

CHAPTER 9

Observations

Violence and the March to Democracy

As South Africans move within reach of democratic elections, a daunting array of obstacles lies ahead. Of these, none has assumed such a fearsome and pervasive presence as violence.

The assassination of Chris Hani provided a shocking reminder to South Africans of the fragility of their efforts to achieve a peaceful transition to democracy. Those responsible for Mr Hani's murder seemed all too aware of the impact that a single act of violence could have upon the peace process. It is to the great credit of the leadership of the nation, and especially of the ANC Alliance and the Government, that Mr Hani's death was not allowed to become a trigger for the eruption of further violence.

In the wake of the assassination, there have in fact been encouraging signs that a new sense of urgency and realism is permeating political negotiations. While some would still wish to forestall decision-making about this transition to democracy until violence has been brought completely under control, a strong consensus appears to have emerged among the majority of leaders that negotiations should not be held hostage to violence.

In the report on its first phase, COMSA expressed a similar view, and also emphasised the importance of 'building in a culture of political tolerance'. In COMSA's judgment no single issue requires more forceful and repeated emphasis if South Africa is to achieve a successful transition to democracy.

Evidence of an emerging culture of political tolerance can be discerned amid the legacy of bigotry and hatred still evident in South Africa. Perhaps nowhere has this new spirit been better personified than at a recent meeting conducted by the ANC Alliance in Parow, a suburban area of Cape Town known for its strong right-wing allegiances. An overflow crowd at this meeting was addressed by, among others, a nephew of the late President H Verwoerd, who has now joined the ranks of the ANC. A strong police presence assisted in maintaining a peaceful gathering.

If free and fair elections are to take place in South Africa the example of Parow will have to be repeated in countless places across the country. Political candidates and parties of all persuasions must be able to campaign openly and fearlessly wherever they choose. Vigorous competition must be allowed in the

exchange of political ideas and opinions without the threat of violent retaliation against those espousing unpopular policies or views.

In the course of this report we have drawn attention to a number of ways in which a culture of political tolerance can be facilitated in South Africa in the critical period leading up to elections. These include:

- **Setting an Election Date**

This is crucial to provide a focus for the nation. We urge that there be no further delay in setting such a date.

- **Public Gatherings**

A key to the conduct of a successful election campaign by any party must be an ability to hold public gatherings. In Chapter 4, under the section on the Goldstone Commission, we referred to the ongoing debate about the type of legislative protection which should be provided to ensure that a genuine right exists peacefully to demonstrate, rally and otherwise express views publicly throughout South Africa. COMSA remains concerned that the legislative proposals currently being advanced by the Government, and the Goldstone Commission, are unduly restrictive. This debate needs to be resolved very rapidly, and in a way which ensures the maximum freedom possible to hold public gatherings.

- **Weapons**

Linked to the issue of conducting public gatherings is the still festering problem of weapons being possessed and displayed on such occasions. COMSA states, unequivocally, that weapons of any type should be barred from public gatherings unless they are in the hands of the security forces or, in exceptional circumstances, related to some ceremonial or formal event. We urge the Government to give immediate effect to the guidelines developed by the Goldstone Commission on this subject.

We have also referred in this report, and in our report on phase one of our mission, to the urgent need for the implementation of a national policy to curb access to firearms. Without such a policy the risks of a bloody conflict, possibly escalating into civil war, are drastically increased.

- **TBVC States**

An integral part of any plan to allow for free and fair elections to take place in South Africa must be the reintegration into the Republic of the TBVC states. Our two reports document in some detail examples of the climate of political intolerance which currently pervades these regions of South Africa.

Reincorporation will begin the process of reconciliation and the building

of tolerance that has already advanced to a substantial degree elsewhere in the country. In COMSA's view the Government's time to seek a negotiated settlement with the TBVC states for reincorporation has all but expired. Recalcitrant jurisdictions must be made aware of this fact and if necessary, be persuaded to reincorporate through the termination of all financial aid provided by the present Government.

- **Destabilising Forces**

Continuing and deeply troubling signs remain of covert operations designed to destabilise the peace process. In addition to the example of the Hani assassination, our report makes mention of other alleged right and left-wing attacks which seem bent on frustrating a peaceful transition of power. We note with particular concern the incident referred to in Chapter 4 which suggests that elements of the security forces may have been responsible for the dissemination of inflammatory and false information in the Boipatong area. Enquiries into this incident are believed to be still in progress.

- **Media**

A robust and open media presence is a further essential ingredient in the building of a culture of political tolerance in South Africa. There are encouraging indications, noted in our report, that this presence is being bolstered by changes in the structure and operations of the SABC, and by the future establishment of an Independent Media Commission.

These pleasing developments are unfortunately somewhat diminished by the growing evidence of violence directed towards members of the media. We refer in our report to the fatal attack upon a SABC reporter, and near-fatal attack on his colleague, as well as other incidents involving injuries to journalists. These incidents give cause for substantial concern, and point to the need for a much more concerted effort to be made to persuade South Africans about the role performed by the media in advancing freedom of speech.

The National Peace Accord

In both of our reports we have devoted substantial attention to our work within the framework of the NPA. This work has led us to form a high regard for a unique agreement that captures so much of what is positive and forward-looking in South Africa.

The Accord is itself a major contribution towards the development of a climate of peace and political tolerance. We have no doubt that by giving life and substance to the Accord's provisions the national, regional and local peace structures have been able to achieve a significant diminution in the levels of political violence reported over recent months in many parts of the country.

Trends in politically motivated violence are discussed in some depth in

Chapter 3. These show a distinct downturn in the PWV area prior to the Hani assassination. It is our fervent hope that these downward trends can be restored in the PWV area and realised in the still volatile Natal region.

In the period leading up to the elections, the NPA structures will be tested to the limit. Much of the work of the national, regional and local peace structures established under the Accord will almost certainly involve election-related activities. It seems very unlikely that new and separate structures can or should be established to assist with the monitoring of public gatherings associated with political rallies and allied electioneering activities.

Peace monitors will, in essence, become election monitors – a role which will further test their abilities to remain neutral and independent in difficult circumstances. In tandem with international observers, whose numbers will be small in comparison to local peace monitors, they will play a key role in allowing the democratic process to proceed. In this regard, further attention may need to be given to the training of local monitors in the skills of conflict resolution, peace-keeping and observing.

Criminal Justice Reform

• The Police

The nature of the work of all international observer groups in South Africa has brought them into close and continuing contact with the SAP and other security forces in the country. In the case of COMSA, these contacts with the police have now developed well beyond encounters made in the context of monitoring public gatherings. The experience and professional background in policing of a number of COMSA observers has resulted in their beginning an important and continuing dialogue with the SAP. This dialogue is now resulting in the provision of advice and assistance to the SAP, when requested, on a range of issues associated with a fundamental transformation of the police from a force to a service.

Chapter 7 of this report is devoted to a discussion of COMSA's association with the SAP, and suggestions on how the SAP might adapt itself to a new South Africa. We have been greatly encouraged over the months that our mission has been in the country by the changes we have observed in the policies and practices of the SAP. Nowhere has this change been more dramatically demonstrated than in the agreements entered into, and honoured, by the SAP with the ANC Alliance and other groups to facilitate the conduct of peaceful public gatherings. We concur with the view expressed by the Chairperson of the NPS in his recent report to the South African Parliament that the SAP's strong-arm image is beginning to dissipate, and that its relations with the black community are improving.

We believe that the presence of COMSA in South Africa has assisted in a modest way in facilitating these developments. We also hope that our mission will continue to contribute in this area during the next phase of our work.

Enormous tasks remain to be performed to transform into credible bodies not only the SAP but also other policing bodies in the 'homelands'.

● **Administration of Justice**

Massive change is required in other areas of criminal justice in South Africa, as we indicate in Chapter 6. The present system of justice remains marred by its apartheid trappings. It is a system which is still largely administered by white South Africans for a clientele which is overwhelmingly non-white. Many of the deficiencies in the present system listed in Chapter 6 are well known and documented including:

- a lack of access to legal advice for most persons caught in the system;
- detention for the purposes of interrogation;
- restrictive bail provisions;
- inadequate witness protection schemes;
- widespread use of imprisonment for most crimes;
- thinly developed community-based corrections programme.

Less well known and documented are the operations of South Africa's prison system. In the past this system has been virtually impenetrable to all but those caught up in its web. Today that situation is changing. COMSA has been fortunate to be one of the first groups to have been granted access by the Department of Correctional Services to a range of penal institutions, including Robben Island and Pollsmoor within whose walls were held for many years the leaders of the apartheid resistance movement.

Chapter 6 provides a brief overview of some of the principal impressions gained by COMSA from its prison visits and discussions with corrections officials. On the positive side, an impressive spirit and commitment to change exists among those whose responsibility it is to run South Africa's correctional system. After decades of isolation there is a keen desire to learn about modern correctional practices. This desire appears to be matched by a refreshing willingness to open up the correctional system to public scrutiny and accountability.

On the negative side is the stultifying reality of a correctional system that is bursting at the seams, yet which is expected to cope with ever-increasing numbers of inmates. South Africans are not alone in believing in the merits of harsh punishment as a deterrent to criminal behaviour, but the country's rates of imprisonment remain among the highest in the world. Until 1990, when a moratorium was placed on executions, South Africa's rate of capital punishment was also one of the highest.

We suspect that, with a burgeoning crime problem, and a frighteningly high murder rate, there is little public sympathy for more liberal sentencing policies and practices in contemporary South Africa. COMSA still believes that

much can be done to alleviate the pressure on South Africa's jails and improve the conditions under which offenders are kept in custody, including:

- expanding the use of alternatives to imprisonment, such as correctional supervision, which costs a fraction of the expense of a prison sentence;
- providing judicial officers with a range of information about non-custodial sentencing options, and encouraging them to put such options to use more frequently;
- liberalising bail conditions for non-violent offenders;
- ending the detention of children in the adult prison system;
- encouraging, within the prison system, regular visits by judicial officers to witness at first hand the conditions to which offenders are being sentenced;
- providing much expanded and meaningful work, recreational and vocational programmes within prisons;
- providing more liberal visiting privileges and facilities in all prisons, but especially in maximum security institutions;
- re-classifying prison accommodation in order to provide more minimum security facilities;
- developing work-release hostels to facilitate the release of offenders into the community.

Most of the measures that have been suggested here are not expensive and, in the case of an expanded work programme, may well increase correctional revenues. What, in essence, is required is a fresh philosophy of punishment which pays much less attention to retribution and much more to rehabilitation and the reintegration of offenders back into society.

Socio-Economic Reconstruction

It is not only in the prison system that new opportunities must be found for employment and vocational training. One of the most formidable tasks facing any newly-elected government will be that of providing jobs for millions of unemployed citizens, and undertaking socio-economic reconstruction.

Even before the elections the establishment of a TEC should unlock major sources of international funding to assist with the rebuilding of the South African economy. This should act as a further incentive to those engaged in negotiations.

COMSA and the Future

COMSA has now maintained a presence in South Africa for almost eight months. This presence has at no stage been open ended – each phase of

COMSA's mission has been carefully reviewed and decisions have been made, on the basis of experience, about the continuing commitment of both observers and Commonwealth Secretariat staff.

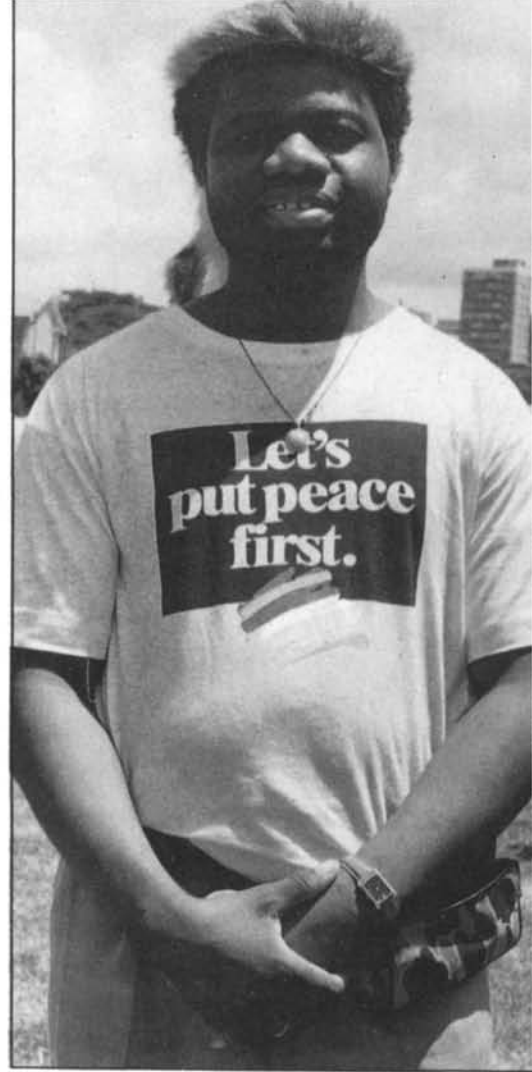
In moving towards a third phase, the Commonwealth Secretary-General is now consulting Commonwealth governments with a view to extending COMSA's brief until such time as the first truly democratic elections are held. It is envisaged as part of this decision that:

- the Secretariat will maintain an office and presence in Johannesburg and Durban;
- observers from a range of Commonwealth countries will continue to be attached to these offices;
- those observers will continue their work within the framework and scope of United Nations Security Council Resolution 772. This work will be undertaken in close collaboration with other international observer groups, and with the structures of the NPA;
- in settling upon the expertise which is sought among those who are invited to participate as observers, particular attention will be given to policing and allied skills which have proven to be of value in the first two phases of COMSA's work;
- attention will also be given to attracting observers who could assist in the development and transfer of peace facilitating and mediating skills, such as those used to good effect by COMSA in its work in Natal.

Over recent weeks there has been substantial speculation, some of which has been reflected in the South African media, about COMSA's future. This speculation has included rumours that COMSA was going to withdraw its entire mission, or at least terminate its activities in Natal.

In this report we hope that we have dispelled both rumours, and given a broad view of our future plans. In formulating these plans we have been deeply gratified by the strong and unsolicited requests we have received from a number of NGOs, and individuals, to continue our mission. We have included copies of two of these requests in *Annex VI*. We very much hope that we can maintain the trust and confidence of those who have indicated their support for COMSA.

Photographs of COMSA's work by:
Peter Stevens
Dale Gunthorp
Charlene Lee Ling

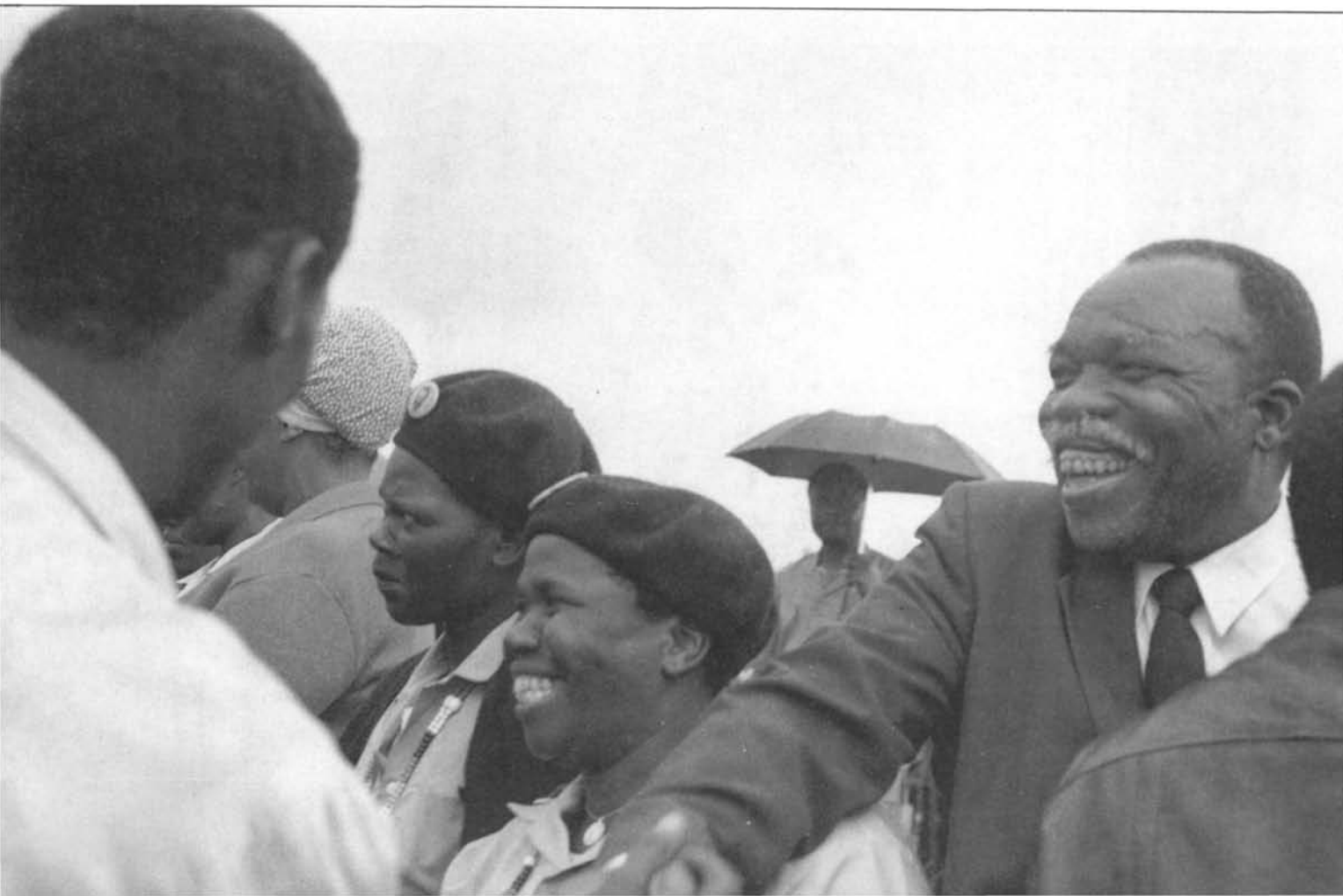


The quest for peace

Top right: Inkatha-allied youth in Durban

Top left: ANC and IFP supporters at Umbumbulu reconciled under an initiative of the tribal authorities brokered by the LPC and COMSA

Below: a community reunited: peace in KwaNdwalane

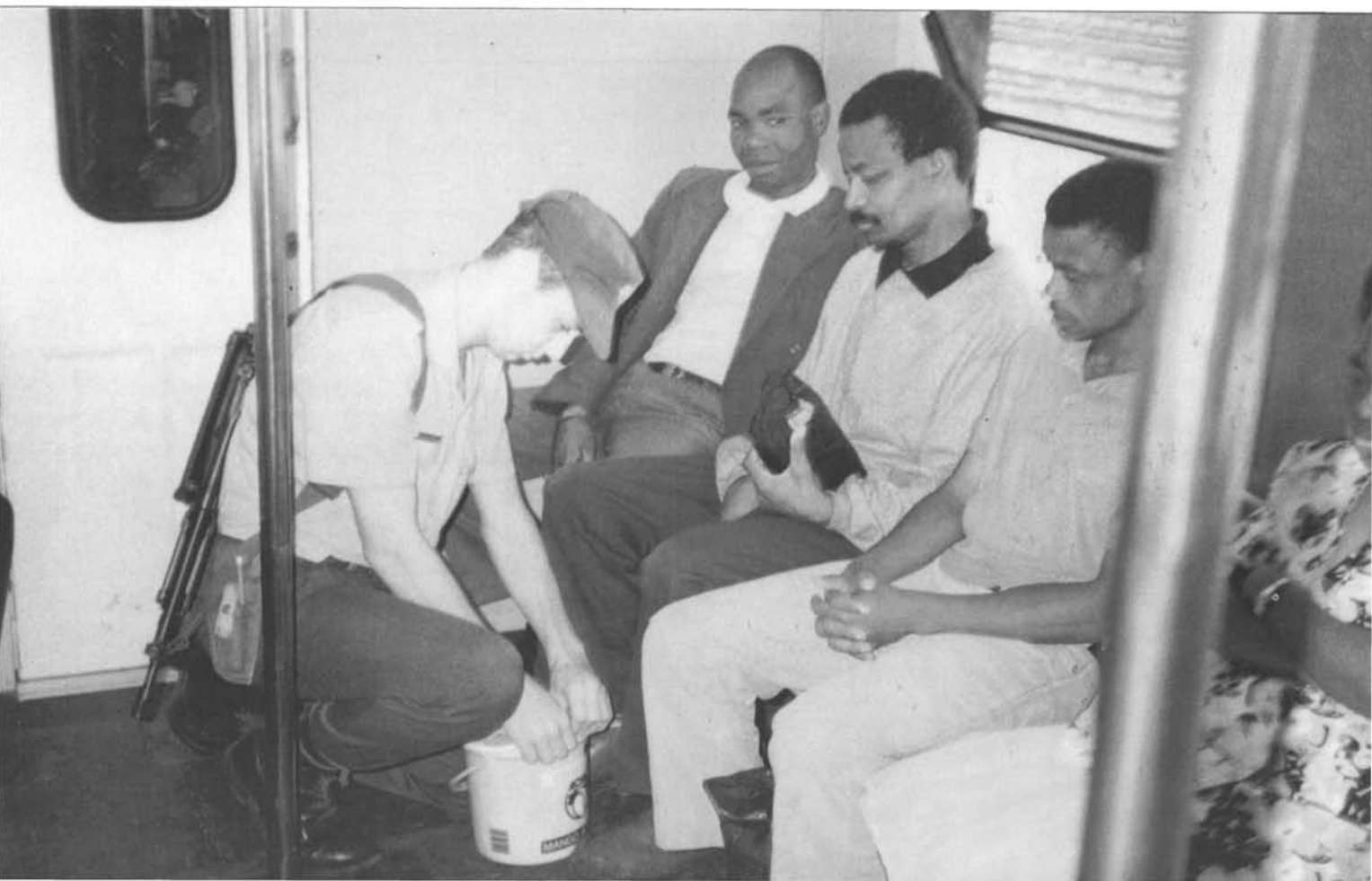




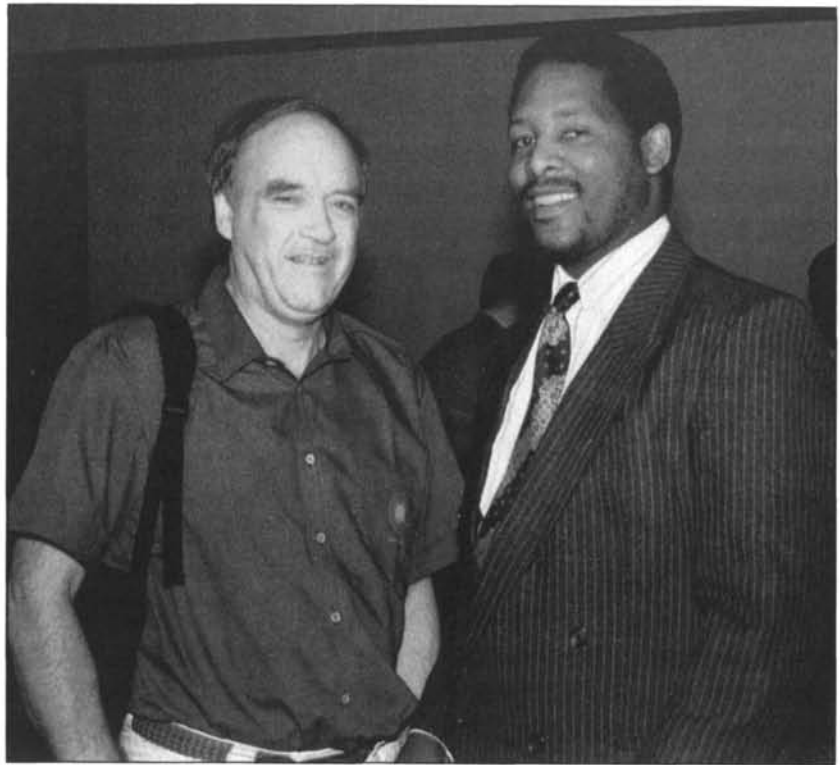
Dealing with train violence

Top: police escort a train driver from terminal to his cab

Below: police search passengers and their baggage



COMSA's Phase II
Chairperson, Professor
Duncan Chappell (l),
offers encouragement to a
young *inkhosi* who finds
his duties arduous



At the funeral of the wife of a local IFP leader allegedly murdered by ANC supporters: COMSA's Natal leader, Professor Simbi Mubako (c) is approached by the region's senior chief and Chief Whip of the KwaZulu Legislative Assembly, Inkhosi Khawula (r), to ask if the Commonwealth can help stem the bloodshed in the area and also in the domains of Inkhosi Mavundla (l) and Inkhosi Ndwalane

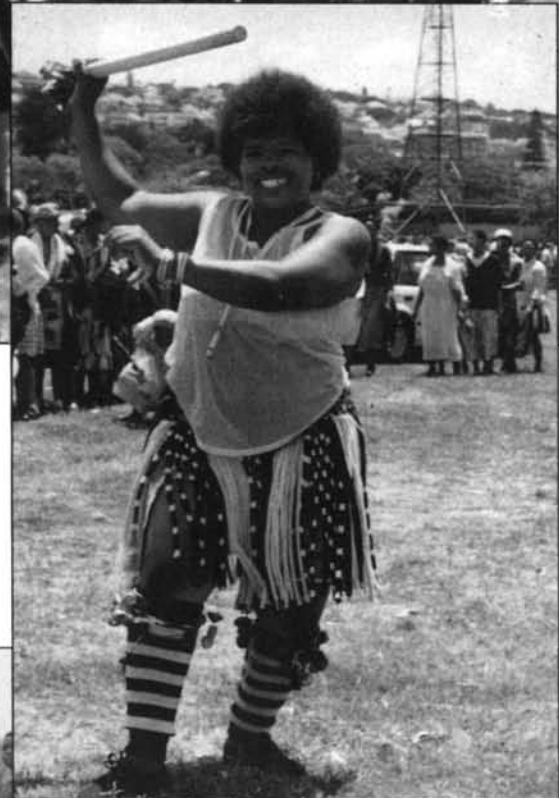


Observing

Top: International observers (UN, COMSA, EC, OAU) and local monitors visit prisoners held at Soweto Police Station

Below: Under the watchful eye of observers and police, an ANC woman leader from Adam's Mission asks the associates of the local *induna* (men with backs to camera) for refuge at the *kraal* during night attacks





Cultural weapons

Top: on a Zulu cultural march through Durban

Right: in a ceremonial context

Below: at a reconciliation meeting brokered by COMSA





Keeping order

Top: ISU officers await the arrival of marchers

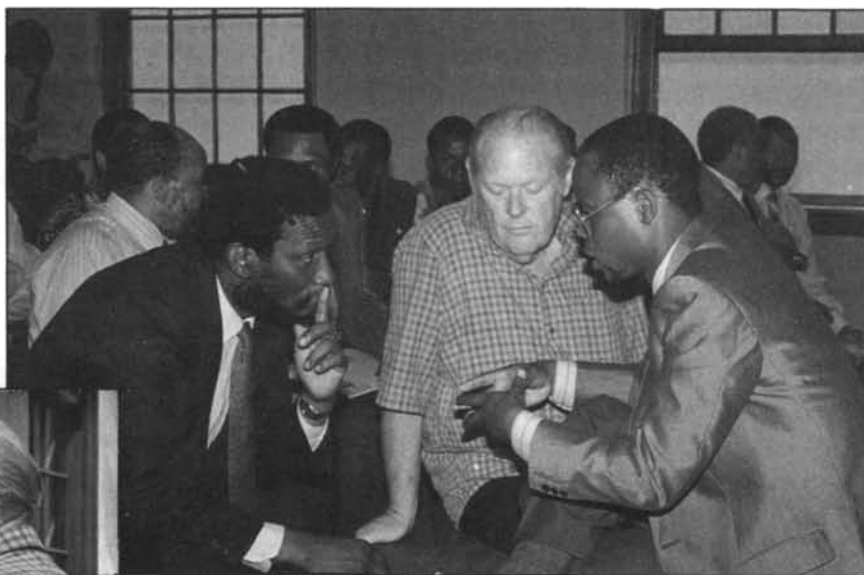
Below: ANC marshals form a chain to prevent their supporters invading IFP ground





Negotiation between the acts

Top: Observers Dr Moses Anafu (c) and Maj-Gen Evaristus Armah (behind) offer advice to Inkhosi Ndwalane (r) and Prince Madlala (l) at a tricky moment in the appeal for peace



Umbumbulu peace meeting stalls

Above: Dennis Nkosi of the LPC (r) appeals to ANC delegates Bheke Cele (l) and Gary Munson for calm
 Left: Commonwealth observer Dr Moses Anafu (l) reinforces the appeal





Making peace

Top: Supported by Commonwealth observers, Inkhosi Wellington Hlengwa appeals to the community to end violence and allow displaced people to return

Below: ANC community member (l) is welcomed back

