a Reconciliation and Development Committee with broadly the same objectives as the Resettlement and Development Committee at KwaNdwalane.

A third rally, held on 13 December 1992 at Murchison in KwaNdwalane, was the biggest of the peace rallies in the Ensimbini Valley. It attracted no less than 6,000 people, and was jointly addressed by regional leaders of the ANC and IFP, all of whom called on their supporters to turn away from violence and to co-operate to make peace a reality in the valley. On 23 December 1992, between 350 and 400 refugees finally returned to their homes after a three-year absence.

The COMSA initiative in the Ensimbini Valley was described by the *South Coast Herald* as 'a major breakthrough' which brought 'new hope to the people of KwaZulu and southern Natal'. At the height of the troubles in the Port Shepstone area, the monthly death rate due to the violence averaged between

25 and 40. Since the beginning of December 1992, there have only been two confirmed fatalities.

Umbumbulu and Port Shepstone are now being hailed as the only two peaceful areas in the whole of Natal/KwaZulu. In this regard, it is significant that in its statement of 15 January 1993 the Continuation Committee of the IFP and the ANC preparing the ground for a meeting between Mr Mandela and Chief Buthelezi, 'warmly welcomed the positive developments that have taken place in such areas as Umbumbulu and Port Shepstone where the levels of conflict have been drastically reduced as a result of agreements arrived at by the IFP and the ANC.' The statement went on to urge 'all communities afflicted by violence such as Bruntville and Empangeni to follow these excellent examples.' Press cuttings of COMSA's work in Natal are attached at *Annex II*.

### **Pretoria/Witwatersrand/Vaal**

In the PWV Area, COMSA worked closely with the Wits/Vaal and Northern Transvaal RDRCs, and their associated LDRCs. A large part of this work involved providing encouragement by simply attending meetings and seminars and feeding back discreet advice to these structures as appropriate.

However, COMSA's particular range of skills was also put to use in various forms of specialist involvement. For example, COMSA actively supported a Police/Community Relations subcommittee of the Wits/Vaal RDRC (see Chapter 6).

In its attendance of rallies and demonstrations, COMSA's policing and diplomatic skills were frequently called on to avert what would otherwise have been sure incidents of violence. Examples of this are provided in Chapter 6. After this experience and similar experiences were relayed to the NPS it arranged a meeting between COMSA and the police to discuss the mission's observations on policing methods at public gatherings. These examples proved to be the basis of an interesting and constructive discussion with police at the grassroots level.

COMSA also frequently interacted with the Interim Crisis Committee (ICC) of Alexandra. Located in the northern suburbs of Johannesburg, Alexandra is a black township with an estimated area of 5 square kilometres, and a population of some 350,000. The initial briefing to COMSA members by the ICC suggested the existence of enormous problems in Alexandra. There were serious political differences between the IFP and ANC which surfaced in tensions between the hostel dwellers and other township residents. Unemployment and crime rates were also extremely high. Some of the residents were forced out of their homes due to the continuous violence.

Much progress has since been made through the genuine and commendable efforts of members of the ICC. Some SAR3.5 million was made available through the National Peace Accord structures to address socio-economic problems. The ICC facilitated talks between the hostel dwellers and the local

residents. This was followed by joint efforts by the local residents and the local authorities to clean up the area commonly known as 'Beirut'. Following a concerted effort by the ICC, the first official bilateral talks between the local ANC and the IFP in the area took place on 16 December 1992. The visible progress in Alexandra is an encouraging example of what the Peace Accord structures can achieve.

A highlight of COMSA's association with the Wits/Vaal area was its attendance, along with other observers and the Vaal LDRC, of a Peace Summit convened by the ANC/COSATU/SACP alliance in the Wits/Vaal region in November 1992. The meeting was held following complaints that the alliance's 'self-defence' units had been taking matters into their own hands and discrediting the alliance through these atrocities.

A meeting of this nature was bound to be fraught with difficulties. The presence of international observers played a crucial role in keeping the meeting on course; indeed the final communiqué referred to the 'inspiration' drawn from the presence of these observers. The meeting closed with the announcement of a Programme of Action to bring peace to the area, including a Code of Conduct to which all members of the alliance would be asked to adhere.

As a follow-up to this, local-level meetings have been held to publicise the agreements reached at the summit. Community leaders were initially undecided over whether or not to invite international observers to attend these meetings. However, through personal contacts initiated by COMSA, international observers were invited to the first such meeting, which also provided the opportunity for them to interact with people in areas considered unsafe for strangers.

COMSA is heartened by the recent statement by the PWV branch of the ANC – which suspended participation in the Peace Accord structures in this region following the massacre at Boipatong – that the flaws of the Accord do not warrant withdrawal from its structures. COMSA endorses the ANC-PWV statement that despite these flaws, 'the Peace Accord has the potential of laying a firm basis for peace in our country provided all signatories strictly adhere to the terms of the document.'

### **Border/Ciskei**

Although COMSA had no observers based in the Border/Ciskei area during the first phase, it followed, through several contacts and four trips back and forth to the area, efforts to resuscitate the Peace Accord structures there. The problems stemmed from the withdrawal of Ciskei from the Border/Ciskei RDRC early last year, on grounds of a lack of neutrality within the structure. As a result, the Peace Accord structures were rendered impotent at a time when they were most needed – following the outbreak of the Bisho massacre and subsequent spiral of violence in the region during the last quarter of 1992. This occurred as a result of attacks by ANC supporters on the property of Ciskei

officials, and counter-attacks on the ANC, which also alleged misconduct by the Ciskei Defence Force and SADF, which was called in to help protect Ciskei.

COMSA viewed these developments seriously because of their potential to spiral out of control and open a new frontier of violence in the country. The responsibility for helping to ease the tensions in the area rests primarily with the NPS. COMSA, through visits to the area by police experts, members of its team with diplomatic and legal skills and – on three occasions – the COMSA Chairperson, tried to the best of its ability to support NPS efforts to ease the tensions.

An underlying cause of the conflict in the area is the lack of free political activity in Ciskei. This is closely linked to the broader issue of the reintegration of the 'homelands' into a new South Africa which is crucial to any lasting solution to the current problems afflicting the region.

In the immediate context, COMSA welcomes a number of recent positive developments, which it believes occurred in part as a result of international pressure. These include: the recent withdrawal of the SADF from Ciskei; an abating of the ANC/Ciskei-linked violence; and a court case that has led to the overturning of Section 26 of the National Security Act, which permitted detention without trial.

Of grave disappointment to COMSA is the rejection by Ciskei of a compromise formula put forward by the NPS aimed at making it possible for Ciskei to participate again in the Peace Accord structures. COMSA strongly urges the Ciskei to reconsider this position.

### **Goldstone Commission**

Another key structure provided for in the National Peace Accord is the Commission of Inquiry regarding the Prevention of Public Violence and Intimidation. Known as the Goldstone Commission after its founding Chairperson, Mr Justice Richard Goldstone, a Judge of the Appellate Division of the Supreme Court of South Africa, this body's primary mandate under the Peace Accord is to 'be used as an instrument; to investigate and expose the background and reasons for violence, thereby reducing the incidence of violence and intimidation'.

To carry out this mandate the Goldstone Commission has been vested with very extensive powers, including the right to compel testimony from those under investigation as well as the provision of documents and other material for evidence. In addition to the Chairperson, four other persons, including a former Attorney-General of the Cape Province, and a leading black advocate, comprise the appointed membership of the Commission.

Since its establishment, the Goldstone Commission has held a substantial number of Inquiries, most of them conducted in public, and has launched investigations into many sensitive and controversial issues. For example, at the time of the arrival of COMSA members in the country the Commission had just

released its preliminary report on the Bisho massacre. Subsequently, COMSA members attended the Goldstone Commission hearings at Vereeniging, investigating the Boipatong massacre. At those hearings the COMSA members had an opportunity to be introduced to Mr Justice Goldstone and his colleagues on the Commission.

In November 1992 the COMSA Chairperson, together with another member of the group with legal qualifications and a member of the Commonwealth Secretariat, met privately with Mr Justice Goldstone to discuss the work of his Commission. At that meeting it was agreed that COMSA would observe the Commission's hearings and, where appropriate, follow the public aspects of the Commission's investigatory work. Mr Justice Goldstone also explained the roles already being performed within his Commission by foreign police officers seconded to it by the European Community. These officers were, he said, invaluable aides to the investigators appointed to the Commission from within South Africa, giving enhanced credibility and strength to their endeavours.

Very shortly after this meeting, the Goldstone Commission announced that its investigators had raided a secret base maintained by an arm of the SADF Military Intelligence, and had seized documents which revealed the continuing conduct of covert operations against the ANC. This revelation, which was widely publicised in South Africa and abroad, prompted strong national and international condemnation of these operations.

Bold and courageous actions like these have won the Goldstone Commission a justified reputation for being one of the few official bodies in contemporary South Africa which are widely regarded as impartial and independent in the conduct of their business. These qualities are, as is made apparent in Chapter 6, still lacking in another national investigatory body, the SAP.

COMSA members observed the following Goldstone Commission activities, in addition to those mentioned above:

Durban, 2–3 December 1992: Public Hearings on the Violence in the Province of Natal.

Cape Town, 10–11 December 1992: Preliminary Inquiry into Automatic Weapons.

In addition to these observations, COMSA also held a number of informal discussions with members of the Goldstone Commission and its staff. As a result of these observations and interactions COMSA has formed the strong opinion that the Goldstone Commission represents one of the lynchpins of the National Peace Accord, and is deserving of the fullest support from all signatories to that Accord as well as from the broader spectrum of South African society.

Despite its public stature and the prodigious workload it has assumed, the Goldstone Commission would still seem to be a very thinly resourced body. Its members have in many cases not been able to relinquish fully other responsi-

bilities, including, in the case of Mr Justice Goldstone, obligations as an Appeal Court Judge. Much of the Commission's work is undertaken in committees established with other part-time members. The investigatory staff would also appear to be overstretched, and there is an apparent shortage of experienced and trustworthy police officers available from within the country to bolster their numbers. It is in this area that the international community, including observer groups, may in the longer term be able to provide further aid, assistance and advice.

Nevertheless, the innate strength of the Goldstone Commission lies in its indigenous origins and membership. Although spurned by some as another tool of the 'existing regime', the Goldstone Commission has risen above the mistrust in the current criminal justice system to provide a symbol of justice and fairness for the new South Africa.

### **Weaknesses in the National Peace Accord**

**Extent of participation:** An obvious weakness of the Accord is that not all parties and interest groups are signatories. This includes several political parties both to the left and right of the political spectrum, some of the 'homelands' and (as a group) the tribal authorities. In its meetings with representatives of all such groups, COMSA endorsed the call by the NPS for all parties to participate in the structures of the Accord, whether or not they were signatories, and to consider acceding to it as soon as possible.

**Breaches of the Accord:** COMSA welcomes suggestions from within the NPS that a set of procedures be developed for addressing the issue of members who withdraw from the Accord, or cease to participate in its activities. COMSA also endorses the idea of a permanent Task Force of 'wise men and women' to help resolve disputes that arise in relation to the Accord.

**Nature of Participation and Grassroots Support:** COMSA, in its contacts with the NPS and related structures, was concerned with the perception that participation in these structures was narrow-based, and that the structures were little known among the communities they served. Without in any way detracting from the dedication and hard work of those involved, COMSA feels that one of the reasons for this perception is the fact that the majority of the leaders of these structures are white, often serving in predominantly black communities.

One of the explanations offered is that, in order to assure the neutrality of chairpersons, these leaders are drawn from the established business community or churches, and as such – at least in the former case – are more likely than not to be white. Another explanation offered is the lukewarm attitude of predominantly black political parties to the Peace Accord structures in some areas.

Whatever the case, COMSA is of the view that – given the fact that the overwhelming majority of South Africa's population is black; that the worst

incidents of violence take place in black areas and are directed against black people; and that for the Peace Accord structures to be effective, they must take root in the communities they serve – a conscious effort needs to be made to make the leadership of the structures more racially balanced.

**Publicity:** The Peace Accord structures also need to be better known. The NPS is embarking on a major media campaign which should help publicise the Accord. The Accord is also – after some delay – being translated into various languages. However, COMSA is of the view that more meetings are needed between representations of the Peace Accord structures and the community generally, fashioned after the *kgotla* and *indaba* which traditionally are the fora for resolving problems. The decision by the NPS to encourage participation by NGOs more actively, and particular segments of society, such as women and youth, is also a welcome move in broadening participation and popularising its work.

**Shift in Focus to Socio-Economic Reconstruction:** COMSA fully supports the recent shift in focus of the Peace Accord structures from dispute resolution to socio-economic reconstruction, encapsulated in the proposed name change of Regional Dispute Resolution Committees (RDRCs) and Local Dispute Resolution Committees (LDRCs) to local and regional Peace and Development Committees. Such a shift rightly puts the emphasis on the root cause of violence in South Africa, which, if not addressed, will forever thwart attempts to combat violence.

**Full Implementation of Key Sections of the Accord:** While much has been done to set up the institutions envisaged by the Accord, some provisions have still only been partially implemented, or not implemented at all. Despite provisions for the appointment of Justices of the Peace to promote peace at the grassroots level, and to assist dispute resolution committees in their activities, none have yet been appointed. This is the more disappointing because under the terms of the Peace Accord, the Justices of the Peace would be empowered to investigate complaints pertaining to public violence and intimidation, and to issue orders to restore peaceful relations. COMSA joins the NPS in urging local communities to submit names of suitable candidates for appointments as Justices of the Peace, who could play an important role in giving the Accord muscle.

Elsewhere in this Report, reference is made to COMSA's dealings with the Police Board, which could play a vital role in helping to improve Police/Community relations. This fledgling body needs to be given every encouragement, and to become far better known both at a national and community level.

COMSA is pleased to learn that Chapter Ten of the Accord, providing for Special Criminal Courts, is now operational in the form of a law permitting violence-related cases to be dealt with expeditiously. It is hoped that this provision will be put to maximum effect in enhancing confidence in the criminal justice system, as well as acting as a deterrent against further violence.