



SIGNPOSTS TO PEACE

An Independent Survey of the Violence in Natal, South Africa

By The International Commission of Jurists

HR-REP-2-ZA*SIG

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PREFACE

The International Commission of Jurists, at the suggestion of many lawyers in South Africa, sent a mission to Natal at the end of August 1990 to investigate the rampant violence which has torn the Province apart for upwards of four years.

Over a period of two weeks, the mission concentrated its efforts on developing an in-depth understanding of the violence which continues to plague Natal. Stringent time constraints did not permit them to investigate the situation in the Transvaal where the violence has now spread.

The mission held meetings with a variety of organisations and individuals representing all sides involved with the violence, as well as with independent monitors and observers. The mission met Government ministers Pik Botha (Foreign Affairs) and Adrian Vlok (Law and order) and talked with the African National Congress (ANC) leaders in Natal as well as with Walter Sisulu of the ANC National Executive Committee. They saw Chief Minister Buthelez, who is the President of Inkatha and Chief Minister of Kwa Zulu as well as the Revu Mletwa, the Kwa Zulu Minister of Justice. In addition, they had discussions with the Attorney General of Natal and his deputies, The Regional Commissioner and other high ranking officers of the South African Police (SAP). They met executive members of the National Association of Democratic Lawyers (NADEL), other lawyers, Church leaders, businessmen, as well as many township residents during visits to townships throughout Natal. The Mission's detailed itinerary is Appendix I to this report.

The I.C.J. would like to thank everyone in Natal who made the visit possible especially the people living in the townships who despite horrifying experiences were so willing to discuss the situation and to suggest positive solutions. I am extremely grateful to the members of the Mission who gave up their time and who have done such a thorough and professional job. They have produced a detailed and yet readable report which will assist all those concerned with the just settlement of this conflict.

December 1990

Adama Dieng
Secretary-General
International Commission of Jurists

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1. THE SITUATION IN NATAL

Squalor Misery and Degradation

There is a stark contrast between the black townships and their white neighbours. It is vivid and disturbing. We are concerned by the squalor, misery and deprivation which are features of life in the black townships. After years of the most appalling violence, when more than 4,000 people have been killed and about 50,000 people have been driven from their homes, people not only continue to live in poverty, but are fearful and demoralised.

We spent as much time as we could in the townships meeting ordinary people. It is difficult to convey the shattering sense of loss that characterises great numbers of those displaced persons who have lost loved ones, houses, belongings, in fact everything except the clothing in which they escaped from the disaster areas - and who now face the prospect of having to rebuild their lives from nothing.

The violence is of profound importance not only in the trauma caused by the loss of life, injuries and homelessness, but is a serious impediment to the establishment of a mood wherein peace in South Africa can be obtained, and political choices made in a spirit of reconciliation. Ramifications of the turmoil include acrimonious distrust and division which will be a legacy for many years. The economic and social consequences as well will be severe, and at a time when South Africa is looking forward to sanctions being lifted the continued violence quite simply undermines investor confidence.

Particularly striking during our township visits were the many unemployed living in circumstances devoid of any support services. Many people expressed an expectation that upon realisation of the "new South Africa" all their problems would suddenly disappear and that there would be employment, education, housing, transport, etc. for all. At present the amenities in the townships are virtually non-existent.

The response to this need must be immediate and serious attempts at upgrading facilities and amenities to ensure a better quality of life for the residents in the black communities. Many of the townships we visited had very little water except for that found in huge puddles on the ground, no community centres, rare access to electricity, and inadequate

sports fields, often merely an uneven, barren stretch of open ground.

Natal, which encompasses about 100,000 sq kms and comprises about 8% of the area of South Africa (excluding the independent homelands), is home to about 20% of the population of South Africa. Kwa Zulu, a self-governing, non-independent homeland in Natal, constitutes about 38% of the province's total land area, but accounts for 55% of the population. 75% of the South African Zulu population live in Natal and 90% of the Blacks living in Natal are Zulus. The violence in Natal is not tribal violence as Zulus have been killing Zulus.

The Causes of the Violence

While apartheid and the ideology of separate development with resulting deprivation and poverty are the root causes of the crisis, violent political rivalry has now emerged as the dominant factor. Prior to the 1980's, with the ANC in exile having been banned in 1960, anti-apartheid organisation was unstructured and ruthlessly repressed by the state. The United Democratic Front ("UDF") was formed in 1983 to be an alliance of hundreds of anti-apartheid organisations. The UDF and the Congress of South African Trade Unions ("COSATU") are seen as the allies of the ANC and it is with the UDF's emergence that political rivalry with the previously unchallenged Inkatha began with serious repercussions. Inkatha was originally a cultural organisation which was revived during 1975 in Natal by Chief Buthelezi and has become a political party. During the 1980's Inkatha's participation in various state agencies such as school administration, township housing and municipal structures, all of which were considered to be part of the system of Apartheid, brought it into conflict with the trend of non participation in these bodies that was being advocated nationally by the anti-apartheid movement

Over the last few years Inkatha's waning support has fuelled the violence, as people have shifted their allegiance to the ANC and their allies, COSATU and the UDF. This shift in allegiance has threatened Inkatha's status and ability for the organisation to bargain for itself, and Chief Buthelezi, a place in the negotiation process which Inkatha sees as the way forward for South Africa.

2. THE BREAKDOWN OF LAW AND ORDER

Recent Supreme Court Decisions

In considering the breakdown of law and order we take as our starting point two remarkable judgments which were delivered by Supreme Court judges in August 1990 calling on people to come forward and give evidence. Mr Justice Didcott sitting in the Natal Provincial Division delivered judgment in the State vs Petros Fana Ngcobo ("the Ngcobo Case") on 15th August 1990. Mr Justice Wilson sitting in the same division delivered judgment in the State vs Phumulani Derick Mveli ("the Mveli Case") on 28th August 1990.

These cases underline the scale of the violence; the strain on police resources, compounded by the serious misconduct of some policemen; the total lack of confidence of people in the police force; the fear which is ever present in the townships; the danger of giving evidence and the political rivalry which has become the dominant factor of people's lives. On the credit side there are some good community policemen who have a very professional approach, and if a case is brought to Court it will be properly tried.

It is worth setting out the Judges' findings in some detail both because they have not been widely reported and because they confirm conclusions which we had come to independently from our own very different investigations. First the nature of the charges bring home the scale of the problem.

The trial in the Ngcobo case was a sequel to ten separate incidents which occurred over a period of as many months from 31st July 1988 until 22nd May 1989. Two of the incidents took place in Enhlalakanhle Township at Greytown and the rest in Imbali near Pietermaritzburg. There were eight attacks on houses and two occasions when people were attacked in the streets. Firearms were used in all the attacks and petrol bombs or the like in some. Ten people altogether were killed by either gunshot wounds or burns. Six others were wounded. Four houses were set alight and either destroyed or damaged. The upshot was the charges on which the accused stood trial, consisting of ten counts of murder, seven of attempted murder and four of arson.

Mr Justice Didcott said:-

"The picture that emerges from the evidence, at least as far as the attacks on the houses are concerned, is one of deliberate and planned onslaughts. On no single occasion did any question arise of self-defence or anything else lawfully justifying such conduct. That all the dreadful crimes with which the accused is charged were actually committed is quite clear. The only question is who committed them?"

"There is reason to believe that the criminals were generally members or supporters of Inkatha."

Mr Justice Didcott acquitted Petros Fana Ngcobo.

Phumulani Derick Mweli was found guilty of attempted murder on the 27th October 1988, of attempted murder on 28th November 1988, of assault with intent to cause grievous bodily harm (two counts) on 30th November 1988, of attempted murder on 31st December 1988, of murder on 3rd January 1989, of murder on 12th January 1989, of murder (two Counts) on 13th January, of attempted murder on 15th January 1989, and of murder (three counts) on the 16th January 1989.

Mr Justice Wilson at the beginning of his judgment reviewed a number of factors which he said are common to many cases in Natal. One such factor is that the numerous cases of murder, arson and other acts of violence have stretched the resources of the South African Police ("SAP") to the limit. The Judge said it is clear that members of the public are aware of this and this emerged from remarks made by witnesses during the course of the trial such as:

"The police took a long time to come and came late at night"

this by the mother of one of the deceased

"The police took me to hospital. They took the matter no further. They were not interested in the matter at all"

This was said by a complainant who had been shot

"I did not take them (referring to two cartridge cases) to the police because after the detectives had been there they never called again. They did not attend to the matter further."

This was said by the mother of one of the deceased

The Judge commented

"The combined effect of the continuing violence and consequent threat to the life and safety of both himself and his family of anyone involved in any way in the violence and of the apparent disinterest of the police has resulted in a situation where people are loath to report incidents to the police even where they themselves are involved as victim and where they are not prepared to come forward as witnesses. We are satisfied that this refusal to get involved is deep rooted in the people in the area and one of the reasons why the violence has continued as it has."

The Judge then added

"This refusal to testify, the refusal to be involved creates in the murderer a sense of security which encourages him to be more blatant in his crimes and makes the task of the police correspondingly more difficult. Without the cooperation of the public these criminals will not be brought to justice and I would urge all the leaders of the people involved who have any sense of social justice or any interest in the well being of our land and people to urge their supporters to co-operate with the police to the full so that these brutal criminals can be brought to justice and peace can be restored to our people."

The Judge's concern that people were not coming forward to give evidence was shared by Mr Justice Didcott.

Another of the factors that Mr Justice Wilson noted is that the violence has been brought about in the main by ill feeling by members of Inkatha and the UDF. We found the Judge's observations on this issue of particular interest because they closely mirror our own experience when talking with people from both sides. The Judge said:-

"We were told of attacks on people because they were, or more correctly because they were believed to be, members of a rival faction. We do not suggest that this hostility existed between all the residents of the area or that the ordinary person felt as strongly as the Accused. His attitude as testified to by himself again and again was if he is UDF he is an enemy. The defence witness made it clear that he did not have a similar feeling of hostility and we got the same impression from the UDF witnesses who gave evidence before us. They did not like Inkatha but this did not mean they regarded individual members as their enemies. Nevertheless we remained conscious throughout our assessment of the evidence of the State witnesses that this group hostility exists."

Finally both judgments are interesting because of the comments which the Judges made on the police. Mr Justice Didcott said:-

"This Court is well aware of criticisms that have been and continue to be levelled at the police and the prosecuting authorities when it comes to cases like this, criticisms of their lack of will and vigour in bringing criminals to book".

But the Judge made clear:-

"In this case both the police investigations and the prosecution have been conducted thoroughly, energetically and efficiently

Mr Justice Wilson was extremely critical of the initial investigation of the police. By 28th October 1988 Mr. Mveli was suspected of attempted murder. The Judge found that at the end of October he remained at home for some days; but he was neither interviewed nor arrested. The interviewing officer did ask Mr Awetta, the local Inkatha Ward Chairman, about the accused but the officer did nothing when he found that Mr Awetta was concealing the accused. If Mr Mveli had been detained on 28th October the later crimes would not have been committed.

The Judge found that the accused was eventually arrested as a result of a deal done between Lieutenant Meyer and Mr Awetta. The Judge expressed grave doubts about the propriety of this. He was also particularly displeased by the fact that the accused's gun had been inexplicably lost while in the custody of the police.

The Judge reserved his harshest criticism for the fact that at a time when the accused had been arrested and charged with five counts of murder and was in custody he was detained again under the Emergency Regulations. The effect of this detention was to prevent the investigating officers from having access to the accused and thereby interfering with and delaying the investigation of the very serious charges against him. Mr Justice Wilson said:

"We feel there should be some public explanation made of this apparent official interference with the administration of justice and the apparent abuse of the powers granted to police officers under the Emergency Regulations."

The Judge added that there was no suggestion that acts of this nature were widespread and he had no doubt that all responsible officers in the South African Police Force are totally opposed to any attempt to mislead the Courts. Most of the lawyers we spoke to do not share the Judge's confidence, but all accept that there are some excellent policemen. Before leaving the Mveli case we would wish to stress that the Judge found

that once Lieutenant now Captain Marion took over the investigation of the case no stone was left unturned. The Court commended him on the way in which he gathered together the evidence and secured the cooperation of witnesses so that justice could be done.

The judgments show that law and order has broken down and that in Mr Justice Didcott's words there is terrible internecine warfare which is tearing the Province apart.

Police Misconduct

We visited the township of Imbali where most of the incidents in two cases took place and met with the coordinator of the Imbali Joint Units Committee, Mr Larrington Silwane.

Mr Silwane told us that the police called at his house at 1.30a.m. on 14th March 1990. There were two white officers, who were not wearing uniform, whom he recognised from an earlier visit. They were accompanied by some five or six "kitskonstabels" or instant policemen. When Mr Silwane opened the door he was grabbed by the police and dragged to a yellow police van. Mr Silwane was made to lie on his stomach in the back of the van. Several men sat on him, they put something over his face and drove for about five or six kilometres. There he was beaten up. 5 or 6 men hit him on the face and eyes and kicked him. They said they were looking for guns. They pulled a rubber tube down over his face until it covered his nose and mouth, beating him all the time, until he lost consciousness. They did this three times. On the third occasion Mr Silwane told them, which was not true, that there were guns behind his house. They drove back to his house, couldn't find any guns and started hitting Mr Silwane again. At about 3.55a.m. They threw Mr Silwane, who was unconscious into the bush, leaving him for dead.

We had the opportunity of questioning Mr Silwane and he showed us a photograph of his face taken the next day. He is obviously a truthful man. We believe what he told us. He is lucky to be alive. After this incident Mr Silwane sought the protection of the Court and obtained an interdict against De Wet on 23rd March 1990. (Silwane vs Minister of Law and Order Case No 774/90).

On Monday 3rd September 1990 we spent the morning with Major General J Van Niekerk Regional Commissioner for Police Natal, Lieutenant-General Schutte (Special tasks Natal) and four senior police officers. We were told that General Schutte was in charge of investigating complaints against the police in Natal. We asked how many

police officers had been disciplined as a result of his investigations. He was unable to tell us of any, though when we raised the case of Mr Silwane he told us that De Wet had been suspended from duty. It does not seem to us that the senior police officers we met in Natal have begun to take seriously the need to discipline officers who misbehave.

Police Failure to Act

Many white policemen in the SAP instinctively identify with the Conservative Party. They have been taught to regard the ANC as the enemy, and they have been trained to kill such terrorists. It cannot be easy for policemen to adapt to the new situation in which the ANC has been unbanned and in which members and supporters of the ANC are entitled to equal protection from the police. Given the best will in the world it would not be possible to change the behaviour and image of the police overnight. What can be changed overnight are the orders which the police are given. There have been many allegations that the police have failed to intervene to stop violence when they might have been expected to do so. This must change. The events in the lower Vulindlela Valley on 28th March 1990 which we investigated in depth are a clear and disturbing example of this.

In March 1990 David Ntombela, a local Inkatha leader (see below page 14), claimed that buses carrying people from his area to an Inkatha rally in Durban were stoned when they passed through Edendale. A number of meetings were held at his house to discuss this issue. On Tuesday 27th March Ntombela called for a meeting at Taylors Halt the next day to discuss the question of the buses. A Government representative from Ulundi was to address this meeting. Ntombela told us that he himself had been at Ulundi on the Monday and had discussed the problem there. It is not clear whether the meeting ever took place but by late morning Inkatha impis (an armed force of men in traditional Zulu military formation) had launched a massive attack on settlements in the lower Vulindlela Valley. Many people were killed and over 115 homes were burnt and people fled down into the Edendale Valley. Ntombela's car was seen in the area allegedly coordinating the attack. He admitted to us that he was there.

We visited the area with a trades union official whose house had been destroyed and whose grown up daughter had been killed. He told us how some 1500 Inkatha warriors marched down the main road and then swarmed across the valley burning houses and attacking anyone they met. Many of the houses are still deserted.

Mr Pierre Cronje the Democratic M.P. for Greytown told us that he

spent three consecutive days that week in the Vulindlela Valley. On the anniversary of Sharpeville, the previous week, he personally monitored the whole Inkatha entourage as it came through and no stones were thrown at them. He said there were some problems one evening. It was clear to him that Inkatha people were working themselves up for a major attack. The police did nothing to try and disperse the Inkatha men. Pierre Cronje phoned the army commander. He was told that a unit was standing by waiting to be called in, but in the event astonishingly the police never contacted them

We asked the Regional Commissioner of Police why his men had not prevented the attack. The Regional Commissioner did not seem familiar with the details of this incident. The Brigadier who is the operational commander, however, told us they only had 20 men on the ground. We asked why they didn't summon reinforcements. The police had no answer to this question.

There really is no argument about the facts. Having seen the ground we have no doubt that the police could have stopped the attack if they had wished to do so. The decision not to intervene was a tragic mistake, and it raises the question of whether individuals in senior positions in the police force are able to ignore with impunity the main thrust of Government policy. We were told by members of the Durban Chamber of Industries that the Government only seemed to fully appreciate the seriousness of the situation in Natal in July 1990. We note that the incident in the lower Vulindlela Valley took place in March. We hope that such mistakes would not be made today.

Police Support for Inkatha

Until the beginning of this year many commentators reasonably supposed that the Government condoned the perpetuation of the conflict. The South African State saw the UDF/COSATU/ANC group as "the enemy" and allowing another black political movement to wage war on it, it was argued, was very much in the State's interests. It was cheap in terms of military spending, it got very little negative publicity in the international media (being dismissed as "black on black violence" or "faction fighting"). Further, the civil conflict made the Inkatha movement and Chief Buthelezi, who had been the most resistant and independent of black leaders working within the confines of the existing apartheid homeland structures, a more pliant dependent on State support.

We are satisfied that at any rate until the middle of this year the State's police forces did help Inkatha. This happened in two ways. First the police

used the State of Emergency to suppress the UDF and COSATU. Members of both organizations were regularly detained and they and those who were thought to be their supporters were searched regularly for arms. The State of Emergency powers were not used to anything like the same extent against Inkatha. Secondly the police allowed violent acts to be perpetrated by Inkatha without taking any police or legal action. They did not show the same indulgence to the UDF and COSATU.

The KwaZulu Police

The KwaZulu police are perceived to be partial by the vast majority of the population. The Police are all members of Inkatha. Chief Minister Buthelezi is both Minister of Police of KwaZulu and therefore head of the KwaZulu police and President of Inkatha. The KwaZulu police are seen as player and referee. In some places their conduct has been violent and cruel.

In Kwamakhutha, the township to the south of Durban, in March 1990 a group of concerned residents handed in a memorandum at the Amanzimtoti Police station addressed to the Central Government making detailed complaints about the KwaZulu police. The residents say in the memorandum:-

"We cannot watch helplessly while the massacre and brutality escalates in our once peaceful area".

There had been no response to the memorandum when from the 7th to the 10th April the KwaZulu police went on the rampage firing indiscriminately at residents. As a result of this unlawful behaviour hundreds of men and women fled the township and sought refuge in Durban. Sergeant Kabanyane, a detective sergeant with the Criminal Investigation Department of the South African police, who lives in Kwamakhutha witnessed the shooting. He was severely beaten up by the KwaZulu police when he tried to find out what they were doing. On 12th April Sergeant Kabanyane and other residents sought the protection of the Courts in civil proceedings. In the affidavit in support of the proceedings Sergeant Kabanyane said:-

"The KwaZulu police in Kwamakhutha have shown themselves to be a completely partial force who seem to be incapable of maintaining law and order in the area. Time and time again they have been seen to be actively supporting one group in their actions against township residents. Through their conduct in attacking and shooting residents at random and for no apparent reason, they have shown themselves to be highly

reckless and are a real danger to the livelihood and well-being of residents."

Mr Justice Broome granted the applicants an interdict restraining members of the KwaZulu Police from assaulting or harassing the applicants. On 19th June 1990 Mr Justice Bristowe extended the interdict so that it protected all persons living in KwaMakhutha and directed the Commissioner of Police in KwaZulu (Brigadier J. Buchner) to take all reasonable necessary steps to ensure compliance by members of the KwaZulu Police with the Court's order.

Chief Minister Buthelezi has sworn an affidavit in the civil proceedings and we were given a copy by his lawyers. The Chief Minister defends the position of the KwaZulu police in general terms and says that every allegation in the memorandum from the residents is being investigated by Brigadier Buchner. Brigadier Buchner was not able to see us, but we asked the Chief Minister when we met with him at Ulundi if the Brigadier had completed his investigations. Neither the Chief Minister nor his lawyers were able to give us any information about this.

We also asked the Regional Commissioner of Police about these incidents. He said that the South African Police had not investigated the matter because it came within the jurisdiction of the KwaZulu Police. One of the Regional Commissioner's colleagues however was able to tell us that Sergeant Kabanyane was a reliable officer who was still employed by the South African police.

We visited Kwamakhutha. We talked with one of the residents who handed in the memorandum to the police station. We verified incidents contained in the memorandum. We questioned two young comrades who had been shot at by the KwaZulu police. They were reliable witnesses and we accept what they told us.

There is no doubt that KwaZulu police stationed at Kwamakhutha have been guilty of serious misconduct. These officers and others who are known to have misbehaved in other trouble spots must be suspended from duty and be replaced by the South African Police. The Regional Commissioner for Police told us that his officers would not hesitate to go into KwaZulu if they had reason to believe there is trouble. We think it is important that ordinary people living in KwaZulu who have no confidence in the KwaZulu Police should be able to contact the SAP and should not be turned away because of so called constitutional difficulties. We believe that as a matter of law there are no difficulties about the SAP operating in KwaZulu. We are encouraged in this belief by what Major-General J. Van Niekerk told us about when the SAP do operate

and would operate in Kwa Zulu.

Attitudes Towards the Police

A critical problem that needs to be addressed immediately is the attitude that the black communities have towards the police. As we have seen there is a lack of confidence, trust and respect for the police, something which needs to be dealt with as a matter of urgency. The only way to remedy this is by consistent and representative communication and consultation with the community.

This lack of communication and the concomitant lack of faith is shown vividly in the events in Mpopomeni in March 1990, when the residents of an "ANC township" fearing an attack by the neighbouring "Inkatha township" contacted the Regional Commissioner of Police requesting a meeting with him as a matter of urgency. He fobbed them off however onto a low ranking officer. The residents, not satisfied with this, requested a meeting again but this time received no reply. Thoughtless behaviour like this increases resentment and distrust.

There must be an efficient and effective complaint structure whereby grievances directed at the security forces can be investigated and the appropriate action taken where necessary. Those investigating have to be impartial and they therefore cannot be connected to the security forces in any way.

Cultural Weapons

The Government has been accused on many occasions of playing an active part in the violence, or at the minimum, playing a very minor role in trying to end the violence. The Government, we believe, is instituting insufficient measures to end the violence. Instead of sending clear signals that the state is intent and determined to end the violence, the wrong signals are still being given. An example is the Government's position on cultural weapons, namely assegais, clubs, sticks shod with iron, staffs, sharp pointed sticks, etc. It is an anomalous position given the many deaths that have resulted from these weapons. Until our visit, the legal position regarding cultural weapons both in Natal and KwaZulu held that they could not be carried unless the person carrying it was on public duty, was a policeman or had permission to carry the weapon from a police station commander. This law was, however, disregarded in Natal as the SAP refused to enforce it.

The events of August 1990 highlight our concerns regarding these weapons. It is at this time that the violence spread into the Transvaal on

a massive scale. The Government then invoked the Dangerous Weapons Act in the Transvaal banning the carrying of all weapons including cultural weapons. The authorities collected at least six lorry loads of weapons.

The Dangerous Weapons Act was not invoked in Natal. The response by concerned lawyers was a threatened court action to compel the police to enforce the old law as it existed in Natal, namely that weapons may not be carried unless permission had been obtained. Under this pressure, the Government passed (by Ministerial proclamation) a new law amending from 30 September 1990 the Natal law, so that a person may carry a dangerous weapon where there is a bona fide intention of carrying it in accordance with traditional Zulu usages, customs or religions. We were told by the Regional Police Commissioner that he acted according to what Chief Buthelezi wished, and that Chief Minister Buthelezi wanted these weapons carried. Seemingly, the Government believes that the Zulu person is naked without such cultural weapons. Yet all the people to whom we spoke agreed that Zulus did not carry weapons to work or at most other times. It was only Inkatha who firmly believed that cultural weapons had to be carried even at the rallies, often the prelude to mass rampaging, killing and burning in the townships and rural areas.

One has to question motives when the Government bans "cultural weapons" in the Transvaal and extends the circumstances in which they can lawfully be carried in Natal.

The mission believes that The Dangerous Weapons Act has to be invoked in the whole country. While we recognise the cultural significance of weapons, we note that political rallies are often the prelude to a great deal of violence and thus believe, in the interests of all, that at a minimum cultural weapons ought to be outlawed at all political meetings and rallies. The symbolic effect of this alone would indicate a concern and desire to end the chaos in the shortest possible time.

Criminal Prosecutions

In spite of the more than 4000 murders - not to speak of other serious crimes of violence - in Natal during the last three years there have been few prosecutions and only a handful convictions. Many known and notorious killers are still at large.

To a certain extent this situation has been blamed on insufficient resources within the police. The Commissioner of Police for Natal,

Major-General Jan van Niekerk, informed us that there are only 150 police officers assigned to investigate cases connected with the Natal violence. We were informed that each of these officers has a case-load of some one hundred cases. The area is vast and there is no functioning mail system. In order to carry out an investigation all suspects and witnesses have to be personally visited. It is obvious that the processing of criminal cases in general under such circumstances will be very protracted. But to blame the almost total lack of convictions - and prosecutions - on a lack of resources within the police in our view only serves to raise the questions why the investigative department after so many years of appalling violence still is so blatantly under-staffed, and why - even given the present resources - priority does not seem to be given to the most serious prima facie homicide cases.

This latter concern was illustrated by numerous examples, of which we have chosen to present two. On 5th December 1986 three trade union officials were murdered in the township of Mpophomeni. An inquest magistrate found that certain Inkatha members, who had attended a meeting immediately prior to the killings, were responsible for the deaths. Nevertheless no arrests or prosecutions have been made. The second example concerns a certain David Ntombela, member of the Kwa Zulu Legislative Assembly and until recently a member of the Inkatha Central Committee. In February 1989 an inquest magistrate found that Ntombela was responsible for the deaths of Angelica Mkhize and her eleven-year old daughter. Ntombela was released on a bail of R 100. No charges have yet been brought. In a conversation we had with Ntombela he expressed total confidence in his case since in his view there would be no evidence against him.

The case of David Ntombela brings up another disturbing explanation as to why there are so few prosecutions. When murder suspects are not promptly arrested they have ample opportunity of destroying evidence through harassing, intimidating or even killing potential witnesses. This is obviously a reality in the townships of Natal and, as a consequence, the subsequent work of the judicial authorities is often almost impossible. This problem is addressed in the judgment of Mr Justice Didcott in the Ngcobo case to which we have already referred:-

"Far be it from us to condemn those less fortunate than we are, those in the unenviable, indeed pitiful, situation where they fear to come forward and bear witness to what they have seen because their lives will be endangered should they do so. They and their communities at large must realise, however, that for as long as that continues to be the case the consequence of their reluctance to testify will be little chance the Courts of law have of establishing the truth. For the capacity of the Courts to

establish the truth depends, first and foremost, upon the willingness of prospective witnesses to testify fearlessly and truthfully. It is no use whatsoever looking to the Courts for any remedy to the present anarchy while that essential condition is lacking. To expect the Courts to convict and punish the criminals, and to blame them for not doing so, is then utterly futile”.

The importance of Mr Justice Didcott's words were further illustrated to us in a conversation with Attorney General Michael Imber, who was then working on a murder case against the Deputy Minister of Interior in the Kwa Zulu government. As long as the suspect had been at large there were virtually no witnesses, but after he was arrested a number of them had come forward, something which had considerably improved the prospects for a conviction. Still, according to Mr. Imber, the law does not - even in murder cases - give room for denying bail to a greater extent than is done today, something we find - particularly against the background of Mr Justice Didcott's words - highly unsatisfactory.

Other reasons given to us for the low rate of convictions were sloppy work both by the prosecutors and the police, as well as a general lack of interest on part of the police in taking action against crimes carried out by Inkatha members or sympathizers. The Attorney General Mr. Imber rejected these allegations. He acknowledged, however, that the quality of the prosecutions did suffer from the high turn-over among his staff. Due to the poor pay, his assistants often handed in their resignations after only a few months in office. As far as the work of the police was concerned, however, Mr. Imber was quite pleased. This attitude contrasted sharply against the views expressed by Mr Justice Wilson in the Mveli case (see above.)

Furthermore, both judges and lawyers whom we spoke to agreed that the low rate of prosecutions and convictions had contributed to the present almost uncontrollable situation. If violent crimes had been promptly and vigorously investigated and prosecuted in the early states of the unrest, this would have served as an important deterrent, preventing the development of the present level of violence.

“Warlords”

As indicated above, one important aspect of the violence in Natal is the fact that many known killers - normally Inkatha members or sympathizers - remain free, something which not only allows them to commit new murders but also to destroy evidence in those already

committed. In fact, the most notorious of these politically motivated criminals, commonly referred to as warlords, are able to terrorize entire communities.

Perhaps the most infamous such warlord is the above-mentioned David Ntombela, who is the Inkatha chairman for Kwa Mncane in the Vulindlela district of Pietermaritzburg. He is also a member of the Kwa Zulu Legislative Assembly. Residents of his area have alleged in affidavits before the Supreme Court that Ntombela has in the past conducted a policy of forcibly recruiting members into his organization. There are further allegations that he has conducted a campaign of harassment, including murders, in an effort to curtail the growing support for UDF/ANC in his area, and to terrorize the residents into submission to Inkatha. As indicated above an interdict was sought by the Mkhize family of Maswazini (Mandla Mkhize vs. Ntombela and others: case 2887/87). Members of the family allege that on 9 October 1987 Ntombela and a group of men under his control went to the house of the Mkhizes looking for two of the sons, Mangethe and Mntu. Family members further allege that when Ntombela was unable to find the sons he shot and killed the mother Angelica Mkhize and her eleven-year old daughter Petronella. An Inquest magistrate found Ntombela and his followers responsible for the deaths of Angelica and Petronella Mkhize. A bail of R 100 has been set. To date he has not been arrested or prosecuted for these murders.

Another prominent so called warlord is Thomas Mandla Shabalala, mayor of Lindelani township in Ntuzuma north of Durban. In the Durban and Coast Local Division case No. 3322/89 Bernard Mxolisi Mtolo, Vincent Thusi, Howard Ndodo Mtolo and Kenneth Shangase were granted an interim interdict restraining Shabalala from assaulting, molesting and threatening them. It appears from the affidavits of the applicants that they were subjected to brutal assault by Shabalala and his followers to an extent that they feared for their lives. There are many similar accusations against Shabalala. However, no charges have been brought.

This list of warlords could be made considerably longer. Hopefully, however, the point is already made. The fact that Ntombela, Shabalala and other high-ranking Inkatha officials are able to commit serious crimes without being brought to justice indicates that the maintenance of law and order in the area has collapsed. One result of this is a very high degree of distrust among ordinary people in society in general and the law-enforcement agencies in particular. Vigorous judicial action against at least some of the most notorious warlords would - apart from everything else - have important psychological effects and serve to

restore some of the confidence in the system of law and order.

3. POLITICAL RIVALRY

How it Began

Inkatha, founded in 1928 as a cultural movement to preserve and promote the Zulu heritage, was revived in 1975 by Chief Buthelezi, and became a much more politically motivated organization. With his fiery anti-apartheid rhetoric and refusal to accept the bogus independence offered by Pretoria, Buthelezi was seen by many including the banned ANC, as an ally in the struggle, fighting apartheid from inside. Internationally the Chief Minister was lauded by Western leaders because of his anti-sanctions views and his rejection of violence against apartheid.

Increasingly, the contradiction between Chief Buthelezi's anti-apartheid rhetoric and his close day to day relationship with Pretoria brought criticism from the ANC and black consciousness groups. Inkatha membership became necessary to get work and criticism of the Inkatha regime was and is not tolerated.

An example of this intolerance of other political positions can be seen in the attack on 29 October 1983 by an impi (an armed force of men in traditional Zulu military formation) on students, a number of whom were killed and many injured, at the University of Zululand. These students objected to the presence of Chief Buthelezi at their university, because on prior occasions when he had come he was accompanied by an entourage, and there had been violent confrontation.

In 1983 the UDF was formed; with the slogan "Apartheid Divides, UDF Unites" and its espousal of non-racial non-tribal politics, it set about campaigning and organising all over the Country including Natal, with enormous success. Inkatha perceiving a threat to its political dominance, began to intimidate and attack organizations aligned to the UDF.

In 1985 Inkatha formed its own trade union wing UWUSA to challenge COSATU directly. Conflict was inevitable. The clash came with the strike at the British Tyre and Rubber factory in Howick, a few miles from Pietermaritzburg. The entire black workforce was sacked. A stay-away in support of the strikers took place and a consumer boycott was organised in Pietermaritzburg. All this was strongly opposed by Inkatha who accused the UDF youth of co-ercing support for the boycott. On a December evening in 1986 a large Inkatha group was bussed into a

township and in the early hours of the 5th December 1986 three COSATU supporters were murdered. We have already referred to the failure to prosecute those responsible. The scene was set for an escalation of the violence.

Talking to Both Sides

The Mission was fortunate in being able to talk to people from both sides of the political divide and to visit the townships with both Inkatha and the ANC. We spent four hours with Chief Minister Buthelezi and the Rev. Mtetwa, the Kwa Zulu Minister of Justice. For part of the time we were joined by Gavin Woods the Director of the Inkatha Institute and Jenny Friedman a Durban lawyer who acts for the Chief Minister. We had an extremely interesting conversation. On the ANC side we met with Patrick Lekota and Harry Gwala in Natal and Walter Sisulu in Johannesburg.

The media have devoted much space this summer to the calls for a meeting between Nelson Mandela and Chief Buthelezi. Much less attention has been paid to the successive peace initiatives and meetings which have taken place over the last three years. We do not think it is widely known outside South Africa that in July 1989 an agreement was signed by five representatives of Inkatha and five representatives of the UDF and COSATU.

The Peace Initiatives

In November 1987 the churches held a Peace Rally at Edendale Ecumenical Centre outside Pietermaritzburg. Later that week church leaders met Chief Minister Buthelezi, Archie Gumede, the President of the UDF and other leaders. At much the same time meetings were arranged between the two sides by the Pietermaritzburg Chamber of Commerce. Two meetings were held. At the second meeting the Inkatha representatives complained about an article which they claimed discredited Inkatha and they called on COSATU/UDF to publicly disown the document, which they did. However this did not resolve the tensions and the Chamber's initiative broke down.

The second development was the establishment of a Complaints Adjudication Board by Inkatha and COSATU in early September 1988. This was a breakthrough and it worth setting out the basic terms of the agreement because any long term settlement is going to have to have some means of resolving disputes:-

"Both COSATU and Inkatha in recognising their respective

responsibilities, and in order to take effective steps to bring about a lasting peace, have agreed on the following:

(1) That all political organisations have the right to exist and the democratic right to espouse their own particular viewpoint

(2) That neither party condones the use of violence against any organisation which expresses a policy different from that of its own organisation.

(3) That threats of violence and the refusal to provide public convenience to any resident on the ground of his membership in any organisation and further the use of such threats to induce or enforce membership is condemned.

In order to give effect to the foregoing Inkatha and COSATU have agreed to establish a Complaints Adjudication Board. The Board is to consist of independent chairmen, who are public figures, assisted by assessors, nominated by COSATU and Inkatha.

The Authority of the Board will be to hear and determine complaints by residents, and to recommend what steps should be taken by COSATU and Inkatha against any of their respective members who may act, or who may have acted contrary to the aforesaid principles."

The Board heard two cases. We have seen copies of the awards. The proceedings were properly conducted. After these two cases Inkatha expressed concern about the way the Board operated and withdrew from the scheme.

A third initiative followed in early 1989 when a committee of prominent convenors attempted to arrange a meeting between COSATU, Inkatha and UDF. Inkatha did not approve of this development and recommended instead that they and COSATU and UDF met without a third party in Ulundi. COSATU and the UDF wanted a more neutral venue but Inkatha found this unacceptable.

A delegation of bishops from the Anglican Church met Chief Minister Buthelezi and members of the KwaZulu Legislative Assembly in June and this broke the deadlock over the venue. Talks between five representatives from Inkatha and five representatives from COSATU and UDF then began a series of meetings to discuss and plan a process to bring peace to the region. In July 1989 the representatives signed an agreement which took the form of a report for consideration by a

meeting of the Presidents of the ANC, COSATU, UDF and Inkatha and their delegations. It was endorsed at the COSATU Congress where the UDF representatives were also present. It was also endorsed by the Inkatha National Conference. The Inkatha Central Committee raised difficulties and on the 23rd September the Inkatha Central Committee resolved that a moratorium be imposed on all talks until there was a prospect of success in meeting the new factors that were causing difficulties to Inkatha.

Once Inkatha declared a moratorium on peace talks the violence escalated, which has been the pattern each time a peace initiative has failed.

We talked to Chief Minister Buthelezi about the moratorium. He accepted that the moratorium was a "hiccup". From this we took him to mean that there were no problems on the Inkatha side which could not be resolved, and he pointed out that meetings had continued to take place between two representatives from each side.

The five-a-side agreement provided:-

- 1.) That all hostile propaganda and vilification directed at each other must end forthwith
- 2.) All parties will ensure that they take steps to publicly support the process
- 3.) For a meeting between delegations led by the presidents of the organizations involved and the ANC.
- 4.) The presidents meeting to be followed by a joint peace conference, for part of which the parties would be joined by the churches, organised commerce and industry, organized professional bodies in the legal, medical and social welfare professions, sporting organisations, observers from agreed foreign embassies and trade unions.
- 5.) The joint peace conference would be followed by joint peace rallies. At the rallies emphasis will always be placed on freedom of association, expression, residence and the use of public facilities
- 6.) The establishment of joint peace committees
- 7.) A revaluation of the Complaints Adjudication Board

8.) A well found joint publicity campaign

9.) The launch of an adequately funded scheme to resettle people who have fled from the areas affected by the violence and to compensate and re-establish those who lost property

10.) The exchange of information on a longer term programme to effect improvements to the delivery of social services and basic human needs in the affected areas.

It is tragedy that this imaginative agreement has not been implemented.

A Meeting between Mandela and Buthelezi

We found that the ANC people we spoke to on the ground recognise that the violence comes from both sides, that some young comrades are out of hand and that the ANC has a responsibility to do something about it. Chief Minister Buthelezi is also prepared to acknowledge that there is fault on both sides. He is very well informed and knows precisely what is happening in KwaZulu. It is profoundly worrying that he has not been prepared to assert his authority to control the excesses of men like David Ntombela. We asked the Chief Minister whether he welcomed Nelson Mandela's call at a rally in Natal for people to throw their weapons in the sea and whether he had made a similar appeal to his supporters. He told us that he welcomed Nelson Mandela call and that he had of course said the same thing himself. We think it is unfortunate that Chief Minister Buthelezi's call to his supporters to throw their weapons in the sea has not been given wider publicity.

Most of the members of Inkatha we spoke to seem to believe that all that is needed to bring peace is for Mandela to talk to Buthelezi. We note that the ANC invited Chief Minister Buthelezi and other homeland leaders to meet with Nelson Mandela at the beginning of October 1990. Chief Minister Buthelezi declined this meeting. It was predictable that he would do so. Both side are playing politics.

We think Chief Buthelezi is right in saying that there needs to be a meeting between the leaders whose followers are involved in the violence. Such a meeting needs to be carefully prepared. It is good news that on 22nd October 1990 the ANC Executive Committee proposed a meeting with its Inkatha counterpart in the near future, with the participation of Chief Buthelezi and Nelson Mandela. It is, however, essential that if such a meeting takes place any agreement which is reached should be carried out. It is for this reason that we have proposed that the meeting should be a four sided one. The four sides

being Inkatha, the ANC, the Churches and the Government, the role of the Churches and the Government being to ensure that the agreements are carried out. This is a role which they must play whether or not they are formally involved in the meeting.

It will also be important that the agreement is fully and accurately reported in the press on radio and television, both inside and outside South Africa. This is more likely to happen if the State of Emergency in Natal is lifted and if foreign journalists are encouraged to report what is happening.

Reconciliation at the Grassroots

If the Government acts to assert the rule of law and if a four sided meeting leads to a peace agreement this will give an enormous encouragement to all the individuals on the ground who are trying to bring the two sides closer together. In the long term peace will depend on reconciliation at the grass roots.

A Methodist minister in Edendale told us that he has members of Inkatha and the ANC in his congregation and that it is still possible within this community to sit down and resolve differences and work together for better times. In Durban we were told by black lawyers who support the UDF that in the places where they live they know people who are members of Inkatha; that they have known them all their lives and that it is possible to talk and to establish peace committees. Our overriding concern is with the millions of people who live in the townships in Natal who are not overtly political and who long for an end to the bloodshed.

4. AN INTERNATIONAL MONITORING AGENCY

In the Central American country of El Salvador, a civil war between a guerilla movement and the right wing government has during the last ten years claimed more than 70,000 lives. However, the parties to this conflict have recently, with the assistance of the good offices of the Secretary General of the United Nations, embarked on a series of meetings in order to explore the prospects for a peaceful settlement. This has in itself been considered an important development, taking into account the bitter polarization between the parties and the fact that the government - and the Salvadoran army - earlier on many occasions have dismissed the UN as a left wing agency.

The obstacles to a peaceful development in the Salvadoran conflict are in some ways similar to those prevailing in South Africa. Over the years, there have been massive human rights violations, primarily against the civilian population. While it is true that such abuses have been carried out at the hands of both parties to the conflict, the atrocities perpetrated by the Salvadoran army and police are by far the worst and most numerous. So called death squads, with links to the army and the police, have over the years abducted, mutilated and killed thousands of union leaders, priests, academics, journalists, human rights advocates and others suspected of left-leaning political sympathies. And by using political influence, threats and intimidation against the judicial system, the police and the army has then effectively prevented the perpetrators from being brought to justice. As a result, a total lack of confidence on part of the general public in relation to the law enforcement agencies and the judicial system has developed.

One of the main issues in the Salvadoran peace talks have been the human rights situation and how to create future safeguards, acceptable to both sides, against such lawlessness as has been existing in the past. It seems clear that without reasonable such safe-guards there will be no peace. At the same time it is obvious that the present strong position of the army and the police prevents any major short term restructuring of these establishments, however badly needed.

In this situation the parties to the Salvadoran peace talks have on 26 July 1990 entered an "Agreement on Human Rights". This agreement starts with a wide commitment in the matter of human rights which are understood, in the context of this agreement, to be those recognized by the Salvadorian legal system, including the treaties to which El Salvador is a party, and by the declarations and principles concerning human rights and humanitarian law adopted by the United Nations and the Organization of American States.

The agreement includes the commitment to take immediate action to prevent any attack on the life, integrity, security and freedom of the person, and the commitment to eliminate every practice that involves missing persons, abduction or torture.

A central part of the agreement is a construction for international verification of the compliance of the human rights commitments. In the field of human rights, this is something entirely new. Under the agreement a United Nations Verification Mission will be set up, starting from the cessation of the armed confrontation. This mission will have to devote special attention to observance of the right to life, to the integrity and security of the person, to the due process of law, to

freedom of the person, to freedom of expression and to freedom of association. In that context, efforts will be made above all to clarify any situation that appears to reveal a systematic practice of violation of human rights and, in such a case, to recommend to the Party which the matter concerns the appropriate measures for eliminating that practice.

A Director appointed by the Secretary-General of the United Nations will be in charge of the Mission. The Director will work in close cooperation with human rights organisations in El Salvador. It will also count on the support of specialized advisers. Moreover, the Mission will include as many verification personnel as may be necessary. The Mission will be given wide powers to take whatever action it may deem appropriate for promoting and protecting human rights, and to contribute towards improving those situations in which such respect and guarantee are not duly observed.

Included among the foregoing powers are the powers to receive accusations of violations of human rights; freely to visit any place; to interview any person freely and privately; to collect all relevant information by whatever means it may deem appropriate; to submit recommendations to the Parties; to consult the Attorney General of the Republic; and to publish its reports, conclusions and recommendations.

As stated above, the conflict in El Salvador contains elements which can also be recognized as obstacles to peace in Natal and Transvaal. One such element is the almost total lack of confidence on the part of the population in the affected areas in the police force and its ability to maintain law and order in an impartial manner. The same lack of confidence also affects the prosecutors and the courts. What are people to believe when notorious killers are not prosecuted at all or else released on symbolic bail, pending a trial which never happens? If the law enforcement agencies prove incapable to provide security and maintain law and order, then people will arm themselves, for defence purposes or in order to carry out their own law enforcement.

It is our view that a human rights agreement, similar to that of El Salvador, would prove beneficial to the present unrest situation. Such an agreement should involve all three parties in the conflict, namely the government, ANC and Inkatha. Both top ANC leaders and Chief Minister Buthelezi have reacted favourably to this proposal. If the United Nations is not acceptable some other international organization could be entrusted with the task of organizing and running the verification mission.

5. CONCLUSIONS AND RECOMMENDATIONS

1. Law and order has broken down in Natal. There is in Mr Justice Didcott's words a terrible internecine warfare, which is tearing the Province apart. The strain on police resources is compounded by serious police misconduct, which goes unchecked. Fear is ever present in the townships. There is no confidence in the police force, which is seen as partisan. It is dangerous to give evidence. There is a lack of determination amongst senior police officers to put matters right.

2. Both the Government and the ANC are committed to the negotiation process. Most white South Africans we spoke to do not expect there to be another all white election. The Government, therefore, needs to make progress quickly. The violence in Natal could derail the whole process. It has to be stopped if the negotiations are to succeed.

3. We were told by leading businessmen in Durban that violence poses an even greater threat to investment and the economy than sanctions and that it was only in July 1990 that they had got through to the Government the seriousness of the situation. The Foreign Minister Pik Botha agreed that the violence was having a very adverse effect on the economy. There are therefore pressing political and economic incentives for the Government to act.

4. We are satisfied that the State President and a majority of the Cabinet are committed to stopping the violence in Natal. We appreciate that some of the decisions they will have to take will be difficult and that it will not be easy to implement all the decisions. There is a real danger that powerful forces within and beyond the security establishment will try to destabilize the position.

5. While apartheid and the ideology of separate development are the root causes of the trouble, violent political rivalry has now come to be the dominant factor in people's lives.

6. It is very clear that in Natal the violence in different areas has followed a fairly constant pattern. Since 1983 Trade Unions, the UDF and radical youth groups have become active and have started to mobilise support (in the case of the youth some violence has accompanied this). The Unions have organized strikes and stay aways which have attracted strong support despite the fact the Chief Minister Buthelezi has consistently urged people not to take part. Inkatha has thus been seen to be losing support. Inkatha have responded by recruitment drives backed up by coercion and violence. This has further alienated the population from Inkatha. Unhappily ordinary people

have come to see attack as the best means of defence so Inkatha's action has lead to a whole cycle of attack and counterattack. People feel that they cannot turn to the Courts; as they seek their own justice the retaliation dished out by the ANC supporters is often brutal.

7. While it is clear that Inkatha is losing ground the extent of the support for Inkatha and the ANC in Natal will not be known until free and fair elections are held. Hopefully the first elections will be for a Constituent Assembly so that, as in Namibia, any new constitutional settlement will derive its validity from the people and will not be imposed by politicians. What is certain is that in the long term Inkatha will continue to lose support unless Chief Minister Buthelezi asserts his authority and controls the excesses of his supporters and in particular the war lords.

8. Between us we have seen much hardship in the third world. We were however shocked by the squalor, misery and degradation which are daily features of township life. We were also astonished by the lack of knowledge and understanding of conditions in townships by many of the white South Africans we met, an ignorance which cannot have been helped by press censorship. Most third world countries lack the resources to do much for their poorest inhabitants. This is not the case with South Africa. The miserable living conditions and high unemployment must contribute to the violence. The Government must act to improve the quality of life of the poorest people. Safe drinking water, basic sanitation and electricity should be made available at least in the urban areas.

9. The people in the townships are crying out for help and that help must come first from the Government. The State President must give a clear signal to people in the communities that Ministers want a police force which has the confidence, trust and respect of all South Africans.

10. There are five areas where the government must act:-

- 1.) The police must be ordered to prevent clashes and must not remain on the side lines.
- 2.) There must be a massive increase in the police resources. There is a need for some 5,000 officers in Natal to investigate crime in place of the 150 who are currently available. Mr Vlok the Minister of Law and Order told us that more money had been set aside for the police. The police must take retraining and refresher courses much more seriously. To help this we suggest that a second police staff college should be established

and that the teachers at both colleges should regularly exchange duties with officers from countries overseas. Whenever possible the government should use Zulu speaking police and Zulu speaking members of the Defence Force. It was a mistake to withdraw the Zulu speaking 121 battalion from Natal.

3.) The carrying of all weapons (including cultural weapons) must be banned at all political meetings and rallies.

4.) The problems posed by the KwaZulu police must be addressed. In areas like KwaMakhutha, where there is the clearest possible evidence of misconduct, the KwaZulu must be suspended from duty and be replaced by the SAP. Throughout Kwa Zulu citizens must be able to contact the SAP if they need help.

5.) Known and notorious killers who are still at large must be prosecuted.

The Government has now lifted the State of Emergency in Natal. This was our sixth recommendation. The Emergency Regulations were not needed. The authorities already had ample powers to control the situation. The existence of the Regulations encouraged policemen to cut corners and break the rules because they enjoyed wide immunities while the emergency lasted. The Regulations also inhibited the press from exposing police misconduct and from reporting fully on the tragedy.

11. Above all the Government must provide fresh leadership for the security forces in Natal. The State President should take advantage of the next Cabinet reshuffle to appoint a new Minister of Law and Order who is not identified by the public with discredited policies.

12. If the Government takes these practical steps to assert the rule of law we believe there will be a response from the people.

13. We believe there is an urgent need for a meeting between the ANC leadership and the Inkatha leadership, but a meeting if it is to achieve anything must be as carefully prepared as any other summit meeting, and there must be some assurance that if an agreement is reached it will be carried out.

14. We therefore suggest that the meeting should be a four sided meeting. The four sides being the ANC, Inkatha, the Government and the Churches, the role of the Government and the Churches being to ensure that this time any agreement which is reached is carried out.

15. Finally we suggest that the South African Government should invite a team of international monitors, perhaps drawn from The USA, Commonwealth Countries or the EEC to monitor on a continuing basis the law enforcement agencies and to report direct to the State President. The Monitors would need to have power to summon witnesses and require the production of documents. This proposal is based on the United Nations experience in El Salvador which we have discussed above. It will take time to implement. The International Commission of Jurists will therefore maintain its interest in Natal. The situation in South Africa is changing from week to week. It is therefore valuable for those who have studied the problem in depth to continue to do so. The Foreign Minister told us that we would be welcome to come back again. We would like to accept his invitation and return in 1991.

6. POST SCRIPT

We welcome the recent Government announcements:-

- 1. that "special expeditious units" under attorneys-general or their deputies would speedily investigate the worst incidents of violence. This should extend to all aspects of the violence to indicate a desire to return to the rule of law.*
- 2. that inquests headed by judges would where necessary, investigate township killings. No purpose would however be served by this if no follow up is made. There must be vigorous prosecutions where culprits are identified.*
- 3. that an "independent highly respected person" would be appointed to probe allegations of misuse of power by the Government.*
- 4. that "mechanisms of communication" would be appointed at all levels to deal with community grievances and explosive situations. This is of great importance and will go some way in trying to deal with the communities' lack of faith in the security forces. It will however be critical to ensure that this strategy is highly visible, for if it is low key or not given adequate publicity, it will have little impact or effect.*

APPENDIX 1
The Mission's Itinerary

Sunday, August 26

11.00 Beyers Naude at Johannesburg
6.30 Supper at Archbishop Hurley's house, Durban
Archbishop Hurley
Bishop Khoza Mgojo
Michael Nuttall Bishop of Natal

Monday, August 27

10.00 IDASA
Black Sash
Leonard Gearing (NADEL)
2.00 Legal Resources Centre, Durban
6.00 NADEL

Tuesday, August 28

Morning: Tour of Townships South of Durban with young comrades

Wednesday, August 29

Four hour meeting and lunch with Chief Minister Buthelezi and the Rev Mtetwa, the Kwa Zulu Minister of Justice. For part of the time we were joined by Gavin Woods, the director of the Inkatha Institute and Jenny Friedman (attorney).

Thursday, August 30

10.00. Case conferences at the Legal Resources Centre.
11.00. Patrick Lekota, Regional Coordinator for the ANC for Durban.
Afternoon: Tour of Townships North of Durban

Friday, August 31

8.30 Bob Douglas S.C.
Drive to Pietermaritzburg
12.00 Cheadle Thompson & Haysom, public interest law firm
3.00 Harry Gwale and ANC Committee for the Natal Midlands
4.00 University of Natal - John Aitchison

6.00 Meeting with Contralesa in Durban

Saturday, September 1st

11.00 COSATU

Afternoon. Currie Cup Rugby Match Natal v Eastern Provinces.

Evening: Barbecue with rugby enthusiasts.

Sunday, September 2

Tour of Townships and rural areas in the Natal Midlands.

4.00 Meeting with David Ntombela at his house.

Monday, September 3

10.00 South African Police H.Q.- Durban

Major General J. Van Niekerk

Lieutenant General Schutte and four senior officers

1.00 Lunch with a Supreme Court Judge

2.15 Tour of townships North of Durban with Cecil Vela the political director of the Inkatha Institute. Mrs Shabalala.

7.00 NADEL

Tuesday, September 4

10.00 Visit to Kwamakhutha township.

12.30 Drive to Pietermaritzburg

1.30 Pierre Cronje Democratic M.P. for Greytown

3.00 Michael Imber S.C. Attorney General for Natal and Messrs Roberts, Stewart and Slobbert his deputies.

Wednesday, September 5

8.45 Natal Chamber of Industries

10.00 Joint Working Committee

Dr Diliza Mji ANC

Jay Naidoo COSATU

Fly to Johannesburg

8.00 Beyers Naude

Thursday, September 6

8.00 N.R.L. Haysom of Cheadle Thompson & Haysom

Drive to Pretoria

10.30 Sir Robin Renwick, the U.K. Ambassador

12.30 Pik Botha Foreign Minister

4.30 Frank Chikane General Secretary of the South African Council of Churches in Johannesburg.

Friday, September 7

8.15. Adrian Vlok Minister of Law and Order

12 noon Press Conference

2.00 Walter Sisulu

Evening: "Starbrites" Upstairs at the Market Theatre

APPENDIX 2

Biographical Notes on Members of the Mission

JOHN MACDONALD Q.C.

John Macdonald is a British human rights lawyer with an international reputation. He represented Yuri Orlov, the distinguished Soviet dissident in his ten year fight for freedom. He has represented Canadian Indians at risk from the Trudeau Government and the Illois people who were moved from Diego garcia to make way for a US air base. He visited Namibia with a Parliamentary delegation in June 1989.

CHRISTIAN AHLUND

Christian Ahlund is a Swedish attorney specialising in Labour law and human rights. Over the last ten years he has carried out numerous human rights fact finding missions in trouble spots such as Uruguay under the military junta, the Central American Countries, the Philippines and Uganda.

JEREMY SARKIN

Jeremy Sarkin is an advocate in South Africa, a member of the new York Bar and at present a senior lecturer in the law faculty at the University of the Western Cape. He has a masters degree in Human Rights from Harvard Law School and worked in 1989 at the International Commission of Jurists in Geneva. He has been involved in human rights work both within South Africa and internationally.

MEMBERS OF THE INTERNATIONAL COMMISSION OF JURISTS

President

ANDRES AGUILAR MAWDSLEY

Venezuelan Ambassador to UN; former Pres. Inter-American Commission on Human Rights

Vice-Presidents

Mrs TAI-YOUNG LEE
DON JOAQUIN RUIZ-GIMENEZ

Director, Korean Legal Aid Centre for Family Relations
Professor of Law, Madrid; former Ombudsman of Spain

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Attorney at Law, New York
Advocate; Professor of Law, University of Chile
Councillor of State, Netherlands; former Prof. of Int'l Law
Pres., NSW Court of Appeal, Australia
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Professor of Int'l Law, University of Bonn
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