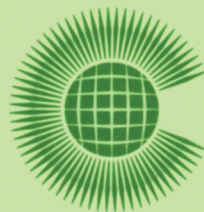


VIOLENCE IN SOUTH AFRICA

The Report of the Commonwealth Observer Mission
to South Africa

Phase II: February – May 1993



COMMONWEALTH SECRETARIAT

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1993

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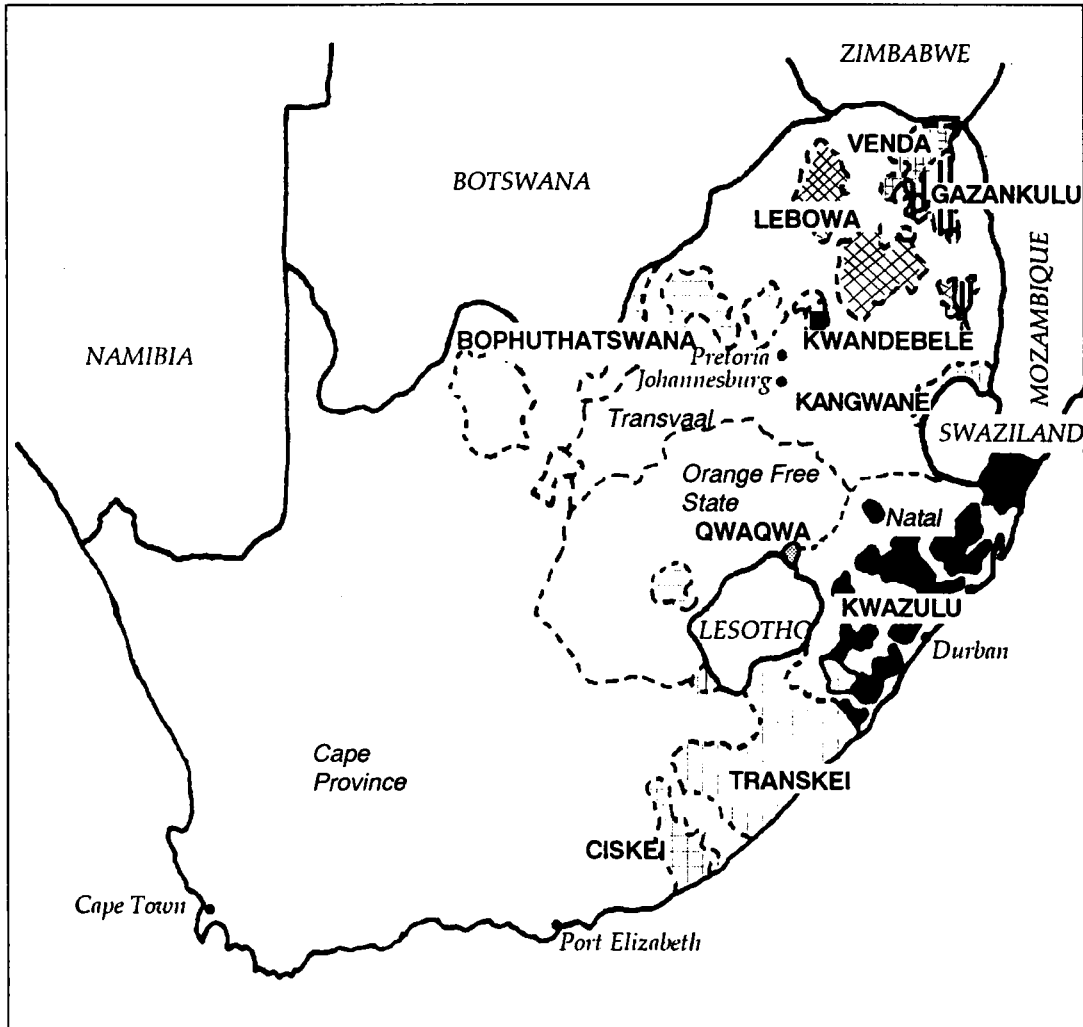
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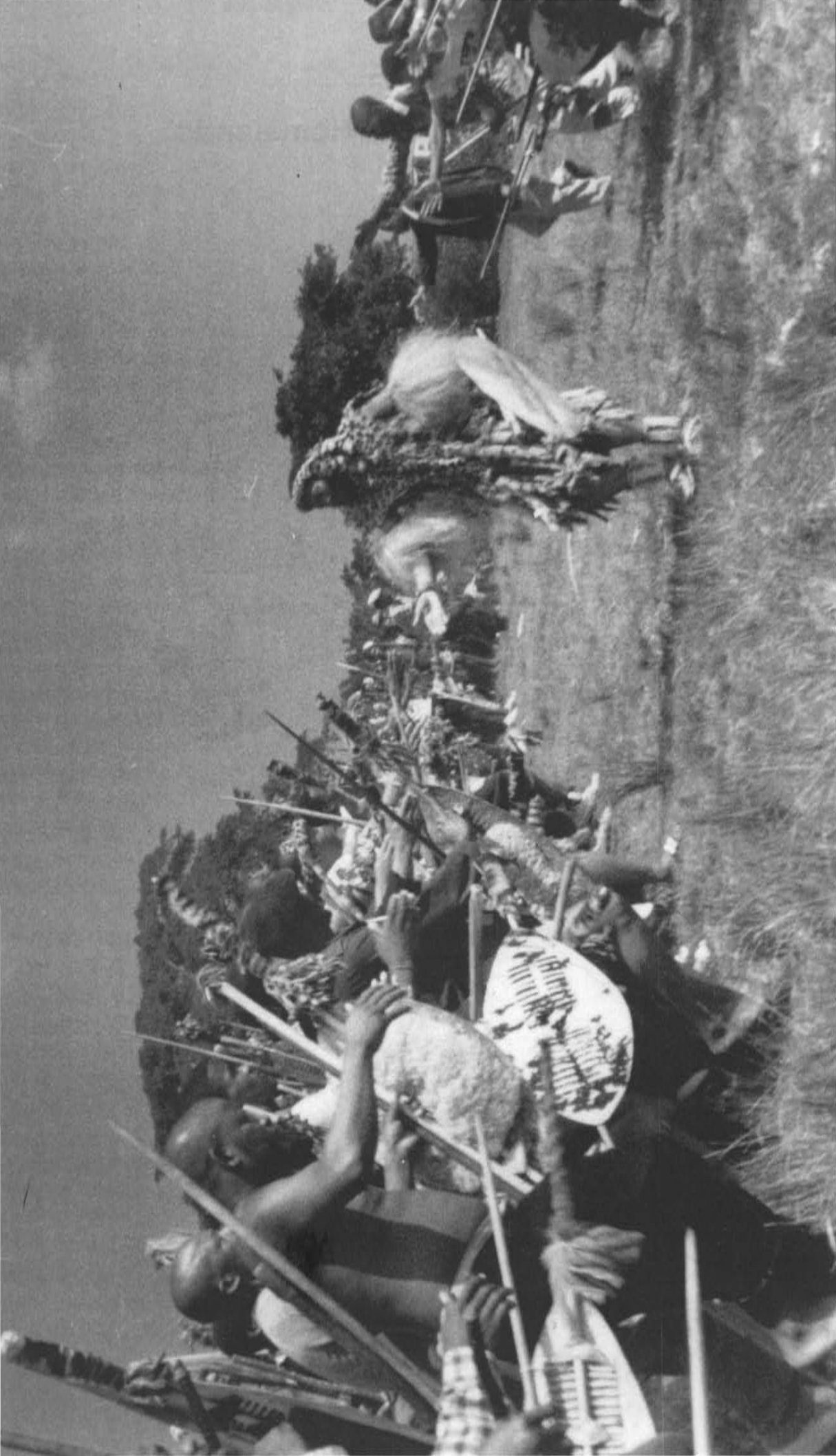
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Map of South Africa and the 'Homelands'





Peace in the making: start of the first reconciliation brokered by the Commonwealth Observers. The community having agreed to allow the displaced ANC supporters to return, Inkhosi Wellington Hlengwa (c) converts a ceremonial charge into an act of reconciliation at Umbumbulu

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Acronyms

ANC	African National Congress
APLA	Azanian People's Liberation Army (military wing of the PAC)
AWB	Afrikaner Weerstandsbeweging
CODESA	Convention for a Democratic South Africa
COMSA	Commonwealth Observer Mission to South Africa
COSAG	Concerned South Africa Group
COSATU	Congress of South African Trade Unions
EC	European Community
ECOMSA	European Community Observer Mission to South Africa
FNB	First National Bank stadium
GDP	Gross Domestic Product
HRC	Human Rights Commission
ICC	Interim Crisis Committee
IEC	Independent Electoral Commission
IFP	Inkatha Freedom Party
ISU	Internal Stability Unit
LHR	Lawyers for Human Rights
LPC	Local Peace Committee
(MK)	Umkhonto we Sizwe (military wing of the ANC)
NEF	National Economic Forum
NGOs	Non-Governmental Organisations
NPA	National Peace Accord
NPC	National Peace Committee
NPS	National Peace Secretariat
OAU	Organisation of African Unity
PAC	Pan-Africanist Congress
PWV	Pretoria-Witwatersrand-Vaal
RPC	Regional Peace Committee
SABC	South African Broadcasting Corporation
SACP	South African Communist Party
SADF	South African Defence Force
SAIRR	South African Institute of Race Relations
SALRC	South African Law Reform Commission
SAP	South African Police
SARCC	South African Rail Commuter Corporation
SERDs	Socio-Economic Reconstruction and Development Subcommittees
TBVC	Transkei, Bophuthatswana, Venda and Ciskei states
TEC	Transitional Executive Council
UDF	United Democratic Front
UNIBOP	University of Bophuthatswana
WNC	Women's National Coalition

Letter of Transmittal



Commonwealth Observer Mission to South Africa

1 Dee Road
Greenside East
Johannesburg
Tel: 646 3519
Fax: 486 0216
20 May 1993

Dear Secretary General

I have pleasure in transmitting under cover of this letter, the Report of the second phase of the Commonwealth Observer Mission to South Africa (COMSA).

COMSA has now been in South Africa for almost eight months. We believe that our presence has contributed, in a modest way, to a reduction in the levels of politically motivated violence in the country. We hope that in the next phase of COMSA, leading up to the conduct of South Africa's first multiparty democratic elections, our work will continue to assist the peacemaking process.

All of us have been proud to serve on the COMSA team. We wish to express to you and your staff, our warm appreciation for the guidance and support you have provided throughout the mission.

Duncan Chappell

Duncan Chappell
Chairperson
COMSA Phase II

H.E. Chief Emeka Anyaoku, Con
Secretary-General
Commonwealth Secretariat
Marlborough House
Pall Mall
LONDON SW1Y 5HX

CHAPTER 1

Introduction

The Commonwealth Observer Mission to South Africa (COMSA) was constituted by the Commonwealth Secretary-General in October 1992. This followed a proposal he had put to the Government and principal political parties in South Africa for a multidisciplinary team of Commonwealth experts who would provide practical assistance to arrest the ongoing violence, and the invitation for international organisations to send observers to the country under United Nations Security Council Resolution 772.

The Resolution, adopted on 17 August 1992, called on the United Nations, augmented by the Organisation of African Unity (OAU), the Commonwealth and the European Community (EC), to deploy observers in South Africa in co-ordination with the structures set up under the National Peace Accord (NPA).

The first phase of COMSA ran from 18 October 1992 to 15 January 1993. Following a review of the mission's activities, and in light of several requests from within South Africa for COMSA to continue, the Secretary-General extended the operation to June 1993.

A report on the first phase of COMSA's work, which has since been published, was forwarded to the Secretary-General, and through him to member governments in February 1993. This report is an account of COMSA's activities over the February – May period.

Composition

Of the original group of 12 observers, four left, and the other eight remained or came back. Two new observers joined COMSA bringing the total number of observers to ten.

The group was led by Professor Duncan Chappell, Co-Chairperson with Mr Justice Austin Amisshah (who had to leave due to prior commitments) during the first phase of COMSA. Professor Chappell is also Director of the Australian Institute of Criminology and a Deputy President of the Australian Federal Administrative Appeals Tribunal. Dr Simbi Mubako, a law professor and former Minister of Justice and Home Affairs in Zimbabwe, served as deputy Chairperson and spokesperson of the COMSA team in Durban.

Reflecting the mix in the first phase of COMSA of experts drawn from the military, police, legal profession and public life, the observers comprised (in

addition to the Chairperson and deputy Chairperson): a former Commissioner and a former Deputy Commissioner of the Royal Canadian Mounted Police; a former Assistant Commissioner of Police in New Zealand; a serving Chief Superintendent heading the Police/Community Relations Department at Scotland Yard in Britain; a serving Superintendent of Police from Singapore; a lawyer and senator from the Bahamas; a former Member of Parliament from India, and a serving Major of the Botswana Defence Force.

The observers were supported by four Commonwealth Secretariat staff, under the Director of the International Affairs Division, Max Gaylard. A full list of those who participated in the second phase of COMSA is attached at *Annex I*.

Mandate and Deployment

COMSA's terms of reference are outlined on page two of the first report. These include working under the umbrella of United Nations Security Council Resolution 772 while reporting to the Commonwealth Secretary-General, as well as acting impartially in all dealings across the political spectrum in South Africa. As in the first phase, observers in the second phase were divided between Natal and the Pretoria-Witwatersrand-Vaal (PWV) area with the latter also covering the 'homelands' of Bophuthatswana and Ciskei.

Activities

COMSA sought to utilise its expertise in areas where it would be of most use. Much of the work built on activities already embarked upon in the first phase, but with additional dimensions. In practical terms this involved:

- Providing impetus to political negotiations through regular contact with political parties and interest groups across the ideological spectrum. During the second phase, COMSA focused more closely on the reincorporation of the 'homelands' into a new South Africa, and particularly upon the case of Bophuthatswana. With elections now in sight, COMSA also made preliminary enquiries into this area, through attending conferences and seminars, as well as making contact with a variety of persons and interest groups involved in preparations for the elections.
- Attending and observing proceedings at political rallies, demonstrations, funerals and other public gatherings, with a view to helping prevent violence on such occasions. During the second phase, COMSA actively participated in observing several gatherings which may be viewed as a test run for the election campaign, and where our police expertise proved particularly useful.
- Reinforcing the structures set up under the NPA through regular attendance at meetings and focusing attention in problem areas, especially in Natal, where the peace-brokering efforts begun in the first phase were

consolidated and expanded. COMSA also monitored the activities of the Goldstone Commission, and is preparing a submission for the upcoming hearings on minimising violence in South Africa during elections.

- Carrying out a study of the criminal justice system, with particular emphasis on bail, witness protection and prisons with a view to putting forward recommendations for justice reform.
- Extending and deepening dialogue with the South African Police (SAP), particularly in the area of police/community relations. COMSA also began enquiries into the integration of members of armed formations into the police force, and the training of marshals.
- Focusing more sharply on socio-economic reconstruction, with particular emphasis on the role of women.

In all these ventures, COMSA worked closely with the United Nations, the EC and the OAU. The following chapters are a more detailed account of the activities undertaken during the second phase of COMSA.

CHAPTER 2

The Political Context

POLITICAL DEVELOPMENTS SINCE THE FIRST PHASE OF COMSA

In our first report, we stressed that violence in South Africa cannot be divorced from the political context in which it occurs. We stated that it would be naive to assume that violence will automatically end with the installation of a democratically elected government, but noted that a representative government is far better placed to address the root causes of violence.

With this background, COMSA sought during the second phase to broaden and deepen contacts with all political parties, and to obtain greater insight into the 'homelands' issue, which we address in a separate section of this chapter. In March, COMSA attended the planning conference for multi-party talks, and on 1 April the plenary meeting of the resumed negotiations.

The major difference in political developments between the first and second phase of COMSA is the fact that the multi-party talks have resumed. The process, however, is still fragile. The assassination of Chris Hanu, Secretary-General of the South African Communist Party (SACP), in April 1993, and the hardening of attitudes on both the left and right of the political spectrum (which we detail in Chapter 3) underscore the deep fissures in South African society. In the last section of this chapter, on preparations for elections, we comment on the political intolerance that continues to bedevil parts of the country, and the serious problem this poses for holding an election.

None the less, we remain firm in our view that an election should be held at the earliest possible date, and are confident that despite the obstacles, a sound beginning has been made to the transition to democracy.

Achievements of the Multi-party Talks

In COMSA's view, the most significant achievements of the talks to date include:

- **The Degree of Representation**

In our first report, we urged that talks be as inclusive as possible. The multi-party forum which assembled on 1 April – though unable to agree on a name – was the most representative meeting of political parties in the country's history. The 19 groups in the original Convention for a Democratic South Africa

(CODESA) talks suspended last year have now been joined by the Pan-Africanist Congress (PAC), the Conservative Party, the Afrikaner Volksunie and a delegation of traditional leaders from each of the four provinces.

- **Inclusion of Women**

The agreement reached early on, that each delegation to the talks include at least one woman, is to be commended. The absence of women from previous political negotiations is a sad reflection of the status of women in South Africa. The participation of women in these crucial negotiations is an important first step in redressing this imbalance.

- **Mechanisms for Achieving Agreement**

COMSA has been impressed by the mechanisms established to make it possible for 26 groups to hold meaningful discussions, including:

- *Chairing of the talks:* The rotational chairing of the talks, which has allowed even the least known parties to steer the talks at some time, has enhanced the sense of each player having a role. It is an illustration of political tolerance at work.

- *Sufficient consensus:* At the Planning Conference in March, the 26 groups reached agreement on 'sufficient consensus' as the mechanism for taking decisions. Despite the difficulties that this rather imprecise formula poses, there is recognition that in a country like South Africa, where there has not been a democratic election to determine the relative strengths of the different parties, there seems little choice but to adopt such a formula. COMSA has generally been impressed with the efforts to make this formula work.

- *Institutional framework:* The talks early on established a multi-tier set of structures ranging from a planning committee of ten where hard core negotiating takes place, to a plenary of ten per delegation, where decisions are formally adopted. In between these two structures is a Negotiating Council of two delegates and two advisers, which reports to a Negotiating Forum of four delegates and two advisers. This system has made it possible for controversial issues to be referred to smaller groups where agreement is more easily reached.

- *Technical committees:* The recent establishment of seven technical committees is a significant breakthrough. These committees are charged with looking into the establishment of an independent elections commission and an independent media commission; amending and repealing repressive legislation; the Transitional Executive Council (TEC) and its sub-councils; strengthening the NPA; fundamental rights during the transition phase; and constitutional matters such as form of state, constitutional principles and a constitution-making body. They will help to give direction to the discussions.

- **Transparency**

The decision to open meetings of the forum and plenary to the media to give

the public a window on the negotiations is commendable. In our last report, we commented on the series of closed-door bilateral negotiations between parties. While these served a useful function in clearing the undergrowth, they left the public alienated and worried about what politicians were negotiating on their behalf. The opening up of negotiations to public scrutiny is crucial to the democratic transition. We urge that all forthcoming discussions be as open as possible to public debate.

- **Determination to Keep the Talks on Course**

With some exceptions, we have been heartened by the apparent determination of those involved in the talks to keep them on course. To date, despite several threats and disagreements, no individual or party has walked out of the talks. Violence – on which we comment in greater detail in the next chapter – has not so far been allowed to derail the talks, despite the emotions that this issue understandably raises. Indeed, some of the worst provocations – such as the assassination of Mr Hanu – have been used by leaders to give added impetus to the talks. We urge that this determination to keep the talks on course continues, as any sign of stalling could have serious adverse consequences.

- **Setting a Date for Elections**

At the time of writing, a resolution had been placed before the Negotiating Forum urging that elections take place before April next year. In our last report, we commented on the importance of fixing an election date, to give the country focus, provide a different sort of battlefield for political rivals and nullify any remaining excuses in favour of violence. It is our fervent hope that an election date will be announced shortly, and that every effort will be made to adhere to that deadline.

Challenges Ahead

There are still major hurdles to be overcome in the negotiations. These include:

- **Agenda for the Transition**

There are deep-seated differences on how South Africa should proceed to attain its democratic ideal.

The Government and the African National Congress (ANC) broadly agree on the setting up of a TEC, which would supervise key arms of government in the run-up to elections. These elections would be for a Constitution Making Body, which would decide a constitution for the country, and then – to avoid the expense of another election – become the country's parliament until another election is due. The two are also broadly agreed that parties achieving above a certain percentage of the vote (figures range from 1 to 15 per cent) be represented in the government, thus affording smaller parties some say in the new dispensation.

The Concerned South Africa Group (COSAG), which includes the Inkatha Freedom Party (IFP), the Conservative Party, Bophuthatswana and Ciskei, is pressing for the constitution to be agreed by a group of experts representing

each party at the talks. Elections would be held on the basis of this constitution, with no TEC, or elected Constitution Making Body.

- **Form of State**

At the heart of this disagreement on how to proceed are COSAG's fears over the degree to which power will be devolved to the regions under a new constitution. This is a particular concern in the 'homelands', which we comment on in greater detail in the next section of this chapter.

How these issues are resolved remains essentially a matter for South Africans. However, as we state in the section on 'homelands', we are of the view that reincorporation of these territories should precede an election.

As regards the form of state, we believe that this is a matter that should be decided in the most democratic way possible, with due sensitivity to the size of the country, its diversity and its history. From the spirit of give and take that has so far characterised the talks we are certain that agreement can be reached. This will require, however, that all parties keep the broader interests of the nation ahead of their own.

- **Violence and the Negotiations**

Violence has again, on many occasions, threatened to derail talks. Shortly before the Planning Conference in March, six children and then ten civilians in a minibus were killed in Natal. The assassination of Mr Hanu, the Sebokeng massacre and the murder of five whites in East London, which we comment on in Chapter 3, all came close to derailing negotiations.

In general, the degree of restraint shown by political leaders has been remarkable. However, on occasion parties have tried to bring the issue of violence onto the agenda as a priority before discussions on the way forward. The latest such example is the effort by the IFP to table a document on violence against its members during the multi-party negotiations.

While we appreciate the sensitivities of all those affected by violence, we urge that negotiations not be held hostage to this scourge. Delaying negotiations can only exacerbate, not solve, the problem.

HOMELANDS

During the second phase of COMSA, we focused more intensely on the issue of the reincorporation of the so-called independent 'homelands' – Transkei, Bophuthatswana, Venda and Ciskei (TBVC) – into a new South Africa. Our interest in this matter arose initially because of the conflict in two territories – Ciskei and Bophuthatswana – which had given rise to violence. However, the issue of the reincorporation of the 'homelands' is also pertinent to the broader question of holding free and fair elections country-wide.

In our first report, we highlighted the existence in Bophuthatswana and Ciskei of repressive legislation adopted during the apartheid era that prohibits

free and fair political activity. We called on the South African Government – on which the ‘homelands’ are heavily dependent economically – to put pressure on these administrations to rescind such restrictions.

In the course of our further interactions with Ciskei and Bophuthatswana, it became increasingly clear to us that it would be impossible to hold a free and fair election country-wide, unless reincorporation took place first.

During the second phase, we became aware of documentation prepared by the Government showing the extent of the dependence of the ‘homelands’ on Pretoria. This analysis included Bophuthatswana (the least dependent of the four).

Subsequently, it has been announced that reincorporation should precede elections – a principle that we wholeheartedly endorse. We agree with the Government that it would be best if the ‘homelands’ agree voluntarily to this move, as this would minimise the potential for conflict. But if they do not, we consider that it is Pretoria’s responsibility to apply the necessary pressure.

The following is a more detailed account of our contacts with and observations on Ciskei and Bophuthatswana.

Ciskei

Following the four visits made by COMSA to Ciskei during the first phase, we again made a fact-finding trip to the territory in February. We met with a broad cross-section of persons, including: EC observers stationed in East London and independent monitors; the SAP and the South African Defence Force (SADF); the ANC; Ciskeian officials, including the Chief Justice; and the South African ‘ambassador’ to Bophuthatswana. We learned that:

- Barring a few isolated incidents, there has been a cessation of the hostilities between the ANC and Ciskei authorities which bedevilled the area following the Bisho massacre of 7 September 1992. The withdrawal of the SADF, reported following COMSA’s fourth trip to the area last year, had also helped to reduce tensions. The spate of attacks, said to be Azanian People’s Liberation Army (APLA)-related, which rocked the area towards the end of last year also appeared to have abated (although the subsequent murder of five whites in East London, reported in Chapter 3, has again raised tensions).
- A significant development, which had visibly eased tensions in the territory, was the rescinding in January of Section 43 of the constitution (Ciskei’s equivalent of Bophuthatswana’s Internal Security Act) as a result of a test case brought to the Supreme Court by the ANC. This followed the earlier repeal of Section 26 (detention without trial) and a ruling by the courts that Brigadier Gqozo would have to testify in the case relating to the murder of the brother of the man he had deposed. It is generally agreed that the judiciary in Ciskei (seconded South African judges) has taken a more independent line than that in Bophuthatswana.

- As a result of the repeal of Section 43, opposition parties such as the ANC were able to hold rallies in Ciskei without seeking approval. Several had taken place or were in progress during our visit.
- Because of its new-found ability to organise in the area, the ANC had lost interest in the issue of Ciskei rejoining the Peace Accord structures. These talks, detailed in our previous report, have stalled over Ciskei insisting on a formula that would entail *de facto* recognition of its boundaries. The ANC now appears to feel they are not worth pursuing until the bigger issue of the reincorporation of the TBVC states into a new South Africa has been decided.

Visit to Bisho on 4 March

COMSA, along with other international observers, visited Ciskei on 4 March, the third anniversary of Brigadier Gqozo's seizure of power, in light of anticipated trouble on this day. Except for a bomb explosion at the local power station, the celebrations proceeded in an orderly fashion.

Shortly after the Bisho festivities, Chris Hani addressed a rally some 100 kilometres away. The rally was relaxed, and notable for the visible absence of any intimidating presence of either Ciskei or South African security forces. It centred entirely on electoral issues.

Observations

The change in political climate in Ciskei between the first and second phase of COMSA has been dramatic. We commend the Ciskei authorities for upholding the decisions of its judiciary and allowing free and fair political activity. We believe that this move has, in some small measure, been due to the international pressure placed on Ciskei. The access which the Ciskei authorities have given to international observers – particularly in contrast to Bophuthatswana – is laudable.

We recognise that the next few months will be difficult. There are many who fear the implications of reincorporation, and who do not agree with the principle. We urge that they put the greater interest of South Africa first.

Given the potential for conflict, we are also disturbed by the attitude taken on both sides of the political divide towards reviving the Peace Accord structures. We urge that these not be relegated to narrow political interests, and that every effort be made to find a formula that will enable the Regional Peace Committee (RPC) to be revived.

Finally, we are shocked to learn that a general amnesty has been declared for all perpetrators of the Bisho massacre. This action is not in keeping with the independence displayed by the judiciary in the other issues commented on. We urge the Ciskei authorities to reconsider this drastic action.

Bophuthatswana

During the first phase of COMSA, we made a cursory trip to Bophuthatswana, which alerted us to the deep-seated problems in this territory.

Historically, Bophuthatswana officials claim that the British denied them the right to be a part of the Botswana protectorate, which led to that country achieving its independence, while apartheid persisted in South Africa.

They argue that the 'independence' option offered by South Africa in 1977 – albeit fragmented and in the context of the grand apartheid strategy – offered Bophuthatswana the opportunity to make up for this historical injustice. The authorities therefore see themselves as fundamentally different from Transkei, Venda and Ciskei.

Bophuthatswana is also economically the best off of the 'homelands', with one-third of the world's platinum and chrome deposits. The territory's economy grew at a rate of 18.4 per cent between 1985 and 1989.

Some 21 per cent of Bophuthatswana's budget comes from Pretoria, and another 30 per cent from the South African Customs Union. About half the Bophuthatswana labour force works in South Africa. But Bophuthatswana is still better off than the other 'homelands' (Ciskei, for example, depends on Pretoria for 80 per cent of its budget).

Politically, Bophuthatswana is the only one of the TBVC states that does not have a military government. In 1977, many opposed independence on the grounds that they would lose their South African citizenship. Only a quarter of the territory's population of just over two million voted. In the last election – October 1992 – no opposition candidates were nominated for the election.

However, Pretoria has persistently claimed that because Bophuthatswana is 'democratic', it falls within a different category from the other TBVC states.

In reality, Bophuthatswana has retained more oppressive legislation than any of the other TBVC states. Shortly after the release of Nelson Mandela in February 1990, Bophuthatswana introduced a state of emergency. This has since been lifted, but has been replaced by an Internal Security Act giving the authorities wide powers.

Under the legislation, a number of political parties are banned. Technically, the ANC is not banned. But to be able to meet in Bophuthatswana without seeking the permission of the Minister of Law and Order (President Lucas Mangope) it would have to register as a party in Bophuthatswana, which would mean *de facto* recognition of the territory's boundaries.

A further stipulation is that only Bophuthatswana citizens can engage in political activity in the territory. This excludes the thousands who opted not to take out Bophuthatswana citizenship for political reasons.

Visit to Hammanskraal

Early in the second phase of COMSA, our attention was drawn to the problems in Bophuthatswana when the Northern Transvaal RPC alerted us to a series of forced removals taking place in Hammanskraal, about an hour's drive from Pretoria.

The background to this issue is complex. In brief, in 1977 South Africa incorporated the land into Bophuthatswana without consulting the Kekana Royal Family, which had title to it. This was achieved through deposing the then chief, and replacing him with an appointee never recognised by the Royal Family.

Matters came to a head last year, when the parastatal Bophuthatswana National Development Corporation laid claim to the land. Although the inhabitants, with help from human rights legal organisations, obtained a court injunction preventing their removal, Bophuthatswana police ignored the order and demolished homes, forcing some 600 families to flee.

People in the area claim that those victimised are persons supporting the reincorporation of Bophuthatswana into South Africa.

Because Bophuthatswana is not a signatory to the NPA, there is divided opinion within NPA structures over how to tackle issues relating to the territory. That ambivalence, until recently, has been shared by other international observer missions.

COMSA took the view that as the 'homelands' are not recognised internationally, and are therefore considered part of South Africa, they must also fall under United Nations Security Council Resolution 772. We therefore took the initiative to visit Hammanskraal, accompanied by a member of the Northern Transvaal RPC.

The grave injustices we found there – including the demolishing of a school built by the local community – prompted us to draw the matter to the attention of the National Peace Secretariat (NPS), the South African Department of Foreign Affairs, and other international groups. We also decided to make a further trip to Mmabatho, to discuss this and other issues with the authorities there.

Visit to Mmabatho

COMSA met with a broad spectrum of people, including South Africa's 'ambassador' to Bophuthatswana – also the Vice Chancellor of the University of Bophuthatswana or UNIBOP; the dean of the law faculty and several staff members at the University; the Minister of Justice and Prisons Service, S G Mothibe; and representatives of the Mafeking Anti-Repression Forum, an independent human rights monitoring network. In the course of these conversations we came away with the following impressions:

- The reality that Bophuthatswana cannot endure in its current form was beginning to dawn on the authorities there, helped in part by first signs of

Pretoria's willingness to apply pressure on the 'homeland'. However, the process of reintegration appeared likely to be fraught with more difficulties in this 'homeland' than in any other.

- International pressure with regard to human rights issues in Bophuthatswana had registered some impact. Last year, international observer groups, backed by the NPS, urged that the death sentence on three political prisoners be commuted. The Bophuthatswana authorities responded with a three month moratorium on the death penalty, which has since been extended by a further six months.
- However, we heard countless stories of deportations, harassment, and detentions of critics of the Bophuthatswana administration. There was no indication that Bophuthatswana had any intention of rescinding the Internal Security Act. The issue of Hammanskraal was said to be *subjudice*.

Visit to Hammanskraal with international observers

Based on the submissions made by COMSA to the NPS and other international groups, the NPS organised a one day trip to Hammanskraal to examine at first hand the squatter issue.

On the agreed day, the Bophuthatswana Minister of External Affairs and Information, Mr Setiloane, Lawyers for Human Rights representatives and members of the Kekana Royal Family arrived to brief observers.

Subsequently (see press release, *Annex II*), the Minister requested observers not visit the squatter areas. In the end, observers were only able to meet briefly with leaders of the aggrieved parties, many of whom had been detained (but were later released following pressure from the observers and NPS).

Further interaction with Bophuthatswana

International observers continued to receive several requests to observe events in Bophuthatswana. Despite what was understood from the authorities as a willingness for observers to visit the territory as long as they were informed, we have continually been barred from entering the territory or moving freely within it.

An example of this was when observers were asked to observe the funeral of a person who had been shot during a march to a Bophuthatswana police station. The authorities erected a barricade and refused to allow international observers onto their side of the 'border'.

In March, a broad cross section of opposition and interest groups from Bophuthatswana briefed international observers in Johannesburg on their perspectives of events in the territory. These groups included banned organisations, deportees, students, trade unions, and political parties.

Details of recent incidents of repression, many of which have involved international observers, are contained in the press release at *Annex III*.

The matter of access by international observers to Bophuthatswana has been taken up by heads of all four missions with the South African Minister of Foreign Affairs, and a meeting sought with Mr Mangope. At the time of writing, no responses had been received to these requests.

Mr Mangope has publicly indicated that he will strongly resist reincorporation, despite the indications we had received earlier that officials were becoming reconciled to this inevitability.

Observations

The oppressive nature of the Bophuthatswana regime has been starkly illustrated by our contacts with this territory during the second phase. We understand the fears of those in authority, and their justifiable pride in some of the economic achievements of the territory.

However, it is abundantly clear to all that Bophuthatswana, in its six pieces, and with its outmoded political methods, cannot survive. We urge the authorities to put the longer term interests of the people in that territory, and that of all South Africa, ahead of their own.

In the immediate context, we urge the authorities to rescind the Internal Security Act (as has happened in Ciskei) and to review their attitude towards international observers. Unimpeded access to all parts of South Africa is crucial if observers are to be in a position to monitor the run-up to, and conduct of, elections.

Ultimately, responsibility for the behaviour of Bophuthatswana rests with Pretoria. The fact that Pretoria has the clout to influence the territory's behaviour is proven by the Government's own documentation.

We are not convinced that this leverage has been effectively used. The failure to respond to the request by international observers for clarification of their status in Bophuthatswana is a case in point. More significant are the suggestions emanating from Pretoria that Bophuthatswana might be treated differently in a reincorporation exercise. We see no basis for this, and urge that the territory, along with the others, be reintegrated at the earliest possible opportunity.

PREPARATIONS FOR ELECTIONS

Because elections will be the prime political focus in the forthcoming months – and one with considerable implications for peace-keeping efforts – COMSA began during the second phase to make some preliminary enquiries into this issue.

In March, two COMSA representatives participated in a conference on 'Free and Fair Elections' hosted by the Centre for Development Studies

(University of the Western Cape), Institute for Contextual Theology, Institute for Multiparty Democracy, Matla Trust and the South African Council of Churches, with support from the US-based African American Institute and National Democratic Institute for International Affairs. COMSA also met with senior officials in the Ministry of Home Affairs who have run previous white, 'coloured' and Indian elections in the country, and attended a session on elections at an ANC-convened International Solidarity Conference.

In addition, COMSA met with several non-governmental organisations (NGOs) concerned with election issues, such as the South African Council of Churches, Black Sash, and the Campaign for an Open Media group. Based on these consultations, COMSA formed the following observations on the upcoming elections.

Date for the Elections

We have commented earlier in this chapter on the urgent need to set a date for elections.

Political Tolerance

The most basic prerequisite for a free and fair election is that any party candidate be free to canvass support anywhere in the country.

Apartheid was based on an extreme form of intolerance, whose legacy lives on, particularly among far-right white groups. Most predominantly black political parties have, in contrast, adopted tolerant philosophies based on non-racial, democratic principles. Some, however, have succumbed to the eye-for-an-eye, tooth-for-a-tooth philosophy that finds fertile ground among angry, unemployed youth.

During the second phase of COMSA we witnessed some of the worst forms of political intolerance with the murder on the one hand of Chris Hani, allegedly by right-wing forces, and on the other the massacre of five whites in King Williamstown, allegedly by left-wing guerrillas. Revelations that Conservative Party politicians had asked retired police officers and army generals to form a 'white peoples army' were accompanied by reports of growing support for the APLA and Umkhonto we Sizwe (MK) – the military wings of the PAC and ANC respectively.

Graffiti, slogans, and chants like 'one settler, one bullet', 'kill the Boer' and 'de Klerk – unleash the security forces' underscore a rise in intolerance at the very time when it is crucial that inflammatory statements give way to considered political debate.

We have heard taunts shouted back and forth across the road during marches and seen graves on either side of the racial and/or political divide desecrated. In Bophuthatswana, we have witnessed civilians being detained, tear gassed, and in the worst instance shot for disagreeing with the ruling elite.

In Natal, we have seen neighbours drive each other out of their homes for holding different political views. Under these circumstances, many question how an election can take place at all in South Africa.

We contend that delaying an election will only fuel frustration, and harden attitudes. But a concerted effort needs to be made, starting now, to inculcate true political tolerance. The bitter history of this country makes that a particularly difficult concept to popularise. But there are hopeful beginnings. The statesmanship displayed by ANC President Nelson Mandela in urging restraint after the assassination of Mr Hanı is one such example. It was followed by a front page photograph in a local newspaper of ANC marshals protecting a white man who angered the crowd outside Boksburg prison – where Mr Hanı’s alleged assassin had just been arraigned – by brandishing a revolver at them.

Political leaders, by acknowledging respect for each other, despite the divergence in their thinking, have set examples of tolerance.

In Ciskei, with the lifting of restrictions on free political activity mentioned earlier in this chapter, we witnessed an ANC rally taking place within kilometres of celebrations in Bisho to commemorate three years of Brigadier Gqozo’s accession to power.

In Chapter 4 on the NPA, we describe how this agreement has brought together people from vastly different backgrounds.

On 21 March, international and local observers monitored three public gatherings – IFP, ANC and PAC rallies – within kilometres of each other on an emotive day. Despite the potential for conflict, detailed negotiations prior to the day, including a plan for joint marshalling by the ANC and IFP, averted any major confrontation.

In the same chapter, we cite the example of the work carried out by COMSA in the Port Shepstone area, where ANC refugees have returned to live under an IFP-supporting chief. This became possible after the chief accepted the concept that as father figure, he had to be above the political fray. The return of the refugees has – in its own small way, and with all its attendant problems – illustrated the precept that people should be able to live side by side even if they belong to different persuasions. This message needs urgently to be replicated throughout Natal and all South Africa.

Code of Conduct for the Elections

Mr Justice Richard Goldstone has announced hearings on preventing violence during an election to which political parties, NGOs, the Commonwealth and other international observers have been asked to make submissions. We believe that one of the most useful outcomes of these hearings would be for parties to agree on a Code of Conduct to facilitate free and fair elections.

Security Arrangements

Regardless of what pre-emptive measures are taken to minimise intimidation, trusted and effective law enforcement mechanisms are essential. This issue is particularly pertinent in South Africa. The country has not been at war in the conventional sense, and therefore – unlike Zimbabwe or Namibia – there is no ceasefire and no forces to be confined to base. On the other hand, in addition to law enforcement agencies which do not enjoy the confidence of the majority of the population, South Africa abounds with armed groups and individuals.

In Chapter 3, we comment on the need for a comprehensive weapons policy, and for the disarming and disbanding of private armies. This is quite vital if the current atmosphere of insecurity – which some analysts say could lead to a low voter turnout – is to be transformed into one conducive to holding free and fair elections.

The issue of how the elections are to be policed is complex. It is assumed that there will be some form of joint (multi-party) control over the security forces in the run-up to an election. However, it is not clear how effective joint control will be, and whether it will include the integration of existing forces with other armed formations in the country.

It has been suggested that a special Local Monitoring Force, comprising representatives of all armed formations in the country, be created for the purpose of providing security during the elections. Before his assassination, Mr Hanu suggested the establishment of a 'peace corps' of young people drawn from across the political spectrum under the Peace Accord, to help curb violence. There is merit in exploring this idea further. Possible forms of international involvement in peacekeeping during the elections are discussed in the final section of this chapter.

Appointment of an Independent Electoral Commission (IEC)

It is now generally agreed that an IEC will need to be appointed at the earliest possible date to oversee the elections (a task previously performed by the Department of Home Affairs through its Director-General who served as Chief Electoral Officer).

Powers of an electoral commission can vary widely – from the purely administrative, to quasi-judicial. We would argue that, given South Africa's past, the distrust of present structures and the limited role which, for historical reasons, the international community is likely to play in the elections:

- (a) special attention be given to the selection of the IEC, to ensure that it commands the widest possible respect across the political spectrum; and
- (b) the IEC be given wide powers to run the elections. These may include drafting of the electoral law, deciding on voter education and who will be eligible to vote and setting up a country-wide network to hear complaints about election irregularities.

Appointment of an Independent Media Commission

Such a body, for which there also appears to be widespread support, would complement the IEC by ensuring access to the media. In this regard, an important start has already been made with the appointment of a new Board for the South African Broadcasting Corporation (SABC).

The selection of 20 board members out of 500 nominees by an independent, predominantly black panel, following public hearings, is itself a major achievement for democracy in South Africa. When the board becomes operational on 1 June, this will represent the ceding of important powers by the present Government in preparation for elections.

The watchdog role of groups like Campaign for an Open Media, and more specifically its offshoot, the Broadcast Media Project, will continue to be important through to the elections and after.

Role of the International Community

Across the political spectrum, there is a strong desire – and one which we fully endorse – for South Africans to resolve their problems with minimal external involvement.

However, there appears to be general agreement that the international community can play a role in enhancing confidence in the process. To some extent that has already started with the presence of four international organisations here working to minimise political violence under United Nations Security Council Resolution 772. The question is how that role now merges into the next phase. We offer the following preliminary observations:

- One of the most frequent criticisms of election monitoring exercises is that international observers only arrive a few days before the actual poll. The advantage of having international observers already in South Africa, even in limited numbers, is the possibility of the election monitoring exercise starting from the time of the campaign through to the time of the elections.
- The role of international observers in security arrangements is sensitive and best decided by South Africans. Even if a direct military/police presence does not prove feasible or desirable in South Africa, there may be scope for international observer groups to include in their ranks observers with such expertise, as is already the case in the Commonwealth and EC observer missions. In Chapter 4 we cite numerous examples of how COMSA observers with police experience have been able to step in and defuse tense situations by virtue of their background. Such expertise could prove valuable during the election campaign and the actual elections.
- Mention has been made of measures to ensure access to the media, and the local 'watchdog' groups that have been formed around this issue. There is strong support among the latter for a presence of prominent

international journalists and editors, possibly on a rotating basis, to bolster local efforts and offer their own assessments of how the media handles election coverage. This is an area in which the Commonwealth, with its rich traditions and professional networks, might usefully contribute.

- Possibly the most important single concern with regard to further international involvement is the extent to which resources will be forthcoming to respond to whatever requests might be made for assistance from within South Africa.

This issue was recently discussed at a meeting convened in Cape Town on 2 May by the United States Ambassador, Princeton Lynam, and attended by senior representatives of the diplomatic community and observer groups, including COMSA.

From statements made at this meeting it was apparent that substantial aid was already being channelled, largely on a bilateral basis, to voter education and allied projects. The situation with regard to assistance diverted towards election monitoring was far more problematic.

It was noted that certain parties and organisations in South Africa had high expectations about a large international contingent of monitors becoming available to follow the election campaign, and observe voting at more than 7,000 polling stations around the nation. The meeting agreed that expectations were unrealistic and that the number of monitors, at least from the four international observer groups already present in the country, would be most likely to total hundreds rather than thousands of persons.

We urge that every effort be made by the international community to meet local expectations. At the same time, the importance of local monitoring efforts cannot be over stressed. In this regard, COMSA recommends that the international community make every effort to encourage and assist domestic monitoring networks in the run-up to the elections.

CHAPTER 3

The State of Violence

OVERVIEW

At about 10.25 a.m. on Saturday, 10 April 1993, Chris Hani, the Secretary-General of the SACP, was shot dead in the driveway of his home in Boksburg, a small and predominantly white town in the East Rand. Within minutes of the killing, as a result of vehicle identification information provided by a white neighbour of Mr Hani's, police arrested the alleged assassin, Jan Walus (40), a Polish immigrant to South Africa.

In recent South African history, no single act of violence has had such a profound impact and consequences as Mr Hani's tragic slaying. His death came at a time of growing hope and optimism that South Africa would soon become a multiracial democracy.

As noted in Chapter 2, multi-party negotiations had resumed. There were also encouraging signs, as detailed below, that politically motivated violence was beginning to decline and the tourist industry and foreign investment were also beginning to look up.

The shock waves created by Mr Hani's assassination shattered these promising but still fragile signs of hope. In the wake of the killing, as millions of South Africans mourned the loss of one of their most revered leaders, anger and grief spilled over into violence in many parts of the country. Once again, television screens around the world were dominated by graphic pictures of death and destruction from South Africa as mass action protests erupted in cities such as Cape Town, Durban, Pietermaritzburg and Port Elizabeth. Within the short space of ten days which elapsed between Mr Hani's death and his funeral, a number of major incidents of violence took place, including:

14 April: Security forces opened fire on protesters at the Protea Police Station in Soweto. Five people were killed and more than 250 wounded, including a number of journalists.

17 April: A gunman drove into a crowd of demonstrators in Vanderbijlpark in the Vaal Triangle, shooting dead two marchers and wounding two more. The gunman, Mike Odendaal (52), was arrested immediately by police. Odendaal was alleged to have right-wing connections.

18 April: Four unidentified gunmen opened fire at random on residents of Sebokeng in the Vaal Triangle. Twenty-one people died in the attack and at

least 12 were injured. Police subsequently offered a reward of R250,000 (South African Rands) for information leading to the arrest of those responsible for this massacre.

Incidents like these, if they had occurred at any other time, would have attracted massive publicity and comment in their own right. Instead, each of these tragedies became to a large degree subsumed in the wider attention given to the assassination and its aftermath. This attention focused, in part, upon evidence that Mr Hanı's alleged killer was involved in a broader right-wing assassination plot. At the time of writing, Clive Derby-Lewis (57), a member of the Conservative Party, and formerly of the State President's Council, and his wife Gabrielle, had been charged with complicity in the murder.

As the web of potential treachery and intrigue widened in the Hanı investigation there were strong suspicions that the assassination had been planned to derail political negotiations. Similar suspicions were raised by the Sebokeng massacre, which took place on the eve of the funeral of Chris Hanı – an already potentially volatile event. Fortunately, as described in Chapter 5, further conflict was largely avoided because of the effectiveness of the Peace Accord structures.

Extent of Violence

According to South Africa's Human Rights Commission (HRC), 61 persons were killed and 623 injured in 266 incidents related to reactions to the Hanı assassination between 10 and 20 April 1993. Security forces were said to have accounted for 13 deaths and 488 injuries in 26 separate incidents, including the Protea Police Station shootings. Attacks on security forces led to one death and 26 injuries in 69 incidents. Some 147 vehicles, 293 buildings and 40 homes were damaged. Significantly, the HRC notes that excluding the incidents associated with Hanı's death, there were no appreciable increases in violence during April.

Estimates of the economic cost are alarming. Under a dramatic headline – 'Four shots that cost South Africa R3 billion', the *Sowetan* newspaper estimated that the two-day work stay-away which occurred after the assassination cost R2.4 billion. Other major expenses included the deployment of 23,000 police officers (R5 million) and large numbers of the SADF (R2.5 million).

Other financial commentators drew attention to tourist cancellations, and the detrimental effect of the violence on foreign investment. Moving companies reported a major increase in business as a result of a surge in emigration.

As noted earlier, the assassination took place at a time when the overall trend in politically motivated violence in South Africa seemed to be heading downward.

In a report released in April, the South African Institute of Race Relations (SAIRR) stated that such violence, as measured by fatalities, had dropped

during the first three months of 1993 to levels last seen in the second half of 1989. The average daily fatality rate in 1993, prior to the Hani assassination, was 4.25 – half last year's rate. For four successive months (December 1992 – March 1993) political fatalities were said to be below 150 each month. The SAIRR also reported that more than 100,000 murders had been committed in South Africa over an eight year period from 1985 to 1992.

HRC data reveals similar trends. Tables 1–4 detail trends in the total deaths attributed to political violence between July 1990 and March 1993. These trends are plotted according to their occurrence in three broad areas of the country – PWV, Natal and elsewhere.

As Tables 3 and 4 show, the overall monthly incidence of fatalities has declined over the general period that COMSA and other international observer groups have been in South Africa. This decline commenced as early as March 1992, but became much more distinct from October onwards. Tables 3 and 4 also reveal what appears to be a shift in the geographic location of the bulk of the politically motivated fatalities from the PWV area to Natal. The HRC has informed COMSA that this shift began to be noticed in August 1992, and has since become more pronounced.

At the time of preparing this report, it remained uncertain whether the incidence of politically motivated violence would rise following the Hani assassination, or stabilise again at levels similar to those experienced immediately prior to Mr Hani's death.

There already seems to be some sign that retaliatory attacks, perpetrated by extremist groups on both the left and right of the South African political spectrum, are on the rise. One such incident occurred in East London on 1 May when five whites were killed and seven injured in an assault by heavily armed men at a hotel bar. The attack, claimed by APLA, the armed wing of the PAC, was seen by several commentators as a retaliation for the Sebokeng massacre of 18 April.

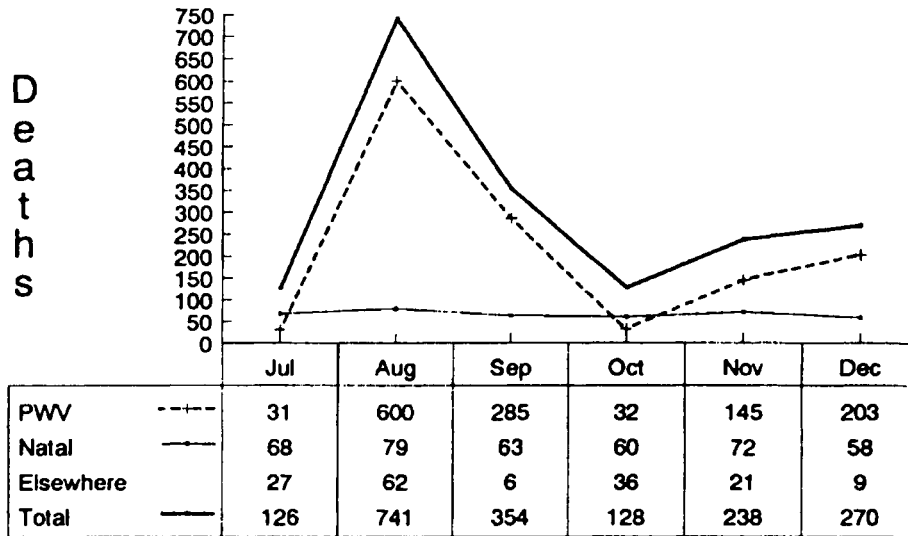
In COMSA's view, the period leading up to the elections will be one of extraordinary tension and pressure as the various political groups position themselves to gain power. The risks of violence escalating during this period seem high – a fact which has recently led Mr Justice Goldstone to establish an urgent enquiry into ways in which these risks can be diminished and the elections conducted in a fair and equitable manner. Along with other international observer groups, COMSA was requested to make a submission to this enquiry by 31 May 1993.

Outstanding Concerns

In preparing its submission to the Goldstone Commission, COMSA intended to draw attention again to a number of acute problems influencing levels of violence in the country referred to in the report on the first phase of COMSA. These problems not only remain acute but in some cases seem to have been exacerbated by a continuing lack of action by the Government.

Table 1

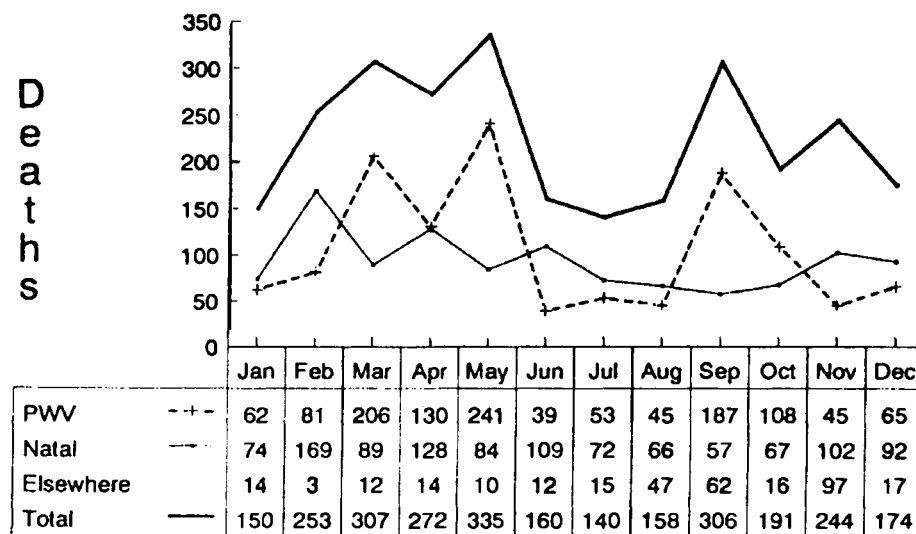
Total Deaths July 1990 to December 1990



Source: Human Rights Commission

Table 2

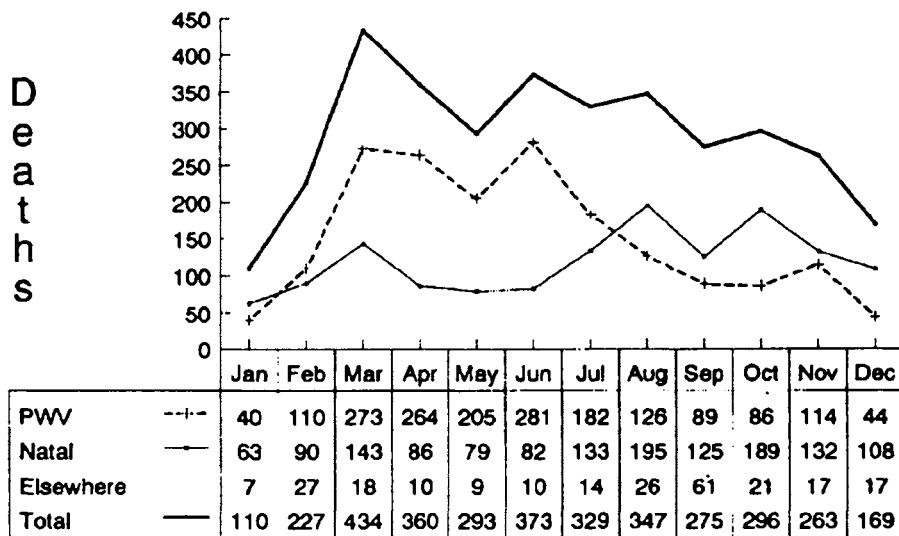
Total Deaths January 1991 to December 1991



Source: Human Rights Commission

Table 3

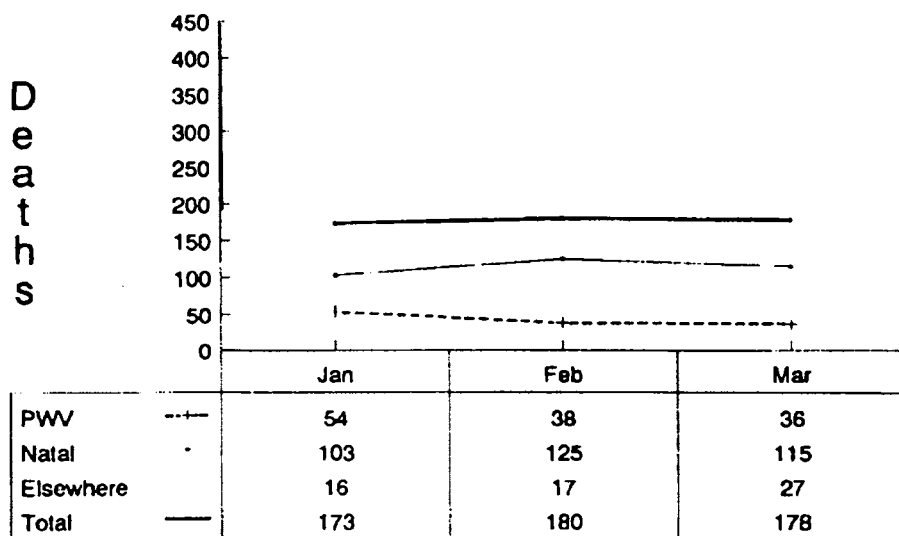
Total Deaths January 1992 to December 1992



Source: Human Rights Commission

Table 4

Total Deaths January 1993 to March 1993



Source: Human Rights Commission

- **Weapons**

One such problem relates to the carrying and display of dangerous weapons at public gatherings. COMSA understands that the Goldstone Commission has provided guidelines to the Government on this issue but no proclamation has yet been made detailing the prohibitions applying to these weapons. (See also references to the Goldstone Commission in Chapter 4.) Meanwhile COMSA has on many occasions observed marchers and demonstrators with numerous weapons in their possession including spears, axes, knives, bars and wooden batons.

Even more disturbing is the display at such gatherings of firearms. At a number of events following the Hani assassination, including Mr Hani's funeral, COMSA saw marchers and demonstrators armed with AK-47 rifles and other types of firearms. At the First National Bank Stadium in Soweto, on the day of the funeral, COMSA and other international observer groups also witnessed persons firing AK-47s at police vehicles and a helicopter.

Incidents like these point to the terrible potential for lethal conflict that exists in the conduct of mass action protests and demonstrations in South Africa. That potential is further heightened by the knowledge that the members of many right-wing organisations are heavily armed and display their weaponry at public occasions like the Hani funeral ceremony at Boksburg on 19 April 1993.

To date the Government's main response to the alarming and continuing growth in the arsenal of lethal weaponry being accumulated by South Africans has been to introduce legislation in Parliament providing for mandatory minimum five year sentences for those found in illegal possession of certain categories of weapons such as AK-47s, grenades and limpet mines. An amnesty period is contemplated for the handing in of illicit weapons before this proposed legislation comes into effect.

While there has in general been widespread political support for this Government initiative it has also been criticised for removing any judicial discretion to impose sentences which are commensurate with the gravity of different types of offences. The ANC has condemned the proposed measure as one designed to disarm black people who, unlike whites, have in the past had only limited legal access to firearms.

COMSA is of the opinion that this new legislation is at best a stop-gap measure which runs the risk of clogging the courts and prisons with a rash of new offenders while the underlying problem of curbing access to firearms remains largely unresolved.

The problem is one which requires urgent action, including a possible Government buy-back programme to thwart the current lucrative market in illicit weapons, which are flooding across the border from Mozambique and other locations. Without such a buy-back programme it is highly unlikely that a weapons amnesty will work, or that any significant reduction will be achieved in the illicit arsenal remaining in the hands of private citizens.

In the longer term a comprehensive programme should be put in place to restrict access to all types of firearms, and to disarm the private armies which at present represent a serious threat to peace and stability.

- **Youth Rage**

Another highly volatile ingredient in the mix of factors that could lead to a serious escalation in violence is the anger, disillusionment and frustration of hundreds of thousands of young black South Africans. Without schooling, jobs or any real hope for the future, many of these youths may well seek more radical solutions to their problems. Defusing and containing the rage of young blacks represents a formidable challenge to South Africa's political leaders. It is a challenge which has been made even more difficult by the murder of Chris Hani who understood the aspirations of young blacks and commanded their respect. Other black leaders must now convince this constituency that the road forward remains through negotiations rather than violence.

COMSA has witnessed the growing rage of young people in townships like Sebokeng, Soweto and Thokoza. This rage has resulted in an increasing number of hostile actions against observers and local peace monitors, such as the stoning of cars and the shouting of threats. Journalists have also recently become the targets of violence, including a fatal attack in Sharpeville on 24 April 1993 on SABC reporter Calvin Thusago. Mr Thusago was killed when about 30 youths attacked him and a colleague who was seriously injured. The South African Union of Journalists reported that more than 40 journalists had been victims of violence in the two weeks following Mr Hani's assassination.

The attacks on observers, peace monitors and members of the media emphasise both the risks involved in witnessing current events in South Africa as well as the urgent need to find ways of protecting these groups as they perform their work. The importance of their respective roles in providing the framework for a fair and free election cannot be too highly stressed.

- **Victim Assistance**

This COMSA report, like the one which preceded it, provides graphic evidence of the daily impact violence has upon the lives of millions of South Africans. Most of the direct victims of this violence remain black, and the majority of these victims must cope with their physical and emotional trauma without recourse to adequate medical or related treatment.

At a recent congress of the Medical Association of South Africa, community health experts stressed that violence was a major and unnecessary drain on South Africa's beleaguered public health sector. Victims of violence were said to account for almost 50 per cent of all trauma admissions. Over the past few years injuries inflicted had become more serious as the use of guns and weapons escalated. Treating bullet wounds alone cost the public health service R2.5 million per month.

COMSA observers have seen at first hand the dreadful aftermath of a number of shooting incidents, like that at the Protea Police Station in Soweto. At the Baragwanath hospital in Soweto they witnessed a vastly over-stretched and under-resourced medical team coping with the scores of people who had been shot by the police, or who were crushed and cut as they sought to flee from the scene. Emergency operations were proceeding in an attempt to save the lives of the most seriously wounded.

As has been well documented, this particular hospital, which serves a huge population in the Soweto area, deals with more violence-related trauma than any other hospital in the country. It is a tribute to its dedicated staff that it maintains this service under conditions which would be quite unacceptable in equivalent hospitals in predominantly white areas of South Africa.

Facts like these point to the urgent need for a more equitable distribution of health care resources throughout the country – one of the many tasks which will confront those assuming responsibility for the socio-economic reconstruction of the nation. There is also a need for a broadly-based victim assistance programme. COMSA notes with approval the existing contributions made by organisations like the Family Institute, which operates a round-the-clock Violence Help Line, and provides trained counsellors. Regrettably, resource constraints currently limit the scope and reach of programmes like these to only a fraction of those who would benefit from their services.

TRAIN VIOLENCE

In our report on the first phase of COMSA, we highlighted the problem of senseless and barbaric killings on trains in the PWV region, which COMSA observers based in Johannesburg designated as a particular area of enquiry. During the second phase, COMSA continued to attend meetings of the Train Accord, as well as play a behind-the-scenes role in facilitating communication on this issue. Despite some remaining difficulties, it is heartening to be able to report that there has been a marked reduction in train violence, and that the Train Accord is making a difference.

Reduction in Train Violence

According to figures provided by the SAP at a Train Accord meeting in March 1993, the number of deaths on South African trains fell from an average of 25 a month between August and November 1992 to nine in December of that year, 12 in January 1993, and five in February. Some 4,298 dangerous weapons were recovered on trains by September 1992, compared to only 36 weapons between September and January 1993.

Police data confirm the observation made in the Goldstone Commission's *Interim Report on Train Violence* of June 1992 that many of the attacks occur in the vicinity of hostels and this often leads to retaliatory attacks. The possible

involvement of sinister 'third forces' in the dastardly attacks has often been mooted, but not proven. A number of possible reasons have been put forward for the recent drop in train violence:

- Some commentators believe that the swoop on Military Intelligence following the revelations of the Goldstone Commission last year (referred to extensively in the last report) has led to an overall reduction in violence in the PWV region.
- Pressure on the police both internally and from the international community has led to a far more concerted effort to get to the root of the problem. It is understood that 1,200 police officers are now deployed on Johannesburg trains. The establishment of a Train Co-ordinating Centre in June 1992 has made it possible for the police to analyse trends and deploy their forces more strategically. With the unification of the Witwatersrand and Soweto police regions, the Train Co-ordinating Centre has been placed under a single command structure. This has further facilitated operations. The policy of 'high visibility' policing and random train searches has, we believe, had a deterrent effect on would-be attackers.
- Credit also goes to the South African Rail Commuter Corporation (SARCC) for their training and appointment of rail guards, and other security measures that have been, or are in the process of being, effected. These include the widely publicised unveiling of prototype anti-violence trains which have an integrated, closed-circuit monitoring system; fitting of hopper windows on dozens of other trains, and fencing of stations. COMSA has been particularly impressed by the efforts which SARCC has made to consult with community representatives on all these measures. The rapport between the SARCC management and community leaders on the Train Accord – including representatives of the ANC, the Congress of South African Trade Unions (COSATU), and the Civic Association – provides an important basis for resolving future problems.
- There has also, through the Train Accord, and other measures being taken within the SAP, been some improvement in relations between the police and the community. In December 1992 the SAP announced that it had made its first arrest of a train atrocity suspect as a result of co-operation with a member of the public. Since then, a further 17 suspects have been arrested and are in custody. To date, according to police figures, a total of 35 people have been arrested in connection with 82 cases of train violence. In February, the first murder conviction relating to train violence was handed down to Xolani Mnguni, an IFP supporter. Two other murder trials, involving hostel dwellers alleged to have committed train killings, were in progress at the time of writing. These actions by the police have helped to restore some confidence in the criminal justice system, and hence to ensure a more co-operative attitude on the part of the public.

Challenges

However, a number of challenges remain:

- As the police point out, very few of those under arrest on suspicion of committing train atrocities will ever be tried, let alone convicted, if sufficient witnesses do not come forward.

This remains a major problem. Suspicion of the police and their alleged failure to follow up on past evidence make it difficult for community leaders to persuade witnesses to come forward. The inadequacy of the witness protection programme, which we comment on in Chapter 6, has further deterred witnesses.

In effect, as community leaders have pointed out at Train Accord meetings, the only protection that witnesses are offered is being taken into jail – hardly an attractive prospect, even for the most public-spirited citizen. The SAP agrees that this is a deterrent, but says this is a matter for the Department of Justice, rather than the police, to rectify. Whatever the bureaucratic explanation, community leaders are concerned at the apparent lack of interest by the police in seeing the witness protection programme being made more effective.

Community leaders have, in some cases, misled the police by presenting false witnesses and making exaggerated allegations. COMSA has urged community leaders to remain objective and co-operative if problems are to be resolved.

- To date, the Train Accord has been chaired on a rotating basis by the three main groups involved: the SAP, SARCC, and community leaders. The SAP has requested that there be an independent chairperson – a matter that is still under discussion. This decision must ultimately be taken by the signatories to the Accord. However, from our observations, we believe that given the often tense nature of the Train Accord meetings, requesting the services of an impartial convener may have merit.
- We are heartened by the more active interest now being shown in the Train Accord both by the National Peace Committee (NPC) and NPS. We believe that closer co-ordination with these bodies will be mutually beneficial. This interaction may be especially useful in what is probably the single biggest challenge that the Train Accord faces: that of broadening its membership. The absence of the IFP in the agreement is to us a major, but not insurmountable, weakness of the Accord.

Existing members are understandably sceptical about asking new members to join, for fear that they will have to renegotiate agreements already reached. On the other hand, casting aspersions and allegations against parties not represented on the Accord will not help to resolve problems. The Peace Accord structures could be helpful in facilitating the entry of other parties into the Train Accord.

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.

Mehломnyama

The other new initiative launched by COMSA during this period was in Mehломnyama. Unlike the other areas where COMSA had worked in Natal, the conflict in Mehломnyama 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 Mehломnyama, 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 Mehломnyama 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.

CHAPTER 5

Observing Public Gatherings

Much of the time of international observers, COMSA included, has been taken up with monitoring marches and demonstrations. These are crucial to free political expression. They are also all too frequently flashpoints for violence, especially given the often tense relations between marchers and law enforcement agencies.

During the second phase of COMSA, we participated in the planning for, and observing of, the following three major political events from which lessons were drawn: rallies on Sharpeville Day; the events surrounding the Hani assassination; and the burial of ANC National Chairperson, Oliver Tambo.

These activities – involving close co-ordination with all levels of the NPA structures, and other international observer groups – have helped to establish a model for observing large gatherings which will no doubt be put to good effect in the run-up to elections.

The presence of police expertise within COMSA proved especially helpful in these exercises, where we participated collectively with other observer missions, but were also able to fill specific niches.

Sharpeville Day Rallies on 21 March, 1993

Sharpeville Day – the commemoration of the killing of 69 demonstrators by the SAP on 21 March, 1960 – is traditionally an emotive occasion in South Africa.

This year, in the PWV area, the occasion had the potential of being that much more explosive when the IFP announced that it would be holding a rally addressed by its leader, Chief Mangosuthu Buthelezi, in Vosloorus, six kilometres away from the Huntersfield Stadium in Kathlehong, where the ANC was to hold a major rally. At the last minute, the PAC also announced that it would be holding a rally between the two venues.

The newly inaugurated full time office of the PWV Regional Peace Committee realised both the potential for a major catastrophe, and the powerful message that could be sent out if all three events could be successfully held side by side. It was therefore imperative – not just for the safety of the people participating in the events of that day, but for the future of democracy in South Africa – that the rallies take place peacefully.

The RPC, backed by all four international observer groups, seized the initiative. Meetings were held long into the night with all concerned (except for the PAC, which is not an Accord signatory) to work out routes, logistics, and codes of conduct that would help avert conflict. Police experts from COMSA and the EC offered valuable practical advice. Two days before Sharpeville Day, a unique agreement was signed between the IFP, ANC and police providing for:

- joint marshalling by the ANC and IFP (an unprecedented arrangement), to be preceded by a joint briefing of the marshals;
- the presence of senior party officials committed to intervening in crisis moments;
- agreement on routes which channelled supporters of different parties along separate paths so as to avert conflict;
- an agreement by the police to take a low profile, allowing marshals, local and foreign peace observers to take the lead in defusing any tension that might arise. In a ground-breaking decision, the police also made provision for local and international observers to sit in their control room on the day.

The agreement and routes were publicised the day before the scheduled rallies. Local and international observers surveyed the area, to determine potential trouble spots. They worked out a detailed deployment plan, covering the three venues and areas along the routes with potential for trouble (such as the road running past a squatter camp). They also made allowance for mobile teams, with more senior members of the groups, to be available for general patrolling and to react to specific crises.

Although the international groups all appeared in their own unique uniforms (jackets, caps and, in the case of COMSA, shirts) and carrying their individual flags, we deployed in mixed teams that gave us a high visibility across the area. The United Nations provided radio communication to all teams, and also made available mobile phones in strategic locations.

On the day, some problems surfaced. The PAC, which had not been party to the agreement, proved hostile, and stoned a car with an EC and a UN observer inside. A group of IFP supporters departed from the agreed route, on to a route reserved for the ANC, and several buses filled with ANC supporters were seen heading towards these IFP marchers. IFP and ANC observers from LPCs in the vicinity rushed forward, each pleading with their side to show restraint. In the end, the IFP marchers agreed to stall long enough to allow the ANC buses to turn around.

Throughout, the police abided by their agreement to keep a low profile. The RPC, through prior negotiation with the NPS, provided 20 buses which, by minimising the amount of movement on the ground, helped to avert conflict.

One unfortunate incident occurred when a man was shot near Huntersfield stadium. This, however, was the only significant incident on a day which many had feared would turn into a township war.

Events Surrounding the Hani Funeral

In Chapter 3, we described how the assassination of Chris Hani sparked nationwide protests that tested local and international observers in a manner never experienced since COMSA began operations in October 1992.

Four major public events followed the assassination on 10 April: memorial services across the country on 14 April, marches in Pretoria, Vanderbijlpark and Johannesburg on 17 April, and a rally and funeral service on 19 April. In Chapter 3 we gave figures of the deaths, injuries and physical damage arising from these events. Yet the overwhelming assessment is that, given the potential for trouble, things could have been considerably worse.

Only weeks before, an opinion poll had ranked Mr Hani the second most popular leader in South Africa after Mr Mandela. Mr Hani had deliberately chosen to live in a right-wing white neighbourhood and had asked to be buried there.

At just about every one of the gatherings organised to commemorate Chris Hani, people turned out in numbers that shocked white South Africans. They wanted to go to Boksburg, his home, not just because it is traditional to do so, but because they also wanted to make a political point.

At the memorial service conducted in his neighbourhood on 17 April, supporters arranged to hold the service in the Civic Hall because even though it only seated 800 people (and some 20,000 turned up) it was probably the first time that any blacks other than the janitors had entered the building.

A huge turn out by the AWB, fully uniformed, and shouting taunts, did not deter the crowds that daily appeared at the Hani home and the cemetery for the final farewell.

The Goldstone Commission, in a preliminary enquiry into the violence that took place in the days following the assassination of Mr Hani concluded:

Having regard for the anger, the emotion and frustration of millions of South Africans in the wake of the assassination of Mr Hani, the fact that there was not an appreciably higher level of violence associated therewith is impressive testimony to the leadership and discipline of the leaders and supporters of the ANC Alliance, the officers and members of the South African Police and to the co-operation which existed between them, the co-ordinating role of the National Peace Secretariat and its regional and local peace committees.

The following are some examples of how local and international monitors working in tandem, and building on their experience of 21 March, were able to defuse tension:

On 17 April, two people were killed while marching past a hostel in Vosloorus on the way to Boksburg. ANC marshals expressed concern to COMSA, the OAU and local peace monitors about the return of people via the same route. They suggested an alternative route, which was longer. The local and international monitors accompanied the marshals to the T-junction, where the marshals urged people to take an alternative route. However, the tired

marchers insisted on taking the route past the hostel. Local, COMSA and OAU observers rushed ahead of them, forming a line between the police and the hostel on the one side, and the marchers on the other. The observers stayed in this position, at considerable personal risk, until all the marchers had passed.

The destruction that took place – especially in Cape Town, Durban, Pietermaritzburg and Port Elizabeth – prompted President F W de Klerk to announce that more unrest areas would be declared. Specifically, with the spectre of a march on Johannesburg – South Africa's commercial capital – preparations were being made to declare Johannesburg an unrest area, in order to prevent the march. At a joint meeting of the NPC and NPS attended by international observers (such meetings were held daily during the crisis), it was pointed out that the Minister of Law and Order had undertaken, after previous complaints, not to declare unrest areas without first consulting the peace structures. In eleventh hour negotiations, brokered by the NPS and the RPC, supported by international observers, the police and the ANC signed an agreement under which no unrest areas were declared during this period. Instead, the police committed themselves to maintaining a low profile, while the ANC agreed to ensure that marchers did not carry illegal firearms. Joint satellite points were to be set up along the routes, manned by the police, representatives of the Peace Accord structures, and ANC monitors. In our assessment, the agreement was crucial to averting major bloodshed on 17 April. Had the Johannesburg march been banned, there would undoubtedly have been an eruption of violence in the PWV area, and quite possibly elsewhere in the country.

The march on Johannesburg – which drew crowds from Soweto, Alexandra, and the East Rand – was in fact exemplary even though, because of the other violence during the week, and the shooting of two people by an alleged right-wing fanatic in a march on Vanderbijlpark on the same day, it did not receive much press attention. The fact that only 50,000 marchers descended on the city, compared to an anticipated 150,000, helped to make the march manageable. However, calls for calm by the ANC leadership, excellent marshalling, the low profile taken by the police and good co-ordination between local and international observers also contributed to a virtually incident-free day.

19 April, the day of the funeral, was no doubt the most testing for all observers. Up to 200,000 people attended the event, which was divided between the First National Bank (FNB) stadium and Boksburg cemetery, 45 kilometres away. The day began badly, with armed youths taking over access points to the stadium, and houses in the vicinity of the stadium – most belonging to whites – being burned (two people were burned alive). Up to nine people were also injured in random firing outside the stadium. ANC marshals appeared inadequate in number, and overpowered by the gun-toting youth. Still, thanks largely to the determination of those organising the funeral, events in the stadium proceeded peacefully. The ceremony – against all expectation, given the huge crowds that had gathered – ended without incident.

Two COMSA observers with police expertise assisted in a pacifying role at

the stadium and then moved hastily to the cemetery, where armed AWB supporters had gathered in the open and behind the fences of houses across the road from the cemetery. The observers spent the rest of the day patrolling the road that separated the AWB from the cemetery. There were no serious incidents of violence at the cemetery.

While *at the cemetery*, international observers received an urgent call from an OAU observer in Dawn Park, Chris Hani's home area, requesting help. Two non-police COMSA observers joined two United Nations colleagues in answering the call. Thousands of mourners, who had not been able to get into the cemetery, or near the Hani home, but had instead been diverted to an open field, broke ranks. Some had raided a nearby maize field and made fires in the open to roast the cobs. Others were throwing petrol bombs on nearby homes. Hundreds were crowding on to the few buses, tearing out windows, sitting on the roofs, and in the worst case hijacking bus drivers. Marshals called on the international observers to assist them. One person was killed when he fell off an overcrowded bus. Twenty-two houses were burned in Dawn Park. Several shops were looted and one youth was shot by police in the vicinity of the Hani house. But by supporting the marshals in their appeal for calm, and sending an urgent request for additional transportation through the RPC office, further violence was averted.

The Tambo Funeral

A mere fortnight after the Hani funeral, the Peace Accord structures were called on to help control violence during the funeral of ANC leader Oliver Tambo. Mercifully, the mood was more controlled. Mr Tambo died of natural causes. He was a dignified man who had despaired over the violence unleashed by the Hani assassination. His lifelong friend and ANC President Nelson Mandela urged that he be buried in a manner befitting his memory.

The ANC recommended that its local branches hold memorial services in their home areas, rather than send bus loads of people to Johannesburg. Heeding this call, only 20,000 people attended the Tambo funeral – in total, about one-tenth the number that arrived for the Hani ceremonies. Although the funeral was also split between the FNB stadium and cemetery, Mr Tambo was buried in his black township home of Benoni – a locality that did not raise the same tensions as Boksburg.

With the cumulative experience of observing other big gatherings, local and international observers, police and ANC officials caucused well in advance, agreeing on deployment, modes of behaviour, communications and logistics.

In the event, only one particular area proved problematic: a hostel, largely housing IFP supporters, along the route from the stadium to the cemetery. Two COMSA observers – one with police experience, the other a politician with extensive experience of mass gatherings – were stationed outside the hostel, along with two United Nations observers.

In COMSA's assessment, the route need not have passed by the hostel, and the fact that it did was deliberately provocative. A senior ANC official shared this view, but efforts to get the route changed at that stage only aggravated the crowd. Through delicate negotiations, COMSA did succeed in getting an ANC flag, which had been pinned at the T-junction just outside the hostel, removed.

As the vehicles carrying the ANC supporters on their way to the funeral passed by, there was taunting and jeering, but the situation did not get out of hand. At one stage two shots were fired from the hostel in the direction of the observers. Another volley of shots followed and it was later learned that two people were killed by this firing. COMSA observers engaged in a continual dialogue with the hostel dwellers, in an effort to pacify the mood.

The behaviour of the police present left much to be desired. For one thing, COMSA noted that the police, instead of facing the hostel, faced the observers, as though they were the enemy. The friendly banter between the police and hostel dwellers – including allowing the hostel dwellers to jump on to their vans – contrasted sharply with their negative attitude towards the ANC marchers.

Such openly displayed sentiments – against the background of the widespread belief that the police are in collusion with hostel dwellers in perpetrating violence – hardly enhances confidence in the law enforcement agencies.

As if to reinforce this view, at one stage in the day a Caspir, driven by a white policeman, bulldozed its way into the crowd for no apparent operational reason. The COMSA police observer immediately noted the vehicle number and confronted the police officer at the wheel. A report on the incident was forwarded to the SAP, with a copy to the NPS.

Lessons and Observations from Marches and Demonstrations

Each new march and gathering has rendered fresh lessons and insights which are briefly noted here, in light of the importance of this issue as the country heads towards elections.

- **Seeking Authorisation for Marches**

In the section on the Goldstone Commission in Chapter 4, we commented on the draft legislation arising from hearings on public gatherings relating to the seeking of authorisation for such events. We welcome the fact that in essence the legislation would mean that conveners would no longer have to seek permission for public gatherings, but rather simply give notice. However, we express some concern over what appear to be restrictive clauses in the legislation, and urge that further consultation take place before the legislation is passed.

- **Planning**

The planning that has gone into the major events of the past few months has helped to avert violence. However, there are areas in which political considerations may have overridden good sense. The decision, for example, by the IFP to hold a rally in Vosloorus on Sharpeville Day, although its democratic right, raised the possibility of violence. Conversely, the decision by ANC supporters to march past an IFP hostel on the day of Mr Tambo's funeral, although their right, heightened tensions on an otherwise peaceful day. In general, holding funerals in two locations stretches resources and increases the potential for violence. Lack of adequate provisions (as at Dawn Park on 19 April) makes people irritable and more likely to resort to violence. Inadequate transport and logistics are major constraints which can spark off violence. Political leaders could exercise more discretion in deciding when and where to undertake public gatherings, and how to ensure that all participants are catered for.

- **Agreements with the Police on Law Enforcement during Marches**

The agreements reached between participants and police before the 21 March rallies and 17 April marches, broke new ground and will no doubt be useful models in the months ahead. The low profile taken by the police in these events is probably the single most visible and talked of change in the conduct of mass gatherings. This, however, does carry some dangers which call for a careful balancing act. On occasion, the police appear to have used the agreements to stand back as an excuse to shirk their responsibilities. It is alleged, for example, that when the owners of the houses set alight near the FNB stadium called the police, they were told that the police could do nothing, because the ANC had taken the responsibility for security. This appears to have been a misrepresentation of the agreement.

We note also that the agreements with the police have not always been entirely successful. The readiness of the police to use live ammunition at the Soweto march of 14 April (commented on in greater detail in Chapter 3); the police officer driving through the crowd marching to the Tambo funeral, and numerous other examples illustrate the old mentality that still shows itself in crisis situations. This points again to the need for a reorientation in the thinking of the SAP. Training by international experts in crowd control may also be beneficial.

- **Display of Dangerous Weapons in Public**

In Chapter 3, we detail the unsatisfactory state of affairs with regard to the display of dangerous weapons in public. The experiences of the last few months serve to emphasise this point. One has only to listen to the volleys of shots (apart from official gun salutes) at funerals to become starkly aware of the quantity of arms at mass gatherings. At Vanderbijlpark, COMSA witnessed a white man, allegedly with right-wing leanings, drive straight into a crowd and

kill two people. In these circumstances, it is difficult to imagine that election campaigns could take place and people vote without fear of intimidation.

- **Deployment**

On occasion, deployment of local and international observers has not been ideal, with heavy concentrations in some areas, and very few observers in others. On the day of the Hani memorial services, only a tiny team of international observers had gone to Soweto. At the time of the march on the police station, these observers had been called away to deal with a crisis arising from the detention of a member of the crowd. It would be difficult to say with certainty that the presence of international observers at Protea Police Station would have prevented the killing of five, and injury of hundreds of others. However, there is a likelihood that if there had been sufficient international observers around, this would have had a deterrent effect.

- **Role of International Observers**

The involvement of international observers in monitoring marches and demonstrations exemplifies how we can help in practical ways to strengthen the structures set up under the NPA. The first line of responsibility has been with the regional and local structures, guided by the NPC and the NPS. But international observers – apart from flying their flags and just being present (the importance of which should not be underestimated) – have been able to offer discreet and useful advice. COMSA, despite its limited numbers, has been able to offer valuable expertise to these exercises. In our view (as mentioned in the section of Chapter 2 on elections), it is crucial that international observers stay on in South Africa through the election campaign, to the actual election. Even if the Commonwealth is not able to bolster numbers significantly, it could make a qualitative contribution through providing observers with police/political backgrounds relevant to crowd control.

CHAPTER 6

The Administration of Justice

Few physical structures provide more graphic monuments to the era of apartheid than South Africa's police stations, court houses and prisons.

In central Johannesburg, the notorious John Vorster Square Police Station continues to function. Today, its stark and towering superstructure has a rather seedy appearance which belies its past reputation as a place of fear, intimidation and death.

A few blocks away lies the huge Johannesburg Magistrates' Court complex. Over decades millions of black South Africans passed through the portals of this building to be convicted of breaches of the pass laws and other apartheid legislation. Following conviction most were dispatched to one of the grim prisons provided to house those who defied the apartheid regime.

Those considered most dangerous were incarcerated in places like Robben Island, a few kilometres off the coast near Cape Town, or on death row in Pretoria's Central Prison to await execution. Both of these prisons continue in operation in 1993 but they no longer house the leaders of the resistance movement and other political prisoners.

During the course of its second phase, COMSA made visits to a range of police stations, court houses and prisons to witness at first hand the functioning of the contemporary system of justice. Most of these visits, and related meetings with justice officials, followed earlier discussions between COMSA and the Department of Justice about criticisms, voiced in the report on the first phase of COMSA, concerning the administration of justice. After these discussions the NPS kindly facilitated visits by the COMSA Chairperson to the following prisons:

- Pollsmoor Prison, Cape Town – 28 January 1993 and 10 February 1993
- Victor Vester Prison, Western Cape – 28 January 1993
- Robben Island Prison, Western Cape – 30 January 1993
- Leeuwkop Prison, PWV Region – 1 February 1993
- Brandvlei Prison, Western Cape – 10 February 1993
- Pretoria Central Prison, PWV Region – 15 February 1993

In addition to these visits, the COMSA Chairperson met twice with Lieutenant-General Willie Willemsse, the Commissioner of Correctional Serv-

ices, and his senior staff, to discuss correctional issues. A visit was also made on 29 January to the Correctional Supervision Office in Cape Town.

Further to these activities relating to correction, the COMSA Chairperson met with the Attorney-General of Transvaal, Klaus Van Lieres und Wilkau; with the Chief Magistrate of the Johannesburg Regional Court and his deputy; and with members of the South African Law Reform Commission (SALRC). What follows in the balance of this chapter is a description of some of the impressions gained from these visits and meetings. A number of observations are also made about the progress being made within the criminal justice system to move away from its apartheid connections. In its report on the first phase, COMSA commented that the:

criminal justice system, already discredited by decades of association with the structures of apartheid, has now lost the confidence and respect of most South Africans. This is especially so in the nation's townships where the formal justice system has in many cases been ignored in favour of an informal system administered by members of local communities. [*Violence in South Africa, Phase I Report, p.35-6*]

Nothing has occurred in the second phase of COMSA's mission to make it resile from this statement. There are, however, some encouraging signs that the process of change necessary to restore public confidence and trust in the criminal justice system has begun. It is a process which is closely linked to the broader movement to instil democratic principles and a respect for human rights in South African society. That movement will only ultimately realise its goals when a new constitution has been put in place by a democratically elected government.

CRIMINAL INVESTIGATION AND PROSECUTION

Police Investigation

Certainty of detention, prosecution and conviction for those who commit crimes represents one of the most effective deterrents available in any nation's criminal justice system. In contemporary South Africa, this deterrent is very weak. As was emphasised in COMSA's report on the first phase, 'few crimes are reported, fewer still are detected, and an even smaller number are prosecuted successfully in the courts' [*Violence in South Africa, Phase I, p.50*].

Recent confirmation of the situation prevailing in regard to the most serious of all crimes, murder, came in a statement made in Parliament in early May by the Minister of Law and Order, Hernus Kriel. The Minister said that, in 1992, 20,135 murders were reported to the police. In less than 50 per cent of these cases (9,374) were suspects subsequently brought before a court for prosecution. Mr Kriel was unable to give figures for the rate of conviction in these cases. He had also indicated in an earlier statement that fewer than one in four rape cases reported to the police resulted in the successful identification and prosecution of a suspect in court.

The conviction rate for violent crime committed against blacks is intolerably low. It is sometimes hard to discern if the root cause of this is the inability of the SAP to penetrate sources of information and evidence in the black community, their inexperience and lack of qualification for major investigations, their lack of concern as to the outcome, their lack of resources, or a combination of these factors.

Without doubt, some detectives have excellent qualifications while others have doubtful abilities. The most competent investigators are clearly overburdened with workloads far in excess of manageable limits. Often serious gaps exist in case management from incident to pathologist to investigator to prosecutor. The SAP is severely under-resourced in terms of modern technology for storage and retrieval of information.

When queried about these matters, the Transvaal Attorney-General agreed that the criminal justice system faced formidable problems in bringing offenders to justice. He admitted that the quality of police investigations was not always satisfactory, in part because many experienced investigators had left the SAP to be replaced by young and inexperienced officers. His office sought to supervise investigations in a way which ensured that appropriate evidence was gathered to support prosecutions. Another problem confronting police was the sheer volume of cases they had to investigate. There were far too few police in South Africa in relation to the population and the state of crime. Evidence to support this view could be found in the mushrooming of private security firms around the country.

Further discussion of certain of these policing problems is to be found in Chapter 6 of the report on the first phase of COMSA. On the positive side, the SAP appears to have acted with commendable professionalism in the investigation into the assassination of Chris Hani. It has pursued its enquiries into the case despite uncovering what appears to be a complex conspiracy involving notable right-wing figures and organisations.

Attorney-General Wilkau and the SAP have also agreed to the participation of criminal investigation experts from Britain and Germany in the enquiry – a decision which reveals a welcome willingness to become more open and accountable in regard to the handling of a very sensitive case.

On the negative side, the Hani investigation has revealed the continuing use by police of the Internal Security Act, a remnant of apartheid legislation, to detain suspects for questioning. It is to be hoped that in the future legislation of this type will be repealed and that an accused person's right to silence will be protected by a new constitution.

Witness Protection

Another issue discussed with Transvaal Attorney-General Wilkau was the reluctance of witnesses to come forward to testify in criminal cases. Mr Wilkau agreed that this was a major problem, as demonstrated by a recent taxi war. He said:

I sat with 129 bodies. I appealed to the public, to the media, the local newspapers, the radio, television to come and tell us what you know. Your life may be at stake. It may be your life that goes next. Get rid of these maniacs. Not a single response.... That is a fear factor. Its unhealthy. We cannot afford it. [Interview with Attorney-General Wilkau, January 1993]

In an attempt to deal with this fear factor the Government enacted the Criminal Law Amendment Act, No. 135 of 1991. This Act, given effect by a Proclamation by the State President (No. R85 of 1992), has established a protective custody scheme for witnesses and potential witnesses. Under this scheme, such witnesses may report to any police station or prison and ask that they, as well as their dependants, be placed under protective custody. (Criminal Law Amendment Act, No. 135 of 1991: Section 4)

Perhaps not surprisingly, very few people seem to have made use of this form of voluntary imprisonment. Greater success has been achieved with a more conventional witness protection programme put in place by the Goldstone Commission. This programme provides secure accommodation in hotels or safe houses for witnesses and, if necessary, their dependants. The programme operates under strict rules of secrecy and confidentiality. COMSA has been told that fewer than ten witnesses have been protected, all of them successfully, by the Commission.

Witness protection programmes of this type are both resource-intensive and expensive to run. None the less, most developed nations possess such programmes in order to ensure that successful prosecutions can be undertaken in major areas of crime like drug trafficking, terrorism and public corruption.

There is an urgent need for a much more extensive witness protection programme in South Africa to assist in the prosecution of those responsible for the continuing wave of murders, whether politically motivated or not.

COMSA is aware that Lawyers for Human Rights (LHR) has already commenced a comparative study of witness protection programmes in a number of countries. COMSA has assisted LHR in this study by providing information about the operation of these programmes in several member states of the Commonwealth.

The Goldstone Commission's witness protection programme provides an excellent starting point for the establishment of a national scheme in South Africa, details of which would have to be agreed in discussion with Attorneys-General, the SAP, the Department of Justice and other interested parties.

One difficult issue which these discussions would have to resolve is the selection of a suitable agency to run the programme. In Commonwealth countries like Australia, Britain and Canada, it is customary for the police to have this responsibility. Given the current credibility problems the SAP suffers in the community, this police option is probably not a viable one in South Africa. Instead, the operation of a witness protection programme might become one function of a new national prosecution agency.

At present, responsibility for the prosecution of crimes in South Africa is vested principally in the various provincial Attorneys-General. Leaving aside

the question of their standing and credibility in the post-apartheid era, the work of the Goldstone Commission has illustrated the value of a national and independent investigative body. The Commission does not, however, prosecute those it may find responsible for the perpetration of criminal acts. This task is one left to the traditional arms of the criminal justice system.

COMSA discussed this arrangement with Mr Justice Goldstone at its 30 April meeting (see Chapter 4) and suggested that perhaps the Commission might also assume responsibility for prosecuting those it believed to be guilty of crimes. Mr Justice Goldstone forcefully rejected this suggestion, stating that one of the key strengths of the Commission was its ability to attract and question witnesses without them fearing immediate prosecution because of the evidence they provided. He believed that sources of vital information would dry up if the Commission were to have dual investigation and prosecution functions.

Mr Justice Goldstone noted, however, that discussions are in progress on the feasibility and desirability of setting up an independent national prosecuting authority. In COMSA's view, this is a welcome proposal which deserves active support and encouragement.

Bail

In its report on the first phase, COMSA criticised certain bail decision-making procedures which allowed persons charged with murder and other grave crimes to be released back into the community pending their trial. While recognising the overriding presumption that every accused person is innocent until proven guilty by a court of law, COMSA was concerned that in these serious cases the ready availability of bail increased the likelihood of the intimidation of witnesses, as well as of further offences being committed.

Since the release of its first report, COMSA has had an opportunity to discuss the issue of bail with a number of justice officials, judicial officers and law reformers. Attorney-General Wilkau, for instance, commented that:

Not so long ago R50 for a good murder was a going rate of bail. I am talking five or ten years ago. It's increased slightly now, but obviously we know from experience that robbers and drug dealers ... are the people who pull a second and third robbery when they are out on bail. [We] started a very active campaign to discourage the courts from granting bail so easily and, of course, there was a lot of public protest. [The] Bankers Association had complained, and building societies complained that they became the object of robberies and so forth. We have been collecting statistics to show how many people commit crimes while out on bail and what effort it takes the undermanned police to pick them up again. [However,] the Prison Department is complaining that there are too many awaiting trial prisoners [Interview with Attorney-General Wilkau, January 1993]

As noted in the report on the first phase of COMSA, about one-fifth of all persons currently held in South African jails are on remand awaiting trial. The physical conditions under which these remand prisoners are kept are, in most cases, similar to those of sentenced offenders.

In Pollsmoor Prison, for example, up to 30 remand prisoners were observed jammed into dimly lit cells, built for half that number, with minimal access to recreational and related activities and with no opportunity to work. Many of those spoken to had been in custody for six months or more. Many too had been convicted of what seemed to be relatively minor property offences, rather than crimes of violence. A common complaint was not that bail had been refused, but that it had been set beyond an accused person's means.

In discussions with the SALRC about bail reform, COMSA was told that the major problem in this area was not so much leniency in the granting of bail but rather the reverse. Far too many persons accused of non-violent crimes found themselves remanded in custody, often because they lacked access to legal advice at the time of their appearance in court.

The Legal Aid Board, in its 1991/1992 Report released in April, said that less than 20 per cent of the accused persons standing trial in district and regional courts had received legal assistance. It was also estimated that more than 100,000 undefended persons were sentenced to jail each year.

Having carefully reviewed the bail situation in South Africa, the SALRC submitted a report on bail reform to the Government in 1992. That report has yet to be tabled in Parliament and therefore remains confidential.

Some clues to the Commission's thinking on the subject can be obtained from its Working Paper 31, *Bail Reform in South Africa*, published in March 1991. In that Working Paper the SALRC drew attention to its earlier recommendations concerning a South African Bill of Rights where it was suggested that a person taken into custody should be put on trial within a reasonable period, and that while awaiting trial that person should be released on bail unless a court ordered on substantive grounds that he or she be further detained.

The SALRC acknowledged in Working Paper 31 that if this recommendation granting a right to bail were to be accepted it would imply a shift in the existing burden of proof in bail applications. At present under South African law, if there is any dispute about bail, the onus of proof rests on the accused. That person must make out a *prima facie* case that he or she will stand trial, and that the administration of justice will not be defeated if release is allowed.

Shifting that burden to the prosecution, and requiring a court to presume that bail should be allowed unless the prosecution can rebut that presumption, would constitute a substantial liberalisation of South African law on this subject.

If, as seems very likely, this is the main thrust of the SALRC's bail reform recommendations now with the Government, there is also every reason to believe that the recommendations have not found favour with conservative forces within the Government, the Department of Justice and the judiciary. Indeed, COMSA has been advised that it is these forces which have blocked further progress in implementing the SALRC's bail reform proposals.

In the present climate of deep community anxiety and fear about the state of crime the political prospects for liberalising bail laws may appear somewhat

bleak. In principle, however, COMSA strongly endorses the view that a right to bail should be recognised as one of the basic freedoms guaranteed by a new South African constitution.

It is a right which is not in any way inconsistent with the need to ensure that society is also protected against those who, while awaiting trial, would wish to intimidate witnesses or commit further serious crimes. In such cases the presumption of a right to bail would be overridden by other competing rights.

Sentencing and Corrections

Few countries in the world have given such prominence to the use of imprisonment in their sentencing and correctional philosophies as has South Africa. There are reported to be about 193 prisons in contemporary South Africa housing approximately 110,000 persons. As noted earlier, about one-fifth of all those in prison are awaiting trial. Of the balance, the majority are said to be serving sentences of two years or more in custody.

Figures supplied by the SAIRR of prisoners held in South African prisons in December 1991 showed that, of the 96,540 sentenced offenders in custody at that time, 25,758 (26.7%) were serving terms of imprisonment ranging from two to five years, 20,026 (20.7%) from five to ten years, 7,059 (7.3%) from ten to twenty years, and 1,350 (1.3%) had sentences over twenty years. (Race Relations Survey 1992/93: 133)

According to the Minister for Correctional Services, Adrian Vlok, in January 1992 the country's prison population was rising at the rate of 1,000 prisoners a month, producing a severe problem of overcrowding.

As noted in COMSA's report on its first phase, in an attempt to alleviate this problem, the Minister announced in early January 1993 that 7,500 convicted criminals were to be released from prisons around the country. The announcement produced a storm of protest. Later in the same month, the State President, addressing the opening session of Parliament in Cape Town, said that the Government's point of view was:

that serious crimes and especially those in which violence has played a part, should be subject to severe restrictions in respect of bail, severe penalties at sentencing and strict norms in respect of releases. A new system in terms of which prisoners will have to serve their full sentences in another manner is to be introduced... No prisoner will be released unconditionally ahead of time and [the] court's sentence will remain in force for its full duration. [State President's Address, 29 January 1993: 12-13]

Legislation to give effect to these measures has since been introduced in the South African Parliament. It is legislation which has also been accompanied by new and tough measures directed at the possession of illegal weapons (see Chapter 3). These measures will, if enacted, provide for mandatory minimum five year jail sentences for those found in illegal possession of automatic weapons like AK-47s, grenades, limpet mines and similar devices.

There seems little doubt that the current and rather desperate mood of the

Government, and probably a significant proportion of South Africans in all racial groups, is to use draconian punishment as a front-line defence against crime and violence. That mood is also leading to a review by the Government of its position on the carrying out of the death penalty. An open debate on the use of capital punishment may take place shortly in Parliament and the current moratorium on the carrying out of death sentences may well be lifted.

It was in this political climate that COMSA undertook visits to prisons, and discussed sentencing and correctional issues with a range of officials. These visits and discussions have led to a number of broad conclusions.

Rates of Imprisonment

In coming months, as a result of the new sentencing policies being contemplated by the Government, there is likely to be a substantial increase in the number of persons held in South African prisons. This increase will push the rate of imprisonment towards 400 per 100,000 of the population, or higher. The current rate is said to be about 380 per 100,000 – a rate which is already one of the highest in the world. The United States, the leader among major nations in the use of imprisonment, already has a rate which exceeds 400 per 100,000.

Overcrowding

This increase in the rate of imprisonment will exacerbate an already serious problem of prison overcrowding. The Minister for Correctional Services has indicated that the problem will be tackled by providing new prison accommodation, and by double bunking in existing accommodation.

Site visits by COMSA to the prisons listed earlier in this chapter revealed that the conditions under which the majority of prisoners are currently being housed in South African prisons fail to meet the space standards set by the Department of Correctional Services, and the United Nations Standard Minimum Rules for the Treatment of Offenders.

Overcrowding is at a crisis point in many prisons, with double bunking commonplace and instances of up to 50 prisoners crammed into communal cells designed to accommodate half that number. In these cells, lavatory, washing and related facilities are totally inadequate.

The conditions under which maximum security prisoners are being housed can only be described as primitive. At maximum security prisons such as Leeuwkop near Johannesburg and Victor Vester in the Western Cape, 20 to 25 prisoners were observed living in cavernous communal cells and sleeping on thin strips of rubber jammed next to one another.

Each cell, with floor dimensions approximately nine metres square, had a single lavatory, and in some cases a urinal, together with a shower and wash basin.

Natural light was virtually non-existent and the space available for any

personal belongings was severely restricted. Prisoners spent most of the day locked in these conditions (from approximately 1600 hours to 0700 hours) and ate most of their meals in their cells.

Work and Vocational Training

Compounding the problem of overcrowding in South Africa's prisons is the lack of available work and vocational training for prisoners, particularly in medium and maximum security institutions. In maximum security prisons there is in essence no meaningful work for prisoners beyond routine cleaning, maintenance and cooking.

The possibility of working in vocational settings, like furniture and metal construction shops, is denied to maximum security prisoners because of the perceived risks involved in allowing the prisoners to handle tools and other potentially lethal weapons. Until recently, maximum security prisoners at Brandvlei, and presumably at other similar facilities, spent hours breaking rocks. Today this form of punishment has been abandoned, but no suitable work replacement has been provided.

In medium security prisons, and even more so at minimum security farms such as those at Victor Vester and Brandvlei, work is more readily available. But there are still very limited opportunities to learn any trade or skill which may be of use to a prisoner on release. For example, the workshops inspected at Pollsmoor can only cater for about 200 prisoners in a population exceeding 1,000. It would also seem that many prisoners who do work in these places are selected because of their pre-existing vocational skills rather than to learn a new trade or vocation. Officials also suggested that they lacked sufficient funds and orders for the manufacture of items in these workshops.

It was further suggested that prison farms were vastly under-utilised because of restrictive practices regarding the sale of prison products. Even other Government institutions were said to be barred from buying agricultural products from correctional institutions.

Recreation and Related Programmes

Closely related to the problems of overcrowding, work and vocational training is the additional dilemma of providing the inmates of South African prisons with adequate recreational and allied activities.

At present, these activities are for all practical purposes limited in most prisons to the period between 0700 and 1600 hours – the hours during which inmates are not locked in their cells. In other than minimum security prisons, observations suggest that even during the period that inmates are not confined to their cells the opportunity for them to engage in meaningful or sustained recreational activities is slim. Opportunities for exercise are, for the most part, provided in a closed yard. In maximum security prisons this yard is likely to be both small and vastly overcrowded.

The opportunities for private reading or study, given the conditions already described, are also unsatisfactory. Even so, prisoners were observed in the most crowded cells trying to read or study despite the noise and dismal lighting levels.

Visiting

The nature and length of visits allowed prisoners in South African prisons, as well as their entitlement to other privileges, depends upon their classification into four categories – A, B, C and D, with the most restrictive situation applying to those in category D.

In essence, contact visits are permitted to prisoners in categories A and B while those in the two lower categories may only have non-contact visits. The maximum time allowed for any type of visit is one hour, with the precise period and frequency of visiting determined according to the prisoner's classification.

Until quite recently prisoners held in maximum security prisons, regardless of their classification, were denied contact visits. This situation still prevails in regard to approximately 300 offenders who have been sentenced to death and who are confined principally at a single prison in Pretoria. The circumstances surrounding the detention of these prisoners on death row will be dealt with in more detail below.

Regardless of the specific classification given to a prison or prisoner, the existing visiting system has a number of deficiencies.

First, the physical facilities tend to be cramped, non-private and lacking in any special provision for families with young children. In maximum security prisons, like the one visited at Leeuwkop, these facilities are even more inadequate.

Officials explained that because of the previous practice of prohibiting all contact visits in such prisons, they had been designed without any provision for visits of this type. With the change in policy correctional authorities had, at short notice, been obliged to make available contact visiting areas using the best available space.

At Leeuwkop, this space consisted of a small room normally used as a reception point for new prisoners. Rows of narrow benches had been placed in this room to accommodate visitors, with an overflow area available outside, shut in by barred gates, where prison vans drew up to unload prisoners.

Second, the length of time allowed for visits seems unduly restrictive given the distances travelled by many visitors to get to the prisons. Many prisoners complained in interviews that family and friends could not visit regularly due to the distance and expense involved. Given these problems, visitors should at the very least be able to spend reasonable periods of time with inmates in private and comfortable surroundings.

At present, other types of visiting programmes, such as the provision of private accommodation for conjugal visits; making available playgrounds,

garden space and cooking facilities for family visits; or allowing home furloughs for prisoners nearing the end of their sentence, seem to form no part of contemporary correctional practices in South Africa.

Complaint Procedures

In the course of a number of conversations with prisoners, including several with offenders who were undergoing disciplinary punishment, dissatisfaction was expressed with the procedures available to register complaints. These procedures include a register of complaints in each section of a prison.

An inspection was made of one such register at Robben Island maximum security prison. The register, in Afrikaans, contained only a very brief summary of each complaint and how it was dealt with. Prisoners were asked to acknowledge, with a signature, their receipt of advice about the outcome of the complaint.

Several prisoners claimed that the explanation given to them for rejecting complaints was either too brief, or unclear.

Similar comments were made about the value of another avenue of complaint – that of visiting magistrates. Prisoners said that the infrequent visits made by magistrates to correctional institutions tended to result in perfunctory queries about conditions and issues like the quality of food. There seemed to be little confidence on the part of prisoners about using these visits to raise substantive complaints about the conduct of prison officials, or the nature of the conditions under which they were being imprisoned.

In addition to visits by magistrates, judges have long had a visiting right to South African prisons. From questions asked at each of the institutions included in the COMSA visiting programme it would seem that this is a right which is seldom exercised by members of the South African judiciary. Prisoners also have access to the office of the South African Ombudsman – a right which permits them to write with complaints but which does not involve, it would seem, any visits to prisons by the Ombudsman or his staff.

The provision of a more satisfactory complaint mechanism for prisoners is, it is believed, currently being considered by the Department of Correctional Services.

In discussions with the Commissioner of Correctional Services and staff of the department, COMSA mentioned the possibility of adopting a procedure like that used in Canada where a Correctional Investigator can conduct an enquiry into a complaint on his or her own initiative, or upon receiving a request from the relevant Minister, or on behalf of or by an inmate.

The Correctional Investigator has extensive powers to obtain testimony and demand documents from relevant persons as well as to gain access to correctional institutions. This Canadian official does not, however, have the authority to order change. The power of the office lies with its ability to investigate complaints independently, to publish its findings and conclusions

about complaints, and to make recommendations to the appropriate government authorities to address the area of complaint.

Discipline

Extensive powers are given to South African correctional authorities to impose discipline for breaches of prison rules. Both dietary and corporal punishment remain disciplinary options available to the authorities although in the current session of the South African Parliament the Minister of Correctional Services has introduced legislation to abolish both of these sanctions. COMSA welcomes this development which will bring South Africa into accord with modern correctional practices which have long ago resulted in the abandonment of such sanctions for disciplinary offences in prison.

During the debate in Parliament regarding this correctional reform, members of the Democratic Party, who supported the measure, pointed to the anomaly that while the Correctional Services Department was scrapping corporal punishment it was not ruled out as an appropriate court sentence.

Judicial whippings were said to have been imposed by the courts on large numbers of people in 1992, without the option of a fine or jail. The Democratic Party pointed out that the continuing use of whipping contradicts the International Convention against Torture and Cruel and Degrading Punishment recently ratified by the South African Government.

Censorship and Access to Information

It is now said to be official policy in South African prisons not to censor incoming and outgoing mail and materials, except in relation to persons under sentence of death.

However, at one juvenile prison, a stack of unsealed outgoing correspondence was observed in a library area. When queried, officials said that they randomly looked at about 25 per cent of outgoing letters before they were sealed.

In addition, very few newspapers or magazines were observed in any of the prisons visited. Officials stated that few inmates could afford to buy such publications. According to their level of personal and prison classification, the privileges of prisoners also extended to the possession of a television and radio. Few prisoners were observed with individual sets, although communal televisions seemed quite widely available.

Access to library books and related literature was said to be unrestricted, at least as far as these materials were stocked in a prison library. Library holdings were said to be changed on a regular basis, usually through the utilisation of services provided by the local province. Several prisoners complained that they lacked access to study materials for courses either because they did not have sufficient funds to purchase the prescribed texts, or because they were not readily available through the library.

COMSA believes that in general censorship should not be imposed in a correctional setting, and that subject to reasonable resource constraints prisoners should have ready access to library, media and related information sources. This area of South African correctional policies needs to be reviewed accordingly.

Health Care

Health care facilities were examined in most of the prisons visited. In general these facilities seemed to be adequate. The health care staff interviewed were usually trained nurses. They indicated that the services of fully qualified medical practitioners and specialists were available on call if emergencies should arise, and that regular visits were maintained by such practitioners and specialists to the various institutions.

In one prison, a number of inmates complained that they were not able to obtain appointments to see a medical practitioner to secure prescribed medicines. When questioned about these complaints officials admitted that the visiting hours of the doctor concerned were insufficient to deal with the demand and this situation was being remedied. The complaints, none the less, raised the possibility that non-medical staff were restricting access to medical care in a way which could be prejudicial to the welfare of inmates.

Health care staff were also questioned about the number of injuries they treated caused by assaults of various types within prison. All of those questioned said the number of assaults was small although on occasion fights between rival gangs could result in a large number of injuries. In one prison, for example, a fight in November 1992 resulted in 23 inmates being treated for knife cuts. Three of these inmates sustained serious injuries but no one was killed.

Prison Gangs

The prison conditions described in this report have long been a fertile breeding ground for gangs. During the height of the apartheid era, these gangs terrorised their fellow inmates, leading to deaths and injuries in many institutions.

Today, correctional officials claim that prison gangs have been curbed. As the head of one correctional institution put it:

Gangs are not a problem in our three medium security prisons ... but in our maximum security prison the gangs are there. A large majority of prisoners belong to gangs and we had two isolated incidents on 16 December and Christmas Day with two gangs; members of one gang attacked another gang on the 16 December and then there was a retaliation on 25 December... We are quite satisfied that we are in full control of the gangs. Although they are there, and the prisoners belong to a gang, they are not all that active at the moment [Interview, February 1993]

When the same official was asked to describe the major gangs, he said:

We have what we call the Big 5's, the 26's, 27's, 28's and the Air Force 3 and Air Force 4. Air Force: their policy of course is to escape. That is why they are called Air Force... The Big 5's, it is said that they [give] their co-operation to the personnel. They are usually pimps and they do not cause us any problems.

The 26's, 27's and 28's are apparently gangs involved in a range of illicit activities including prostitution within the prison, stand-over tactics, homosexuality and trafficking in contraband.

Death Row

As mentioned earlier, about 300 prisoners who have received death sentences are currently being held in a single ultra-maximum security prison in Pretoria. A moratorium was placed on the carrying out of executions in 1990. Prior to that South Africa had one of the highest judicial execution rates in the world. Between 1980 and July 1989, 1,109 prisoners were hanged of whom 3 per cent were white and the remainder non-white. These figures do not include executions in the 'independent homelands'.

At the time of declaring a moratorium on executions the Government established a Review Panel to examine the case of each person then held on death row.

This examination was required following a change in the law relating to the imposition of the death penalty. Under the former law, the death penalty was mandatory for murder, unless there were extenuating circumstances. The new law now requires a judge to consider any mitigating factors before deciding whether or not to impose a death sentence in a murder case. It was felt that persons who had been sentenced under the old law should have the opportunity of making representations to the Review Panel to take advantage of the more lenient criteria under the new law.

It is understood that the Review Panel completed its examination of the existing death row cases during 1992. It is not known how many death sentences were commuted to life imprisonment or lesser terms as a result of this examination. In addition to these commutations, a number of death row inmates have been freed over recent years as part of the programme to release political prisoners.

On 15 February, the COMSA Chairperson visited death row and spoke to about 15 offenders selected at random from the population of sentenced prisoners. All death row prisoners are kept under extremely stringent security conditions in a special facility located in the Pretoria Central Prison complex. The facility, like all of the maximum security facilities visited by COMSA, was overcrowded, with up to five persons per cell in many cases. According to the authorities, many inmates preferred to live in these larger communal cells rather than in single cell accommodation. Despite the overcrowding, these death row prisoners' cells were in general of a superior quality to those observed in other maximum security prisons.

The time spent on death row by each prisoner interviewed varied substantially, with some offenders stating that they had been sentenced to death as long ago as late 1988 or early 1989, spending the intervening years awaiting their fate.

Most prisoners seemed to be both vague and confused about the work of the Review Panel. A number mentioned that in making a submission, in writing, to the Panel they had been assisted by a member of LHR. But in the case of all of the offenders spoken to the Panel had eventually decided that their sentences should not be commuted.

The conduct of the interviews proved a gruelling experience for all concerned. Several prisoners became very distressed and could not continue the interview. Others expressed extreme anguish about the uncertainty surrounding their future, and about their mental state.

One inmate said he would prefer to be executed rather than continue to live in this situation. Another offender, in a single cell, had recently set fire to his mattress and other material. Marks could be observed in the cell where the flames had scorched the walls. Officials said that this prisoner was mentally unbalanced – a view which seemed confirmed by an attempted conversation with the man, who claimed to hear secret voices and to believe strange people were watching him in his cell.

Several inmates stated themselves to be political prisoners, expressing bitterness about being abandoned by their supporters following the earlier releases made of this category of offender. Other prisoners spoke of their frustration and resentment about the quality of legal assistance they had received at their judicial trial. In almost all cases this legal assistance was in the form of a court appointed *pro bono* lawyer.

In general, based on these interviews and on the observations made of the conditions under which death row prisoners are being kept, the following conclusions seem justified:

- The psychological trauma being experienced by death row inmates is extreme. That trauma has in many cases been continuing for a number of years. In the past few months the Government has hinted that it may end the moratorium on executions – a threat which has heightened the anxiety and tension experienced by all death row inmates.
- The physical conditions under which death row inmates are being held are lacking in basic recreational facilities, and in vocational or related programmes. An inmate's day is typically taken up with playing cards or similar games, watching television, viewing videos supplied by the authorities, or in some cases studying. The death row facilities were never intended to hold long term prisoners. Thus, the available exercise areas are very limited and no provision has been made for work opportunities. Correctional authorities admitted that it was a very difficult environment in which to maintain the morale of both inmates and staff.
- Visiting privileges for death row inmates are, as noted earlier, limited to

non-contact visits. These visits take place in cramped cubicles under the eye of staff members. Given the level of security already maintained in the facility there would seem to be no reason why carefully monitored contact visits should not be allowed as is now the case in other maximum security prisons in South Africa.

- Reference has already been made to the need for more equitable and effective complaints procedures to be put in place in South African prisons. In the case of death row prisoners this need is particularly acute because of the rigidly controlled world in which they live. All inward and outgoing mail is censored; visiting by outsiders is strictly monitored; and regular access to legal and related advice seems difficult to arrange.
- Several prisoners interviewed complained about the difficulties they were experiencing in purchasing books and materials required for courses they were enrolled in. (Until recently, according to officials, funds for such purchases had been made available by charitable groups.) Most of the offenders on death row were impoverished, and none of the inmates received any stipend. This situation appears unfair, given the absence of all but the most rudimentary facilities for death row inmates. Those seeking to further their education should be encouraged by, at the very least, some subvention for the costs associated with their studies.

In the longer term, the fate of all of those now held on death row will hinge upon political decisions made either by the existing Government, or by its democratically elected replacement.

In its report on the first phase, COMSA stated that it hoped that the existing temporary moratorium on executions would become a permanent one. Certainly, there would seem to be a strong case to be made for keeping this moratorium in place until decisions have been made about a new constitutional structure for South Africa, and in particular the provision of a Bill of Rights. In the meantime, the conditions under which those sentenced to death are kept require immediate review.

A CLIMATE OF CHANGE

The comments made so far in this chapter about the state of South Africa's correctional system may appear to be unremittingly negative. There are, however, a number of developments which suggest that a climate of change is gathering momentum.

There is perhaps no better evidence of a major shift in correctional philosophy and practice than the access COMSA has been given to South African prisons. In the past, these institutions have for all practical purposes been off limits to any foreign or local observers with the limited exception of some visits, at times suspended, by the International Red Cross.

Today, it is an explicit policy of the Department of Correctional Services to open the correctional system to outside scrutiny, including that of the media.

A new senior appointment has been made of a public relations manager to oversee this important initiative. COMSA met this manager, an experienced journalist in his own right, shortly after his selection for this new position.

It was clear from discussions about his proposed work programme that the top management in the correctional system is committed to a new era of openness and accountability. This commitment is also linked to a desire to inform the community about the role of correction, and to emphasise the responsibilities that the community itself has in assisting with the rehabilitation of offenders.

Community-based correctional programmes are still in their infancy in South Africa, but a well planned and expanding system of correctional supervision is beginning to spread around the nation. The system combines elements of probation supervision, community service, home detention and related alternatives to imprisonment which are familiar features of correctional programmes in many western nations.

At the time of COMSA's visit to one of the first offices opened in the Western Cape to administer this new sentencing option, about 700 cases had been dealt with in this way. A sense of enthusiasm pervaded the discussions with the individuals staffing this office. They spoke of the new challenges and opportunities for rehabilitation that a correctional supervision programme offered, in stark contrast to the traditional use of imprisonment. Offenders who were interviewed serving a sentence of community supervision also expressed positive feelings about the programme.

Although it is still too early to judge the long term efficacy of correctional supervision as a rehabilitation tool, initial reports suggest that well over 90 per cent of the offenders receiving such a sentence successfully complete their period of supervision. This high rate of success is pleasing but it may well be influenced by the stringent eligibility criteria established for those offenders who receive this type of sentence. These criteria favour offenders with strong community ties – a situation which seems likely to preclude many non-white offenders from participating in the programme.

A similar enthusiasm about the new programme was found at the level of the Commissioner of Correctional Services and his senior management team. After decades of isolation from their corrections colleagues in most countries of the world, these officials were remarkably candid about their need for information, advice and assistance in setting fresh directions for South Africa's correctional system.

When questioned about many of the issues which have been raised in this chapter they responded in a frank and positive way, admitting certain deficiencies but also pointing to the enormous problems they had confronted as administrators in seeking to change an apartheid-driven culture dominated by retributive and deterrent philosophies of punishment.

Like their counterparts around the globe, the managers of South Africa's correctional system tend to have only a limited influence on policies which affect their work-load in prisons. Reflecting what they perceive to be community standards and desires, and guided to varying degrees by legislative dictates, it is judicial officers who sentence convicted offenders to prison or alternative forms of punishment. In South Africa, these overwhelmingly white judicial officers have long demonstrated a capacity and willingness to impose draconian penalties on an overwhelmingly non-white offender population.

Changing this situation, and instilling a new approach to the sentencing of offenders, with an emphasis on their rehabilitation and reformation, is a formidable task. Fortunately, there are already judicial officers who are showing a willingness to respond to such ideals. Thus in a recent speech, Mr Justice P H Tebbutt of the Cape Supreme Court urged his colleagues to consider the benefits of community-based sentences in preference to the use of imprisonment:

Judicial officers are encouraged to make greater use of fines, suspended sentences, the performing of community services and the form of sentence introduced in 1991 known as correctional supervision. In this the offender can be placed under house arrest, can be obliged to perform community service, be monitored by the authorities of the Department of Correctional Services and/or be obliged to undergo rehabilitation programmes or treatment e.g. for drug or alcohol abuse or, if necessary, psychiatric treatment. The main feature is that the offender is kept out of prison. His return, hopefully, to the straight and narrow path involves his fellow citizens. [Address to Fedics Breakfast Club, Cape Town, 28 April 1993: 7]

It will be the citizens of South Africa as a whole who in the future will have the responsibility of deciding whether or not they wish to continue support for a hugely expensive and largely ineffectual prison system. The daily cost of maintaining an offender in prison in South Africa is said to be about R42. The equivalent cost of correctional supervision is about R8. In the longer term economic factors may be as persuasive as social justice arguments in achieving change in this area. There is also the possibility that a new Bill of Rights will provide the opportunity for legal challenges to be mounted against the Government for permitting what amounts to cruel and unusual punishment to occur in the nation's vastly overcrowded prisons. Many of the leaders of the new South Africa are also likely to be in a unique position to speak about the effects of imprisonment – a situation which may in itself act as a powerful catalyst for change.

Towards Democratic Policing

Introduction

COMSA has now spent almost eight months in South Africa observing, listening and learning about police / community relationships and acting as a catalyst for change through a wide range of contacts with the police. These contacts started in the field, where through our observations of marches and public gatherings (see Chapter 5), we met police officers and offered practical suggestions. As described in Chapter 4, COMSA has also frequently interacted with the police involved in the RPCs and LPCs. This included helping to set up police / community relations subcommittees of the Wits / Vaal RPC and Vaal LPC. COMSA has also had close dealings with the Police Board, a structure set up under the NPA.

In addition, a COMSA observer specialising in police / community relations held wide-ranging discussions with senior members of the SAP, officials of political parties and academics concerned with police reform. COMSA has participated in a wide variety of workshops at universities, and police training institutions on police / community relations. Our experts have on several occasions been invited to address the police and the public on the subject of police / community relations.

In the report on its first phase, COMSA observed that 'what is required is a fundamental reorientation to equip the police to serve the people of South Africa during the 1990s and beyond.'

The SAP itself has acknowledged that implementing community-oriented policing requires a fundamental culture shift in order to ensure a policing style which is ethical, open, accountable, consultative, responsive to client needs, and effective in providing a quality service.

In order to begin this culture shift, the SAP has established a Community Relations Division. Community relations officers have now been appointed to each of the regions.

During the second phase of its mission, COMSA began to observe the benefits of appointments like these, and of other initiatives designed to improve the effectiveness of the SAP in fulfilling its role of providing service to the community.

There are, for example, signs of improved co-operation with organisers of

marches, rallies and other events. In turn, this approach has resulted in better control over the behaviour of participants at such events with a reduction in the use of oppressive tactics. Rather than crushing unauthorised marches, station commanders are to a greater extent exercising discretion and employing approaches which reduce friction between the police and the groups involved. There are, of course, exceptions to this, such as the march in Soweto during the Chris Hani memorial activities when officers at the Protea Police Station panicked and released tear gas, rubber bullets and live ammunition into a crowd.

Change inevitably comes slowly. Many police officers at grassroots level are yet to be informed about community policing approaches, as COMSA was made aware at an SAP workshop in late April. Members of international observer missions with a policing background participated with academics and designated senior community policing officers from all over South Africa in a series of practical discussions about how to move forward on community policing initiatives. The following are some observations drawn from our experience and interaction.

GENERAL OBSERVATIONS

Commitment

At the outset, what is required is a clear vision of the way ahead. As such, COMSA believes it would be useful if the Commissioner of the SAP states what qualitative changes he wishes to see in place within a given time-frame. Such a statement would shape the future culture of the organisation and exemplify the model which the organisation wishes to follow. This would mean, for instance, setting policies regarding the proportion of staff who would be women or individuals from various ethnic groups. It would also frame policies concerning the professional standards of conduct and service expected of police, and identify the ways in which South Africa's diverse communities would define policing priorities.

Police leaders and managers have a fundamental part to play in assisting the culture change and ensuring that the desired values permeate the entire police organisation. They need to demonstrate their personal commitment to community-oriented policing in both word and deed. They need to take personal responsibility for the change. One way of ensuring that this would be done is to provide performance assessment incentives for good community relations work. Another way would be to make racist, oppressive and sexist behaviour a disciplinary offence.

The current situation in the SAP is that a policy statement and manual on implementing community policing has been issued. Key personnel have been trained. There is, however, no yardstick for measuring change, which appears to be happening on an *ad hoc* and hesitant basis, with considerable resistance

in some cases. Much is dependent upon the personality and commitment of local officers and the support they receive from their more senior colleagues.

Many of these problems have been identified and steps are being taken to overcome them through the provision of more extensive training. What is also required is more visible management support.

Composition of the SAP

At present, the SAP is predominantly a white Afrikaner male-dominated organisation, despite having a majority of black officers in the lowest ranks. There have recently been a small number of senior level appointments of officers from the black community, but in general white males occupy middle and senior management positions. Women are even less well represented across the organisation.

It is unclear whether the SAP's current recruitment and promotion procedures have been subjected to scrutiny to ensure that fair and objective decisions are made, and to eliminate gender-bias in the selection process.

Given the country's history, it is unlikely that traditional measures will be sufficient to change the situation. Innovative and courageous measures will be required to encourage suitable applicants from different communities to join the SAP, including members of former liberation movements who may wish to seek lateral entry into key management positions.

A course commenced recently at the University of Witwatersrand for 35 selected students, including some members of Umkhonto we Sizwe (MK), to train them to become middle-ranking police officers. The Community Law Centre at the University of the Western Cape is also considering the training required to facilitate lateral entry into the police service. It may be that similar training could be offered, on a voluntary basis, to existing members of the SAP so that all groups can begin to develop a shared understanding of what is meant by a democratic policing style.

There is also a need to design suitable training programmes for future police recruits with a special emphasis on peace-keeping and community relations. Training programmes are also being contemplated for marshals who act as a buffer between police and communities at rallies, demonstrations and other public meetings. These programmes could in themselves be the foundation for the development of future community-oriented police officers.

A strong case can be made for adopting positive and assertive measures to attract more women into the SAP. Family violence is on the increase. So too is the incidence of rape. Effective police action demands that there are sufficient numbers of well-trained female officers to deal with the initial investigation of cases of this type as well as being available to provide assistance to victims. This is at present an undeveloped area of police work in South Africa and one which requires urgent attention if the SAP is to provide services fairly to all members of the community.

Welfare and Support Systems

Recruiting a more representative police organisation is only the beginning of the process. Other changes are required as well. For example, support networks for women and individuals from different racial groups must be encouraged and resources earmarked to meet the particular welfare and training needs of members of staff from disadvantaged communities.

Effective welfare should be provided across the board. The incidence of suicide amongst members of the SAP raises questions about the effectiveness of its own support services. An organisation that fails to provide adequate support and care for its own staff is unlikely to be able to provide the desired standard of service to its clients.

Rank and File Participation

The success of any change depends on the commitment of all staff. This commitment will only develop if all members of the rank and file are directly involved in the process. All staff must be given an opportunity to shape the process, to express reservations, to offer ideas and to be reassured.

Effective Mechanisms for Resolving Grievances

An organisation that respects and values individuals and in which relationships are built on trust and empathy must have effective ways of resolving staff problems as they arise. It is essential that the SAP has a procedure which is user-friendly, and in which all have confidence, so that no one has to suffer in silence. Women are particularly vulnerable in male-dominated organisations and may be reluctant to complain, even when they have experienced sexual assault or harassment. Similarly, members experiencing racial discrimination may remain silent because of the fear of repercussions.

Culture

Protection of work colleagues is a common practice, but in a police setting this practice can be both dangerous and against the public interest. No professional police service can afford to protect criminals within its own organisation. Illicit behaviours like corruption, bribery, or the excessive use of force, must all be severely punished. The closing of ranks in cases of this type does nothing to engender public trust and support. It is important to create a culture in which there are staff supportive of upholding high standards of police work. 'Whistle blowers' need to be commended rather than victimised.

Appearance of the Police Organisation

In moving from a police force to a police service, appearance is crucial. Some dismiss this aspect of change as a superficial public relations exercise. It is not. Just as a change of name from force to service can signal a change of emphasis,

so too can a change in police buildings, vehicles, stationery and uniforms.

At present the appearance of the SAP conveys mixed messages. On one hand, there are the officers in blue who are moving towards a community-policing style. On the other, these officers often work side by side with officers from the ISU dressed in camouflage uniforms and travelling in military vehicles. All officers carry weapons of varying range and capacity. Given these realities, it will be difficult to convince the public that the SAP is serious about moving towards community policing without substantial changes in its operating style and practice.

There is a need for the SAP to work towards a coherent, consistent and acceptable visual identity so that the role and functions of the military are kept quite separate from those of the civil police service.

POLICE/COMMUNITY RELATIONS

The observations made so far in this chapter deal primarily with the internal workings of the SAP. The following observations address more specifically the issue of police/community relations.

Role of Station Commander

It is imperative that station commanders show an interest in community forums, such as LPCs. Sending junior officers to these forums does little to inspire the confidence of communities in working with their local police. In addition, a lack of continuity of officers attending community forums means that agreements reached are not fulfilled.

On occasion, agreements reached are also not adhered to because the ISU or the robbery squad undermines police/community relations by going into an area without consulting or informing the local station commander. The latter must be in charge of local police operations. If other units are deployed, it should be with the clear understanding that they take instructions from the local commander. Communities are also entitled to be briefed on the outcomes of any special deployment. Years of bridge-building can be destroyed by a single rude or insensitive action.

Reform of the Internal Stability Unit

At present, officers in the ISU can spend years, if not their entire careers, sealed off physically and emotionally from local communities and their problems. A specialist riot unit like the ISU which is devoted to dealing with public order incidents tends to show little, if any, concern for the consequences of its actions. Local officers always need to consider the longer term effects of their actions on their communities.

It is vital that the respective roles of the police and the military are clarified in South Africa. The SAP must discard its ISU-based military image. In a democracy, armed forces like the ISU are established and maintained to protect a country from external threat. The ethos of policing and the ethos of soldiering are not the same and should not be confused. Every effort should be made to free the military from internal law and order support duties. That is a job for the police. If there are too few police then this aspect must be addressed.

Defusing Tension through Community Relations Officers

At demonstrations and political funerals, particularly in the lead-up to the elections, there is a need to have well-trained officers involved in peace-keeping and, sometimes, peace-making. COMSA has noted that at some public gatherings (see Chapter 5) police have appeared to be unsure of what was expected of them. This uncertainty, and lack of a broad repertoire of potential responses, has resulted in two observed police reactions: some have either ignored difficult situations, while others have over-reacted, reaching immediately for a gun. Lethal force should be a last resort – not the first. Officers require training to ensure that they use minimum rather than maximum force. It may be helpful to involve newly appointed community relations officers in this sensitive work.

The skills of community police officers are most severely tested in crowd control situations. Effective crowd control involves far more than the use of military might and aggressive, coercive tactics. Such control requires communication skills of the highest order; a facility to mediate and consult with others about workable compromises; and a capacity to find common ground and take others with you. Above all, community policing in this situation involves being a good diplomat and an active listener.

Community policing officers will also need to know how to liaise effectively with marshals and the organisers of public gatherings. The Community Law Centre at the University of the Western Cape is currently identifying the needs of all those involved in monitoring and organising rallies and demonstrations with a view to developing practical, relevant and helpful training packages. The focus of these packages will be on communities taking prime responsibility for peace-keeping in these situations.

Consultation

In order to ensure local partnership in any community policing initiative, it is necessary to include the community in planning and to undertake, with the community, an audit of policing needs. Failure to involve key members of the community in the planning phase of an initiative may undermine its effectiveness from the outset. Similar considerations apply to any performance audit. An external element is vital if such an audit is to be useful and credible.

Empowering Local Creativity

Consultative forums imposed from above with little local involvement are unlikely to be viable. Local communities will view such attempts at consultation with suspicion or hostility. Community policing must grow organically and be nurtured by accepting communities within a wider democratic process.

Local Service Standards

Consultative forums provide an opportunity for local people to inform their local police about their policing expectations. Police likewise can provide insights from their own perspective, and on occasions may be able to point to expectations which are unrealistic.

Communities have a chance to explain their agenda for the police and thereby ensure initiatives are community-led and not police-led. Consultative forums also ensure that communities define what the local problems are, and provide a facility for joint problem-solving.

Agreeing local standards of service is another option that can be explored at the forums. For example, local people may decide suitable response times to a telephone call, or to a letter. They may also lay down anticipated standards for victim support and the follow-up of cases.

Lay Visitors to Police Stations

The history of oppressive and hostile political policing has left its mark in South Africa. One way of demonstrating that the SAP is now committed to a democratic policing style is to open up police stations and operations to lay scrutiny.

In the first report, COMSA strongly recommended a lay visitor scheme to South African police stations. We are heartened that this recommendation is being seriously considered by the Minister of Law and Order and referred to the Police Board for assessment. It is hoped that formal approval for this important scheme will be given shortly.

Training the Police

Police training must do more than raise an awareness about community policing. It must empower all officers to change their behaviour and attitudes. This will involve facing up to barriers and challenging old ways of doing things. It will also mean considering fresh and creative ways of working.

Training will need to cover the following key areas:

- democratic policing, protection of civil liberties, community rights and human rights;
- importance of community relations for effective operational policing

(including tackling discrimination);

- police accountability to the community (consultation and participation);
- management practices and supervision;
- ethical leadership in action;
- use of discretion and ability to question traditional practices and cope with ambiguity;
- ability to monitor progress and plan activities;
- self/social awareness and cross-cultural communication skills;
- conflict management;
- counselling skills.

At present, there is too much reliance in police training on rote learning, technical proficiency and legalistic information. Insufficient emphasis is given to the development of diagnostic skills and the processes of working together. The atmosphere of learning is just as important as the content of the lessons. A participatory style of learning is much more likely to provide officers with the skills required to engage co-operatively with their respective communities than the current lecture style.

Monitoring Mechanisms

Monitoring and evaluating initiatives tend to be weak areas in most police organisations. The following indicators may be helpful in measuring progress in community policing:

- *consultation*: how has there been consultation in developing police plans, objectives and priorities?
- *adaptability and flexibility*: is there evidence that local police have been responsive to local needs in developing their approaches?
- *mobilisation and participation*: how many different community groups and interests have been involved in the processes of consultation?
- *accountability*: what mechanisms are there for third party scrutiny at all stages of police operations and planning?

In addition to the above indicators, another vital window into police / community relations is monitoring the incidence and patterns of complaints against the police. Such a system needs to be independently overseen, and to include a method for feeding information back to the public.

CONCLUSIONS

COMSA believes that the opportunity exists to create a uniquely South African version of participatory policing, adapting good practice from abroad, while breaking with the apartheid structure and style of policing. Such a model ensures that communities and their political representatives have a substantial say in the way police services are provided. This is vital for policing in a democracy. If the police exist to provide a service to South Africa's diverse communities, then it is appropriate that they account to those communities. Otherwise, they run the risk of becoming a corps set apart from the communities they serve, and repeating the mistakes of the past.

CHAPTER 8

Socio-Economic Reconstruction

In the report on COMSA's first phase, we cited the huge disparities in wealth in South Africa as a root cause of violence.

The richest 5 per cent of the population in South Africa owns 88 per cent of the wealth, while over 50 per cent of the population (and 60.5 per cent of the African population) lives below the poverty line.

This has given rise to the curious mix in South Africa of first world sophistication and third world underdevelopment. The resulting political crisis, and the international sanctions campaign, have had a detrimental effect on the economy. That coupled with drought and – until recently – falling gold prices has conspired to lead to a continuous economic decline for the last four years: the longest recession in the country.

Overall unemployment is running at close to 50 per cent, and investment as a share of gross domestic product (GDP) has fallen from 23 per cent in 1983 to 16 per cent at present. Foreign and local investors are sitting tight while political uncertainties prevail.

For most governments, international organisations and funding agencies, the establishment of a transitional government in South Africa will be the essential trigger for the lifting of remaining sanctions, and active involvement in socio-economic reconstruction. In preparation for this inevitability, COMSA began during the second phase to make some cursory enquiries into economic policy issues.

We met with representatives of the Consultative Business Movement, COSATU, a variety of business people, Econometrics (a policy think-tank), the South African Foundation, and Robin Lee Associates (a consultancy firm involved in a study by a cross-section of 22 South Africans entitled 'Growing Together' on future economic policy). We also met with senior officials of the ANC economic department, and a variety of government officials involved in economic planning.

At a grassroots level, our association with the structures set up under the NPA, which makes provision in Chapter 4 for the establishment of permanent subcommittees on socio-economic reconstruction and development, has brought us into contact with efforts by communities to overcome poverty and despair.

Recognition of the crucial role played by women in the development

process – and the fact that COMSA enlisted its first woman observer in the second phase – prompted us to look more closely at the struggle by South African women for equal rights, as well as their potential contribution to socio-economic reconstruction.

Policy Issues

Much less in the news than the multi-party negotiations that have been going on at the World Trade Centre, yet perhaps equally as important in the long run, are a series of negotiations between business, COSATU (which is allied to the ANC) and the Government.

These negotiations fall under the rubric of the National Economic Forum (NEF), which was launched, at the initiative of COSATU and after considerable resistance from the Government, late last year. Around this Forum revolve 140 regional and sectoral forums. An example of the latter is the Vaal negotiating forum, mentioned in Chapter 4.

The clout which the NEF is gaining is illustrated by the fact that it was to the NEF that Finance Minister Derek Keys first presented his five-year 'Normative Economic Model' in March this year, in his words to be 'ripped to pieces and put together into a new synthesis which will hopefully command democratic support'.

In an important symbolic gesture – because it represented for the first time the ceding of financial control by the Government to a multi-interest group – the 1992/93 budget allocated R70 million to the NEF and National Housing Forum to be used in policy formulation and creating jobs.

There have been suggestions that the NEF and its satellite negotiating forums may eventually amalgamate into a socio-economic council, that will advise whatever new government comes into being.

In our interaction with participants in the NEF we have observed the following:

- A marked easing of tension between business and labour, as well as labour and the Government.
- A narrowing of the gap in thinking on policy issues. The Government, while putting the accent on growth, acknowledges the need to redress the glaring inequities created by decades of apartheid. The ANC Alliance has backed away from its earlier stance on nationalisation, and called for a lifting of remaining trade and investment sanctions once a TEC is in place.
- From the old rigid debate of privatisation versus nationalisation, the economic policy debate has now shifted more to ANC proposals on anti-trust laws for breaking up the six conglomerates that own 86 per cent of the shares on the Johannesburg stock exchange. Business generally argues that such corporations give South Africa muscle overseas. But the recent announcement by the Government that draft legislation is soon to be introduced to support 'unbundling' of the country's large corporations

suggests that there is some agreement that the conglomerates occupy an unfair position in the local market.

- There is agreement on the need for new foreign investment, expressed most recently by Mr Mandela on his trip to Britain in May 1993.
- There is general agreement on a philosophy of growth and redistribution, rather than the previous extremes of growth or redistribution on the one hand, or that of growth through redistribution on the other.

Major problems remain, however. These relate largely to the oft-referred to 'crisis of legitimacy' faced by the Government which can only be resolved through representative structures being put in place.

A classic example of this is the problems faced in the social sector. In the 1992/93 budget, the Government increased social spending from 41 to 44 per cent of the budget: a figure that is high by international standards. Yet social services for blacks remain in a sorry state for a number of reasons:

- **Racial inequities in spending:** Although social expenditure on every white person has been narrowed down from 18 times that spent on every black person to a factor of four, the racial gap still needs to be closed.
- **Corruption, waste and inefficiency** have surfaced in several areas. Cases of inappropriate expenditure in the 'homelands' have been widely publicised. The economists working on 'Growing Together' estimate that there could be a saving of at least R2.5 billion out of the R16 billion education budget through improvements in efficiency. Other prominent economists have pointed to the sum of R2 billion spent on constructing a mere 15,000 homes last year as inviting serious questions on how money is being utilised.
- **Misguided expenditure:** In health, to cite one instance, expenditure is still heavily biased towards expensive, curative medicines, which benefit the wealthy, rather than preventative health care, vital for stemming the most basic diseases that continue to afflict the majority population.
- **Unrest:** The violence wracking the country has impeded development efforts. For example, the Department of Education, in its most recent annual report, records 16,000 instances of disruption throughout schools in the country, and the loss of 11 million pupil days last year. The near anarchy in black schools, which is directly linked to the political crisis in the country, has bred a whole generation of scholars who, according to the report, 'have never known a role model or normality'.
- **Conflict within communities and the inability of the Government to relate to them:** A classic example of this is the chequered policy being followed with regard to upgrading hostels, cited often in this report as flash-points for violence.

In a briefing with government officials, we were informed that although a very substantial amount had been set aside for the upgrading of hostels, very little of this had been spent.

One of the difficulties faced has undoubtedly been political. Embarking on the upgrading of one hostel supporting a particular party could immediately spark allegations of favouritism.

Complicating matters are the different policy positions on what to do with hostels. The ANC has been urging the fencing off of hostels as an immediate measure, and upgrading them to family units thereafter. The IFP rejects fencing, and says that not all hostel dwellers favour the creation of family units, which would be more expensive, and oblige them to bring their families (who remain in the rural areas) to town, with the attendant problems of supporting them, finding schools, etc., in an urban setting.

Hostel dwellers themselves have firm views on what they want for their individual hostels. A government which is not representative – no matter how good its intentions – is not in a position to consult effectively with the communities it seeks to serve.

The above observations point to the imperative of a new political dispensation. In the interim, however, we endorse the calls, made by the 'Growing Together' panellists and others, for bodies such as a performance auditing agency and independent fiscal commission which will serve as useful watchdogs on government spending far into the future.

We also endorse the efforts of the NEF short-term working group to create jobs through a public works programme, and of the long-term working group to tackle policy issues.

Related negotiating forums – such as the housing forum – provide representative platforms for beginning to tackle some of South Africa's daunting problems. Through reaching out to local communities, and bringing together actors who might otherwise never associate, they contribute to peace and reconciliation. We therefore urge that these forums mushrooming across the country be given maximum encouragement.

Socio-Economic Reconstruction through the Peace Accord

Recognising the close relationship between peace and development, the regional and local structures of the NPA have changed their names from dispute resolution to peace committees.

A subcommittee of the NPC, headed by a full-time national executive director, has been working to ensure the establishment of socio-economic reconstruction subcommittees at local level.

There are Socio-Economic Reconstruction and Development Subcommittees (SERDs) in various stages of establishment in eight of the eleven regions. These identify projects and prioritise needs, for which funds are sought.

Many SERDs are still bogged down by legal and administrative obstacles. Political infighting has also hampered some efforts.

In the following section, we cite a case study of socio-economic reconstruc-

tion efforts with which we have been closely associated, and which offers hope for the future.

Socio-Economic Reconstruction in the Ensimbini Valley

As part of the peace settlement in the Ensimbini Valley (see Chapter 4), committees for reconciliation, resettlement and development were established in KwaNdwalane and KwaMavundla principally to oversee the return and resettlement of the refugees and the reconstruction of houses destroyed in the violence. A representative of the Reconstruction and Development Subcommittee of the Port Shepstone Peace Committee was co-opted on to the local committees to provide the necessary liaison.

With the return of peace to the Valley, an inventory of all the houses needing repair was prepared by joint teams of ANC and IFP representatives on the basis of which a project proposal was drawn up. As of 25 January 1993, 281 householders had been identified as requiring assistance to repair well over 560 rooms. The estimated cost was put at R663,000. The budget has since been approved by the Reconstruction and Development Committee of the NPS and a project co-ordinator appointed. The reconstruction is due to begin shortly.

In addition to the resources of the NPS, COMSA has also been exploring other ways of consolidating the peace process on the Lower South Coast. It made preliminary contact with a number of business organisations with interests in the area to see if a consortium could be put together to sponsor the establishment of a vocational training centre specialising in, among other things, carpentry, masonry, metalwork, motor mechanics and agriculture. The initial reactions have been encouraging and consultations are under way on the next step forward.

Empowering Women

South African women, who constitute 53 per cent of the population, have been among the worst victims of apartheid and of violence, as illustrated by the following statistics:

- According to 1991 figures, one out of every two girls and women in South Africa will be raped in her lifetime, one of the highest such rates in the world. Yet, an overwhelming majority of rape victims are said not to report the crime.
- It is estimated that one in six South African women is battered regularly by her male partner. This figure may be an underestimate since, again, most victims do not report the crime, partly for fear that if the concerned male gets to know, the situation will be even worse.
- There is a very large number of illegal abortions each year, and one-third of all teenage girls become pregnant.

- Despite the fact that 43 per cent of African and 52 per cent of coloured women are single mothers, almost all title deeds in South Africa are in the hands of men.
- While there is equal representation of boys and girls at primary and secondary school, there is a heavy imbalance of the sexes in tertiary education.
- Women make up 36 per cent of the work-force, and are concentrated in the lowest-paying jobs, mostly as domestic workers. Women in the same types of job as men often earn less.
- Working women are not protected from dismissal as a result of pregnancy. Maternity benefits are only 45 per cent of weekly earnings for six months, and only after a worker has contributed for at least three years.
- Nationally, less than one per cent of infants are taken care of in publicly funded crèches.
- Only five of the 178 Members of Parliament in the white Parliament are women. There are only nine women in a total of 51 officials on the ANC's National Executive Council. There were two women delegates to CODESA.

On 8 March (International Women's Day), COMSA attended the launching of the Women's National Coalition (WNC) – a broad-based movement that cuts across party lines, and aims to place the concerns of women firmly on the agenda of constitutional negotiations. We continued to follow the activities of the WNC through meetings with its representatives, and by attending a major weekend workshop organised by the group in April.

As noted at the beginning of Chapter 2, we warmly welcome the inclusion of women in multi-party talks, and hope that this does not prove to be a token gesture.

The National Party is currently in the process of promulgating a series of bills on women which include legislation on the prevention of domestic violence, the abolition of discrimination against women and the promotion of an equal opportunities bill.

While these gestures are commendable, there are flaws in the proposed legislation. For example, unmarried couples are not included in legislation on guardianship, despite the preponderance of single parents in South Africa. While there is provision for maternity leave under the proposed legislation, there is no guarantee that women who take this up will get their jobs back.

More relevant for the longer term are the efforts by the WNC to solicit inputs from across the country for a Women's Charter that would be incorporated into the new constitution.

At the heart of the campaign is what the WNC describes as a 'multi-method programme of participatory research' which will involve 100 trained field workers being deployed across the country to consult with women from all walks of life. Methods employed will include in-depth interviews, questionnaires, public meetings, hearings and media surveys.

The WNC hopes that by October this year, its researchers will have completed gathering and analysing their data. From November onwards this information will be debated and popularised, and then submitted to the body charged with drawing up a new constitution.

Among the issues being discussed are: equal opportunity, pay, treatment and benefits for equal work; equal taxation for men and women; an end to battery, and rape law reforms.

We recommend that consideration also be given to the following:

- Ensuring participation of women in the IEC (see Chapter 2) so that the particular concerns of women with regard to elections are effectively addressed. These include the fact that the majority of people living in the 'homelands' (where elections are likely to be most problematic) are women; that because of the high level of illiteracy among women voter education has to be especially tailored to reach women, and that there should be adequate security arrangements so that women are not deterred from voting.
- Inclusion of women in transitional arrangements: this is important, if the current participation of women in the multi-party talks is to be meaningful.
- Ensuring that the gender implications of decisions on a new constitution are carefully weighed. The extent to which power is devolved to the regions, for example, could have serious implications for the realisation of women's rights. If provinces have the power to legislate on social welfare issues such as abortion and the application of customary law, this could have profound repercussions on efforts to enhance equality.
- COMSA also recommends that – in light of the particular effects of violence on women, and the violence specifically directed at women – there be a conscious effort to recruit women into law enforcement agencies. This issue is addressed in greater detail in Chapter 7.

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.

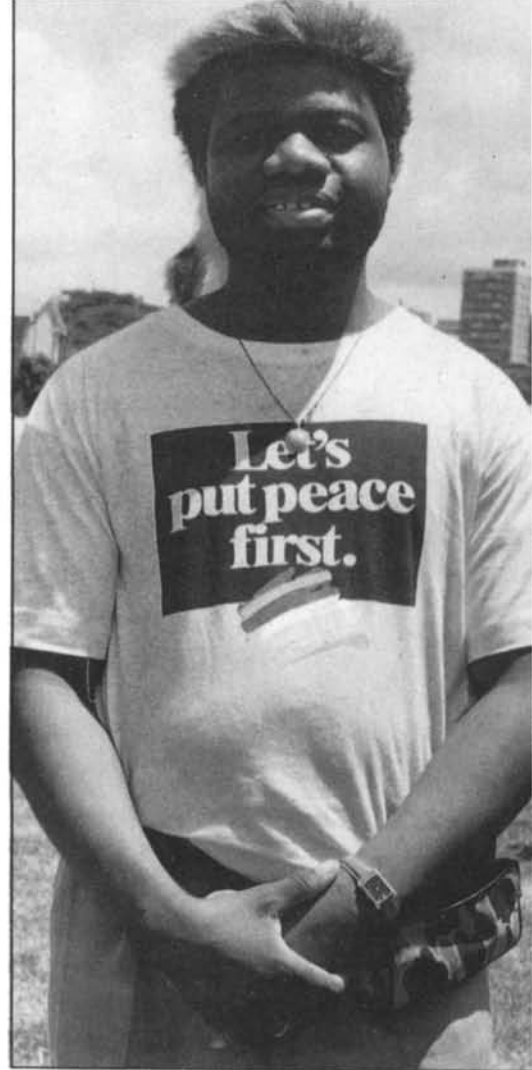
In moving towards a third phase, the Commonwealth Secretary-General is now consulting Commonwealth governments with a view to extending COMSA's brief until such time as the first truly democratic elections are held. It is envisaged as part of this decision that:

- 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

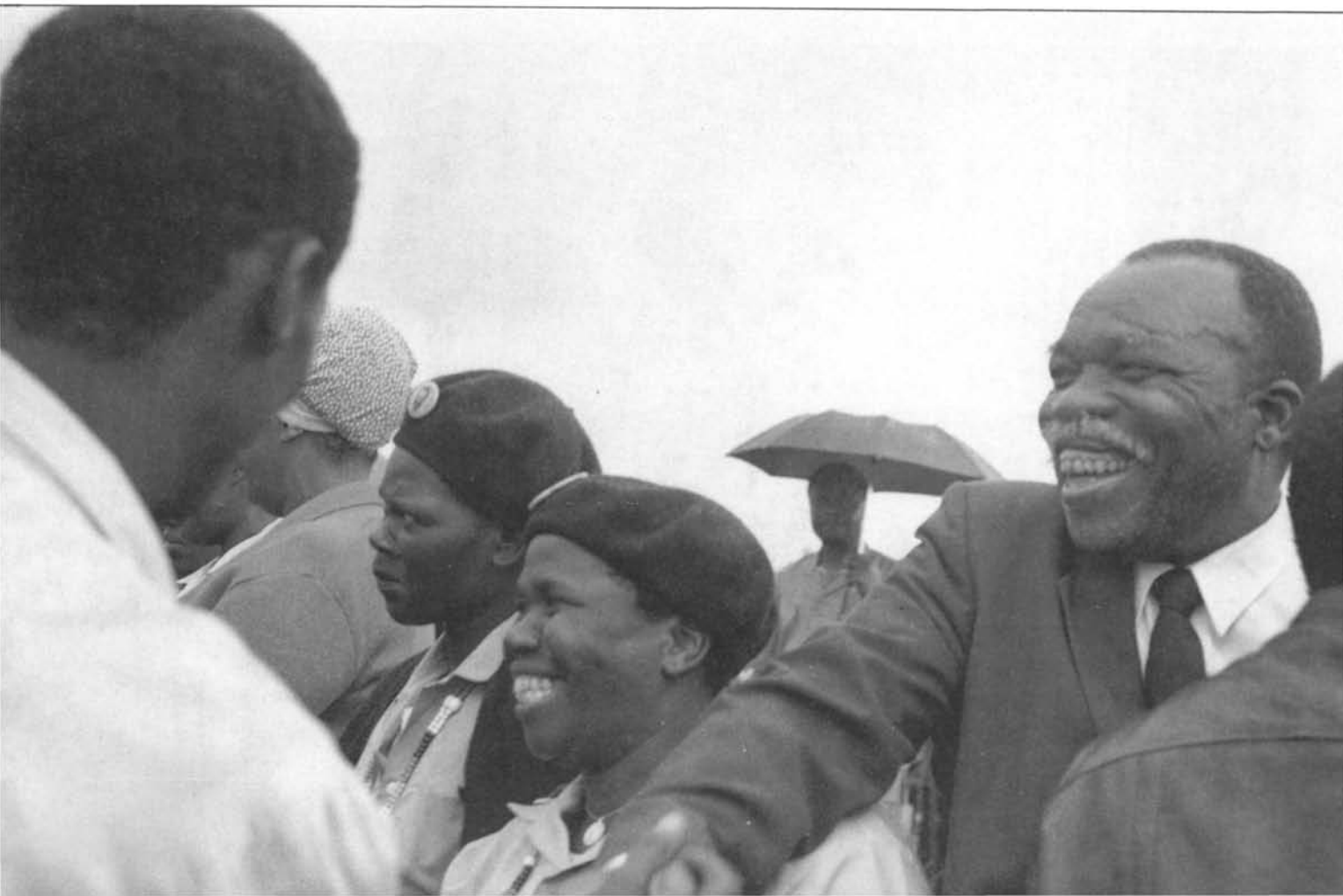


The quest for peace

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

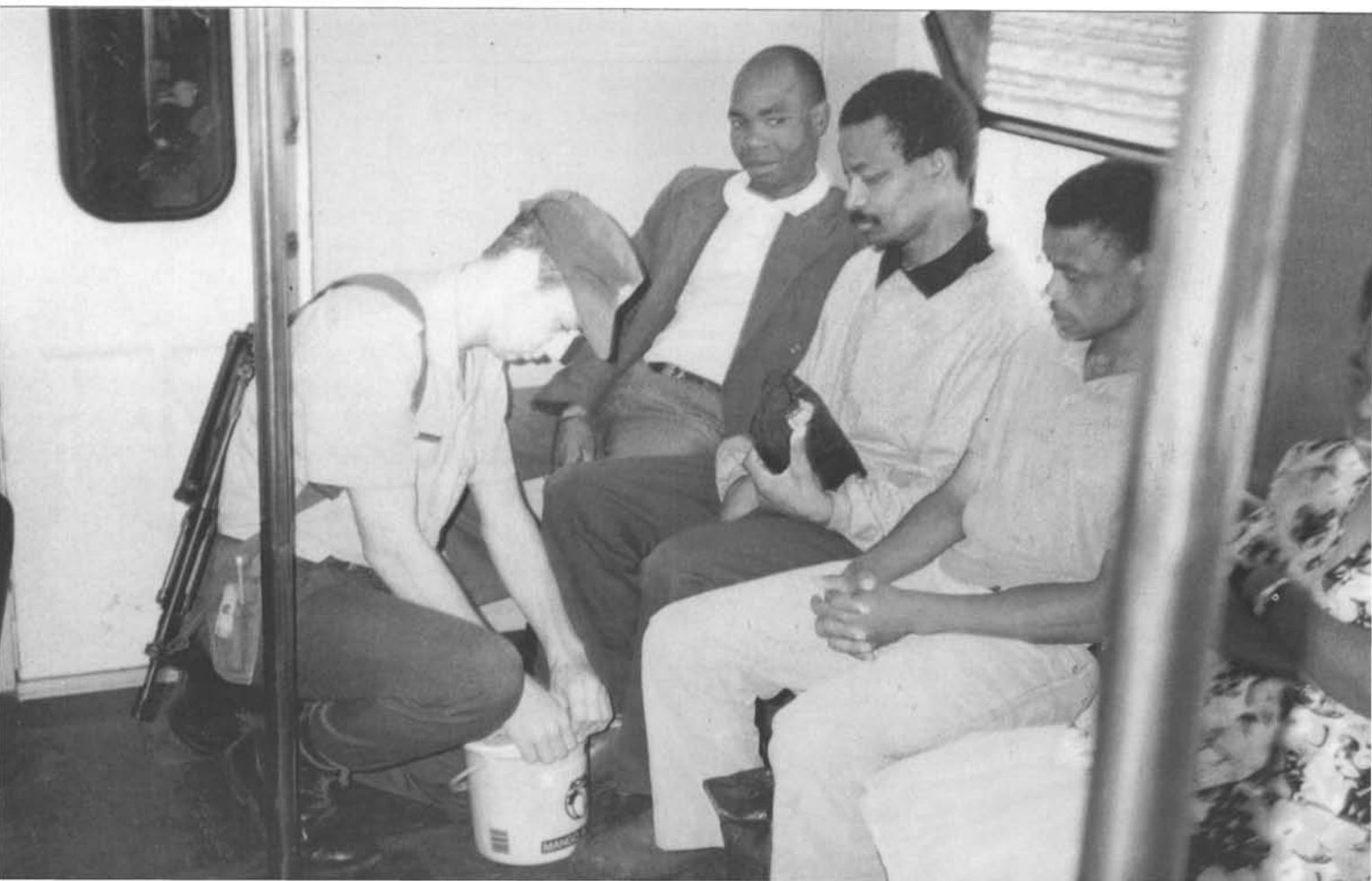




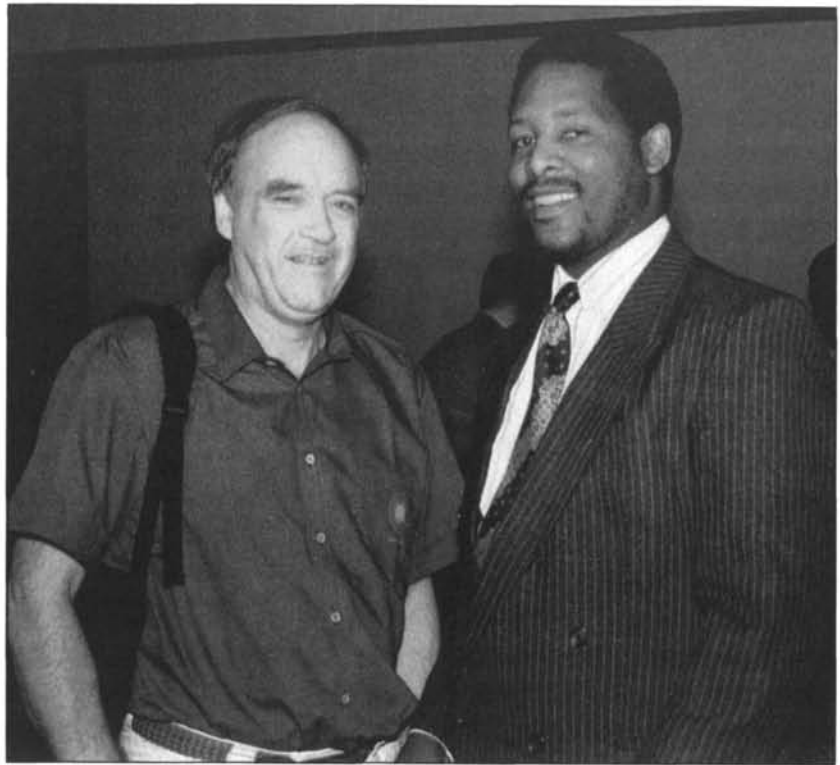
Dealing with train violence

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

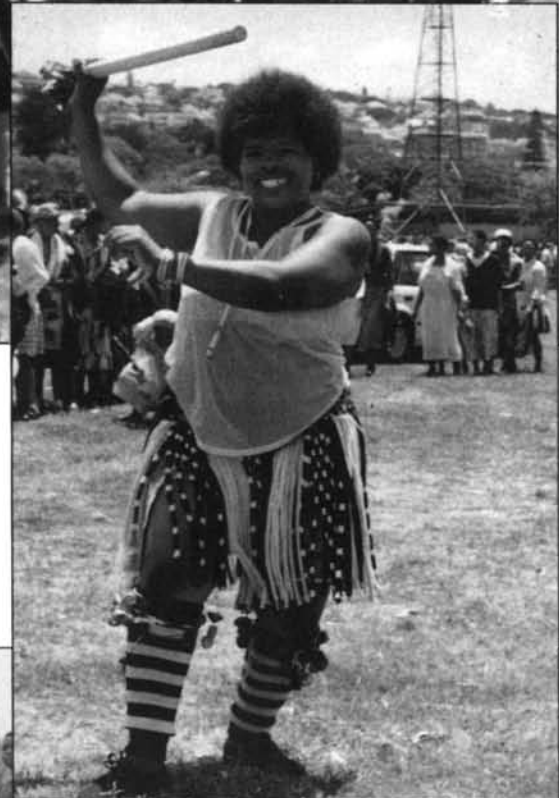


Observing

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

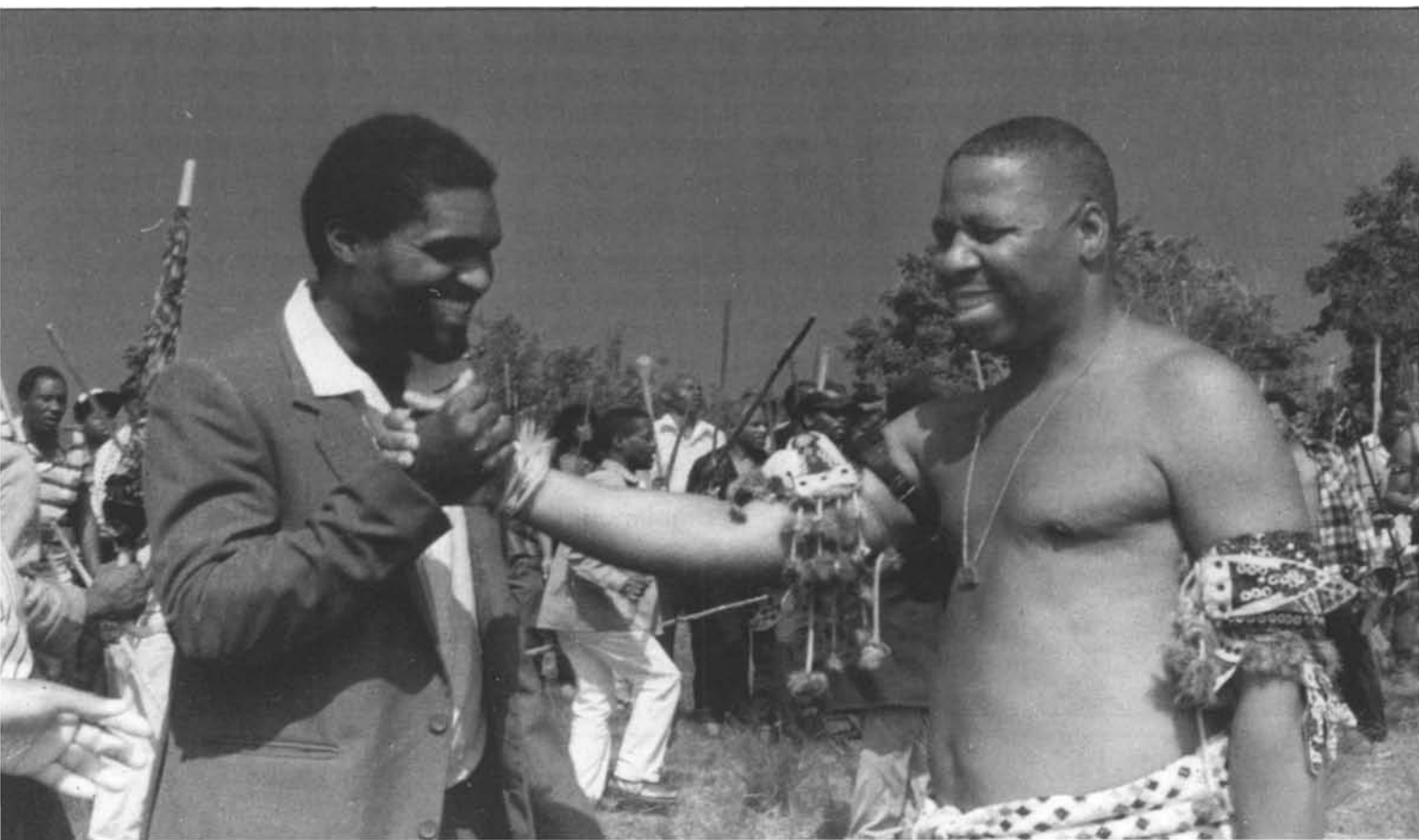




Making peace

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



Annexes

ANNEX I

Composition of the Commonwealth Observer Mission

THE OBSERVER TEAM

Professor Duncan Chappell (*Chairperson*)
Director, Australian Institute of Criminology

Major William Jansen
Botswana Defence Force

Mr Henry (Hank) Jensen
Former Deputy Commissioner
Royal Canadian Mounted Police

Senator Frederic Mitchell, Jr
Bahamas

Mr Emmett Mitten
Former Assistant Commissioner of Police, New Zealand

Dr Simbi Mubako
Former Minister of Justice, Zimbabwe

Mr Robert Simmonds
Former Commissioner, Royal Canadian Mounted Police

Superintendent Jarmal Singh
Director of Training
Singapore Police Force

Ms Ambika Soni
Former Member of Parliament, India

Chief Superintendent Peter Stevens
Head, Community Relations Department, New Scotland Yard
Britain

SECRETARIAT SUPPORT STAFF

Mr Max Gaylard (*Team leader*)
Dr Moses Anafu
Ms Colleen Lowe Morna
Mrs Gina Mason
Miss Charlene Lee Ling
Ms Betty Kiwanuka

ANNEX II

Press Release Issued by International Observer Missions
5 March 1993

INTERNATIONAL OBSERVERS DEPLORE ACTION BY THE BOPHUTHATSWANA ADMINISTRATION

International observers based in South Africa, accompanied by the National Peace Secretariat, today visited Hammanskraal in Bophuthatswana to ascertain the situation of families in the area who have recently been forced to leave their homes.

On arrival the group, which comprised representatives of the UN, Commonwealth, OAU, and European Community observer missions, were met by the Bophuthatswana Minister of External Affairs, Mr. Setiloane. In addition, representatives of the affected community presented themselves to the observers, as had been arranged by the National Peace Secretariat. The minister made it clear that he did not wish to include these representatives in the programme he had arranged for the observers. It was therefore agreed that, following their meeting with the Bophuthatswana officials, the observers would meet with community leaders, and visit the sites of the recent removals.

To the surprise of the observers, following a briefing and tour of a factory and school conducted by Bophuthatswana officials, Minister Setiloane asked that observers end their visit forthwith, and instead make application to return on a future date to visit the disputed area. The observers pointed out that a specific purpose of their visit was to inspect the disputed area, in order to fully understand the situation. Despite their repeated pleas, the minister agreed only that the observers inform community leaders of what had transpired, but not visit the areas in question.

On returning to the agreed meeting place, observers were informed that six members of the Kekana Royal family, who are key figures in the dispute, had been detained by the Bophuthatswana police while awaiting the return of the Observers.

International observers deplore the decision by the Bophuthatswana authorities to deny them access to the area of dispute in Hammanskraal, and call upon the authorities to release those detained immediately.

They further urge the Bophuthatswana administration to uphold basic principles of justice and human rights, and to desist from any actions that might increase tension in the area.

- COMSA, ECOMSA, OAU AND UNOMSA

(for additional information please contact
UNOMSA - (011) 331-2311
COMSA - (011) 788-6155

ANNEX III

Press Release Issued by International Observer Missions
16 March 1993

UNITED NATIONS  OBSERVER MISSION

IN SOUTH AFRICA 16 March 1993

P R E S S R E L E A S E

JOHANNESBURG - International Observer Missions based in South Africa are gravely concerned at the recent escalation of violence and confrontation between authorities and inhabitants of Bophuthatswana. Among recent incidents, some of which have involved international observers, are:

- The death of at least one person, and injuries inflicted on several others by the Bop police in response to a protest against alleged police and defence force harassment at Maboloka, near Brits.
- The detention of two international observers from the Ecumenical Monitoring Programme in South Africa (EMPSA) when they tried to attend a funeral at Dinokana Village near Zeerust.
- Attempts by the police to disrupt a church workshop in Thlabane on education for democracy, including threats and intimidation, in the presence of international observers.
- Refusal by the Bophuthatswana authorities for international observers to visit sites of recent forced removals in Hammanskraal, and the subsequent harassment and detention of several representatives of the aggrieved community.
- Threatened forced removals in Unit S, Mabopane.

The international observer groups unreservedly condemn these and other actions aimed at suppressing freedom of political association and expression in Bophuthatswana. They urge the Bophuthatswana authorities to:

- Repeal the Internal Security Act which is at the root of this consistent and flagrant violation of human rights in the territory.
- Allow all political parties and interest groups to express themselves freely, especially during this time of transition to a democratic South Africa.
- Assure international observers unimpeded access throughout the territory in pursuance of their mandate under United Nations Security Council resolution 772 (1992).

COMSA
ECOMSA
OAU
UNOMSA

For further information
contact: (011) 331 2311

ANNEX IV

Letter to Dr Gildenhuys



Commonwealth Observer Mission to South Africa
(COMSA)

42 Park Street
Caxiands
Johannesburg 2192
Telephone: (011) 729 2741
Fax: (011) 723 5607

February 28, 1993

Dear Dr Gildenhuys,

As discussed in the last co-ordination meeting, please find attached a Report by Mr Henry Jensen, former Deputy Commissioner of the Royal Mounted Canadian Police, on the distribution of inflammatory leaflets in the Boipatong/Kwa Madala area.

We are very concerned that this investigation be followed through to ascertain who was responsible for distributing the leaflets, and seek your assistance in drawing the matter to the attention of the appropriate authorities.

If, through the police expertise on our team, we can be of any further assistance in this matter, please do not hesitate to let us know.

Yours sincerely,

Duncan Chappell
Chairperson, COMSA

Dr Antoine Gildenhuys
Chairman
National Peace Secretariat
PO Box 9700
Johannesburg 2000

cc: Mr M. Ndulo, UNCOMSA
Mr P. Bentsen, ECOMSA
Amb. Legwaila, OAUMSA
Goldstone Commission
Gen. J.V. van der Merwe

Text of Threatening Circular – Boipatong

(Special report by H. Jensen)

Following the murder and burning of an IFP resident of KwaMadela Hostel in Boipatong on 28 January 1993, a typewritten circular in three languages was prepared and distributed in the township about a week after the murder. This caused serious tensions and unrest because it threatened reprisals against the residents of Boipatong to avenge the death, leaving the impression that grandparents, children and pets were fair game. Commonwealth, EC and UN observers, together with the Local Peace Committee (LPC), met the residents of KwaMadela and Boipatong separately in an effort to reduce tension.

It became apparent to the police observers present that someone other than residents of KwaMadela and Boipatong (denials in both) may have seized the opportunity to foment unrest by exploiting the murder of the IFP member at Boipatong. From discussions with participants at both places it was doubtful the murder was politically motivated because it appeared the victim was seeing two different women who lived in the same home and one became aware of the other's relationship and had arranged to have him killed. In this case the motive would be jealousy.

In questioning the police about follow-up investigation it was apparent they were following up on the murder but not in relation to the threatening message. I had a side discussion with a police officer about the avenues for investigation which they might follow with some success.

In effect, I hinted at the possibility that ISU personnel wishing to exploit the situation and destabilise the area might have been responsible. Complaints had arisen at the Boipatong meeting about their conduct, drinking on duty, shooting indiscriminately and breaking into homes.

I pointed out to the Warrant Officer that a degree of sophistication was involved to put it out in the three languages, type it, copy it and distribute it. Also, it would be difficult for IFP hostel dwellers to freely move about Boipatong distributing leaflets without being detected. It would take someone with access to typing and copying facilities which are not in plentiful supply at KwaMadela. This means that it can limit the focus of an investigation. I also pointed out that each type-

writer leaves distinct characteristics and imprints on the ribbon. Positive identification can be established by forensic examination of the printing to determine the specific make and model of the typewriter or printer used. This in turn narrows the scope of a specific typewriter or printer that one is looking for. If it is also possible to compare the type style and peculiar marks on a circular with the questioned machine and a laboratory specialist can make a positive investigative finding through that approach.

Going beyond that each copying machine leaves a specific signature as well. A forensic specialist is often able to link a copy with a specific make and model of copying machine thereby narrowing the scope of what you are looking for. It is possible to take one of the circulars distributed and through laboratory examination positively state the document was reproduced on a specific machine.

The next investigative approach is to determine who is in control of a machine and investigate backwards to determine who requested the production of the document, be it on a word processor, typewriter or the photocopier.

In the event that the document was prepared by the ISU, produced in quantity on their facilities and distributed by them in which case the facilities used to prepare it are likely on ISU premises hence available for an investigation along the lines suggested above.

Supt. P.J. McGowan of ECOMSA had a conversation with Brig. Mostert, responsible for this district about the threatening note. Perhaps the Peace Secretariat may want to apply its influence to ensure a suitable investigation is carried out.

If the SAP do not have access to the forensic skills I mentioned, I am sure one of our member countries would assist.

(Sgd) H. Jensen
February 27, 1993

Note: References to individuals in the original text have been deleted for privacy reasons.

ANNEX V

Letter from Warrant Officer Boshoff

SUID-AFRIKAANSE POLISIE



SOUTH AFRICAN POLICE

P/Sak-P/Bag Posbus-P.O. Box

Verw./Ref:	4/S/4
Navrae/Inq:	W/D Boshoff
TEL:	0151 - 2570/4553

OFFICE OF THE
STATION COMMANDER
PO BOX 216
HEIDELBERG (T)
2400

1993-03-03

Mr H Jensen
Commonwealth Observer Mission
to South Africa
42 Park Street
Oaklands
JOHANNESBURG
2192

Dear Mr Jensen

LOCAL DISPUTE RESOLUTION COMMITTEE MEETING : HEIDELBERG (T)
25 FEBRUARIE 1993

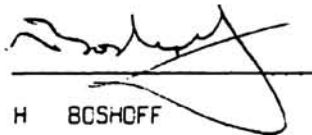
1. Having given considerable thought to the last meeting mentioned above at the Town Hall, Heidelberg (T) I feel that a few explanations are in order so that you do not feel that there is conflict within the group.
2. The policeman gave his report in Afrikaans as he felt more comfortable speaking in his home language due to the serious nature of the cases he reported on.
3. He did not realise that this would offend some members present. However, an English translation was given to members who are not conversant with Afrikaans.
4. I realise that to walk out on the meeting were not the correct procedure.
5. I would like to thank you personally for all the help you gave at this meeting in convincing the policemen to return to the meeting at a later stage. Without your help the reports would not have been given at the meeting.
6. I would also like to apologise to you and the other COSMSA member Mr Singh for my unfortunate remark about only the police are

- 2 -

doing anything about the current violence. We both know that this is not true. I regret the remarks I made.

7. The contribution and assistance made by the Commonwealth and other observers towards ending violence are being appreciated.
8. Thank you for praiseworthy work done far from your home.

Yours faithfully



H BOSHOFF

0052682-7
w/o

/lm

ANNEX VI

Letters about COMSA's Continuing Role



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P.O. Box 32723 Braamfontein
207 Johannesburg South Africa
Tel: (011) 403-4450/1
Fax: (011) 339-1422

Eastern Cape

Room 502, Alfin House, Main St.
North End, Port Elizabeth 6001
Tel: (041) 546-284
Fax: (041) 547-394

Natal

Room 66, Ecumenical Centre,
20 St. Andrews Str. Durban 4001
Tel: (031) 305-9460
Fax: (031) 305-7380

Western Cape

Industrial Hse. 350 Victoria Rd,
Salt River 7925
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Fax: (021) 47-4744

3 May 1993

The General Secretary
Commonwealth Secretariat

Fax : 094471 930 0827

Dear Sir,

It has been brought to the attention of the Human Rights Commission (HRC) that the brief and nature of the Commonwealth Observer Mission in South Africa (COMSA) is to be changed in the near future. Our understanding is that the Mission, as it presently exists, is to end and that the existing observers will leave. The Durban office is to be closed and all that will remain in Johannesburg is a skeleton secretariat. A new team, which will provide focused "technical assistance", is to replace the existing Mission. In the period between this change over, there will be no COMSA violence observers in the country.

The HRC wishes to express its concern at these developments.

In the course of our work, we have :

- * noted that the Commonwealth Mission has been effective in reducing the levels of violence, in the Pretoria-Witwatersrand-Vereeniging (PWW) region and particularly in Natal;
- * received feedback from other non-government organisations, involved in work in communities affected by political violence, indicating that COMSA observers have gained the respect and trust of communities they have worked in. People in these communities are also able to see that the time they spent with the observers has been constructive, because COMSA has made its observations public.
- * seen that COMSA has used to particular good effect the skills and knowledge of its observers who have come from member countries in Africa;
- * the mission has also used its expertise in areas of community policing and justice issues in a very constructive way;
- * COMSA has shown a particular adeptness at seeking the views of a broad spectrum of the South African community and taking account of these views in its work and recommendations;

Given these achievements it seems strange that COMSA should decide to end its existing activities at this time. Its decision to withdraw its observers, can all too readily be interpreted by those who have gained from COMSA's presence as a form of desertion. This interpretation could clearly have a serious effect on the work of any replacement team sent by COMSA, as well as prejudicing the work of other observer groups in the country.

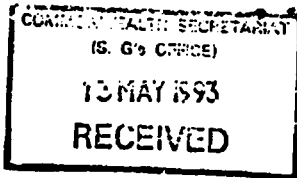
The HRC also wishes to stress the importance of having international observers in the country during the period leading up to South Africa's first non-racial elections. As the country approaches these elections it is likely to experience an increase in violence and intimidation. We believe that the presence COMSA, as well as other observer groups, would have a positive impact and assist in ensuring that fair and free elections can take place in a climate free of violence and intimidation.

The HRC, therefore appeals to the Commonwealth to review its decision and to retain its Observer Mission in South Africa to ensure that the violence plaguing the country is continually monitored.

Yours sincerely



Safoora Sadek (Ms)
National Director
Human Rights Commission



Paul Canter

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B 3020462
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P O Box 205
DURBAN 4000
South Africa

AIRMAIL

The Commonwealth Secretary-General
The Commonwealth Secretariat
Marlborough House
Pall Mall
LONDON SW1Y5HX
United Kingdom

3 May 1993

Dear Sirs,

Proposed Closure of Commonwealth Observer Mission Office in Natal

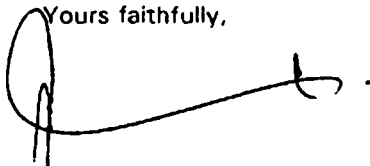
I am extremely concerned to hear of the proposed closure of the offices of the Commonwealth Observer Mission in Natal. I am writing to appeal to you to reconsider your decision in the light of the unique and crucial role played by your Mission in the process of building peace in Natal.

There is no doubt that the Commonwealth Mission team has played a specific and unique role in establishing local peace processes in the Port Shepstone, Umbumbulu and Ndwedwe areas. The success of peace processes in these areas will have an impact on building peace in the whole region. I believe that these processes will be severely disrupted by the withdrawal of this team.

The contribution of this Observer Mission team together with the very valuable contributions made by other international observers has been of inestimable value. Your Mission has been able to build trust in areas where it was not considered possible. It may well seem to these communities that the withdrawal of this Mission means that the outside world is not genuinely concerned about the establishment of a just democracy in South Africa. This perception would hamper the work of all peace workers, international and local, in these areas.

I therefore urge you to reconsider the position and recommend that the Commonwealth Observer Mission Office in Natal should be kept open.

Yours faithfully,



E P CANTER

COMMONWEALTH SECRETARIAT
MARLBOROUGH HOUSE, PALL MALL, LONDON SW1Y 5HX

