

CHAPTER 4

Strengthening the Structures set up under the National Peace Accord

Introduction

In the report on the first phase of COMSA, we cited the National Peace Accord (NPA), signed by a broad spectrum of political parties and other interest groups on 14 September 1991, as 'one of the few truly consensual documents to have emerged in South Africa'. A recent survey of the Accord by the Johannesburg-based *Finance Week* magazine echoes this sentiment when it notes that:

if the Peace Accord did not exist, it would have had to be invented. The Accord supplements and is an integral part of the process of a negotiated transition to democracy.

In conditions of violence and frustration, this agreement, and the many who work tirelessly to make it work, stand out as a beacon of hope. We cannot agree more with Mr Justice Richard Goldstone in the following comment made to *Finance Week*:

South Africa is unique among all the troubled areas of the world in having a pool of people ... local people, South Africans, who have credibility among all people. There is no other troubled area in the world which could have a National Peace Accord, a Commission such as we've got, that would carry any credibility at all. If you put yourself into Northern Ireland, the Middle East, the former Yugoslavia, you would never get local people being able to set up a commission or a peace accord and have local dispute resolution committees that would operate. This would be absolutely unthinkable.

In our first report we cited the Accord as a forum, in the first instance, for the reconciliation of South Africa's peoples. One could cite numerous examples of how, albeit slowly and painfully, South Africans are getting to know each other through this Accord.

During the second phase of COMSA, our contacts with all the structures set up under the NPA – the National Peace Committee, which acts as its 'Board of Directors'; the National Peace Secretariat, sometimes described as the 'engine room' of the Accord; regional and local peace committees – deepened.

We sense that during this period, there had been some improvement in the commitment to the Accord, although the failure still to get leaders of signatories to the Accord to the conference table is a source of concern. But the ambivalence towards the Accord that we found when we first came – the

tendency to dismiss it as a creation of the Government – has started to change, especially at the grassroots level.

In part, this is because there is increasing evidence that the Accord can work, and is crucial as the country heads into a period of even more feverish political activity.

In Chapter 3, we detailed a significant reduction in violence, particularly in the PWV area, before the Hani assassination. We believe that this is in no small part due to the defusing of tension at local level through the Peace Accord structures, whose credibility has been boosted by the presence of international observers.

Whereas when we first arrived, the Peace Accord structures received scant attention in the local media, now there is hardly an article on political tension in which the ‘thin orange line’ of local monitors, in their luminous jackets and waving orange flags, is not mentioned. Indeed, one newspaper has gone so far as to assign a full time correspondent to covering the structures of the Peace Accord in the PWV region and elsewhere.

In the following sections, we give some examples of how COMSA, in co-ordination with other international organisations, has endeavoured to bolster the work of the Peace Accord structures in particularly sensitive areas. These examples illustrate how tension can be defused through communication and appropriate action.

They also illustrate the many instances in which – with the best will in the world – neither local nor international monitors can prevent violence from getting out of hand. Such instances highlight the many longer term issues that have to be addressed concurrently: socio-economic reconstruction; improving police/community relations; and building a culture of political tolerance.

At the end of this chapter we suggest some ways in which the Peace Accord might be strengthened – many of which are already being considered – to meet the challenges ahead.

NATAL

In the period under review, COMSA continued its peace-making efforts in Natal. It launched new initiatives and consolidated those which were undertaken during the first phase of its operation in the province.

Ndwedwe

Ndwedwe is a vast, rural magisterial district some 60 kilometres north of Durban, with a population of between 350,000 and 400,000 people. Although the United Democratic Front (UDF) had been active in many of the chiefdoms of the district in the 1980s, the upsurge in political violence began with the unbanning of the ANC and the transformation of Inkatha into the IFP in July

1990. The unbanning of the ANC and the release of Nelson Mandela gave rise to a level of political activism rarely seen in Ndwedwe. And as in other parts of Natal, the ANC youth directly challenged the traditional authorities who were perceived as instruments and accomplices of the apartheid regime.

At about the same time, Inkatha embarked on a recruitment drive in Ndwedwe and in the ensuing conflict, thousands of ANC supporters and *asingeni* (people affiliated to no political party) were expelled from the district. Between March 1990 and the beginning of 1992 ANC supporters and the politically non-aligned were expelled from Wosiyane, Thafamasi, eMona, Umsundusi, Okunjini, Kwakhuleni, Kwazini, Umfolosi, Sonkombo and Umgame. Only Ngonweni and Mzinyathi, Mphepheteni and Osindisweni remained as ANC strongholds; and even then Ngonweni and Mzinyathi remained perpetually under pressure. By the end of 1992, Ndwedwe had become a *de facto* one-party district.

An attempt to set up a Local Peace Committee (LPC) in March 1992 failed largely because the initiative did not have the support and blessing of the chiefs. Another unsuccessful attempt was made later in the year to bring the ANC and the IFP together in a peace committee. It was after the failure of this second effort that the RPC approached COMSA to help bring peace to Ndwedwe.

On 27 January 1993, two representatives of COMSA called on Inkhosi Mzonjani Ngcobo, then President of the Regional Authority of Ndwedwe, the house of chiefs for the district. Inkhosi Ngcobo agreed to convene a meeting of the Regional Authority to consider COMSA's proposal for a peace initiative leading to the launching of an LPC for the area. Phineas Mfayela, a member of the KwaZulu Legislative Assembly also agreed to support the initiative. But it was the local magistrate, Moses Jabulani Mtsweni, who emerged as the principal driving force behind the initiative. He readily supported the idea and suggested that the meeting of the Regional Authority be widened to bring in all interested groups.

On 22 February, the Regional Authority duly assembled at the Magistrate's Court. Of the 22 chiefs in Ndwedwe, 18 were present at the meeting, together with *indunas*, the clergy, representatives of the IFP, the inspector of schools and the KwaZulu Police. COMSA explained that the principal purpose of the meeting was to obtain the support of the Authority for the establishment of an LPC in Ndwedwe and smaller peace committees in each chief's domain to supervise the return of refugees where required; compose political differences at the community level; supervise the reconstruction of houses and schools destroyed in the violence, and generally plan the long-term socio-economic development of the area. The Authority endorsed the proposal and it was agreed that an even bigger meeting be convened to which the ANC would be invited.

On 2 March, well over 300 people met in the courtyard of the Magistrate's Court. In addition to the chiefs, the IFP and the ANC were also represented, as were the RPC, the SAP, the KwaZulu Police, and the clergy. It was the first

meeting ever between the local representatives of the ANC and the chiefs. An interim LPC was launched, comprising representatives of the two main political parties – the ANC and the IFP – the two police forces, the clergy, the inspector of schools and the business community. Mr Mtsweni, the magistrate, was elected interim Chairperson with Martin Birtwhistle as interim Secretary. The chiefs subsequently designated two of their number to represent them on the Committee.

The first substantive meeting of the LPC was held on 21 March and high on its agenda was the return of refugees. Clearly, the *amakhosi* (chiefs) of the areas to which the refugees would be returning had to be involved in the process. Some of the refugees were returning to homes that had been destroyed and therefore needed temporary shelter and food parcels to tide them over. Then the Committee had to ensure that the communities to which they would be returning would receive them in the right spirit.

A task force comprising the Chairperson, two representatives each from the ANC and the IFP, a representative each from the KwaZulu Police and the SAP, and two Commonwealth observers was therefore appointed to prepare the ground for the return of the refugees, including consultations with the *amakhosi* of the areas to which they would be returning. The areas which would be most affected by the return of refugees included Sonkombo, Okunjini, Kwazini, Ngonweni, Embo and Ozwathini. The *amakhosi* concerned were P Ngcobo, M A Ngcobo and B Ngcobo. In Ngonweni and Inzinyati where through local initiatives there were already advanced plans for the return of the refugees, it was decided to proceed without further delay.

Two Commonwealth observers and the Chairperson were also mandated to meet the *amakhosi* and to impress upon them the advantages of having peace committees in their respective domains.

The appointment of the LPC received wide publicity in the provincial and national newspapers. The *Natal Mercury*, the *Daily News*, the *Johannesburg Star*, *The Citizen* and other newspapers all hailed it as 'a historic meeting'.

Ngonweni Peace Committee

Ngonweni ward forms part of the domain of Inkhosi Mzonjani Ngcobo of the Amaqadi. It was one of the first wards to set up a peace committee comprising members of the two political parties, the ANC and the IFP, to deal with basically local issues on the model of the peace committees which COMSA had helped to set up on the Lower South Coast.

Ngonweni had been particularly rent by the violence which swept through the area in the two year period between 1990 and 1992. One of the targets of the violence had been the Ngonweni Lithuba High School which had 550 pupils. It had been burnt down and subjected to further acts of vandalism, resulting in its closure. The re-opening of this school became one of the priorities of the Peace Committee. With the help of COMSA, it was re-opened on 14 March.

The re-opening of the school was followed by a joint rally of the ANC and IFP organised by COMSA with the support and assistance of Inkhosi Mzonjani Ngcobo. In his keynote address, Inkhosi Ngcobo appealed for political tolerance on all sides and pledged to play an impartial role of father to every member of his community irrespective of party political allegiance. In that spirit he appealed to all political parties active in the area to come out into the open. Representatives of the ANC and the IFP spoke in similar conciliatory tones, and the meeting ended with the *inkhosi* leading the assembled crowd in song.

Since the launching of the peace initiative Ndwedwe has experienced no major acts of violence. If the peace holds, and the indications are that it will, the LPC will soon embark on socio-economic reconstruction.

Ezingolweni

Ezingolweni lies 30 kilometres west of Port Shepstone. COMSA had already worked in two chiefdoms which form part of the Ezingolweni Regional Authority (KwaNdwalane and KwaMavundla) and had planned to help launch a peace committee in Ezingolweni at a later date after the necessary preliminary consultations had been made. But before the necessary background consultations could be completed, one of the *indunas* of the area was decapitated towards the end of February and the home of Aaron Cele, the senior *induna*, attacked and damaged. These outrages brought matters to crisis point, and COMSA was asked to intervene.

Aaron Cele explained that the outbreak of violence had come as a surprise to the community. Unlike KwaNdwalane and other neighbouring communities, Ezingolweni had experienced none of the inter-party political violence which swept through the South Coast between 1990 and 1992. The ANC had not been much in evidence in the area and they could not therefore attribute the outbreak in violence to political competition. Nevertheless, the traditional authorities – the *inkhosi* and the *indunas* – were prepared to meet with the ANC and the IFP to discuss peace. The only difficulty was that the traditional authorities did not know the local ANC leadership and they appealed to COMSA to arrange a meeting between the two of them.

The meeting was held on 12 March at the Magistrate's Court. The ANC delegation was led by George Mbehle, Chairman of the party's Lower South Coast region. The local *inkhosi's* delegation included the senior *induna* and other members of his Council. It was a cordial meeting and, at the end, the two sides agreed to work together for peace.

At the invitation of the Ezingolweni Regional Authority, COMSA addressed the Authority on 18 March on its work in South Africa in general and its peace-making efforts in Natal in particular. The *amakhosi* requested COMSA to address them again on 22 April. At this second meeting a number of *amakhosi* appealed to COMSA to come and work in their chiefdoms. They were particularly interested in the establishment of peace committees and in socio-

economic reconstruction (along the lines of what had been done in the Ensimbini Valley in KwaNdwalane and KwaMavundla). In the next phase of COMSA, Ezingolweni will receive priority attention.

Mehlomnyama

The other new initiative launched by COMSA during this period was in Mehlomnyama. Unlike the other areas where COMSA had worked in Natal, the conflict in Mehlomnyama was not a party political one of the ANC versus the IFP. It was essentially a faction fight between two wards – the Kwazini ward and the Bogadisa ward. There were various explanations as to what the issues in contention were; but whatever other factors fuelled the conflict it was clear that it had to do with land, and that it had been exacerbated by the fact that the area had been without an *inkhosi* for the best part of a decade.

Towards the end of February serious fighting broke out in the area and COMSA was approached by Practical Ministries, a charitable organisation based in Port Shepstone which also monitors violence on the Lower South Coast. On 11 March, with the assistance of the Station Commander of the SAP in Mehlomnyama, COMSA convened the first meeting of elders of all the eight wards of the area. That meeting provided an opportunity for the underlying issues of the conflict to be brought to the fore.

Both sides agreed that unless an *inkhosi* was appointed, there was little prospect of stemming the conflict. COMSA undertook to bring this matter to the attention of the Office of the Chief Minister of KwaZulu which has responsibility for chieftaincy affairs. In the meantime the problem remained of what to do while the KwaZulu authorities dealt with the matter.

On 20 March COMSA convened another meeting of elders at the police station, and after an extensive discussion, proposed the appointment of a Council of Elders to administer the place until the appointment of an *inkhosi*. The proposal was readily accepted and a council consisting of all the *indunas* of the eight wards and one member drawn from each ward was appointed. The senior *induna*, Simon Cele, was unanimously elected chairperson of the council. It was made clear that the appointment of the council would in no way prejudice the subsequent appointment of an *inkhosi*; neither would the council derogate from the powers of the *inkhosi* when he came to be appointed. It was also impressed upon the council that it would fall away as soon as an *inkhosi* was appointed unless he elected to keep it in an advisory capacity. Finally COMSA undertook to inform the magistrate at Enzumbé of the constitution of the council.

On 22 April, COMSA met the magistrate of Enzumbé and apprised him of the peace initiative in Mehlomnyama and of the appointment of the council. The mission explained that a lasting solution to the problem involved two aspects which were beyond its competence: the resettlement of people on reallocated land, and the appointment of an *inkhosi*. Only the KwaZulu authorities could deal with these issues and COMSA had taken the matter as

far as it could. The magistrate assured COMSA that the matter was already in hand and that he had in fact begun the preliminary soundings within the *umdeni* or 'family' to see who would emerge as a suitable and acceptable candidate for appointment as the *inkhosi*. He also said he would keep the mission informed of progress on this issue.

Consolidation in Port Shepstone and Umbumbulu

In addition to launching new initiatives in other parts of Natal, COMSA consolidated the work of its first phase in Port Shepstone and Umbumbulu.

- **Port Shepstone**

The LPCs appointed in KwaNdwalane and KwaMavundla as integral parts of the peace process launched in December last year have proved effective in maintaining the peace and have continued to serve as forums for regular interaction between the ANC and the IFP. How far the peace initiative has taken root in the community was demonstrated by the joint Peace Festival held on 28 March and much more pointedly when 10 ANC supporters were killed on 5 April.

At about 2 a.m., a group of armed men variously estimated at between 20 and 30 strong, and said to be wearing balaclavas, attacked a house in Murchison, a location a few kilometres south of Port Shepstone which forms part of the domain of Inkhosi Ndwalane. The attackers' target was a room in which some 12 young men were sleeping. They first threw grenades into the room and then fired shots from automatic weapons. At the end of the attack, which local people said lasted well over half an hour, 10 of the 12 were found dead.

COMSA visited Port Shepstone on the day of the killings, stopping first at the local ANC office. The ANC informed the mission that, although the ten killed were ANC supporters, the peace process in Port Shepstone was 'beyond destruction'. They added that they had given instructions to their supporters to co-operate with the police in their investigations. That spirit of calm restraint was reflected at the emergency meeting of the Port Shepstone Peace Committee later that afternoon.

The emergency meeting was significant for another reason. For the first time in several months, the IFP was represented at a meeting of the Port Shepstone Peace Committee, and in fact most of the ideas which were later incorporated into the press statement subsequently issued came from the IFP.

The statement condemned the killings and drew up an 'Action Plan' to heal the community and to 'protect and advance the peace process'. Two of the activities planned were a joint radio programme featuring the representatives of the IFP and the ANC and a community prayer meeting. There was also a meeting between the ANC and the IFP at Inkhosi Ndwalane's *skraal*, to examine what more could be done to safeguard the peace. It is to the great credit of the LPCs under the leadership of the two chiefs in the locality that the killings of

5 April have not resulted in tit-for-tat political killings or been allowed to undermine peace in the Ensimbini Valley in any other way.

But while the killings of 5 April have not undermined the peace, national events, in particular the murder of Chris Hani on 10 April and the subsequent mass action called by the ANC, have generated some tension in the community. The co-operation between the local leaderships of the ANC and the IFP will therefore be even more critical to the continuation of peace in the period ahead.

- **Umbumbulu**

The Umbumbulu LPC was the first peace committee which COMSA helped to set up in January 1993. It has, however, made little progress in the intervening period largely because of poor attendance at meetings. To help resolve the problems which stunted progress, COMSA suggested a meeting with the IFP alone on 25 April. At that meeting, the IFP explained the reasons for its poor attendance at meetings of the LPC. These included insecurity on the roads, lack of transport and poor communication between the local leadership and the grassroots. To facilitate communication, a co-ordinator was appointed to assist the local leader in disseminating information about meetings and generally helping to get members to meetings of the LPC. As a result, the LPC meeting held on 14 May was very well attended and led to the election of an Executive Committee.

Until the peace initiative launched by COMSA at the beginning of November 1992, Umbumbulu had been the most violent district in South Africa. Since then there has been a marked decrease in the incidence of violence. An effective LPC should pave the way for the inauguration of a programme of reconstruction.

PRETORIA–WITWATERSRAND–VAAL REGION

As in Natal, it has not been numerically possible to deploy observers to all the areas of the PWV, where there are 14 LPCs in operation and two in the making. COMSA has focused its attention on three areas – the Vaal Triangle, Ratanda/ East Rand and Alexandra – where the peace process is especially fragile, and where its skills were deemed most useful.

The Vaal

The Vaal Triangle – scene of the Sharpeville massacre in 1960, the Boipatong massacre in 1992 and the Sebokeng massacre during our presence here – is one of the most tense areas in the PWV region.

All the ingredients of violence are packed into this industrial area about an hour's drive south-west of Johannesburg. City councils are largely control-

led by the Conservative Party, and there is a considerable Afrikaner Weerstandsbeweging (AWB) presence in the area.

Relations between the police and community are among the worst in the region. Black police in the Vaal have demanded the removal of their white superiors alleging that they use illegal firearms to kill township residents. Township residents are convinced that the police have aided, if not been involved in, sinister attacks by masked gunmen that have sown fear and dread in the lives of local people.

Political tensions between the ANC and IFP – whose supporters in the KwaMadala hostel are alleged to have carried out the Boipatong massacre – are particularly marked in the Vaal. A significant presence of the PAC – whose supporters were the main victims of the Sharpeville massacre more than 30 years ago – adds a further dimension to the political complexities in the area. To crown it all, by its own admission, the ANC has frequently lost control of its youthful ‘self-defence units’ who erect barricades in the townships, exact ‘taxes’, and add to the fear.

At the time of our arrival, in October last year, the ANC had suspended its participation in the LPC in the aftermath of the Boipatong massacre, owing to increased tensions between the organisation and the police. The ANC alleged that the police had been involved in the massacre. Although no evidence for this could be found by a Goldstone Commission enquiry into the issue, the accusations and counter-accusations made it impossible for the LPC to function properly.

Despite its non-participation in the LPC, the ANC agreed to take part in an introspective Peace Summit in the Vaal, sponsored by the business community and attended by local and international observers. A full account of this summit, which pledged to curb the excesses of the ‘self-defence unit’, is contained in our first report. Shortly after the summit, the ANC resumed its participation in the LPC.

Early in the second phase of COMSA, we attended a sequel to the Vaal Peace Summit, in which all representatives of the LPC participated in a frank exchange that aimed to smooth some of the tensions between the different members. At the close of the workshop, all members of the LPC signed a copy of the Peace Accord anew as a symbolic gesture of their commitment to making it work.

To this end, the LPC announced the formation of three subcommittees: a standing task force on police/community relations; creation of a socio-economic task force; and an inter-party relations subcommittee to address barriers to free political expression and activity. COMSA attended several meetings of these newly formed subcommittees, especially the police/community relations subcommittee, where it had particular expertise to offer.

In later weeks, COMSA also attended the inaugural meeting of the Vaal Negotiating Forum, one of the many that have sprung up in response to initiatives by business and labour to encourage discussion on economic issues

(see also Chapter 8). This particular Forum has proved one of the most difficult to get off the ground.

Tensions in the first meeting ran high, especially after one white participant announced that he was not in the habit of negotiating with blacks. None the less, skilful chairing of the meeting by a representative of the Consultative Business Movement ensured the launching of the Forum, and of another structure for dialogue in this troubled zone.

Sadly, a recent series of renewed incidents have all but wrecked these initiatives, making many parts of the Vaal no-go areas, fuelling accusations and counter-accusations, and once again strengthening the hand of unruly youth.

Tension started to rear its ugly head again in early February with the distribution in Boipatong of an anonymous note threatening revenge for the killing of a KwaMadala hostel inmate. The note raised fears of another Boipatong-style massacre, prompting local and international observers to visit the area, talk to residents of Boipatong and KwaMadala, and plead for calm.

The IFP, suspected of distributing the inflammatory note, denied doing so. Observers had the impression that the sophisticated distribution of this note may have been carried out by a third party. A COMSA observer with police experience who had been following the case put together a detailed memorandum on steps that could be taken to trace the origin of the note. (See *Annex IV*.)

On 28 February, this memorandum was forwarded by the COMSA Chairperson to the police, Peace Secretariat and the Goldstone Commission. At the time of writing, COMSA had been informed that preliminary enquiries were initiated as a result of this intervention, but no information had been supplied about the outcome of these enquiries. The very fact that an interest had been taken in the forces bent on destabilising this volatile zone helped to ease tensions at the time.

These tensions have again surfaced in the aftermath of the Hani assassination:

- During commemoration ceremonies on 14 April, the life of an IFP member of the Vaal LPC was threatened by youths while she was out monitoring events. She had to be rescued by ANC members of the LPC, the LPC Chairperson and international observers. The ANC says the IFP member was warned of the danger of going into the zone. She says she was not offered adequate protection. At the time of writing, the IFP had temporarily withdrawn from the LPC because of this incident.
- On 17 April, after the LPC successfully intervened to make possible a march that had been declared illegal by the Conservative Party-dominated council of Vanderbijlpark, two ANC supporters were killed by a white man, with alleged right-wing leanings, who drove into the crowd and indiscriminately fired shots. Racial tensions have been further exacerbated by the desecration of graves in Sharpeville, allegedly by the AWB, in retaliation for the destruction of graves in the Boksburg cemetery during the Hani burial.

- During the hours of darkness on the night of 18/19 April – the eve of the Hani funeral – 21 men, women and children were gunned down in Sebokeng. The ANC alleges that a band of former policemen calling themselves ‘CODESA’ (some of whose homes had been destroyed by ANC youth) have formed a vigilante group which may have been responsible for the murders. As in the case of the Boipatong massacre, the ANC alleges that police armoured vehicles were spotted moving in convoy with the Cressida car from which the shots were fired. The police deny involvement, but acknowledge that the deep-seated suspicions of the police within the community are hampering investigations. ANC youth staged a sit-in at police headquarters in the Vaal and demanded that the police withdraw from the LPC. At a subsequent LPC meeting, the ANC accused the police of making very little headway in the Sebokeng investigation, and of simply arresting seven persons, prior to the funeral on 28 April of those slain at Sebokeng, to defuse possible tension.
- Although the funeral for the Sebokeng victims was peaceful, tensions surfaced between the ANC and PAC, which turned out in large numbers, fired shots, and shouted ‘one settler, one bullet’ at white observers present.
- The ANC appears to be under pressure from its youth to withdraw from the LPC, but so far has resisted doing so.
- The murder of a black TV reporter, and serious injury of his white cameraman, in the area has numbed the media community, which showed its anger in a march in Sharpeville.

The incident raises serious questions about the safety of international observers in the area. Yet, if the fragile peace that had started to be observed in the Vaal is ever to be restored, the area will require priority attention. At one level this involves the routine attending of meetings, expressions of support, and private cajoling of all parties to remain in the peace process. It may also call for more.

Starting with our own initiative to prompt the Goldstone Commission to investigate the possibility of a ‘third party’ being involved in distributing the Boipatong leaflets, we have become acutely aware of the deep-seated belief in a ‘third force’ operating in the Vaal. The issue has come alive again with the Sebokeng massacre which – although swamped by all the news surrounding the Hani assassination – is suspiciously similar to, and no less devastating than, the Boipatong massacre.

Whether or not there is a ‘third force’ at work in the Vaal, peace cannot be restored in this troubled community if the truth is not revealed. The ANC does not trust the police to deliver the truth, and at the last LPC meeting requested that international observers become involved in the Sebokeng investigation. This request merits further attention.

For the longer term, we believe that the only way to harness the energies of the youth in this troubled area, where unemployment runs at over 50 per

cent, is through meaningful socio-economic reconstruction projects. COMSA has spent time with concerned community leaders in the Vaal, helping them to identify projects, and to identify funding sources.

Ratanda/East Rand

We became involved in this area of the PWV because of the difficulties encountered in getting an LPC off the ground, and the tense relations between the police and the community.

In our report on the first phase of COMSA (*page 46*) we reported an incident in which COMSA intervened to defuse a tense situation in Ratanda created by the arrest of a member of the community after a scuffle with the police over the attempt to arrest a 'wanted' man during a funeral. COMSA brokered a deal in which the police agreed to release the community member, on condition the community helped to locate the 'wanted' man and turn him in.

Subsequently, the ANC found the man working in their headquarters in Johannesburg, and contacted the LPC Chairperson, as well as the COMSA observer who had brokered the deal. The man was handed over to the police at ANC headquarters on 8 March, in front of the LPC Chairperson and the COMSA observer, following assurances that the man would not be hurt, and would be afforded due legal process.

This follow-up to the initial agreement – which came somewhat unexpectedly – was a positive factor in the development of police/ community relations in the area. But further problems surfaced.

Early in the second phase, COMSA participated in a weekend seminar which – in the tradition of the Vaal workshop – sought to bring together all members of the LPC in a quiet environment to work out their differences. Considering that until then the LPC had consisted of only the Chairperson, the workshop went extremely well. However, participants were disappointed that the police initially boycotted the meeting, and at the last minute sent a warrant officer who was not normally involved in the area.

Matters came to a head at the first LPC meeting, when the police officer giving an update on violence in the area chose to speak in Afrikaans, drawing protest from black participants. The Chairperson upheld the right of the policeman to speak in the language of his choice (others that day had made submissions in Zulu) and offered to translate.

But the response of the black participants prompted an officer from the Internal Stability Unit (ISU) and two detectives to storm out. The police officer making the report followed his superiors. Only the warrant officer who had attended the LPC weekend workshop remained.

In COMSA's view, the police officer, knowing the sensitivities of the Afrikaans language, and being conversant in English, did not exercise good judgment. COMSA felt that the senior officers who had stormed out had exercised especially poor judgment.

The COMSA observer present (who had a police background) agreed to talk to the police along with the warrant officer and LPC Chairperson. First, however, the remaining members of the LPC agreed to apologise for their outburst.

In the end, after lengthy discussions with the policemen who had left, they returned to the meeting. Apologies were offered all round and the meeting resumed. Subsequently, COMSA received the letter attached at *Annex V* from the warrant officer. It is a small but significant illustration of the practical assistance that COMSA has offered in helping to strengthen police/community relations and, by extension, LPC structures.

Regrettably, tensions between the police and community continue to run high in Ratanda. During a march by students on 23 March, COMSA had to intervene when – sensing that the students were becoming unruly – the police under a lieutenant's command shouted that the students had two minutes to get into line before they fired. When COMSA sought to restore order, and to prevent the police from shooting, the lieutenant accused COMSA of interfering in the work of the police. The matter was taken up with police headquarters in Pretoria, and drawn to the attention of the NPS.

There is obviously a need for international observers, particularly with a police background, to continue to support the work of the LPC in Ratanda.

Alexandra

COMSA has continued to take an active interest in Alexandra, because of the problems faced in the township and the commendable efforts being made to reduce violence by the Interim Crisis Committee (ICC).

A year ago, a near war erupted between ANC and IFP supporters in the township, dividing the community into no-go areas controlled by one or other of the parties, and forcing thousands to flee their homes in the burnt-out area known as 'little Beirut'.

The ICC, which was formed on 1 April 1992, falls under the NPA, but views itself as more than an LPC in that from the outset it has emphasised the upliftment of the community as an integral part of the peace process.

The ICC and its several subcommittees – security, socio-economic development and communication – meet weekly and are action-oriented. In Chapter 8, we describe how the ICC has succeeded in bringing displaced persons home, and turning the area known as 'little Beirut' into 'reconstruction areas'.

COMSA attended a fund-raising meeting of the ICC to encourage the business community to contribute to socio-economic reconstruction. We also participated in a number of initiatives that have arisen in response to crises in Alexandra, such as the establishment of a Taxi Task Group to help resolve disputes between two taxi associations. A COMSA police officer specialising in commercial crime was able to advise this forum.

The ICC has frequently expressed its appreciation for the moral and

practical support offered by international observers. It is a good example of an indigenous structure that has grown from strength to strength, and will continue to serve the community long after international observers have gone.

THE GOLDSTONE COMMISSION

Throughout the period under review, the Commission of Inquiry Regarding the Prevention of Public Violence and Intimidation, chaired by Mr Justice Richard Goldstone, has continued its influential and well-publicised activities.

The Goldstone Commission, as it is widely referred to, has again demonstrated its unique capacity to act rapidly and decisively in response to crisis situations. After the Hani assassination, a preliminary enquiry was convened immediately by the Commission into the violence which flowed from the assassination.

The Commission, in a short statement about its findings issued on 30 April, drew particular attention to the historic agreements reached between the ANC Alliance and the SAP in relation to many marches around the country which involved hundreds of thousands of people. As noted in Chapter 5, probably the most vital of these was the agreement between the ANC and the police on the eve of a massive march through the streets of Johannesburg on 17 April.

Despite his public endorsement and praise for these initiatives, Mr Justice Goldstone also condemned the violence which had taken place.

On 30 April, the COMSA Chairperson and a member of the Commonwealth Secretariat had a meeting in Johannesburg with Mr Justice Goldstone. The meeting, which was at the invitation of the Judge, covered a range of topics including the potential scope and content of a submission by COMSA to the Commission on election issues.

At the meeting, COMSA expressed its concern at the continuing and open display of weapons at protests and demonstrations, including those which took place after the Hani assassination. Mr Justice Goldstone was asked about the status of the guidelines which his Commission had prepared for submission to the Government regarding such conduct. He confirmed that the guidelines had been drafted and provided to the Government in November 1992. To date no proclamation had been made giving them legal effect.

COMSA strongly urges that these guidelines be promulgated forthwith. In our view, the carrying of weapons of any type, and especially of firearms, at any gathering should be limited to the security forces in all but exceptional circumstances, such as on certain ceremonial or formal occasions.

On 28 April 1993, the Goldstone Commission presented its Final Report on the General Regulation of Gatherings to the State President. The report, which was submitted after extensive consultations with involved parties and

organisations, was said to be based largely on the recommendations made to the Commission by an international panel of experts in August 1992.

Having studied the report, COMSA believes that the draft bill contains the framework for the recognition of a democratic right to demonstrate and protest. Unlike the past, when legislation sought to obstruct public gatherings, the draft bill is designed to facilitate peaceful gatherings.

The Goldstone Commission is to be commended for its landmark efforts in promoting discussion and debate in this vital area of human rights. None the less, COMSA shares some of the doubts voiced by critics of the proposed bill. For example:

- The draft bill requires the convener of a gathering to give at least ten days notice of the intended event to a responsible official. While this official may 'on good cause shown agree to a shorter period', this proposal seems to be unduly restrictive and to provide far too much discretion to persons who have in the past shown scant respect for the democratic right of protest. Although a broad appeal process is provided for to the Supreme Court of South Africa to guard against this possible abuse of discretion, many potential applicants are likely to lack the time or the financial and legal resources required to mount such an appeal.

A preferable approach might be to require reasonable notice to be given by a convener, which should normally be no more than one working week (five days), or a lesser period 'on good cause shown'. Rather than relying in the first instance on the discretion of a responsible official to decide if adequate notice has been given, the presumption should be that it has and an appeal by the responsible official to the Supreme Court should constitute the method of challenge to that presumption.

- The draft bill also prohibits demonstrations in the vicinity of courts, buildings of Parliament and the Union Buildings. It is difficult to see why special measures are needed to secure such sites beyond those normally required to protect any official building, and to allow business to continue while a demonstration is in progress.
- The draft bill contains a number of provisions relating to the use of force by police. These provisions are likely to be controversial, given the continuing predilection of the SAP to use lethal force in questionable circumstances, like those prevailing at the Protea Police Station in Soweto. Included in the provisions is a proposed authority for police to use firearms and other weapons to prevent a person at a gathering destroying or doing serious damage to, or who 'shows a manifest intention of destroying or doing serious damage to, any valuable property whether movable or immovable.'

This particular proposed power is subject to the caveats that other methods of prevention are found to be ineffective or inappropriate; that the degree of force used must not be greater than is necessary for the prevention of the actions contemplated; and that the force used is 'mod-

erated and proportionate to the circumstances of the case and the object to be attained’.

The risk which this far-reaching protection of property provision creates is that the use of deadly force will be justified in circumstances where property alone is being threatened and not human lives. In a country which has had a long history of the use of excessive force by police it would seem preferable to circumscribe the use of deadly force to life threatening situations. A culture of policing must be fostered in South Africa which makes deadly force a last rather than the first resort when dealing with gatherings which get out of hand.

Another Commission initiative discussed with Mr Justice Goldstone at the 30 April meeting was the establishment, under the umbrella of the Commission, of a new Institute for the Study of Violence. This institute, which the Norwegian Government is to assist with funding and technical assistance, is intended to provide a comprehensive computer-based information service concerning incidents of public violence and intimidation. Mr Justice Goldstone told COMSA that the institute would strengthen the capacity of his Commission to carry out its mandate.

The formation of this new institute in association with the Goldstone Commission is a welcome development. COMSA’s own experience and difficulties in obtaining comprehensive, accurate and reliable national information about incidents of violence has pointed to the need for a well-funded, independent and authoritative body to gather this type of data.

Both the HRC and SAIRR have to a degree met this need in the past, and COMSA has been provided with much valuable information from these NGOs. Other valuable sources of information about violence in South Africa have been the Centre for the Study of Violence and Reconciliation based at the University of the Witwatersrand, the Pretoria-based Human Sciences Research Council, and the Independent Board of Inquiry in Johannesburg.

It remains unclear quite how the new institute will relate to these existing organisations, and to other official providers of information about violence such as the SAP and the Department of Justice. The strength of the non-governmental network is its ability to source information from the grassroots, which frequently is not available either to the police or the media. The new institute will be confronted with a difficult task in setting up its own system to receive and verify information about violence.

It is hoped that the institute takes up the issue of criminal violence, as much of the current attention to trends in violence in South Africa has focused on ‘politically motivated’ incidents. This focus is understandable, yet most violence in the country is not politically linked. This type of violence requires further study with a view to developing realistic prevention policies.

Overall, COMSA remains impressed by the work of the Goldstone Commission, and its capacity to undertake such a volume of activities with limited resources. The activities are in fact so varied that it has proved difficult

to keep abreast of them all, and to monitor the degree to which the many recommendations flowing from the Commission have been implemented.

Mr Justice Goldstone told COMSA that he was pleased with both the response to his reports and the implementation of recommendations. He stressed that a key role of the Commission is to facilitate discussions and debate on violence and intimidation. In this context the work of the Goldstone Commission will become even more crucial in the period leading up to democratic elections in South Africa.

GENERAL COMMENTS ON THE PEACE ACCORD

In our first report, we suggested ways in which the Peace Accord might be strengthened, many of which were already under consideration. We do not wish to repeat those points here, save to highlight a few critical areas.

- **Extent of participation:** The non-participation of certain groups, particularly those to the left and right of the political spectrum, and of a number of the 'homelands', weakens the agreement. In Chapter 2, we detail the problems that we have faced in Bophuthatswana, in part caused by the fact that this territory is not a signatory to the Accord. In Chapter 5, we note how the non-participation of parties like the PAC in the Accord has made it difficult to plan mass gatherings effectively where these parties are also involved. The National Party, in a submission on violence to the multi-party talks, recommended that all parties to the talks be obliged to sign the Accord. We are against such a coercive approach. But we urge all those who remain outside the Accord to look once more at its provisions and reassess their reasons for refusing to become signatories. This matter is especially urgent in the run-up to the elections, given the potential danger, which we highlight throughout this report, of escalating violence during this period.
- **Commitment to the Accord:** We noted earlier some improvement in the attitude of signatories to the Accord. But we are disappointed that the planned meeting of leaders of signatories to the Accord has still not materialised, apparently because they are busy with multi-party talks. More enthusiastic support from leaders for the Accord would go a long way in strengthening it.
- **Breaches of the Accord:** Redressing breaches of the Accord is a complex issue. Most recently, the South African Government has been looking at legislative measures that might be taken, including imposing criminal sanctions upon transgressors. We believe that the strength of the Accord is its moral authority. We doubt that punishment, which in any event will be very difficult to impose, will succeed. We recommend that instead those involved in the Accord consider employing forms of 'reintegrative shaming' – or publicity of breaches – to get transgressors to realise their errors

and mend their ways. This approach has been shown to succeed – for example, in getting large corporations to change their habits towards the environment – far better than any form of punishment.

- **Nature of Participation and Grassroots Support:** It is encouraging to note broadening participation in the Peace Accord structures in many localities. But the racial and gender imbalance, especially at senior levels, continues to be a concern, not least because the issue is so often side-stepped at policy meetings. Unless the Peace Accord truly mirrors the society it serves, its efficacy will be weakened.
- **Publicity:** The launching of the NPA symbol – two doves side by side, carrying an olive branch – has sparked the imagination of millions, and most important, the youth. The efforts of the marketing subcommittee of the NPA are to be commended. However, at a meeting of regional chairpersons convened by the NPS in February, we were concerned to learn that corporations are more keen to fund static advertisements than peace rallies and cultural events. Our experience is that these interactive events have tremendous value and a greater impact on the majority of the population, many of whom are illiterate. We urge that publicity efforts take such factors into account, and that those who support them take a broader view of promoting peace.
- **Shift in Focus to Socio-Economic Reconstruction:** We warmly welcomed this development in our first report and devote a chapter to the issue in this report. There appears, however, to be some confusion in the renaming of regional and local committees, some of which are still referred to as ‘dispute resolution committees’ rather than ‘peace committees’. We suspect that this is not just due to bureaucratic inertia, but also because the message of tackling the deep-seated causes of violence has not filtered through to regional and local levels. We urge that attention be paid to this matter.
- **Full Implementation of Key Sections of the Accord:** Efforts to give the Accord muscle, through the appointment of justices of the peace and expediting court proceedings, have progressed slowly. Some concern has been expressed over the legislation relating to justices of the peace, which gives them wide powers, and might be one explanation why members of the public have been reluctant to volunteer for these posts. COMSA participated in a seminar to clarify these issues and offered the benefit of its experience from member countries.

To date, we are aware of very few cases that have been expedited through recourse to the provision of the Accord on Special Criminal Courts. The Transvaal Attorney-General, Klaus Van Lieres und Wilkau, told COMSA that he had not used the provision at all. In his view, the main problem was not one of expediting trials but rather of getting witnesses to testify. This issue is dealt with in more detail in Chapter 6.

The Police Board provided for in the Accord is becoming more prominent, a development that we warmly welcome.